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Self-determination as non-domination

Ideals applied to Palestine/Israel

IRIS MARION YOUNG

University of Chicago

ABSTRACT This article conceptualizes self-determination as non-domination, and distinguishes this from the more standard concept of self-determination as non-interference. Principles of non-domination imply relationships between self-determining units and the joint regulation of such relationships. To understand the application of this model, I suggest that we should assume the situation and claims of indigenous people as the norm rather than the exception. This model of self-determination implies federalism as a mode of being together with other self-determining units. Many discussions of federalism, however, assume that autonomous units are large, homogeneously occupied, contiguous territories. Suspending this assumption opens ways of conceiving federal relations as more local, plural, and horizontal. I suggest that this model of self-determination as non-domination and the patchwork federalism it sometimes implies may enable a vision of Israeli Jews and Palestinians dwelling peacefully together in bi-national federation.

KEYWORDS federalism • indigenous peoples • Palestinians

Few political commentators today think that every distinct people can and should have a sovereign state exclusively of its own. Yet writings on the self-determination of peoples for the most part continue to assume a paradigm of self-determination that mirrors the sovereign state. In this paradigm, a self-determining people dwells together in a relatively large territory in which only members of their group reside, and this homogenous territory is contiguous and bounded; the self-determining people exercise strong self-government rights over this territory. This autonomous region may not be sovereign, but rather may stand in formalized relation to a larger state. This paradigm of self-determination has guided many political events and

international interventions of the last quarter century – from the ethnic cleansings of Croatia and Bosnia to the United Nations protectorates of Kosovo and East Timor. Acting under this paradigm of self-determination sometimes brings as much justice as there can be under the circumstances. Where groups with conflicting claims to exclusive sovereignty over a territory reside side-by-side within that territory, however, as in Northern Ireland or the republics of the former Yugoslavia, adhering to this paradigm tends to produce injustice and perpetuate cycles of violence.

One reason for such a consequence lies in the lack of correspondence between this model of self-determination as self-government over a homogeneously occupied large contiguous bounded territory, on the one hand, and the actual situation of conflicting peoples, on the other. Most sizeable territories are inhabited by several peoples who consider themselves distinct, and they are usually dispersed across these territories in smaller enclaves, towns, villages or neighborhoods next to towns or neighborhoods in which members of groups from which they differentiate themselves reside.

Most peoples regard themselves as distinct from other peoples, that is, dwell in proximity to others from whom they differentiate themselves. The form of such differentiation, moreover, is often fluid, and there are often at least some individuals who are ‘hybrid’ in the sense that they identify with multiple groups. Rather than base a conception of self-determination on the assumption that peoples are separate or separable, then, it behooves those of us interested in peace and justice to conceptualize self-determination as compatible with the fact that groups often dwell together in territories; for this reason they often have shared problems, and the activities of those in one group often affect the possibilities of action for others.

In this article I offer a conception of self-determination as compatible with being ‘together-in-difference.’¹ Whereas the more standard concept assumes self-determination as non-interference, I conceptualize self-determination as non-domination. Principles of non-domination imply relationships between self-determining units and the joint regulation of such relationships. To understand the application of this model, I suggest that we should assume the situation and claims of indigenous people as the norm rather than the exception. This model of self-determination implies federalism as a mode of being together with other self-determining units. Many discussions of federalism, however, assume that autonomous units are large, homogeneously occupied, contiguous territories. Suspending this assumption opens ways of conceiving federal relations as more local, plural, and horizontal.

To illustrate how this concept of self-determination might contribute to imagining alternatives in a situation of group political conflict, I apply the analysis to the situation of Palestine/Israel. I suggest that a vision of

dispersed Jewish and Palestinian jurisdictions, organized in a federal system whose constitution minimizes the possibility of domination may have some advantages over other visions of the region's future. The main purpose of this example is not to make concrete proposals for moving the Palestinian–Israeli conflict toward just peace. The main purpose is to show how the conception of self-determination I propose might fuel the political imagination anywhere that groups are interspersed with one another but claiming exclusive rights to sovereignty over a territory.

INDIGENOUS PEOPLE AS PARADIGMATIC

If we refocus the lens for looking at the normative requirements of self-determination from assuming a large homogenously concentrated people in a relatively large contiguous bounded territory, to understanding distinct peoples as more dispersed and mixed geographically alongside one another, then it is useful to take the claims of indigenous people for self-determination as paradigmatic rather than exceptional. The claims of indigenous people for self-determination have, in the last quarter century, achieved considerable legitimacy in the international community as well as in the domestic politics of many states. Despite the effort of some states to implement policies aimed to accommodate indigenous claims for self-determination, almost no indigenous people anywhere in the world believe they have achieved full self-determination. In an apparent paradox, however, almost no indigenous people take as their political goal secession from the state which now claims jurisdiction over them to establish their own sovereign state. I suggest that if we articulate a concept of self-determination that corresponds to the aspirations of most indigenous people, that this concept can be useful more generally to considering political conflicts that involve peoples who perceive themselves as distinct, but who dwell side-by-side or are interspersed over contiguous lands. Such a concept of self-determination is likely to be more useful under such circumstances, which describe many conflicts in the world, than is the idea of a separate contiguous bounded territory over which the self-determining people has exclusive control.²

