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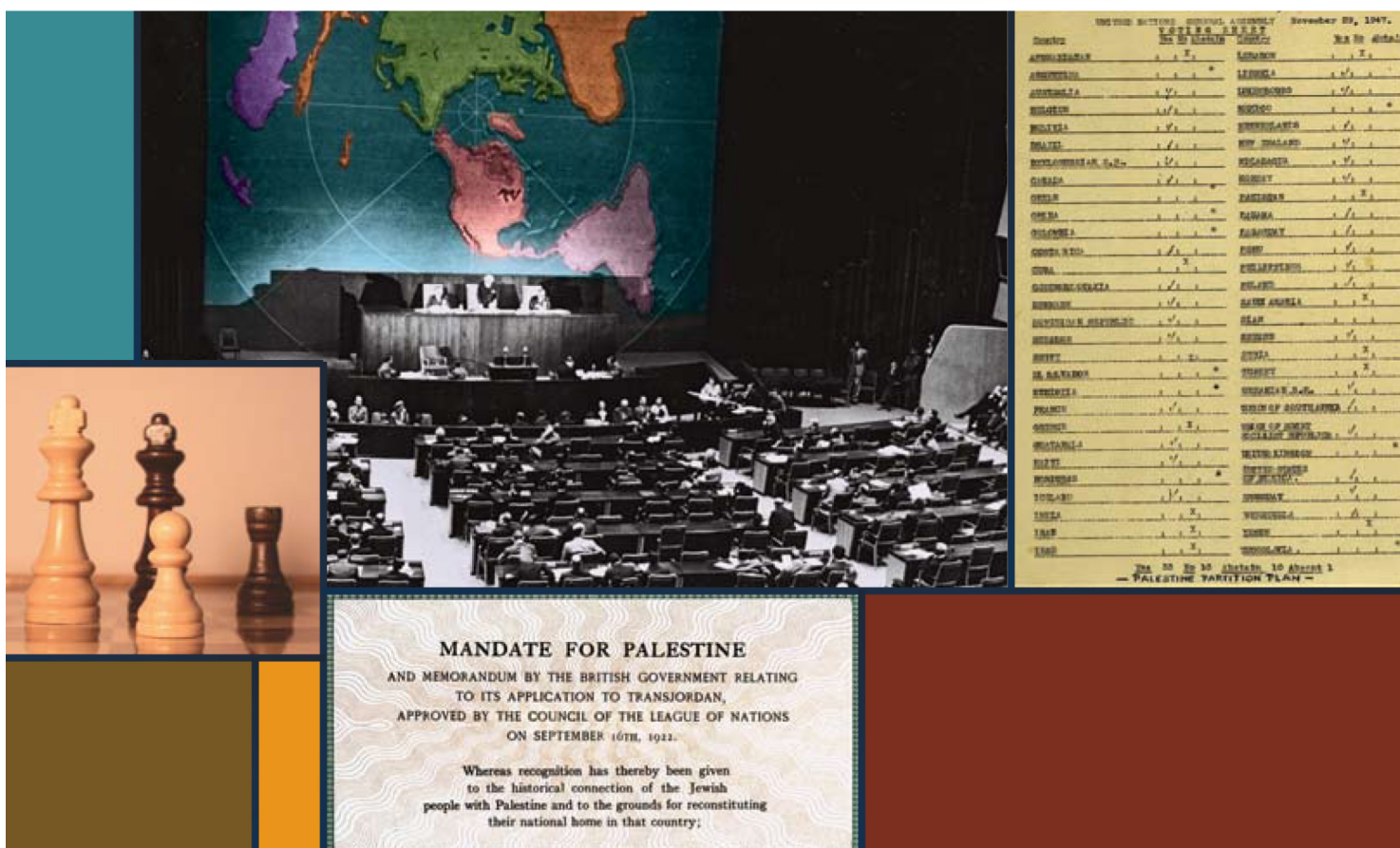
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ISRAEL'S RIGHTS as a Nation-State in International Diplomacy

