

The “Jewish state”: what’s in the name?

By Khalil Shikaki

■ Executive summary

In November 2014 Israeli prime minister Binyamin Netanyahu introduced legislation to define Israel as the nation state of the Jews, emphasising that only Jews will have national rights in the state of Israel, while all others, including the Arab citizens of Israel, would only enjoy personal rights. By law, therefore, non-Jewish Israeli citizens would no longer be considered equal to the country’s Jewish citizens. If this bill becomes law it could be used by future Israeli governments as a tool to deny Arabs some of their legal political rights, leading to greater internal polarisation in Israeli society. Just as importantly, it will also make it more difficult for Israelis and Palestinians to return to viable peace negotiations. But even if it is shelved due to Netanyahu’s decision to hold new elections in March 2015 or modified to reflect the makeup of the next Knesset, the issue of how one defines the Jewish state will remain highly problematic among Israelis and between Palestinians and Israelis.

Introduction

When he was elected Israel’s prime minister in 2009 Benyamin Netanyahu made the demand that Palestinians recognise Israel as a Jewish state the corner stone of his negotiating position. So-called “final status” issues of the negotiations, such as territories, Jerusalem and refugees, were made hostage to this demand. Because the demand was never raised previously by Israel in any serious way, Palestinians assumed that the right-wing Israeli prime minister was using the issue as a pretext to avoid serious negotiations and that he never intended to end the Israeli occupation.

In November 2014 Netanyahu introduced legislation that sought to define Israel as the nation state of the Jews, emphasising that only Jews will have national rights in the state of Israel, while all others, including the country’s Arab citizens, would only enjoy personal rights. The legislation was understood by many Israeli Jews from the centre, the left and the right, as well as Israeli Arabs, to mean that the Jewish character of the state would trump its democratic character and that all non-Jews would become second-class citizens. Indeed, as things stand today, the proposed Basic Law, entitled “Israel, the Nation-State of the Jewish People”, would formally enshrine Jewish law as a source of

legislation; remove Arabic as an official language; and remove democracy as a basic guiding principle equal to that of the Jewish character of the state. There would be no more ambiguity regarding the meaning of the term “Jewish state”: by law, non-Jewish Israeli citizens would no longer be considered equal to Jewish citizens.

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Background

The term “Jewish state” is not easy to define and has at least three possible interpretations. Many take it to refer merely to a description of demography, meaning a state with a *majority* Jewish population, a population whose

national identity (nationality, ethnic background and/or religion) is Jewish. One might view the reference to the “Jewish state” in the 1947 UN partition resolution in this light. A competing interpretation, called for mostly by highly religious Jews, takes it to mean a state governed by the Halacha, or Jewish religious law. Those who focus on the religious meaning are the minority.

To avoid a religious connotation, many secular Jews who are not satisfied with the demographic interpretation choose to refer to Israel as the “state for the Jewish people”. Many secularists and national-religious Jews alike use the term in order to affirm the state’s unique and – most importantly – *permanent* character as one linked to and *bound by* Jewish national history, traditions, religious symbols, culture and socio-political norms. Unlike the *descriptive* nature of the demographic interpretation, the third one is *prescriptive*, providing guidelines for state and individual behaviour. In Palestinian-Israeli negotiations Palestinians fear that Israeli leaders use the term in this latter context.

To make things more difficult, the “Jewish national character” interpretation has been contested by two groups: those on the left and centre who insist on weaving the Jewish character with a democratic substance, and those on the right who prefer to separate Jewishness from democracy, as in the proposed legislation. Seeking to shield Israel from charges of explicit discrimination and apartheid, many secularists sought to balance the emphasis on the Jewish character of the state by emphasising the country’s democratic character. Although Israel has never had a constitution, such views are supported by the Israeli Declaration of Independence, which affirmed that the Jewish state will “ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race, or sex”.

Israeli Arabs, however, have always complained that the description of Israel as the nation state of the Jewish people, whether coupled with democracy or not, has over the last several decades facilitated a huge and systematic process of legal and practical discrimination against the non-Jewish citizens of the state in all matters related to security, land acquisition and utilisation, demography and immigration, and housing and urban development. They prefer instead to refer to Israel as “the state of all citizens” regardless of their national, ethnic or religious background. Most Israeli Jews reject this characterisation of Israel.

Why does Netanyahu insist on Palestinian recognition of the Jewish character of the state of Israel?

Netanyahu believes that while Palestinians do accord Israel diplomatic recognition, they nonetheless deny the legitimacy of its existence as a state for the Jews. Such a denial, he and other Israelis believe, leads the Palestinians to reject the national identity of the Jews as a people or nation, not merely a religious or ethnic group. They see

this denial as the basis for what they view as Palestinian incitement against Israel in Palestinian media and text books. They conclude that only by accepting Israel’s legitimacy as a *Jewish state* would Palestinians cease such incitement and be able to make a full commitment to a permanent peace. The legislation proposed by the right wing seeks to remind Israeli Arabs and all Palestinians of the essence of the state, i.e. its Jewishness, and of its purpose, i.e. to serve the interests of all the Jewish people.