Other features of the situation and claims of indigenous people make this a useful paradigm for theorizing self-determination. In every place where the category of indigenous is relatively uncontested, particularly in North and South America, Australia and New Zealand, the indigenous people have suffered histories of serious injustice and domination under colonialism. In most of these places, indigenous people as a group are among the least well off in the society, and continue to suffer discrimination and exploitation. Colonialist and modernist domination have disrupted the

traditional languages and cultural practices of many of these groups, but they nevertheless managed to retain enough of them to engage in projects of cultural renewal when repression lessened. The claims to self-determination that indigenous people make gain some of their legitimacy in the eyes of others from a judgment that this history of domination was wrong and that the current deprived status of most indigenous people, both as individuals and groups, requires their own autonomy to be ameliorated.

Almost nowhere do indigenous people form a territorially concentrated large group. Partly because of traditional nomadic or village band life, and partly because of colonial policies of creating reserves, indigenous people usually live dispersed in relatively small clusters across the territory of the nation state to which they are currently related. Their national identity, moreover, is usually defined in terms of these traditional bands which understand themselves as related to particular locales. Maori in New Zealand, First Nations in Canada, Aborigines in Australia, or Indians in the USA are all political categories which have evolved as indigenous people politically organize with one another in order to protest and engage with the white settler state. In each case, the peoples who claim self-determination for themselves are smaller, dispersed local groups who usually dwell alongside non-indigenous.

Some theorists of nationalism and multiculturalism try to mitigate possible conflict between the claim of distinct peoples for self-determination and the desire of states to maintain control over activities in a territory by arguing that nationalist claims are best recognized through systems of cultural autonomy. On this view, liberal nationalism consists in guaranteeing that national minorities have governing power over the generation, expression, and transmission of national culture – ability to speak their own language without suffering disadvantage, freedom of religion and self-government over religious institutions, the constitution of autonomous schools, and the like.³ On this view of minority rights, self-determination claims do not need to involve control over land and resources. Almost no indigenous people think that institutions of cultural autonomy are sufficient to give them self-determination, important as these are. Their claims necessarily involve control over land and resources, not only because their identities are tied to place, but also because they judge that their material improvement as individuals and groups requires having land and resources about which they as a group make autonomous decisions.⁴

Indigenous peoples' claims for self-determination thus raise the following questions. What does it mean for groups to be self-determining but not on the model of nation-state sovereignty? How can groups that are relatively small, and territorially dispersed among others who understand themselves as belonging to different groups, be self-determining without necessarily ruling over a large territory in which they are concentrated and

from which they have the right to exclude others? How can such dispersed self-determination be recognized, especially when the group requires control over land and resources to be self-determining? How should relations between these groups and the non-indigenous among whom they dwell be conceived?

Let me note one final feature of the indigenous politics of self-determination as it often plays out today. Indigenous claims for self-determination often involve claims for redistribution or subsidy of their governmental and social service institutions, and some states have taken steps to respond to these claims. To be self-determining and for their people to flourish, indigenous people generally insist that the states against which they claim self-determination, and to some extent international institutions, ought to enable the realization of their self-determination rights by at least partly funding their governments and their government services, including bureaucratic staff, equipment, schools, health services and similar public services. Some non-indigenous in the affected states believe this is contradictory: The indigenous people cannot both claim self-determination of cultural expression and economic development and expect the wider society to subsidize their government activities and services. Without such support, however, in many cases the indigenous group would have little means to exercise their rights of self-determination. Thus a final question is: Is there a conception of self-determination in which such subsidy, where needed, is coherent? While this set of questions arises most obviously in connection with claims of indigenous people to self-determination, I suggest that their answers can illuminate the normative meaning of self-determination for most peoples.

Some Palestinian advocates think that their claims of justice might be well furthered by trying to achieve recognition under international law as indigenous people.⁵ I make no judgment about whether this is a worthy political strategy, nor do I wish to take a position on whether Palestinians qualify as indigenous under the current definition of international law.

I am suggesting, as I said above, that the indigenous paradigm is more useful for exploring the question of what self-determination might mean normatively for Palestinians than the nation-state sovereignty paradigm. The situation of Palestinians now residing in Israel, as well as those residing on the West Bank, in Gaza, in East Jerusalem, in Jordan, Syria and Lebanon, has certain similarities with the situation of many indigenous peoples. Many were forced to move during a process of colonization. Israeli regions such as Galilee and the Negev contain predominantly Arab populations adjacent to and surrounded by Israeli Jewish state power and development. Many Palestinians are concentrated in the Gaza strip, surrounded by hostile forces and cut off from many material benefits and freedom to move and associate. Other Palestinians are more dispersed, living in relatively small villages across territories in the West Bank or Israel

where Jews and other non-Palestinians live; or they dwell in neighborhoods and enclaves in mixed cities such as Jerusalem, Tel Aviv or Haifa. Cultural autonomy is an important part of a claim of Palestinian self-determination, and many Palestinians lack cultural autonomy. Like indigenous people, however, Palestinian claims to self-determination cannot be accommodated without autonomy with respect to land and resources as well as culture. The exercise of self-determination for Palestinians, finally, requires redistributive transfers to enable their governmental and social services.

