

DEBATING ISRAEL'S PALESTINIAN MINORITY

The Palestinians in Israel: The Conflict Within, by Ilan Peleg and Dov Waxman. Cambridge: Cambridge University Press, 2011. x + 230 pages. Bibliography to p. 254. Index to p. 262. \$27.99 paper.

Arab Minority Nationalism in Israel: The Politics of Indigeneity (Routledge Studies on the Arab-Israeli Conflict), by Amal Jamal. New York: Routledge, 2011. 280 pages. Notes to p. 287. Bibliography to p. 314. Index to p. 324. \$138.00 cloth.

Reviewed by Nimer Sultany

These two books, *The Palestinians in Israel: The Conflict Within* by Ilan Peleg and Dov Waxman and *Arab Minority Nationalism in Israel: The Politics of Indigeneity* by Amal Jamal, centralize the question of the status of the Palestinian minority inside Israel. Both books agree that minority members are granted an inferior second-class citizenship. This question is not merely consequential to the prospects of peace and reconciliation in the conflict between Zionism and the Palestinian national movement over the West Bank and Gaza. Rather, its ramifications extend to the character of the state of Israel independently of the peace process. In order to address this question, a significant change should occur. The books offer different perspectives regarding the nature of this change.

Peleg and Waxman approach the problem from the perspective of the looming instability of the Israeli order if the Palestinian citizens' situation is not significantly improved. The book reads

Nimer Sultany holds a doctoral degree from Harvard Law School and is the editor of *Citizens without Citizenship: Israel and the Palestinian Minority* (Mada al-Carmel-The Arab Center for Applied Social Research, 2003).

as a policy proposal for the Israeli government to “improve Israel’s ability to manage the conflict” (p. 188). The authors reject binationalism as an alternative to Israel’s ethnic structure. Instead, they argue for three primary changes within the two-state solution. First, Israel should change its definition from “Jewish and democratic” to the allegedly more inclusive “Jewish homeland and a state of all its citizens” (in this order) (p. 179); second, Israel should recognize the Palestinian minority as a national minority, improve its conditions, and grant it culturally based collective rights; and third, the Palestinian citizens should volunteer in a “civilian service” (p. 172) to allay Jewish concerns about their loyalty.

Although Peleg and Waxman acknowledge the tension between Israel’s Jewishness and its democratic aspirations, they continue to consider Israel as a democracy, albeit an “ethnic democracy” (p. 137) or a “democracy with flaws” (pp. 129, 195). They mischaracterize this tension as one between republicanism and liberalism (i.e., between the common good as understood by majorities and individual rights that constrain majority aspirations). Such conflict is the normal state of affairs in any constitutional democracy. However, Israel’s contradiction is different: it is between popular will and ethnic structures that subordinate this civic will to the good as perceived by the ethnically/religiously/extraterritorially conceived nation.

Given this misdiagnosis, it is unsurprising that the authors offer reformist suggestions that retain the inegalitarian structure. Despite their talk about “fundamental transformation” (p. 193), they seek to preserve the Jewish character of the state under a different guise. While they argue that the tension is irresolvable and they seek only to manage it and minimize its effects, they declare that a combination of individual and collective rights can provide a “solution” to “long-term ethnic conflicts” (p. 156). They seek a “middle ground” that balances the “reasonable” demands of both Jews and Palestinians (p. 7). In such a “solution,” nothing is sacrificed and equality can coexist with preference to Jews (in crucial questions like

citizenship, nationality, and immigration policies as well as the existence of Jewish-only institutions) and hence Jewishness is not reduced. Such a solution stabilizes the Israeli regime and improves its already-democratic system. This solution, then, is one of degree, not kind. It seeks only to tinker with the status quo in order to preserve its foundational elements.

Peleg and Waxman’s argument for retaining Jewish features in the state’s definition (pp. 173–74) commits the logical fallacy of inferring the “is” from the “ought.” David Hume has warned centuries ago against deducing normative judgments from descriptive judgments. Yet the authors derive from the *factual* (that it is “unrealistic to believe that the Jewish majority will give up its insistence” on a Jewish definition of the state) a *normative* judgment (that the Jewish “connection” to Israel “ought to be reaffirmed”). But the normative argument does not necessarily follow from the factual. Furthermore, even if the factual judgment were correct, one would need an additional argument to establish why such fact is normatively consequential. There are facts that one would not take into account because they are normatively objectionable or irrelevant. Nevertheless, the authors decline to provide normative justifications for factual and descriptive judgments as if these were self-evidently justified (as in reference to the majority’s insistence on the Jewishness of the state on p. 192).

