



The Claim for Recognition of Israel as a Jewish State

A Reassessment

Tal Becker

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Front cover: The signers of Israel's declaration of independence, at a ceremony at the Tel Aviv Art Museum, May 14, 1948.
First prime minister of Israel David Ben Gurion stands up to speak during a session of the new Israeli government. (AP Photo)

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Tal Becker
February 2011

Executive Summary

AMID EFFORTS TO RELAUNCH and sustain Israeli-Palestinian peace talks, Israel's claim for recognition as a Jewish state continues to generate controversy. While Israel's leaders have insisted that such recognition is fundamental to any peace agreement, Palestinian and other Arab leaders have responded to the claim with consistent and widespread antipathy.

To begin to explore how this issue might be appropriately addressed in the context of Israeli-Palestinian negotiations, it is necessary to place the claim for recognition in its historical, political, and strategic context. We must consider the nature and legitimacy of the interests at stake and examine the alternatives for addressing them.

Recognition as a Jewish State

The term "Jewish state" is sometimes misconceived as implying an aspiration for a Jewish theocracy. Properly understood, however, the claim seeks no more and no less than public recognition of the right of the Jewish people to self-determination in a state of their own. In this respect, the demand for recognition is no different from the self-determination claims advanced by many other peoples under international law.

The claim should also not be seen as an attempt to negate the corresponding Palestinian right to self-determination. Indeed, today's advocates of recognition argue that it is Israel's acceptance of a Palestinian nation-state that justifies parallel Palestinian acknowledgment of the Jewish nation-state.

While the demand for recognition of the Jewish homeland is at least as old as Zionism itself, the claim's legitimacy has been the target of increasing criticism. Indeed, as efforts to delegitimize Israel's Jewish character have intensified, many Israeli leaders have come to view international recognition as a means for not only preserving Israel's national identity but also advancing its national security.

Historical Overview

Despite near consistent Arab opposition, Israel's claim for recognition has historically enjoyed relatively

widespread international support. From the advent of political Zionism at the turn of the twentieth century, Zionist leaders engaged in efforts to acquire political recognition for restoring Jewish sovereignty and enjoyed remarkable success.

Issued in 1917 by Great Britain, the Balfour Declaration welcomed the idea of a "Jewish national home" and is known as the first political recognition of Zionist aims by a great power. Only five years later, the League of Nations Mandate for Palestine transformed the goal of "reconstituting" a Jewish nation-state from a policy preference into an international legal obligation.

In the wake of strong Arab opposition to the goals set forth in the Mandate, the international community ultimately responded not by abandoning the goal of Jewish sovereignty but by endorsing the concept of partitioning Palestine into two states—one Jewish and one Arab—a model that remains the conceptual basis for today's two-state solution to the Israeli-Palestinian conflict.

In the past decade, numerous leaders have continued to uphold the notion of Israel as a Jewish state, as evidenced by the support of U.S. presidents Bush and Obama, along with that of several European and international figures. Even Palestinian negotiators—including Yasser Arafat himself—have not always resisted acknowledgment of Israel's Jewish character, and from 1988 onward they have tied the justification for Palestinian sovereignty to the partition resolution, which itself embraced parallel Jewish sovereignty.

At least in theory, it is possible that some Palestinian opposition to recognition of Israel as a Jewish nation-state relates more to the context and manner in which such recognition is formulated than to the concept itself. But to test this proposition, we must first grapple with the substantive objections that have been raised against the claim.

Palestinian, Arab, and Other Objections

Given the increasing weight attributed to the recognition issue, its resolution has assumed major importance in advancing the cause of Israeli-Palestinian

peace. In this context, the following objections need to be evaluated.

An unnecessary demand. The most straightforward objection to the claim for recognition is that it is simply unnecessary. Even if theoretically legitimate, it is seen by some as complicating negotiations that are already exceedingly difficult.

Palestinian representatives are quick to point out that recognition of Israel as a Jewish state was neither demanded nor attained in Israel's peace treaties with Egypt and Jordan. They argue that the Palestine Liberation Organization had already recognized Israel's right to exist in peace and security in 1993, and that although Israel is entitled to define its own internal character it should not seek public Palestinian recognition for this definition. These representatives are joined by some prominent Israelis who support Israel's Jewish character but argue that seeking Palestinian recognition is either too costly or weakens Israel by suggesting that its legitimacy as a Jewish state is open to question. For some Israeli commentators, it is the absence of a two-state agreement—not the absence of recognition—that is the greatest challenge to Israel's legitimacy as a Jewish state.

In response to these considerations, supporters of recognition posit three core arguments for recognition of Jewish statehood as a necessary component of any Israeli-Palestinian peace agreement.

First, they argue that the refusal to accept the Jewish people's right to self-determination, side by side with Palestinian rights, has driven the conflict and that true resolution can only come when the legitimacy of Jewish and Palestinian collective rights is acknowledged. Under this view, an agreement without such recognition elides an issue that lies at the very heart of the conflict and betrays a Palestinian unwillingness to ever genuinely bring it to an end.

Second, advocates see the most important practical manifestation of recognition in the approach it dictates to the refugee issue. Recognizing the legitimacy of a Jewish state is seen as necessary to ensure that the claims of Palestinian refugees are resolved in a manner that is consistent with the model of two states for two peoples and that will not endanger Israel's Jewish character.

Third, those who argue for recognition worry that even after an Israeli-Palestinian peace agreement is concluded, Israel's Palestinian Arab minority will continue to challenge the legitimacy of the state's internal Jewish character. Recognition is thus viewed as providing a powerful response to charges that protecting Jewish collective rights is inherently illegitimate, especially in the event of an Israeli-Palestinian peace agreement that is widely endorsed.

The potential merit of these three arguments in favor of recognition must be balanced against the objections that have been raised regarding the consequences of such recognition for Palestinian rights and interests that may be no less legitimate.

A threat to minority rights. A common objection to the claim for recognition of Israel as a Jewish state is that such a measure would necessarily undermine the rights of its non-Jewish citizens.

In practice, however, no inherent contradiction exists between recognizing the right of the Jewish people to self-determination in the state in which it constitutes the majority and recognizing the obligations of that state to protect its minority communities.

Minority rights are not guaranteed by denying the majority *its* rights to collective identity, but by balancing those rights with the legitimate rights of the minority to preserve its own distinct culture within the society. At the same time, whether or not Israel has met its obligations to its minorities—a matter of some controversy—it is important to stipulate that recognition of both Jewish and Palestinian rights to self-determination must be without prejudice to the legitimate rights of all citizens and minority groups.

Israel's status as a democracy. A more fundamental objection emerging from the discussion of minority rights centers on the compatibility of Israel's claim to recognition as a Jewish state with its status as a democracy. Even among those who correctly conceive of a Jewish state as the expression of the Jewish people's right to self-determination, some believe that the very idea of a Jewish nation-state runs counter to the commitment of a democratic society to uphold equality for all its citizens.

If the contention here is that only a Jewish nation-state cannot be democratic but that other such nation-states can be—including, for that matter, a Palestinian state—then the position is tainted by prejudice and does not merit attention. If, on the other hand, the contention is that *no* state purporting to realize the self-determination claims of a particular majority ethnic group can meet democratic standards, then the position is grounded in an arguably flawed conception of democracy.

Given that the majority of Israel's citizens self-identify as Jewish, the expectation that Israel maintain its Jewish character arguably does not constitute a rejection of democratic principles, but rather adherence to them—provided that the state is also committed to preserving the basic rights of all its citizens and minority groups. A consideration of the similarities between Israel and other democratic nation-states amplifies this point. In countries throughout the world, a claim to democratic status does not demand of them a definition of national character solely in neutral and universal terms. Indeed, giving public expression to the collective identity of the majority, while respecting the civic equality of all citizens, is a feature common to many democracies.

The refugee issue. A further objection to the claim of recognition is that it is meant to preempt negotiations on the Palestinian refugee issue. Advocates of recognition do not conceal their view that recognition of a Jewish state is designed, at least in part, to advance the proposition that the very logic of the two-state model requires the rejection of any resolution to the refugee issue that would threaten Israel's Jewish character.

While the principles of a two-state solution should guide the negotiators in considering how to address the refugee issue, Palestinian negotiators are unlikely to be able to contemplate express public recognition of Jewish rights to self-determination unless they know that refugee claims and their own self-determination rights have been addressed. It is for this reason, as Prime Minister Binyamin Netanyahu has acknowledged, that recognition of Israel's Jewish character should be presented by its advocates not as

a precondition for negotiations but as a component of a comprehensive agreement.

Numerous other objections have been raised to the recognition of Israel as the nation-state of the Jewish people. However, this Policy Focus argues that each of these stated objections either misrepresents the recognition claim or can be adequately accommodated if recognition is appropriately formulated and presented.

The Strategic Dimension

The claim for recognition has significance outside the confines of the Israeli-Palestinian negotiating room. In the broader Middle East and beyond, those opposed to a two-state solution, and to U.S. interests in the region more generally, are arguably empowered by a refusal to accept the legitimacy of Jewish self-determination and by the failure of the international community to insist on it.

Extremist forces in particular are able to use international indifference, and increasing challenges to Israel's legitimacy as a Jewish homeland, as both a rallying cry and evidence that their radical goals are within reach. In this context, international insistence on mutual recognition of Jewish and Palestinian collective rights can be especially valuable. It enables negotiators to present recognition and reconciliation as the only effective paths to realizing their own national rights while portraying their opponents as captives of a fanciful agenda pursued at the expense of national interests.

Support for recognition could also be seen as carrying a degree of moral and universal significance. While decades have passed since Israel's establishment, the underlying rationale for supporting the Jewish people's right to self-determination and the profound message conveyed by that support to persecuted peoples around the globe continue to have powerful moral and policy implications.

For the international community to mute its support for Jewish self-determination, or to reject the significance of some form of mutual recognition to an Israeli-Palestinian deal, may risk sending a dangerous signal about the capacity of political expedience and radical opposition to outweigh the force of moral principle.

Reconciling the Claim and Its Objections

Based on the foregoing analysis, and taking Palestinian and Arab arguments at face value, the claim to recognition of Israel as a Jewish state and its objections might be reconciled along the following lines:

- The claim should be seen as seeking recognition of the Jewish people’s right to self-determination in a sovereign state, rather than recognition of Israel “as a Jewish state.”
- Recognition should be mutual—that is, just as Palestinians would expressly recognize the Jewish right to self-determination, so Israel would expressly recognize the Palestinian right to self-determination.
- Recognition should be sought in the context of a conflict-ending agreement that includes agreement on a framework for resolving the refugee issue and on the establishment of a Palestinian nation-state alongside Israel. While the principle and rationale of the two-state framework should in practice guide the approach to resolving the issues in dispute, *express recognition* should not be advanced as a precondition for addressing these issues or as a way to predetermine their outcome.
- Mutual recognition should be given while stipulating that this is without prejudice to the obligation to respect the human rights of each state’s citizens and minority groups.

While only the two parties can resolve the recognition issue, the international community could help facilitate agreement by affirming the need for any future Israeli-Palestinian peace agreement to include acknowledgment of the respective rights of the Jewish and Palestinian people to self-determination within the parameters outlined above.

Given the precarious state of the negotiations, both parties could also consider ways to boost confidence on this and other issues by beginning to signal

their readiness to address each other’s core concerns in the framework of a comprehensive agreement. On the issue of recognition, such initial gestures could include, for example, Palestinian acknowledgment of Jewish ties to the land or Israeli demographic concerns. In turn, Israel could be more forthcoming about acknowledging Palestinian suffering and parallel self-determination rights.

Other ways not contemplated here may exist to allay legitimate Palestinian and Arab concerns about recognition while addressing core Israeli needs. Indeed, it may not be necessary for recognition to take the form currently contemplated, if genuine acceptance of Jewish and Palestinian rights can be conveyed by other means.

What’s more, the importance of the recognition issue cannot be considered in a vacuum. It must be weighed against other interests that may figure into a comprehensive peace deal, including the potential interests and benefits inherent in concluding an agreement, even if deficient as regards recognition. It is for the parties to decide whether the resolution of this or any other issue is so significant that it does not serve their overall interests to conclude an agreement without it.

That said, obfuscating or circumventing the recognition issue will be seen by many as failing to draw the parties toward the genuine and permanent reconciliation that a two-state solution aspires to represent, and may fail to attract the public support, particularly on the Israeli side, necessary to make an agreement politically feasible.

Ideally, an Israeli-Palestinian peace agreement is a critical tool for overcoming the rejection and absolutism that have fueled the conflict for decades. Such an agreement will be most likely to succeed if it is founded on a real commitment to respect and accommodate the mutual national rights of the Jewish and Palestinian people. Avoiding this issue may seem to provide the more convenient path to a written agreement, but doing so may not achieve the genuine reconciliation so needed by the Jewish and Palestinian people, and so feared by rejectionists across the region.

Introduction

AMID EFFORTS TO RELAUNCH and sustain Israeli-Palestinian peace talks, Israel's claim for recognition as a Jewish state continues to generate controversy. Palestinian and other Arab leaders have responded to the claim with consistent and widespread antipathy—viewing it, at best, as an unnecessary complication and, more commonly, as concealing far-reaching and, in their eyes, sinister Israeli intentions.¹

Some interpret the insistence on recognition as a precondition designed to thwart or delay genuine negotiations. Others view it as an attempt to predetermine the outcome of the Palestinian refugee issue or legitimize the denial of equal rights to Israel's Palestinian Arab minority.² Still others consider the claim a manifestation of the unrealistic, if not arrogant, expectation that Palestinians repudiate their own historical narrative.³

Yet many Israeli leaders, most recently Prime Minister Binyamin Netanyahu, have been equally adamant that such recognition is fundamental to any peace agreement. As Netanyahu phrased it in his June 2009 speech at Bar-Ilan University, “The root of the conflict was and remains the refusal to recognize the right of the Jewish people to a state of their own in their historic homeland.”⁴ Indeed, the issue has recently gained even greater prominence in light of government efforts to require those seeking citizenship to recognize Israel as a Jewish and democratic state,⁵ and Prime Minister Netanyahu's suggestion that extension of the settlement moratorium would necessitate Palestinian recognition of Israel as a Jewish state.⁶

For Israel's leaders, and for many Israelis, Palestinian and broader Arab recognition of Jewish statehood constitutes evidence of a true willingness to end the conflict. According to this view, refusal is not driven by any well-placed reservations but by the underlying negation of the Jewish state's rightful place in the region and an ultimate desire to see it removed from

the map of the modern Middle East. It plays into a core Israeli concern that even the “two-state” solution is, at least for some Palestinians, really a “two-stage” solution, serving as a precursor to efforts to undermine Israel's Jewish character.⁷

It is not easy to see how the seemingly fundamental differences on this issue might be reconciled. As the debate has unfolded thus far, each side has tended to cast its position in zero-sum terms, while denigrating the motives of the other. What for many Israelis is seen as an elementary component of true peace, many Palestinians see as a ploy to undermine it. What many Palestinians deem a genuine concern about the implications of such recognition, many Israelis consider testimony to a persistent refusal to ever genuinely bring the conflict to an end.

To begin to explore how this issue might be appropriately addressed in the context of Israeli-Palestinian negotiations, the claim for recognition of Israel as a Jewish state must be placed in its historical, political, and strategic context. The “wheat” of authentic issues must be separated from the “chaff” of mere posturing. The genuine interests at stake need to be identified, their legitimacy weighed, and the alternatives for meeting them considered. These are the objectives of this Policy Focus.

The paper begins with an assessment of the meaning of the claim for recognition, before turning to consider its diplomatic and negotiating history. The following sections focus on numerous objections to the claim and examine ways in which they might be addressed. The paper then evaluates the strategic implications of such recognition in a broader policy context. Finally, the paper considers how the claim and its objections might be effectively reconciled in the context of Israeli-Palestinian negotiations and what role the international community might play in this regard.

1 | Recognition as a Jewish State

IN ORDER TO appreciate the essence of the claim for recognition of Israel as a Jewish state, it is helpful to first dispel several myths that surround it. Three propositions in particular tend to muddy the debate and should be quickly dismissed as they detract from more substantial and legitimate objections: (1) that the claim seeks to affirm the objective of establishing a Jewish theocracy, (2) that it is new or invented, and (3) that it necessarily constitutes a repudiation of corresponding Palestinian national rights.

Self-Determination, Not Theocracy

First, the term “Jewish state” is sometimes misunderstood in the context of recognition claims as implying an aspiration for a Jewish theocracy.⁸ This interpretation, though sometimes raised by opponents of recognition, is clearly not the meaning intended by its supporters.⁹ As discussed in more detail below, the term “Jewish” refers here to the national aspirations of the Jewish people, not to Judaism in its religious sense.

Properly understood, the claim seeks no more and no less than public recognition of the right of the Jewish people to self-determination in a state of their own. It may be preferable to adopt this kind of terminology so as to avoid the potential for misunderstanding and mischief when the shorter term, “Jewish state,” is used.

Even though the term “Jewish state” has no religious connotation in this context, it denotes more than a mere description of the state as having a Jewish majority.¹⁰ It seeks to affirm the state both as an expression, and as the legal and political guardian, of the collective rights of the Jewish people. As such, the term implies—in the spirit of national self-determination—a public space in which the majority can give expression to its collective identity, for example, by marking Jewish holidays and cultural events and by giving preference to Jewish immigration.¹¹ It is in this sense that the overwhelming majority of advocates for recognition have employed the term.

In this respect, the demand for recognition is not essentially different from the claims for collective

rights advanced by many other peoples. The claim itself is derived from the Jewish nation’s peoplehood and their corresponding right to self-determination, which they have realized in a nation-state of their own. From an international perspective, its justification is thus less associated with any unique Jewish biblical, religious, or historical claims than with universal moral and legal norms.

As a matter of international law, this assertion is hardly controversial. Once the status of a group as a “people” is accepted, their right to self-determination is legally protected. The scope and content of this right in any given situation, and the manner in which it is balanced against competing rights, are often subject to controversy.¹² Yet the right itself as a legal principle under both customary and treaty law is today overwhelmingly accepted.¹³ Most significantly, the right is enshrined in the first article of the two leading human rights covenants—the International Covenant on Civil and Political Rights¹⁴ and the International Covenant on Economic, Social, and Cultural Rights¹⁵—both of which affirm that “all peoples have the right to self-determination” and to which the vast majority of states are party.

It is generally accepted that the definition of “people” for the purpose of self-determination of an ethnic or national group requires the fulfillment of both subjective and objective criteria.¹⁶ Subjectively, the group must perceive itself to be a people. Objectively, it must possess a combination of common characteristics such as history, language, religion, and culture.

That the Jewish people meet these criteria is overwhelmingly accepted,¹⁷ despite the somewhat exceptional relationship between Jewish religion and Jewish peoplehood.¹⁸ The vast majority of Jews certainly conceive of themselves as a people and, as shall be discussed shortly, this status constituted a key rationale for international support for Israel’s establishment. It follows that while objections may be raised to the manner in which Jewish self-determination is exercised or to the manner in which it is balanced against

competing claims and rights, neither of these arguments undermines the essential legitimacy of the right to Jewish self-determination itself.

A New Claim?

Though the demand for recognition of Israel's Jewish character is sometimes portrayed as a new ploy to complicate negotiations,¹⁹ the claim is at least as old as Zionism itself. Indeed, one could well argue that it predates Zionism by many centuries, given the historical longing of the Jewish people to reconstitute a sovereign entity in their ancient homeland.²⁰

Admittedly, calls for explicit recognition of Israel as a Jewish state were less common historically. But this is largely because they were viewed as less necessary, not less important. Support for Zionism was essentially synonymous with support for Jewish self-determination, thus obviating the perceived need for recognition in the specific form now sought by Israel. Recognition of Israel, especially in the years following the Holocaust and the 1947 UN partition resolution²¹ (which expressly called for the establishment of two states—one Jewish and one Arab), was generally considered identical to recognizing the right of the Jewish people to self-determination in a sovereign state.

Still, even from the earliest days of the Zionist enterprise, leaders of the Zionist movement called for international recognition of Israel's Jewish character. Some salient examples merit attention.

Naturally, the Zionist movement itself was founded on the pursuit of international support and recognition for a Jewish homeland. The Zionist program, adopted at the First Zionist Congress in Basel in 1897, specified that the "aim of Zionism is to create for the Jewish people a home in Palestine, secured by public law." To attain that objective, it was necessary, *inter alia*, to adopt "preparatory steps for the procuring of such government assents as are necessary."²²

In the decades that followed, Zionist leaders labored assiduously, against the objections of both Arab representatives and some Jewish activists, to attain recognition not merely for the establishment of a state in Palestine to which Jews could immigrate, but for international acknowledgment of its character as

a Jewish homeland.²³ As shall be discussed in the following passages, specific recognition of the legitimacy of a Jewish national homeland in documents such as the Balfour Declaration (1917), the League of Nations Mandate for Palestine (1922), the Peel Commission Report (1937), and, of course, the General Assembly partition resolution (1947) is, at least in part, the product of these efforts.

The success of the Zionist project was thus grounded not just in the realization of Jewish self-determination in practice, but in acquiring legitimacy for it internationally, if not from neighboring Arab states then at least from the broader international community. The Zionists attained recognition for the idea that the Jewish people, exiled and persecuted for generations, were entitled like other peoples to collective national rights, and it is this recognition that paved the way for Israel's subsequent international acceptance.

With the establishment of Israel, its expectation for recognition was regarded as flowing from—in the words of its Declaration of Independence—"the right of the Jewish people to establish their independent State." There was never any question in the minds of the founders of Israel that they were establishing a Jewish state and would seek recognition for it as such. The Declaration of Independence itself proclaimed the establishment of the "Jewish State of Palestine, to be called Israel" and appealed to the United Nations to "assist the Jewish people in the building of its State and to admit Israel into the family of nations."²⁴ The name "Israel," taken itself from the Hebrew Bible,²⁵ was simply the title chosen for the Jewish state that the Zionist movement had advocated and the international community had endorsed.²⁶

In seeking international recognition of its statehood, the connection between recognizing Israel and recognizing Jewish collective rights was thus never in doubt. To mention but one example, in Israel's formal application for UN membership, Moshe Shertok (later Sharett), acting as foreign minister of the provisional government, drew the Security Council's attention to Israel's establishment "by virtue of the natural and historic right of the Jewish people to independence in its own sovereign state" and argued that Israel's admission

to the UN “would constitute an act of international justice to the Jewish people.”²⁷

The change in recent years, therefore, has not come in Israel’s demand to be viewed as the national homeland of the Jewish people, but in increasing criticism of the legitimacy of such a claim. With the discernible rise in efforts to delegitimize Israel as a Jewish nation-state, recognition of Israeli sovereignty is no longer necessarily seen as equivalent to recognition of the Jewish right to self-determination. A peculiar alignment of traditional Middle East rejectionist forces (e.g., Hamas, Hizballah, Iran) and an assortment of Western, pro-Palestinian groups, human rights activists, and grassroots organizations has mounted a challenge that is increasingly directed not just against some of Israel’s policies, but against its right to exist as a Jewish homeland.²⁸

Indeed, even some who do not question Israel’s rights as a sovereign state have shown a growing unease about the internal character of the state and increased sympathy for the proposition that it should be a “state of all its citizens” rather than a “Jewish state,” on the questionable assumption that the two definitions cannot be reconciled.²⁹ The more intractable the Israeli-Palestinian conflict seems, and the more elusive the realization of Palestinian national rights, the greater the discomfort some feel in maintaining their support for Jewish self-determination in a separate sovereign state.

