

# Is There a Historical Right to the Land of Israel?

*Chaim Gans*

**D**o the Jews have a historical right to the land of Israel? To many Israelis, the answer to this question is obvious. A divine promise is often invoked by many religious or traditionally oriented Jews in Israel in order to justify the movement advocating settlement in Greater Israel. Many more Israelis, who were raised according to the Zionist ethos, would tend to answer the above question affirmatively. However, this response emanates from early ideological conditioning rather than from a worldview which is the product of systematic reasoning.

Indeed, when viewed through the lens of universalistic moral discourse, rather than through that of religious or nationalistic dogma, the picture that emerges is far more complex. Several contemporary liberal thinkers have argued that, from a universalistic point of view, it is possible to justify certain versions of nationalist ideology of the ethno-cultural type, such as Zionism. According to the ideology of cultural nationalism, members of groups sharing a common history and culture have a fundamental and morally significant interest in adhering to their culture and sustaining it across

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generations. This interest warrants political protection by means of self-determination and self-rule.<sup>1</sup>

Many nationalist movements around the world have adopted positions of this kind. Yet what separates Zionism from all other nationalist ideologies of the ethno-cultural type—including even those historically championed by Jews, such as the Bund movement<sup>2</sup>—is its insistence on the idea that the Jewish people’s aspiration to adhere to its own culture and establish self-rule can be fulfilled only in the land of Israel, and not in any country in the diaspora, or on any territory without a direct link to Jewish history. As the leaders of the Zionist movement have reiterated time and again, Jewish self-determination is wholly dependent on the Jews’ realization of their “historical rights” to their homeland.

In the following pages, I will examine the nature of the Jews’ historical rights over the land of Israel and its role within the Zionist discourse. As I will try to demonstrate here, the Zionist movement’s employment of the historical rights argument in order to establish the land of Israel as the preferred location—or perhaps even the only possible site—for the fulfillment of Jewish national aspirations was, in fact, justified, especially in view of the various threats faced by the Jewish people in the first half of the twentieth century. Invoking this argument was justified particularly if it is understood to stem not from the primacy of the Jews in the land of Israel (henceforth, “the first occupancy claim”), but rather from the primacy of the land of Israel in Jewish history (“the formative territory claim”).

However, historical rights *in themselves* are not enough to justify the Jewish demand for territorial sovereignty over the land of Israel or even parts of it. Rather, historical rights may be considered in order to determine the *specific geographical location* in which Jewish self-determination may come to be realized. This fundamental distinction—between invoking the historical rights argument in order to justify demands for territorial sovereignty, and employing the historical rights argument in order to determine the specific geographical site for the realization of a nation’s right to self-determination—was not lost on several of Zionism’s most prominent leaders, such as

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Chaim Weizmann, David Ben-Gurion, and even Ze'ev Jabotinsky. In their statements, as well as in the declarations issued by prominent national institutions such as the Zionist Congress and the Jewish Agency, one can detect varying degrees of awareness of the complex nature of the historical rights argument and its limitations.

Unfortunately, when one examines the fierce political debate held within Israel on the issue of its borders after the Six Day War, the participants in this debate do not seem to exhibit any awareness of the complexity of the concept of historical rights. This applies even to those who purport to represent the legacy of the great Zionist leaders mentioned above. The conclusions of the analysis presented below are worth considering as long as the concept of historical rights remains on the public agenda.

## II

**I**t is important to distinguish between the determination of the geographical site of the right to national self-determination on the one hand, and, on the other hand, justifying the right itself, its institutional form, and its territorial scope. Unlike historical rights, which are acquired by virtue of specific events in which the specific claimant to such rights was involved, the right to self-determination could be said to be ahistorical. The groups that have it are entitled to it by virtue of belonging to a general category (namely, being a nation) and not by virtue of any particular events in their history.<sup>3</sup> If historical rights alone constitute the justification for the right to territorial sovereignty, then they necessarily serve also to provide the answers to questions concerning the appropriate geographical site, territorial scope, and institutional form of the right to national self-determination. For if historical rights give rise to territorial sovereignty, they necessarily presuppose a statist realization of self-determination within the whole area

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with respect to which the historical rights are claimed. On the other hand, justifying the ahistorical right to national self-determination, for example, by means of the argument that it enables individuals to live their lives within the framework of their culture does not predetermine what the appropriate institutional framework of such self-determination should be (for instance, personal autonomy in various areas, territorial autonomy, or sovereignty in the framework of a nation state), what its territorial scope ought to be (assuming that it concerns territorial self-determination), or where *the appropriate geographical site for the realization of this self-determination should be*. Historical rights could constitute a solution to this third problem concerning the site of the territory designated for self-determination, without necessarily determining its institutional character and the scope of the territories in which self-determination is realized.<sup>4</sup>

The difference between using the historical-rights argument as the basis for determining the site of the right to self-determination, and invoking the same argument as the basis for asserting political sovereignty and engaging in territorial expansion is of great normative significance. Put simply, the latter is morally questionable. The historical-rights argument cannot justify the right to territorial sovereignty, and it also cannot serve as a basis for determining its scope. Given the scarcity of resources and space in the world, basing sovereignty rights and their territorial scope on historical rights could endanger the livelihood and autonomy of many peoples. Jean-Jacques Rousseau stated this point clearly in *The Social Contract*: “How can one man or a whole people take possession of vast territories, thereby excluding the rest of the world from their enjoyment, save by an act of criminal usurpation, since, as the result of such an act, the rest of humanity is deprived of the amenities for dwelling and subsistence which nature has provided for their common enjoyment?”<sup>5</sup>

Rousseau’s critique pertains to people physically present in the territories over which they seek to establish territorial sovereignty. It is all the more applicable to nations which attempt to renew their physical presence in territories where they lived many generations ago. If such nations invoke historical

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rights to claim territorial sovereignty, then accepting this claim would not only make it impossible for these territories to be used later to satisfy the basic and/or important needs of other people who might need these territories. It would also increase the risk of uprooting people already living there, and it would necessarily lead to their subordination to foreign rule.

In contrast, if a nation's historical rights are not perceived as grounds for demanding territorial sovereignty, but rather only as a *consideration* for determining the location where its right to self-determination should be realized, then the fears expressed above lose a considerable measure of their weight. This is particularly true if considerations of substantive justice serve to determine whether nations are entitled to sovereignty or other territorial rights. Based on criteria pertaining to substantive justice, territories could be allocated to nations according to the size of their respective populations, the nature of their culture, the specific needs created by the culture, the degree to which any given nation is committed to members of the nation and how this nation treats those who are not members, or according to a combination of the above criteria as well as additional considerations. Historical rights could serve as a consideration for determining the specific geographical location where self-determination is to be exercised. If the territories of the world are divided between the nations in the world on the basis of these considerations, and if the role of historical rights is interpreted not as a basis for the right to sovereignty in and of itself but rather as grounds for determining the location where self-determination is to be realized, then these rights do not endanger the livelihood and autonomy of many people. People would only have to pay the price of being excluded from specific areas—the areas granted to other nations for the exercise of their own right to self-determination. These areas would not be any larger than those from which they would in any case be excluded, if the territorial rights accompanying self-determination were justly distributed among national groups.