Another example is the invocation of the concept of “loyalty” (pp. 172, 182) as a justification for demanding voluntary national service from Arab citizens. Here, the mere fact that the majority has concerns about loyalty is perceived as a sufficient argument for the need for measures, albeit voluntary, to prove loyalty. The authors implicitly assume, without an argument, that the majority’s concerns about Arabs’ loyalty are descriptively grounded and hence need to be answered. But if such concerns are no more than misconceptions and distortions of reality, it is unclear why they should be at all consequential. In any event, to be able to judge whether these concerns are justified, one needs to define loyalty.

Yet loyalty is never really explained in the book. Does it denote obedience to the law or patriotism? Is it a character trait or an emotional identification? Further, it is not clear how the contradictory nature of the state would influence demands for loyalty. Should the Arab citizens be loyal to the "Jewish homeland" or to the "democratic state"? Would this mean that the Jewish citizens must also be loyal to the "democratic" nature of the state rather than to the Jewish homeland *tout court*? Moreover, even if the majority's concerns are descriptively accurate, the question remains whether and when are the majority and the state justified in demanding loyalty from minority members.

Another example for unsupported assertions is the argument that ethnocentric definitions of the state "reflect the notion that Jews deserve a state of their own" (p. 174). It is unclear on what grounds do Jews (as opposed to, say, Israelis or Israeli Jews) deserve (as opposed to, say, need or have an interest in) a state of their own (as opposed to a state in which they can exercise their individual and collective rights). Having an interest in something does not necessarily give rise to a right in it that would correspond to a duty on others to provide it. My interest in eating ice cream, for instance, does not give rise to a right to obtain ice cream. And even if a legal right existed, that does not necessarily mean that it should be exercised especially when it violates others' rights. Peleg and Waxman fail to make an argument.

Their arguments fall prey to formalism (or conceptualism). Peleg and Waxman assume that abstract concepts (like defining the state a Jewish homeland rather than Jewish state) have a determinate meaning and dictate specific outcomes. It is evident, however, that definitions in themselves do not "impose[] . . . prescriptive or legal demands" (p. 179). Abstract concepts need to be interpreted and applied by human beings. Therefore, the demands that may be imposed on behalf of concepts depend on the normative interpretations and practical applications of these concepts. These interpretations

and applications are likely to change over time. Thus, a definition *per se* does not "move Israel to a more inclusive and more stable future" (p. 179).

A similar formalist approach underlies Peleg and Waxman's rejection of the "liberal ideal" of a "state of all its citizens" (p. 155). Here the authors reject the ideal on grounds that it ignores Israel's circumstances and Zionist demands. This is inconsistent with the later recognition of the diversity in practice in which collective rights have been recognized even under so-called "liberal individualistic" regimes (p. 178). The authors recognize the essential contestability of "democracy" (footnote in p. 191) but shy away from observing the same with respect to "liberalism" (p. 203).

Finally, the authors invoke the dichotomy between extremists and moderates without explaining the criteria for this dichotomy. This vagueness allows them to lump together within the extremist camp and the worrisome developments both the rise of the fascist Avigdor Leiberman and the Palestinian "vision documents" that call for equality (pp. viii, 12). Against this backdrop, the authors represent their suggestions as the antidote to "extremists on both sides" (p. 213).

Unlike Peleg and Waxman, Amal Jamal in his book *Arab Minority Nationalism in Israel: The Politics of Indigeneity* calls for a one-state solution in which Palestinian collective rights complement, rather than substitute, equal citizenship. For Jamal, collective rights are insufficient if not extended to include the distribution of political power. Therefore, he criticizes the insufficiently critical scholarship that privileges the perspective of the existing Israeli ethnic political structure (as in Peleg and Waxman's book). Unlike Peleg and Waxman's rhetorical invocation of the indigeneity of Palestinian citizens, Jamal takes this characterization seriously to question state sovereignty.

Jamal's book is an important contribution to the study of the Palestinian citizens in Israel. It is methodologically rich, theoretically multilayered, and thematically wide ranging. The book

fruitfully utilizes interdisciplinary tools from subaltern studies, minority nationalism, social movements' theory, and interpretive phenomenology. The chapters address thoroughly a variety of subjects ranging from the theory of indigeneity, the politics of Arab indigeneity inside Israel, changing meanings of patriotism within the Palestinian minority, the activism of internally displaced persons, the Arab leadership inside Israel, the vision documents, the rise of civic associations, and the political philosophy of Azmi Bishara.