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SELF-DETERMINATION AND ISRAEL'S DECLARATION OF INDEPENDENCE

Shlomo Avineri

The history of the Zionist movement is fraught with paradoxes and ambiguities regarding its ultimate political aim. Theodor Herzl's foundational document *Der Judenstaat* (1896) referred explicitly to statehood, yet the Basel Declaration issued at the First Zionist Congress in 1897 judiciously avoided such explicit language: after much discussion it settled on stating that "Zionism aims at achieving in Palestine a Jewish homeland, secured by public law." And in Herzl's utopian novel *Altneuland* (1902), which described how a Jewish society in the Land of Israel would look in 1923, its precise status within and vis-à-vis the Ottoman Empire is left somewhat nebulous – though Herzl's clarion call in Basel ("We are a nation") clearly suggested where Zionism was ultimately heading.

The reasons for this ambiguity were obvious: while the fundamental subtext of Zionism was to aim at a Jewish state, the geopolitics of the period and the region called for a careful approach. Herzl's aim, despite numerous disappointments, was to try to obtain from the Ottoman Sultan a charter for Jewish immigration, settlement, and practical self-government. The diplomatic contacts of the Zionist movement – not only with the Sublime Porte in Constantinople but also with the German Kaiser, the British government, Russian ministers, and numerous other statesmen – were aimed at achieving such a de facto control of Palestine, regardless of the exact legal formula – a chartered company, autonomy or the like.

This ambiguity continued also when Britain became the hegemonic power in the region. The Balfour Declaration was the first major international victory for Zionism, but its careful language spoke merely of "establishing in Palestine a national home for the Jewish people," hedging this

with an assurance that this would “not prejudice the civil and religious rights of the non-Jewish communities” in the country. These formulations were incorporated in 1922 into the text of the League of Nations Mandate to Great Britain, and consequently were naturally interpreted in different ways by Zionists, various British administrations, and of course the Arabs in Palestine.

In the first decade and a half of the British Mandate, official Zionist policies, despite some noisy internal debates, were mainly focused on immediate activities – immigration, purchase of land, establishing settlements, institution building – rather than on final goals. That Jewish immigration to Palestine in the 1920s was minimal, and with the economic crisis toward the end of the decade emigrants outnumbered immigrants, only accentuated the need for pragmatic rather than declaratory politics. The League of Nations concept of “mandates” was crafted around the idea of eventual self-determination (as in Syria, Lebanon, and Iraq), but this was viewed as a long-term process, not an immediate challenge. The final goal (*Endziel* in Zionist parlance) was always there, but there were more immediate and pressing needs.

The rise of Nazism in Germany and the darkening clouds gathering over European Jewry in the 1930s changed the agenda. The dramatic increase in Jewish immigration, which more than doubled the population of the Yishuv from 1933 to 1936, transformed the politics on all sides. The Palestinian Arab leadership, which until then had viewed Zionism as an irritant but not a serious national threat, for the first time realized that developments could turn the Jews into a majority in the country – and the Arab Revolt of 1936-1939, aimed at Britain but accompanied by terror attacks against the Jews, had a twofold aim: pressuring Britain to curb Jewish immigration and, at the same time, making life for Jews dangerous, thus deterring Jews fleeing Europe from seeking a safe haven in Palestine. The Zionist leadership also realized that given the changed circumstances, deferring Zionism’s final goals was no longer feasible. And the British government, which until then believed in muddling through by balancing Jewish and Arab claims under the vague umbrella of the League of Nations Mandate, came to the conclusion that a more decisive approach would be necessary.

This was the background to the appointment in 1936 of the Royal Commission on Palestine (the Peel Commission), which for the first time addressed the final status of Palestine. At its base was the realization that the Mandate as originally devised could not be carried out, given changed circumstances as well as the positions of the two communities in Palestine. Hence the Peel Commission Report suggested the partition of Mandatory Palestine into two states – Jewish and Arab – with Jerusalem and a corridor to Jaffa remaining under British control.

