

## Peace of the Brave

I must say that I was thoroughly entranced by David Hazony's article, "Plowshares Into Swords: The Lost Biblical Ideal of Peace" (AZURE 3, Winter 1998). My deep love for Bible certainly helped, but on top of his truly brilliant utilization of the biblical sources, I think Hazony offers a powerful and desperately needed *hidush* here (in the sense of *hades* *yameinu k'kedem*, "renew our days as of old"), and his arguments on its behalf are almost military in their efficiency.

Interestingly, about a week prior to the publication of Hazony's article, I engaged one of my classes at the university in a discussion of the historical significance of the term "Islam," which is, of course, derived from the same Semitic root as *shalom* and which primarily denotes "surrender" or "submission" (to God). In the context of this investigation, one of the students called our attention to the biblical usage, "When you draw near to a city to fight against it, proclaim

[the opportunity for] *shalom* to it" (Deuteronomy 20:10), pointing out (as Hazony does) that *shalom* here—given the context of the surrounding verses—means nothing other than "surrender." It is ironic that centuries later in the same Middle East, resurgent Islam aspires and strives via jihad to bring about *salaam* through the submission of all non-Muslims to Muslim political sovereignty, while the leaders and opinion-makers of the resurgent Jewish nationalist entity are simultaneously seeking via ceaseless and unrequited concessions to establish "shalom" specifically through Jewish *submission*.

Part of the overall conclusion and implication of Hazony's essay—that the Bible does indeed conceive of peace largely in the manner he describes, and that Israel today needs to rely on overwhelming strength rather than a "new heart" and relatively useless pieces of paper in order to survive and flourish in this region—I agree with vigorously. The other part—the

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justification and beatification of Pinhas and his ilk and what they stand for, and thereby the vindication and encouragement of all those, past and present, who would act accordingly, brutally butchering thousands of non-combatants in the name of divinely (or otherwise) defined "morality and righteousness"—I can only hope he didn't intend that. All things considered, however, it was a pure thrill and pleasure to read an article of such an original, stimulating and gutsy nature, especially in the midst of the unabashed mimicry and mediocrity which currently characterizes so much of our intellectual surroundings.

I must also offer a grudging compliment to the journal as a whole, having read in the same sitting the contributions of Ziv Hellman, Avraham Levitt and Evelyn Gordon. You've really put together a forum for no-nonsense thought here, and had I the time to be a reader of journals (and I have occasionally browsed through the other pickings out there), I'd unquestionably read *AZURE* over the competing English and Hebrew publications—it's really high-quality business. Keep raising the level of discourse in Israel!

Ze'ev Maghen  
Jerusalem

### *Confusion of Ends and Means*

Ofir Haivry's anguish about the sorry and confused state of conservatism ("Tony Blair and Other Tory Notions," *AZURE* 3, Winter 1998) is more indicative of the problem than a light showing the way to a solution. Haivry carries forth the typical line of reasoning of today's conservatives which obfuscates the difference between form and content. The political right has lost its way because, like the left, its concern is not with limiting the scope of government and political society, but rather with seizing it and using it to further its own pet notions. F.A. Hayek was a liberal in the true and classical sense, and it sufficiently concerned him to clarify this that he wrote an essay entitled "Why I Am Not a Conservative." This does not discourage Haivry, however, from including Hayek as part of his vaguely defined conservative tradition. Haivry's values may be beautiful and right, but I want them to reside in the sphere of choice and not in the sphere of government, politics and coercion.

David Hazony's article "Plowshares Into Swords: The Lost Biblical Ideal of Peace" whets the reader's appetite for an important investigation into the meaning of the Hebrew word *shalom* and how this might contrast with the prevalent understanding today of the English word "peace."

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Unfortunately, this appetite is soon lost as the discussion rapidly deteriorates into a rambling and unstructured forum for Hazony's fantasies and sloppy scholarship.

Several paragraphs into the essay, a not so subtle transition is made from an inquiry into the meaning of the biblical "term" *shalom* to a discussion of the "modern peace idea" and the "biblical peace idea." Somehow the "modern peace idea" has only two components, both lurking at one end of the political spectrum—absolute pacifism and compromise. Really? One must conclude, given the number of graves filled with the remains of soldiers from wars in this century alone, that either there has been no interest in peace in this century or that perhaps the popular notion of peace might be somewhat broader than Hazony suggests. That is, the operative may be closer to *when* force is exerted rather than *if* (as Hazony suggests).

After having begged the initial question about the term "peace" in English (never even bothering to so much as open a dictionary), the understood meaning (conflict avoidance) is then contrasted with the biblical meaning (in the context of war)—"movement toward victory." Is there a confusion here between ends and means?

