

Symposium:
Sari Nusseibeh's *What Is a Palestinian State Worth?*

Variations on a Lockean Theme:
Sari Nusseibeh's Heretical Proposal for Israel/Palestine

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1. Introduction

This symposium on Sari Nusseibeh's *What Is a Palestinian State Worth?* (hereafter, *Palestinian State*)¹ is the result of an oddly serendipitous series of events in the fall of 2010 just prior to the book's release. Things began early that fall while I was working on a review for *Reason Papers* of a pair of books on John Locke, and was trying there to explain Locke's very radical, and to most minds counter-intuitive, conception of the "State of Nature" and of the means of escape from it. Given the counter-intuitive nature of Locke's account, and the age-old objection of its irrelevance to the modern world, I wanted an example that might convey, or at least approximate, what Locke has to say.

On Locke's view, the State of Nature is a condition under which individuals possess and exercise moral rights, but do so in the absence of any legitimate government, and thus, without law. Possessing rights but lacking government, each person in the State of Nature faces the question of how to safeguard his rights "on his own." Presumably, individuals in this situation would eventually agree to govern themselves in relatively small-scale voluntary communities, each of which exists to protect its members' rights, but none of which has recourse to genuine political power—that is, to an institution with a monopoly on authority and the legitimate use of force. So conceived, the State of Nature, as Locke sees it, is a suboptimal but not (necessarily) terrible place; some people live in it today, many people lived in it in Locke's day, and pre-historic humans managed to survive in it for almost 200,000 years.² Still, its "inconveniences" are such as to give every rational

¹ Sari Nusseibeh, *What Is a Palestinian State Worth?* (Cambridge, MA: Harvard University Press, 2011).

² John Locke, *The Second Treatise of Government*, in *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), secs. 14-15 and 19.

person in it a strong motivation to get out.³ Inconvenient or not, however, no one, on Locke's view, can permissibly be *forced* out of the State of Nature. One leaves the State of Nature only by an act of consent.⁴ In other words, we either consent to be governed by a legitimate government, or not. If we do consent, we enjoy the benefits of government while incurring the responsibilities of citizenship.⁵ If we don't consent, we are left as we were in the State of Nature, ungoverned but with our rights intact.⁶ We are, in this latter case, left without political responsibilities, but also without political representation or protection. Presumably, the state leaves us in peace—it can neither tax us nor demand our time or labor—but it excludes us from participation in its activities and from its assistance, and forbids us from setting up a rival to it.⁷

Locke presumes that most people will consent to a legitimate government, but if we have the right to consent, we have the right to refuse to consent. The question therefore arises within a Lockean framework of how to deal with those who for whatever reason refuse to consent to a legitimate government.⁸ Clearly, while non-consenters have no political obligations, they are obliged to respect the basic moral rights of others, and can morally speaking expect their own rights to be respected in turn. There is textual evidence in Locke for thinking that a government could (and probably should) grant non-consenters some very basic form of protection as second-class citizens while expecting some very basic form of compliance with the law.⁹ Such second-class citizens would neither enjoy the benefits of full citizenship nor incur its burdens. Indeed, the former fact, for Locke, is what induces the majority of individuals in the State of Nature to consent to government: they face a bargain that is hard enough to induce enough of them to consent to government for government to get off the ground, but not hard enough to count as coercing them into citizenship.

³ *Ibid.*, secs. 13, 21, and 123-31.

⁴ *Ibid.*, secs. 14-15 and 95-96.

⁵ *Ibid.*, secs. 95, 99, and 120.

⁶ *Ibid.*, sec. 95.

⁷ *Ibid.*, sects. 4 and 9. The point about non-rivalry is implicit in Locke, but is made explicit by Robert Nozick's claim that a Lockean regime "maintains a monopoly over all use of force except that necessary in immediate self-defense"; see Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 26.

⁸ The issue seems first to have been made explicit by Nozick; see Nozick, *Anarchy, State, and Utopia*, pp. 24, 54-56, 88-90, 109-110, and 117.

⁹ Locke, *Second Treatise*, secs. 119-22.

