

Redeployment and Hare Krishna

In recent years, Israel has redeployed its troops from the Sinai, the Jordan Valley, Lebanon, and—if Assad had been willing to accept our gift—the Golan. (At this writing, Arafat, following Assad's model, has refused to accept Israeli gifts of almost 90% of Judea and Samaria, plus a very generous arrangement over Jerusalem—but we will yet pressure him to accept our largesse.) Since redeployment, after all, is just another name for retreat, historians will ponder how it came to pass that a strong and intelligent people came begging to its sworn enemies to accept from it land, arms and prestige.

In the beginning, the retreat was a spiritual one: first came secular Zionism's withdrawal from faith in Jewish history and Jewish destiny, from the idea of a unique Jewish peoplehood with a special mission in the world—a mission in which the Land was a major component. Once the spiritual retreat took place, the territorial retreat could not be far behind.

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There are many facets to today's physical and spiritual redeployment. Here, however, however, I discuss just one aspect of this phenomenon of Israel's de-Judaization.

The catalyst for this discussion is a Letter to the Editor in this issue (see Communications). The letter-writer takes mild issue with my characterization, several columns ago, of the Israeli Supreme Court as being anti-religious. Whether or not the label is accurate, a look at this Court's view of Jewishness and Judaism offers an insight into the moral and intellectual malaise that affects secular Israeli life today. Legislative and executive bodies come and go, but the impact of Supreme Courts affects the future in ways more lasting than any other branch of government.

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Let the obvious be stated: in the scale of important benchmarks of the Israeli Supreme Court, Judaism as a religion, or even the Jewish character of the state, does not hold pride of place. That place is held by "universal democratic values," and wherever such values conflict with Judaic values, it is the latter which must give way. True, this per se does not make Chief Justice Aharon Barak (no

relation to Prime Minister Ehud Barak) or his court “anti religious,” but the overall judicial trend in the court and the legal philosophy of its hyper-active Chief Justice is expressed in his well-known formulation of his judicial philosophy: “the values of the state of Israel are those universal values common to members of democratic society.”

Where, one might ask, does the term “Jewish” fit into this schema for the state of Israel? Barak has written that the phrase “Jewish state” should be “given meaning on a high level of abstraction . . . a level so high that it becomes identical to the democratic nature of the state.”

Once the rhetorical fog is pierced, this says that Justice Barak’s ideal Jewish democratic state is emptied of anything specifically Jewish, and that its Jewish component is only of value to the extent that it is fully harmonious with, and identical to, “democratic.” Plainly stated, the classical and unique Jewish character of the state is of little concern. What is of concern are those values that are common to democracies like the USA, Canada, and England. To be sure, democracies have historically been protective of Jews, and for this, Jews are eternally grateful. But they are not Jewish states. In Justice Barak’s view, apparently, Israel need be no more Jewish than the USA, Canada, or England. (For a more detailed discussion, see chapter two of Yoram Hazony’s valuable new book, *The Jewish State: The Struggle For Israel’s Soul*, which provides the overall historical background for modern Israel’s loss of backbone.)

In order to appreciate the fear and trembling with which the traditional religious community views this Court, take this theoretical view of Israel and mix it with Justice Barak’s statements about the need to “socially re-engineer” Israeli society. One does not require *ruah hakodesh* to predict the direction in which he would like to re-engineer this society (not to mention that the proper role for the judiciary is to dispense justice and not to set out to re-engineer anything).

This is particularly troublesome because in Israel the Chief Justice possesses unusual powers, more so than in the U.S. Supreme Court. Appointments to the Israeli Supreme Court are not made with the advice and consent of the other branches of government. Justices are appointed by a committee dominated by the Court itself. In effect, the Chief Justice appoints those who serve on the Court, with no checks and balances that might affect his choices. Thus we have the following volatile brew: a self-perpetuating system; a Court for whom universal democratic values take precedence over Jewish values; a highly activist Court that knows not the mean-

ing of restraint or discretion, and that has taken upon itself the role of shaping the future character of the state.

In sum, this Court considers itself to be the final arbiter of all aspects of Israel—legal, moral, religious, cultural. Its power and self-asserted authority go far beyond that of high courts in the USA or in Europe. It is not only a judiciary; it has also arrogated unto itself the role of a legislature.

