

Correspondence

A Constitution for Israel

TO THE EDITORS:

In writing in favor of a constitution for Israel, Ruth Gavison (“A Constitution for Israel: Lessons from the American Experiment,” *AZURE* 12, Winter 2002) deserves praise for good intentions, but her plan is ill-conceived.

First of all, Gavison’s aim is to curtail the power of the Supreme Court. While that is a worthy aim, the Knesset is already fully capable of limiting the court’s power through legislation. That the Knesset does not do so is the heart of the problem. The same politicians who are unwilling to take on the Supreme Court through the legislative process are hardly more likely to do so in a constitutional convention.

Secondly, with the possible exception of Members of Knesset Michael Kleiner, Yuval Steinitz, and Natan Sharansky, there is not a Madison or Jefferson among them. It is worth bearing in mind that the last piece of constitutional legislation which the Knesset passed, the repeal of the direct election of the prime minister, essentially amounted to a disenfranchisement of Israeli voters. And when

current defense minister Binyamin Ben-Eliezer campaigned for the Labor Party in 1992, he had no qualms about declaring, paradoxically, that in the name of democracy we must eliminate the small parties in the Knesset. To politicians like these, democracy means nothing more than the ability to steamroll one’s political opponents. Today’s political leaders in Israel are experts at ordinary politics, and they will not part with their power in the name of higher constitutional ideals.

Finally, the United States of 1787 is vastly different from Israel of 2002. America had no functioning national government in 1787—a crucial fact which Gavison buries in a footnote. True, America resembled today’s Israel, in that it was a besieged nation surrounded by enemies. But the United States at the time had no army, while Israel does. Shays’ Rebellion underscored the confederation’s inability to regulate commerce and banking or to keep internal peace. Israel can do all these things. In writing a constitution, America was not merely seeking redress of certain dangers to effective government; America had no effective government, and had to establish one quickly or cease to exist.

Gavison attempts to explain why the United States Constitution succeeded, but she misses the real reason: Americans had a unified vision of themselves. They had fought England's King George III and forged a national identity as the nation of liberty. That is how they were able to create a government that Lincoln later recognized as being "of the people, by the people, and for the people." Israelis have yet to come to terms with the fact that they, by contrast, are a confused, lost nation, which is as a result incapable of producing as successful a government and constitution for themselves as the American equivalents are for America. Where the Americans did fail—mainly in matters of slavery and civil rights—it took many painful years to solve the problems, and the process is not yet complete. The solutions written into the constitution, which were arrived at through the give-and-take of ordinary politics, failed. And our own Israeli practitioners of petty *shteeble* politics on the national level will ensure that Gavison's plan never unfolds as she envisions.

Ariel Hirsch

Beit El

RUTH GAVISON RESPONDS:

It may well be that Israel is too rifted at the moment to allow for an

adequate constitution. Too many groups hope that keeping all political decisions at the level of ordinary politics will give them more political power than an entrenched constitution.

My argument is that Israel needs a constitution precisely because it is so rifted: The constitution is needed to provide the different groups, which have inconsistent and incompatible visions of what Israel should be, with a shared political framework within which they can promote the policies that all of them need in order to flourish. The shared framework will give them the security of fair membership in their society, while permitting them to use their political power to promote their distinct interests and visions of the good life. A shared constitution neither requires nor rejects, in abstract principle, arrangements such as a presidential system or judicial review by the Supreme Court. It seeks to give Israel effective government by authorities which should enjoy broad legitimacy within society.

If Israel wants to take the path of effective constitutional politics, *The Federalist* and the American experience can be a source of guidance about how to proceed. An adequate constitution for Israel cannot ignore the deep rifts within it. Rather, it needs to facilitate the crucial distinction between the interests of the factions and

the interests of Israel as a civic nation. The latter include the attempt to create a power structure that will meet the basic needs and rights of all major groups within Israeli society.