The example I ended up using in my 2010 review was Nusseibeh's description, in an online interview, of what I call the "heretical proposal" that opens *Palestinian State*.¹⁰ To the question, "What prospect is there for the Palestinians?" Nusseibeh had answered: "My next proposal will be to ask Israel to annex us, accepting us as third class citizens. The Palestinians would enjoy basic rights, movement, work, health, education, but would have no political rights. We would not be citizens, only subjects."¹¹ The fit with Locke's views was very inexact, but the affinities, I thought, were definitely there. In effect, Nusseibeh was asking the Israelis to end the "State of War" created by its occupation of the West Bank, and leave the Palestinians in something like a Lockean State of Nature.¹² In fact, he was going somewhat beyond this, in echo of Locke's description of the second-class citizens who neither expressly consent to nor expressly dissent from the state:

But submitting to the laws of any country, living quietly, and enjoying privileges and protection under them, makes not a man a member of that society: this is only a local protection and homage due to, and from all those, who, not being in a state of war, come within the territories belonging to any government, to all parts whereof the force of its laws extends.¹³

Not an ideal circumstance to be sure, but hardly unfamiliar to anyone acquainted with immigrant life from Kuwait City to Jersey City.¹⁴

¹⁰ See Irfan Khawaja, "Review Essay: Edward Feser's *Locke* and Eric Mack's *John Locke*," *Reason Papers* 32 (Fall 2010), p. 169 n. 21. I take Nusseibeh's proposal to be "heretical" by analogy with the classical Islamic sense of the word *bida'a*: in Islamic law, *bida'a* means both "heresy" and "innovation."

¹¹ Interview with Israeli Occupation Archive, "Sari Nusseibeh: A Palestinian State Has Become Impossible," January 20, 2010, accessed online at: <http://www.israeli-occupation.org/2010-01-20/sari-nusseibeh-a-palestinian-state-has-become-impossible/>.

¹² Cf. Locke, *Second Treatise*, sec. 19.

¹³ *Ibid.*, sec. 122. Spelling modernized.

¹⁴ In a review of *Palestinian State* in *The New York Review of Books*, David Shulman somewhat derisively compares Nusseibeh's proposal to the so-called "Atlanta Compromise" offered by Booker T. Washington in his famous speech to the Atlanta Cotton States and International Exposition (September 18, 1895). Shulman's comparison is more inexact than he lets on—where Nusseibeh insists on a full set of positive rights from the state, Washington did not—but he is right to suggest that the affinities are there. See David Shulman, "Israel and Palestine: Breaking the Silence," *The New York Review of Books*, February 24, 2011, accessed online at: <http://www.nybooks.com/articles/archives/2011/feb/24/israel-palestine-breaking-silence/?page=1>. Washington's speech appears as chapter 14 of his 1901 book *Up from Slavery: An Autobiography*, accessed online at: <http://www.bartleby.com/1004/>.

I'd at first been more interested in Nusseibeh's suggestion as a heuristic device for explicating Lockean political theory than as a serious proposal for resolving the Arab-Israeli conflict. But as I followed the news on Israel/Palestine across the winter of 2010 and into 2011, his thesis began to grow on me as a proposal in its own right.

One set of developments concerned the settlement enterprise in the West Bank. September 2010 saw the expiration of Israel's ten-month "freeze" on new settlements in the West Bank, followed by the resumption in earnest of settlement activity there. February of the following year brought the United States' veto of a United Nations Security Council draft criticizing the settlements. By the summer of 2012, U.S. Republican presidential candidate Mitt Romney was able to blame Palestinian poverty in the West Bank on Palestinian "culture," ignoring entirely the systematic violations of Palestinian rights of movement, exchange, property, and security required to facilitate the Israeli settlement enterprise, as well as the decades of U.S. subsidies spent in support of Israel's economy.¹⁵ Much of the American debate about settlements seemed premised on the supposition that the settlements were not the problem that they in fact are—a systematic, decades-long experiment in state-sponsored expropriation, discrimination, and marginalization.

