

The Right to National Self-Determination and Sovereignty: Statist Interpretation vs. Federalism

The past two sessions introduced the main argument of these series, which is that **It is time to rethink Israel\Palestine, so that we can engage with the topic in a more up to date and constructive way.** For this to happen, we need a new interpretation and conceptual tools to understand the transformational things that have been taking place in the context of Israel/Palestine in the past two decades.

This process of rethinking involves reflecting critically on nationalism. Palestinian nationalism initially was in line with civic nationalism, and later on moved to ethno-nationalism. Zionism has been dominantly informed by ethno-nationalism. Lately, Palestinian nationalism has been undergoing a process of re-thinking, where the political “We” of the Palestinians has been expanded to include refugees/diaspora and the Palestinians in Israel.

Beyond nationalism, some of the most important concepts that keep reoccurring in both the Israeli context and the Palestinian context refer to two terms: “sovereignty” and “national self-determination”. These notions have different interpretations. The dominant interpretations of these terms need to be rethought.

Self determination in Israel/Palestine has been predominately understood in a paradigmatic conventional sense, based on the premise of non-interference/inviolability. Furthermore, national self-determination is often equated with an exclusive nation state.

The dominant notion of sovereignty in the context of Israel/Palestine is the Westphalian notion of sovereignty, that goes back to the Westphalian treaty in Europe where the European powers came together to end the 30 years war, establishing for the future that neighbouring entities should not interfere into the sphere of other. This by many is also considered the origin of the notion of the nation state, i.e. the notion of Westphalian order established and paved the way to the **Westphalia sovereignty** on which the modern international notion of the nation-state came to be based upon. **Sovereignty in its Westphalian interpretation is an exclusive exercise of authority on a defined, bounded territory that is occupied by a homogenous community of people.** In the context of Israel\Palestine these notions are under immense pressure to be re-formed.

Self-determination is the reference to this kind of non-interference, under which there is the assumption that there is a homogenous political community that is bounded and defined by borders and alienated from others. In the centre of this definition is “the self”, not culturally, but politically. The people of this unit, the nation, as a political community form a “self”. The assumption is that we equate self-determination with “homogeneous political community” that deserves a “nation-state”.

Several global developments in the past 30 years have encouraged the process of rethinking the notion of national self-determination. Globalisation has challenged notions of independence and poses a greater emphasis on Inter-dependence. In fact, the imagination of neighbouring entities as independent is an illusion given the intersections of a global economy. In addition, the indigenous communities of countries such as the US and Australia, New Zealand where indigenous rights have become more prominent, and who could not be integrated into the notion of western sovereignty so easily, has led more scholars and legal theorists to describe self-determination along non-territorial lines. Self-determination started to be understood under (1) non-statist notions, (2) and it started become non-territorial. *There is a very serious challenge to transcend beyond homogeneity, and also beyond the state.*

The post Westphalian notion of sovereignty actually is partial, divisible and limited. Sovereignty is not attached to exclusive homogenous nation, and territory and can be non-territorial (the total compatibility between political power and territory is relaxed and sometimes even separate; see f.ex EU).

Applied to Israel/Palestine: For a very long time (since the adoption of the fourteenth points programme by the PLO) mainstream Palestinian nationalism has been premised on the paradigmatic notions of sovereignty and statehood. There are many reasons that are pushing the Palestinians to rethink this.

Under the Oslo Accords the “Self” in the case of the Palestinian people are the people in West Bank and Gaza, and – albeit with a question mark concerning the Palestinians in East Jerusalem, surely from the Israel’s

perspective), i.e. the Palestinian people living on 22% of their homeland and the borders of 1967. The failure of Oslo and partition - that ignores the Nakba, that ignores the question of the refugees and the expansion of colonial settlements under the ongoing Oslo peace-process - has invited many Palestinians to rethink what the Palestinian cause is all about. This has led to a shift to a rights based approach.

There are Palestinians who question who is the “we”, “who is the Self” in the question of the self-determination”. In this new discourse, the Self is different than the Self that the PLO means in the Oslo Accords. The political self in the new Palestinian discourse is ALL the Palestinian people, and the territory is the WHOLE of Palestine from the river to the sea. In this context, self-determination as much as it remains to be the centre of the Palestinian struggle, moves its interpretation away from equating it with an independent exclusive Palestinian state. “What matters is the respect of the rights which include the right of return, self-determination, liberation and independence. In other words: The Swiss canonised model of a fragmented Palestinian state that lacks any serious dimensions of continuity, or exercise of Power under the Westphalian notion of the state that stemmed from Oslo Accords - on 60 % of the 22% of the homeland and Gaza and West Bank totally disconnected - is no more but a Palestinian political autonomy. As the “we” is increasingly shifting to being understood more broadly, there is also a serious withdrawal from the statehood discussion. Since under the Oslo peace process, the state that is being discussed lacks any serious feature of viable and sovereign state. Under the rights-based approach, the right of Palestinians for national self-determination does not need to be a territorial question taking the form of an exclusive Palestinian state. **It is in this context that there is an entry to Alternatives of Partition and the exploration of new arrangements such a binational state; federation and confederation.**

The intertwined realities on the ground - such as in Jerusalem, that is a binational city governed by colonial domination and is indivisible because of the intertwined and dispersed realities of the Arabs and the Jews – no longer allow us to operate with the Westphalian notion of uncontested boundaries and a homogenous society. The solution for Jerusalem could be a capital of two states but shared city. The sharing of a capital shifts us to a post-Westphalian notion. As what we see in Jerusalem, we see all over the land, this opens the discussion to new possibilities like two states for one homeland, organised in a federation, confederation, parallel state structures, binational state etc

From the perspective of the common Zionist Jewish sovereignty the question “who are the Jews”, what is the “Self”, Israel defines itself as a Jewish nation. Alternatives to Partition is not asking the Israeli Jews to give up self-determination but to realise that the Israeli Jews do not exercise their self-determination based on exclusive Jewish rights and territory, but on an heterogeneous land, in which they accept the inseparable nature of the situation and in which they have to give up exclusive Jewish sovereignty. The total compatibility between power, territory and nation under conditions of intertwinements in Israel/Palestine leads to oppression, ethnic-cleansing of the Palestinian and Apartheid. Dimitri Shumsky claims the Herzilian mainstream Zionism until a certain point of time (which he identifies in the mid-thirties) has been non-statist. They wanted a Jewish presence, Jewish self-determination but non statist. There was a point when this changed and turned statist.

The spectrum of opportunities for Alternatives to Partition is very broad, but to gain widespread acceptance and understanding they do require to expand notions of self-determination and sovereignty to a rights based approach.