Such criticism is advanced with particular force by those who advocate a “one-state solution” to the conflict.³⁰ Under this view, the very idea of the nation-state—certainly in the Israeli-Palestinian context—is considered anachronistic and at odds with ensuring equal human rights for all individuals, refugees, and minority groups. These rights, the argument goes, will be better realized through the establishment of a binational or “neutral” state between the Jordan River and the Mediterranean Sea.

Against this intensified questioning of the legitimacy of Israel’s Jewish character, the corresponding Israeli demand for recognition as a Jewish state has become both more noticeable and more strident. Israeli leaders and the mainstream Israeli public perceive calls

for a binational state, criticism of Israel as a “racist” or an “apartheid” entity, the demand for a right of return for Palestinian refugees, and demographic trends as a direct threat to the Zionist enterprise and to the continued realization of Jewish self-determination. The Israeli establishment has responded by seeking renewed public recognition and international legitimacy for Jewish statehood, if not in isolation, then at least in the context of establishing a Palestinian state.

In the past decade, Israeli prime ministers Ariel Sharon, Ehud Olmert, and now Binyamin Netanyahu have come to see recognition of Israel as the homeland of the Jewish people as a central objective of the nation’s foreign policy and a key component of any future Israeli-Palestinian agreement. In the words of Ariel Sharon before the UN General Assembly, there can be “no compromise on the right of the state of Israel to exist as a Jewish state.”³¹ Similarly, in the lead-up to the 2007 Annapolis conference, Prime Minister Olmert repeatedly insisted on the importance of recognizing Israel as a Jewish state, stating outright, “I do not intend to compromise in any way over the issue of the Jewish state. This will be a condition for our recognition of a Palestinian state.”³²

This is not a new demand. It is a reaction to the sense that what was once largely self-evident is now under threat. Israel’s leaders increasingly view the erosion of Israel’s legitimacy as a Jewish nation-state as a challenge not just to national identity, but to national security. In the eyes of recognition advocates, the physical threat posed by Israel’s regional enemies has been compounded by an assault on its *raison d’être* as a Jewish homeland, potentially narrowing Israel’s capacity to defend itself.³³ In this context, bolstering support for the continuing moral, legal, and political validity of the Jewish people’s right to self-determination has acquired significance within Israel not merely as an aspiration, but as a component of the national defense.

Palestinian Self-Determination

The claim for recognition of Israel as a Jewish state should not be presented or seen as an attempt to negate Palestinian rights to self-determination.³⁴ Historically, advocates on both sides of the conflict have

often failed to show sensitivity to the rights of the other, and at least some proponents of recognition of Jewish self-determination are no exception. However, it is striking that more recent advocates of recognition have essentially argued that far from being a rejection of Palestinian statehood, recognition of Israel as a Jewish homeland is a necessary corollary to it.

In other words, it is precisely because Israel is prepared to recognize Palestinian claims to self-determination in a state of their own that it is viewed as both necessary and legitimate for Israel to expect corresponding recognition of Jewish national rights. Under this approach, mutual recognition of Palestinian and Jewish rights to self-determination is fundamental to the two-state vision itself, which posits the creation of “two homelands for two peoples” as the framework for resolving the Israeli-Palestinian conflict. To support the two-state solution is necessarily to support separate

Jewish and Palestinian self-determination, and advocates of recognition seek to make this point explicit.

Thus, for example, Prime Minister Netanyahu has stated that “if we are asked to recognize the Palestinian state as the nation-state of the Palestinian people, then the Palestinians should recognize Israel as the nation-state of the Jewish people.”³⁵ Similarly, Israeli opposition leader Tzipi Livni has stipulated that the “real and only meaning of the two-state vision” is that each people “accept that their [national] rights are realized through the establishment of their own homeland, not in the homeland of the other.”³⁶

Correctly presented and understood, therefore, the claim for recognition of Israel as a Jewish state is a claim for recognition of the Jewish people’s right to self-determination in a state of their own, *without* diminishing the right to parallel recognition of Palestinian self-determination rights.

2 | Historical Overview

BEFORE EXAMINING potential objections to the recognition claim and the ways in which they might be addressed, it is important to review its oft-neglected diplomatic and negotiation history. Opponents of recognition tend to portray this claim as bereft of international support or precedent. But it is not only inaccurate to view this claim as “new,” it is also misleading to ignore the fact that historically, despite largely consistent Arab and Palestinian opposition, the claim has enjoyed relatively widespread international acceptance.

Establishing the Jewish Nation-State

Even before political Zionism emerged in the late nineteenth century, the idea of the Jewish people regaining sovereignty in their historic homeland attracted prominent international support.³⁷ The concept flourished in England, for example, long before the birth of modern Zionism, particularly among English Christian and political figures such as Oliver Cromwell, Lord Shaftesbury, and Lord Palmerston.³⁸ In 1799, as Napoleon’s army camped outside Acre on the Mediterranean coast, he issued a proclamation calling upon the Jewish people, as the “rightful heirs of Palestine,” to establish an autonomous homeland under French protection.³⁹

Similarly, the idea of restoring Jewish sovereignty was popular among a broad cross-section of early Americans.⁴⁰ America’s second president, John Adams, spoke of his wish that Jews would reestablish “in Judea an independent nation,”⁴¹ while Abraham Lincoln expressed the view that “restoring the Jews to their national home in Palestine...is a noble dream and one shared by many Americans.”⁴²

With the adoption of a political program at the First Zionist Congress in Basel in 1897, the drive to reconstitute Jewish national independence became a central Zionist objective and enjoyed a remarkably positive response from the community of nations. Naturally, political interests played a strong role in this response, especially in the turmoil of World War I, but

international actors regularly justified their support on moral grounds.

Britain’s Balfour Declaration of October 31, 1917, is well known as the first political recognition of Zionist aims by a Great Power. It was endorsed publicly by France and Italy in 1918, followed by the U.S. Congress in 1922, quite apart from the document’s incorporation into the League of Nations Mandate for Palestine.⁴³ In the declaration, Foreign Secretary Lord Balfour informed Baron Rothschild, a leading figure in Britain’s Jewish community, of the cabinet’s “declaration of sympathy with Jewish Zionist aspirations,” according to which,

His Majesty’s Government view with favor the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which would prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.⁴⁴

Considerable debate has ensued as to whether the words “national home for the Jewish people” can be viewed as equivalent to an expression of support for Jewish statehood.⁴⁵ While many in Britain and beyond certainly understood the term in this sense,⁴⁶ the evidence is mixed.⁴⁷ What is clear is that the Balfour Declaration provided both the opportunity and the legitimacy for increased Jewish immigration to Palestine in the years following the First World War. Together with subsequent developments, the declaration thus paved the way for the establishment of a Jewish majority in Palestine, which in turn sought—and ultimately acquired—international recognition for Jewish self-determination in a sovereign state.⁴⁸

Whatever the ambiguities surrounding the Balfour Declaration, its incorporation into the League of Nations Mandate for Palestine gave far-reaching

political and legal support to the Zionist objective of Jewish self-determination. Official endorsement of the Balfour Declaration by the Allied Powers of World War I was first attained at the San Remo Conference of April 1920, which was convened to determine the future of the territories of the defeated Ottoman Empire under the League of Nations mandate system. In the San Remo Resolution, the parties agreed to entrust a mandatory power in Palestine with the responsibility of “putting into effect” the terms of the Balfour Declaration.⁴⁹

This position was formally adopted in the terms of the British Mandate for Palestine confirmed by the Council of the League of Nations in July 1922.⁵⁰ In a number of ways, the Palestine Mandate actually enhanced the terms of the Balfour Declaration. The Mandate not only called on Britain, as mandatory power, to place Palestine under such “political, administrative and economic conditions as will *secure* the establishment of the Jewish national home,” but its preamble also stated explicitly that

recognition has thereby been given to the *historical connection of the Jewish people with Palestine* and to the grounds for *reconstituting* their national home in that country [emphasis added].⁵¹

To enable the implementation of the Mandate, and without prejudice to the civil and religious rights of all inhabitants, the mandatory power was required to take several steps, including facilitating Jewish immigration and encouraging “close settlement by Jews on the land”; enacting a nationality law so that Jews with permanent residence in Palestine could acquire Palestinian citizenship; and establishing Hebrew as one of the official languages of Palestine.⁵²

The result of the Palestine Mandate was thus not only to give enhanced international recognition to the Jewish claim for statehood, and not only to create conditions for it to be realized, but to transform the goal of establishing a Jewish homeland from a policy preference into an international legal obligation.

This international commitment to the Zionist cause, as expressed in the Mandate, was sorely tested by vocal and violent Arab opposition. With few notable exceptions,⁵³ Arab leaders rejected the very idea of

Jewish self-determination in Palestine and denied the legality of the Mandate. The ensuing violence between Arab and Jewish residents of Mandate Palestine and changing geopolitical considerations prompted moves to reconsider or repudiate the commitment to Jewish statehood, as exemplified by the British White Paper of 1939⁵⁴ and the recommendations of the Anglo-American Committee of Inquiry of 1946.⁵⁵

Nevertheless, the international community’s ultimate response to Arab opposition was not to abandon the goal of Jewish sovereignty, but rather to endorse the concept of partitioning Palestine into a Jewish and an Arab state. This position would eventually find its form in two central documents—the Peel Commission Report of 1937 and, even more significant, the UN General Assembly Partition Resolution of 1947. Both of these documents affirmed the historic legitimacy of reconstituting a Jewish state while embracing the proposal to establish an Arab state alongside it.⁵⁶

Indeed, these early partition documents—which expressly endorse the idea of a Jewish state—represent the precursor to today’s two-state solution framework. When viewed in this historical context, the current controversy surrounding the idea of Jewish statehood as part of the two-state solution seems peculiar. After all, the historical and conceptual basis for the two-state model is grounded in the need to give expression to competing Jewish and Arab national claims. It should follow that embracing the two-state vision means endorsing separate Jewish and Palestinian claims to self-determination, in respective sovereign states.

Background on the two reports is instructive. The Peel Commission was established by Great Britain in 1936 following an outbreak of Arab riots and violence against Jewish residents of Palestine. The commission members, after hearing a wide range of views, concluded that any solution to the Palestine conflict other than partition was either unfeasible or contrary to British moral and political obligations. In defending the concept of partitioning Palestine into a Jewish and an Arab state, the commission argued as follows:

Partition enables the Jews in the fullest sense to call their National Home their own; for it converts it into a Jewish State. Its citizens will be able to admit

as many Jews into it as they themselves believe can be absorbed. They will attain the primary objective of Zionism—a Jewish nation, planted in Palestine, giving its nationals the same status in the world as other nations give theirs. They will cease at last to live a minority life.... To both Arabs and Jews Partition offers a prospect—and there is none in any other policy—of obtaining the inestimable boon of peace.⁵⁷

These sentiments were given powerful international support when Britain announced its desire to terminate the Mandate and placed the “Question of Palestine” before the United Nations. In response to a British request, the UN General Assembly first established a Special Committee on Palestine (UNSCOP) in May 1947. UNSCOP, with representatives from eleven nations, was called upon to investigate the cause of the conflict in Palestine and, if possible, devise a solution.⁵⁸ Against the background of the Holocaust and echoing the Peel Commission, the UNSCOP report concluded:

By providing, as one of the main obligations of the mandatory Power the facilitation of Jewish immigration, it [the League of Nations Mandate] conferred upon the Jews an opportunity, through large-scale immigration, to create eventually a Jewish State with a Jewish majority. Both the Balfour Declaration and the Mandate involved international commitments to the Jewish people as a whole.... It would appear that the clear implication of the Jewish contention that the National Home can be safeguarded from Arab domination only when it can stand by itself is that an independent Jewish State in all or part of Palestine is the only means of securing the promise of the Mandate for a Jewish National Home.⁵⁹

However, the UNSCOP report recognized that these commitments had to take account of the difficult realities on the ground and be weighed against commitments made to, and rights claimed by, the Arab population of Palestine.⁶⁰ The committee rejected the idea of a unitary Jewish *or* Arab state, a binational state, or a cantonal state. Instead, the majority report endorsed the partition of Palestine into a Jewish and an Arab state, with economic union and with respect for democratic principles and minority rights. It argued that

the claims to Palestine of the Arabs and Jews, both possessing validity, are irreconcilable, and...among all of the solutions advanced, partition will provide the most realistic and practicable settlement, and is the most likely to afford a workable basis for meeting in part the claims and national aspirations of both parties.⁶¹

It was the UNSCOP report that laid the groundwork for the adoption by the UN General Assembly of Partition Resolution 181. Adopted on November 29, 1947, by a vote of thirty-three to thirteen (with ten abstentions), the resolution formally recommended the termination of the British Mandate and the partition of Palestine into a Jewish and an Arab state. The resolution—which mentions the term “Jewish state” no fewer than thirty times—largely followed UNSCOP’s recommendations regarding the practical and legal parameters for partition and, most notably, gave formal UN legitimacy to the very concept of a Jewish state.

While the Arab states’ violent rejection of the resolution prevented it from being realized, the resolution itself provides unassailable evidence of the extent of international support for Jewish sovereignty in the context of partition. From a legal perspective, Israel’s subsequent establishment in May 1948, and its admission to the United Nations in the following year, was not formally based on Resolution 181, which remained unimplemented. Nevertheless, it is clear from the political context in which these events took place that those states that recognized the new state and supported its admission into the family of nations did so, at least in part, because they viewed the status of the Jews as a people as unquestionable and the establishment of a Jewish national home in Palestine as necessary and legitimate.⁶²

As discussed earlier, with the establishment of Israel and its acceptance into the United Nations, the urgency of pursuing additional recognition for Jewish statehood diminished. Recognition of Israel was seen at the time as synonymous with acceptance of Jewish self-determination. While Arab opposition to the Jewish state remained widespread, Israel’s representatives could be satisfied that a major component of the Zionist program had been achieved and that the Jewish state

had earned a place in the family of nations, though not yet in the region of which it was part.

Negotiation History

It is noteworthy that in the history of the peace process, Palestinian negotiators have not always resisted acknowledgment of Israel's Jewish character. Despite asserting the right of return for Palestinian refugees (while showing a willingness to negotiate the manner of its implementation) and defending minority rights for Israel's Palestinian Arab citizens, Palestinian negotiators—beginning with Yasser Arafat himself—did not seem to view the recognition claim to be quite as problematic as they do today.

This is not to say that Palestinian representatives recognized the historic legitimacy of Jewish self-determination or the Zionist narrative. Little evidence exists for that. But, in the context of peace process negotiations, some measure of acceptance for Jewish national claims, side by side with Palestinian claims, was tolerated by Palestine Liberation Organization (PLO) leaders and negotiators.

In the Palestinian Declaration of Independence (of November 15, 1988, in Algiers), for example, General Assembly Resolution 181 was recognized as partitioning Palestine into “two states, one Arab, one Jewish” and as *the* source of “international legitimacy that ensure[s] the rights of the Palestinian Arab people to sovereignty.”⁶³

In his speech before the UN General Assembly one month after the Algiers Declaration, Arafat reiterated the PLO's position that despite “the historic wrong done to our people,” the partition resolution calling for the establishment of “two states in Palestine, one Palestinian Arab and one Jewish...continues to meet the requirements of international legitimacy.”⁶⁴

These sentiments were later echoed by the Palestinian delegation at the 1991 Madrid peace conference, which asserted that the 1988 declaration signified the acceptance by the Palestinian people of the two-state solution based on Resolution 181—the same resolution that had been roundly rejected some forty years before *precisely because* it endorsed Jewish sovereignty.⁶⁵

Even if these statements do not indicate official Palestinian acceptance of any claimed historic Jewish right in Palestine, they do suggest a willingness to come to terms with the considerable international support behind the idea of a Jewish nation-state. Most important, by embracing Resolution 181 as the source of “international legitimacy,” Palestinian representatives tied the justification for Palestinian sovereignty to the recognition of parallel Jewish sovereignty.⁶⁶ When compared with the PLO covenant of 1968—which asserts that “the partition of Palestine in 1947 and the establishment of the state of Israel are entirely illegal” and that “Judaism, being a religion, is not an independent nationality”—the significance of the 1988 declaration cannot be overlooked.⁶⁷

While this issue was not a prominent feature of the 1990s interim agreements between Israel and the PLO, it emerged again in the context of permanent-status negotiations conducted both under Israeli prime minister Ehud Barak with Chairman Arafat and in the Annapolis peace process negotiations of 2007–2008.

Under the interim agreements, the PLO formally accepted Israel's right to exist in peace and security, as expressed most notably in the exchange of letters between Arafat and Prime Minister Yitzhak Rabin that immediately preceded the Declaration of Principles of September 13, 1993, and took steps to alter the PLO covenant accordingly.⁶⁸ Yet perhaps because only interim issues rather than a permanent settlement or Palestinian statehood were being negotiated at the time, the issue of Jewish national rights did not emerge in any detailed way.

During the final-status negotiations between Prime Minister Barak and Chairman Arafat, however, the issue of Jewish statehood arose on numerous occasions, particularly in the context of negotiating the refugee issue. Then, as now, Israeli negotiators viewed the Palestinian claim of a right of return for refugees to sovereign Israeli territory as a threat to Israel's status as a Jewish state, and sought to resolve refugee claims in a manner that was consistent with this basic interest.

The recognition issue received direct attention in the framework of the so-called Clinton Parameters of December 2000—a last-ditch effort by President Bill

Clinton to outline the terms of a possible agreement before he left office. In describing the issue of refugee return, President Clinton noted that Israel could not accept a right to immigrate that would “threaten the Jewish character of the state.” As such, he asserted:

Any solution will...have to be consistent with the two-state approach that both sides have accepted as a way to end the Israeli-Palestinian conflict. A new state of Palestine is about to be created as the homeland of the Palestinian people, just as Israel was established as the homeland for the Jewish people.⁶⁹

What is striking is that in the extensive and detailed reservations issued by the PLO to the Clinton Parameters in early 2001, no challenge was raised to the basic principle advocated by President Clinton that the refugee issue should be resolved in a manner consistent with the concept of two homelands for two peoples—one Palestinian and one Jewish. While the PLO took issue with Clinton’s practical proposals, it not only failed to question his conceptual framework but explicitly noted that the Palestinians were willing to think “flexibly and creatively” about implementing refugee return in order, among other things, “to accommodate Israeli concerns.”⁷⁰

One probably should not read too much into this Palestinian omission, but it is noteworthy that Chairman Arafat subsequently echoed it on record. Writing in the *New York Times* in February 2002, Arafat explained, “We understand Israel’s demographic concerns and understand that the right of return of Palestinian refugees, a right guaranteed under international law and United Nations Resolution 194, must be implemented in a way that takes into account such concerns.”⁷¹ In a subsequent June 2004 interview with the Israeli newspaper *Haaretz*, Arafat was asked explicitly whether he understood that “Israel has to keep being a Jewish state.” He responded, “Definitely, definitely, I told them we had accepted [this] openly and officially in 1988.”⁷² These sentiments, though arguably expressed only for public consumption, nevertheless indicate a readiness on Arafat’s part to publicly acknowledge the legitimacy of Israel’s desire to maintain its Jewish character in a way that the current Palestinian leadership has not, as yet, been willing to contemplate.

The issue of recognizing Israel as a Jewish state only returned to the negotiating table with the launch of permanent-status talks under the Annapolis process. In the years of terrorism and violence that separated the breakdown of earlier permanent-status talks and their renewal at Annapolis in 2007, the issue took on new and weightier dimensions for both sides. For Israeli leaders, the process of delegitimization of the Jewish state in the region and beyond made the issue of recognition paramount. For Palestinian leaders, the demand for recognition served as further evidence that Israel was keen to protect its own interests but not ready to accommodate Palestinian ones.

In the context of the Annapolis negotiations, both Prime Minister Olmert and Foreign Minister Livni sought Palestinian recognition of Israel as a Jewish homeland, but their Palestinian interlocutors were wary of Israeli intentions and reluctant to concede. As discussed in the text that follows, Israeli diplomats enjoyed some success during this period in enlisting renewed recognition for Israel as a Jewish state from several important international figures, but Palestinian representatives were patently unwilling to entertain the notion.

While it is beyond the scope of this paper to explore in detail the reasons for this stance during the Annapolis negotiations, several possible explanations—beyond principled opposition to the claim—can briefly be offered. Even among those Palestinian negotiators who may have been willing privately to contemplate recognition for Jewish collective rights in some form, the timing of the Israeli demand—at the outset of the Annapolis process—made it unacceptable from their perspective for a number of reasons.

First, Palestinian negotiators perceived the demand as an attempt to predetermine the resolution of the refugee issue and thus refused to even consider possible formulations outside the context of an agreement that addressed and resolved this question. Second, from a tactical perspective, the force with which the Israeli side pursued this demand indicated to their Palestinian interlocutors its value as a negotiating card, and as a result, the Palestinians were reluctant to contemplate acceding to it without significant returns. Finally, representatives of Israel’s Palestinian

Arab minority as well as Hamas figures had emerged in a way not visible a decade earlier in order to warn the Palestinian leadership against officially accepting any legitimacy for Jewish statehood. A weakened Palestinian leadership, deeply concerned about criticism and accusations of betrayal for controversial concessions, simply lacked the inclination to entertain such a demand, at least in the absence of a far-reaching agreement.

Since the Annapolis negotiations were suspended at the close of 2008, Israel has continued to insist on the importance of recognition of Jewish statehood in the context of a peace agreement. Across Israel's political spectrum, relatively broad support exists for advancing this claim. However, the Palestinian side thus far has shown little sign of flexibility on the issue, and Palestinian and Arab figures expressed fresh opposition after the renewal of direct negotiations in September 2010.⁷³

For his part, though he has studiously avoided any recognition of Jewish self-determination rights, President Mahmoud Abbas has recently been willing to publicly acknowledge the history of Jewish presence in Palestine⁷⁴ and has not always been averse to using the term "two states for two peoples."⁷⁵ Indeed, contrary to comments by Netanyahu,⁷⁶ U.S. special envoy George Mitchell has asserted in repeated briefings that both leaders have at least agreed that the goal of the negotiations should be the establishment of "two states for two peoples," rather than just "two states."⁷⁷

As will be argued in the following sections, it is possible that some Palestinian opposition to this claim centers more on the context in which the demand is raised and the manner in which it is formulated than on the concept itself. The idea of mutual recognition of Jewish and Palestinian national rights may at the appropriate time, and in the right context and format, become acceptable to those committed to the two-state framework and to a conflict-ending agreement. But to test this proposition, we must first grapple with the substantive objections raised against the claim, and contend with the inflated and misleading dimensions this issue has acquired in Israeli and Palestinian public discourse.

Recent Examples of Recognition

Before turning to the arguments raised by opponents of recognition, brief attention should be given to more recent international expressions of support for this claim. As efforts to delegitimize Israel's Jewish character have intensified, Israeli leaders have increasingly sought renewed international recognition of Israel as a Jewish nation-state. During the tenure of prime ministers Sharon and Olmert in particular, a concerted diplomatic effort was undertaken to attract international support for this claim, alongside continuing demands for recognition from the Palestinian leadership.