The other set of debates concerned Palestinian statehood.¹⁶ April of 2011 gave rise to the attempted "unity deal" between the secular Fatah and Islamist Hamas factions of the Palestinian movement. In September 2011, the (temporarily) unified Palestinian government brought its bid for Palestinian statehood to the U.N. Within a few months, after some nominal recognition of a Palestinian state by developing nations, the effort came to a halt under the implied threat of an American veto in the U.N. Security Council. As I write in early October 2012, the Palestinian Authority has returned to the U.N. General Assembly to seek "nonmember state" status at the U.N. Much of *this* debate, in turn, seemed premised on the supposition that a *state* was somehow an obvious solution to the Palestinians' problems—with correspondingly little discussion of why that should be so.

Following these debates, one couldn't help but wonder at the apparent mismatch between problem and envisaged solution. Why the insistence on a Palestinian *state*? Why for that matter a *Palestinian* state? Why think that a state put in the hands of one's supposed ethno-religious

¹⁵ Romney's comments are reported in Ashley Parker and Richard A. Opiel, Jr., "Romney Trip Raises Sparks at Second Stop," *The New York Times*, July 30, 2012, accessed online at: http://www.nytimes.com/2012/07/31/us/politics/romney-angers-palestinians-with-comments-in-israel.html?pagewanted=all&_r=0.

¹⁶ For useful background, see Robert McMahon, "Backgrounder: Palestinian Statehood at the UN," at the website of the Council on Foreign Relations, accessed online at: <http://www.cfr.org/palestinian-authority/palestinian-statehood-un/p25954>.

compatriots should bring liberty, equality, prosperity, or anything else worth having?

When in December 2010, Harvard University Press announced the publication of Nusseibeh's book, I jumped at the opportunity to run a symposium on it in *Reason Papers*. And here's where the serendipity comes in. By sheer coincidence, my Felician College colleague Fahmi Abboushi had just returned to the U.S. after a year of administrative work at the Arab-American University of Jenin in the West Bank, to become Associate Dean of the Graduate Program in Teacher Education at Felician. By yet another coincidence, Fahmi turned out to have been a student of Nusseibeh's at Birzeit University during the tumultuous years of the first *intifada* in the 1980s and 1990s, as had his friend (and our fellow symposiast) Issam Nassar, Associate Professor of History at Illinois State University and Co-Editor of *Jerusalem Quarterly*. With their help, but without even having seen the book, I wrote Nusseibeh a somewhat long-winded letter asking if he'd like to be part of a symposium on it. He suggested dryly in response that I might want to read the book before I made a decision, but added: "Whatever you decide, you will find me game." And so he was.

Having secured a mini-quorum of contributors essentially sympathetic to Nusseibeh's views, I thought it important to invite others whose approaches might not be as sympathetic. The first potential critic to whom I turned was Donna Robinson Divine, Morningstar Professor in Jewish Studies and Professor of Government at Smith College and Associate Faculty Member at the University of Haifa and Bar Ilan University. I'd met Donna in 2005 at a conference on post-colonial theory and the Arab-Israeli conflict at Case Western University in Cleveland, where she had done an exemplary job at co-editing the conference proceedings, contributing an insightful essay of her own of relevance to topics discussed in Nusseibeh's book.¹⁷ I also thought it worth having a commentator with recognizably conservative views in the American sense of that term. Though I had never personally met Paul Rahe—the Charles O. Lee and Louise K. Lee Chair in Western Heritage and Professor of History at Hillsdale College—his reputation as a historian and political theorist preceded him, and was bolstered by the mention made of him in the Acknowledgements of *Palestinian State*.¹⁸ Finally, I thought it worth having a Palestinian critic who would actually have to live under the regime Nusseibeh was proposing. There couldn't, in this respect, have been a better contributor than Said Zeedani, Associate Professor of Philosophy at al-Quds University, a resident of East Jerusalem, and colleague of Nusseibeh's.

¹⁷ Donna Robinson Divine, "The Middle East Conflict and Its Postcolonial Discontents," in *Postcolonial Theory and the Arab-Israeli Conflict*, ed. Philip Carl Salzman and Donna Robinson Divine (New York: Routledge, 2008), pp. 208-21.

¹⁸ Nusseibeh, *Palestinian State*, p. 233.

With the very kind help of Amelia Atlas at Harvard University Press, and of the Press itself, the symposium was off and running.

