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The Jewish State in Question

Posted by *Bernard Avishai*



Jodi Rudoren writes in today's *Times* that the great sticking point for Israeli-Palestinian peace negotiations is Benjamin Netanyahu's demand that Palestinians recognize Israel as a "Jewish state," or as "the nation-state of the Jewish people"—something along these lines. Rudoren asks, "Can Israel preserve its identity as a Jewish democratic state while also providing equal rights and opportunities to citizens of other faiths and backgrounds? With a largely secular population, who interprets Jewish law and custom for public institutions and public spaces? Is Judaism a religion, an ethnicity or both?"

Netanyahu's demand has at least three layers to it. The first is symbolic, without practical significance—understandable, but superfluous. The second is *partly* symbolic, but is meant to have future practical significance; it is contentious but resolvable. The third, however, is legal: it has great practical significance, and is, for any Palestinian or, for that matter, Israeli democrat, deplorable. We are no longer debating resolutions at fin-de-siècle Zionist congresses. Making laws requires settled definitions, and what's being settled in Israel is increasingly dangerous. Netanyahu's demand is a symptom of the disease that presents itself as the cure.

On the first, symbolic point: Israel is obviously the state of the Jewish people, in the sense that vanguard Jewish groups in Eastern Europe dreamed of a Hebrew revolution, which launched the Zionist colonial project, which engendered a Jewish national home in Mandate Palestine, which earned international backing to organize a state after the Holocaust—a state that became a place of refuge for Jews from Europe and Arab countries—that is, a state with a large Jewish majority whose binding tie (to bring things back to Zionism’s DNA) is the spoken Hebrew language.

When Palestinians say they recognize Israel, they are implicitly recognizing this reality; they are acknowledging the name of a communal desire. The state is not called Ishmael, after all.

At the most visceral level, when we Israelis insist that Israel be recognized as Jewish, we mean that we want this narrative recognized, the same way in which Palestinians implicitly want acknowledgement of their particular formative sufferings at the hands of Zionism when they say “Palestinians” rather than “southern Syrians.” To say, as Yair Lapid, Israel’s Minister of Finance, does, that he doesn’t care what Palestinians think is rude. When Palestinian spokespeople speak to Israeli reporters in Hebrew, they are recognizing Israel in the most poignant possible way. To ask for more is tactless.

That leads to the second, partly symbolic, partly practical aspect. Why does Netanyahu insist that this recognition is not enough? Because, he claims, in any negotiation with the Palestinians, it must be understood in advance that there can be no “right of return” for Palestinians to Israel—and, therefore, accepting this formulation, “the state of the Jewish people” signifies a joint decision to preclude a flood of Palestinian refugees into Israel’s borders and onto its electoral rolls.

But Netanyahu’s claim is false, and puts a stumbling block where a pathway needs to be cleared. You can certainly find a formulation for the refugees that does not ruin Israel’s Jewish/Hebrew character—one that preserves the Palestinian “right of return” as a seminal piece of the Palestinians’ narrative, the name of *their* desire. It might say, for example, that refugees have a right of return to their homes, but that the forms of compensation, the number of returnees, etc., must be agreeable to Israel, and that, in any case, the majority will exercise that right by returning to a future Palestinian state.

The contradiction between “the recognition of Israel as a Jewish state” and “the right of return of Palestinians” may sound intractable. In fact, it was pretty much resolved at Taba, in January, 2001. Why resort to distracting principles when a little useful ambiguity will do?

Unfortunately, however, Netanyahu cannot, or will not, simply leave things there. For the phrase “Jewish state” also has a third meaning, with legal ramifications dear to the heart of Israeli rightists (including old Labor Zionists in love with the saga of the settler state); laws that derive from the historical application (some would say misapplication) of neo-Zionist ideas and Ben Gurion’s rash compromises with rabbinical forces over two generations ago; laws that have left Israel a seriously compromised democracy.

This is not the place to go into all of them. Suffice it to say that *this* Jewish state allocates public land (over ninety per cent of it) almost exclusively to certified Jews, creates immigration laws to bestow citizenship on certified Jews, empowers the Jewish Agency to advance the well-being of certified Jews, lacks civil marriage and appoints rabbis to marry certified Jews only to one another, founded an Orthodox educational system to produce certified Jews (more than half of Jewish first-graders in Jerusalem attend these), assumes custodianship of a sacred capital for the world’s certified Jews—indeed, this Jewish state presumes to certify Jews in the first place. We are not now talking about a state that recognizes the Passover holiday or provides refuge for victims of anti-Semitic persecution (as the U.S. and many other Western democracies do, by the way). In Israel, having J-positive blood is a serious material advantage.

Such a state *must* be anathema to Palestinian leaders, who cannot but notice that a fifth (soon, a quarter) of Israeli citizens are Palestinian in origin, and thus are materially, legally disadvantaged by birth: they can recognize Israel but cannot possibly accept *this* state. But then, it is anathema also to Israeli Jews with ordinary democratic instincts, irrespective of how Palestinians feel about it.

Likud politicians warn that Israelis must fight to preserve a Jewish state in the face of claims that Israel should be a state

of its citizens. But a democratic state, by definition, is a state of its citizens. It can *only* be a state of its citizens. Which is not to say that a state of its citizens cannot have a Jewish character. It can be a distinctive republic—a Hebrew republic, as I’ve called it—whose citizens speak a dominant language inflected by Jewish nuances, poetic allusions to classical Jewish texts and liturgy, and the like. This is quite different from a state that purports to represent, or embody privileges in law for, members of a notional world people.

Which brings us to the last matter Rudoren deals with, the Israeli Supreme Court’s recent, weird decision to reject a petition by various distinguished Israelis to recognize “Israeli” as a nationality. Israel’s Registry of Populations recognizes over a hundred nationalities, from Druze to Circassian, and recognizes “Jews.” But “Israeli” is not among Israel’s official nationalities. (Israelis from Palestinian families are “Arabs.”) In effect, the court is telling Israeli citizens that naturalization to a distinctly Israeli nation, if not impossible, is beside the point. It underlines how warped by theocracy the state has become in the absence of a democratic constitution, and in the presence of an occupation justified by messianic notions of peoplehood.

The court is implying, sadly, that democracy is just the tyranny of the Jewish majority. Rather than disturb the status quo, it is surrendering to the pre-Zionist rabbinic idea (which American Jews vaguely take for granted) that “Jewish” is a religious sentiment and biological fact. One does not need much political imagination to see how liberal Israeli Arabs who have mastered modern Hebrew—unlike “returning” Jews from Brookline or Teaneck—would regard this decision. It is a repudiation of the very possibility of a Hebrew civil space that they might embrace, however tentatively. What would a Jew born in Montreal say if the courts decided that to be a Quebecois with full rights—including, as in Israel, the right to acquire most land—he had to be a descendant of a family whose lineage was documented by the St. Jean-Baptiste Society, or Catholic according to the city’s Archbishop?

Netanyahu wants Israel recognized as a Jewish state. Strangely, Israel is perhaps the only country in the world that doesn’t recognize itself.

Bernard Avishai is the author of “The Tragedy of Zionism” and “The Hebrew Republic.” He is a visiting professor of government at Dartmouth College and an adjunct professor of business at the Hebrew University. His most recent book, “Promiscuous: Portnoy’s Complaint and Our Doomed Pursuit of Happiness,” is newly out in paperback.

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