In this context, the United States under both Presidents Bush and Obama has given clear and consistent support to the notion of a Jewish state. As early as November 2001, then secretary of state Colin Powell asserted:

Both sides will need to face up to some plain truths about where this process is heading as they turn to the challenges of negotiating permanent status issues. *Palestinians must eliminate any doubt, once and for all, that they accept the legitimacy of Israel as a Jewish state. They must make clear that their objective is a Palestinian state alongside Israel, not in place of Israel, and which takes full account of Israel's security needs* [emphasis added].⁷⁸

Similar statements were issued repeatedly by numerous senior U.S. officials throughout the Bush administration.⁷⁹ Most significant, President Bush himself frequently went on record declaring the U.S. commitment to "Israel as a Jewish state and homeland for the Jewish people."⁸⁰ Such expressions included his April 2004 letter to Prime Minister Sharon in which he affirmed that "the United States is strongly committed to Israel's security and well-being as a Jewish state."⁸¹

This general approach has continued under the Obama administration, which from the outset declared its intent to pursue a policy of "working with Israelis and Palestinians to achieve the goal of two states: a Jewish state in Israel and a Palestinian state living side by side in peace and security."⁸² Secretary of State Hillary Clinton and Special Envoy George Mitchell have regularly repeated this message, and

President Obama has consistently referred to Israel as a Jewish state or as the homeland of the Jewish people, including in his latest address to the UN General Assembly.⁸³ Most recently, U.S. State Department spokesperson Philip Crowley responded to questions about Prime Minister Netanyahu's demand for recognition in the following terms:

We have recognized the special nature of the Israeli state. It is a state for the Jewish people. It is a state for other citizens of other faiths as well.... We understand this aspiration, and the prime minister was talking yesterday about the fact that just as they aspire to a state for the Jewish people in the Middle East, they understand the aspirations of the Palestinian people for a state of their own.⁸⁴

Similar expressions of recognition have come from several European and international figures, though many others have preferred to adhere to the language of "two states" without recourse to terminology they know to be controversial from a Palestinian and Arab perspective. President Nicolas Sarkozy of France,⁸⁵ Chancellor Angela Merkel of Germany,⁸⁶ Italian prime minister Silvio Berlusconi,⁸⁷ former Spanish prime minister José María Aznar, and former Peruvian president Alejandro Toledo⁸⁸ are among those who have recently given public support to Israel's status as a Jewish state.

Within the European Union, the concept of "two national states" was endorsed by consensus at the 2007 EuroMed Conference in Lisbon,⁸⁹ with the participation of Palestinian and Arab representatives. Similarly, the EU's Monitoring Centre for Racism and Xenophobia (now the European Agency for Fundamental Rights) has defined denying the right of the Jewish people to self-determination as a form of anti-Semitism⁹⁰—a formulation subsequently adopted by the U.S. State Department and relevant units of the Organization for Security and Co-operation in Europe. Finally, mention can be made of former UN secretary-general Kofi Annan, who in his parting address on the Middle East to the Security Council called for a resolution "that respects the rights of Palestinian refugees and is consistent with the two-state solution and with the character of the states in the region."⁹¹

Such expressions of recognition, despite Palestinian and Arab opposition, indicate a continuing commitment—by at least some in the international community—to the underlying rationale of two national homelands, the same rationale that dictated the logic of partition in the first place. As will be in subsequent chapters, international actors may have a greater role to play in facilitating resolution of this issue by developing a formulation that addresses legitimate Palestinian concerns while responding adequately to core Israeli needs.

3 | Palestinian, Arab, and Other Objections

EVEN IF THE claim to Jewish self-determination, side by side with corresponding Palestinian rights, enjoys considerable historical and international support, its recognition remains deeply problematic for Palestinian and Arab leaders. Indeed, Palestinian and Arab representatives have opposed such recognition with overwhelming consistency, on numerous grounds, and generally with the same degree of conviction as that demonstrated by the claim's Israeli proponents.

Given the increasing weight attributed to this issue in the context of negotiations, its resolution has assumed major importance in advancing the cause of Israeli-Palestinian peace. What has been lacking is a serious attempt to examine the merits of the claim, along with serious consideration of the substantive objections raised by the Palestinian side and the way they might be addressed in practice.

For those who reject the two-state model, or who believe that the very idea of the nation-state should be abandoned, the case for recognition of Jewish and Palestinian national rights will likely fall on deaf ears. More worthy of attention, however, are objections to the claim for recognition raised by those who ostensibly endorse a two-state solution. These voices openly embrace partition as the only feasible model for resolving the conflict, and yet they are unwilling to support an agreement that publicly affirms both Jewish and Palestinian rights to self-determination.

For those who claim that the refusal to recognize Israel as a Jewish state conceals a deep-seated rejection of the two-state solution itself (regardless of the rhetoric to the contrary), it is important to show that any legitimate, ancillary concerns regarding recognition can be overcome. By the same token, opponents of recognition who claim to nevertheless support the two-state vision have an interest in demonstrating that their objections do not stem from any fundamental problem with the idea of Jewish and Palestinian coexistence in two sovereign states. The next section seeks to explore these challenges in further detail.

An Unnecessary Demand

Perhaps the most straightforward objection to the claim for recognition is that it is simply unnecessary. Even if theoretically legitimate, it is seen by some as complicating negotiations that are already exceedingly difficult.

To begin with, it is important to distinguish between the legitimacy of the Jewish people's right to self-determination and the insistence that this right be expressly recognized as part of a political agreement. Those who argue that recognition of Israel's status as a Jewish state is unnecessary need not consider the status itself to be illegitimate. Many peace agreements side-step or obfuscate issues that, while legitimate and even agreed upon, are considered too politically charged for one party or another to publicly acclaim.

Unsurprisingly, Palestinian representatives harbor deep skepticism about the actual need for such formal recognition. They are quick to point out that recognition of Israel as a Jewish state was neither demanded nor attained in Israel's peace treaties with Egypt and Jordan. Indeed, the issue of recognition does not feature in the agreements between Israel and the PLO as a permanent-status issue to be resolved in negotiations. Palestinian representatives also argue that the corollary to recognition of a Palestinian state is not recognition of Jewish rights but of the state of Israel—something that was already realized in the 1993 exchange of letters between Chairman Arafat and Prime Minister Rabin, in which the PLO affirmed “the right of the State of Israel to exist in peace and security.” And they contend, as President Abbas has repeatedly argued, that Israel is entitled to define its own internal character but should not and need not seek public Palestinian recognition for this definition.⁹²

Palestinian and Arab representatives are not alone in questioning the necessity of recognition. They are joined by some prominent Israelis, a significant number of whom are known to be strong advocates of Israel's Jewish character but oppose seeking Palestinian recognition for it.⁹³

For some Israelis, a cost-benefit analysis simply does not justify seeking recognition. The likelihood of attaining such recognition is, in their view, relatively low—at least without considerable and costly Israeli concessions. Proponents of this view also contend that the prominence given to what would essentially be a rhetorical benefit has come at the expense of more concrete demands that would have to be satisfied for Israel to endorse an agreement.

Israeli opponents of seeking recognition argue further that even without such recognition, a permanent-status agreement would serve Israel's overall interests. For them, respect for Jewish collective rights will come not from formal recognition but rather from the reality of a functioning two-state solution. Demanding such recognition, in their view, merely delays and complicates the efforts to reach an acceptable (though not optimal) two-state agreement, an achievement that itself could contribute significantly to Israel's continuing legitimacy as a Jewish state. Given demographic and regional trends, this view holds that it is the absence of an agreement—not the absence of recognition—that poses the greatest challenge to Israel's Jewish character.

Other Israelis reject the idea of recognition on principle. For them, Israel's legitimacy as the nation-state of the Jewish people is inherent and self-evident. They consider the very pursuit of external recognition not only demeaning but also dangerous in that it implicitly concedes the point that Israel's legitimacy as a Jewish state is open to question. This view was articulated most forcefully by Likud patriarch Menachem Begin, who in his first address to the Israeli Knesset as prime minister in 1977 explained his position in stark terms:

I wish to declare that the Government of Israel will not ask any nation, be it near or far, mighty or small, to recognize our right to exist. The right to exist? It would not enter the mind of any Briton or Frenchman, Belgian or Dutchman, Hungarian or Bulgarian, Russian or American, to request for his people recognition of its right to exist. Their existence per se is their right to exist. The same holds true for Israel. We were granted our right to exist by the God of our fathers, at the glimmer of the dawn of human civilization,

nearly four thousand years ago. For that right, which has been sanctified in Jewish blood from generation to generation, we have paid a price unexampled in the annals of the nations. Certainly, this fact does not diminish or enfeeble our right. On the contrary. Therefore, I re-emphasize that we do not expect anyone to request, on our behalf, that our right to exist in the land of our fathers be recognized. It is a different recognition which is required between ourselves and our neighbours: recognition of sovereignty and of the mutual need for a life of peace and understanding. It is this mutual recognition that we look forward to: For it we shall make every possible effort.⁹⁴

In response to these considerations, supporters of recognition posit three core arguments as to why recognition of Jewish statehood is a necessary component of any Israeli-Palestinian peace agreement. We will examine each in turn. Additional arguments that arise from a broader strategic perspective will be considered in the next section.

Addressing the Core of the Conflict It is difficult to deny that Palestinian and Arab refusal to recognize Jewish rights to self-determination explains at least part of the intractability of the Israeli-Palestinian conflict. While the degree to which this refusal—as opposed to other factors—fuels the conflict may be open to debate, the failure to accept the legitimacy of Jewish national rights has been a consistent and motivating feature of Palestinian and broader Arab policy and rhetoric since the conflict began.

Israeli advocates of recognition find it hard to imagine a genuine end to the conflict without the other side finally, and genuinely, coming to terms with Jewish collective rights, side by side with Palestinian rights. In the words of Israeli scholar Shlomo Avineri, “If you declared war against the Jewish state, does not the signing of a peace treaty with that state obligate you to accept it?”⁹⁵

To some degree, this is not just a political issue but an emotional and psychological one. Supporters for recognition reflect a common Israeli suspicion that lurking behind the refusal to recognize Jewish rights in principle is a latent aspiration to continue to oppose Jewish self-determination in practice.⁹⁶ At the very least,

opposition to recognition is seen to signal a refusal to confront those in Palestinian and Arab society who will continue to rally against Jewish self-determination even after the elusive peace agreement is reached.

Indeed, it is precisely because recognition is so difficult for Palestinian interlocutors to accept that some on the Israeli side consider it so necessary. The claim has thus acquired the quality of a litmus test of true Palestinian intentions. For many in Israel, recognition of Jewish rights would provide critical reassurance that something fundamental, even profound, had occurred in Palestinian and Arab society to indicate that a prospective peace agreement would be more than a piece of paper and represent a genuine commitment to the finality of all claims.

At a fundamental level, the demand for recognition stems from the conviction that true peace requires each side to wrestle with, and overcome, its own demons. Under this view, if the two sides are determined to negotiate an agreement that ends the conflict rather than temporarily subdues it—an agreement rooted in genuine and historic reconciliation—they cannot resort to constructive ambiguity or political expedience to avoid the hard issues.

Just as the Palestinians demand of Israel to come to terms with the Palestinian people's collective rights, and just as each side will need to find a way to come to terms with the suffering it has inflicted on the other, it is argued that it is equally appropriate for an agreement that purports to end the conflict not to elide one of the core issues that has perpetuated it.⁹⁷ In this respect, it is not the existence of Israel or its sovereign rights that is at issue, and thus, for proponents of recognition, acceptance of Israel's rights, while necessary, is not sufficient. Supporters of recognition argue that what has driven the conflict is the refusal to accept the Jewish people's national claims and that there is no escaping the task of addressing the legitimacy of these claims for the conflict to be resolved.⁹⁸

This situation is not quite comparable to that preceding Israel's peace agreements with Egypt and Jordan. Unlike in those agreements, questions of national identity and competing historical narratives will be

central to an Israeli-Palestinian peace treaty. At the heart of such an agreement will be the resolution of overlapping claims for self-determination and title over the same piece of land—claims that each side has perceived as threatening the very core of its collective identity and national aspirations. In this context, fashioning a territorial bargain is seen as inadequate. It is necessary for each side to allow for the legitimacy of the other's collective rights, since it is the absence of this mutual legitimacy—not differences over borders—that has generated the conflict and made agreement impossible.

These arguments for recognition gain particular force in the context of a two-state solution. After all, what is the rationale for a two-state approach if not a desire to give legitimate expression to the self-determination rights of *both* the Jewish and Palestinian people? It is this very idea that underlies the concept of partition that has been embraced to resolve the conflict, and accepted formally by both negotiating sides. Acceptance of a two-state solution in form, without acknowledging the parallel national rights that give it substance, is thus seen by recognition advocates as a halfhearted and possibly insincere commitment to peace itself.

Resolving the Refugee Issue Those Israelis who view the significance of recognition through the prism of a genuine end to the conflict see its most important practical manifestation in the approach such recognition dictates to resolving the refugee issue. If Palestinians recognize the legitimacy of a Jewish state, then they arguably accept that the solution to Palestinian refugees' claims cannot be realized in a way that would deny Israel its Jewish character.

More specifically, acceptance of a two-state solution as embodying the realization of two distinct self-determination claims suggests that Palestine, not Israel, must be treated as the homeland for Palestinian refugees and the site of their prospective repatriation. Indeed, this was the view expressed by President Bush in his April 2004 letter to Prime Minister Sharon, formulated in the context of Israel's disengagement from Gaza:

The United States is strongly committed to Israel's security and well-being as a Jewish state. It seems clear that an agreed, just, fair and realistic framework for a solution to the Palestinian refugee issue as part of any final status agreement will need to be found through the establishment of a Palestinian state, and the settling of Palestinian refugees there, rather than in Israel.⁹⁹

On the Israeli side, this idea has been perhaps most closely associated in recent times with former foreign minister and current opposition leader Tzipi Livni. In her address to the UN General Assembly in 2006, Livni put the case in the following terms:

For the Jewish people, Israel was established to be our national homeland. It was the solution for Jewish refugees, the realization of Jewish rights. And this is the true calling of the future state of Palestine: a national homeland for the Palestinian people—the solution to Palestinian claims, the fulfillment of Palestinian dreams, the answer for Palestinian refugees—wherever they may be. If Palestinian leaders are unwilling to say this, the world should say it for them. Instead of giving false hope, it is time to end the exploitation of the refugee issue, and begin to resolve it on the basis of the vision of two states, two homelands.¹⁰⁰

While recognition of a Jewish state does not necessarily dictate the exact manner in which individual Palestinian refugee claims will be resolved, such recognition does seek to allay a central Israeli concern that the claim for refugee return is in reality an attempt to undermine Jewish self-determination. Those seeking recognition argue against the notion that the Palestinian side can, on the one hand, demand the establishment of an independent state as part of a two-state solution while, on the other, pursuing the return of refugees not to Palestine but to Israel. By placing the resolution of the refugee issue in the framework of two states for two peoples—as envisaged in the Clinton Parameters—the capacity for this issue to overwhelm the two-state solution of which it is a part is effectively ruled out, even if a variety of approaches to the details of a solution are not.

Contending with Minority Claims An additional, yet no less influential, consideration for advocates of recognition relates to the potential claims of Israel's Palestinian Arab minority even after the conclusion of a conflict-ending peace agreement between Israel and the PLO.

Some Jewish Israelis worry that an Israeli-Palestinian agreement will not attain permanent legitimacy for Israel as a Jewish state, since the focus and momentum of international attention will only shift to challenge Israel's internal character. In the words of the Reut Institute, an Israeli think tank, "The issue of Israel's Arab citizens may become the next 'outstanding issue' driving delegitimization in the event that an Israeli-Palestinian Permanent Status Agreement is secured."¹⁰¹ Prominent leaders of Israel's Palestinian Arab minority may, according to this scenario, actually intensify their campaign to rid the nation's public sphere of its Jewish character on the grounds that their own individual and collective rights to equality and self-determination cannot otherwise be realized.¹⁰²

Some in Israel are concerned that Palestinian Arab minority groups would argue that while a peace treaty addresses the claims of the Palestinian people outside Israel, it ignores the rights of Palestinians living under Israeli sovereignty. Naturally, advocates of recognition reject the argument that affirming Israel's Jewish character cannot be reconciled with respecting the legitimate rights of its minorities.¹⁰³ They are, however, deeply unsettled by the prospect that such claims will nevertheless gain widespread currency and serve as a new rallying call for Israel's adversaries, especially if a future peace agreement fails to entrench the legitimacy of a Jewish nation-state.

Admittedly, recognition of Jewish national rights in an Israeli-Palestinian peace treaty will not necessarily forestall these kinds of claims by Israel's Palestinian Arab minority. However, such recognition is seen by some as providing a powerful response to charges that protecting Jewish collective rights is illegitimate. Especially if a peace agreement incorporating this recognition were to be endorsed not only by Western states but by regional Arab and Muslim states as well, advocates of a fundamental reconfiguration of Israel's

internal character would likely be more marginalized and find it more difficult to attract recruits.

Drawing upon the three core arguments just outlined, advocates of recognition have sought to counter the charge that recognition of Jewish collective rights is an unnecessary component of a future Israeli-Palestinian peace agreement. However, the potential merit of these arguments must be balanced against objections regarding the consequences of such recognition for Palestinian rights and interests that may be no less legitimate.

A Threat to Minority Rights

A very common objection to the claim for recognition is that it seeks to legitimize discrimination against Israel's Palestinian Arab minority. Israel's recognition as a Jewish state, it is argued, would necessarily undermine the rights of its non-Jewish citizens. As Palestinian scholar Ahmad Khalidi has written, "Acknowledging Israel as a Jewish state would undermine their [Israeli-Arabs'] status and jeopardise their very presence, especially in light of the rise of ultra-right parties that are already seeking to deny the country's Arab citizens their most basic civic rights."¹⁰⁴ Casting the objection in more extreme terms, Egyptian president Hosni Mubarak has argued that such recognition is a "serious mistake," claiming that its intention is to create a state for Jews only.¹⁰⁵

This concern about the implications of Jewish statehood for minority groups is, of course, not new. Even the earliest manifestations of support for Jewish political self-determination were qualified by recognition of the need to protect the interests of minority communities. Both the Balfour Declaration and the League of Nations Mandate for Palestine, while supporting the establishment of a Jewish national home, called for safeguarding the "civil and religious rights" (though, significantly, not the national rights) of non-Jewish communities in Palestine. Similarly, the 1947 partition resolution included numerous stipulations regarding minority rights, including the need to ensure respect for educational, linguistic, and religious autonomy.¹⁰⁶

Both during the prestatehood period and after Israeli independence, Zionist and Israeli leaders

themselves were keenly aware of the need to reassure the international community that their aspirations for a Jewish nation-state did not mean a denial of rights for the Palestinian Arab minority. To mention one example, Zeev Jabotinsky, the leader of the Zionist revisionist movement, was an outspoken advocate for minority rights in the future Jewish state. Though the revisionist movement itself may not be commonly associated with these positions, Jabotinsky led the formulation of a far-reaching draft constitution addressing minority rights in order, in his words, "to guarantee to the Arab minority in Jewish Palestine the maximum of the rights which they [the Jewish people] claimed but never obtained for themselves in other countries."¹⁰⁷ In a similar vein, he argued:

All measures must be taken to develop the national autonomy of each of the peoples represented in the country with regard to communal affairs, education, cultural activities and political representation. We believe that in this way the Jewish people in Palestine will in the future be able to convince the Arabs inside and outside the country to reconcile themselves to [a Jewish majority in] the land of Israel.¹⁰⁸

Such views were expressed by many Jewish leaders before and after the state's establishment and were enshrined in Israel's Declaration of Independence, which proclaims that Israel

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; [and] it will guarantee freedom of religion, conscience, language, education and culture.¹⁰⁹

The degree to which Israel has lived up to this promise in practice is a matter of considerable controversy.¹¹⁰ When it comes to maintaining minority rights, the country is hardly immune to criticism, even if Israeli efforts are complicated by the realities of the ongoing Israeli-Palestinian conflict and the radical tendencies of some elements within the Palestinian Arab and Jewish communities. But even if much of the criticism

is well placed, it does not render the idea of a Jewish nation-state itself discriminatory.

In its recent observations, the UN Committee on the Elimination of Racial Discrimination (CERD) gave Israel mixed reviews for its record on protecting minority rights, but it did not consider Israel's status as a Jewish nation-state to be inherently problematic.¹¹¹ Indeed, one might argue that to deny the legitimacy of Jewish self-determination would itself undermine universal principles of equality that grant all peoples such rights. Surely every effort should be devoted to ensuring that Israel, like other states, lives up to its commitments to civil equality and minority protection. But it is problematic for shortcomings in this regard to justify selectively denying the Jewish people a right to which all other nations are legally entitled regardless of their compliance with these standards.

At the same time, and regardless of Israel's track record on minority rights, it is appropriate to stipulate that recognition of Jewish rights to self-determination must be without prejudice to the rights of all minorities in Israel, including of course the Palestinian Arab minority. Correspondingly, recognition of Palestinian national rights to establish a future state should be qualified by protection of the rights of any non-Palestinian minority communities in Palestine.

Prime Minister Netanyahu, like other Israeli leaders before him, has acknowledged this point. Immediately following his June 2009 Bar-Ilan speech, in which the case for recognition of Israel as a Jewish state was forcefully advanced, Netanyahu clarified: "We are talking about two states for two peoples, and one of these is the Jewish people, and the Jewish people are entitled to a national state of their own. Of course, there are non-Jews in it and they enjoy full civil rights, but the state is a state of the Jewish people, with the symbols, language and holidays of the Jewish people."¹¹² In a similar vein, Israel's own Supreme Court has rejected the idea that Israel's character as a Jewish state justifies anything less than full equality for its non-Jewish citizens:

The values of the State of Israel as a Jewish and democratic state, inter alia, are based on the Jewish people's right to exist independently as a sovereign state....

However, the values of the State of Israel as a Jewish and democratic state do not, by any means, suggest that the State will discriminate between its citizens.... Moreover: not only do the values of the State of Israel as a Jewish state not dictate discrimination on the basis of religion and nationality, they in fact proscribe such discrimination, and demand equality between religions and nationalities.... There is, therefore, no contradiction between the values of the State of Israel as a Jewish and democratic state and between the absolute equality of all of its citizens. The opposite is true: equality of rights for all people in Israel, be their religion whatever it may be and be their nationality whatever it may be, is derived from the values of the State of Israel as a Jewish and democratic state.¹¹³

Such rights, it should be emphasized, entail more than civic equality and nondiscrimination for *individual* citizens who are not members of the majority ethnic group. They also include the active enforcement of *collective* minority rights, as enshrined in domestic and applicable international law, including cultural, linguistic, religious, and educational rights.¹¹⁴

By the same token, recognizing Israel's Jewish character clearly implies that the rights of the Palestinian Arab minority in Israel do not include a right to *political* self-determination. Such a right would be realized through the establishment of a Palestinian state alongside Israel, rather than in Israel proper. In other words, recognition of Israel as a Jewish state does not diminish the claim of the Palestinian Arab community to the full range of minority rights, but it does mandate that their claim to territorial self-determination in the form of statehood be realized elsewhere. Similarly, if a Jewish minority were to remain in the territory of a future Palestinian state, its minority rights should be respected—but such respect would not include a right to deny Palestine its public character as a Palestinian Arab state.

The essential point to be appreciated here is that recognition of the Jewish people's rights to self-determination in a sovereign state is not itself incompatible with respect for minority rights. It is true that the Palestinian Arab minority cannot enjoy a sense of full membership in a state where the public identity and space are predominantly Jewish. Yet while Israel's Palestinian minority

carries the unenviable burden of feeling alienated from the majority culture, such a tension exists between majority and minority cultures in states throughout the world.¹¹⁵ As Ruth Gavison has argued:

Israel's Jewish majority need not apologize for seeking to retain the Jewish identity of the State, but it must recognize the rights of Palestinians living between the Mediterranean and the Jordan. This includes their right to express their own unique identity both through an independent state of their own alongside Israel, and as a minority within the Jewish State.¹¹⁶

There is no denying that Israel, like many nation-states, must do more in practice to ensure that the individual and collective rights of its minorities are respected and that these minorities are integrated as much as possible into society. Any minority group in Israel, including the Palestinian Arab minority, is entitled to have these rights respected. However, as a matter of principle, no inherent contradiction exists between recognizing the right of the Jewish people to self-determination in the state in which they constitute the majority and recognizing the obligations of that state to protect its minority communities. Minority rights are not guaranteed by denying the majority *its* rights to self-determination and collective identity in the public sphere, but by balancing those rights with the legitimate rights of the minority to preserve its own distinct culture within the society. It follows that while respect for Palestinian Arab minority rights should qualify the recognition of Israel's claim as a Jewish nation-state, it need not necessarily undermine the legitimacy of the claim itself.