2. The Heretical Proposal

As just remarked, *Palestinian State* begins with Nusseibeh's now-notorious proposal to have Israel annex the West Bank and Gaza, granting the Palestinians there the status of second-class citizens of Israel in exchange for protection of their civil rights by Israel, and recognition of some version of a Palestinian right of return to those parts of Israel currently inaccessible to them. After a few chapters devoted to related philosophical themes—the burdens of history, the value of human life, the function of the state—Nusseibeh returns to and refines the “heretical proposal” at some length in Chapter 5 of *Palestinian State*. Having revisited and redescribed it, the book turns to topics in moral epistemology and psychology (faith, reason, the nature of freedom and human motivation) before it closes, fittingly, with an Epilogue on the redemptive powers of education.

Despite the philosophical richness of the book, much of the English-language commentary on it outside of this symposium has focused, perhaps understandably, on the heretical proposal with which it begins. Most of this commentary has been negative. While left-leaning critics have accused Nusseibeh of acquiescence in a form of colonial subjection for the Palestinians,¹⁹ right-leaning critics have accused Nusseibeh of covert designs against the integrity and security of the Israeli state.²⁰ Though some of Nusseibeh's critics have made legitimate criticisms of his arguments and proposal,²¹ most, to my mind, have misrepresented or misunderstood them,

¹⁹ For criticism from the left, see David Shulman, “Israel and Palestine: Breaking the Silence”; Tom H., “What Is a Sari Nusseibeh For?” *Jadaliyya Magazine*, March 2011, accessed online at: <http://www.jadaliyya.com/pages/index/899/what-is-a-sari-nusseibeh-for>; and Avner Inbar and Assaf Sharon, “A Too Modest Proposal? A Palestinian Peacemaker Gives Up on Politics,” *Boston Review*, July-August 2011, accessed online at: http://www.bostonreview.net/BR36.4/avner_inbar_assaf_sharon_sari_nusseibeh_palestinian_israeli_politics.php.

²⁰ For criticism from the right, see Peter Berkowitz, “One State?” *Jewish Review of Books*, January 2011, accessed online at: http://sari.alquds.edu/state_worth/peter.htm; Elliott Abrams, “A Peaceful Palestinian's Perplexing Plan,” *Commentary*, January 2011, pp. 41-44; Adam Kirsch, “Cost Analysis,” *Tablet Magazine*, February 8, 2011, accessed online at: <http://www.tabletmag.com/jewish-arts-and-culture/books/58311/cost-analysis>; and Gil Troy, “The Palestinian Gandhi?” *Jerusalem Post Magazine*, February 11, 2011, accessed online at: http://sari.alquds.edu/state_worth/troy.htm.

²¹ Haim Watzman raises some legitimate questions about the vagueness of Nusseibeh's discussion of civil rights in “Mideast Maverick,” *Chronicle of Higher Education*, January 30, 2011, accessed online at: <http://chronicle.com/article/The-Mideast-Maverick/126057/>, as does Mori Ram in an untitled review for the online journal

and none has tried very hard to put them in their most defensible form. So some background and clarification are in order.

Solutions to the Arab/Israeli conflict basically divide two ways: two-state solutions and one-state solutions. Obviously, two-state solutions create two distinct, exclusive, sovereign states in the relevant area—a Jewish state for citizens of Israel, a Palestinian state for citizens of Palestine. On a two-state solution, Israelis and Palestinians negotiate so that the Israelis get political recognition from the Palestinians, and with it, peace, while Palestinians at last get a state of their own, and by implication, both recognition and peace. Each state has an ethno-nationalist basis, so that each state is essentially a state of ethno-national compatriots, linked by a deep sense of *belonging*.

Though a powerful consensus of opinion holds that the two-state solution is the only game in town, Nusseibeh belongs to the small minority of informed observers who rejects it.²² Consider four interlocking reasons for that rejection.

For one thing, a Palestinian state would be obliged to govern two geographically non-contiguous and demographically distinct wings, the West Bank and Gaza, each separated from the other by Israel. The most prominent twentieth-century example of such an arrangement—East and West Pakistan (1947-1971)—indicates the hazards of the idea, as does a less precise but more geographically proximate example, that of the United Arab Republic (1958-1961). The first led to outright catastrophe, the second to collapse and failure.