However, lurking behind Hazony's laborious effort seems to be a point

with which I would agree. The general understanding of the English translation of *shalom*—peace—seems to be closer to the Hebrew word *shalva*—tranquility. In this sense, the existential state lurking behind and associated with *shalom* is probably closer to what Thomas Jefferson had in mind when he said that the price of liberty is eternal vigilance. That is, struggle characterizes life, and tranquility characterizes death.

**Bob Borens**

Washington, D.C.

### *Keeping Things in Context*

In his article "Plowshares Into Swords: The Lost Biblical Ideal of Peace," David Hazony performs the all-too-rare service of attempting to understand the meaning of the biblical text without the distortions of meaning that have become so prevalent among Orthodox and non-Orthodox commentators alike. (Many of today's pop-exegetes, for example, insist that Pinhas' "covenant of peace" was not a reward at all, but a *correction* for his zealotry—a reading that completely ignores the simple meaning of the text.)

It is instructive that some of Hazony's most effective points are made simply by including the immediate

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context around well-known biblical verses. For example, the vision of Isaiah “and they shall beat their swords into plowshares ... and they shall learn war no more” is preceded by “and the transgressors and sinners shall be destroyed together, and deserters of the Eternal shall be annihilated.” Such a reading affirms the consistency throughout the Bible of the peace ideal as Hazony describes it, and wrests these famous verses from the hands of those “peace” activists who for so long have abused them to further their own political ends.

Barak Moore  
Efrat

### *Misjudging the Haredim*

In her essay “Is It Legitimate to Criticize the Supreme Court?” (AZURE 3, Winter 1998), Evelyn Gordon bemoans the absence of a relevant, thorough and respectful debate over judicial activism in Israel. The case around which Gordon’s argument revolves is the public storm in the wake of the Supreme Court’s rulings on the closure of Bar-Ilan Street, which she analyzes in detail. Gordon’s argument regarding the silencing of criticism against judicial activism is essentially correct. Yet the Bar-Ilan Street episode is an exceptional case, one that does not accurately reflect the larger picture.

The intense haredi reaction to the High Court ruling, and the counter-reaction which followed, stems from what has been known in Israel for some time as a *Kulturkampf*. The essay by Hillel Neuer (“Aharon Barak’s Revolution,” AZURE 3, Winter 1998) properly focuses upon this point in its presentation of Israel’s constitutional battles: The Supreme Court has shown a clear preference for democratic values over Jewish ones, despite their legal status as bearing equal weight before the law, and the haredi public has felt that this preference constitutes a palpable threat to the Jewish character of the State of Israel. In her assertion that in the struggle over the closure of Bar-Ilan Street, “the haredim find themselves speaking in favor of democracy, and not against it,” Gordon may be guilty of excessive naïveté, and of basing the discussion on a theoretical foundation despite much evidence to the contrary. A cursory reading of the haredi newspapers cited in Gordon’s article, and a minimal acquaintance with their readership, suffice to teach that this community prides itself on its war for the values of Judaism, and certainly not on bearing the banner of democracy.

This misreading of the haredim dooms to failure Gordon’s attempt to apply the American experience with judicial activism to the case of Israel.

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Participants in the American public debate all agree that the discussion is to be held on the playing field of democratic values, and are all committed to preserving these values. Some champion the steadfast defense of the values of liberal democracy, even at the cost of judicial intervention, while others support democracy fashioned "by the people and for the people," but both views are spoken in the spirit of true democracy, and all draw upon the same long-standing democratic heritage. Israel, in contrast, lacks an ingrained tradition of democratic values, thus leading the Supreme Court to assume a central role in inculcating these values. And who of us living in 1990s Israel will not concede, at least in part, that without the protection of individual rights afforded by the Supreme Court, we would be helpless before the whim of governmental agencies and bureaucracy?

If Gordon really wanted to show just how bad court intervention in public issues has become, she should have addressed the exceptional statements by Supreme Court President Barak regarding the justiciability of military operations, from his claim that the manner in which specific operations are executed falls within the purview of the court, to his statement that the very decision of whether to go to war may have to pass under the court's discerning eye.

The public interest in these pronouncements is not limited to their frightening consequences. More disturbing is the fact that, as *Kol Ha'ir* reported at the time, Barak's statements were suppressed at his request by the legal journal *Halishka*, for which the interview had initially been conducted. There was virtually no public reaction to these statements, nor to Barak's attempt to block their publication. Anyone concerned about the spread of judicial activism in Israel should read with care this deliberate and unambiguous declaration by President Barak. By raising this issue, Gordon could have mustered a much broader argument for her claims, and brought the problem into clearer focus, while leaving aside an issue so encumbered with other, deeply entrenched ideological controversies.