Historical rights should be resorted to for purposes of determining the location of nations' self-determination not only because there are no reasons

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for not doing so, but also because there are reasons supporting this. In cases of nations that have not lost their physical ties with the territories to which they could claim historical rights, this applies to historical rights under their two conceptions, namely, first occupancy and formative territories. If the nation that was the first occupant in a given territory still occupies the territory, then first occupancy should be the basis for determining the site for realizing that nation's right to self-determination. Resorting to other grounds for determining this site would entail the re-location of entire peoples, which would be costly and would involve extreme discomfort to them. Furthermore, there do not appear to be any good reasons for exacting such high costs and causing such inconvenience. Under the formative territories conception, historical rights should not serve as grounds for determining the location of nations' right to self-determination only for these pragmatic reasons. Put simply, for people that ascribe great significance to their national affiliation, it may be very important not to be torn away from their national group's formative territories. Being away from their formative territories may arouse feelings of alienation and longing. In view of the importance of formative territories to people's national identity, it can definitely be argued that the link between these territories and the right to national self-determination is an essential one. In contrast to first occupancy, formative territories not only are *suitable* grounds for determining the location of the right to self-determination but seem to be *essential* for the realization of this right.<sup>6</sup>

The pragmatic considerations due to which it is desirable to determine the location of self-determination in the specific territory where the particular nation was the first occupant or with which it has a formative link lose their validity once the physical connection has been severed. If a nation eventually ceases to occupy a particular territory, then it cannot be claimed that realizing its right to self-determination would prevent this particular nation and other nations from having to wander from place to place. In fact, quite the opposite is the case. Any such territorial restitution is likely to result in *forcing* people to wander from place to place.

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However, the non-pragmatic considerations for which historical rights under the formative territories conception could serve as grounds for determining the site for the realization of self-determination do not necessarily lose their force if the physical link between the nation and the territory has been severed. The interest that the committed members of such a nation have in not being separated from their formative territories is valid both while they are occupying the territories and when they cease living there. This is certainly the case when, despite physical separation from their formative territories, members of the group have retained an emotional attachment to the place that still constitutes a part of their identity. In that sense, the physical severance of the group's members from their formative territories does not really differ from the physical separation of people from their relatives. These connections usually continue to be a part of their identity and as such provide reasons for determining the site of self-determination in the formative territories even when the physical connection no longer exists.

However, the fact that the non-pragmatic reasons retain their validity for determining the location of self-determination does not make them conclusive reasons for actually doing so. There are two kinds of considerations that might militate against them. The first kind of considerations pertains to the demographic situation in these territories and the needs of those living there and those wishing to return to these territories. Consider the case of an Indian tribe, the descendants of which seek to return to Manhattan in order to reside there within the framework of their culture. However, due to the large non-Indian population currently living in Manhattan, if members of the tribe were allowed to fulfill their wishes, this would result in the imposition of unreasonably high costs on the other residents of Manhattan. For example, the population density of Manhattan would certainly make it impossible to allow members of the Indian tribe to live there within the framework of their culture, if this also means providing them with hunting grounds. In other words, when a territory is densely populated, this seems to give rise to considerations which must override the force of the formative

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tie as grounds for determining the site for the realization of the nation's right to self-determination. However, with regard to areas that are less crowded than New York City and/or in cultures that do not require hunting grounds in order to realize their cultural identity, it seems that the return of ethno-cultural groups to such areas is something that such groups should be entitled to if they have a formative tie with those areas.<sup>7</sup> Indeed, the claims of ethno-cultural groups to return to areas with which they have a formative connection in order to realize certain forms of self-determination was recently recognized in the rulings of both Australian and Canadian courts.<sup>8</sup>

That said, it must be noted that the return of native groups in Australia and Canada, in contrast to the Jewish return to the land of Israel, was conducted within the political framework of a state that has legislative and judicial institutions as well as law-enforcement agencies. These institutions can draft the principles that define the relationships among all the people or groups under their jurisdiction. These institutions can settle disputes which might arise and enforce these principles and any judicial decisions. The Jewish return to Palestine, however, took place in an international context in which such legislative, judicial, and law-enforcement institutions were and to a great extent still are in their embryonic stages.<sup>9</sup> A second category of considerations could therefore militate against considering the formative connection as a conclusive consideration in determining the location for the realization of the self-determination of nations that are no longer physically present in their historical homeland. It should be remembered that the principle according to which formative ties should be considered in determining where a nation should realize its right to self-determination settles this specific question only pertaining to the justice of self-determination. There is a whole range of additional issues related to the justice of this right, such as the global distribution of political power and territorial resources among nations. However, in order for justice to be achieved in these matters, there is a need for most nations in the world to coordinate their actions by adhering to a comprehensive system of principles that would provide sufficiently specific answers to the above questions. One isolated action according to one

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principle only that should belong to a comprehensive and institutionalized system could well be compared to playing one isolated chord or drumbeat without the rest of the symphony to which it belongs. However, in the case of justice, as opposed to the analogy of music, the danger of playing one of the chords or drumbeats in isolation is not just that of creating a cacophony. Applying one isolated principle of justice to only one party may mean that this party alone might be forced to pay a price which ought to have been shared by all those subject to the aforementioned system of principles. This isolated action may also confer advantages to parties who may not be the only ones entitled to that advantage.<sup>10</sup>

Moreover, if the burdens and advantages of distributive justice are not divided between all those who are supposed to be subject thereto (in our case, the nations of the world), and only one of them pays the price (perhaps rightfully so, but others should also have to pay the price), and only one of them reaps the benefits (again, perhaps rightfully so, but others should also reap the benefits), then this will no doubt lead to instability and bloodshed.<sup>11</sup>

In other words, even if the formative tie which a particular nation has with a given territory should ideally be a reason to make that territory the site for the realization of this nation's self-determination, provided the geo-demographic conditions of that territory allow this, then, in our non-ideal world, both considerations of justice (the equal distribution of burdens and benefits to all subjects) and of morality (prevention of bloodshed) compel the suspension of any action according to this ideal.<sup>12</sup>

This last argument may indeed be a compelling one and under normal circumstances should convince members of nations wishing to return to their historical homeland to refrain from doing so. However, in the absence of real alternatives for realizing their self-determination, or at least in the absence of real alternatives for leading a reasonable life as individuals, it would not be unreasonable for members of a national group to nevertheless resort to the historical rights argument. It could be argued that they then have a *remedial justification* for seeking to protect their physical integrity and retain

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their dignity by means of realizing their right to self-determination in their historical homeland.<sup>13</sup>

I have so far defined the conditions and circumstances under which the historical-rights argument may be justly used for determining the site for realizing a nation's right to self-determination. I am of the opinion that this argument provides a moral justification for the return of the Jews to their historical homeland, even though it is not sufficient in itself to serve as a basis for the Jewish demand for territorial sovereignty over the land of Israel. As I will show below, this was probably clear to several prominent leaders of the Zionist movement.

### III

It should be noted that Zionism is not the only political movement to have made use of the historical-rights argument. Prussian Chancellor Otto von Bismarck invoked it in order to justify the annexation of Alsace-Lorraine to Germany in 1870. Similarly, Tomas Masaryk used it in order to justify the inclusion of the Sudetenland in Czechoslovakia after World War I, and Slobodan Milosevic recently cited historical rights in order to justify the expulsion of the Albanians from Kosovo. In all of these instances and countless others, leaders of national groups resorted to historical rights in order to make territorial claims. Yet there are two significant differences between how one could interpret the early Zionists' reliance on the historical rights argument, and how one could interpret the use of this argument in the other cases just mentioned.

