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THE PROBLEMS IN BEING A JEWISH STATE

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Neither the terrorist bombing in Mahane Yehuda nor the American initiative to revive the Oslo peace process have muted the religious controversies currently raging in Israel. The issues of religious coercion and religious pluralism continue to create controversy and conflict, causing serious strains between religious and secular, between Israel and diaspora Jewry.

The virtual monopoly of the Orthodox establishment over issues of personal status and religious affairs violates the sensibilities of diaspora Jewry as well as Israeli secularists, but for different reasons. American Jewry can only regard with horror, if not revulsion, the utter failure of the Israeli authorities to provide protection for those Conservative Jews who sought to worship at the Western Wall on Tisha B'Av eve. They cannot but wonder and protest why an innocuous egalitarian service so familiar to American Jews should be so foreign and threatening in Israel. Does not the Wall belong to all Jews — haredim and secular, Reform and Orthodox, men and women? Why should the ultra-Orthodox determine and dictate

what is permitted and what is forbidden? For American Jewry as well as for the Reform and Conservative movements in Israel, the issue is one of religious pluralism. For American Jewry it creates a conflict between two sacred values — their love and commitment to Israel as the Jewish homeland vs. their American sense of religious pluralism as fundamental to an open and liberal democratic society.

Yet, for most Israelis, the issue is not so much recognition of non-Orthodox forms of Judaism, but rather relief from an oppressive Orthodox religious establishment which seeks to define and limit personal choice and freedom.

The Conversion Bill

The leadership of the American Jewish community successfully brought sufficient pressure to bear on the Israeli government to at least temporarily block the passage of the now infamous conversion bill, which would have legally recognized only those conversions conducted in Israel according to *halakhah*. This was translated by the Reform and

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Conservative leadership as the delegitimization of non-Orthodox brands of Judaism.

Prime Minister Binyamin Netanyahu succeeded in postponing Knesset passage of the conversion bill when he realized what violence it would do to the American Jewish community. He appointed a committee to study and make recommendations which might bridge the gap between the Orthodox and non-Orthodox movements. The threat of a split within world Jewry was sufficient to convince all parties to at least pause and reconsider. A front page headline in Israel's major daily *Yediot Ahronot* quoted Israel's IDF chief-of-staff as saying that he "fears a split in world Jewry as a greater threat than Syrian missiles." Israelis may not be sympathetic or even understand what the religious controversy is all about. Their ignorance of American Jewry and their religious forms is abundant. However, what did strike home was the possible loss of American Jewry as a strategic asset for the security and well-being of the State of Israel.

The special commission appointed by Netanyahu is due to report back soon. The seven-person committee is chaired by newly appointed Finance Minister Ya'acov Ne'eman. Despite the veil of secrecy imposed upon the deliberations of the committee, there are already rumors and reports as to what will be their recommendations. Supposedly, the chairman has proposed that there be a joint conversion academy, with the actual conversion ceremony handled by an Orthodox religious court. This would mean that Reform and Conservative rabbis could teach and instruct potential converts, but the conversion itself would be in accord with Orthodox standards of *halakhah*. The intention is that such a model could be extended to other areas which hitherto have been wholly in the hands of the Orthodox establishment. The leaks to the media have already elicited denials as well as declarations by uncompromising religious politicians of their intention to press forward with the conversion bill.

A Landmark Decision by Israel's Supreme Court

The battle for religious pluralism is being conducted on several fronts. In early August, Israel's High Court of Justice issued a landmark ruling confirming the appointment of Dr. Joyce Brenner, a Reform Jew, to the Netanya religious council and ordered the Religious Affairs Ministry to publish the appointment in the official government gazette. In response, Netanya's chief rabbi David Shloush, who alleges that the Reform movement is "worse than Jesus," has spearheaded a wave of protest against this appointment. When

Religious Affairs Minister Eli Suissa refused to put his signature to such an appointment, Prime Minister Netanyahu relieved him of his post and, as acting Religious Affairs Minister, signed the appointment to comply with the court order.

The local religious councils, supervised by the Religious Affairs Ministry, have exclusive jurisdiction over marriages, *kashrut*, cemeteries, ritual baths and other religious matters. They also administer sizeable budgets and provide employment to the "faithful." The State Comptroller's report in 1994 showed that the combined budgets of religious councils throughout the country was close to one hundred million dollars. Some 170 religious councils employed 3,500 persons, with the chairmen of these councils earning a salary in excess of \$7,000 a month.

Little wonder that religious Members of Knesset are calling on the government to honor a coalition agreement by which the Knesset would pass legislation to prevent the seating of Reform or Conservative Jews on religious councils.

Non-Orthodox Prayer at the Western Wall

The Western Wall has also become a focus of the struggle for religious pluralism in Israel. The Conservative movement's decision to hold an egalitarian service at the Wall on Tisha B'Av was seen as an assault on the Orthodox hegemony over the Wall, which is regarded by the Orthodox rabbinate as an Orthodox synagogue and not the national, historical institution most Israelis and world Jewry regard it to be.