To reiterate, I have discussed the situation and claims of groups referred to as indigenous people because their situation and claims are often taken to be anomalous in international relations. I invoke the example of indigenous people to suggest that their situation and claims appear anomalous only under the paradigm of self-determination as separate and exclusive nation-state sovereignty. This paradigm has been coming under increasing strain both because processes of globalization impinge on sovereignty from without and group rights movements challenge singular sovereignty from within. Thus I suggest that if we conceptualize a concept of self-determination, which responds to the situation and claims of indigenous people, such a concept might serve as a better general paradigm of self-determination. In the two sections that follow, I propose such an alternative concept of self-determination and argue that it implies institutions of horizontal federalism. Then in the final section I will return to the case of Palestine/Israel, to show how this conception of self-determination might guide institutional vision for the region.

TWO CONCEPTS OF SELF-DETERMINATION

Even though many theorists and political actors today question the idea that the realistic response to most claims of nations or peoples to self-determination is to establish a separate sovereign state for each people, most writings on self-determination assume the model of state sovereignty as their paradigm. I refer to this as the non-interference model of self-determination.⁶ On this interpretation, for a group to be self-determining means that it controls a sphere over which others have no authority. The non-interference model makes a strong distinction between inside and outside. The self-determining group dwells inside a single territorial jurisdiction over which self-governing institutions have sole authority. For the group to be self-determining means primarily that outsiders do not interfere with the decisions and actions made by those governing institutions over what goes on inside the jurisdiction.

The non-interference model of self-determination is certainly plausible. Autonomy, whether of an individual or a group, certainly means having the

right to run one's own affairs and to challenge others who try to run them instead. There are, however, several drawbacks to the non-interference model of self-determination. A major reason that groups seek self-determination is to protect against domination by others. The non-interference model fulfills the purpose only imperfectly, however, and sometimes not at all. When enacted, this model protects against the direct interference by an outside agent in the decisions and actions of an autonomous unit. A non-interference model assumes that these autonomous units can be and are properly separate, and need have no interaction other than what they voluntarily enter. As I noted earlier, however, in fact the world's peoples are often geographically mixed, or dwell in close proximity to one another, within physical and social environments that jointly affect them. The peoples who have or claim self-determination are inevitably related to one another. They have numerous economic and social interactions where each affects the others, and each risks being adversely affected by actions of the others because of their relationship. Because agents and groups are often closely related in common contexts where their actions affect one another, and because they are often unequal in resources or power, or both, some of the weaker units may be vulnerable to domination by more powerful units not because they directly interfere, but because they determine conditions under which the weaker party is forced to act.

Forms of domination such as this are common among supposedly sovereign entities in the world today. Arguably, the USA stands in a dominative relation to Mexico, for example, even though the USA only infrequently tries to interfere in the internal processes of Mexican sovereignty. The US government and private organizations based in the USA are able to constrain options both of the Mexican government and many private actors under its jurisdiction just because activities in each society are interdependent, and because the power relationship between the two societies is unequal in many respects.

The non-interference model of self-determination, moreover, does nothing to protect insiders from domination by the governing institutions or by other insiders. A concept of self-determination that means primarily non-interference with the internal affairs of a sovereign government implicitly allows for domination within, to the extent that it forbids outsiders from interfering if they observe such internal domination. Some contemporary human rights theorists worry, for example, that a strong non-interference model of self-determination must turn a blind eye to traditions and practices through which men dominate women.⁷ Inasmuch as most autonomous jurisdictions contain ethnic minorities vulnerable to domination by majorities, moreover, a non-interference model of self-determination implicitly gives such majorities license to dominate internal minorities.

Arguably, a pure non-interference concept of sovereignty has never existed in practice. International law and practices of international governance in the late 20th- and early 21st-century, moreover, increasingly involve forms of transnational authority constraining the actions of sovereign states and forms of negotiation and cooperation between entities within different states. Both theorists and political actors in international affairs nevertheless continue to take non-interference as the primary meaning of the concept of self-determination.