Does not Gordon's ignoring of Barak's exceptional pronouncements on military operations show just how suppressed the public debate on judicial activism has been?

**Gabi Danon**  
Tel Aviv

#### **Evelyn Gordon responds:**

Danon is certainly correct that my article reveals only the tip of the iceberg of the problem of judicial activism in Israel, and that many other examples

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could have been brought in addition or instead. In saying that the Bar-Ilan case was an inappropriate choice, however, he is guilty of the same error made by many of those who castigated the haredi response to the ruling: The error of thinking that any argument made by certain sectors of the population must automatically be discounted. There is no question that the goal of the haredim, as Danon says, is to promote Jewish values rather than democracy, and I have never been under any illusion to the contrary. However, that does not change the fact that in the Bar-Ilan case, the haredim made a valid argument on democratic grounds, which should have been taken seriously by anyone who cares about democracy—whether or not the haredim themselves do. The Bar-Ilan decision was an egregious case of judicial activism run amok, and the fact that its victims are not themselves paragons of democracy does not palliate the offense.

Danon is also correct in saying that in a country where the understanding of and commitment to democratic values have often been weak, the Supreme Court has played a crucial role in protecting individual rights from the bureaucratic whims of government agencies. I sincerely hope that it goes on playing this role. However, protection of individual

rights doesn't require that the court routinely usurp the government's legislative powers, and cannot serve as a valid excuse for doing so. Indeed, the court's encroachment on functions that are properly the province of the legislative or executive branches itself endangers one of the most fundamental democratic rights: The right of each person to try to influence the rules under which he lives via political action. For this reason, I cannot agree that the weakness of democratic culture in Israel justifies overlooking the court's incursions into public life.

### *Instead of Judgment, Wickedness*

If I understood Evelyn Gordon correctly, the judges of Israel's Supreme Court must not be allowed to thwart public response, the very element which justifies the moral supremacy such a court presumes to wield, when convincing the citizenry that the court's decisions are what is best for the nation. Who can disagree? Yet therein lies the problem.

It was Alexander Bickel who, in his 1962 book, *The Least Dangerous Branch*, coined the term "countermajoritarian" to describe the problems of the activity of the United States Supreme Court, an unelected institution in a democratic society.

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However, the selection process of an American Supreme Court justice, namely a presidential recommendation and an open Senate hearing, at least allows for a "public response" to be voiced and heard. Israel lacks even that element. So how is one to criticize within parameters which the august judges and their ideological-cultural allies would accept? For the catch-22 here is that public opinion is controlled by a narrow, self-imposed clique which, to risk a cliché, has set itself up as judge and jury over the character of public debate.

For example, how does one criticize a judgment regarding unhindered entrance to the Temple Mount esplanade, which upholds the Temple Mount's status as a "holy site" but then declares that the wearing of religious appurtenances such as a talit or tefilin is a "provocation"? Or, in another related case, what can one say to a judge who writes an opinion declaring the act of the Moslem Waqf authorities to be quite illegal but prefers that lawlessness to any other situation? In almost every single decision dealing with the Temple Mount over the past thirty years in the matter of various petitions and appeals to the High Court of Justice, the key phrase has been "sensitivity"—Moslem sensitivity, that is. While any responsible observer cannot disregard the instability that would develop should

Israeli sovereignty be firmly extended to the location (e.g., via the Law for the Protection of Holy Places), the judges have completely failed to come to terms with Jewish needs vis-à-vis the site. Over thirty years have passed, but no change is discernible.

In a 1993 study of the impact of public opinion on U.S. Supreme Court decisions over a thirty-three-year period, William Mishler and Reginald Sheehan claim that indeed, that court responds to shifts in the partisan and ideological orientation of the president and the Congress, even without a member change (*American Political Science Review*, March 1993). Why has not Israel's Supreme Court acted in kind?

A portion of the answer is that Israel's public opinion elites reinforce a powerful insular attitude. Despite Evelyn Gordon's article having appeared also in Hebrew, as did Hillel Neuer's parallel essay, they were virtually ignored. On the other hand, the haredi reactions, unfortunately very shrill and strident, were provided columns of newspaper coverage, hours of radio talkshow time and quality television exposure. All this, though, is exploited to show the "fanaticism" of their criticism, as these public opinion elites would have it.

Public response is taking place. What is lacking is true dialogue. The legitimacy of the debate is not defined

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by its quality, value or result, but by its direction. If it seeks to alter currently held outlooks on the functioning of the court, it will be ridiculed, smashed down or simply stifled. The unavoidable conclusion in Israel is that public opinion molders are as much the ruling apparatus of the country as the court, the Knesset and the government. And it is the court which protects these public opinion fashioners, as any review of petitions brought before the court on matters of media balance, fairness and objectivity will reflect.