After World War II and the Holocaust, and the pressure of Jewish survivors to reach Palestine despite the British ban on immigration and the incarceration of fifty-three thousand illegal immigrants in detention camps in Cyprus, Britain handed over its Mandate to the United Nations. On November 29, 1947, the UN General Assembly, after having sent an inquiry commission of its own to the region (UNSCOP), followed the principles of the Peel Commission – though with a different map – and recommended partition and the setting up of two independent states, a Jewish and an Arab one (with Jerusalem as an international *corpus separatum*). In the final vote, thirty-three countries voted in favor, thirteen against, ten abstained, and one was absent. That both the United States and

UNITED NATIONS GENERAL ASSEMBLY November 29, 1947.

VOTING SHEET

Country	Yes	No	Abstain	Country	Yes	No	Abstain	Absent
AFGHANISTAN	:	:	X	LEBANON	:	:	X	
ARGENTINA	:	:	*	LIBERIA	:	✓	:	
AUSTRIA	:	✓	:	LUXEMBOURG	:	✓	:	
BELGIUM	:	✓	:	MEXICO	:	:	*	
BOLIVIA	:	✓	:	NETHERLANDS	:	✓	:	
BRAZIL	:	✓	:	NEW ZEALAND	:	✓	:	
BYELORUSSIAN S.R.	:	✓	:	NICARAGUA	:	✓	:	
CANADA	:	✓	:	NORWAY	:	✓	:	
CHILE	:	:	:	PAKISTAN	:	:	X	
CHINA	:	:	*	PANAMA	:	✓	:	
COLOMBIA	:	:	*	PARAGUAY	:	✓	:	
COSTA RICA	:	✓	:	PERU	:	✓	:	
CUBA	:	:	X	PHILIPPINES	:	✓	:	
CZECHOSLOVAKIA	:	✓	:	FINLAND	:	✓	:	
DENMARK	:	✓	:	SAUDI ARABIA	:	:	X	
DOMINICAN REPUBLIC	:	✓	:	SIAM	:	:	:	X
ECUADOR	:	✓	:	SWEDEN	:	✓	:	
EGYPT	:	:	X	SWITZERLAND	:	:	X	
EL SALVADOR	:	:	*	TURKEY	:	:	X	
ETHIOPIA	:	:	*	URUGUAY	:	✓	:	
FRANCE	:	✓	:	UNITED STATES OF AMERICA	:	✓	:	
GREECE	:	:	X	UNITED KINGDOM	:	:	:	*
GUATEMALA	:	✓	:	UNITED STATES OF CANADA	:	✓	:	
HAITI	:	✓	:	IRELAND	:	✓	:	
HONDURAS	:	:	*	ISRAEL	:	✓	:	
ICELAND	:	✓	:	NETHERLANDS	:	✓	:	
INDIA	:	:	X	YEMEN	:	:	X	
IRAN	:	:	X	YUGOSLAVIA	:	:	*	
IRAQ	:	:	X					

Yes 33 No 13 Abstain 10 Absent 1

— PALESTINE PARTITION PLAN —

Results from the United Nations vote, with signatures, November 29, 1947 (Israel State Archive)

the Soviet Union voted in favor of partition, despite the darkening clouds of the Cold War, suggested how deep and wide was international support for such a compromise solution: there cannot be shown any other issue on which the two superpowers agreed in 1947, and while there were obvious realpolitik reasons for this unusual convergence, the basic acceptance of the fundamental rights of Jews – as well as of Palestinian Arabs – to live under their own governments was clearly visible in this decision. After all, this was also the period in which the newly established United Nations dealt with many other issues of decolonization in the same spirit.

It is the reaction of the two communities – Jewish and Arab – to the partition idea, endorsed first by the Peel Commission and then by the United Nations, which has determined to a large extent the history of the country and the region as well as the principles and language underlining Israel's 1948 Declaration of Independence.