Israel's Status as a Democracy

A more fundamental objection emerging from the discussion of minority rights centers on the compatibility of Israel's claim to recognition as a Jewish state with its status as a democracy.

Occasionally, this argument arises from the misrepresentation of Jews as purely a religious group rather than a people with self-determination rights, and consequently asserts that a state cannot be at the same time a Jewish theocracy and democratic.¹¹⁷ But even

among those who correctly conceive of a Jewish state as the sovereign expression of the Jewish people's right to self-determination, some contend that the very idea of a Jewish nation-state runs counter to the promise of equality for all citizens that a democratic society is committed to uphold. In the words of Palestinian commentator and former minister Ghassan Khatib, a Jewish state is "a racist concept that contradicts the modern notion of democratic political systems based on the equal and basic rights of all citizens of the state, regardless of their ethnic or religious affiliations."¹¹⁸

This argument must be placed within appropriate parameters. If the contention is that only a Jewish nation-state cannot be democratic but that other such nation-states can be—including, for that matter, a Palestinian state—then the position is tainted by hypocrisy and prejudice and does not merit attention. If, on the other hand, the contention is that *no* state purporting to realize and protect the self-determination claims of a particular majority ethnic group can meet democratic standards, then the position is grounded in an arguably flawed conception of democracy.

Given that the majority of Israel's citizens self-identify as Jewish and wish to live in a state that upholds Jewish collective rights, the expectation that Israel maintain its Jewish character arguably does not constitute a rejection of democratic principles but rather adherence to them.¹¹⁹ Provided that the state is committed to preserving the basic rights of all its citizens and minority groups, the fact that it gives expression to the self-determination wishes of the majority can be seen as respecting, rather than contradicting, the democratic tradition.

A consideration of the similarities between Israel and other democratic nation-states amplifies this point. Though the idea of a Jewish state is sometimes labeled an anachronism belonging to a now defunct nineteenth-century form of nationalism,¹²⁰ Israel is by no means alone among world democracies in seeking to balance majority and minority rights in this way. As Israeli scholar Alexander Yakobson has demonstrated in a recent study, most modern democracies do not strive to establish a neutral public space but rather operate within the tension that is inherent

in preserving and advancing the nation's predominant religion, language, culture, and traditions, while respecting the distinct identity and desire for autonomy held by resident minority groups.¹²¹

Thus, for example, the Greek constitution establishes the nation's "prevailing religion" as the Eastern Orthodox Church of Christ and requires that the president take an oath in the name of "the Holy, Consubstantial, and Indivisible Trinity." The same document grants special status to Mount Athos, where the "dwelling therein of heterodox or schismatic persons shall be prohibited." In Ireland, the constitution retains in its preamble recognition of the Holy Trinity "from Whom all authority and to Whom, as our final end, all actions both of men and States must be referred"—a passage sure to alienate non-Catholic citizens. Italian law meanwhile requires the crucifix to be displayed in classrooms, courts of law, and hospitals—a provision upheld in 2006 by the Italian Council of State, which ruled that the crucifix was not just a religious symbol but a symbol of "the values which underlie and inspire our constitution." In the same way, Scandinavian countries such as Denmark and Norway give preference to the Evangelical Lutheran Church in their founding documents and require the king to be a member of the faith.¹²²

The special position given to the majority culture in numerous democracies is not limited to affairs of religion and state. The Bulgarian constitution, for example, provides that "the study and use of the Bulgarian language is a right and obligation of every Bulgarian citizen."¹²³ And Bulgaria, Greece, Ireland, and Italy, along with Armenia and Hungary, are among the countries that, like Israel, offer privileged status and assistance to foreigners of the nation's majority ethnic extraction, even if they do not possess citizenship in the homeland. Thus, for example, ethnic Greeks can acquire Greek citizenship without meeting the residency requirements demanded for non-ethnically Greek applicants; and under the Armenian constitution, a "person of Armenian descent will obtain citizenship through a shortened procedure."¹²⁴

This policy adopted by "kin-states"—according to which special status and privileges are conferred upon

foreign nationals who are ethnically affiliated with a state's majority culture—was deemed consistent with international law by a committee of jurists appointed by the Council of Europe. In its report, the committee affirmed that citizenship and immigration laws may give preference for "kinsmen" returning to their homeland, and that the kin-state may also help preserve the cultural, linguistic, and ethnic identity of kinsmen abroad, provided it does so with the assent of the host state.¹²⁵

It is also worth noting that some Arab states that have challenged the legitimacy of characterizing Israel as a Jewish homeland on democratic grounds nevertheless characterize themselves both as democracies *and* in particularistic religious or ethnic terms. Such states do not hesitate to claim democratic credentials while clearly giving public expression and preference in their founding documents and public culture to the collective Arab and Muslim identity of their majorities. The point here is not that these states represent successful democracies but rather that they seem to see no inherent contradiction between democracy and the nation-state, except when it comes to Israel.

Thus, Lebanon is defined in its constitution as a "democratic republic" but also as "Arab in its identity and association."¹²⁶ Egypt's constitution of 1971 provides that it is a "Socialist Democratic State" *and* that "the Egyptian people are part of the Arab Nation... Islam is the Religion of the State. Arabic is its official language, and the principal source of legislation is Islamic Jurisprudence (Sharia)."¹²⁷ Similarly, the 2002 constitution of the Kingdom of Bahrain proclaims a democratic system of government but at the same time holds that "the religion of the State is Islam; the Islamic Sharia is a principal source for legislation; [and] the official language is Arabic."¹²⁸ Indeed, even the Third Draft Constitution for the future Palestinian state, prepared in the context of Palestinian reform efforts, declares that Palestine will be a democracy while affirming Islam as the state's official religion, the principle of Islamic sharia as a main source of legislation, and the Palestinian people as part of the Arab and Islamic nation.¹²⁹

As all these examples attest, countries throughout the world do not act as if their claim to democratic

status requires defining their character solely in neutral and universal terms. Indeed, giving public expression to the collective identity of the majority, while committing to respect the civic equality of all citizens, is a feature common to many democracies. The democratic tradition does not require neutrality in the public sphere but rather the balancing of competing collective identities in a way that protects the rights of the majority to shape public culture, without violating individual human rights or the rights of minorities that seek to preserve their distinct identity.

In this light, the idea that granting recognition to Israel's Jewish character would be tantamount to a license for abandoning its democratic principles is certainly questionable. Admittedly, just as recognition of the Jewish people's right to self-determination should be stipulated as being without prejudice to the rights of minority groups, it should also be without prejudice to the rights to civic equality and nondiscrimination afforded to all citizens in a democratic state. But to assert that Israel forfeits its democratic character by seeking to advance and protect the collective rights and ethnic identity of its majority—as do many other democratic nation-states—rings hollow.

Predetermining Refugee Negotiations

A further significant objection to the claim of recognition is that it is meant to preempt negotiations on the refugee issue. As Palestinian negotiator Nabil Shaath recently argued, “The Palestinian Authority will never recognize Israel as the Jewish state because such a declaration will negate the right of the Palestinian refugees to return to their home.”¹³⁰

Many advocates of recognition do not conceal their view that recognition of a Jewish state is designed, at least in part, to eliminate the possibility of a “right of return” for Palestinian refugees that would endanger Israel's Jewish character. Since Israel's status as the nation-state of the Jewish people is largely a function of a sizable Jewish majority, the prospect of a principled right of return for Palestinian refugees and their descendants is seen as a direct threat to the preservation of Israel as a Jewish homeland. Prime Minister Netanyahu, for example, was explicit about this

aspect of the recognition claim in his Bar-Ilan speech. He explained:

A fundamental prerequisite for ending the conflict is a public, binding and unequivocal Palestinian recognition of Israel as the nation state of the Jewish people. To vest this declaration with practical meaning, there must also be a clear understanding that the Palestinian refugee problem will be resolved outside Israel's borders. Clearly, any demand for resettling Palestinian refugees within Israel undermines Israel's continued existence as the state of the Jewish people.¹³¹

As noted in the previous passages,¹³² for supporters of the two-state solution there is a compelling logic to the proposition that any resolution to the Palestinian refugee issue cannot involve the wholesale or (for many) even the limited entry of Palestinian refugees and their descendants into Israel. In their view, the rationale of partition requires that the refugee issue be resolved in a manner compatible with the overarching framework of two states for two peoples.

By the same token, it can be appreciated that from a Palestinian perspective, recognizing Israel as the homeland for the Jewish people constitutes an implicit waiver of the “right of return.” This perspective helps explain Palestinian negotiators' unwillingness to offer such recognition at least in the absence of agreement on the refugee issue and the establishment of a Palestinian nation-state alongside Israel. Put another way, while the principles of a two-state solution should guide negotiators as they address the refugee issue, Palestinian negotiators will be unlikely to contemplate public recognition of Jewish rights to self-determination unless they know that refugee claims and their own self-determination rights have been satisfactorily addressed.

Prime Minister Netanyahu himself seems to have acknowledged that Palestinian recognition will not come outside the context of a broader agreement. On several occasions, he has made clear that recognition is not a precondition for negotiations but rather a principle to be enshrined in a comprehensive peace agreement sought by the two parties. As he explained in remarks to the cabinet, the Bar-Ilan speech was not

intended to present “conditions for the start of negotiations.” He elaborated as follows:

We do not condition the start of negotiations on any conditions; on the contrary, we insist that there be no preconditions either by our side or by the other side. But I certainly came to express fundamental positions that are vital for Israel’s future, for the existence of a genuine peace with its neighbors and for the maintenance of its security.¹³³

Notwithstanding these considerations, it may still be useful for members of the international community to express support at this stage for the principle that Jewish and Palestinian collective rights should be mutually affirmed as part of a future peace agreement. Indeed, such declarations might help create conditions for mutual recognition and help Palestinian negotiators explain to their constituents why such a provision was incorporated in a conflict-ending agreement.

However, to demand such explicit recognition by the Palestinian side in the absence of an agreed upon framework for resolving the refugee issue and establishing a Palestinian nation-state is arguably unrealistic and possibly unwise.¹³⁴ Such an effort is liable to intensify antagonism and opposition to a demand that, if presented in the appropriate context and at the appropriate hour, could elicit serious engagement and conceivably be justified to Palestinian and Arab audiences.

At the same time, the recognition issue need not be viewed in categorical terms. Even before the signing of an agreement, the Palestinian side, preferably with broader Arab support, could contemplate moving toward such recognition, possibly in the context of parallel Israeli confidence-building gestures. For example, Palestinian spokespeople could be more forthcoming in acknowledging historic Jewish ties to the land, Israel’s demographic concerns, and support for the logic of partition based on “two states for two peoples.” Israel could match such gestures, for example, by signaling its appreciation for Palestinian territorial demands and rights to self-determination, along with acknowledging Palestinian suffering.

While these more gradual measures fall short of the kind of recognition sought by Israel, they could help condition both publics for the kinds of concessions a peace agreement would ultimately entail. Moreover, such measures might help create a degree of trust and positive reinforcement between the parties that seems to be so lacking at the moment.

Other Objections

Numerous ancillary objections have been raised to the claim for Israel to be recognized as the nation-state of the Jewish people. One such argument, put forward by Palestinian academic Ahmad Khalidi, is that recognition “implies acknowledgment that the lands they [the Palestinians] lost in 1948 are a Jewish birthright.... [It is] a covert attempt to wrest absolution for Israel’s ‘original sin’ in taking over their homeland.”¹³⁵

The attempt to link recognition of Israel as a Jewish homeland with repudiation of the Palestinian historical narrative turns, it seems, on an arguably erroneous reading of the claim. Indeed, neither side is likely to abandon its own narrative in favor of the other’s in the context of peace talks. A peace agreement is often more about agreeing how to shape the future than about how to define the past. And yet, if appropriately drafted, mutual recognition of Jewish and Palestinian collective rights need not drift into the murky territory of historical narratives.

Supporters of recognition do not seek Palestinian endorsement of the traditional Zionist narrative. They seek acceptance of the principle that resolving the conflict today, and ensuring the sustainability of a peace agreement into the future, depends on the affirmation of two parallel national self-determination claims. Competing versions of history need not enter into the picture.

Another objection relates to the unprecedented nature of the recognition demand. Few if any peace agreements, it is argued, go beyond recognition of statehood or sovereignty to grant legitimacy to the self-determination claims of the peoples in conflict. While testing the accuracy of this argument is beyond the scope of this paper,¹³⁶ one might respond that the

lack of a precedent does not itself justify rejecting recognition if in the particular circumstances of this conflict it is warranted. Few conflicts have been driven so deeply by a mutual denial of the other side's legitimate national aspirations. If mutual recognition of these aspirations can help resolve *this* conflict, then the sparing use of such recognition in other conflict situations may well be immaterial.

A final objection relates to the contested nature and scope of Israel's Jewish character within Israeli society. It may be claimed that recognition inappropriately requires the Palestinians—as external actors—to weigh in on an unsettled debate in which they are not participants.

This argument appears unpersuasive. The claim for recognition, properly understood, seeks no more than acceptance of the Jewish people's right to self-determination alongside corresponding Palestinian rights. The manner in which this right is expressed within Israel and the degree to which the public sphere manifests Jewish collective identity are rightly matters for internal debate and resolution within Israeli society. But in the context of a peace agreement, the claim for recognition does not require any attention to these internal issues. For supporters of recognition, the goal is only mutual acknowledgment of the collective national rights of the Jewish and Palestinian people, the denial of which has been a consistent impediment to a lasting agreement.

4 | The Strategic Dimension

THE CLAIM FOR recognition of Israel as a Jewish nation-state has significance outside the Israeli-Palestinian negotiating room. Within the broader Middle East and beyond, opponents of a two-state solution, and of U.S. interests in the region more generally, arguably are empowered by a refusal to accept the legitimacy of Jewish self-determination and by the failure of the international community to insist upon this right.

When extremist figures such as Iranian president Mahmoud Ahmadinezhad¹³⁷ and Hizballah secretary-general Hassan Nasrallah¹³⁸ rail against a Jewish state, and prophesy its demise, their arguments gain potency in the absence of clear linkage between Palestinian and Jewish national rights. Those in the region who support coexistence become delegitimized, and opponents of peace emboldened, by the view that coming to terms with Jewish self-determination is not a necessary component of advancing Palestinian and Arab interests.

For advocates of recognition, the issue's strategic dimension places particular responsibilities on the international community. In other words, Palestinian leaders and negotiators will be hard-pressed to accede to, much less defend, a genuine process of reconciliation with Jewish national rights if the international community itself dismisses or diminishes their significance. Extremist forces are able to use international indifference to Israel's claim for recognition and increasing challenges to Israel's legitimacy as a Jewish homeland as a regional rallying cry and as evidence that their radical goals are within reach. In this context, they are able to portray advocates of the two-state solution within the Arab and Muslim discourse as those lacking the necessary conviction, steadfastness, and patience to bring about the downfall of the Jewish state.

Under this view, international insistence on mutual recognition of Jewish and Palestinian collective rights can also act to reassure Israelis that concessions for a peace agreement are a means to preserve rather than relinquish Jewish self-determination. Advocates of a two-state solution within Israel—who are often

accused within Israel of lacking commitment to the Zionist cause—can deploy the argument that only through a conflict-ending agreement can the legitimacy of a Jewish nation-state finally be endorsed not only internationally, but also by Israel's Arab and Muslim neighbors.

Sidestepping the issue of recognition arguably undermines this objective since it only reinforces the view among opponents of the two-state solution that achieving Palestinian rights does not demand acknowledgment of the legitimacy of corresponding Jewish rights. To create conditions in which Palestinian and Arab representatives can potentially reach agreement with Israel on this issue, and acquire the necessary legitimacy for doing so, certainly requires that the valid objections to the claim be addressed. But it is also necessary for the international community to embrace the principle that some form of mutual recognition of Jewish and Palestinian national rights is indispensable to a lasting peace. In this way, negotiators are arguably more able to present recognition and reconciliation as a realistic path to realizing national rights, and present their opponents as captives of a fanciful agenda that they entertain at the expense of national interests.

Support for the recognition claim not only carries potential strategic weight in the context of contending with extremist forces, it could also be seen as carrying a degree of moral and universal significance. While decades have passed since Israel's establishment, the underlying rationale for supporting the Jewish people's right to self-determination and the profound message that sent to persecuted peoples throughout the globe continue to have powerful moral and policy implications. Indeed, it is that support for the collective rights of distinct peoples that can be said to animate and justify support for Palestinian statehood today and for the human rights of peoples to autonomy and collective self-expression the world over.

For the international community to mute its support for Jewish self-determination, or reject the significance of some form of mutual recognition to an

Israeli-Palestinian deal, may risk sending a dangerous signal about the capacity of political expedience and radical opposition to outweigh the force of moral principle. Assuming the legitimate objections to the claim can be addressed, expressing recognition of the mutual self-determination rights of Jews and Palestinians

could arguably demonstrate not only that it is possible to overcome deeply held enmity, but also that the principle of self-determination is one that can ultimately be upheld in a manner that respects and accommodates the rights of the other and facilitates the genuine resolution of conflict.

5 | Reconciling the Claim and Its Objections

IF THE FUNDAMENTAL objections to Israel's claim for recognition as a Jewish state are those publicly expressed by its Palestinian and Arab detractors, then this issue may well be conducive to resolution. Reservations related to the potential impact of such recognition on refugee and minority rights or on corresponding Palestinian claims can arguably be addressed, and Israel has an interest in showing flexibility in this regard in order to facilitate agreement.

If, on the other hand, opposition to the claim is actually grounded in the rejection of the very legitimacy of Jewish rights to self-determination in a sovereign state, alongside corresponding Palestinian rights, then it may be seen as tantamount to a rejection of the logic of the two-state solution itself. At the core of the two-state model is a belief in the legitimacy of two people's respective claims to self-determination. Failure to give expression to this basic principle would understandably raise questions about the very commitment to genuinely end the conflict.

Given this background, certain alternative measures that have been proposed to address the recognition claim provide only partial satisfaction for its advocates. One such example is the provision in a peace agreement that each state may determine its internal character. Such a claim does not do enough for recognition advocates to signal genuine acceptance of Jewish and Palestinian self-determination rights or to prevent subsequent challenges to Israel's status as a Jewish nation-state. Likewise, a general stipulation that an Israeli-Palestinian peace agreement brings an end to all claims (which arguably should be part of the agreement for other reasons), or a provision that the Palestinian state realizes the national aspirations of the Palestinian people, is seen as lacking the force and reach of an agreement that clearly addresses Jewish and Palestinian national rights.

Based on the foregoing analysis, and taking Palestinian and Arab arguments at face value, the claim to recognition of Israel as a Jewish state and its objections might be reconciled along the following lines:

- The claim should be seen as seeking recognition of the Jewish people's right to self-determination in a sovereign state, rather than recognition of Israel as a Jewish state.
- Recognition should be mutual—that is, just as Palestinians would expressly recognize the Jewish right to self-determination, so Israel would expressly recognize the Palestinian right to self-determination.¹³⁹
- Recognition should be sought in the context of a conflict-ending agreement that includes agreement on a framework for resolving the refugee issue and on the establishment of a Palestinian nation-state alongside Israel. While the principle and rationale of the two-state framework should in practice guide the approach to resolving the issues in dispute, *express recognition* should not be advanced as a precondition for addressing these issues or for seeking to predetermine their outcome.
- Mutual recognition should be given while stipulating that this is without prejudice to the obligation to respect the human rights of each state's citizens and minority groups.

While only the two parties can resolve the recognition issue, the international community, possibly through the Quartet (the United States, Russia, the EU, and the UN), might be able to play a useful role by creating conditions that facilitate agreement. Just as the Quartet has expressed support for a two-state agreement that reconciles Palestinian and Israeli needs, it could affirm the need for any future Israeli-Palestinian peace agreement to include acknowledgment of the respective rights of the Jewish and Palestinian people to self-determination in a state of their own.

The Quartet has already taken a step in this direction by affirming, in its statement of September 24, 2009, that any future agreement should fulfill “the

aspirations of both parties for independent homelands through two States for two peoples.”¹⁴⁰ But it may be helpful for international community representatives to go further and re-embrace the kind of language used when the concept of partition was first approved internationally more than a half-century ago.

As mentioned in the previous passages, by expressing support for the legitimacy of respective Jewish and Palestinian rights to self-determination, the international community would adopt an approach that arguably carries both strategic and moral force. Such expression could signal to both sides that international support comes with an expectation that each recognize and acknowledge the legitimate claims of the other. It might also empower both Israeli and Palestinian negotiators, in the face of internal opposition, to argue for genuine reconciliation as the only way of harnessing international support for their cause. Finally, such a gesture could demonstrate that extremist forces and political convenience would not deter the international community from defending the legitimate and responsible expression of all peoples’ rights to self-determination.

Given the precarious state of the negotiations, both parties could also consider ways to boost confidence on this and other issues by immediately signaling their readiness to address each other’s core concerns in the framework of a comprehensive agreement. As discussed previously, such initial gestures could include, for example, Palestinian acknowledgment of Jewish ties to the land or Israeli demographic concerns. In turn, Israel could be more forthcoming about acknowledging Palestinian suffering and parallel self-determination rights.

Other ways not contemplated here may exist to allay legitimate Palestinian and Arab concerns about recognition while addressing core Israeli needs.¹⁴¹ Indeed, it may not be necessary for recognition to take the form currently contemplated if genuine acceptance of Jewish and Palestinian rights can be conveyed by other means. What is more, the importance of the recognition issue cannot be considered in a vacuum. It must be weighed against other interests that may figure into a comprehensive peace deal, including the potential interests and benefits inherent in concluding an agreement, even if deficient on this score. It is for the parties to decide whether the resolution of this or any other issue is so significant that it does not serve their overall interests to conclude an agreement without it.

That said, obfuscating or circumventing the recognition issue will be seen by many as failing to draw the parties toward the genuine and permanent reconciliation that a two-state solution aspires to represent, and may fail to attract the public support, particularly on the Israeli side, necessary to make an agreement politically feasible. Ideally, an Israeli-Palestinian peace agreement is a critical tool for overcoming the rejection and absolutism that have fueled the conflict for decades. Such an agreement will be most likely to succeed if it is founded on a real commitment to respect and accommodate the mutual national rights of the Jewish and Palestinian people. Avoiding this issue may seem to provide the more convenient path to a written agreement, but doing so may not achieve the genuine reconciliation so needed by the Jewish and Palestinian people, and so feared by rejectionists across the region.

Appendix

Balfour Declaration, 1917

During the First World War, the British became gradually committed to the idea of establishing a Jewish national home in Palestine. The Balfour Declaration represents the first political recognition of Zionist aims by a Great Power, with the document receiving subsequent public endorsement by France and Italy in 1918 and the U.S. Congress in 1922, quite apart from its incorporation into the League of Nations Mandate for Palestine. After discussions in the British cabinet, and consultation with Zionist leaders, the British communicated their policy through a letter by Arthur James Lord Balfour to Lord Rothschild, then a leading representative of the Jewish community in Britain.

Foreign Office, November 2nd, 1917

Dear Lord Rothschild,

I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following declaration of sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet.

“His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.”

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Yours sincerely,

Arthur James Balfour

League of Nations Mandate for Palestine, 1922

After World War I, the League of Nations established the mandates system, an undertaking inspired by President Woodrow Wilson's Fourteen Points and designed to guide administration and development of self-government in territories ceded by Germany and the Ottoman Empire. Under this system, Britain was entrusted, as mandatory power, with implementing the Balfour Declaration.