I propose a different model of self-determination, one that puts the objective of mutual respect and the avoidance of domination more at the center. Self-determination means autonomy: the self-determining entity should be able to set its own ends and be able to act toward their realization, within the limits of respect for, and cooperation with, other agents with whom one interacts and with whom one stands in relation. Conceived as non-domination, self-determination entails a *presumption* of non-interference.⁸ *Prima facie*, outside agents should stay out of the business of self-determining units. Because some of these autonomous agents are inevitably related to one another in wider contexts of shared environments, overlapping influence and effect, and in the way they define themselves, a conception of self-determination should take such relations into account. When groups stand together in their difference they must be mindful that sometimes their efforts to enact their own projects may have potentially adverse effects on other agents. Outside agents who believe that the actions of an autonomous agent affect them adversely can legitimately make a claim on the affecting agent to have a right to negotiate with them about the terms of their relations and the actions that may harm them. Self-determining entities need to join a decision-making body to work out procedures for adjudicating such claims and potential conflicts. To the extent that self-determining units dwell together in common environment, moreover, they are liable to face some common problems. What it means to face such problems autonomously, then, is that they have institutions through which they are able to discuss those shared problems and decide on joint actions to address them. Within such institutions, self-determining entities ought to have equal status and mutual respect.

The *prima facie* principle of non-interference in the internal jurisdiction of a self-determining unit may be suspended, then, in order that the common decisions of units be enacted to prevent domination by one of the units of another. Non-interference is also suspended, moreover, in order to prevent some members of a self-determining unit from dominating members internally. The autonomous units who potentially can harm one another by engaging in their own self-regarding activities should participate in a process that decides when such intervention to prevent domination is called for. Promoting self-determination as non-domination, finally,

requires providing positive support for units that are weak or poorly resourced, to a level that enables them meaningfully to pursue their way of life, autonomy, and competence to interact and negotiate with other self-determining units.

INSTITUTIONAL DESIGN IMPLICATIONS: HORIZONTAL FEDERALISM

Under circumstances where distinct peoples or units are spatially, economically, and environmentally interdependent, self-determination as non-domination requires relations of joint governance among self-determining units. Under these circumstances, that is, self-determination as non-domination *entails* federalism. Most generally, federalism designates a system of ‘self-rule plus shared rule.’⁹ In principle, federalism is ‘an attempt to find equilibrium between centripetal and centrifugal forces, between conflicting needs for unity and diversity, for putting together and keeping apart.’¹⁰

The claim that self-determination as non-domination entails federalism means that self-determination isn’t yet realized by a people having a jurisdiction of their own, but also requires having regulated relations with other jurisdictions. *Why* does this understanding of self-determination *entail* federalism? Because the people or unity claiming self-determination dwells together with others – on lands together or next to each other, in a common regional environment of relatively dense social and economic interaction. As together, they sometimes face common problems. They are economically interdependent on issues such as trade, the demand for labor, the effects of production and finance on their people, and in the distribution of resources and opportunities.

Even though interdependent in these and other ways, peoples that dwell together are often unequal in their resource base, wealth, or capacity for asserting their interests. All these factors underlie a potential for conflict between the goals and interests of the units, and they also generate efficiency needs for joint action to address the problems. If these mutually affecting units do not have regulated means of settling conflict fairly; if they do not have ways of preventing interdependence from becoming an unequal dependence; or if they do not have mechanisms for ongoing cooperation; then domination of some of the formally autonomous units by another or others is likely to ensue. Federalism is the general name for governance arrangements between self-governing entities in which they participate together in such cooperative regulation. When one people from one group live in the same territories as others, or when the groups are close, self-governing units cannot be fully self-determining unless the

differently defining peoples participate together in processes that regulate their inevitable and in many ways involuntary relationship.

Federalism is a genus with several possible species. Both theoretical literature about federalism and most existing federations operate with a model influenced by the concept of self-determination as non-interference. They assume that the units of a federation are each single relatively large contiguous bounded territories. In most models of federalism, furthermore, these self-governing units do not relate to one another directly, but rather only through a central federal government in which each of them is represented. The federal rules determine what the powers of the central government are and what the federated units are. In most federal systems, finally, the definition of the powers of each of the self-governing units is the same. Each element of this typical model of federalism can be questioned as necessary to, or most desirable for, a system of self-rule with shared rule that can correspond to a concept of self-determination as non-domination.

Asymmetry vs. symmetry

The last of the conditions I have mentioned has been brought into question by proponents of asymmetrical federalism. A federation is symmetrical when its constitution defines identical rights and powers for each of the constituent units with relation to the central government and to one another. The USA embodies a symmetrical federalism. Canada, on the other hand, has been moving toward an asymmetrical federalism in which the jurisdictional powers of Quebec differ in certain respects from those of the other provinces. Given the historical, geographical or power relationships between some federated units, there can be good reasons to define their jurisdictional powers differently, and/or to define their relationships differently from the federal governance processes. Some people believe that asymmetrical federalism is inherently unfair because it departs from a standard of formally equal treatment. Where there are differences of culture, history, or power among federating units, however, an asymmetrical federalism may in fact be more fair than a constitution that accords the same rights and powers to each unit.

