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JUDAISM AND DEMOCRACY: THE REALITY

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This is a crucial time for shaping Israel's democracy, just as it is for rebuilding Israel's economy. The extreme right has precipitated a struggle over democracy, while the left has embarked on a struggle over the place of Judaism in the state. These extremists are distorting Jewish tradition to serve their own partisan goals. The far right claims that Judaism is antithetical to democracy, so therefore, it proposes to jettison democratic institutions in the Jewish state. Perversely, the far left agrees with the right's premise, and thus concludes that Israel should abandon Judaism. Ironically, for most of the world, the Bible and ancient Israel, with ancient Greece, are considered among the principal sources of democracy. This irony can be explained through a deeper insight into the essence of democracy.

Two Dimensions of Democracy

In the recent debates in Israel, democracy seems to have been equated almost exclusively with pluralism and with its most individualistic variety at that. This is only half the story. Democracy can be understood as having at least two dimensions: 1) **self-government**, that is to say, meaningful participation of individual citizens in the establishment of the polity in which they live and in its subsequent governance; 2) **pluralism**, that is to say, the right of every individual to develop for him or herself a way of life and a set of beliefs and opinions appropriate to it, consistent with agreed upon common norms, and to live accordingly, with minimum interference on the part of others, including and especially, on the part of government.

Both of these dimensions combine

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issues of liberty and equality, the twin pillars of democracy. Neither self-government nor pluralism, nor, for that matter, liberty and equality, are absolute. Living in society requires the tempering of all in the face of the realities of the human condition, but, for those who believe in these principles, they remain not only basic aspirations but basic requirements for the good society.

Judaism and Pluralism

In some respects the relationship between Judaism and democracy is least strong in connection with pluralism. Judaism is emphatically pluralistic when it comes to recognition of the separate identity of different nations. The biblical vision, regularly reaffirmed in the Jewish political tradition, is that the nations and peoples of the world have a right to exist and be autonomous under God. In this sense Judaism, unlike Christianity and Islam, is not ecumenical. It does not seek a single world state, an *ecumene*, in which all national and religious differences are obliterated. Quite to the contrary, the Jewish vision of the messianic world order is one in which all nations recognize the sovereignty of God but retain their separate national and perhaps even religious characteristics, if monotheistic. This is a view reiterated by the prophets of ancient Israel, canonized in the Bible. It is equally a tenet of modern Zionism, which offered a socialist or secularist variant for God's sovereignty, which, while untraditional, follows the sense of the tradition in this respect.

Judaism is not pluralistic when it comes to recognizing paganism among the nations - it does not believe that anything and everything goes in such matters - and classical Judaism does not accept a pluralism for Jews that rejects Torah. The question in both cases is one of interpretation. Jewish monotheism is very strict indeed on the religious level. Rejecting the one God is not acceptable human behavior.

In fact, Judaism recognizes that humans do have the freedom to choose, even in the matter of belief in one God, but are subject to God's response as He chooses if they choose incorrectly. At the same time Jews are not called upon by their religion to be God's policemen in this matter, except among themselves. With regard to

the nations, that is God's business. This is a crucial distinction, one which Judaism is careful to draw. There are many things in this world which, according to Jewish tradition should be eliminated, but it is not our responsibility to do God's share of the work in doing so.

On the other hand, a choice against God represents freedom to stay outside of the moral order, not to be democratically accepted as part of it. Such freedom is like the freedom of states in international relations. This is anarchy, not order; democracy implicitly and explicitly reflects the existence of order.

Within the Jewish people, contemporary Orthodoxy, with its effort to develop a monolithic approach to *halakhic* and religious matters, is just as erroneous as contemporary liberal Judaism, which claims that there is no legitimate authority in Jewish life, and thus any Jew can do whatever he or she desires in matters *halakhic* and religious. In fact, even the most monistic Orthodox recognize a certain pluralism within *halakhah*. That is why today we have a Chief Rabbinate, the Moetzet Gedolai Ha-Torah, the Moetzet Hakhmei HaTorah, and the various *batei din* of the extreme ultras.* Whatever the fights among their members and partisans, the legitimacy of all is more or less mutually recognized. So, too, in fact, there is a core of what Reform Jews used to refer to as "prophetic Judaism" which is implicitly deemed to be binding on all liberal Jews, whatever latitude is given to Reform rabbis in ritual matters.

This short article cannot do justice to the problem of pluralism within Judaism. Suffice it to say that Jewish tradition recognizes that within the four ells of Torah there is considerable room. Moreover, any honest look at Jewish constitutional history clearly reveals that the interpretation of Torah itself has changed from epoch to epoch. In other words, there have been a series of reconstitutions, the very fact of whose existence suggests the possibility of a real degree of pluralism in such matters. My colleague, Professor Stuart Cohen, and I have traced these reconstitutions in considerable detail in our recent book, *The Jewish Polity*.