Initially, both Jews and Arabs were shocked by the idea of partition. The Zionist movement viewed the whole of Eretz Yisrael as a Jewish patrimony, and the effort – not very successful until 1939, but becoming more pressing and feasible after 1945 – to reach a Jewish majority was aimed at giving this claim international support and legitimacy. And the emerging Palestinian national movement, supported by neighboring Arab states then already organized in the Arab League, viewed Falastin as integral a part of the great Arab homeland as all other lands from Morocco to Iraq. Yet the responses of the two national movements to the very idea of partition developed in different ways.

The decade of 1937-1947 represents the darkest hours in Jewish history, and it was in this context that the searing debate which divided the Zionist movement and the Yishuv in its reaction to the idea of partition took place: local geopolitics, as well as the enormity of the Holocaust, made it impossible to defer discussing the Zionist *Endziel*. With hundreds of thousands of Holocaust survivors viewing Palestine as their only destination, and with the Arab total refusal to entertain *any* Jewish immigration to the country, the debate about partition became the major agenda of the political discourse in the Jewish community in Palestine and the Zionist movement all over the world. Innumerable articles, books, speeches, pamphlets, and election manifestos appeared in those fateful years: political parties split, families were divided, paramilitary organizations were formed and re-formed with this issue at the center of debate in an extremely contentious and agitated political discourse. Eventually, the majority of the Yishuv and the Zionist movement accepted – with mixed feelings, one has to admit – partition. It is therefore extremely interesting to follow the arguments raised and used by the supporters of partition – the liberal and social-democratic wings of the Zionist movement.

Two sets of arguments could be discerned – one hailing from universalistic, humanist moral values, the other from considerations of realpolitik. Since these two sets of arguments usually lead to contradictory conclusions, it is both historically and intellectually intriguing to follow them when, as in this case, they led to the same conclusion of accepting the idea of partition.

The universalist, humanist, and moral argument ran along the following lines: the Jewish claim to independence, statehood, and sovereignty is based on the idea of self-determination, on the notion that Jews have a right to govern themselves and not be subject to foreign rule. This idea,

however, based on the heritage of the Enlightenment, is a universal idea; hence if you claim this right to yourself, you cannot deny it to others. Specifically, if Zionism claims that Jews have a right not to be ruled by Arabs, it follows that Arabs have the same right not to be ruled by Jews. Ergo, a compromise is needed, and partition is the vehicle which will grant the right of self-determination – and not living under foreign rule – to both Jews and Arabs. This approach was perhaps best encapsulated by a saying attributed to Chaim Weizmann, the elder statesman of Zionism and later the first president of Israel: when asked, after enumerating the depth of the Jewish attachment to Eretz Yisrael and the Jewish rights to the land, if the Arabs have no rights in Palestine, he is said to have replied: “Of course they have rights: the conflict in Palestine is not between right and wrong, it is between right and right.”

The second set of arguments is from *realpolitik*: clearly in order to establish a Jewish state, Zionism would need international support – moral, political, diplomatic, perhaps also military. Nobody in the world would support Zionism if it claimed that 600,000 Jews in Palestine had a right to rule over 1,100,000 Arabs. Such international support could be achieved only if the Zionist movement accepted the idea of partition and limited its claim to a territory where there was a Jewish majority.

These two sets of arguments were proposed sometimes as distinct, sometimes as overlapping. But the combination of ethical considerations with the reality of power politics endowed them with enormous appeal, which cut across party lines and could bring together left-wingers and right-wingers, secularists and religious people, hardheaded realists and idealistic dreamers: this became the bedrock of the powerful resilience which helped propel the Yishuv in the difficult years of the struggle for independence.