It was Kohelet who postulated that “in the place of judgment, there is wickedness; and in the place of righteousness, there is iniquity” (Ecclesiastes 3:16). Was that statement prophecy, or public opinion?

Yisrael Medad  
Shiloh

### *Renovating the Tora*

Yoav Sorek makes an admirable effort to diagnose the malaise of Jewish life in contemporary Israel (“Tora of Israel, Tora of Exile,” *Azure* 2, Spring 1997), and I compliment him on his valuable insights. But while I agree on the necessity for a renaissance in Jewish thought and practice of an almost revolutionary character, I take issue with some of his claims and

doubt the viability of his proposed remedy.

Sorek argues that biblical law displays a “decidedly *untechnical* nature” and that “a person’s righteousness is not judged on technical performance.” This is true to an extent. He is right that “nowhere does Scripture require subservience to formal systems when they contradict the values for which they were established,” but that does not diminish the importance of formal observance in other circumstances. Many commandments, in particular with respect to the Temple service, demand meticulous technical precision. Aaron’s eldest sons were executed by the divine hand for offering a “strange fire” before God, and though rabbinic sources speculate over what high principle they may have violated, the text offers no indication that their crime was anything but a technical failure. In a similar vein, the Bible sets out in almost absurd detail the specifications of the Holy Tabernacle and its implements, and then, to emphasize the punctilious attention to the technical accuracy of their construction, repeats them detail for detail. Other rituals receive similarly technical treatment. This contrasts sharply with passages describing socioeconomic legislation, where general statements of principle suffice.

Clearly, there are two realms of law: The social, in which principles

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are paramount and technicalities nearly absent, and the ritual, in which correct technical observance is required, often obscuring the guiding principles. Religious Jews today focus on technical observance because they mistakenly apply to social matters modes of analysis suited to the ritual. This aspect of the Tora of Exile can be seen as early as the Mishna. The few broad biblical rules pertaining to Sabbath observance, for example, are transformed into two entire tractates of Mishnaic regulations. Perhaps this phenomenon was an unconscious compensation for the loss of ritual due to the destruction of the Temple. The problem is not the observance of technical ritual, but the misplaced obsession with it to the point that non-technical observance is considered unimportant.

I confess I was also disappointed with the author's conclusions. Yes, the Jewish people must discover a way of observance appropriate to an independent nation living in its land. But what might this new "Tora of Israel" look like? How might it be achieved? Here Sorek offers few clues.

Unfortunately, the solution is not as simple as reverting to ancient modes of practice. The Tora of Israel was for a people living not just in its land, but primarily *on* the land. Not only the exile has intervened in the last two millennia, but also a

technological revolution so extensive that only the most hopeless of romantics can imagine returning to the agricultural idyll assumed by the original Tora of Israel, in which Jewish observance centered around the growing seasons and the associated sacrifices. And even in the realm of agriculture, neither the traditional nor the ancient modes of thought suffice today, as is apparent from the difficulty of implementing the sabbatical year in a global agricultural marketplace. How can people take inspiration from a Tora so apparently removed from modern life?

We face a dilemma. The Tora of Exile, with all its flaws, at least boasts two thousand years of continuous development. The Tora of Israel has not been developed in all that time. It is not possible simply to return to it. Any such effort must involve creating something new, both in practice and in philosophy. From where would this endeavor draw its moral or legal legitimacy? Why should people follow it? What religious leaders would endorse it? In the absence of leadership from a universally recognized rabbinic master—and none is apparent today—not only the haredim would shun such a project. Even in the face of the possible social disintegration of the Jewish people, the Chief Rabbinate is unable to endorse any proposals on standards for

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conversion. Could it support a wholesale reinterpretation of Tora?

Finally, the cynic would note that the original Tora of Israel was not exactly a resounding success. The Bible relates how the Israelites failed, time and again, to rise to the challenges posed by the Tora. Idolatry was commonplace, leadership was weak, social cohesion was unstable. In all of Jewish history, the people of Israel dwelled in unity and sovereignty in its land for just eighty years, during the reigns of David and Solomon, only to have the kingdom split in two due to Solomon's abuses of power. If the modern State of Israel is to reach its

eightieth year, let alone exceed it, we must at the very least learn the lessons of our biblical failures. Unfortunately, there is little evidence that this has been achieved.

As always, the Jewish people today carry within themselves the potential for cultural and religious renewal. I look forward to seeing many more Jewish thinkers take up the challenges posed by the end of exile to forge the new approach to Tora needed in this new era.

**Leiah Elbaum**  
London

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