As reported in the press, the Chief Rabbis of Israel, rather than call upon their constituency to maintain decorum and dignity, called upon Jerusalem's police chief saying that mixed prayer of men and women constitutes a serious breach of tradition and that such a service could result in violence and, as such, called upon the police to prevent this gathering in the interest of public order.

The egalitarian Conservative worship at the Wall complements the long running dispute with the religious authorities about the right of women to conduct their own religious service at the Wall. Women of the Wall (WOW), for almost ten years, has been insisting on their right to conduct prayer services at the Wall.

The Women of the Wall had their start at the first international conference of Jewish feminists, which was initiated and sponsored by the American Jewish Congress in December 1988. Spontaneously, a group of women conducted a morning *shaharit* service at the Wall, only to be attacked and reviled by ultra-Orthodox

worshippers who were offended by women praying while wearing *tallitot* and reading from the Torah. Ever since then they have been coming to the Wall to celebrate Rosh Hodesh (the new month). The women over the years have pursued legal recognition and protection from the High Court of Justice. A resolution of their case is still pending. Last fall the Supreme Court warned the state that it had four months to come up with a solution. In March 1997 the Court gave the state an additional ninety days. In June, the state requested the court to grant an additional extension of ninety days "to examine the security aspects of alternative sites." Here, too, the religious political parties are attempting to use parliamentary legislation to remove the issue from the court's jurisdiction by introducing a law which would give the rabbi of the Wall final say on all questions of rites and rituals there. The proposed law has passed its initial reading in Knesset and is now sitting in committee awaiting further action.

Religious Pluralism vs. Religious Coercion

The conversion bill issue, the religious council issue, prayer at the Western Wall, are all matters of religious pluralism and, for the most part, strike responsive chords among non-Orthodox American Israelis, the Reform and Conservative movements in Israel, and American Jewry which is largely Conservative and Reform in its makeup.

However, what vexes and irritates most Israelis is religious coercion rather than the principle of religious pluralism.

The latest front in the battle against religious coercion is the right of Israelis to shop on Shabbat. There is a continuing public campaign against the planned Shabbat closure of a new shopping mall soon to be open in Tel Aviv's famously secular, liberal, rich, snobbish neighborhood of Ramat Aviv. Under the banner of "freedom and democracy," Ramat Avivians are demanding that the mall be open seven days a week. One can only imagine what would be the response of an American Jewish Community Relations Council or the American Jewish Congress to community pressure to force a Jew in the United States to keep his place of business open on the Sabbath.

The latest wrinkle is that the Labor and Social Affairs Ministry has sparked anger in the kibbutz movements by announcing that it plans to send inspectors to kibbutzim to ensure that factories and stores there remain closed on Shabbat in keeping with the Law of Hours of Work and Rest. The kibbutz movements have announced that they will conduct a public cam-

paign against "religious coercion that conflicts with the world view of enlightened people in the 1990s."

There are some 200 kibbutz businesses that earn about 60 percent of their revenue on Shabbat. Their claim is that since a kibbutz is like a private home, they are not subject to the Shabbat closing law. Meanwhile, the ultra-Orthodox Shas minister Eli Yishai has responded that this law does apply to cooperative associations and "as long as the kibbutzim remain part of the State of Israel then they are obligated to observe the law." Furthermore, he said, there is "the legitimate complaint of businessmen who do remain closed on Shabbat that the kibbutz operations posed unfair competition."

The fact is that the Shabbat closing laws are more honored in the breach. Restaurants, theaters, and places of entertainment operate in most of the major cities, including even the holy city of Jerusalem. Recent court decisions have whittled down the restrictive blue laws that have long been in place. Indeed, this year for the first time restaurants and cafes were open in Tel Aviv on Tisha B'Av eve after the Supreme Court ruled that places of entertainment cannot legally be required to close. Little wonder that the religious establishment has targeted Israel's Supreme Court as the enemy. They are conducting a public campaign of vilification in an attempt to curtail the authority of the court over religious matters. They unabashedly assert that Israel cannot be both Jewish and democratic, and that the Jewish element takes precedence over democracy. Tolerance, pluralism, and an open society are not consonant with their concept of a Jewish state.

Non-Jews in a Jewish State

Israelis once again were reminded of the Orthodox monopoly in the wake of the Mahane Yehuda bombing. One of those killed was fifteen-year-old Grisha Pesahovich. Although Grisha had two Jewish grandfathers, his mother is not Jewish and hence, according to *halakhah*, he himself was not a Jew. Denied burial in a Jewish cemetery, his mother refused to allow him to be buried in a Christian cemetery. For four days the authorities sought a final resting place for this boy who had died in a terrorist attack aimed at the Jewish people and the Jewish state. Although the Knesset passed a law over a year ago which would require the Ministry of Religious Affairs to establish non-denominational, non-religious cemeteries throughout the country, the Orthodox establishment has thus far blocked its implementation. Such secular burial would break the monopoly of the Orthodox establishment. In the end, Grisha

Pesahovich was buried in a cemetery plot in Jerusalem belonging to the Bahai faith. The Bahai religion does not prohibit burial of the non-faithful within its precincts. Indeed, the Bahai official in granting the permit said, "We wanted to help, indeed we were happy for the opportunity to ease the suffering and pain of the family."