Horizontality vs. decentralization

Typically, systems called 'federal' consist of a constitutional center with limited but overriding power over units that have no formal relation to one another except through that center. Some theorists of federalism argue, however, that this model falls short of the principles of federalism altogether. Ferran Requejo argues that this model confuses federalism with regional decentralization and/or the application of a principle of

subsidiarity. On this basis he takes issue with the claim that the current constitution of Spain is federalist, for at least two reasons: the distinct national groups of the Basque country, Catalonia, and Galicia have the same rights and powers as other autonomous units (symmetry), and the federal government retains control over many important issues, such as taxation, constitutional reform, and judiciary, with the regions implementing directives from the center with some autonomy.¹¹

Daniel Elazar distinguishes what he calls a 'matrix' model of federalism from the more typical center-periphery model. The matrix model is more complex than the center-autonomous locale model. It disperses authority and power among units in networks of different relationships.¹²

We can conceive federal systems with both vertical and horizontal relationships in potential federal systems. Any federal system will have some rules and procedures that govern the relation of the units to the federation in a vertical way. A common or central government needs to implement a federal constitution and adjudicate disputes about its meaning and application. Since many of the reasons for units to stand in ongoing relationships of negotiation and cooperation concern promoting efficient and fair economic relations between units, it is usually appropriate for the federal government to regulate a common currency, and to regulate the terms of inter-unit commerce, including labor markets and labor standards. When groups reside next to, or are interspersed with, one another in a geographic region, finally, they face a common set of environmental conditions which require common regulation. A decentered asymmetrical federalism perhaps need not involve a central authority in any issues beyond these.

For many other issues, units can relate to one another directly without invoking or going through a central federal government. This is what I mean by a 'horizontal' dimension to federalism. Self-governing political units have many reasons to relate to one another directly without going through a center: to resolve some conflict between them that does not concern other units, to work out joint ways of addressing shared problems, to facilitate objectives each of whose realization affects some but not all the others, and so on. Some federations might benefit from instituting principles and procedures that make it easier for units to develop horizontal authorities and agreements.¹³

Large contiguous territories vs. smaller discontinuous territories

Federated systems, finally, need not assume that the units of self-determination are relatively large, contiguous bounded territories, as in, for example, the German federation. Small units such as cities, towns and neighborhoods can count as self-governing units that are nested within federal constitutions which regulate their relationships with one another.

Some urban theorists in the USA, for example, advocate forms of metropolitan governance along lines of horizontal federalism between the dozens or hundreds of jurisdictionally distinct municipalities in a metropolitan region. Rather than bring these jurisdictions under a single centralized authority that would override their local decisions, they call for regularized systems of negotiation and cooperation between municipal units.¹⁴ I noted above that the residential patterns of many multiethnic regional contexts involve groups whose members reside in dispersed towns, villages or neighborhoods surrounded by, or next to, towns and neighborhoods, the majority of whose members identify with different groups. In keeping with these facts, it is possible to conceive a unit jurisdictionally constituting a self-determining people as itself not a contiguous territory, but rather a set of discontinuous locales in between which lie locales that belong to other self-determining jurisdictions.

APPLICATION TO PALESTINE/ISRAEL

I suggest that the distinction between self-determination as non-interference and as non-domination, along with institutional possibilities of federalism that follow from it, offers a framework for conceptualizing institutional possibilities for the context of Palestine/Israel. Before I delineate how, let me explain the status of such an account. As the title of this article indicates, I offer non-domination as a normative ideal for interpreting self-determination. Ideals sometimes guide thought and action by jogging the political imagination away from unexamined assumptions, and by enabling a critical distance from existing facts, so they can be better evaluated. This is all I hope that the account below might do for those thinking and working for justice and peace in Palestine/Israel. What I offer is not a political program or an institutional design; this level of analysis is more abstract than that required by institutional design. Much less can this account be taken as a 'peace plan'.

The most that I can claim for this application of the ideas laid out in previous sections of this article is that it may help political actors both inside and outside Palestine/Israel conceptually sort out alternatives among institutional possibilities. The theoretical distinction between a non-interference and a non-domination model of self-determination suggests that there are three primary ways to conceptualize political institutions and change in Palestine/Israel from the current situation of occupation and resistance: (1) two separate sovereign states; (2) a single secular individualist state for the region; (3) a federation of self-governing units. While the first two each represent important normative principles, both have problems, I suggest, that derive from their assumption of the paradigm of a unitary

state. I will argue that the third alternative serves as a better ideal of self-determination for both Palestinians and Israeli Jews under a paradigm of non-domination.

Two separate sovereign states

The most commonly expressed vision of the future of the region today calls for establishing a Palestinian state in the West Bank and Gaza, and perhaps including East Jerusalem, though positions differ on this question. This Palestinian state would exist independently of, and alongside, the state of Israel, which will return to its pre-1967 borders. Ideally, the territory of each state would have clear borders, and a contiguous territory, so that a citizen of one need not cross the territory of the other in order to reach another part of his or her own state. Some provision would have to be made for a 'corridor' between the West Bank and the Gaza strip for this ideal to be approximated in Palestine. Each state would have sole jurisdiction over what goes on within its territory, and the right to tell outsiders not to interfere with its sovereign actions. Israel and the international community would recognize the Palestinian state as sovereign, with the same status as other sovereign states.