It is in light of this that one should view the monotonous consistency with which the Court strikes down regulations and rulings designed to maintain the unique Jewish character of the state. Thus the Court, instead of doing what courts should do—attempt to heal the divisions that rend the fabric of society—has become a polarizing influence that rends that fabric even more. And it is against this background that one should view the mass gathering in Jerusalem last year of some 250,000 Orthodox Israelis who protested the Court's rulings. Its purpose was not—despite the railings of the establishment media—to intimidate the Court; rather, it was a *cri de coeur* of a polarized minority whose Jewish sensibilities are regularly ignored by the Court. In the hands of this Court, it was felt, the scales of justice are not balanced, and subjective opinions too often take the place of reasoned legal briefs.

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This is not just theory; it has practical implications. Because Jewish ideals take second place to other ideals, a pattern of skewed decisions has emerged in the recent past.

Thus the court has found against the recommendation of the Prison Service and of former President Weizmann to shorten the sentence of Yoram Skolnick, a Jew convicted of murdering an Arab, but has deemed it acceptable to release Arab murderers as part of Israel's democratic obligations under Oslo.

Thus it is legal for teenage homosexuals to be featured on Israeli Educational TV, but it rejects a petition to court-martial a soldier who had delayed entering a firefight because he was ideologically opposed to our presence in Lebanon.

Thus the Jewish Agency was enjoined from using Jewish funds raised world-wide to build exclusively Jewish communities; but in its recent Rehovot ruling, the same Court bucked the Rehovot City Council, the Interior Ministry, and the Attorney General, and created new rules which effectively bar religious Jews from constructing communal buildings beyond their established neighborhoods.

No one was surprised when the Court forced the government to allow the importation of non-kosher meat, something that had always been prohibited by administrative regulation, or when it required rabbis, when dividing property in divorce settlements, to be guided by secular rather than Jewish law.

Further, it was a foregone conclusion that the Court would force area religious councils to seat non-Orthodox members. (That it is ludicrous for non-Orthodox individuals, whose ideological movements are lax about *kashrut* or do not practice *mikveh*, to oversee *kashrut* and *mikvaot* among other communal *mitsvot* did not impress the Court in its relentless drive toward democratic principles; nor did it violate their sacrosanct ideal of "reasonableness.")

And it was obvious that the Court would find it illegal for Jews to pray on the Temple Mount, while permitting women to pray at the Western Wall in a manner unbefitting the traditions of that Wall. (The mere fact that a secular court should involve itself in matters with which it is wholly unfamiliar—such as prayer or the sanctity of the Wall—is itself indicative of its reach for power into areas foreign to its domain.)

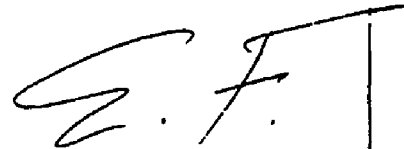
Lovely legal packaging wraps each of these decisions in neat designs of juridical logic, but a clear pattern emerges: The "enlightened community's" values invariably override Jewish values—which, in the eyes of the Court, are obviously un-enlightened and benighted. Even on matters not involving religion but involving national interests has the Court ruled against the State. For example, certain interrogative methods used by Israel's security forces against terrorists have, predictably, been banned.

One shudders to think how the Court might rule if some of the current trial balloons being lofted by Israeli secularists—to re-evaluate the Law of Return, or to de-Israelize the flag and *Hatikva*—ever lands on their docket. One can only pray that groups like Hare Krishna or Jews for Jesus will never petition the Court to hold religious services at the Wall. Who can know what the decision will be? The Supreme Court, after all, shares the same secular mind-set that sees no problem in an army code of conduct denuded of any reference of loyalty to the Jewish people, Jewish history, or Jewish destiny; and that is quite content with the new textbooks in the nation's schools that "demythologize" the valor and bravery of Israel in its wars against the Arabs. Such a mind-set can hardly refuse, in its avid pursuit of humanistic values, to give Jews for Jesus a place of honor at the *Kotel haMa'aravi*.

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The true danger to the future of Israel, with fearful ramifications for the Jewish people worldwide, is not the establishment of a Palestinian state, nor the danger posed by the Palestinian 40,000 man "police force," (up from the 7,000 of the Oslo accord), nor the hostility of Israel's peace partners. The real danger, exemplified by its Supreme Court, is the secular rush to abandon Jewish uniqueness, the drive to become *kekhol haGoyim*.

Whether the Court is or is not anti-religious is not the issue. The real issue is the Court's conscious redeployment from classical Jewishness of any kind. It is this that can lead to the re-engineering of an Israel that everyone will rue.

A stylized, handwritten signature in black ink, consisting of a large, sweeping 'E' followed by a smaller 'F' and a dot.

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