Whereas the Principal Allied Powers have agreed, for the purpose of giving effect to the provisions of Article 22 of the Covenant of the League of Nations, to entrust to a Mandatory selected by the said Powers the administration of the territory of Palestine, which formerly belonged to the Turkish Empire, within such boundaries as may be fixed by them; and

Whereas the Principal Allied Powers have also agreed that the Mandatory should be responsible for putting into effect the declaration originally made on November 2nd, 1917, by the Government of His Britannic Majesty, and adopted by the said Powers, in favor of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country; and

Whereas recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country; and

Whereas the Principal Allied Powers have selected His Britannic Majesty as the Mandatory for Palestine; and

Whereas the mandate in respect of Palestine has been formulated in the following terms and submitted to the Council of the League for approval; and

Whereas His Britannic Majesty has accepted the mandate in respect of Palestine and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions; and

Whereas by the afore-mentioned Article 22 (paragraph 8), it is provided that the degree of authority, control or administration to be exercised by the Mandatory, not having been previously agreed upon by the Members of the League, shall be explicitly defined by the Council of the League of Nations;

Confirming the said Mandate, defines its terms as follows:

ARTICLE 1. The Mandatory shall have full powers of legislation and of administration, save as they may be limited by the terms of this mandate.

ART. 2. The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safeguarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion.

ART. 3. The Mandatory shall, so far as circumstances permit, encourage local autonomy.

ART. 4. An appropriate Jewish agency shall be recognised as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part in the development of the country.

The Zionist organization, so long as its organization and constitution are in the opinion of the Mandatory appropriate, shall be recognised as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.

ART. 5. The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of, the Government of any foreign Power.

ART. 6. The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage, in co-operation with the Jewish agency referred to in Article 4, close settlement by Jews on the land, including State lands and waste lands not required for public purposes.

ART. 7. The Administration of Palestine shall be responsible for enacting a nationality law. There shall be included in this law provisions framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine.

ART. 8. The privileges and immunities of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, shall not be applicable in Palestine.

Unless the Powers whose nationals enjoyed the afore-mentioned privileges and immunities on August 1st, 1914, shall have previously renounced the right to their re-establishment, or shall have agreed to their non-application for a specified period, these privileges and immunities shall, at the expiration of the mandate, be immediately re-established in their entirety or with such modifications as may have been agreed upon between the Powers concerned.

ART. 9. The Mandatory shall be responsible for seeing that the judicial system established in Palestine shall assure to foreigners, as well as to natives, a complete guarantee of their rights.

Respect for the personal status of the various peoples and communities and for their religious interests shall be fully guaranteed. In particular, the control and administration of Wakfs shall be exercised in accordance with religious law and the dispositions of the founders.

ART. 10. Pending the making of special extradition agreements relating to Palestine, the extradition treaties in force between the Mandatory and other foreign Powers shall apply to Palestine.

ART. 11. The Administration of Palestine shall take all necessary measures to safeguard the interests of the community in connection with the development of the country, and, subject to any international obligations accepted by the Mandatory, shall have full power to provide for public ownership or control of any of the natural resources of the country or of the public works, services and utilities established or to be established therein. It shall introduce a land system appropriate to the needs of the country, having regard, among other things, to the desirability of promoting the close settlement and intensive cultivation of the land.

The Administration may arrange with the Jewish agency mentioned in Article 4 to construct or operate, upon fair and equitable terms, any public works, services and utilities, and to develop any of the natural resources of the country, in so far as these matters are not directly undertaken by the Administration. Any such arrangements shall provide that no profits distributed by such agency, directly or indirectly, shall exceed a reasonable rate of interest on the capital, and any further profits shall be utilised by it for the benefit of the country in a manner approved by the Administration.

ART. 12. The Mandatory shall be entrusted with the control of the foreign relations of Palestine and the right to issue exequaturs to consuls appointed by foreign Powers. He shall also be entitled to afford diplomatic and consular protection to citizens of Palestine when outside its territorial limits.

ART. 13. All responsibility in connection with the Holy Places and religious buildings or sites in Palestine, including that of preserving existing rights and of securing free access to the Holy Places, religious buildings and sites and the free exercise of worship, while ensuring the requirements of public order and decorum, is assumed by the Mandatory, who shall be responsible solely to the League of Nations in all matters connected herewith, provided that nothing in this article shall prevent the Mandatory from entering into such arrangements as he may deem reasonable with the Administration for the purpose of carrying the provisions of this article into effect; and provided also that nothing in this mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of purely Moslem sacred shrines, the immunities of which are guaranteed.

ART. 14. A special commission shall be appointed by the Mandatory to study, define and determine the rights and claims in connection with the Holy Places and the rights and claims relating to the different religious communities in Palestine. The method of nomination, the composition and the functions of this Commission shall be submitted to the Council of the League for its approval, and the Commission shall not be appointed or enter upon its functions without the approval of the Council.

ART. 15. The Mandatory shall see that complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, are ensured to all. No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.

The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the Administration may impose, shall not be denied or impaired.

ART. 16. The Mandatory shall be responsible for exercising such supervision over religious or eleemosynary bodies of all faiths in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Palestine to obstruct or interfere with the enterprise of such bodies or to discriminate against any representative or member of them on the ground of his religion or nationality.

ART. 17. The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however, to the supervision of the Mandatory, but shall not use them for purposes other than those above specified save with the consent of the Mandatory. Except for such purposes, no military, naval or air forces shall be raised or maintained by the Administration of Palestine.

Nothing in this article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of the forces of the Mandatory in Palestine.

The Mandatory shall be entitled at all times to use the roads, railways and ports of Palestine for the movement of armed forces and the carriage of fuel and supplies.

ART. 18. The Mandatory shall see that there is no discrimination in Palestine against the nationals of any State Member of the League of Nations (including companies incorporated under its laws) as compared with those of the Mandatory or of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of merchant vessels or civil aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid and to the other provisions of this mandate, the Administration of Palestine may, on the advice of the Mandatory, impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the

population. It may also, on the advice of the Mandatory, conclude a special customs agreement with any State the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

ART. 19. The Mandatory shall adhere on behalf of the Administration of Palestine to any general international conventions already existing, or which may be concluded hereafter with the approval of the League of Nations, respecting the slave traffic, the traffic in arms and ammunition, or the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation and postal, telegraphic and wireless communication or literary, artistic or industrial property.

ART. 20. The Mandatory shall co-operate on behalf of the Administration of Palestine, so far as religious, social and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

ART. 21. The Mandatory shall secure the enactment within twelve months from this date, and shall ensure the execution of a Law of Antiquities based on the following rules. This law shall ensure equality of treatment in the matter of excavations and archaeological research to the nationals of all States Members of the League of Nations.

(1) "Antiquity" means any construction or any product of human activity earlier than the year 1700 A.D.

(2) The law for the protection of antiquities shall proceed by encouragement rather than by threat.

Any person who, having discovered an antiquity without being furnished with the authorization referred to in paragraph 5, reports the same to an official of the competent Department, shall be rewarded according to the value of the discovery.

(3) No antiquity may be disposed of except to the competent Department, unless this Department renounces the acquisition of any such antiquity.

No antiquity may leave the country without an export licence from the said Department.

(4) Any person who maliciously or negligently destroys or damages an antiquity shall be liable to a penalty to be fixed.

(5) No clearing of ground or digging with the object of finding antiquities shall be permitted, under penalty of fine, except to persons authorised by the competent Department.

(6) Equitable terms shall be fixed for expropriation, temporary or permanent, of lands which might be of historical or archaeological interest.

(7) Authorization to excavate shall only be granted to persons who show sufficient guarantees of archaeological experience. The Administration of Palestine shall not, in granting these authorizations, act in such a way as to exclude scholars of any nation without good grounds.

(8) The proceeds of excavations may be divided between the excavator and the competent Department in a proportion fixed by that Department. If division seems impossible for scientific reasons, the excavator shall receive a fair indemnity in lieu of a part of the find.

ART. 22. English, Arabic and Hebrew shall be the official languages of Palestine. Any statement or inscription in Arabic on stamps or money in Palestine shall be repeated in Hebrew and any statement or inscription in Hebrew shall be repeated in Arabic.

ART. 23. The Administration of Palestine shall recognise the holy days of the respective communities in Palestine as legal days of rest for the members of such communities.

ART. 24. The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council as to the measures taken during the year to carry out the provisions of the mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.

ART. 25. In the territories lying between the Jordan and the eastern boundary of Palestine as ultimately determined, the Mandatory shall be entitled, with the consent of the Council of the League of Nations, to postpone or withhold application of such provisions of this mandate as he may consider inapplicable to the existing local conditions, and to make such provision for the administration of the territories as he may consider suitable to those conditions, provided that no action shall be taken which is inconsistent with the provisions of Articles 15, 16 and 18.

ART. 26. The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

ART. 27. The consent of the Council of the League of Nations is required for any modification of the terms of this mandate.

ART. 28. In the event of the termination of the mandate hereby conferred upon the Mandatory, the Council of the League of Nations shall make such arrangements as may be deemed necessary for safeguarding in perpetuity, under guarantee of the League, the rights secured by Articles 13 and 14, and shall use its influence for securing, under the guarantee of the League, that the Government of Palestine will fully honour the financial obligations legitimately incurred by the Administration of Palestine during the period of the mandate, including the rights of public servants to pensions or gratuities.

The present instrument shall be deposited in original in the archives of the League of Nations and certified copies shall be forwarded by the Secretary-General of the League of Nations to all members of the League.

Done at London the twenty-fourth day of July, one thousand nine hundred and twenty-two.

UN General Assembly, Partition Resolution (1947)

The United Nations Partition Plan for Palestine was adopted by the General Assembly on November 29, 1947, by a vote of thirty-three to thirteen, with ten abstentions. Drawing on the report of the UN Special Committee on Palestine (UNSCOP), the resolution recommended the termination of the British Mandate for Palestine and the partition of the territory into two states, one Jewish and one Arab, with the Jerusalem-Bethlehem area under special international protection, administered by the UN. The resolution also contained a plan for an economic union between the proposed states, and safeguards for the protection of religious and minority rights.

UN Doc. A/RES/181 (II)

The General Assembly,

Having met in special session at the request of the mandatory Power to constitute and instruct a Special Committee to prepare for the consideration of the question of the future Government of Palestine at the second regular session;

Having constituted a Special Committee and instructed it to investigate all questions and issues relevant to the problem of Palestine, and to prepare proposals for the solution of the problem, and

Having received and examined the report of the Special Committee (document A/364)(1) including a number of unanimous recommendations and a plan of partition with economic union approved by the majority of the Special Committee,

Considers that the present situation in Palestine is one which is likely to impair the general welfare and friendly relations among nations;

Takes note of the declaration by the mandatory Power that it plans to complete its evacuation of Palestine by 1 August 1948;

Recommends to the United Kingdom, as the mandatory Power for Palestine, and to all other Members of the United Nations the adoption and implementation, with regard to the future Government of Palestine, of the Plan of Partition with Economic Union set out below;

Requests that

The Security Council take the necessary measures as provided for in the plan for its implementation;

The Security Council consider, if circumstances during the transitional period require such consideration, whether the situation in Palestine constitutes a threat to the peace. If it decides that such a threat exists, and in order to maintain international peace and security, the Security Council should supplement the authorization of the General Assembly by taking measures, under Articles 39 and 41 of the Charter, to empower the United Nations Commission, as provided in this resolution, to exercise in Palestine the functions which are assigned to it by this resolution;

The Security Council determine as a threat to the peace, breach of the peace or act of aggression, in accordance with Article 39 of the Charter, any attempt to alter by force the settlement envisaged by this resolution;

The Trusteeship Council be informed of the responsibilities envisaged for it in this plan;

Calls upon the inhabitants of Palestine to take such steps as may be necessary on their part to put this plan into effect;

Appeals to all Governments and all peoples to refrain from taking any action which might hamper or delay the carrying out of these recommendations, and

Authorizes the Secretary-General to reimburse travel and subsistence expenses of the members of the Commission referred to in Part I, Section B, Paragraph I below, on such basis and in such form as he may determine most appropriate in the circumstances, and to provide the Commission with the necessary staff to assist in carrying out the functions assigned to the Commission by the General Assembly.

The General Assembly,

Authorizes the Secretary-General to draw from the Working Capital Fund a sum not to exceed 2,000,000 dollars for the purposes set forth in the last paragraph of the resolution on the future government of Palestine.

PLAN OF PARTITION WITH ECONOMIC UNION

Part I. Future Constitution and Government of Palestine

A. TERMINATION OF MANDATE, PARTITION AND INDEPENDENCE

The Mandate for Palestine shall terminate as soon as possible but in any case not later than 1 August 1948.

The armed forces of the mandatory Power shall be progressively withdrawn from Palestine, the withdrawal to be completed as soon as possible but in any case not later than 1 August 1948.

The mandatory Power shall advise the Commission, as far in advance as possible, of its intention to terminate the mandate and to evacuate each area. The mandatory Power shall use its best endeavours to ensure that an area situated in the territory of the Jewish State, including a seaport and hinterland adequate to provide facilities for a substantial immigration, shall be evacuated at the earliest possible date and in any event not later than 1 February 1948.

Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem, set forth in Part III of this Plan, shall come into existence in Palestine two months after the evacuation of the armed forces of the mandatory Power has been completed but in any case not later than 1 October 1948. The boundaries of the Arab State, the Jewish State, and the City of Jerusalem shall be as described in Parts II and III below.

The period between the adoption by the General Assembly of its recommendation on the question of Palestine and the establishment of the independence of the Arab and Jewish States shall be a transitional period.

B. STEPS PREPARATORY TO INDEPENDENCE

A Commission shall be set up consisting of one representative of each of five Member States. The Members represented on the Commission shall be elected by the General Assembly on as broad a basis, geographically and otherwise, as possible.

The administration of Palestine shall, as the mandatory Power withdraws its armed forces, be progressively turned over to the Commission, which shall act in conformity with the recommendations of the General Assembly, under the guidance of the Security Council. The mandatory Power shall to the fullest possible extent coordinate its plans for withdrawal with the plans of the Commission to take over and administer areas which have been evacuated.

In the discharge of this administrative responsibility the Commission shall have authority to issue necessary regulations and take other measures as required.

The mandatory Power shall not take any action to prevent, obstruct or delay the implementation by the Commission of the measures recommended by the General Assembly.

On its arrival in Palestine the Commission shall proceed to carry out measures for the establishment of the frontiers of the Arab and Jewish States and the City of Jerusalem in accordance with the general lines of the recommendations of the General Assembly on the partition of Palestine. Nevertheless, the boundaries as described in Part II of this Plan are to be modified in such a way that village areas as a rule will not be divided by state boundaries unless pressing reasons make that necessary.

The Commission, after consultation with the democratic parties and other public organizations of the Arab and Jewish States, shall select and establish in each State as rapidly as possible a Provisional Council of Government. The activities of both the Arab and Jewish Provisional Councils of Government shall be carried out under the general direction of the Commission.

If by 1 April 1948 a Provisional Council of Government cannot be selected for either of the States, or, if selected, cannot carry out its functions, the Commission shall communicate that fact to the Security Council for such action with respect to that State as the Security Council may deem proper, and to the Secretary-General for communication to the Members of the United Nations.

Subject to the provisions of these recommendations, during the transitional period the Provisional Councils of Government, acting under the Commission, shall have full authority in the areas under their control including authority over matters of immigration and land regulation.

The Provisional Council of Government of each State, acting under the Commission, shall progressively receive from the Commission full responsibility for the administration of that State in the period between the termination of the Mandate and the establishment of the State's independence.

The Commission shall instruct the Provisional Councils of Government of both the Arab and Jewish States, after their formation, to proceed to the establishment of administrative organs of government, central and local.

The Provisional Council of Government of each State shall, within the shortest time possible, recruit an armed militia from the residents of that State, sufficient in number to maintain internal order and to prevent frontier clashes.

This armed militia in each State shall, for operational purposes, be under the command of Jewish or Arab officers resident in that State, but general political and military control, including the choice of the militia's High Command, shall be exercised by the Commission.

The Provisional Council of Government of each State shall, not later than two months after the withdrawal of the armed forces of the mandatory Power, hold elections to the Constituent Assembly which shall be conducted on democratic lines.

The election regulations in each State shall be drawn up by the Provisional Council of Government and approved by the Commission. Qualified voters for each State for this election shall be persons over eighteen years of age who are (a) Palestinian citizens residing in that State; and (b) Arabs and Jews residing in the State, although not Palestinian citizens, who, before voting, have signed a notice of intention to become citizens of such State.

Arabs and Jews residing in the City of Jerusalem who have signed a notice of intention to become citizens, the Arabs of the Arab State and the Jews of the Jewish State, shall be entitled to vote in the Arab and Jewish States respectively.

Women may vote and be elected to the Constituent Assemblies.

During the transitional period no Jew shall be permitted to establish residence in the area of the proposed Arab State, and no Arab shall be permitted to establish residence in the area of the proposed Jewish State, except by special leave of the Commission.

The Constituent Assembly of each State shall draft a democratic constitution for its State and choose a provisional government to succeed the Provisional Council of Government appointed by the Commission. The Constitutions of the States shall embody Chapters 1 and 2 of the Declaration provided for in section C below and include, inter alia, provisions for:

Establishing in each State a legislative body elected by universal suffrage and by secret ballot on the basis of proportional representation, and an executive body responsible to the legislature;

Settling all international disputes in which the State may be involved by peaceful means in such a manner that international peace and security, and justice, are not endangered;

Accepting the obligation of the State to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purpose of the United Nations;

Guaranteeing to all persons equal and non-discriminatory rights in civil, political, economic and religious matters and the enjoyment of human rights and fundamental freedoms, including freedom of religion, language, speech and publication, education, assembly and association;

Preserving freedom of transit and visit for all residents and citizens of the other State in Palestine and the City of Jerusalem, subject to considerations of national security, provided that each State shall control residence within its borders.

The Commission shall appoint a preparatory economic commission of three members to make whatever arrangements are possible for economic co-operation, with a view to establishing, as soon as practicable, the Economic Union and the Joint Economic Board, as provided in section D below.

During the period between the adoption of the recommendations on the question of Palestine by the General Assembly and the termination of the Mandate, the mandatory Power in Palestine shall maintain full responsibility for administration in areas from which it has not withdrawn its armed forces. The Commission shall assist the mandatory Power in the carrying out of these functions. Similarly the mandatory Power shall co-operate with the Commission in the execution of its functions.

With a view to ensuring that there shall be continuity in the functioning of administrative services and that, on the withdrawal of the armed forces of the mandatory Power, the whole administration shall be in the charge of the Provisional Councils and the Joint Economic Board, respectively, acting under the Commission, there shall be a progressive transfer, from the mandatory Power to the Commission, of responsibility for all the functions of government, including that of maintaining law and order in the areas from which the forces of the mandatory Power have been withdrawn.

The Commission shall be guided in its activities by the recommendations of the General Assembly and by such instructions as the Security Council may consider necessary to issue.

The measures taken by the Commission, within the recommendations of the General Assembly, shall become immediately effective unless the Commission has previously received contrary instructions from the Security Council.

The Commission shall render periodic monthly progress reports, or more frequently if desirable, to the Security Council.

The Commission shall make its final report to the next regular session of the General Assembly and to the Security Council simultaneously.

C. DECLARATION

A declaration shall be made to the United Nations by the Provisional Government of each proposed State before independence. It shall contain, inter alia, the following clauses:

General Provision

The stipulations contained in the Declaration are recognized as fundamental laws of the State and no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

Chapter 1: Holy Places, Religious Buildings and Sites

Existing rights in respect of Holy Places and religious buildings or sites shall not be denied or impaired.

In so far as Holy Places are concerned, the liberty of access, visit and transit shall be guaranteed, in conformity with existing rights, to all residents and citizens of the other State and of the City of Jerusalem, as well as to aliens, without distinction as to nationality, subject to requirements of national security, public order and decorum.

Similarly, freedom of worship shall be guaranteed in conformity with existing rights, subject to the maintenance of public order and decorum.

Holy Places and religious buildings or sites shall be preserved. No act shall be permitted which may in any way impair their sacred character. If at any time it appears to the Government that any particular Holy Place, religious building or site is in need of urgent repair, the Government may call upon the community or communities concerned to carry out such repair. The Government may carry it out itself at the expense of the community or communities concerned if no action is taken within a reasonable time.

No taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from taxation on the date of the creation of the State.

No change in the incidence of such taxation shall be made which would either discriminate between the owners or occupiers of Holy Places, religious buildings or sites, or would place such owners or occupiers in a position less favourable in relation to the general incidence of taxation than existed at the time of the adoption of the Assembly's recommendations.

The Governor of the City of Jerusalem shall have the right to determine whether the provisions of the Constitution of the State in relation to Holy Places, religious buildings and sites within the borders of the State and the religious rights appertaining thereto, are being properly applied and respected, and to make decisions on the basis of existing rights in cases of disputes which may arise between the different religious communities or the rites of a religious community with respect to such places, buildings and sites. He shall receive full co-operation and such privileges and immunities as are necessary for the exercise of his functions in the State.

Chapter 2: Religious and Minority Rights

Freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, shall be ensured to all.

No discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex.

All persons within the jurisdiction of the State shall be entitled to equal protection of the laws.

The family law and personal status of the various minorities and their religious interests, including endowments, shall be respected.

Except as may be required for the maintenance of public order and good government, no measure shall be taken to obstruct or interfere with the enterprise of religious or charitable bodies of all faiths or to discriminate against any representative or member of these bodies on the ground of his religion or nationality.

The State shall ensure adequate primary and secondary education for the Arab and Jewish minority, respectively, in its own language and its cultural traditions.

The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the State may impose, shall not be denied or impaired. Foreign educational establishments shall continue their activity on the basis of their existing rights.

No restriction shall be imposed on the free use by any citizen of the State of any language in private intercourse, in commerce, in religion, in the Press or in publications of any kind, or at public meetings.

No expropriation of land owned by an Arab in the Jewish State (by a Jew in the Arab State) shall be allowed except for public purposes. In all cases of expropriation full compensation as fixed by the Supreme Court shall be paid previous to dispossession.

Chapter 3: Citizenship, International Conventions and Financial Obligations

1. Citizenship

Palestinian citizens residing in Palestine outside the City of Jerusalem, as well as Arabs and Jews who, not holding Palestinian citizenship, reside in Palestine outside the City of Jerusalem shall, upon the recognition of independence, become citizens of the State in which they are resident and enjoy full civil and political rights. Persons over the age of eighteen years may opt, within one year from the date of recognition of independence of the State in which they reside, for citizenship of the other State, providing that no Arab residing in the area of the proposed Arab State shall have the right to opt for citizenship in the proposed Jewish State and no Jew residing in the proposed Jewish State shall have the right to opt for citizenship in the proposed Arab State. The exercise of this right of option will be taken to include the wives and children under eighteen years of age of persons so opting.

Arabs residing in the area of the proposed Jewish State and Jews residing in the area of the proposed Arab State who have signed a notice of intention to opt for citizenship of the other State shall be eligible to vote in the elections to the Constituent Assembly of that State, but not in the elections to the Constituent Assembly of the State in which they reside.

2. International conventions

The State shall be bound by all the international agreements and conventions, both general and special, to which Palestine has become a party. Subject to any right of denunciation provided for therein, such agreements and conventions shall be respected by the State throughout the period for which they were concluded.

Any dispute about the applicability and continued validity of international conventions or treaties signed or adhered to by the mandatory Power on behalf of Palestine shall be referred to the International Court of Justice in accordance with the provisions of the Statute of the Court.