Second, a Palestinian state would have to exercise sovereignty over substantial parts of East Jerusalem and the West Bank. Geographically, however, both locations are for purposes of governance hopelessly divided between Palestinian towns and Jewish settlements along with the infrastructure of the latter. It's unclear how a state can exercise effective sovereignty over such a Swiss-cheese-like setup, and it is both implausible and morally problematic to suppose that the settlements can be uprooted and evacuated so as cleanly to resolve the problem.

Third, the existence of an international border between Israel and Palestine would likely undermine the trade links on which Palestinians

Intertwined Worlds, January 18, 2012, accessed online at: <http://intertwinedworlds.wordpress.com/2012/01/18/review-sari-nusseibeh-what-is-a-palestinian-state-worth/>. P. R. Kumaraswamy offers some valuable perspective on Nusseibeh's use of Indian history in his generally positive review, "Sanity Amid Turmoil," *Daily Pioneer*, August 18, 2012, accessed online at: <http://www.dailypioneer.com/sunday-edition/sundayagenda/books-reviews/88192-sanity-amid-turmoil.html>.

²² For an excellent overview, see Ghada Karmi, "The One-State Solution: An Alternative Vision for Israeli-Palestinian Peace," *Journal of Palestine Studies* 40, no. 2 (Winter 2011), pp. 62-76.

currently depend for their livelihoods. Palestinians would be better off economically with more open borders, not tighter ones, and a two-state solution would likely imply the reverse of what good economics would suggest.

Fourth, it's not at all obvious that a Palestinian state would benefit its inhabitants. The legitimacy of a state is measured by the degree to which it secures its inhabitants' equal liberty, and it is hard to see how equal liberty would be the likely offspring of a marriage between the two major parties likely to govern a Palestinian state: Fatah and Hamas. The two parties have so far been unable to achieve political unity, and it may well be that too much divides them to permit them successfully to govern a single nation.

Each of the preceding is a major problem, but taken together, they cast serious doubt on the viability of a two-state solution. If so, we're pushed to some version of a one-state option. One possibility here is to resurrect the old one-state schemes once espoused by Palestinian anti-Zionists (and espoused at one time by Nusseibeh himself).²³ On one version of this view, Israel annexes the West Bank and/or Gaza, granting all of the Palestinians living there both civil and political rights on par with Israel's own citizens. Equal rights in hand, Palestinians flourish alongside Israeli Jews and Arabs, and peace comes at last to the Middle East.

Unfortunately, wonderful as this may sound in the abstract (to non-Zionist ears, at any rate), the old one-state schemes have no hope of success, in two senses of that last phrase. For one thing, none of them has a hope of *happening*. The demand for fully equal electoral representation for Palestinians in a single state is obviously not going to fly with the average Israeli, at least not in the foreseeable future. But the old one-state schemes have no hope of success even if by some miracle they *could* happen. For the hard fact is that Israeli fears about a unitary state are for the foreseeable future true: a one-state solution gives political rights to all citizens of an Israeli state, including current residents of the West Bank and Gaza, but one can't rationally give political rights (e.g., the vote, political power) to people sworn to destroy the state that awards those rights—and Palestine's Islamists have sworn just that.²⁴ For these reasons, the demand for a one-state solution with

²³ The proposal is described in Sari Nusseibeh (with Anthony David), *Once Upon a Country: A Palestinian Life* (New York: Farrar, Straus, and Giroux, 2007), pp. 239-45, but was originally proposed in a 1986 piece in the Palestinian newspaper *al-Mawqef*. Cf. Karmi, "One State Solution," pp. 66-74.

²⁴ See "The Covenant of the Islamic Resistance Movement," August 18, 1988, accessed online at: http://avalon.law.yale.edu/20th_century/hamas.asp. Hamas's position on the rights of Israeli citizens may likewise be inferred from its position on the killing of Osama bin Laden. Even the Government of Pakistan, whose sovereignty was violated in the U.S. operation against bin Laden, managed in a grudging way to condone bin Laden's killing. Hamas, by contrast, unequivocally condemned it. See Fares Akram, "Hamas Condemns the Killing of Bin Laden," *The New York Times*, May 2, 2011, accessed online at:

full and immediate enfranchisement of the Palestinians is quixotic and dangerous, however abstractly desirable it might otherwise have been. Its most likely outcome in the present is not a peaceful settlement, but disaster.