Firstly, whereas Zionism could be regarded as having invoked the historical rights argument primarily in order to stress *the primacy of the land of Israel in the history of the Jews* (the "formative territories" argument), those who used it in most other cases referred mainly to *the primacy of the nations*

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*they represented in the history of the territories they were claiming* (the “first occupancy” argument).<sup>14</sup> Indeed, when Bismarck sought to annex Alsace-Lorraine to the German Reich after the Franco-Prussian War, he cited the fact that these territories had been under German rule in the sixteenth century. Tomas Masaryk’s demand to include the Sudetenland in the Czechoslovakian Republic after World War I, despite the fact that the Sudetenland was populated mainly by Germans, was backed by a similar claim, namely, that the Sudetenland had been part of the Bohemian kingdom at the end of the Middle Ages. Conceivably, this interpretation of the historical rights argument as a first occupancy argument is also implied in the arguments used by the indigenous peoples of North America, Australia, and New Zealand, all of whom demand that territories usurped by European latecomers be returned to them.<sup>15</sup> Similar demands seem to be at play in the dispute between the Tamil and the Sinhalese populations in Sri Lanka as well as in many other cases.

In contrast, when the Zionist movement referred to historical rights it focused more on the predominance of the land of Israel in Jewish history and its significance for Jewish identity than on the fact that Jews had lived in the land of Israel long before the Arabs arrived there. One of the most noteworthy expressions of this sentiment can be found in Israel’s Declaration of Independence. It states that the land of Israel “was the birthplace of the Jewish people,” and that it was there that “their spiritual, religious, and political identity was shaped,” where “they first attained to statehood, created cultural values of national and universal significance.” “Impelled by this historic and traditional attachment,” the declaration goes on to say, “Jews strove in every successive generation to re-establish themselves in their ancient homeland.”<sup>16</sup> Indeed, these formulations stress the predominance of the land of Israel in Jewish identity, while they contain no reference to the primacy of the Jews in the history of the land of Israel.

Secondly, and more importantly, while other nations that were already living in their historical homeland resorted to *the historical rights argument in order to justify demands for territorial expansion*, Zionism can be interpreted as

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invoking the historical rights argument in order designate the land of Israel as the most suitable place for the realization of the Jewish people's right to self-determination. Like the other Jewish movements at the end of the nineteenth century, which could be regarded as manifestations of ethno-cultural nationalism, the Zionist movement conceived of the right to self-determination as ahistorical and universal. Indeed, the dispute between Zionism and the other Jewish nationalist movements turned primarily on the issue of the geographical location for Jewish self-determination. The Bund and other autonomists held the view that the Jews should realize their self-determination in a non-territorial manner in the places where they currently resided—namely, in Eastern and Central Europe. Another view was that of the Territorialists, who seceded from the Zionist movement, contending that Jewish self-determination should be realized territorially in one of the territories currently suggested to them (such as Uganda). The third view was that of the “Zion's Zionists,” also called “Palestinians” at the time. By invoking the historical-rights argument, they claimed that Jewish self-determination was possible only in the land of Israel, or what was then called “Palestine.”

Now, in light of the situation in Russia and Eastern Europe at the end of the nineteenth century, and at least in view of what we now know to have happened in the first half of the twentieth century, the chances that the Jews could have realized their right to self-determination there as desired by the Bund, or even to continue living there as individuals, were, to say the least, bleak.<sup>17</sup> The Territorialists' thinking was also flawed. Their plan, which called for the placement of Jewish self-determination in Uganda, was affected by the same flaws as the Zionist one, but without the attending advantages: The East African country on which they had set their sights was already home to other ethno-cultural groups, and the goal of settling among them was fraught with the danger of violent clashes. However, unlike the Jewish link with the land of Israel, the Jews had no formative or historical link whatsoever with East Africa.

However, none of the arguments mentioned earlier against nations returning to their formative territories—namely, that acting on principles

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of ideal justice in a non-ideal world could bring about unjust results, and that bloodshed should be prevented—is sufficient for denying the justice of the Zionist aspiration to realize Jewish self-determination in the land of Israel. As noted above, persecution of the Jews was rampant at the time and the threat of death or loss of human dignity was imminent. Even though bloodshed was clearly expected to be caused by their return to their historical homeland, the Jews had not yet encountered it face to face. It was only human to still entertain the hope that they might be able to protect themselves and retain their dignity in the land of Israel.

Stemming from the need to rescue themselves from persecution, the Jews therefore could resort to remedial justification in order to realize their primary right to self-determination, and to determine its site in their historical homeland. This rationale is very similar to what is referred to as the “necessity” defense in criminal law. This defense serves to justify acts which in normal circumstances are considered legally and morally unjustified, or at least excuses those committing these acts from liability for having committed them. The defense in question is similar to that granted to a mortally wounded person who has no way of saving his life other than by breaking into a pharmacy to steal the medicines that would save his life.<sup>18</sup> As to the query “Why in our pharmacy?” that some Arabs might come up with, the response would be either, “Because it is the only one carrying the appropriate medicine,” or “Because the medicine carried here is better than the medicines found in other pharmacies” (that is, places such as Uganda, Eastern Europe, and Argentina, as it were). The medicine is a unique one, or is at least better than the others. That is, an attempt to realize self-determination in the formative territory is the only attempt which has a chance of succeeding, or at least has better chances of success than attempts to realize self-determination in other territories. The pharmacy analogy illustrates what should have been emphasized from the very beginning, namely, that the reasons militating against the realization of Jewish self-determination in Palestine—stemming from injustice and the danger of bloodshed—were overridden not by the Jewish right to self-determination in and of itself and the ordinary reasons

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supporting this right (i.e., people's interest in living within the framework of their cultures and determining their destiny within this culture), but rather by the urgent need that the Jews had, both as individuals and as a people, to protect their dignity and their physical safety.

The return of the Jews to the land of Israel was, therefore, justified, although not merely because of the historical rights argument. As demonstrated above, historical rights cannot in and of themselves serve as the basis for territorial sovereignty, but only as the basis for determining *where* a nation's right to self-determination should be realized. In this regard, it may further be noted that statehood and political sovereignty is but one of the various forms the right to self-determination may take; there are other, more modest forms for institutionalizing this right. In addition, it must also be stressed that invoking the historical right as grounds for determining the location for the realization of the right to self-determination does not mean that the scope of this self-determination must extend over the whole area with which the nation in question has historical ties.

Clearly, this position was not held by all of Zionism's early leaders. Three main approaches seem to have been endorsed by various Zionist leaders. According to one approach, the historical right of the Jews to the land of Israel justified political sovereignty over Greater Israel, namely, all of the land of Israel. Adherents of a second approach, who were aware of the limitations of the historical rights argument, sought to downplay Jewish nationalist aspirations by not demanding control of the entire territory. A third group of Zionist leaders aspired to establish a sovereign Jewish state within as much of the land of Israel as possible, but nonetheless seemed to suspect that the historical-rights claim would not be sufficient grounds on which to justify this course of action.

The first approach, according to which the Greater Israel ideology could be justified by means of the historical rights argument, was held by the radical factions within religious Zionism and Revisionism. Religious Zionists, who regarded the modern return of the Jews to Zion as a sign of the messiah's impending arrival, viewed the historical right as deriving

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from the divine promise to Abraham in “the covenant between the pieces.” According to this position, the Bible confers a stamp of approval on Jewish sovereignty over all of Canaan, “from the Egyptian river until the great river... Euphrates.”<sup>19</sup> Thus not only did the divine promise justify the Jewish return to the land of Israel, but it also determined the territorial scope to which the exiled nation should now return. The same applies to the radical Revisionists’ interpretation of the historical-rights argument. This faction’s ideologues, Joshua Heschel Yeivin and Uri Tzvi Greenberg, and the members of the Lehi group (an underground militia in pre-state Israel) were of the opinion that the Jewish right to sovereignty in the land of Israel required no moral justification—or, at least, no justification of a universal nature. The “Eighteen Principles of National Renewal” drafted for the Lehi by its founder, Abraham Stern, best expresses this ideology: “The Jewish people conquered the land of Israel by the sword. There it became a nation, and there alone it shall restore itself. For this reason the people of Israel are the sole rightful owners of the land of Israel. This right is absolute: It has not yet lapsed and cannot ever lapse.”<sup>20</sup> In other words, if having conquered a territory “by the sword” justifies sovereignty, and if, during various periods in history, the land of Israel was conquered in its entirety by the Jews, then the Jews are indeed the rightful owners of the entire land of Israel.