I support the establishment of a Palestinian state. Whatever the institutional arrangements that may be most just and desirable in the long term, a necessary step toward those arrangements is that Palestinians in the occupied territories, as well as many of those now in the Palestinian diaspora, should exercise more self-government and have greater legal authority over land and resources. Most articulations of the two-state solution to the conflict between Israel and Palestinians, however, assume a model of self-determination as non-interference, which implies being separate. They tend to assume that each people can have sovereignty over a territory of their own, where they can promote the economic development and cultural expression of their distinct people, and that the conditions of their self-determination can be fulfilled by asserting that outsiders should not interfere with their internal business. This image of clearly separate sovereign states relating to one another only as neighbors and through formal bilateral agreements is hard to square, however, with the existing reality that Palestinians and Jews dwell so thoroughly among one another, and that the current terms of their relationships are profoundly unequal.¹⁵

The two separate sovereign state image of the future of Palestine/Israel does not adequately address the spatial togetherness of the two groups. Palestinians dwell in Israel in towns or neighborhoods adjoining those of Jews; currently hundreds of thousands of Jews live in settlements in the occupied territories. The territories envisioned as belonging to each group, especially to the Palestinians, are not contiguous, and the city of Jerusalem

is a contested space claimed by both. Of course, these present facts result from a history of domination and expropriation of Palestinian territory by Israel. Nevertheless, they would be difficult to reverse entirely, and at this stage a partial reversal could leave Palestinians even worse off. Recent announcement of an Israeli policy of 'disengagement' from Palestinian territories has prompted cries of outrage, among other reasons because such an effort at separation by the more privileged party would leave Palestinians imprisoned without opportunities for flourishing, rather than self-determining.

Palestinians and Israelis are similarly affected by the natural environment of the region, its weather and shortage of water. They are also economically interdependent, but on an unequal basis. Creating a Palestinian state in the West Bank and Gaza, and declaring that state sovereign, which is to say that it exercises a right of self-determination as non-interference, does little to address the deep and unjust inequalities between Israel and the Palestinians. Can a Palestinian state be viable when Israel continues to dominate military and police power over lands adjacent to and separating the Palestinian territories? Given existing inequalities of power and technical knowledge, how can a Palestinian state alongside Israel be assured of fair access to water? Shouldn't Palestinian workers be able to move freely in the region to go to work, including into Israel? In order that the Palestinian economy develop and the Israeli economy flourish, don't trade and investment opportunities need to be facilitated on a region-wide basis?

The creation of a Palestinian state, furthermore, does not address the situation and aspirations of Palestinians living in Israel, who comprise more than one-fifth of its citizens. Unless they would be willing to move to a Palestinian state outside Israel, which polls say most of them are not, having the two states absolutely does not lift the burden of inequality and domination they currently suffer in Israel. Palestinian citizens of Israel suffer many kinds of discrimination, and have limited freedom of association and cultural expression. Some have had their lands taken by the state and their houses demolished, and others suffer different indignities at the hands of both the state and private organizations. Of course, demands should be made on Israel to respect the rights of all its citizens, and Palestinian citizens are not the only minorities arguably treated unfairly in Israeli society. Because many Palestinian Israelis have or desire personal and political connection with Palestinians now living in the occupied territories, as well as with those living in Jordan, Lebanon and Syria, Palestinian institutions from which they are entirely separate sit poorly with their aspirations for connection with the Palestinian project of self-determination.¹⁶ In this connection, most articulations of a plan of two separate states do not respond to the aspirations of Palestinians now living outside either territory to return to those territories.

A singular secular state for Palestine/Israel

We can imagine a completely different form of political institution for this region, one that certainly recognizes that the peoples living in the region now live closely among one another in many locales. There might be a single political unit covering the territory that is now Israel along with the territories Israel occupied in 1967, but one belonging to no particular nationality or religious group. This single state would be secular and individualist. All members would have equal and identical rights, and law and social policy would give no recognition to groups.

A secular individualist state in what is now Palestine/Israel has been the dream of many people who care about this conflict since before the founding of Israel. With the establishment of a separate Palestinian state apparently on hold, discussion of a singular secular individualist state has revived to some extent.¹⁷

That all members of a polity should have equal civil and political rights is a basic principle of morality and international law, and a secular individualist state is arguably the most direct way to institutionalize that principle. At least at this point in the history of conflict in the region, however, this is a problematic alternative just because it recognizes only individuals and gives no status to peoples. Some Jews, both inside and outside Israel, find this suggestion an anathema because they understand it as the elimination of Israel as a state for the Jewish people.¹⁸ Insofar as this alternative gives no specific recognition to groups or to the aspirations of peoples to self-determination, they are right. Peoples, such as the Jewish people and the Palestinian people, have a legitimate claim for a social and political means to govern themselves in their own ways and to enact public expressions of their history and culture as a people. The humanist vision of a secular individualist state conflicts with these goals. Each people has some grounds for their fear of being oppressed as a group with such a nominally neutral state, moreover – Jews because they would soon be a minority, and Palestinians because Jews would begin with greater power, wealth and privilege.