Assimilation and Secular Judaism

TO THE EDITORS:

Reading Levi Eshkol's 1967 speech ("Can a Homeland Be Built in Shifts?" *AZURE* 12, Winter 2002) together with Jeff Jacoby's review of Samuel Freedman's *Jew vs. Jew* ("Assimilation's Retreat," *AZURE* 12, Winter 2002) is telling—and painful.

In September 1967, Eshkol addressed a crowd of 6,000 young Jews from around the world who had come to the Jewish state as volunteers at the time of the Six Day War. In Israel's moment of need, they put their lives on hold and rushed here to do whatever they could. Some 35 years later, Samuel Freedman writes of the Orthodox community's success in the United States and the struggles between the increasingly traditional and increasingly assimilated ends of the American Jewish spectrum.

According to Freedman, the various contingents in American Jewry have spent the last decade or two working out their versions of a secure,

comfortable existence. Orthodox Jews celebrate as Jewish day schools flourish, Oreos become kosher, and kosher hotels open at Disney World. At the other end, assimilation is more comfortable than ever—both for Jews less interested in tradition and for the greater society that seems more open to Jews than ever: Barriers to intermarriage are all but gone, the entire country loved Jerry Seinfeld, and rabbis can be included on interfaith panels discussing a variety of issues. American Jewry's "golden age" has arrived.

Meanwhile, a battle is being waged for the land of Israel. Palestinians are galvanized for what they perceive as an imminent victory over Zionism, while Israeli citizens report for reserve duty and mourn their dead.

This is not to say that American Jews are not concerned about Israel. In kosher pizza shops across America worried American Jews discuss "the situation" in Israel. "Israeli public relations are abysmal. We look terrible." To which the response is: "You're right. Pass the garlic salt, please." U.S. Jewry from all ends of the spectrum talks, supports—and cancels trips to Israel. *Aliya?* It is not even an issue. Why should it be? The Israelis will guard the shop. They'll battle the Palestinians.

Israelis will maintain the Jewish state while American Jewry eats

Oreos and attends interfaith dialogue panels.

Why should anything change? American Jewry never really stood up to the challenge of Jewish statehood and independence. Instead, definitions were blurred and well-organized fundraising frameworks were created. Funds were and still are important, and no community has been as consistently generous. However, there is a time and place for everything. While Israeli Jews try to maintain and defend Jewish statehood, it seems absurd for American Jewry to ignore the real challenges. Of course, it was absurd two years ago as well. But now with “the situation” the way it is, the lines of separation seem clearer between the Israeli reality and the surreal golden existence of American Jewry.

The Israeli Declaration of Independence called on “the Jewish people throughout the diaspora to join in the tasks of immigration and upbuilding and to stand by us in the great struggle to realize the age-old dream: The redemption of Israel.”

Speaking in 1967, Eshkol declared: “We need more Jews here.... Now, after the great war, the awakening and the exhilaration, after the electric jolt that has coursed through the Jewish world, thousands and tens of thousands of *olim* should come to Israel.

We cannot possibly resign ourselves to the immigration of a few thousand, who could offer little help if a new war were to arise, one that might be more trying and bitter than the Six Day War. If, heaven forbid, our strength failed us, your children would have to ask: ‘You had a land, you had a country, you had wars, you defeated the enemy, but what has become of Israel?’ It was given to you in trust, but you did not know how to keep it.”

The choices seem so clear. Do we take part in the heroic experience of ensuring and creating Jewish sovereignty or do we delude ourselves while eating kosher at Disney World?

Stuart Schnee
Jerusalem

TO THE EDITORS:

Jeff Jacoby’s statement that six weeks before he died in 1994, Irving Howe conceded that the secular Judaism he had so prized was doomed is a muddle. First, Howe had no opinions on this or any other subject at that time because he died on May 5, 1993. Second, Howe would never have used the term “secular Judaism” because he made a point of distinguishing sharply between Judaism and Jewishness. Third, he had already given up on secular Jewishness in 1977

after reading Hillel Halkin's *Letters to an American Jewish Friend*.