That brings us to the possibility of what might be called a graduated one-state solution. On this view, as remarked above, Israel annexes the Palestinian territories, giving (those) Palestinians the choice of becoming second-class citizens of Israel with civil but not political rights. Though Nusseibeh is a bit vague about the details, civil rights include basic negative rights to take action without coercive interference (e.g., life, liberty, property, contract), along with some positive rights to certain benefits provided by the state (e.g., health care, social security).²⁵ Political rights, by contrast, include the rights to vote and hold electoral office at the national level, as well as to serve in government in executive and judicial capacities.

A graduated one-state solution has to be sufficiently better than the status quo for Palestinians to motivate them to take it, and sufficiently more likely than any other option to motivate Palestinians to forgo the others. It also has to be sufficiently respectful of some reasonable conception of Israeli security to re-assure Israelis that their rights will be respected, and (for whatever it's worth) sufficiently respectful of the Jewish character of Israel as not to require its immediate dismantlement.

It's a tall order, but I think Nusseibeh's heretical proposal satisfies each element. It is better than any available option for the Palestinians because it secures their civil rights to a greater degree and with better likelihood than any other available option. It respects Israeli security by leaving the apparatus of the state, including its security apparatus, essentially in Israeli hands. In doing so, it leaves the Jewish character of the state in place for now—but it doesn't leave Palestinians disenfranchised forever. As time passes, and the Jewish character of the state inevitably comes into conflict with Palestinian rights, I think Nusseibeh's view implies that the imperative to respect universal human rights will have to trump Zionist claims of belonging. In time, the specifically Jewish character of the Israeli state may well have to wither away to nominal and essentially non-political functions, so that Israel becomes a Jewish state in the way that England is an Anglican state, or Norway a Lutheran one.²⁶

http://www.nytimes.com/2011/05/03/world/middleeast/03gaza.html?_r=0.

²⁵ Nusseibeh, *Palestinian State*, pp. 13-14 and 143-45.

²⁶ Two caveats about the views I express in this paragraph and the next. (1) The claims I make in the text are my extrapolations from claims made by various writers on Palestinian politics, including Nusseibeh; they are not strictly speaking an exposition of Nusseibeh's own claims. (2) The phrase "wither away" may seem to conjure up Marx and Lenin, but what I actually have in mind is the saner and more successful model of judicial activism pioneered by libertarian and civil rights organizations in the United States (e.g., the American Civil Liberties Union, the National Association for the Advancement of Colored People, the Institute for Justice, the Pacific Legal

We might think of this process of conflict and state devolution on the model of the American civil rights movement, whose early successes (and some notable later ones) were achieved by judicial rather than legislative means.²⁷ The basic pattern, transposed to the Palestinian context, might be described as follows: A specific legally adjudicable conflict presents itself, pitting Palestinian rights against the Jewish character of the Israeli state. Public-interest legal groups then undertake litigation in defense of Palestinian rights, modeled (say) on the work of the National Association for the Advancement of Colored People in the American civil rights movement. As this litigation succeeds, it creates precedents for future litigation, thereby creating its own momentum for change. Some of this change will require legislative action, but if the demands for action come from the judiciary, they need not require literal Palestinian political representation for their satisfaction. The change itself can be modulated, much as it was in the American case, by political circumstances on the ground. At some point in the admittedly distant future, both sides will have lived long enough under a transitional process to permit (what I would call) the “full naturalization” of West Bank and Gazan Palestinians into Israel. In the meantime, however, Palestinians will have to live as disenfranchised second-class citizens, enjoying civil rights but not political ones.

There are other one-state solutions, some decent and some indecent, but on Nusseibeh’s view, the decent ones require modification by some version of his proposal, and the indecent ones can be rejected out of hand on moral grounds. Yet another possibility, the continuation or intensification of the status quo, can also be rejected on moral grounds. At least *prima facie*, that leaves proposals like Nusseibeh’s the only option standing.