3. Financial obligations

The State shall respect and fulfill all financial obligations of whatever nature assumed on behalf of Palestine by the mandatory Power during the exercise of the Mandate and recognized by the State. This provision includes the right of public servants to pensions, compensation or gratuities.

These obligations shall be fulfilled through participation in the Joint Economic Board in respect of those obligations applicable to Palestine as a whole, and individually in respect of those applicable to, and fairly apportionable between, the States.

A Court of Claims, affiliated with the Joint Economic Board, and composed of one member appointed by the United Nations, one representative of the United Kingdom and one representative of the State concerned, should be established. Any dispute between the United Kingdom and the State respecting claims not recognized by the latter should be referred to that Court.

Commercial concessions granted in respect of any part of Palestine prior to the adoption of the resolution by the General Assembly shall continue to be valid according to their terms, unless modified by agreement between the concession-holders and the State.

Chapter 4: Miscellaneous Provisions

The provisions of chapters 1 and 2 of the declaration shall be under the guarantee of the United Nations, and no modifications shall be made in them without the assent of the General Assembly of the United Nations. Any Member of the United Nations shall have the right to bring to the attention of the General Assembly any infraction or danger of infraction of any of these stipulations, and the General Assembly may thereupon make such recommendations as it may deem proper in the circumstances.

Any dispute relating to the application or interpretation of this declaration shall be referred, at the request of either party, to the International Court of Justice, unless the parties agree to another mode of settlement.

D. ECONOMIC UNION AND TRANSIT

The Provisional Council of Government of each State shall enter into an undertaking with respect to Economic Union and Transit. This undertaking shall be drafted by the Commission provided for in section B, paragraph 1, utilizing to the greatest possible extent the advice and cooperation of representative organizations and bodies from each of the proposed States. It shall contain provisions to establish the Economic Union of Palestine and provide for other matters of common interest. If by 1 April 1948 the Provisional Councils of Government have not entered into the undertaking, the undertaking shall be put into force by the Commission.

The Economic Union of Palestine

The objectives of the Economic Union of Palestine shall be:

A customs union;

A joint currency system providing for a single foreign exchange rate;

Operation in the common interest on a non-discriminatory basis of railways; inter-State highways; postal, telephone and telegraphic services and ports and airports involved in international trade and commerce;

Joint economic development, especially in respect of irrigation, land reclamation and soil conservation;

Access for both States and for the City of Jerusalem on a non-discriminatory basis to water and power facilities.

There shall be established a Joint Economic Board, which shall consist of three representatives of each of the two States and three foreign members appointed by the Economic and Social Council of the United Nations. The foreign members shall be appointed in the first instance for a term of three years; they shall serve as individuals and not as representatives of States.

The functions of the Joint Economic Board shall be to implement either directly or by delegation the measures necessary to realize the objectives of the Economic Union. It shall have all powers of organization and administration necessary to fulfil its functions.

The States shall bind themselves to put into effect the decisions of the Joint Economic Board. The Board's decisions shall be taken by a majority vote.

In the event of failure of a State to take the necessary action the Board may, by a vote of six members, decide to withhold an appropriate portion of the part of the customs revenue to which the State in question is entitled under the Economic Union. Should the State persist in its failure to cooperate, the Board may decide by a simple majority vote upon such further sanctions, including disposition of funds which it has withheld, as it may deem appropriate.

In relation to economic development, the functions of the Board shall be planning, investigation and encouragement of joint development projects, but it shall not undertake such projects except with the assent of both States and the City of Jerusalem, in the event that Jerusalem is directly involved in the development project.

In regard to the joint currency system, the currencies circulating in the two States and the City of Jerusalem shall be issued under the authority of the Joint Economic Board, which shall be the sole issuing authority and which shall determine the reserves to be held against such currencies.

So far as is consistent with paragraph 2(b) above, each State may operate its own central bank, control its own fiscal and credit policy, its foreign exchange receipts and expenditures, the grant of import licences, and may conduct international financial operations on its own faith and credit. During the first two years after the termination of the Mandate, the Joint Economic Board shall have the authority to take such measures as may be necessary to ensure that—to the extent that the total foreign exchange revenues of the two States from the export of goods and services permit, and provided that each State takes appropriate measures to conserve its own foreign exchange resources—each State shall have available, in any twelve months' period, foreign exchange sufficient to assure the supply of quantities of imported goods and services for consumption in its territory equivalent to the quantities of such goods and services consumed in that territory in the twelve months' period ending 31 December 1947.

All economic authority not specifically vested in the Joint Economic Board is reserved to each State.

There shall be a common customs tariff with complete freedom of trade between the States, and between the States and the City of Jerusalem.

The tariff schedules shall be drawn up by a Tariff Commission, consisting of representatives of each of the States in equal numbers, and shall be submitted to the Joint Economic Board for approval by a majority vote. In case of disagreement in the Tariff Commission, the Joint Economic Board shall arbitrate the points of difference. In the event that the Tariff Commission fails to draw up any schedule by a date to be fixed, the Joint Economic Board shall determine the tariff schedule.

The following items shall be a first charge on the customs and other common revenue of the Joint Economic Board:

The expenses of the customs service and of the operation of the joint services;

The administrative expenses of the Joint Economic Board;

The financial obligations of the Administration of Palestine, consisting of:

The service of the outstanding public debt;

The cost of superannuation benefits, now being paid or falling due in the future, in accordance with the rules and to the extent established by paragraph 3 of chapter 3 above.

After these obligations have been met in full, the surplus revenue from the customs and other common services shall be divided in the following manner: not less than 5 per cent and not more than 10 per cent to the City of Jerusalem;

the residue shall be allocated to each State by the Joint Economic Board equitably, with the objective of maintaining a sufficient and suitable level of government and social services in each State, except that the share of either State shall not exceed the amount of that State's contribution to the revenues of the Economic Union by more than approximately four million pounds in any year. The amount granted may be adjusted by the Board according to the price level in relation to the prices prevailing at the time of the establishment of the Union. After five years, the principles of the distribution of the joint revenue may be revised by the Joint Economic Board on a basis of equity.

All international conventions and treaties affecting customs tariff rates, and those communications services under the jurisdiction of the Joint Economic Board, shall be entered into by both States. In these matters, the two States shall be bound to act in accordance with the majority of the Joint Economic Board.

The Joint Economic Board shall endeavour to secure for Palestine's exports fair and equal access to world markets.

All enterprises operated by the Joint Economic Board shall pay fair wages on a uniform basis.

Freedom of Transit and Visit

The undertaking shall contain provisions preserving freedom of transit and visit for all residents or citizens of both States and of the City of Jerusalem, subject to security considerations; provided that each State and the City shall control residence within its borders.

Termination, Modification and Interpretation of the Undertaking

The undertaking and any treaty issuing therefrom shall remain in force for a period of ten years. It shall continue in force until notice of termination, to take effect two years thereafter, is given by either of the parties.

During the initial ten-year period, the undertaking and any treaty issuing therefrom may not be modified except by consent of both parties and with the approval of the General Assembly.

Any dispute relating to the application or the interpretation of the undertaking and any treaty issuing therefrom shall be referred, at the request of either party, to the International Court of Justice, unless the parties agree to another mode of settlement.

E. ASSETS

The movable assets of the Administration of Palestine shall be allocated to the Arab and Jewish States and the City of Jerusalem on an equitable basis. Allocations should be made by the United Nations Commission referred to in section B, paragraph 1, above. Immovable assets shall become the property of the government of the territory in which they are situated.

During the period between the appointment of the United Nations Commission and the termination of the Mandate, the mandatory Power shall, except in respect of ordinary operations, consult with the Commission on any measure which it may contemplate involving the liquidation, disposal or encumbering of the assets of the Palestine Government, such as the accumulated treasury surplus, the proceeds of Government bond issues, State lands or any other asset.

F. ADMISSION TO MEMBERSHIP IN THE UNITED NATIONS

When the independence of either the Arab or the Jewish State as envisaged in this plan has become effective and the declaration and undertaking, as envisaged in this plan, have been signed by either of them, sympathetic consideration should be given to its application for admission to membership in the United Nations in accordance with article 4 of the Charter of the United Nations.

Part II. Boundaries

A. THE ARAB STATE

The area of the Arab State in Western Galilee is bounded on the west by the Mediterranean and on the north by the frontier of the Lebanon from Ras en Naqura to a point north of Saliha. From there the boundary proceeds southwards, leaving the built-up area of Saliha in the Arab State, to join the southernmost point of this village. There it follows the western boundary line of the villages of 'Alma, Rihaniya and Teitaba, thence following the northern boundary line of Meirun village to join the Acre-Safad Sub-District boundary line. It follows this line to a point west of Es Sammu'i village and joins it again at the northernmost point of Farradiya. Thence it follows the Sub-District boundary line to the Acre-Safad main road. From here it follows the western boundary of Kafr-I'nan village until it reaches the Tiberias-Acre Sub-District boundary line, passing to the west of the junction of the Acre-Safad and Lubiya-Kafr-I'nan roads. From the south-west corner of Kafr-I'nan village the boundary line follows the western boundary of the Tiberias Sub-District to a point close to the boundary line between the villages of Maghar and 'Eilabun, thence bulging out to the west to include as much of the eastern part of the plain of Battuf as is necessary for the reservoir proposed by the Jewish Agency for the irrigation of lands to the south and east.

The boundary rejoins the Tiberias Sub-District boundary at a point on the Nazareth-Tiberias road south-east of the built-up area of Tur'an; thence it runs southwards, at first following the Sub-District boundary and then passing between the Kadoorie Agricultural School and Mount Tabor, to a point due south at the base of Mount Tabor. From here it runs due west, parallel to the horizontal grid line 230, to the north-east corner of the village lands of Tel Adashim. It then runs to the northwest corner of these lands, whence it turns south and west so as to include in the Arab State the sources of the Nazareth water supply in Yafa village. On reaching Ginneiger it follows the eastern, northern and western boundaries of the lands of this village to their south-west corner, whence it proceeds in a straight line to a point on the Haifa-Afula railway on the boundary between the villages of Sarid and El-Mujeidil. This is the point of intersection. The south-western boundary of the area of the Arab State in Galilee takes a line from this point, passing northwards along the eastern boundaries of Sarid and Gevat to the north-eastern corner of Nahalal, proceeding thence across the land of Kefar ha Horesh to a central point on the southern boundary of the village of 'Ilut, thence westwards along that village boundary to the eastern boundary of Beit Lahm, thence northwards and north-eastwards along its western boundary to the north-eastern corner of Waldheim and thence north-westwards across the village lands of Shafa 'Amr to the southeastern corner of Ramat Yohanan. From here it runs due north-north-east to a point on the Shafa 'Amr-Haifa road, west of its junction with the road of I'billin. From there it proceeds north-east to a point on the southern boundary of I'billin situated to the west of the I'billin-Birwa road. Thence along that boundary to its westernmost point, whence it turns to the north, follows across the village land of Tamra to the north-westernmost corner and along the western boundary of Julis until it reaches the Acre-Safad road. It then runs westwards along the southern side of the Safad-Acre road to the Galilee-Haifa District boundary, from which point it follows that boundary to the sea.

The boundary of the hill country of Samaria and Judea starts on the Jordan River at the Wadi Malih south-east of Beisan and runs due west to meet the Beisan-Jericho road and then follows the western side of that road in a north-westerly direction to the junction of the boundaries of the Sub-Districts of Beisan, Nablus, and Jenin. From that point it follows the Nablus-Jenin Sub-District boundary westwards for a distance of about three kilometres and then turns north-westwards, passing to the east of the built-up areas of the villages of Jalbun and Faqu'a, to the boundary of the Sub-Districts of Jenin and Beisan at a point northeast of Nuris. Thence it proceeds first north-westwards to a point due north of the built-up area of Zir'in and then westwards to the Afula-Jenin railway, thence north-westwards along the District boundary line to the point of intersection on the Hejaz railway. From here the boundary runs south-westwards, including the built-up area and some of the land of the village of Kh. Lid in the Arab State to cross the Haifa-Jenin road at a point on the district boundary between Haifa and Samaria west of El-Mansi. It follows this boundary to the southernmost point of the village of El-Buteimat. From here it follows the northern and eastern boundaries of the village of Ar'ara rejoining the Haifa-Samaria district boundary at Wadi 'Ara, and thence proceeding south-south-westwards in an approximately straight line joining up with the western boundary of Qaqun to a point east of the railway line on the eastern boundary of Qaqun village. From here it runs along the railway line some distance to the east of it to a point just

east of the Tulkarm railway station. Thence the boundary follows a line half-way between the railway and the Tulkarm-Qalqiliya-Jaljuliya and Ras El-Ein road to a point just east of Ras El-Ein station, whence it proceeds along the railway some distance to the east of it to the point on the railway line south of the junction of the Haifa-Lyddá and Beit Nabala lines, whence it proceeds along the southern border of Lydda airport to its south-west corner, thence in a south-westerly direction to a point just west of the built-up area of Sarafand El 'Amar, whence it turns south, passing just to the west of the built-up area of Abu El-Fadil to the north-east corner of the lands of Beer Ya'aqov. (The boundary line should be so demarcated as to allow direct access from the Arab State to the airport.) Thence the boundary line follows the western and southern boundaries of Ramle village, to the north-east corner of El Na'ana village, thence in a straight line to the southernmost point of El Barriya, along the eastern boundary of that village and the southern boundary of 'Innaba village. Thence it turns north to follow the southern side of the Jaffa-Jerusalem road until El-Qubab, whence it follows the road to the boundary of Abu-Shusha. It runs along the eastern boundaries of Abu Shusha, Seidun, Hulda to the southernmost point of Hulda, thence westwards in a straight line to the north-eastern corner of Umm Kalkha, thence following the northern boundaries of Umm Kalkha, Qazaza and the northern and western boundaries of Mukhezín to the Gaza District boundary and thence runs across the village lands of El-Mismiya El-Kabira, and Yasur to the southern point of intersection, which is midway between the built-up areas of Yasur and Batani Sharqi.

From the southern point of intersection the boundary lines run north-westwards between the villages of Gan Yavne and Barqa to the sea at a point half way between Nabi Yunis and Minat El-Qila, and south-eastwards to a point west of Qastina, whence it turns in a south-westerly direction, passing to the east of the built-up areas of Es Sawafir Esh Sharqiya and 'Ibdis. From the south-east corner of 'Ibdis village it runs to a point southwest of the built-up area of Beit 'Affa, crossing the Hebron-El-Majdal road just to the west of the built-up area of 'Iraq Suweidan. Thence it proceeds southward along the western village boundary of El-Faluja to the Beersheba Sub-District boundary. It then runs across the tribal lands of 'Arab El-Jubarat to a point on the boundary between the Sub-Districts of Beersheba and Hebron north of Kh. Khuweilifa, whence it proceeds in a south-westerly direction to a point on the Beersheba-Gaza main road two kilometres to the north-west of the town. It then turns south-eastwards to reach Wadi Sab' at a point situated one kilometre to the west of it. From here it turns north-eastwards and proceeds along Wadi Sab' and along the Beersheba-Hebron road for a distance of one kilometre, whence it turns eastwards and runs in a straight line to Kh. Kuseifa to join the Beersheba-Hebron Sub-District boundary. It then follows the Beersheba-Hebron boundary eastwards to a point north of Ras Ez-Zuweira, only departing from it so as to cut across the base of the indentation between vertical grid lines 150 and 160.

About five kilometres north-east of Ras Ez-Zuweira it turns north, excluding from the Arab State a strip along the coast of the Dead Sea not more than seven kilometres in depth, as far as 'Ein Geddi, whence it turns due east to join the Transjordan frontier in the Dead Sea.

The northern boundary of the Arab section of the coastal plain runs from a point between Minat El-Qila and Nabi Yunis, passing between the built-up areas of Gan Yavne and Barqa to the point of intersection. From here it turns south-westwards, running across the lands of Batani Sharqi, along the eastern boundary of the lands of Beit Daras and across the lands of Julis, leaving the built-up areas of Batani Sharqi and Julis to the westwards, as far as the north-west corner of the lands of Beit-Tima. Thence it runs east of El-Jiya across the village lands of El-Barbara along the eastern boundaries of the villages of Beit Jirja, Deir Suneid and Dimra. From the south-east corner of Dimra the boundary passes across the lands of Beit Hanun, leaving the Jewish lands of Nir-Am to the eastwards. From the south-east corner of Beit Hanun the line runs south-west to a point south of the parallel grid line 100, then turns north-west for two kilometres, turning again in a southwesterly direction and continuing in an almost straight line to the north-west corner of the village lands of Kirbet Ikhza'a. From there it follows the boundary line of this village to its southernmost point. It then runs in a southerly direction along the vertical grid line 90 to its junction with the horizontal grid line 70. It then turns south-eastwards to Kh. El-Ruheiba and then proceeds in a southerly direction to a point known as El-Baha, beyond which it crosses the Beersheba-El 'Auja main road to the west of Kh. El-Mushrifá. From there it joins Wadi El-Zaiyatín just to the west of El-Subeita. From there it turns to the north-east and then to the south-east following this Wadi and passes to the east of 'Abda to join Wadi Nafkh. It then bulges to the south-west along Wadi Nafkh, Wadi 'Ajrim and Wadi Lissan to the point where Wadi Lissan crosses the Egyptian frontier.

The area of the Arab enclave of Jaffa consists of that part of the town-planning area of Jaffa which lies to the west of the Jewish quarters lying south of Tel-Aviv, to the west of the continuation of Herzl street up to its junction with the Jaffa-Jerusalem road, to the south-west of the section of the Jaffa-Jerusalem road lying south-east of that junction, to the west of Miqve Yisrael lands, to the northwest of Holon local council area, to the north of the line linking up the north-west corner of Holon with the northeast corner of Bat Yam local council area and to the north of Bat Yam local council area. The question of Karton quarter will be decided by the Boundary Commission, bearing in mind among other considerations the desirability of including the smallest possible number of its Arab inhabitants and the largest possible number of its Jewish inhabitants in the Jewish State.

B. THE JEWISH STATE

The north-eastern sector of the Jewish State (Eastern Galilee) is bounded on the north and west by the Lebanese frontier and on the east by the frontiers of Syria and Transjordan. It includes the whole of the Huleh Basin, Lake Tiberias, the whole of the Beisan Sub-District, the boundary line being extended to the crest of the Gilboa mountains and the Wadi Malih. From there the Jewish State extends north-west, following the boundary described in respect of the Arab State. The Jewish section of the coastal plain extends from a point between Minat El-Qila and Nabi Yunis in the Gaza Sub-District and includes the towns of Haifa and Tel-Aviv, leaving Jaffa as an enclave of the Arab State. The eastern frontier of the Jewish State follows the boundary described in respect of the Arab State.

The Beersheba area comprises the whole of the Beersheba Sub-District, including the Negeb and the eastern part of the Gaza Sub-District, but excluding the town of Beersheba and those areas described in respect of the Arab State. It includes also a strip of land along the Dead Sea stretching from the Beersheba-Hebron Sub-District boundary line to 'Ein Geddi, as described in respect of the Arab State.

C. THE CITY OF JERUSALEM

The boundaries of the City of Jerusalem are as defined in the recommendations on the City of Jerusalem. (See Part III, section B, below).

Part III. City of Jerusalem

A. SPECIAL REGIME

The City of Jerusalem shall be established as a *corpus separatum* under a special international regime and shall be administered by the United Nations. The Trusteeship Council shall be designated to discharge the responsibilities of the Administering Authority on behalf of the United Nations.

B. BOUNDARIES OF THE CITY

The City of Jerusalem shall include the present municipality of Jerusalem plus the surrounding villages and towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem; the most western, 'Ein Karim (including also the built-up area of Motsa); and the most northern Shu'fat, as indicated on the attached sketch-map (annex B).'

C. STATUTE OF THE CITY

The Trusteeship Council shall, within five months of the approval of the present plan, elaborate and approve a detailed statute of the City which shall contain, inter alia, the substance of the following provisions:

*Not included in this appendix.

1. Government machinery; special objectives. The Administering Authority in discharging its administrative obligations shall pursue the following special objectives:

(a) To protect and to preserve the unique spiritual and religious interests located in the city of the three great monotheistic faiths throughout the world, Christian, Jewish and Moslem; to this end to ensure that order and peace, and especially religious peace, reign in Jerusalem;

(b) To foster cooperation among all the inhabitants of the city in their own interests as well as in order to encourage and support the peaceful development of the mutual relations between the two Palestinian peoples throughout the Holy Land; to promote the security, well-being and any constructive measures of development of the residents having regard to the special circumstances and customs of the various peoples and communities.

2. Governor and administrative staff. A Governor of the City of Jerusalem shall be appointed by the Trusteeship Council and shall be responsible to it. He shall be selected on the basis of special qualifications and without regard to nationality. He shall not, however, be a citizen of either State in Palestine.

The Governor shall represent the United Nations in the City and shall exercise on their behalf all powers of administration, including the conduct of external affairs. He shall be assisted by an administrative staff classed as international officers in the meaning of Article 100 of the Charter and chosen whenever practicable from the residents of the city and of the rest of Palestine on a non-discriminatory basis. A detailed plan for the organization of the administration of the city shall be submitted by the Governor to the Trusteeship Council and duly approved by it.

3. Local autonomy.

(a) The existing local autonomous units in the territory of the city (villages, townships and municipalities) shall enjoy wide powers of local government and administration.

(b) The Governor shall study and submit for the consideration and decision of the Trusteeship Council a plan for the establishment of special town units consisting, respectively, of the Jewish and Arab sections of new Jerusalem. The new town units shall continue to form part of the present municipality of Jerusalem.

4. Security measures.

(a) The City of Jerusalem shall be demilitarized; neutrality shall be declared and preserved, and no para-military formations, exercises or activities shall be permitted within its borders.

(b) Should the administration of the City of Jerusalem be seriously obstructed or prevented by the non-cooperation or interference of one or more sections of the population the Governor shall have authority to take such measures as may be necessary to restore the effective functioning of administration.

(c) To assist in the maintenance of internal law and order, especially for the protection of the Holy Places and religious buildings and sites in the city, the Governor shall organize a special police force of adequate strength, the members of which shall be recruited outside of Palestine. The Governor shall be empowered to direct such budgetary provision as may be necessary for the maintenance of this force.

5. Legislative organization. A Legislative Council, elected by adult residents of the city irrespective of nationality on the basis of universal and secret suffrage and proportional representation, shall have powers of legislation and taxation. No legislative measures shall, however, conflict or interfere with the provisions which will be set forth in the Statute of the City, nor shall any law, regulation, or official action prevail over them. The Statute shall grant to the Governor a right of vetoing bills inconsistent with the provisions referred to in the preceding sentence. It shall also empower him to promulgate temporary ordinances in case the Council fails to adopt in time a bill deemed essential to the normal functioning of the administration.

6. Administration of justice. The Statute shall provide for the establishment of an independent judiciary system, including a court of appeal. All the inhabitants of the city shall be subject to it.

7. Economic Union and economic regime. The City of Jerusalem shall be included in the Economic Union of Palestine and be bound by all stipulations of the undertaking and of any treaties issued therefrom, as well as by the decisions of the Joint Economic Board. The headquarters of the Economic Board shall be established in the territory of the City. The Statute shall provide for the regulation of economic matters not falling within the regime of the Economic Union, on the basis of equal treatment and non-discrimination for all members of the United Nations and their nationals.

8. Freedom of transit and visit; control of residents. Subject to considerations of security, and of economic welfare as determined by the Governor under the directions of the Trusteeship Council, freedom of entry into, and residence within, the borders of the City shall be guaranteed for the residents or citizens of the Arab and Jewish States. Immigration into, and residence within, the borders of the city for nationals of other States shall be controlled by the Governor under the directions of the Trusteeship Council.