There is another dimension to the demand. Israeli negotiators believe that Israeli public support for the two-state solution is predicated on the assumption that it will end the conflict with the Palestinians while ensuring a Jewish majority in Israel and Palestinian recognition of Israel’s national identity as the state for the Jewish people.

In a series of surveys on a permanent status peace agreement with the Palestinians conducted by the Palestinian Centre for Policy and Survey Research (PSR) and the Hebrew University in 2008 a majority of Israelis accepted the idea of a permanent peace deal that ensured an end to the conflict and a Jewish majority in Israel, but did not contain a Palestinian recognition of Israel’s Jewish character. However, when we asked those who rejected the agreement whether they would change their mind and accept it if the agreement did include such recognition, about 20% responded in the affirmative, thus increasing support for such an agreement by almost 10 percentage points.

Why do Palestinians oppose the demand?

Since 1993, as part of the Oslo Agreement, Palestinians have recognised the state of Israel and its right to live in peace and security. If so, why is it hard for them to recognise Israel’s Jewish character?

Palestinians worry that the demand for their recognition of the Jewish character of the state of Israel aims at three things: (1) forcing them to accept the Israeli Jewish narrative about the ancient and recent history of Palestine and Jewish historical and religious rights in the area; (2) pre-empting negotiations over the Palestinian refugees’ right of return to their homes and property in Israel and over the final status of Muslim holy sites in East Jerusalem; and (3) sanctioning current official legal and practical discrimination against the Arab citizens of the state of Israel.

Palestinian negotiators believe that by recognising the Jewish historical narrative they would in effect nullify their own narrative of Palestine’s history and the Arab and Muslim links to the land. Furthermore, they worry that it would undermine their negotiating position, making it difficult to reach a satisfactory permanent agreement on refugees and holy places, one that would secure Palestinians’ rights and assure public support.

In surveys conducted among Palestinians by PSR during the past decade, majority support obtained in the period 2003-09 for the recognition of the Jewish character of Israel in a permanent agreement was conditioned on the demand that it must come only after all issues of the conflict, including refugees and holy places, had been resolved and only after the establishment of a Palestinian state. This majority support, while very remarkable, was probably based on Palestinians' interpretation of the term "Jewish state" in its demographic sense, as in the first interpretation mentioned above.

Yet, during the past five years Palestinian majority support for such recognition was very rare, as more and more Palestinians, influenced by Netanyahu's and other Israeli national-religious and right-wing rhetoric and behaviour, came to see the demand in terms of the third interpretation mentioned above, thereby rejecting it.

It is in this light that we see the third reason for Palestinian rejection of the Israeli demand. In Israel – even though it proclaims commitment to democracy and equality – public schools teach Jewish history and traditions while ignoring or even denying the history and traditions of Palestinians. The state owns almost the entire territory of Israel and utilises it for the service of the Jewish people, while it builds towns and cities for Jews, but not for Israeli Arabs. Jewish cities and towns receive state support for infrastructure, schools and hospitals, while Arab towns receive little. Jewish symbols are supreme and those of Israeli Palestinians are feared or banned. Israeli Jews are entitled to legal and constitutional rights – such as those embodied in the "Law of Return" – that are denied to Israeli Arabs. In

sensitive matters, such as those related to military industries, security and intelligence, or nuclear power, Israel systematically denies access to Israeli Arabs.

In raising the issue of the state's Jewish character, Israel's right wing seeks to undermine the rights of the country's Arab minority. Coming as it does at a time when racism and hatred of Arabs are on the rise, by highlighting the Jewishness of that character at the expense of its democratic dimension, the proposed law would enshrine a democracy without equality, i.e. a democracy for Jews only. In doing so the proposed legislation could considerably worsen Israel's relations with its minorities by opening the door to all kinds of racist legislation that would make inequality the hallmark of Israel's constitutional traditions.

In their negotiations with Israel, Palestinians fear that the demand for the recognition of the Jewish character of Israel seeks to take this matter one step further: to give this official and practical discrimination against Israeli Arabs an official Palestinian endorsement and to provide Israelis with a licence to discriminate further against their Palestinian fellow citizens of the state of Israel.

As Palestinians and Israelis begin to grapple with the long-term implications of the diminishing hope for a two-state solution and the unfolding and consolidation of a one-state reality, and at a time when the majority of the peoples residing in the area between the Jordan River and the Mediterranean Sea is longer Jewish, the right-wing focus on the Jewish character of Israel must be seen as very curious at best, and at worst very alarming indeed. ■

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