3. Civil Rights and the Function of the State

There is, of course, more to Nusseibeh’s book than its heretical proposal. *Palestinian State* is a philosopher’s take on Israel and Palestine, and the book’s implications extend beyond specific policies and proposals to illuminate the issues that underlie them. In my view, the book serves a valuable function in drawing critical attention to two problematic assumptions that tacitly govern discussion of the Arab-Israeli conflict, assumptions

Foundation, among others). On point (1), see Sari Nusseibeh, “Why Israel Can’t Be a Jewish State,” *al-Jazeera*, September 30, 2011, accessed online at: <http://www.aljazeera.com/indepth/opinion/2011/09/201192614417586774.html>.

²⁷ For an excellent discussion of these issues, see Raef Zreik, “Why the *Jewish State* Now?” *Journal of Palestine Studies* 40, no. 3 (Spring 2011), pp. 23-37. As Zreik notes, the 1995 Israeli Supreme Court case *Ka’adan vs. Israel Land Administration* sets an important precedent (p. 31). For an instructive American precedent, see the 1975 New Jersey Supreme Court case *Southern Burlington County NAACP and Ethel Lawrence vs. Township of Mount Laurel*, accessed online at: <http://njlegallib.rutgers.edu/mtlaurel/docs/67nj151.pdf>.

embedded in the claims of Nusseibeh's critics, but rarely made explicit by them.

The first of these assumptions is a strong attachment to the ideal of ethno-nationalist self-determination through the state. According to its proponents, the *right of national self-determination* is the view that individual identity is constituted by group identity, so that the groups that constitute our identity have the right to determine the character of our social and economic environment, our fortunes, and the course of our development as members of the group.²⁸ *Ethno-national self-determination* is thus the view that the bearers of the right of self-determination are ethnicities, that is, groups united in a vague way by culture, language, and/or a common genetic heritage. In the context of the Arab-Israeli dispute, "Palestinians" and "Jews" are thought to qualify as ethnicities, so that the right of ethno-nationalist self-determination becomes the view that Jewish well-being requires specifically Jewish self-government in a Jewish state, and Palestinian well-being requires specifically Palestinian self-government in a Palestinian state. On this view, Jewish well-being is not possible in a state which grants Palestinians equal political freedom with Jews, whereas Palestinian well-being is not possible as long as state power rests in Jewish hands. Indeed, for some defenders of the view, Palestinian rights are a threat to Jewish well-being even when Palestinians are merely second-class citizens in a Jewish state, and Palestinians without political rights are "colonial subjects" no matter how assiduously their civil rights are respected.

Palestinian State poses the challenge for this view quite starkly: it is fundamentally unclear why ethno-nationalist self-determination is a more attractive or rational ideal than that of a secular republic based on non-ethnic universal human values like freedom and equality. Why insist on being governed by one's specifically *ethnic* peers? What virtue do ethnic peers have that others are presumed to lack?²⁹

Certainly, the track record of ethno-nationalist regimes—from the American Confederacy to Rwanda—leaves much to be desired. Defenders of ethno-nationalism often dismiss this track record as irrelevant to their claims on the grounds that the ethno-nationalism they defend is one safely constrained by a conception of liberal rights and limited government.³⁰ In that

²⁸ I follow here the classic definition of Avishai Margalit and Joseph Raz in their "National Self-Determination," *The Journal of Philosophy* 87, no. 9 (September 1990), p. 440. See also Yael Tamir, *Liberal Nationalism* (Princeton, NJ: Princeton University Press, 1993), chap. 3.

²⁹ For a candid but stunningly irrational answer to these questions, see Isaiah Berlin's account of "the search for status," in his "Two Concepts of Liberty," in Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), esp. pp. 157-58.

³⁰ E.g., Margalit and Raz, "National Self-Determination," p. 440 with n. 2; Tamir, *Liberal Nationalism*, pp. 6-7.

case, however, we would expect defenders of national self-determination to have a crisp account of the function and limits of the state—a crisp account, in Nusseibeh’s terms, of what states are *for*. I think it can be said with confidence that the literature contains no such account. Indeed, I’m inclined to say that the literature contains no attempt to *produce* such an account. What it contains, instead, are thousands upon thousands of pages devoted to defending the claim that each nation’s “right to culture” requires a “shared public space” codified and enforced by the laws, handcuffs, guns, fines, and prison sentences of the state. That this should be so is regarded as practically axiomatic. Why it should be so is one of the unsolved mysteries of contemporary political philosophy.