Edward Alexander
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Not Normal

TO THE EDITORS:

In "Not Normal" (Editorial, AZURE 11, Autumn 2001), Assaf Sagiv agonizes over the desire of many Jews for "normalization" of the Jewish people. He lists several factors that contribute to this phenomenon, among them "the deep rifts that have emerged in Israeli society" that "led many Israelis to doubt the idea of a unified 'Chosen People,' which has come to be seen as reflecting a kind of religious fundamentalism or nationalist chauvinism."

But where do these doubts come from? Sagiv correctly notes that "the belief that our people is slated for a particular calling, to be 'a kingdom of priests and a holy nation,' has been the cornerstone of Jewish identity in all its forms, from the time of the Bible to the modern era," and that "the idea of the Jews as a special, unique, 'chosen' nation cannot be erased from Judaism." But the expressions that Sagiv uses are clearly religious, or at least had religious meaning

in their original context. Priesthood and sanctity are patently religious concepts. The idea of chosenness originates in the declaration by God to the people of Israel, "You shall be my treasured possession among all the peoples," (Exodus 19:5) and therefore pertains to the special relationship between the people of Israel and God. Chosenness is chosenness *by God*—as can be seen, for example, in the following verse, which binds together all the above-mentioned concepts: "For you are a people consecrated to the Eternal your God: the Eternal your God chose you from among all other peoples on earth to be his treasured people." (Deuteronomy 14:2) Sagiv wants to translate the idea of chosenness into secular language and to speak of "a spiritual community... [that] has always accepted upon itself a sense of mission... and moral excellence" or of the "dream of spiritual and moral elevation... of an ethos of excellence and a clear sense of moral purpose."

But how are the aspiration to excellence (which is certainly commendable, but not necessarily religious) and the belief in a shared destiny (which according to Sagiv is shared by many peoples) connected to the religious, particularist values of priesthood and sanctity? Is this translation possible, and can it at all be justified?

A number of essays appearing in AZURE have made just such an attempt to translate the values of Jewish tradition into a form that will be meaningful to the non-Orthodox reader. Examples include Yoram Hazony's essay on disobedience in Jewish tradition ("The Jewish Origins of the Western Disobedience Tradition," AZURE 4, Summer 1998), and Yosef Yitzhak Lifshitz's essay on the Sabbath ("Secret of the Sabbath," AZURE 10, Winter 2001). Yet before attempting such a translation, it seems necessary first to discuss its methodology, its justification, and its meaning. There exists an enormous range of opinion, from Yeshayahu Leibowitz's conviction that such a translation is impossible, to Ahad Ha'am's belief that traditional values could be totally secularized, continuing with Haim Nahman Bialik and A.D. Gordon's attempts to bring religious elements into their secular world, and concluding with R. Abraham Isaac Kook, who translated in reverse, finding the sacred in apparently secular values. It is fair to assume that if the question is taken seriously, many more answers will be produced.

A deliberate ambiguity on this issue may have its advantages, but a price is paid as well. Because Sagiv does not clearly explain his position,

he runs the risk of triggering a sense of alienation or even suspicion among some of his more skeptical readers.

Avi Kanai
Jerusalem

Eliezer Berkovits

TO THE EDITORS:

AZURE 11 (Autumn 2001) devoted two of its eight articles to the late rabbi and professor Eliezer Berkovits. The first, which appeared in both the English and Hebrew editions, was by David Hazony ("Eliezer Berkovits and the Revival of Jewish Moral Thought"), whereas the second, which appeared in the Hebrew edition only, was an essay by Berkovits himself ("A Jewish Sexual Ethics"). That AZURE allotted so much space to Berkovits should not be surprising, since, as Hazony writes, he "may prove to be the most significant Jewish moral theorist of the last generation." Nevertheless, I cannot recall him having received such extensive and valuable treatment in any Israeli publication until now.