The only problem with the arguments of both the messianic faction within religious Zionism and that of the radical Revisionists is that they do not make the slightest attempt to provide moral or universally valid arguments.<sup>21</sup> The movement seems content with persuading those who already subscribe to its own tenets.<sup>22</sup> Rabbi Meir Berlin, who was the honorary president of the World Mizrahi Movement, admitted as much in his speech to the Twentieth Zionist Congress in 1937, at which agreement was reached on the general outline of partition. “Nor are we claiming our right for reasons of moral rectitude,” he pronounced. “The basis of Zionism is that the land is ours, and does not belong to the Arabs.”<sup>23</sup>

At the other end of the spectrum were those who did not demand Jewish sovereignty over Greater Israel. Among this group were Ahad Ha’am,

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Chaim Weizmann, the socialist Zionist movement of Hashomer Hatzá'ir, the members of Brit Shalom, and also the Jewish Agency. The argument in the quotation below appears in a memo presented by the Jewish Agency to the Palestine Royal Commission in 1936 (and later submitted to the Anglo-American Committee of Inquiry in 1946):

It is asserted that it might similarly be pleaded that the Italians had a claim to a national home in Great Britain because that country had once formed part of the Roman Empire. The conclusive reply to that sophistic argument is that the Italians were never settled in England and that they have, and always have had, a home of their own in Italy, whilst the Jews are not merely the ancient rulers but also the former settlers of Palestine and never had and to this day do not possess any other national home. It is because of that homelessness and because "they have never forgotten" that the Jews have a claim to the restoration of their national life in Palestine.<sup>24</sup>

The report's admission that the Italians cannot claim sovereignty over Britain necessarily implies recognition that the historical right cannot be the basis for the right to sovereignty in and of itself. However, the quoted passage seems to imply that in cases of nations lacking a national home, the historical right can be a consideration in determining the geographical site for the realization of their self-determination. According to the passage, by virtue of the fact that they are a homeless nation, the Jews are entitled to renew their home *in* Palestine. It does not say that their state of homelessness entitles them to renew their sovereignty over all of Palestine. Similar wording, from which it may be understood that historical rights can serve as a basis for the establishment of a homeland *in* the land of Israel but not sovereignty over *all* of it, can be, as expected, found in the writings of Ahad Ha'am,<sup>25</sup> and appears repeatedly in other important Zionist documents. For instance, in the Basel Program at the First Zionist Congress, Zionism was defined as "striv[ing] to create for the Jewish people a home *in* Palestine."<sup>26</sup> The Balfour Declaration which Weizmann managed to obtain from the British government<sup>27</sup> speaks of the constitution of a national home *in* the

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land of Israel.<sup>28</sup> It is worth noting that these statements not only seem to recognize the fact that historical rights do not provide a basis for sovereignty over all of the land of Israel, but also imply that, quite possibly, these rights do not constitute a basis for sovereignty at all. Rather, they only establish the geographical site for self-determination, which may take several institutional forms.<sup>29</sup>

Chaim Weizmann, for example, was well aware of the moral limitations of the historical-rights argument. For a long time, he supported the establishment of a binational state in the land of Israel, and in his testimony to the Peel Commission, he maintained that even if the Jews were to become the majority in Palestine, there would be no need to turn it into a Jewish national state.<sup>30</sup> This was also the position of the members of Brit Shalom and Hashomer Hatzair. The latter, for instance, were of the opinion that the Jews ought to return to all parts of the land of Israel, but believed that their national self-determination need not be realized by means of Jewish sovereignty over all of the land of Israel; binational cooperation with the Arabs would suffice.<sup>31</sup> Yet the positions of such groups as Brit Shalom and Hashomer Hatzair with regard to the question of historical rights will hardly come as a surprise to those familiar with their ideologies. Really surprising are the positions and arguments expressed by David Ben-Gurion and Ze'ev Jabotinsky, the leaders of the two main Zionist parties.

It is well known that Ben-Gurion was prepared to accept a territorial compromise for pragmatic reasons. Nonetheless, on many occasions he expressed the opinion that, in principle, the Jews had the historical right to sovereignty over all parts of the land of Israel.<sup>32</sup> Even so, certain turns of phrase employed by the Zionist leader reveal that he was indeed aware of the fact that the historical rights argument alone was not an adequate basis on which to rest claims for the right to Jewish sovereignty over Greater Israel. According to Ben-Gurion:

[This right] stems from the unbreakable bond between the Hebrew people and its historic homeland; from the right of the Jewish nation to

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independence and national renewal in equal measure to that of the world's other nations; from the status of the Jews in the diaspora as a wandering minority at the mercy of strangers; from the need to find a home for millions of Jewish immigrants; from the under-populated condition of the land of Israel; from the possibilities for settlement and the opportunity to make bountiful the earth of the land of Israel and its endless natural treasures, now lying fallow; from the Jewish settlement enterprise in the land over the last several generations....<sup>33</sup>

Among other things, these words contain all the components of the argument I presented earlier for the Jewish return to the land of Israel, namely, the universal ahistorical right of all nations to self-determination, the particular historical right of the Jews in the land of Israel predicated upon the centrality of this land in Jewish identity and history; the fact that, at the time, the land of Israel was not densely populated to a degree that would have prevented Jewish immigration and settlement; and the Jews' special need for self-rule since they had been at the mercy of other peoples in the diaspora. Ben-Gurion does not say that any *one* reason of the several he cited would suffice, in and of itself, to secure Jewish sovereignty in the land of Israel, or if some or all of them would be necessary toward this end. It is therefore impossible to conclude from his statement whether or not he was of the opinion that historical rights alone were enough to justify Jewish sovereignty over the entire land of Israel. However, the fact that Ben-Gurion raised *all* of the above points, and did not find it satisfactory simply to mention the historical rights argument, seems to indicate that he *was* sensitive to this argument's limitations, even if he was not explicit on this matter.

Surprisingly, it was Ze'ev Jabotinsky, the father of Revisionist Zionism, who was explicit on this point. He openly argued that the demand for territorial sovereignty cannot be justified merely by resorting to historical rights. According to him, "The first question is, 'Do you need land?' If you don't need it, if you are sufficiently provided for, it is then impossible to be backed by historical rights."<sup>34</sup> In order to justify the Jews' return to the land of Israel and their aspiration to establish a sovereign homeland there,

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Jabotinsky linked the historical right, predicated on the particularistic ties of a given nation to a given territory, with the ahistorical and universal right of every nation to national self-determination. The fact that he interpreted self-determination as a right founded on universal distributive justice, and one that ought to be enjoyed by all nations, is clearly expressed by his assertion that, “Self-determination means revision—revision such as the division of the Earth between the nations, so that those nations with too much land would give over parts of them to those nations which do not have enough, or are completely landless in order for every nation to be given the opportunity for self-determination.”<sup>35</sup>

Moreover, Jabotinsky added the urgent need to save the Jews from persecution. As he testified before the 1937 Palestine Royal Commission, “it is quite understandable that the Arabs of Palestine would also prefer to be the Arab State No. 4, No. 5, or No. 6... but when the Arab claim is confronted with our Jewish demand to be saved, it is like the claims of appetite versus the claims of starvation.”<sup>36</sup>