The second assumption Nusseibeh puts in doubt is the primacy of politics—voting, office-holding—in a life worth living. Critics of Nusseibeh’s proposal have repeatedly argued that there is something radically defective, on moral and/or political grounds, with any political proposal (like his) that involves the surrender—in any form, for any reason, and presumably for any duration³¹—of political for civil rights. The argument in essence is that civil rights depend asymmetrically on political rights so that civil rights cannot effectively be exercised or protected unless their possessors have full political rights as well.

Though there is clearly some merit to this objection, I think it fundamentally fails to come to grips with Nusseibeh’s argument. Consider four possibilities with respect to civil and political rights. A person can

- (1) have both civil and political rights,
- (2) have civil but not political rights,
- (3) lack civil but have political rights, or
- (4) lack both civil and political rights.

Contrary to the implicit suggestions of his critics, Nusseibeh is not disputing that, other things being equal, (1) is the best of the four options and (4) is the worst. His point is that under current and foreseeable conditions, there is no viable route to (1). If so, (1) is, despite its desirability, not an option worth discussing. One cannot legitimately rebut this claim by asserting that it involves a “rejection of politics,” “a counsel of despair,” or an “invitation to *apartheid*.” Either Nusseibeh is right about the non-feasibility of a two-state solution (and thus, option [1]), or he is wrong. If he is wrong, his critics need to dispute the case against the two-state solution. If he is right, the relevant question concerns the relative merits of option (2) versus option (3) as a means of avoiding option (4), not the indisputable (but irrelevant) merits of option (1) over any of the others. And while (2) is admittedly problematic, (3)

³¹ In fairness to these critics, the surrender of political for civil rights in Nusseibeh’s proposal may not, and probably would not, be temporary from the perspective of a given individual, who might have to live the duration of his life as a second-class citizen.

is positively hopeless. If we bracket (1), (2) wins. The argument may not be palatable, but its conclusion follows deductively from its premises.³²

4. Conclusion

As might be expected, our symposiasts read Nusseibeh in a variety of different ways. Paul Rahe offers a sympathetic contextualization of Nusseibeh's argument as a whole. At a broadly philosophical level, Said Zeedani queries the apparent "modesty" of Nusseibeh's proposal, and Fahmi Abboushi probes Nusseibeh's conception of "secular faith." Coming to more specifically political issues, Donna Robinson Divine treats Nusseibeh's proposal to a large dose of skepticism, and Issam Nassar counter-proposes that we change the question under discussion from the merits of a Palestinian state to the demerits of a Zionist one. Nusseibeh's uncompromising response upholds both the letter and spirit of his book by way of Ibn Sina and Ibn Khaldun.

"It is only light and evidence," Locke writes, "that can work a change in mens' opinions."³³ No symposium could presume to offer the last word on the Arab-Israeli conflict, but we'd like to think that ours succeeds at letting in a bit of light.

³² One significant omission in discussion of Nusseibeh's book is the absence of any sustained consideration of immigrant experience, or of the experiences of second-class citizens generally. Immigrants often have civil but lack political rights, and are in that sense second-class citizens of their adoptive countries, but it hardly follows that they must *necessarily* live under conditions of *apartheid* or subjection. Something similar might be said of individuals in such unconventional political arrangements as, say, the inhabitants of incorporated and unincorporated United States territories (e.g., Puerto Rico, the Northern Marianas, the U.S. Virgin Islands, Guam, American Samoa, etc.), or the similar territories of other countries (e.g., the Crown Dependencies and Overseas Territories of Great Britain). I develop this line of thought in an unpublished paper, "Annexation, Immigration, and Second-Class Citizenship: A Defense of Sari Nusseibeh's Proposal for Israel/Palestine."

³³ John Locke, *A Letter Concerning Toleration*, ed. James H. Tully (Indianapolis, IN: Hackett, 1983), p. 27.