Bi-national federalism

The second of the above alternatives denies expression to the claim of a people for institutional expression to self-determination. The first alternative recognizes claims of self-determination, but does so in an exclusionary way that fails to respond to interdependence and relations of domination. Institutions implementing an understanding of self-determination as non-domination offer a third conceptual alternative. In this application, we envision a distinct political unit or units for the Jewish people and the Palestinian people. Each unit or set of units exercises political, cultural and

local resource autonomy. As I imagine this alternative, it does not involve two and only two units, one Palestinian and one Jewish; rather it imagines a number of smaller and dispersed Palestinian- and Jewish-identified units, as well as some that are identified only by locale. Citizens of each, however, whatever their group affiliations, have equal civil and political rights additionally within a system of shared rule in which the units participate. The purpose of a federated level is to constitute and maintain regular procedures through which units negotiate their ongoing relationships, in order to limit the possibility of some dominating others and to promote the benefits of cooperative action and economies of scale. Over the last 50 years there have also been discussions about federal solutions for conflict in the region, though most of these have presumed meanings of federalism which I have brought into question in the previous section.

In the previous section, I put into question the image of federation that assumes its units as large, contiguous territories each of which has the same rights and powers. A federated system of Israeli and Palestinian jurisdictions might be best envisioned also as challenging these assumptions. Some alternative imaginings about Palestine/Israel propose shared rule over Jerusalem, which would constitute a distinct jurisdiction with specific rights and powers not symmetrical to, or falling under, the jurisdiction of either the Israeli or Palestinian state.¹⁹ One articulation of this idea of a district of Jerusalem envisions a metropolitan federation of local self-governing districts peopled mostly by Jews or Palestinians, and each giving expression to the self-determining desires of those peoples.²⁰ A more general vision of federation between Palestinian and Jewish units in the district of Palestine/Israel cannot imagine simply a vertical relation between local and federal institutions. Instead, locally self-governing towns or districts coming under Palestinian jurisdiction would need to engage in relations of cooperation and negotiation with neighboring local towns or districts coming under Israeli jurisdiction.²¹ Such interspersed federated discontinuous local districts would extend over the breadth of what is now Israel and the occupied territories. Insofar as they might have direct relationships, they would be enacting horizontal federalism of the sort I have discussed above.

Envisioning self-determining units as relatively small, the size of municipalities or metropolitan areas, and horizontally related to other such units, has an additional normative advantage. Units that begin such a relationship understanding themselves as representing distinct peoples might evolve more sense of mutual identification over time because they interact about problems they face together or establish cooperative relations around specific issues or interests. Whereas self-determination understood as state sovereignty and non-interference tends to reinforce closed and essentialized national identities, self-determination as non-domination can be more open to change and fusion, as developed voluntarily by people who live and work in close proximity.

The conception of self-determination as non-domination applies in principle, in my view, to the entire world. It implies that sovereignty as non-interference is not the appropriate principle for any of the world's peoples, and thus implies that the existing states of the world, as well as peoples claiming self-determination but who do not have states, ought to develop more integrated institutions of cooperation both at local, regional and global levels. Self-determination as non-domination can be fully institutionalized in one place only if it is institutionalized in others.

A scenario of self-determination as non-domination for Jews, Palestinians, and others in Palestine/Israel thus cannot be isolated from an imagined future for the wider Middle East region. The state of Israel that defines itself as a Jewish state currently exercises inexcusable domination of Palestinians both inside Israel and in the occupied territories. When we widen the lens to include the entire mid-east region, however, it is the Jewish people who appear vulnerable to domination by an Arab majority. The fates of all the peoples in the region are necessarily linked by factors such as environmental conditions and economic interaction. Stable institutions of self-determination for both Jews and Palestinians in this region ultimately would seem to require establishing federated institutions of conflict resolution and cooperative action among several of the now existing states in the region together with a reconfigured set of autonomous units in Palestine/Israel.²² Regional autonomy in such wider federated relationships would have to support the autonomy and prosperity of predominantly Jewish self-governing units alongside predominantly Arab ones.

The question of the right of Palestinians displaced in the way that created Israel to return to their homelands is difficult for any of these three options to face. It is perhaps the least vexing for the singular-state alternative. Any institutional arrangement for the future of Palestine/Israel should recognize the Palestinians in Jordan, Syria, Lebanon and in the occupied territories who were, or whose parents and grandparents were, forced out of their homes. I have no wisdom to offer here about what this should mean in practice. Insofar as a vision of horizontal federalism might and should be extended beyond Palestine/Israel to the entire mid-east region, however (as well as in principle to other parts of the world), self-determination as non-domination might also offer resources to imagine ways that Palestinian refugees can claim their rights of relationship to other dispersed Palestinians.