In this context, it is worth highlighting that in explaining his demand to establish a Jewish state on both sides of the Jordan River to the Peel Commission, Jabotinsky did not invoke the historical rights argument, but instead resorted to pragmatic calculations, such as how much territory would be required for the millions of Jews in need of rescue to settle in the land of Israel. This number was based on some ideal of the desirable population density per kilometer given the prevailing circumstances in the land of Israel at the time.<sup>37</sup>

In contrast to the position normally attributed to him, these and other statements by Jabotinsky indicate that his Greater Israel vision did not derive solely from the historical-rights argument. Rather, it was grounded in a more complex argument presupposing the distinctions which I made in the first parts of this essay, namely, the distinction between justifying the Jewish right to sovereignty (by resorting to the right to national self-determination), justifying the site where this self-determination ought to

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be realized (by resorting to the historical rights argument), justifying the territorial scope of this self-determination (by taking into account the number of Jews it must contain combined with some ideal of the desirable population density), and justifying the Jewish return to the land of Israel despite the fact that the territory in question was already inhabited by another national group (by resorting to the remedial justification of necessity in rescuing the persecuted Jews). Thus, while there is no doubt that Jabotinsky believed that the Jews' right to self-determination applied to both banks of the Jordan, he also undoubtedly understood that it was out of the question to base this type of demand on historical-rights alone. However, this does not apply to many of his followers and political heirs who were entranced by the allure of blatantly amoral or religious readings of the historical-rights argument.<sup>38</sup>

The statements made by Jabotinsky and Ben-Gurion are instructive: They demonstrate that recognizing the limits of the historical-rights argument does not necessarily contradict the desire to establish a Jewish homeland in Greater Israel. Nonetheless, on its own, the historical-rights argument is not enough to provide a moral basis for this aspiration. Justifying sovereignty and territorial expansion requires additional arguments, some of which depart from the conceptual framework of national self-determination and the historical-rights argument.

#### IV

Unfortunately, since the Six Day War, the concept of historical rights has become a tool of certain political factions that seek to rationalize the expansion of Jewish sovereignty to Judea and Samaria and, until recently, to Gaza as well. This use of historical rights assumes that these rights can

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justify territorial sovereignty. Fortunately, however, fifty-eight years after the founding of the State of Israel, the predicament of the Jews is very different from what it was like in 1948. As citizens of a Jewish state, the Jews have realized their right to self-determination and can now provide refuge to other Jews in other parts of the world, should they be in need of it.

Consequently, it must be recognized that employing the historical rights argument as a main defense for the continued occupation of Judea and Samaria and the Jewish settlement movement therein is not *essentially* different from Bismarck's employment of this argument when he annexed Alsace-Lorraine, or from the propaganda campaign pursued by Milosevic when he refused to grant autonomy to the Albanians in Kosovo and attempted to expel them. In each of these cases, historical rights are presented as a sufficient basis for territorial claims. However, if the arguments presented in the three first parts of this essay are sound, historical rights do not constitute sufficient grounds for territorial claims.

Historical rights are not sufficient grounds for sovereignty, at least from the viewpoint of those who attempt to view it as a kind of universalistic moral argument. In this respect, there is a clear difference between the members of Gush Emunim, the extra-parliamentary movement of the Greater Israel ideology, and successive Israeli governments that backed this movement politically. Followers of Gush Emunim, affiliated with the messianic faction of religious Zionism, have never attempted to provide moral justification for the historical-rights claim. However, the governments headed by both the Labor party and (primarily) the Likud party, both of which are secular Zionist parties, are ideologically affiliated with Ben-Gurion and Jabotinsky, respectively. It is perhaps not surprising, then, that they have tried time and again to portray their reliance on historical right as a claim firmly grounded in morality and universal justice.

One might have expected those who profess to speak in the name of Ben-Gurion's and Jabotinsky's legacy to adhere to standards similar to those of their predecessors, namely, to understand the limits and limitations of

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the rights which they refer to constantly, and to act accordingly.<sup>38</sup> It goes without saying that this is not the case, and the result is no less than tragic, both morally and politically.

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*Chaim Gans is a professor of law at Tel Aviv University. His two most recent books are The Limits of Nationalism (Cambridge, 2003) and From Richard Wagner to the Palestinian Right of Return: A Philosophical Analysis of Israeli Public Affairs (Am Oved, 2006) [Hebrew].*

## **Notes**

This article is based on sections of a book analyzing the justice of Zionism from a philosophical perspective, which the author is currently in the process of completing. He wishes to thank his colleagues at Tel Aviv University's Law Faculty for their constructive analytic comments, as well as the historians Yosef Gorny, Yaakov Shavit, and Gideon Shimoni for their historiographic and bibliographic comments.

1. For a defense of this normative interpretation of ethno-cultural nationalism, as well as for a discussion of the appropriate normative interpretation of nationalist ideologies belonging to the civic type, see Chaim Gans, *The Limits of Nationalism* (New York: Cambridge, 2003), ch. 1.

2. Besides the Bund movement, the Volkspartei, influenced by the ideas of Shimon Dubnow should also be mentioned in this context. Whereas Zionism attracted Jews from both Eastern and Western Europe, the Bund and the Volkspartei existed exclusively in Eastern Europe.

3. Compare to the analogous distinction between special and general rights. See H.L.A. Hart, "Are There Any Natural Rights?" in Jeremy Waldron, ed., *Theories of Rights* (Oxford: Oxford, 1984), p. 84.

4. For more on this, see Gans, *Limits of Nationalism*, ch. 5.

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5. Jean-Jacques Rousseau, *The Social Contract* (New York: Prometheus, 1988), book 1, ch. 9, p. 28.

6. In support of this view, one could perhaps mention the fact it is subscribed to by authors as remote from one another as Ross Poole, an Australian philosopher who recently wrote about the Aborigines' rights, and Yehezkel Kaufmann, a Jewish historian who wrote during the 1940s about the predicament of the Jewish people. Ross Poole, *Nation and Identity* (London: Routledge, 1999), p. 127; Yechezkel Kaufmann, *Exile and Foreign Land*, vol. 2 (Tel Aviv: Dvir, 1954), pp. 211-212 [Hebrew].

7. The Zionist movement was profoundly aware of this consideration. This is expressed in Israel Zangwill's notorious description of Palestine as a land without a nation which should therefore be given to a nation without a land. Israel Zangwill, "The Return to Palestine," *New Liberal Review* 2 (December 1901), p. 627. However, those who did not invoke this misleading description stressed the fact that the land of Israel was not densely populated as one argument in favor of a Jewish return. When justifying the Jewish right to the land of Israel, Ben-Gurion stated that it arose from "the depopulated state of the land of Israel." Gideon Shimoni, *The Zionist Ideology* (Hanover, N.H.: Brandeis University, 1995), p. 385.

8. *Mabo v. Queensland* (no. 2) (1992) 175 CLR1; *Delgamuukw v. British Columbia* (1997) 153 DLR (4th) 193 (SCC). On the claim that the return in these cases was based not only on the primacy of the groups in the territories but also on their formative connection with these territories, see John Borrows, "Landed' Citizenship: Narratives of Aboriginal Political Participation," in Will Kymlicka and Wayne Norman, eds., *Citizenship in Diverse Societies* (Oxford: Oxford, 2000), pp. 326-342; James Tully, *An Approach to Political Philosophy: Locke in Contexts* (Cambridge: Cambridge, 1993), pp. 153-154; Poole, *Nation and Identity*, p. 131; Richard H. Bartlett, "Native Title in Australia: Denial, Recognition, and Dispossession," in Paul Haveman, ed., *Indigenous Peoples' Rights in Australia, Canada, and New Zealand* (Auckland: Oxford, 1999), pp. 417-418.