Tragically, a parallel debate did not occur within the Arab community. Here an absolutist position – we have all the rights, the Jews don’t have *any* right – continued to be the foundation of their response to the idea of partition. Not only that: the Arabs of Palestine, and Arab states (some of them members of the United Nations) went to war not only against the emerging Jewish state, but also against a UN resolution: the only case known to me when member states of the UN not only did not abide by a UN resolution, but went to war against it.

But it could have been different: there was nothing deterministic, or preordained, in the Arab refusal. It could be imagined that the Arab community, just like the Jewish community, would have gone through a profound internal debate and come out of it – as did the Jewish community – with an acceptance, however reluctant, of the compromise idea of partition, be it on moral or realistic grounds, or both.

This could have happened – but it did not. Had it happened – and the responsibility, moral and political, that it did not rests on the shoulders of the Arab side – history would have been different: on May 15, 1948, two states – Israel and Palestine – would have been established. There would have been no 1948 war, no Palestinian refugees, no *nakba*, no further Arab-Israeli wars, no terrorism, no Israeli reprisals. The Palestinian Arabs, and the countries of the Arab League, had they chosen this path, would have made the Middle East a region of prosperity, mutual respect and recognition, progress and abundance for all its peoples.

For the Jewish community in Palestine and the Zionist movement, the UN partition plan was a vindication of the Jewish people's right to self-determination and sovereignty. This endorsement of its historical legitimacy by the international community was achieved, however, at the price of accepting a painful – yet necessary – compromise, which was perhaps most difficult because Jerusalem, with all of its significance in Jewish history and religion, was left outside the future Jewish state. Yet Jews viewed this as an almost messianic breakthrough, especially coming just two years after the end of World War II which had entailed the almost complete annihilation of European Jewry. In its deliberations, the United Nations noted as one of the reasons for the historical need for the establishment of a Jewish state the dire distress of survivors of the Holocaust – many of them cramped into displaced persons' (DP) camps in the western occupation zones of defeated Germany: this was one of the reasons for allotting the largely uninhabited Negev to the Jewish state, so as to enable it to absorb as many immigrants as possible.

The debates at the United Nations, as well as the partition plan itself (UN General Assembly Resolution 181) showed the international community's awareness of the complexity of the issues involved in any decision about the future of British Mandatory Palestine. The drawing of the borders of the two planned nation-states tried to incorporate as many Jews and Arabs as possible in their own respective future states, and this was responsible for the somewhat unusual shape both states were to have. But at the same time, the United Nations was aware of the fact that in whichever way borders were to be drawn, there would remain Arab and Jewish minorities in the titular states of the other nation. It was for this reason that Resolution 181 took extra care to guarantee minority rights and went into great detail to specify the rights each of the national minorities should be entitled to while living in the titular nation-state of the other community: what the United Nations mandated were not only equal citizenship and voting rights but also guarantees for language, freedom of religious worship, education, landholding, and so on. This, like the very recognition of the rights of both nations to self-determination, expressed the best ideals of the young United Nations as inspired by its San Francisco founding Charter.

It is interesting to note that an alternative proposal was submitted to the United Nations and rejected: a complex plan for a federal – or really confederal – binational state. This was proposed by the Yugoslav member of UNSCOP, and was obviously inspired by the post-World War II model of the Federative Socialist Republic of Yugoslavia, then under the leadership of the heroic Marshal Tito. It was an appealing model, and Yugoslavia was at that time rather popular not only in the communist bloc but also among many Western liberals and social democrats, who viewed its multinational structure as a creative historical achievement. But most UN members realized that it would not be accepted by either of the two contending parties in Palestine, as both sides would feel frustrated in their aims at self-determination. In retrospect one can only comment today that this appealing model of Yugoslavia eventually turned out to be sustained only by the Communist Party dictatorship headed by Tito and that ultimately it failed horrendously, causing the worst post-1945 set of atrocities in Europe: when Yugoslavia imploded in the 1990s, the consequences were a series of ethnic/religious wars entailing near-genocidal atrocities, including mass murder, ethnic cleansing, mass rapes, concentration camps, and causing international military intervention.