9. Relations with the Arab and Jewish States. Representatives of the Arab and Jewish States shall be accredited to the Governor of the City and charged with the protection of the interests of their States and nationals in connexion with the international administration of the City.

10. Official languages. Arabic and Hebrew shall be the official languages of the city. This will not preclude the adoption of one or more additional working languages, as may be required.

11. Citizenship. All the residents shall become ipso facto citizens of the City of Jerusalem unless they opt for citizenship of the State of which they have been citizens or, if Arabs or Jews, have filed notice of intention to become citizens of the Arab or Jewish State respectively, according to part I, section B, paragraph 9, of this plan.

The Trusteeship Council shall make arrangements for consular protection of the citizens of the City outside its territory.

12. Freedoms of citizens.

(a) Subject only to the requirements of public order and morals, the inhabitants of the City shall be ensured the enjoyment of human rights and fundamental freedoms, including freedom of conscience, religion and worship, language, education, speech and press, assembly and association, and petition.

(b) No discrimination of any kind shall be made between the inhabitants on the grounds of race, religion, language or sex.

(c) All persons within the City shall be entitled to equal protection of the laws.

(d) The family law and personal status of the various persons and communities and their religious interests, including endowments, shall be respected.

(e) Except as may be required for the maintenance of public order and good government, no measure shall be taken to obstruct or interfere with the enterprise of religious or charitable bodies of all faiths or to discriminate against any representative or member of these bodies on the ground of his religion or nationality.

(f) The City shall ensure adequate primary and secondary education for the Arab and Jewish communities respectively, in their own languages and in accordance with their cultural traditions.

The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the City may impose, shall not be denied or impaired. Foreign educational establishments shall continue their activity on the basis of their existing rights.

(g) No restriction shall be imposed on the free use by any inhabitant of the City of any language in private intercourse, in commerce, in religion, in the Press or in publications of any kind, or at public meetings.

13. Holy Places.

- (a) Existing rights in respect of Holy Places and religious buildings or sites shall not be denied or impaired.
- (b) Free access to the Holy Places and religious buildings or sites and the free exercise of worship shall be secured in conformity with existing rights and subject to the requirements of public order and decorum.
- (c) Holy Places and religious buildings or sites shall be preserved. No act shall be permitted which may in any way impair their sacred character. If at any time it appears to the Governor that any particular Holy Place, religious building or site is in need of urgent repair, the Governor may call upon the community or communities concerned to carry out such repair. The Governor may carry it out himself at the expense of the community or communities concerned if no action is taken within a reasonable time.
- (d) No taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from taxation on the date of the creation of the City. No change in the incidence of such taxation shall be made which would either discriminate between the owners or occupiers of Holy Places, religious buildings or sites, or would place such owners or occupiers in a position less favourable in relation to the general incidence of taxation than existed at the time of the adoption of the Assembly's recommendations.

14. Special powers of the Governor in respect of the Holy Places, religious buildings and sites in the City and in any part of Palestine.

- (a) The protection of the Holy Places, religious buildings and sites located in the City of Jerusalem shall be a special concern of the Governor.
- (b) With relation to such places, buildings and sites in Palestine outside the city, the Governor shall determine, on the ground of powers granted to him by the Constitutions of both States, whether the provisions of the Constitutions of the Arab and Jewish States in Palestine dealing therewith and the religious rights appertaining thereto are being properly applied and respected.⁷
- (c) The Governor shall also be empowered to make decisions on the basis of existing rights in cases of disputes which may arise between the different religious communities or the rites of a religious community in respect of the Holy Places, religious buildings and sites in any part of Palestine.

In this task he may be assisted by a consultative council of representatives of different denominations acting in an advisory capacity.

D. DURATION OF THE SPECIAL REGIME

The Statute elaborated by the Trusteeship Council on the aforementioned principles shall come into force not later than 1 October 1948. It shall remain in force in the first instance for a period of ten years, unless the Trusteeship Council finds it necessary to undertake a re-examination of these provisions at an earlier date. After the expiration of this period the whole scheme shall be subject to examination by the Trusteeship Council in the light of experience acquired with its functioning. The residents of the City shall be then free to express by means of a referendum their wishes as to possible modifications of the regime of the City.

Part IV. Capitulations

States whose nationals have in the past enjoyed in Palestine the privileges and immunities of foreigners, including the benefits of consular jurisdiction and protection, as formerly enjoyed by capitulation or usage in the Ottoman Empire, are invited to renounce any right pertaining to them to the re-establishment of such privileges and immunities in the proposed Arab and Jewish States and the City of Jerusalem.

Adopted at the 128th plenary meeting:

In favor: 33

Australia, Belgium, Bolivia, Brazil, Byelorussian S.S.R., Canada, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Guatemala, Haiti, Iceland, Liberia, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Sweden, Ukrainian S.S.R., Union of South Africa, U.S.A., U.S.S.R., Uruguay, Venezuela.

Against: 13

Afghanistan, Cuba, Egypt, Greece, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey, Yemen.

Abstained: 10

Argentina, Chile, China, Colombia, El Salvador, Ethiopia, Honduras, Mexico, United Kingdom, Yugoslavia.

Israeli Declaration of Independence, May 14, 1948

ERETZ-ISRAEL [(Hebrew) The Land of Israel] was the birthplace of the Jewish people. Here their spiritual, religious and political identity was shaped. Here they first attained to statehood, created cultural values of national and universal significance and gave to the world the eternal Book of Books.

After being forcibly exiled from their land, the people remained faithful to it throughout their Dispersion and never ceased to pray and hope for their return to it and for the restoration in it of their political freedom.

Impelled by this historic and traditional attachment, Jews strove in every successive generation to re-establish themselves in their ancient homeland. In recent decades they returned in their masses. Pioneers, *ma'pilim* [(Hebrew)—immigrants coming to Eretz-Israel in defiance of restrictive legislation] and defenders, they made deserts bloom, revived the Hebrew language, built villages and towns, and created a thriving community controlling its own economy and culture, loving peace but knowing how to defend itself, bringing the blessings of progress to all the country's inhabitants, and aspiring towards independent nationhood.

In the year 5657 (1897), at the summons of the spiritual father of the Jewish State, Theodore Herzl, the First Zionist Congress convened and proclaimed the right of the Jewish people to national rebirth in its own country.

This right was recognized in the Balfour Declaration of the 2nd November, 1917, and re-affirmed in the Mandate of the League of Nations which, in particular, gave international sanction to the historic connection between the Jewish people and Eretz-Israel and to the right of the Jewish people to rebuild its National Home.

The catastrophe which recently befell the Jewish people—the massacre of millions of Jews in Europe—was another clear demonstration of the urgency of solving the problem of its homelessness by re-establishing in Eretz-Israel the Jewish State, which would open the gates of the homeland wide to every Jew and confer upon the Jewish people the status of a fully privileged member of the comity of nations.

Survivors of the Nazi holocaust in Europe, as well as Jews from other parts of the world, continued to migrate to Eretz-Israel, undaunted by difficulties, restrictions and dangers, and never ceased to assert their right to a life of dignity, freedom and honest toil in their national homeland.

In the Second World War, the Jewish community of this country contributed its full share to the struggle of the freedom- and peace-loving nations against the forces of Nazi wickedness and, by the blood of its soldiers and its war effort, gained the right to be reckoned among the peoples who founded the United Nations.

On the 29th November, 1947, the United Nations General Assembly passed a resolution calling for the establishment of a Jewish State in Eretz-Israel; the General Assembly required the inhabitants of Eretz-Israel to take such steps as were necessary on their part for the implementation of that resolution. This recognition by the United Nations of the right of the Jewish people to establish their State is irrevocable.

This right is the natural right of the Jewish people to be masters of their own fate, like all other nations, in their own sovereign State.

ACCORDINGLY WE, MEMBERS OF THE PEOPLE'S COUNCIL, REPRESENTATIVES OF THE JEWISH COMMUNITY OF ERETZ-ISRAEL AND OF THE ZIONIST MOVEMENT, ARE HERE ASSEMBLED ON

THE DAY OF THE TERMINATION OF THE BRITISH MANDATE OVER ERETZ-ISRAEL AND, BY VIRTUE OF OUR NATURAL AND HISTORIC RIGHT AND ON THE STRENGTH OF THE RESOLUTION OF THE UNITED NATIONS GENERAL ASSEMBLY, HEREBY DECLARE THE ESTABLISHMENT OF A JEWISH STATE IN ERETZ-ISRAEL, TO BE KNOWN AS THE STATE OF ISRAEL.

WE DECLARE that, with effect from the moment of the termination of the Mandate being tonight, the eve of Sabbath, the 6th Iyar, 5708 (15th May, 1948), until the establishment of the elected, regular authorities of the State in accordance with the Constitution which shall be adopted by the Elected Constituent Assembly not later than the 1st October 1948, the People's Council shall act as a Provisional Council of State, and its executive organ, the People's Administration, shall be the Provisional Government of the Jewish State, to be called "Israel."

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.

THE STATE OF ISRAEL is prepared to cooperate with the agencies and representatives of the United Nations in implementing the resolution of the General Assembly of the 29th November, 1947, and will take steps to bring about the economic union of the whole of Eretz-Israel.

WE APPEAL to the United Nations to assist the Jewish people in the building-up of its State and to receive the State of Israel into the comity of nations.

WE APPEAL—in the very midst of the onslaught launched against us now for months—to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.

WE EXTEND our hand to all neighboring states and their peoples in an offer of peace and good neighborliness, and appeal to them to establish bonds of cooperation and mutual help with the sovereign Jewish people settled in its own land. The State of Israel is prepared to do its share in a common effort for the advancement of the entire Middle East.

WE APPEAL to the Jewish people throughout the Diaspora to rally round the Jews of Eretz-Israel in the tasks of immigration and upbuilding and to stand by them in the great struggle for the realization of the age-old dream—the redemption of Israel.

PLACING OUR TRUST IN THE ALMIGHTY, WE AFFIX OUR SIGNATURES TO THIS PROCLAMATION AT THIS SESSION OF THE PROVISIONAL COUNCIL OF STATE, ON THE SOIL OF THE HOMELAND, IN THE CITY OF TEL-AVIV, ON THIS SABBATH EVE, THE 5TH DAY OF IYAR, 5708 (14TH MAY, 1948).

Notes

1. See chapter 3.
2. See, for example, *Political Program of the Sixth General Conference of Fatah*, August 2009, <http://www.fatehconf.ps>, in which the text reads: “There must be absolute opposition, from which there will be no withdrawal, to recognizing Israel as a ‘Jewish state,’ in order to protect the refugees’ rights and the rights of our people on the other side of the Green Line.”
3. See Ahmad Khalidi, “A Recipe for Resentment,” *Guardian*, May 26, 2009, <http://www.guardian.co.uk/commentisfree/2009/may/26/israel-palestinian-jewish-netanyahu/>; see also Ghassan Khatib, “Netanyahu Is Throwing Obstacles in the Way of Peace,” May 4, 2009, <http://www.bitterlemons.org/previous/bl040509ed17.html#pal1>.
4. Prime Minister’s Office, “Address by Prime Minister Benjamin Netanyahu, Begin-Sadat Center at Bar-Ilan University,” June 14, 2009, <http://www.pmo.gov.il/PMOEng/Archive/Speeches/2009/06/speechbarilan140609.htm>. See also Prime Minister’s Office, “PM Netanyahu Speech at the Opening of the Knesset Winter Session,” October 11, 2010, <http://www.pmo.gov.il/PMOEng/Communication/PMSpeaks/speechkneset111010.htm>; he explained as follows: “When I say recognition, I mean Palestinian recognition of Israel as the nation-state of the Jewish people. This is not just stubbornness. This is the root of the conflict and therefore a central foundation for resolving it.”
5. Isabel Kershner, “Israeli Cabinet Approves Citizenship Amendment,” *New York Times*, October 10, 2010, <http://www.nytimes.com/2010/10/11/world/middleeast/11mideast.html>.
6. Ethan Bronner, “Netanyahu’s Moves Spark Debate on Intentions,” *New York Times*, October 11, 2010, http://www.nytimes.com/2010/10/12/world/middleeast/12mideast.html?_r=1&ref=middle_east_peace_process.
7. Yossi Alpher, “Palestinians Will Have to Find a Formula,” Bitterlemons.org, May 4, 2009, www.bitterlemons.org/previous/bl040509ed17.html#pal1.
8. The term has also been understood to imply a denial of minority rights, an objection addressed in detail in chapter 3 of this paper.
9. See, e.g., Jerome Segal, “The Refugees’ Right of Return and Israel’s Right to Exist as a Jewish State,” *al-Quds* (Jerusalem), July 8, 2008. Segal writes that “the term ‘Jewish State’ has a limited meaning. It most certainly does not mean a state in which Judaism will be the state religion, or in which Jewish religious law will be enforced by the state, or in which Jewish religious authorities will have power over the governance of the state. A Jewish state is not a theocracy.... It is, however, intended as a homeland for the Jewish people, and as a place where the Jewish people exercise their right of self-determination.”
10. See Yoram Hazony, “Did Herzl Want a Jewish State?” in *New Essays on Zionism*, eds. David Hazony, Yoram Hazony, and Michael Oren (Jerusalem: Shalem Press, 2006), p. 357.
11. See chapter 3 of this piece on the issue of reconciling Israel as a Jewish and a democratic state.
12. Whether self-determination necessarily gives rise to a right to statehood (commonly referred to as “external” self-determination) or territorial autonomy, cultural autonomy, or more limited collective rights (“internal” self-determination) is very much a function of the political and practical circumstances in which the right is asserted. In the context of the two-state solution, the external self-determination of the Jewish and Palestinian people is at issue; see Tal Becker, “Self-Determination in Perspective: Palestinian Claims to Statehood and the Relativity of the Right to Self-Determination,” *Israel Law Review* 32 (1998), p. 301.
13. Ian Brownlie, *Principles of Public International Law*, 5th ed. (Oxford: Oxford University Press, 1999), pp. 599–602, and texts cited therein.
14. International Covenant on Civil and Political Rights, 1966 (in force since March 23, 1976), 999 U.N.T.S. 171.
15. International Covenant on Economic, Social, and Cultural Rights, 1966 (in force since March 23, 1976), 993 U.N.T.S. 3.
16. Hurst Hannum, “Rethinking Self-Determination,” *Virginia Journal of International Law* 34 (1993): pp. 1, 35; Anna Michalska, “Rights of Peoples to Self-Determination in International Law,” in *Issues of Self-Determination*, ed. William Twining (Aberdeen: Aberdeen University Press, 1991), p. 7; Yoram Dinstein, “Self-Determination and the Middle East Conflict,” in *Self-Determination: National, Regional, and Global Dimensions*, eds. Yonah Alexander and Robert Friedlander (Boulder, Colo.: Westview Press, 1980), p. 246.
17. Nathan Feinberg, “The Recognition of the Jewish People in International Law,” *Jewish Yearbook of International Law* 1 (1948), p. 1.
18. Alexander Yakobson, “Jewish Peoplehood and the Jewish State, How Unique?—A Comparative Survey,” *Israel Studies* 13 (2008), p. 1.

19. See, for example, Glenn Kessler, "Defining 'Jewish' State: For Many, Term Has Different Meanings," *Washington Post*, October 1, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/10/01/AR2010100104177.html?hpid=topnews>. The piece cites Diana Buttu, a former aide to Palestinian president Mahmoud Abbas, arguing that the claim is "entirely new."
20. Arie Morgenstern, "Dispersion and the Longing for Zion, 1240–1840," in *New Essays on Zionism*, eds. David Hazony, Yoram Hazony, and Michael Oren (Jerusalem: Shalem Press, 2007), p. 304; see also Dore Gold and Jeff Helmreich, "An Answer to the New Anti-Zionists: The Rights of the Jewish People to a Sovereign State in Their Historic Homeland," *Jerusalem Viewpoints* no. 507 (Jerusalem Center for Public Affairs, November 16, 2003), <http://www.jcpa.org/jl/vp507.htm>.
21. See chapter 2.
22. As reprinted in Arthur Hertzberg, *The Zionist Idea* (New York: Doubleday and Herzl Press, 1959), pp. 226–228.
23. Jewish opposition came, for example, from ultraorthodox groups and a number of liberal Jewish scholars who objected, for different reasons, to the reconstitution of Jewish sovereignty.
24. Declaration of the Establishment of the State of Israel (May 14, 1948), *Laws of the State of Israel* (authorized translation), vol. 1, 5708–1948: p. 3.
25. According to Genesis 32:28, "Israel" was the name given to Jacob because he had struggled (in the Hebrew, "sarita") with G-d and man and had prevailed. The Jewish people are often referred to as "B'nei Yisrael," or the children of Israel.
26. Alexander Yakobson and Amnon Rubinstein, *Israel and the Family of Nations: The Jewish Nation-State and Human Rights* (New York: Routledge, 2009), p. 12.
27. United Nations, "Letter Dated 29 November 1948 from Israel's Foreign Minister to the Secretary-General Concerning Israel's Application for Admission to the United Nations" (1948), UN Doc. S/1093. Indeed, the United States, in recognizing the fledgling state, made clear its view of "Israel" and the "Jewish state" as one and the same: "This Government has been informed that a Jewish state has been proclaimed in Palestine, and recognition has been requested by the provisional Government thereof. The United States recognizes the provisional government as the de facto authority of the new State of Israel." Harry S. Truman Library and Museum, Statement by the President of the United States (May 14, 1948), <http://www.trumanlibrary.org/hst/h.htm>.
28. Reut Institute, "The Delegitimization Challenge: Creating a Political Firewall," Conceptual Framework (March 2010), <http://reut-institute.org/en/Publication.aspx?PublicationId=3769>.
29. See chapter 3.
30. See generally Hussein Ibish, *What's Wrong with the One-State Agenda?* (Washington, DC: American Task Force on Palestine, 2009).
31. Israeli Ministry of Foreign Affairs, "PM Sharon Addresses the United Nations General Assembly," September 15, 2005, <http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2005/PM%20Sharon%20addresses%20the%20UN%20General%20Assembly%2015-Sep-2005>.
32. Cited in Daniel Pipes, "Accept Israel as a Jewish State?" (Middle East Forum, November 29, 2007), <http://www.meforum.org/pipes/5149/accept-israel-as-the-jewish-state>; see also Prime Minister's Office, "PM Olmert Meets with EU Envoy Solana," November 14, 2007, <http://www.pmo.gov.il/PMOEng/Archive/Current+Events/2007/11/eventsol141107.htm>.
33. See, for example, Prime Minister's Office, "Address by PM Netanyahu to Knesset," June 23, 2010, <http://www.pmo.gov.il/PMO/Communication/PMSpeaks/speech40sig230610.htm>.
34. On Palestinian rights to self-determination, see Becker, "Self-Determination in Perspective."
35. Prime Minister's Office, "PM Netanyahu on *Meet the Press*," June 21, 2009 http://www.msnbc.msn.com/id/31463249/ns/meet_the_press/.
36. Israeli Ministry of Foreign Affairs, "Address by FM Livni to UN General Assembly," September 20, 2006, <http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2006/Address%20by%20FM%20Livni%20to%20the%20UN%20General%20Assembly%2020-Sep-2006>.
37. See generally Nahum Sokolow, *History of Zionism (1600–1918)* (New York: Ktav Publishing, 1969).
38. See generally Barbara W. Tuchman, *Bible and Sword: England and Palestine from the Bronze Age to Balfour* (New York: Ballantine Books, 1984).

39. MidEastWeb, “Napoleon Bonaparte’s Letter to the Jews, April 20, 1799,” <http://www.mideastweb.org/napoleon1799.htm>. Napoleon’s intentions, of course, could not be tested because of his subsequent defeat and the withdrawal of his forces.
40. See generally Michael B. Oren, *Power, Faith, and Fantasy: America in the Middle East, 1776 to the Present* (New York: W. W. Norton and Co., 2007).
41. *Ibid.*, p. 90.
42. *Ibid.*, p. 221.
43. Isaiah Friedman, *The Question of Palestine: British-Jewish Relations, 1914–1918*, 2nd ed. (New Brunswick, N.J.: Transaction Publishers, 1992), p. 309.
44. As reprinted in Ruth Lapidoth and Moshe Hirsch, eds., *The Arab-Israeli Conflict and Its Resolution: Selected Documents* (Dordrecht, Netherlands: Martinus Nijhoff Publishers, 1992), p. 20. An earlier, though less forthright, assurance of support was provided by the French Foreign Ministry for “the renaissance of the Jewish nationality in that land from which the people of Israel were exiled so many centuries ago.” See David Fromkin, *A Peace to End All Peace* (New York: Henry Holt & Co., 1989), pp. 292–293.
45. For competing views, see, for example, Leonard Stein, *The Balfour Declaration* (New York: Simon & Schuster, 1954), pp. 552–554; W. Thomas Mallison and Sally V. Mallison, *The Palestine Problem: International Law and World Order* (London: Longman, 1986), pp. 18–78.
46. Thus, for example, the British and American press at the time read the statement as an endorsement of a Jewish state. Similarly, figures such as U.S. presidents Theodore Roosevelt and Woodrow Wilson, Greek foreign minister Politis, and British statesmen such as Lord Cecil, Neville Chamberlain, Herbert Samuel, and Winston Churchill, to mention but a few, used the terms “national home” and “state” interchangeably. Numerous British official documents of the time suggest a similar reading. See generally Friedman, *The Question of Palestine*.
47. It is noteworthy, for example, that alternative drafts such as the “reconstitution of Palestine as the Jewish national home” were rejected. The 1939 British White Paper, limiting Jewish immigration to Palestine, similarly sought to contest the notion that Jewish statehood was contemplated by the Balfour Declaration, though it conceded that the declaration certainly did not preclude this outcome.
48. This understanding of the Balfour Declaration—as creating a political opportunity for eventual Jewish statehood—can be seen, for example, from the comments of Lord Balfour and fellow cabinet member Lloyd George. At the cabinet meeting itself, Balfour explained that the declaration “did not necessarily involve the early establishment of a Jewish State, which was a matter for gradual development in accordance with the ordinary laws of political evolution.” George later commented that if the Jews “responded to the opportunity afforded them by the idea of a National Home and had become a definite majority of the inhabitants, then Palestine would thus become a Jewish Commonwealth”; see generally Friedman, *The Question of Palestine*.
49. San Remo Resolution (April 25, 1920), reprinted at http://www.cfr.org/publication/15248/san_remo_resolution.html.
50. While the Council treated the Mandate as having full legal effect upon its adoption, it is argued that from a legal perspective it only came into force with the entry into force of the Treaty of Lausanne in 1924. It was by this treaty that Turkey officially renounced any claims to territory beyond its new borders and paved the way for the lawful implementation of the Mandate and for recognition of Turkey as the successor state to the Ottoman Empire.
51. Lapidoth and Hirsch, *The Arab-Israeli Conflict*, p. 25. The use of the term “reconstituting” is significant and indicates a clear intent to enable the reassertion of Jewish sovereignty.
52. *Ibid.* See Articles 6, 7, and 22, respectively.
53. The most commonly cited exception is that of Emir Feisal, who represented the Arab delegation at the 1919 Peace Conference and expressed support for the Balfour Declaration and sympathy for Zionism both before and after the conference. In an agreement reached with Chaim Weizmann, who acted on behalf of the Zionist Organization, Feisal gave written expression to this support provided his own claims for Arab independence in other territories were satisfied. See Lapidoth and Hirsch, *The Arab-Israeli Conflict*, p. 21.
54. As Arab opposition to Zionism intensified, the British issued a series of white papers in which they reevaluated their commitment to the Balfour Declaration and the terms of the Mandate, and sought to restrict Jewish immigration to Palestine. The most far-reaching of these white papers was issued in 1939; see Charles D. Smith, *Palestine and the Arab-Israeli Conflict*, 2nd ed. (Boston: St. Martin’s, 2010), p. 161.