9. There are obviously numerous additional differences between the return of native groups to their native lands and the return of the Jews to the land of Israel. The most conspicuous of these is that the majority groups ruling the New World uprooted the people returning to their lands hundreds of years ago, so that the ruling majority could be said to be liable for wrongs inflicted on indigenous groups. Many people would argue that if this kind of liability obtains between the Jews and the Arabs, then the onus of rectification is on the Jews due to the expulsion of the Palestinians and the refugee problem. There are those who would also make the opposite claim—that the Arabs are the last of a chain of conquerors of the land of Israel—and as such their obligation toward the Jewish people is identical to that of the ruling nations in Australia and North America toward the native nations. I will refrain from addressing this theoretical conundrum here. One additional important

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difference between the Jewish return to the land of Israel and the return of the native Americans and Australians in the wake of the judgments in the *Delgamuukw* and *Mabo* cases, is that the concessions made by the majority groups in order to repatriate the native groups did not involve massive violations of property rights and the destruction of the majority native group. However, these differences between the cases, and perhaps other differences, too, do not affect the present argument.

10. This distinction resembles the distinction made by John Rawls between ideal and non-ideal theories of justice. John Rawls, *A Theory of Justice* (Cambridge: Harvard, 1971). An ideal theory establishes the principles that society should aspire to (locally or internationally) and endorse, under the assumption of full compliance with these principles. On the use of this distinction in the context of international law and justice, see Allen Buchanan, *Justice, Legitimacy, and Self-Determination* (New York: Oxford, 2004). As mentioned above, the view that high population density in a given territory precludes invoking formative ties as a consideration for determining the site of self-determination is valid, even within an ideal theory of distributive justice. On the other hand, the argument that the absence of institutions for applying these principles precludes invoking the formative ties as a consideration for determining the site of self-determination is valid only in the context of a non-ideal theory of distributive justice.

11. On this point, it is perhaps worth mentioning the distinction between practical and political Zionism, and to explore the differences between the Zionist enterprise in the land of Israel before the Balfour Declaration and British Mandate, and the activities after this point. From the outset, political Zionism sought political and legal support from the superpowers (Herzl from Turkey, Weizmann and Jabotinsky from Great Britain) and also international support (from the League of Nations and the United Nations) for the realization of its self-determination in the land of Israel; practical Zionism sought to establish demographic facts on the ground without this official backing. For the purpose of the present argument against the realization of the historical right, political Zionism had a clear moral advantage over practical Zionism. (Although, of course, it is entirely unclear if the leaders of the political approach were specifically motivated by moral considerations. It is more likely that they acted the way they acted for pragmatic reasons.) This advantage became even more significant in relation to Jewish settlement after the Balfour Declaration and, more importantly, with the onset of the British Mandate, which was backed by the League of Nations after World War I. This is so because it was reasonable to hope that if the British would fulfill the role assigned to them in the Mandate charter (namely, to promote the self-determination of the Jews in the land of Israel), it would be possible to minimize the expected risk of violence. But the claim that political Zionism had a moral advantage since the institution of the British Mandate proved to be true only to a limited extent. Firstly, there were those (mainly Jabotinsky and the Revisionists) who believed that the British Mandate failed to fulfill its role. Also, the British role as an international trustee

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involved many complex moral issues. And besides, the efficacy of international bodies and those who act to adjudicate and enforce disputes between national groups on their behalf cannot compare to the effectiveness of a country's own internal legal system, which serves to adjudicate between individuals or organizations and enforces these decisions.

12. To illustrate this point, consider those who believe that Saudi Arabia should not have exclusive possession of its oil riches, and that it should divide them up with countries suffering from abject poverty, such as Somalia. A person subscribing to this position need not necessarily think that this principled position entails the conclusion that Somalia has the right to invade Saudi Arabia and appropriate its portion of the oil wealth in question. He might contend that Saudi Arabia should not be the only one to have to share its oil with other countries. Kuwait should also do this, and then, for instance, Chad, too, should benefit from this and not only Somalia. He might even contend that the re-allocation of resources should not be limited to wealth deriving from natural resources possessed by nations, but should also include wealth derived from human talents and investments. Furthermore, these questions of allocation should be regulated by a public system of principles agreeable to most or all its subjects and enforced by judicial and executive authorities capable of applying them in a coordinated manner to all, or at least to the majority of those to whom they apply. Consequently, any isolated and unilateral action against one of the parties subject to these principles would be at least partially unjust and might lead to bloodshed, even if the justice of the principle itself is undisputed.

13. A remedial justification or right is a justification or right that people have by virtue of harm caused to fundamental interests they have and/or harm caused to interests they have which are protected by primary rights. A remedial right is conferred in order to halt or remedy such harm. A primary right is a right that people have by virtue of interests they have in their everyday lives (as opposed to interests they have in emergency situations) and which justify the imposition of duties on others in order to protect these interests. Primary rights are granted in order to protect or promote these interests not only in cases in which they are being harmed. For example, our right not to be attacked is a primary right. Rights or justifications that we have to perform certain acts in order to rescue ourselves from attacks or rights to compensation for harm caused by attacks are remedial rights or justifications.

14. A similar distinction can be found in Reuven Gafni, *Our Legal-Historical Right to Eretz Yisrael* (Jerusalem: Tora Ve'avoda Library, 1943) [Hebrew], and in Joseph Heller, *The Zionist Idea* (New York: Schocken, 1949). Regarding these essays, see Shimoni, *Zionist Ideology*, pp. 355-357.

15. Although the indigenous populations in North America and Australia also seem to maintain the second interpretation of the historical rights argument.

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16. "The Declaration of the Establishment of the State of Israel," *Official Gazette*: No. 1; Tel Aviv, 5 Iyar 5708, May 19, 1948, p. 1. Less elegant versions of similar ideas appear in the opening statements of the proposals presented by the Zionists at the February 1919 Paris Peace Conference. See Shimoni, *Zionist Ideology*, pp. 352-353.

17. This component of the justification of the Zionist aspiration to re-settle the Jews in the Land of Israel has been a prominent part of traditional Zionist arguments, including those by early leaders such as Pinsker and Herzl, and later leaders such as Ben-Gurion, Jabotinsky, and Weizmann.

18. It could be argued that the case of a mortally wounded person breaking into a pharmacy to procure life-saving medicine is not really analogous to the Jews' return to the land of Israel. The pharmacy case is a clear-cut case of preventing a greater and irreversible evil (the death of the person in need of the medication) by committing a lesser and temporary evil (the damage to the shop, and perhaps also to public order). On the other hand, even if the Jewish return to the land of Israel might perhaps have prevented a very great evil, it was nonetheless obvious from the outset that its consequences would not merely result in a minor and temporary injustice. In this respect, the case of the Jewish return to the land of Israel is not as clear a case as the pharmacy case of preferring the lesser evil, a preference which grounds the defense of necessity as a justification for action which otherwise would have been considered criminal. Some people will therefore hold the view that the necessity in question justifies not the act of the Jewish return to the land of Israel in and of itself but rather excusing the Jews from responsibility for this act. I do not share the latter view, but the scope of this essay does not allow me to elaborate on this point. Regarding the distinction between necessity that fully justifies a criminal action, and one that excuses from culpability without justifying the action, and for a generally illuminating and captivating discussion of the necessity defense in which examples that shed light on the question of the justification of the Jewish return to the land of Israel are cited, see George P. Fletcher, *Rethinking Criminal Law* (Boston: Little, Brown, 1978), pp. 774-835.