David Ben-Gurion flanked by the members of his provisional government reading the Declaration of Independence at the Tel Aviv Museum, May 14, 1948 (Israel National Photo Collection)

With all its goodwill toward both national movements in Palestine, the United Nations found itself powerless to confront the Arab refusal to accept the compromise idea of partition. The Palestinian Arabs, and the neighboring Arab states organized in the Arab League, translated their opposition to the partition plan into military terms: first various Palestinian Arab militias, and after the termination of the British Mandate on May 15, 1948, the neighboring Arab states of Egypt, Syria, Jordan, Lebanon, and even distant Iraq went to war against the Jewish community and the international legitimacy expressed in the partition plan, sending their armies to crush the emerging Jewish state. The Arab refusal was almost universal: only the small groups of Arab communists (in Palestine as well as in Egypt and Iraq) opposed Arab military intervention, with the consequence of their members being jailed by the Arab regimes going to war. The Arab communists supported partition mainly because this was the Soviet position, but it also went well with their internationalist ideology which accepted national self-determination for all peoples. The small group of Palestinian Arab communists chose to remain in Israel and became instrumental in forming the Israel Communist Party, which for decades held two unusual distinctions: in Israel it was the only truly Jewish-Arab party, and in the region it turned out to be the only legal communist party, as communists were banned, persecuted, and imprisoned by all Arab regimes, whether conservative monarchies or revolutionary nationalistic republics.

At the end of the day, and despite the UN endorsement of the establishment of a Jewish state in part of Palestine, the Jews were left to fend for themselves. The United Nations held numerous debates and emergency sessions in the face of the Arab assault, condemning unambiguously the Palestinian Arab refusal to accept partition and the Arab states' invasion after May 15, 1948. Yet ultimately the Jewish community, and the nascent Israel, survived because they were able to defend themselves by force of arms: not for the last time the United Nations proved unable to live up to its mission and to put into practice, in the real world and not in deliberative chambers, its own ideals, decisions, and vision.

Israel's Declaration of Independence of May 14, 1948, attempted to take into account this extremely complex reality: on the one hand, the newly established state was sustained by the international legitimacy of the United Nations; on the other, independence was achieved not as hoped through peaceful means where both Jews and Arabs would gain a place in the sun, albeit in only a part of what each group perceived as its homeland, but in the middle of a war waged against the very existence of a Jewish homeland.

The challenge imposed by these contradictory developments is clearly evident in the carefully crafted language of the Declaration of Independence, which enumerates the various historical levels from which Israel derives its legitimacy. It starts with the role of the Land of Israel in forming and constructing the Jewish nation; it mentions the yearning of generations for a return to the ancestral land, translated into the historical realm through the Zionist movement and the waves of immigration to the country since the late nineteenth century and the transformations wrought by these developments. It goes on to refer to the Holocaust and the attempt of multitudes of Jewish survivors to reach Palestine despite British exclusionary legislation. It culminates in the UN partition plan as being the vindication of the Jewish nation's "natural and historical right" to a state in its ancestral land. Despite the war situation, it reaches out to the Arab neighbors, in the country and in the region, and hopes to live in peace and mutual prosperity with them.

True to the founding ideas of Zionism, as well as to the stipulations of the UN partition plan, the Declaration guarantees equal citizenship rights to all the inhabitants of the country without discrimination and assures the cultural and religious rights of all communities. And – in what had been crucial to the Zionist fight against British rule – it declares that the newly established state will be open to Jewish immigration – a principle later to be enshrined in one of the foundational pieces of Israeli legislation, namely, the Law of Return, which guarantees the right of immigration and citizenship to every Jewish person willing to immigrate to Israel. As viewed within the Israeli and Zionist discourse, this is a law based on solidarity with the downtrodden and persecuted; it is also the most encompassing piece of affirmative-action legislation ever enacted anywhere: never again would persecuted Jews be exposed to a situation – as had happened during World War II when many had been trying to flee Nazi-occupied Europe – where they would not have a place of refuge and asylum which would be willing to take them in and which they could call their home.