Since few in Israel know Berkovits' name, and even fewer his teachings, Hazony also gives his biography in a few lines. Surprisingly, though, Hazony makes no mention of the fact that

in the 1980s Berkovits was one of the three members of the national commission of inquiry into the 1933 murder of the Zionist leader Chaim Arlosoroff. Prime Minister Menachem Begin appointed the commission in 1982, and it delivered its findings on June 4, 1985.

Unlike the two other members of the committee, the late justices David Bechor and Max Kenneth, Berkovits was not a judge. This did not prevent him, however, from writing a comprehensive twenty-four-page opinion at the end of the deliberations. The opinion's opening paragraph tells us something about its author, and certainly strengthens Hazony's characterization of him as a "Jewish moral theorist." Berkovits writes:

There is no doubt not only that the accused, Avraham Stavsky and Tzvi Rosenblatt [members of Vladimir Jabotinsky's Revisionist movement], had no part in the murder of Dr. Arlosoroff, but that there was no basis on which to charge them. Since the murder was a national tragedy, around which an entire episode in the history of the *yishuv* [Jewish community] in the land of Israel was woven—an episode that, unfortunately, has not until now come to a close—we must emphasize the main arguments that led us to our conclusion. My conclusion is founded on

the examination of the witnesses who appeared before the commission, and a personal investigation of police files from the preliminary investigation and the records of the district court that at the time deliberated on the murder investigation prior to the trial of the accused.

At the conclusion of his report, he writes: "Stavsky and Rosenblatt, undoubtedly, had no part in the murder of Dr. Arlosoroff. Without question, the entire aim of the police investigation was to bury the truth. It is about cases such as this that the prophet laments: 'And he hoped for justice, but behold, there was injustice.'" (Isaiah 5:7)

Berkovits, who passed away seven years later, was indeed a moral man. Just like Justices Bechor and Kenneth, and following in the footsteps of R. Abraham Isaac Kook, he drew his conclusions and expressed his opinion on the case not only on the basis of intuition and belief, but also on the basis of facts and their sound analysis. He is greatly to be credited for having taken part in the commission of inquiry and its unanimous verdict.

Yossi Ahimeir
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Jewish Foreign Policy

TO THE EDITORS:

Ruth Wisse's thought-provoking essay ("The Brilliant Failure of Jewish Foreign Policy," *AZURE* 10, Winter 2001) is built on the following argument: The Jews of the diaspora historically engaged in political activity that was guided by a "politics of accommodation." Although this strategy brought calamity upon Jewish life, it nonetheless enabled the Jews to survive and endure without a land, government, or means of self-defense.

Wisse, however, does not confine herself to a history of Jewish political life in exile; she also applies her theory to the policies of the State of Israel. The failure of the supporters of what Wisse calls the "fantasy of 'peace'" stems from their attempt to apply the politics of accommodation in the context of Israeli foreign policy. They do not take into account the changing times, and so fail to pursue the "self-reliance" that ought to characterize the life of the sovereign Israel. Wisse, in effect, charges the peace movement in Israel with acting like the Jews of the ghetto.

This analogy is off the mark. Consider, for example, the fact of the current Intifada, universally recognized as a slap in the face to supporters of

the Oslo accords—and one that eventually led to the collapse of the Oslo paradigm, spreading confusion among its proponents. Those who refused to let reality get in the way of ideology, continuing to profess their belief in Oslo, were forced to sharpen their arguments on the daggers of criticism leveled against them, not only from the Right, but most importantly from within their own camp. But this confusion, I suspect, shows just how different the Israeli Left is from the accommodating Jew in exile.

As Wisse astutely writes, the strategy of "accommodation" did not always succeed in preventing anti-Semitic violence. The rulers who offered the Jews protection often did so according to their changing interests; as Wisse writes, "Without protection from above, violence against the Jews was always profitable, and always without consequence." But when Jews became open targets and their dependent relations with the non-Jewish rulers collapsed, the result was not confusion. Riots, expulsion, and destruction did not deter the leaders of the Jewish community from trying to reconstruct the same political arrangements elsewhere. This was not the confusion of the Israeli Left, but an ongoing dedication to a single strategy.