19. Genesis 15:18.

20. See Shimoni, *Zionist Ideology*, p. 370. See also Arye Naor, *Greater Israel: Theology and Policy* (Haifa: Haifa University, 2001), p. 87 [Hebrew].

21. In fact, the arguments presented by the Lehi and the members of the "Israel Kingdom" faction were not only amoral but purposefully anti-moral. Those circles not only admitted their use of amoral arguments but took pride in doing so, while treating with contempt those who attempted to invoke moral arguments in order to justify the absolute right over the land of Israel.

22. For a similar position, namely, that the religious argument cannot have universal force but is valid only for believers, see Shimoni, *Zionist Ideology*, pp. 343-344;

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and Margaret Moore, “The Territorial Dimension of Self-Determination,” in Margaret Moore, ed., *National Self-Determination and Secession* (New York: Oxford, 1998), pp. 145-147.

23. The radical Revisionists made a similar point. See Shimoni, *Zionist Ideology*, p. 339.

24. *The Historical Connection of the Jewish People with Palestine*, revised edition of the memorandum submitted by the Jewish Agency for Palestine to the Palestine Royal Commission in November 1936 (Jerusalem: Jewish Agency for Palestine, 1936); Shimoni, *Zionist Ideology*, p. 354.

25. In “Three Stairs,” he states: “[B]ut there is one national right.... That we will also constitute ‘the majority’ in one country under the sun, one land in which our historical right is undisputed.” Emphasis mine. From *Writings of Ahad Ha’am* (Tel Aviv: Dvir, 1947), p. 153 [Hebrew].

26. Shimoni, *Zionist Ideology*, p. 352. Emphasis mine.

27. The Balfour Declaration stated that the British government supported Zionist plans for a Jewish “national home” in Palestine. It was given to the Zionist movement on November 2, 1917 in the form of a letter from British Foreign Secretary Arthur James Balfour to Lord Rothschild, then a prominent figure in the Jewish community in Britain.

28. As is ordinarily the case in the drafting of political documents, it was similarly the case in both the Basel Program and the Balfour Declaration that these documents were the end product of a process of balancing and compromising between divergent considerations and pressures. Max Bodenheimer was one of the authors of the Basel Program at the First Zionist Congress in 1897. In objecting to the Peel Commission’s Partition Plan in 1937, he explained that political Zionism was striving for a state in the entire country. The Basel Program’s reference to a secure haven for the Jews in the land of Israel and its omission of the idea of a state in the entire country was motivated by the understanding that Zionism could not press for its ultimate goals at such an early stage, and that it was preferable to wait until there was a Jewish majority in the entire country. See Shmuel Dothan, *The Partition of Eretz Yisrael in the Mandatory Period* (Jerusalem: Yad Yitzhak Ben-Zvi, 1983), p. 97. See also Ben Halpern, *The Idea of the Jewish State* (Cambridge: Harvard, 1969), p. 30, on the considerations that motivated Herzl to propose the version of the Basel Program that was adopted by the Congress. One of the drafts that preceded the final version of the Balfour Declaration referred not to the establishment of a national home for the Jews in Palestine, but rather to the “reconstitution” of Palestine “as a national home for the Jewish people.” It was only pressure exerted by a British Foreign Office official which ultimately caused the Foreign Office to change the above version of the Balfour Declaration to the wording of the final and official version, see Dvora Barzilay-Yegar, *A National Home for the Jewish People: The*

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*Concept in British Politics and Policymaking, 1917-1923* (Jerusalem: Zionist Library, 2003), p. 30 [Hebrew]. In view of the above, there will no doubt be those who will question whether the wording of important official Zionist documents and public positions to which some leading Zionist thinkers subscribed provides sufficient evidence to substantiate my claim that the moral interpretation of Zionism should regard its extensive use of the idea of historical rights as rights *in* the land of Israel rather than as rights *over all* of the land of Israel. Their argument would be that the documents and the public positions in question do not really reflect the “authentic” position of Zionism.

To deal with this objection, a distinction must be drawn between two sorts of cases: Cases in which the transition from very ambitious goals to more modest ones is a result of acknowledging the constraints imposed by reality and morality on one’s ambitious goals, and cases in which this transition is the product of calculated tactics. Surely the waiving of ambitious goals and endorsement of more modest goals, when motivated by one’s acknowledgment of pragmatic and moral constraints does not necessarily indicate that the ambitious goals are the “authentic” ones. The fact is that many of us once entertained the thought of becoming millionaires or prime ministers but nevertheless gave it up in our acknowledgment of the constraints imposed on these ambitions by reality and by our personalities. This does not mean that these ambitions are our authentic ambitions, even though it would not be false to say that we might have actually fantasized about such possibilities. However, if we surrender ambitious goals for tactical reasons and express less grandiose goals instead, then it is indeed correct to argue that our first goals are the authentic ones, because the waiver relates only to the immediacy with which the goal is to be achieved or to giving it public expression. It does not mean that we have given up the goal itself.

It is not always possible to know whether a person’s surrender of a particular goal is real or tactical. Sometimes the person who has given up this goal is himself unable to accurately identify his real motivations for doing so. For reasons which are beyond the scope of this article, this is especially the case when political leaders abandon the goals previously defined for their groups. At any rate, even if a surrender of ambitious goals is merely a pretense motivated by tactical considerations, two points ought to be remembered: Firstly, relinquishing ambitious goals in favor of tactical goals may, though not necessarily so, express acknowledgment of the justice of the latter. My observation here is somewhat similar to one often made about hypocrites, namely, that their hypocrisy attests to their acknowledgment of the propriety of the standards which they only pretend to follow. Otherwise they would have no reason for feigning compliance with these particular standards. In other words, even if one could assume it is true that references by Zionist leaders and official documents to a historical right to establish a *national home* for the Jews *in* Palestine rather than a Jewish state encompassing Palestine in its entirety were tactically rather than strategically motivated, nonetheless, the very adoption

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of such a tactic might have been a result of acknowledging the fact that morally these are the appropriate terms. (It is important to note here that this essay relates mostly to the *moral* question of what Zionism ought to have aspired to then, and what it ought to aspire to now based on the historical rights argument. It does not attempt to deal with what Zionism aimed for *in actual practice*. My above quotes from the arguments of Zionist leaders are intended to substantiate claims concerning their explicit or implicit positions on the morally possible goals of Zionism, not their positions on its goals independent of morality.) Secondly, even assuming that some of the authors of the Basel Program and the Balfour Declaration did engage in political conniving, and not in the acknowledgment of the moral and pragmatic constraints applying to Zionist goals, the factual questions concerning these people's good faith, or even the assessment of their moral standing, should not be confused with the actual contents of the Basel Program and the Balfour Declaration, respectively.