CONCLUSION

The primary purpose of this article has been to explain and defend the moral value of a conception of self-determination as relational autonomy

or non-domination, as against the still more accepted principle of self-determination as non-interference. Because of the dense interrelation of Palestinian and Jewish peoples in the lands of Palestine/Israel, I find this conception particularly apt here for trying to imagine alternative institutional possibilities. Conflicts among peoples all over the world, however, often involve similar spatial and economic interdependence that require imagination of autonomy without separation. Most of these proximities, and unequal relations of interdependence, also result from histories of unjust domination that should be recognized, but cannot be completely undone. The question is now how to afford peoples, who consider themselves distinct, self-determination while limiting their ability to dominate others and enabling their ability to cooperate.

The alternative I have imagined for Palestine/Israel is not a political proposal. Political actors involved in the conflict themselves must develop those. Despite the rigidity of some leaders and other political actors both inside and outside the region – and not least the leaders of my government, the US – there is nevertheless hope for change because both Palestinian and Israeli participants in civil society have been working across the divide to try to offer new possibilities for peace.

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Notes

- 1 I take this phrase from my essay, 'Together in Difference: Transforming the Logic of Group Political Conflict,' first published in Will Kymlicka, ed, *The Rights of Minority Cultures* (1995). See also my book *Inclusion and Democracy* (2000), Chapter 6, for an articulation of a model of local governance among differentiated but not exclusive groups, which there I call 'differentiated solidarity'. Compare the idea of differentiation in togetherness that Julie Mostov refers to as 'soft borders' (2003).
- 2 I discuss the claims of indigenous people in more detail and the concept of self-determination that I think best corresponds to this claim in my essay, 'Two Concepts of Self-determination,' (2001). See also discussions of indigenous politics in Keal, 2003; Williams, 1999; Wilmer, 1993.
- 3 For an articulate expression of this position, see Tamir, 1993.

- 4 Jacob Levy points out that theorists of multiculturalism and cultural autonomy often bracket the question of land rights; see Levy, 2000, Chapters 6 and 7.
- 5 Amal Jamal, 'Politicizing Indigeneity: On the Morality of Arab Collective Rights in Israel' (n.d.).
- 6 I develop this account of self-determination in earlier writing. See 'Two Concepts of Self-determination,' (2001) and *Inclusion and Democracy* (2000), Chapter 7.
- 7 Okin, 1999.
- 8 I derive the distinction between self-determination as non-interference and as non-domination from Philip Pettit, *Republicanism* (1997); Pettit's theory concerns freedom for individuals only; I extend the distinction to conceptualize autonomy for peoples.
- 9 Elazar, 1987: 12. For additional conceptual accounts of federalism, see Guibernau, 1999; Smith, 1995.
- 10 Requejo, 2001: 182.
- 11 Requejo, 2001: 182.
- 12 Elazar, 'Autonomy in a Post-statist World, introduction to Elazar, 1982; see also Elazar, 1987, Chapter 2.
- 13 Compare Baubock's (2003) 'Political Boundaries in a Multilevel Democracy'.
- 14 See Frug, 2001, Chapter 6.
- 15 The discussion that follows of problems with most versions of the two-state solution has benefited from reading the 'Proposal for an Alternative Configuration in Palestine-Israel' (Alternative Palestine Agenda, n.d.), www.ap-agenda.org, accessed 4 October 2003.
- 16 For details on the situation of Palestinian minority in Israel, Adalah, 1998; Rouhana, 1997; Sultany, 2003; Yonah and Saporta, 2002.
- 17 For example, Abummah, 2003; Da'Na, 2001; Freidman, 2003; Khalidi, 2003; Lazare, 2003; Rabkin, 2003. While he refers to his alternative as binational, Tony Judt's vision appears to me of a singular, secular, individualist state; see Judt, 2003; my reading leads me to think that two different visions come under the general label of 'binationalism' in current discussions about the future of Palestine/Israel, corresponding to two of the alternatives I state here, one a singular state, the other a more federated conception. Responses to Judt by Omer Bartov, Abraham Foxman, Amos Elon and Michael Walzer appear in the *New York Review of Books*, 50(19).
- 18 See, for example, Esteron's critical response to Judt's article (2003).
- 19 Alternative Palestinian Agenda (n.d.).
- 20 Yiftachel, 2003, Chapter 13, 'Proposal for a Bi-national Capital Region for Jerusalem/Al-Quds'.
- 21 The Alternative Palestinian Agenda's 'Proposal for an Alternative Configuration in Palestine-Israel' (n.d.) contains thought-through details about discontinuous jurisdictions and how they might relate to one another. In one of his columns arguing against the idea of separate sovereign states of Palestine and Israel, Edward Said mentioned that enactment of a right of self-determination for the groups might best be realized in 'federated cantons,' but he gave no details (Said, 1999).
- 22 Jeff Halper (2002) argues for region-wide confederated system in the Middle East that might function like the European Union; individuals would hold

citizenship in one unit, for example, but be able to move freely among and reside in other units.

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IRIS MARION YOUNG is Professor of Political Science in the Department of Political Science, University of Chicago. Address: Department of Political Science, University of Chicago, 5828 S. University Avenue, Chicago, IL, 60637, USA. [email: iyoung@uchicago.edu]