Religious coercion by an often perceived insensitive ultra-Orthodox religious establishment goes far beyond the right to shop on Shabbat or the freedom to eat pork or to rock and roll at the local disco on Friday night. So, too, there are issues even more critical than the right of non-Orthodox Jews to pray according to their beliefs at the Western Wall or to sit on government-funded religious councils.

Rather, the very essence of Israel as a Jewish state is being diluted because of the intransigence and arbitrary authority of the religious establishment over public policy.

The Grisha Pesahovich affair not only points to the pain and anguish of a family confronting an uncompromising religious establishment, but also raises the more compelling issue of the non-Jewish Jewish population in Israel today. We now have upwards of 200,000 non-Jewish immigrants (olim) who came to Israel from the former Soviet Union under the Law of Return, which was meant to restore the Jewish people to its homeland. Historically, the Nuremberg laws have had more to do with determining who is a Jew for the purpose of immigration to Israel under the Law of Return than did Jewish law or Jewish sensibilities and tradition.

Under the present construct of the Law of Return, a person who has at least one Jewish grandparent is eligible for citizenship in Israel. Not only is someone who had one Jewish grandparent covered but also his/her family, even if none of them consider themselves Jewish in any shape, manner or form, *halakhicly* or otherwise. Caught between an intransigent rabbinate which makes conversion to Judaism nearly impossible and the lack of secular institutions for marriage, divorce and burial, they find themselves in an intolerable situation.

For several years now there have been voices calling for a revision in the Law of Return which would eliminate the grandparent clause. The right of return would extend to only one generation, namely, that at least one parent be Jewish or, at the very least, require the Jewish grandparent to be alive and bringing his/her non-Jewish spouse and children and grandchildren with them to Israel. Unfortunately, any attempt to revise

the Law of Return has been blocked due to fears that this would open a Pandora's box. Jewish Agency leaders, sensitive to diaspora Jewry, are concerned that any attempt to revise the Law of Return would allow religious politicians to once again demand that the definition of who is a Jew for the purpose of the Law of Return be only one who is born of a Jewish mother or who has been converted *according to halakhah*. This recurring attempt to delegitimize non-Orthodox forms of Judaism has, in effect, blocked any serious effort to revise the Law of Return so as not to bring in hoards of non-Jews to what was intended to be a Jewish state.

The Jewish Agency maintains over eighty emissaries from Israel whose task is to encourage aliya. In addition, the Agency employs some 1,400 locals to help with aliya activities as well as to teach Hebrew and serve as youth counselors. Some claim that this huge apparatus demands results. As such, in the absence of any significant pool of legitimate Jews, they are now reaching out to non-Jews who qualify for aliya under the Law of Return.

The percentage of non-Jews is continuously on the rise. In 1989, only 10 percent of the 13,000 olim were non-Jews. In 1990, the number of olim escalated to 185,000, of whom only 6 percent were judged to be non-Jews. In 1991 the non-Jewish percentage doubled to 12 percent, and in 1992 rose to 20 percent. In 1993 23 percent were non-Jewish, and in 1994 the percentage of non-Jews rose to some 33 percent. Since 1994 the Ministry of Interior has stopped collating this statistical information. However, Israeli government leaders do admit that between 30 and 40 percent of new arrivals are not Jewish by any reasonable standard.

Israel as a Democratic Jewish State

Religious pluralism and freedom from religious coercion are important if Israel is to truly be a democratic Jewish state. But this is predicated on Israel being a Jewish state and the homeland of the Jewish people, both of which require a substantial Jewish majority in Israel.

For Israel to dilute its Jewish character by importing hundreds of thousands of foreign workers and allowing non-Jews to immigrate to Israel under a misconstrued Law of Return is fraught with danger.

There are current reports that some of the estimated 250,000 foreign workers in Israel today are entering into fictitious marriages with Israeli women in order to remain legally in the country and seek employment. At the same time, Jewish Agency emissaries in the

former Soviet Union are recruiting young non-Jews to come on aliya to the Promised Land, not so much to realize the vision of a people returning to its homeland, but rather offering hope of economic opportunity and the pursuit of happiness.

The Law of Return was meant to offer refuge to a persecuted people, not jobs for upwardly mobile non-Jews.

The problem posed by Israel's sizeable Arab minority (18 percent) is sufficient challenge to Israel's democratic impulse and Jewish commitments. The reckless import of non-Jewish Jews as defined by the Law of Return or the influx of foreign workers for

economic reasons cannot but erode Israel's Jewish character.

Little wonder that this built-in tension (but not necessarily contradiction) of Israel as both a democratic and Jewish state is regarded as Israel's critical agenda item as it approaches its 50th anniversary.

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