To appreciate this distinction, it is worth noticing the difference between

the Left's response to the current hostilities and that of the more dovish leaders of the haredi community in Israel (that is, the heads of the Lithuanian community and of the Shas movement, but not the Hasidic leaders). While the Left was thrown into disarray by the collapse of their worldview, it is hard to find evidence of similar confusion and helplessness among the haredim, many of whom had lent their support to the Oslo accords as well. Apparently, these religious leaders saw nothing particularly shocking in the contrast between their willingness to give up territory and Palestinian violence.

Throughout centuries of dispersion, the Jews regarded their "politics of accommodation" as a temporary thing, just as exile itself was temporary; the expectation of redemption and sovereignty in the land of Israel included the hope of realizing a form of politics closer to the sovereign independence depicted in the Bible. In other words, the politics of exile was the opposite of messianism.

The outlook of the peace activists, however, has been very different.

For them, Oslo was the dawn of a new era in Israeli life. The peace process was a new gospel, not only for the State of Israel, but no less so for the entire Middle East. Besides the peace and security that Oslo was

supposed to bring Israel, it was also expected to herald the redemption of all the peoples of the region from their enslavement to the psychology of war and violence. In this, the peace movement greatly resembles many Jewish redemptive movements of the past century—such as Marxism and messianic Zionism—that strove to save the Jews and the entire world, and to fulfill the prophecy that "they shall beat their swords into plowshares and their spears into pruning hooks." (Isaiah 2:4) The exilic survival technique was transformed from a pragmatic method of self-preservation into a means of redeeming the entire Middle East.

In addition to their messianic inclinations, there is a second key difference between the supporters of Oslo and the Jews in exile: Their attitude toward national uniqueness. The motivation for "accommodation" which prevailed in the diaspora stemmed from the desire to build impregnable walls between the Jewish community and its surroundings. Jews regarded themselves as spiritually and culturally distinct from, even superior to, the surrounding Gentiles, as having been singled out for a sublime mission in the service of humankind. Consequently, traditional Jewish thought could not regard assimilation, either individual or collective, as an

acceptable solution. Accommodation, on the other hand, was at least tolerable. The politics of accommodation was a product of the Jews' desire to preserve their unique way of life.

A completely different idea guides the Israeli Left's accommodation. The idea of integrating Israel into a new Middle East, like the tendency to give almost exclusive weight to the second half of the formula that identifies Israel as a "Jewish and democratic" state, is part of a strategy of cultural assimilation. Its adherents look forward to a time when Israel and its neighbors will agree that, in the words of a popular Israeli song, "we are all a single human fabric," to the extent that they will cease to recognize Israel as a link in the ongoing chain of Jewish civilization.

These two components of the Left's vision—redemption and assimilation—led its activists to expect that a politics of accommodation would be adopted not only by Israel, but also by the Arab leaders: Terrorists would lay down their arms, Palestinian refugees would forgo their "right of return," and Muslim clerics would recognize the Temple Mount's importance to

Judaism. It was their desperate faith in a human common denominator between Israel and the Arab states, and their messianic hope for the modern realization of Isaiah's prophecy, that led to these fantastic beliefs. Diaspora Jewry may have adopted the strategy of accommodation, but they never had such expectations. Guided by pragmatic rather than ideological considerations, they understood the limits of accommodation and its inability to sweep along those Gentiles who had power over them. This sort of realism seems to characterize the modern haredim as well, who have consistently kept their distance from political messianism and have forcefully insisted on the uniqueness of Jewish identity.

Accommodation works as a tool for survival only when it is seen as a tool of political realism. But when it is tied up in messianic aspirations and the abandonment of a unique cultural identity, its prospects for success, especially in Israel, are bleak.

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