Yet beyond the principles enunciated in the Declaration, the practical steps taken by the newly established, independent state of Israel reflected, despite the difficult war situation, both the

country's willingness to abide by obligations inherent in the UN partition plan as well as the basic tenets of the liberal version of Zionism. Perhaps the best way to assess these steps is to consider decisions that Israel did not take.

In British Mandatory legislation there had been three official languages – English, Arabic, and Hebrew. Israel immediately abolished the status of English as an official language, but kept the two others, meaning that Arabic was declared the second official language of the Jewish state – a status it maintains to this very day, as is evident from the bilingual inscriptions on its stamps, currency, and so on. Moreover – and much more significant for the Arab minority in the country – Israeli Arabs have the right to send their children to state schools which teach in Arabic, with the curriculum tailored to the cultural differences involved. Yet Israel could have decided differently; following democratic countries like Britain, France, or Germany, it could have decided on a uniform, Hebrew-language curriculum in all its state schools, perhaps leaving the option for the Arab community to set up private schools in their language if they so wished. Without using the term – in 1948 not yet in existence – Israel adopted a multicultural approach toward its Arab minority; it could have done differently. Israel's decision to maintain the status of Arabic as an official language – with all the consequences flowing from it – was not demanded by the stipulations of the UN partition plan.

Furthermore, on holding its first parliamentary elections in January 1949, when the war was still going on, Israel extended voting rights to those Arabs who had remained in the country and they participated in the elections on an equal basis. Yet because Israel was still at war, it could have decided that so long as a status of war prevailed between it and Palestinian Arabs and the surrounding Arab countries, Arabs living in Israel would not be entitled to the vote. Such an option was not followed, and was not even raised in the discussion in the Provisional Government or the Provisional State Council. Had such a step been taken, it could have been construed as in contravention of the UN partition plan, but could also have been conceivably justified by reference, in international law, to the state of war. But Israel decided on an inclusive policy – inspired, at least in part, by the Jewish memory of what it meant to be a minority and by decades of Jewish efforts in the Diaspora to ensure equal citizenship and voting rights for members of Jewish communities.

The Arab minority in Israel obviously finds itself in a difficult and complex situation, exacerbated by the continuing conflict in which Israel finds itself; one should not idealize its situation. But Israel could have taken decisions which would not have been divergent from what other democracies have followed, especially in war or emergency situations (the American treatment in World War II of its own citizens of Japanese ancestry comes to mind). It is to Israel's credit that on this issue, the newly established country, despite having been attacked and besieged, did not adopt a harsher policy.

The possible tensions between Israel as a Jewish nation-state and its commitments to liberal values of equal citizenship continue to surface in some of the current political discourse in the country; decades of war and enmity have not made those issues disappear, and in some cases have exacerbated them. But the political system developed in Israel, based on the Jewish right of self-determination, was combined, at the same time, with respect not only for the minority population's

equal civil rights but also for their language rights. For Israel, its claim for Jewish self-determination has always been viewed within a wider, universalist context, and has assured, in a difficult situation, its adherence to the basic norms of a liberal democracy.

Nevertheless, it is clear that so long as there is no final peace agreement between Israel and all its neighbors, and so long as the future of the Palestinians has not been settled through negotiations with Israel, some of these issues have not yet found their satisfactory solution. Consequently, peace for Israel is not just an issue of international relations, but also an imperative necessary for the maintenance and further development of its own democratic, liberal and pluralist society. The acceptance by most Israelis today of a two-state solution – of two nation-states, a Jewish and a Palestinian one – living in peace with each other, is a testimony to the fact that despite decades of war and siege, the fundamental decision adopted by the Jewish community in 1947 continues to guide, despite all difficulties, the moral compass of the Jewish state.

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