29. Regarding the fact that Zionist ambitions with respect to the institutional form of Jewish self-determination in the land of Israel were modest, see Halpern, *Idea of the Jewish State*. Halpern examines this aspect of Zionist history from the Basel Program of the First Zionist Congress in 1897, to the Balfour Declaration and the League of Nations' Charter of the British Mandate, until the negotiations with the United Nations mission regarding the implementation of the Partition Plan of the General Assembly of November 29, 1947. Halpern contends that this modesty is one of the hallmarks of the Zionist movement, which distinguishes it from other national movements. However, it is not entirely correct to view modesty in this respect as a phenomenon unique to Zionism. (See my discussion in Gans, *Limits of Nationalism*, pp. 23-26). The modesty of Zionist aspirations regarding the institutional form of Jewish self-determination in the land of Israel is emphasized in many other history books. (See, for example, Joseph Gorny, *Policy and Imagination: Federal Plans in Zionist Political Thought 1917-1948* (Jerusalem: Zionist Library, 1993) [Hebrew], which deals with the plans for something less than a state in the thinking of Jabotinsky, Ben Gurion, Weizmann and others. See also Itzhak Galnoor, *Territorial Partition, Decision Crossroads in The Zionist Movement* (Jerusalem: Ben-Gurion University, 1994) [Hebrew]. However, it is important to note here a significant group of historians, known as New Historians, who claim that the real goals of Zionism were much more ambitious than those expressed in the official decisions of Zionist institutions and by some Zionist leaders. They claim that the apparent modesty of many of the official decisions and statements made by Zionist leaders should be attributed to mere tactical considerations. See Benny Morris, "The New Historiography: Israel Meets Its Past," *Tikkun* 3 (1988), pp. 19-24; Avi Shlaim, *Collusion Across the Jordan* (New York: Columbia, 1988); Ilan Pappé, *Britain and the Arab-Israeli Conflict, 1948-51* (New York: St. Martin's Press, 1988).

30. Galnoor, *Territorial Partition*, pp. 75, 155-156.

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31. Galnoor, *Territorial Partition*, pp. 158-159.

32. See the excerpt from a letter he wrote to his son, Amos, in 1937, after serving as one of the leading sponsors of the Twentieth Zionist Congress' decision to accept the recommendation of the Peel Commission. David Ben-Gurion, *Letters to Paula*, trans. Aubrey Hodes (Pittsburgh: University of Pittsburgh, 1968), p. 154. In supporting the Partition Plan, Ben-Gurion hinted at the possibility of expanding the state's borders once established. For sources, see Naor, *Greater Israel*, p. 109, n. 29, referring to the minutes of the Congress (pp. 95-110 of the minutes); Shabtai Tevet, *David's Passion: The Life of David Ben-Gurion*, vol. 3 (Jerusalem: Schocken, 1976), p. 216 [Hebrew]; Galnoor, *Territorial Partition*, pp. 218-219.

33. David Ben-Gurion, *Our Neighbors and Us* (Tel Aviv: Dvir, 1931), p. 188 [Hebrew].

34. Moshe Bela, ed., *The World of Jabotinsky: A Selection of His Works and the Essentials of His Teachings* (Tel Aviv: Dfusim, 1972), p. 221 [Hebrew]. The original source is a letter in English to Leonard Stein on March 9, 1922, Central Zionist Archives, file c-199.

35. Ze'ev Jabotinsky, *Writings*, vol. 11 (Jerusalem: Sefarim, 1953), pp. 163-164 [Hebrew].

36. Vladimir Jabotinsky, *Evidence Submitted to the Palestine Royal Commission: House of Lords, London, February 11, 1937 by M.V. Jabotinsky, on Behalf of the New Zionist Organization* (London: New Zionist Press, 1937), p. 13. This and the above quote explicitly indicate that Jabotinsky's argument for the right of Jewish return to the land of Israel was one of global distributive justice (between nations) in conjunction with the necessity argument. Perhaps it is worth mentioning here that I am not a historian, and certainly not an expert on Jabotinsky's or Ben-Gurion's writings, and I have not studied everything they ever wrote or published. The excerpts I have cited here appear in the secondary sources mentioned in these endnotes. I believe that these specific quotes suffice for the purpose of substantiating my arguments that pertain to these leaders.

37. According to Jabotinsky, this density should resemble Poland's or Czechoslovakia's, and not Belgium's or Holland's. Galnoor, *Territorial Partition*, pp. 170-171. For a substantiation of the claim that Jabotinsky's argument for establishing a state on both banks of the Jordan (before the Peel Commission and on other occasions) was at its core pragmatic and was due to the need to save Jews in the 1930s, see also Naor, *Greater Israel*, ch. 2, pp. 76, 81. Naor, however, is of the opinion that Jabotinsky used this argument in his testimony before the Peel Commission only because it was presented to an outside party. This opinion is incompatible with the fact (which Naor himself refers to on p. 76 of his book) that Jabotinsky also used this argument in order to justify his Greater Israel ideology in the ideological platform of the

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Revisionist Zionists in 1928. Naor claims that Jabotinsky also had “fundamentalist” reasons for his maximalist ideology, but the excerpt which he cites to prove this (p. 82) is of an entirely practical nature. Benjamin Akzin attested to the fact that the Revisionist objection to the Peel Commission’s Partition Plan was based on considerations related to whether or not a Jewish state was capable of accommodating the millions of Jews in need of rescue during the 1930s. See Benjamin Akzin, “The Revisionist Zionism Position Toward the Partition Plan,” in Meir Avizohar and Isaiah Friedman, eds., *Studies in the Palestine Partition Plans 1937-1947* (Sede Boker: Ben-Gurion Research Center, 1984), pp. 162-163 [Hebrew].

38. On this point, note the way Menachem Begin related to the ideology of Greater Israel on both banks of the Jordan. On the one hand, when he led the Herut party during the early days of the state, he based this ideology on arguments similar to those employed by the messianic religious Zionists, that is, mainly on the Bible and on “the covenant between the pieces.” See Naor, *Greater Israel*, pp. 95-96. On the other hand, he later revealed a willingness to reevaluate these ideas since the instrumentalist justifications which served Jabotinsky during the late 1930s—those associated with rescuing the Jews of Europe—had lost their force. In 1982, Begin tried to reassure King Hussein of the sincerity of his government’s intentions, since “[w]e, in the aftermath of the Holocaust, have no strength left, and therefore have no desire” to realize the historic right in Transjordan. See Naor, *Greater Israel*, pp. 91-92.

In the debate between left- and right-wing factions in Israel concerning Israel’s borders since the Six Day War, Greater Israel advocates often level the following accusation of (moral and logical) inconsistency against those willing to accept a territorial compromise within the pre-1967 borders: According to the Greater Israel activists, anyone who believes that the Jews deserve to settle in Tel Aviv or in Negba must also believe that they deserve to live in Hebron or Kedumim and *vice versa*. In other words, anyone who holds the view that it is unjust for Jews to settle in Hebron or Kedumim does not really believe in the justice of Zionism. It is possible to respond to this accusation of inconsistency even without the benefit of the distinctions made in this essay. For example, one could argue that even if the Jews do have the historical right to sovereignty in Hebron and Kedumim, this right may be compromised, for pragmatic and moral reasons. Willingness to compromise does not necessarily indicate inconsistency. And yet, the distinctions suggested in this essay provide an even stronger answer. For if one interprets historical rights as they should be interpreted—which in my opinion, is the interpretation implied by the sentiments expressed by the main leaders of Zionism in its formative years—that is to say, as an appropriate basis for determining the site of Jewish self-determination, but not for sovereignty and territorial expansion, there is no inconsistency at all in the willingness to realize this self-determination in only part of the land (and not on all of it). The truth is that the opposite is the case. If the historic right is only a consideration for determining the site of a nation’s right to self-determination

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*in areas* of its historic homeland, and if it cannot serve as an appropriate basis for territorial sovereignty *over all the homeland territory*, then the attempt to realize the right to self-determination over all areas of the homeland by virtue of the historic right alone is inconsistent. The real inconsistency is inherent in the notion that if living in Tel Aviv is justified, then settling in Hebron must also be justified. (For a more extensive discussion of the question of the logical and moral consistency of the Greater Israel ideology vs. the pre-1967 ideology, see Chaim Gans, *From Richard Wagner to the Palestinian Right of Return: A Philosophical Analysis of Israeli Public Affairs* (Tel Aviv: Am Oved, 2006), ch. 8, part 7 [Hebrew].