55. The committee, established to examine the migration needs of Jews in former Axis-occupied countries, recommended, inter alia, that Palestine should be neither an Arab nor a Jewish state. See John Norton Moore, ed., *The Arab-Israeli Conflict: Documents* (Princeton, N.J.: Princeton University Press, 1974), pp. 243–253.
56. Another commission, the Woodhead Commission, which was established in 1938 after the Peel Commission failed to quell the Arab revolt, also recommended partition but proposed that only about 5 percent of Palestine (1,250 square kilometers) be reserved for the Jewish state.
57. As reprinted in Moore, *The Arab-Israeli Conflict*, pp. 150, 181–183.
58. The UNSCOP report was prepared within a three-month period, but was boycotted by the Arab Higher Committee. A majority report of the commission, favoring partition, was adopted by seven members and formed the basis for the UN General Assembly Partition Resolution, which was later adopted. A minority report of three members recommended the establishment of a federal state. The recommendation of the Arab Higher Committee for a unitary Arab state was not accepted by any UNSCOP member.
59. United Nations, *Report of the United Nations Special Committee on Palestine* (1947), UN Doc. A/364, paras. 145–153.
60. This included not only commitments to safeguard the civil and religious rights of non-Jewish inhabitants of Palestine, but also an unresolved controversy as to whether Britain had made a parallel promise that Palestine was to be included among the former Ottoman territories designated for Arab independence. The UNSCOP report did not resolve the “dual promise” question but concluded that “there would seem to be no grounds for questioning the validity of the Mandate for the reason advanced by the Arab States.” *Ibid.*, para. 179.
61. *Ibid.*, Chapter VI, Recommendation II, Part I, para. 1.
62. See, for example, the statement by the representative from Uruguay: “we consider that the solution recommended, whereby the Jewish people will be given a territory of their own, constitutes a victory over all the acts of racial discrimination by which an attempt was made to create a superior race.... Why is it necessary to establish a Jewish State? Precisely to put an end to that form of discrimination and alienation, that persecution of a section of humanity.” United Nations, Statement by the Ambassador of Uruguay (1947), UN GAOR, 2nd Sess., 124th Mtg., UN Doc. A/2/PV.124. Delegates from many other countries made similar statements during the debate supporting the need to give expression to Jewish and Arab national rights; see, for example, statements by the representatives of the Soviet Union, Poland, and Czechoslovakia (representing the Tomas Masaryk government prior to the Communist coup).
63. As reprinted in PLO Negotiations Affairs Department, Palestinian Declaration of Independence (November 15, 1988), <http://www.nad-plo.org/news-updates/Declaration%20of%20Independence.pdf>.
64. United Nations, Address by Chairman Yasser Arafat to the UN General Assembly (December 13, 1988), UN Doc. A/43/PV.78 (1988).
65. Israeli Ministry of Foreign Affairs “Address by Dr. Haider Abdul Shafi, 31-Oct-91,” <http://www.mfa.gov.il/MFA/Archive/Peace%20Process/1991/ADDRESS%20BY%20DR%20HAIDER%20ABDUL%20SHAFI-%20-%2031-Oct-91>.
66. Jerome Segal, “The 1988 Declaration of Independence,” *Haaretz*, November 27, 2009, <http://www.haaretz.com/print-edition/opinion/the-1988-declaration-of-independence-1.3292>.
67. Israeli Ministry of Foreign Affairs, “The Palestinian National Charter,” July 17, 1968, Article 19, <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/The+Palestinian+National+Charter.htm>.
68. Israeli Ministry of Foreign Affairs, “Israel—Exchange of letters between Prime Minister Rabin and Chairman Arafat,” September 9–10, 1993, <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Israel-PLO+Recognition+-+Exchange+of+Letters+betwe.htm>.
69. As reprinted in Dennis Ross, *The Missing Peace: The Inside Story of the Fight for Middle East Peace* (New York: Farrar, Straus and Giroux, 2004), p. 804.
70. PLO Negotiations Affairs Department, “Remarks and Questions from the Palestinian Negotiating Team Regarding the United States Proposal,” January 1, 2001, http://www.nad-plo.org/inner.php?view=nego_nego_clinton_nclinton2p.
71. Yasser Arafat, “The Palestinian Vision of Peace,” op-ed, *New York Times*, February 3, 2002, <http://www.nytimes.com/2002/02/03/opinion/the-palestinian-vision-of-peace.html?pagewanted=1>.
72. David Landau and Akiva Eldar, “A Jewish State? ‘Definitely’: *Haaretz* Interview with Yasser Arafat,” *Haaretz*, June, 18, 2004.

73. See, for example, *Jerusalem Post*, "PA Won't Recognize Israel as Jewish State," September 8, 2010, <http://www.jpost.com/MiddleEast/Article.aspx?id=187559&R=R3>; *Jerusalem Post*, "Egypt Concerned over Defining Israel as Jewish State," September 6, 2010, <http://www.jpost.com/MiddleEast/Article.aspx?id=187307>.
74. See, for example, remarks by President Abbas to the S. Daniel Abraham Center for Middle East Peace, June 9, 2010 (transcript on file with author): "No one denies the Jewish history in the Middle East. A third of our Holy Koran talks about the Jews in the Middle East, in this area. Nobody from our side at least denies that the Jews were in Palestine, were in the Middle East."
75. See, for example, interview with Abu Mazen, *Maariv*, March 24, 2006. Recent comments by PLO official Yasser Abed Rabbo suggesting that the PLO would recognize Israel according to any formula presented by the United States in return for a Palestinian state along the 1967 lines were widely condemned by Arab and Palestinian spokesmen. See Khaled Abu Toameh and Herb Keinon, "PA Official Criticized for Willingness to Recognize Israel," *Jerusalem Post*, October 13, 2010, <http://www.jpost.com/Home/Article.aspx?id=191266>.
76. Prime Minister's Office, "PM Netanyahu's Remarks at the Start of the Weekly Cabinet Meeting," September 12, 2010, <http://www.pmo.gov.il/PMOEng/Communication/Spokesman/2010/09/spokestart120910.htm>. Note the following language in particular: "To my regret, I have yet to hear from the Palestinians the phrase 'two states for two peoples.' I hear them saying 'two states' but I do not hear them recognizing two states for two peoples."
77. U.S. Department of State, "Briefing by Special Envoy for Middle East Peace George Mitchell on Middle East Peace Talks," September 2, 2010, <http://www.state.gov/p/nea/rls/rm/146750.htm>. Mitchell reiterated that these terms had been agreed on by the two leaders in a subsequent briefing on September 15, 2010. See U.S. Department of State, "Briefing on Israeli-Palestinian Peace Talks," <http://www.state.gov/p/nea/rls/rm/147206.htm>.
78. As reprinted on the Yale Law School website, "Secretary Colin L. Powell: Remarks at the McConnell Center for Political Leadership," November 19, 2001, http://avalon.law.yale.edu/sept11/powell_brief39.asp.
79. See, for example, AIPAC, "Secretary of State Condoleezza Rice," remarks, AIPAC Policy Conference, June 3, 2008, http://www.aipac.org/Publications/SpeechesByPolicymakers/PC_08_Rice.pdf.
80. See, for example, *New York Times*, "Text of Bush's Remarks at Annapolis Conference," November 27, 2007, <http://www.nytimes.com/2007/11/27/world/middleeast/27cnd-prexytext.html>.
81. Israeli Ministry of Foreign Affairs, "Exchange of Letters between PM Sharon and President Bush," April 14, 2004, <http://www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Exchange+of+letters+Sharon-Bush+14-Apr-2004.htm>.
82. See, for example, U.S. Department of State, "Secretary Clinton with Vice President Joe Biden Announce Appointment of Special Envoy for Middle East Peace George Mitchell and Special Representative for Afghanistan and Pakistan Richard Holbrooke," January 22, 2009, <http://www.state.gov/secretary/rm/2009a/01/115297.htm>.
83. White House, Office of the Press Secretary, "Remarks by the President to the United Nations General Assembly," September 23, 2010, <http://www.whitehouse.gov/the-press-office/2010/09/23/remarks-president-united-nations-general-assembly>. In particular, the president said as follows: "After thousands of years, Jews and Arabs are not strangers in a strange land. After 60 years in the community of nations, Israel's existence must not be a subject for debate. Israel is a sovereign state, and the historic homeland of the Jewish people." See also AIPAC, "Senator Barack Obama: AIPAC Policy Conference," June 4, 2008, http://www.aipac.org/Publications/SpeechesBy-Policymakers/PC_08_Obama.pdf, in which Obama remarked that "any agreement with the Palestinian people must preserve Israel's identity as a Jewish state."
84. U.S. Department of State, daily press briefing, October 12, 2010, <http://www.state.gov/r/pa/prs/dpb/2010/10/149329.htm>.
85. French Embassy to Israel, "Speech by M. Nicolas Sarkozy, President of the Republic, to the Knesset," June 23, 2008, <http://www.ambafrance-il.org/Speech-by-M-Nicolas-Sarkozy.html>.
86. Knesset, "Speech by Federal Chancellor Angela Merkel to the Knesset in Jerusalem," March 18, 2008, http://www.knesset.gov.il/description/eng/doc/speech_merkel_2008_eng.pdf.
87. Government of Italy, "Speech by the Prime Minister to Knesset" (in Italian), February 3, 2010, http://www.governo.it/Presidente/Interventi/testo_int.asp?d=55084.
88. Friends of Israel, <http://www.friendsofisraelinitiative.org/about-welcome.php>.
89. Council of the European Union, *Agreed Conclusions of the Ninth Euro-Mediterranean Meeting of Ministers of Foreign Affairs* (Lisbon, November 6, 2007), <http://www.eu2007.pt/NR/rdonlyres/FF7CA6E4-5980-4B3A-A3B6-00D072967697/0/9ReuniaoEuromedMNES.pdf>.

90. European Monitoring Centre on Racism and Xenophobia, "Working Definition of Anti-Semitism," <http://fra.europa.eu/fraWebsite/material/pub/AS/AS-WorkingDefinition-draft.pdf>.
91. United Nations, "Remarks of UN Secretary General Kofi Annan (2006)," UN Doc. S/PV.5584.
92. See, for example, Isabel Kershner, "Abbas Rejects Calling Israel Jewish State," *New York Times*, April 28, 2009, <http://www.nytimes.com/2009/04/28/world/middleeast/28mideast.html>. In Abbas's words: "It is not my job to give a description of the state. Name yourself the Hebrew Socialist Republic—it is none of my business."
93. See, for example, Chaim Gans, "Arab Recognition of a Jewish State," *Haaretz*, July 26, 2009, <http://www.haaretz.com/print-edition/opinion/arab-recognition-of-a-jewish-state-1.280731>; Shimon Shamir, "Ask Mustafa Khalil," *Haaretz*, August 17, 2009, <http://www.haaretz.com/print-edition/opinion/ask-mustafa-khalil-1.282123>; Yonatan Touval, "A Recognition Israel Doesn't Need," *New York Times*, May 13, 2009, <http://www.nytimes.com/2009/05/13/opinion/13iht-edtouval.html>.
94. Israeli Ministry of Foreign Affairs, "Statement to the Knesset by Prime Minister Begin upon the Presentation of His Government," June 20, 1977, <http://www.mfa.gov.il/MFA/Foreign%20Relations/Israels%20Foreign%20Relations%20since%201947/1977-1979/1%20Statement%20to%20the%20Knesset%20by%20Prime%20Minister%20Begin>. Admittedly, Begin was addressing recognition of Israel's right to exist rather than recognition of Jewish self-determination. Still, given his reasoning, we can infer that Begin would have opposed seeking the latter as well. Abba Eban expressed a similar sentiment. See Abba Eban, "The Saudi Text," *New York Times*, November 18, 1981; see also Yehuda Avner, "Israel Does Not Need Palestinian Recognition," *Jerusalem Post*, June 14, 2006, <http://www.jpost.com/Home/Article.aspx?id=24779>.
95. Shlomo Avineri, "The Palestinian Position Is Important," *Haaretz*, August 20, 2009, <http://www.haaretz.com/print-edition/opinion/the-palestinian-position-is-important-1.282294>.
96. Barry Rubin, "Why Recognition of Israel as a Jewish State Is a Prime Requirement for Israel-Palestinian Peace," August 31, 2009, <http://www.gloria-center.org/Gloria/2009/08/prime-requirement.html#author>.
97. Avineri, "The Palestinian Position."
98. Ruth Gavison, "Between Delegitimization and Criticism," *Haaretz*, August 3, 2009, <http://www.haaretz.com/print-edition/opinion/between-delegitimization-and-criticism-1.281143>.
99. Israeli Ministry of Foreign Affairs, "Exchange of Letters," April 14, 2004.
100. Tzipi Livni, address to the UN General Assembly, September 20, 2006, 2006, <http://www.un.org/webcast/ga/61/pdfs/israel-e.pdf>.
101. Reut Institute, "The Delegitimization Challenge."
102. For an example of this argument in the present Israeli context, see Ghaida Rinawie-Zoabi, ed., *The Future Vision of the Palestinian Arabs in Israel* (Nazareth: National Committee for the Heads of Arab Local Authorities in Israel, 2006), <http://www.adalah.org/newsletter/eng/dec06/tasawor-mostaqbali.pdf>. Note the following language in particular: "Defining Israel as a Jewish State and exploiting democracy in the service of its Jewishness excludes us, and creates tension between us and the nature and essence of the State."
103. See chapter 3 of this paper.
104. Khalidi, "A Recipe for Resentment."
105. YnetNews.com, "Mubarak: Israel Canceled Shalit Deal at Last Minute," July 10, 2009, <http://www.ynetnews.com/articles/0,7340,L-3744430,00.html>.
106. United Nations, UN Doc. A/RES/181 (II) (1947).
107. Zeev Jabotinsky, *The Jewish War Front* (London: G. Allen & Unwin, 1940), p. 47. The draft included, for example, equal status for the Hebrew and Arabic languages, a provision stating that the prime ministership and vice premiership should be split between Jewish and Arab leaders, and wide-ranging cultural autonomy.
108. Zeev Jabotinsky, "What the Zionist Revisionists Want," in *The Jew in the Modern World: A Documentary History*, eds. Paul R. Mendes-Flohr and Jehuda Reinharz (New York: Oxford University Press, 1980), p. 462.
109. Declaration of the Establishment of the State of Israel, p.3.
110. For a general assessment of Israel's record, see, for example, Yakobson and Rubinstein, *Israel and the Family of Nations*, pp. 97–123.

111. While significant gaps exist between the welfare and political participation of Jews and Arabs in Israel, the Palestinian Arab community does enjoy a considerable degree of legislatively sanctioned linguistic, religious, cultural, and educational autonomy. See generally UN Committee on the Elimination of Racial Discrimination, “Concluding Observations on the Report Submitted by Israel” (2007), UN Doc. CERD/C/IDR/CO/13; note in particular: “The Committee welcomes the statement made by the delegation that the Jewish character of the State party does not allow it to discriminate between its citizens.... The Committee recommends that the State party ensure that the definition of Israel as a Jewish nation State does not result in any systemic distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin in the enjoyment of human rights.”
112. Prime Minister’s Office, “At the Weekly Cabinet Meeting,” June 21, 2009, <http://www.pmo.gov.il/PMOEng/Archive/Cabinet/2009/06/govmes210609.htm>. See also Prime Minister’s Office, “PM Netanyahu’s Speech at the Opening of the Knesset Winter Session,” October 11, 2010, <http://www.pmo.gov.il/PMOEng/Communication/PMSpeaks/speechkneset111010.htm>, during which the prime minister remarked: “The State of Israel is, therefore, both the nation-state of the Jewish people and a democratic country for all its citizens, Jews and non-Jews alike, enjoying full equal rights.” Interestingly, this point also found expression in the U.S. National Security Strategy of May 2010. For the first time, the United States has formulated its support for Israel as a Jewish state in terms that call also for “true security, acceptance, and rights for all Israelis”; see WhiteHouse.gov, *National Security Strategy* (May 2010), p. 26, http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf.
113. Adel Kaadan v. Israel Lands Authority, HC 6698/95, para. 31, http://elyon1.court.gov.il/files_eng/95/980/066/a14/95066980.a14.pdf.
114. For these rights as articulated in the EU context, see Council of Europe, *Framework Convention for the Protection of National Minorities* (Strasbourg, 1995), <http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm>.
115. Ruth Gavison, “The Jewish State: A Justification,” in *New Essays on Zionism*, eds. David Hazony, Yoram Hazony, and Michael Oren (Jerusalem: Shalem Press, 2006), pp. 3, 17.
116. *Ibid.*, p. 28.
117. See, for example, Salman Masalha, “A Jewish and Democratic Restaurant,” *Haaretz*, August 9, 2010, <http://www.haaretz.com/print-edition/opinion/a-jewish-and-democratic-restaurant-1.306868>; see also Shlomo Avineri, “A Palestinian People, Yes, a Jewish People, No?” *Haaretz*, August 13, 2010, <http://www.haaretz.com/print-edition/opinion/a-palestinian-people-yes-a-jewish-people-no-1.307735>.
118. Khatib, “Netanyahu Is Throwing Obstacles.”
119. Gavison, “The Jewish State,” p. 19.
120. See, for example, Tony Judt, “Israel: The Alternative,” *New York Review of Books* 50, no. 16 (October 23, 2003).
121. Yakobson, “Jewish Peoplehood and the Jewish State”; see also Yakobson and Rubinstein, *Israel and the Family of Nations*, pp. 97–123.
122. The examples cited are taken from Yakobson, “Jewish Peoplehood and the Jewish State.”
123. *Ibid.*
124. Amnon Rubinstein, “Zionism: A Deviant Nationalism?” in *New Essays on Zionism*, eds. David Hazony, Yoram Hazony, and Michael Oren (Jerusalem: Shalem Press, 2006), pp. 116–124.
125. Council of Europe, European Commission for Democracy through Law (Venice Commission), *Report on the Preferential Treatment of National Minorities by Their Kin-State* (Strasbourg, October 16, 2001).
126. Constitution of Lebanon, May 23, 1926, http://www.servat.unibe.ch/icl/le00000_.html#I000_.
127. Egypt.gov, *Egypt Constitution*, <http://www.egypt.gov.eg/english/laws/constitution/default.aspx>.
128. ConstitutionNet, *Constitution of the Kingdom of Bahrain* (February 14, 2002), <http://www.constitutionnet.org/files/Bahrain%20Constitution.pdf>.
129. As reprinted in Nathan J. Brown, *Third Draft Constitution for a Palestinian State: Translation and Commentary* (Ramallah: Palestinian Center for Policy and Survey Research, October 2003), <http://www.pcpsr.org/domestic/2003/nbrowne.pdf>.
130. Jerusalem Post, “PA Won’t Recognize Israel as Jewish State,” September 8, 2010, <http://new.jpost.com/MiddleEast/Article.aspx?id=187559>. See also Glenn Kessler, “Defining ‘Jewish’ State,” who cites the PLO ambassador to the United States: “We view it as a political maneuver by the Israelis to preempt and prejudice the outcome of final status issues.”

131. Prime Minister's Office, "Address by Prime Minister Benjamin Netanyahu, Begin-Sadat Center at Bar-Ilan University," June 14, 2009, <http://www.pmo.gov.il/PMOEng/Archive/Speeches/2009/06/speechbarilan140609.htm>.
132. See chapter 3 of this paper.
133. Prime Minister's Office, "At the Weekly Cabinet Meeting." See also Prime Minister's Office, "PM Netanyahu's Speech at the Opening of the Knesset Winter Session," October 11, 2010, <http://www.pmo.gov.il/PMOEng/Communication/PMSpeaks/speechknesset111010.htm>, in which Netanyahu explained his position: "I am not insisting that this recognition serve as a precondition for talks. We will continue the negotiations in any event, without any conditions." It must be noted, though, that linking extension of the settlement moratorium to recognition rather than a final agreement complicates the return to negotiations significantly from a Palestinian perspective.
134. The present context differs from that existing during the exchange of letters of recognition between Israel and the PLO that preceded the 1993 Declaration of Principles. At issue in that earlier case was reciprocal recognition of the legitimacy of each side as an interlocutor for peace negotiations. By contrast, recognition of self-determination rights, which is of concern here, touches more directly on the core issues in dispute, most specifically the refugee issue and the terms for establishing a Palestinian state.
135. Khalidi, "A Recipe for Resentment." Hamas spokesmen have made a similar claim that recognition of Israel as a Jewish state amounts to recognition that the land is Jewish and thus deprives Palestinians of their historical claim. As with the argument that recognition involves repudiating the Palestinian historical narrative, no such implication arises from mutual recognition of Jewish and Palestinian self-determination rights. I am grateful to Ehud Yaari for sharing this point.
136. For a survey of the similarities and differences between Israel and other cases, see Yakobson and Rubinstein, *Israel and the Family of Nations*, pp. 141–191.
137. Middle East Media Research Institute, "Iranian President Ahmadinejad Repeatedly Calls for Eliminating Israel," Special Dispatch no. 2826, February 25, 2010, <http://www.memri.org/report/en/0/0/0/0/0/3997.htm>. Ahmadinejad was quoted as follows: "A Middle East without Zionism is a divine promise.... Time is on the side of the peoples of the region. The Zionist entity is nearing the threshold of nonexistence. Its raison d'être is finished, and its path is a dead end."
138. See, for example, "Said Hassan Nasrallah Q&A: What Hezbollah Will Do," *Washington Post*, February 20, 2000, <http://web.archive.org/web/20051101062109/http://www.library.cornell.edu/colldev/mideast/hzblhnsr.htm>. The Hizballah leader said as follows: "I am against any reconciliation with Israel. I do not even recognize the presence of a state that is called 'Israel.' I consider its presence both unjust and unlawful. That is why if Lebanon concludes a peace agreement with Israel and brings that accord to the Parliament our deputies will reject it; Hezbollah refuses any conciliation with Israel in principle."
139. While Israel officially recognized the PLO as the legitimate representative of the Palestinian people in the 1993 exchange of letters, and both sides have given a general commitment to recognize "their mutual legitimate and political rights" (see, e.g., the preamble to the Israeli-Palestinian Interim Agreement, at <http://www.mfa.gov.il/mfa/peace+process/guide+to+the+peace+process/the+israeli-palestinian+interim+agreement.htm>), no Israeli-Palestinian agreement to date incorporates express mutual recognition for the national self-determination rights of the Jewish and Palestinian peoples.
140. UN, "Statement by Middle East Quartet," September 24, 2009, <http://www.un.org/News/Press/docs/2009/sg2155.doc.htm>.
141. The issue has been addressed in some track-two efforts. The Geneva Initiative—the informal attempt of former Israeli and Palestinian negotiators to draft a model Israeli-Palestinian peace agreement—has come closest to embracing the approach suggested here (though with some shortcomings). In its preamble, the Geneva document is described as marking "recognition of the right of the Jewish people to statehood and the recognition of the right of the Palestinian people to statehood, without prejudice to the equal rights of the Parties' respective citizens"; see Geneva Initiative, *The Geneva Accord: A Model Israeli-Palestinian Peace Agreement*, <http://www.genevaaccord.org/mainmenu/english>. Similarly, in their "People's Choice" agreement, Ami Ayalon and Sari Nusseibeh adopted language according to which "[b]oth sides will declare that Palestine is the only state of the Palestinian people and Israel is the only state of the Jewish people"; see Jewish Virtual Library, "The Ayalon-Nusseibeh Plan: The 'People's Choice,'" <http://www.jewishvirtuallibrary.org/jsource/Peace/peoplesvoiceplan.html>.

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