There is much to admire in this impressive, thought-provoking, and comprehensive study. The richness of the book, however, invites many questions. For instance, in the second chapter, Jamal takes for granted the accuracy of communitarian claims against liberalism (regarding the lack of grounding of individuals in social contexts). But these are highly disputed claims. John Rawls, Brian Barry, Will Kymlicka, and Samuel Freeman argue that Michael Sandel's claims conflate the hypothetical persons in the "original position" (who choose the principles of justice behind a "veil of ignorance" that excludes morally irrelevant considerations) with actual persons. Rawls's later work has emphasized the individual's attachment to conceptions of the good. The main difficulty in this chapter is the lack of distinction between liberal justice and liberal legitimacy. This is evident in lumping together Rawlsian "state neutrality" and "veil of ignorance" as if they both mandated the deployment of distributive justice regardless of historical context. For Rawls, however, the veil of ignorance is not invoked in the implementation and interpretation of the principles of justice nor in the establishment of constitutional design. Furthermore, Rawls distinguishes between neutrality (i.e., impartiality toward conceptions of the good life held by private persons) "in effect" and neutrality "in aim." Rawls demands only the latter. But that does not necessarily mandate a color-blind judicial approach (as liberals' support for affirmative action demonstrates).

Jamal argues that Palestinian citizens' participation in parliamentary

elections "obscures the deep moral disagreement between Arabs and Jews in regard to the conception of justice that stands behind the whole Israeli system" (p. 72). However, liberal conceptions of legitimacy presuppose disagreement over justice and thus open a gap between justice and legitimacy. Thus, even if one assumed that Israel is a legitimate state, that would not lead to the conclusion that it has a unified underlying conception of justice. Israel, however, is not a legitimate state according to liberal theory precisely because it is not impartial toward conceptions of the good and its constitutional structure and public policies endorse and favor a Jewish form of life over non-Jewish forms of life.

The fifth chapter of the book analyzes the Palestinian leadership inside Israel. Jamal emphasizes the personalization of politics and the role of the extended family in politics (he terms the latter as "familicracy" and "clan culture"). He utilizes Hisham Sharabi and Halim Barakat's ideas about the persistence of Arab patriarchal structures. Although Jamal acknowledges the reductionism of the distinction between traditional and modern societies, he nevertheless uses this dichotomy by analyzing complex sociopolitical circumstances as cultural attributes. The analytical utility of the distinction, however, is questionable. The treatment of Arab society as traditional obscures the fact that the difference between Western societies and Arab societies is only one of degree, not kind. Family structures and personalization are manifest in Western politics and economy (e.g., few Jewish families in Israel control a large part of the economy). Moreover, Jamal treats traditional social structures as static: while he notes that family primaries were conducted in local elections, he declines to note that these primaries have often fragmented these families. This is not to deny the role of family in Arab societies but only to warn against overemphasizing its explanatory power. Indeed, Edward Said, in *The Question of Palestine* (1979), warned against the essentialism and despair that Hisham Sharabi's ideas may lead to.

Jamal introduces the Arabic word *wajaba* to exemplify the persistence of traditional social norms. He distinguishes between *wajaba* and delegation of authority. Such a distinction is supposed to make the traditional *wajaba* unique and unlike the “more modern” forms of political representation (p. 155). Jamal condemns Arab politics, nongovernmental organizations, and academia as highly personalized mediums in which “[c]onstructive ideological debate” is lacking (p. 156). However, the introduction of *wajaba* merely mystifies the issue. Jamal’s recognition that personalization is not unique to Arab politics undermines such generalizations. *Wajaba* becomes an explanation for diverse phenomena like “low rates of tax collection” and “diminishing” participation in demonstrations (p. 159). However, it is unclear why *wajaba* rather than poverty or dysfunctional local government is invoked as a significant factor for low rates of tax collection. Nor is it clear why diminishing political participation is a symptom of Arab leadership problems at the time when such a phenomenon is evident in non-Arab societies.

This discussion of *wajaba* would have benefited from Jamal’s sensitive treatment of patriotism in chapter 3 and the interpretive approach he applies to the vision documents in chapter 6. Is *wajaba* a unified, coherent practice or does it mean different things for different people? Has it changed over time or is it the same today as it was, say, in the 1960s? This emphasis on personal and cultural factors diverges from the suggestion of the first theoretical chapter that the book’s focus will be on institutional-structural analysis. In particular, this emphasis plays down the importance of economic structures.

The books under review participate in a conversation on a variety of subjects centering on the nature of Israel. The authors should be commended for their contribution to this ongoing conversation and for shedding a light on the plight of the Palestinian minority. Jamal’s book offers a promising route for an in-depth discussion as it directs us to an egalitarian future and a just solution to the question of Palestine.