It is accepted that there is one Torah binding on all Jews, and a clear *halakhic* tradition growing out of the Torah. Still, at the very least,

regional and local differences in customary observance are recognized as legitimate – some even say binding. Moreover, since the middle ages, it has been difficult to overrule local rabbinical courts on any *halakhic* matter. In civil matters, which are equally within the province of the Torah and its *halakhah* in traditional Judaism, there is even greater latitude. In sum, Judaism accepts a degree of pluralism for Jews within the framework of Torah but not outside of it. With regard to democracy and pluralism, then, the relationship between Judaism and democracy is a qualified positive.

Judaism and Self-Government

When it comes to democracy as self-government, the relationship is very positive indeed. The classic Jewish political tradition of the Bible makes it clear that sovereignty is God's but that day-to-day governance is in the hands of the people within the framework of the Divine constitution. God and the people established an initial relationship through covenant, and God plays the major role in setting forth the constitution, especially the religious and moral constitution of the people. In political matters, the Torah makes it clear that there is no single preferred regime (not even the Davidic monarchy which later came to be preferred by many, especially after it no longer existed), and that it is up to the people to establish appropriate political systems which must meet the appropriate moral, social and religious requirements. Thus, an acceptable political system must be just and pursue justice; it must provide for the care of the less fortunate (the Biblical "widows and orphans"); and it must maintain the religious constitution of the Jewish people, however interpreted by the judges of the time. It must also be republican, rooted in popular consent and involving the people in governance.

Let me reiterate: there is no doubt about the republican character of the classic Jewish polity, nor has there been throughout Jewish history. The particular character of Jewish republicanism had a certain aristocratic tinge because of the prominent role it gave to notables from leading families, and priests, prophets and sages who had responsibilities for interpreting the Torah, all of whom had to share power in some way. This led to the frequent appearance of

oligarchic rule in the ancient Jewish polity and in diaspora Jewish communities, as degenerated forms of aristocratic republicanism, but in every case the regime remained republican. According to the Torah and *halakhah*, government must be constituted by all of the people, including women and children, and it may be changed by the people. Whatever the problematics of counting women in a *minyan* for prayer, the Bible makes it clear that they were required to be present and counted at the great constitutional ceremonies establishing the *edah* (the Jewish polity), its covenants and its subsidiary *kehillot*.

In all of Jewish history, with the possible exception of small *shuls* here and there, there are no cases of autocracy, of one-man rule, certainly none beyond the arena of the local community. The only exception is King Herod, who was imposed upon the Jews by the Romans, yet was still given power through nominally legitimate processes. He then usurped that power to eliminate the other instruments, which shared power with the king within the constitution.

This leads to the other dimension of Jewish republicanism, namely, that in the traditional constitution and throughout Jewish history power has always been divided among three domains, known in traditional Hebrew as *ketarim* (crowns): that of Torah, responsible for communicating God's word to the people and interpreting the Torah as constitution to them; *Kehunah* (priesthood), responsible for being a conduit from the people to God; and *Malkhut*, which may be best translated as civil rule, responsible for the day-to-day business of civil governance in the *edah*. While there have been struggles for power among these *ketarim* and times in which one was stronger than the others, all three, and particularly Torah and *Malkhut*, have always been actively present in the governance of every Jewish polity from the local arena to the people as a whole.

The relationship between Judaism and democracy has to be judged whole, not just in connection with specific religious laws, and it must be judged in light of this classical and continuing division of powers. Thus, when it comes to the popular constitution of the polity, the responsibility of the governors to govern, and a proper separation and distribution of powers among the governors – the three great criteria for democracy – Judaism passes every test.

The proof of the pudding is that in Western civilization the Bible is considered the foundation of democratic republicanism and has been so treated by democratic reformers throughout the history of the Western world. The strong biblical base of American democracy, which grew out of the Protestant Reformation in Europe and which remains vital today is a case in point. Our weakness has been in the inventing of appropriate institutions for the successful implementation of these principles. Sometimes we did, and sometimes we did not.

Democracy, Liberty and Equality

This brings us back to questions of liberty and equality. The Bible is a major source of teaching about liberty and equality for all of humanity; it should not be less than that for Jews. The Bible emphasizes communal liberty and what the Puritans in the sixteenth century defined as federal liberty, that is to say, the liberty to live up to the terms of the covenant (federal, from the Latin *foedus* meaning covenant), rather than natural liberty.

Communal liberty stands in contrast to atomistic individualism as the highest good. The Jews, like the Swiss, have emphasized individual liberty within the community, not apart from it. This approach differs from the radical individualism espoused by many in the contemporary Western world. Hence, those espousing the latter will inevitably accuse Judaism of being undemocratic. Here is a confrontation between different understandings of what constitutes liberty and, by extension, democracy. Whatever the merits of the confrontation, it must be recognized that radical individualism is not the only starting point for defining democracy.

We are helped in this by examining the concept of federal liberty. Federal liberty can be interpreted rather narrowly as some would have it, or it can be interpreted more broadly. It can be interpreted as having to do primarily with religious observance, as the Puritans did in the past and many of the ultra-Orthodox do today, or it may be interpreted as having to do with the maintenance of constitutional liberties, as the U.S. Supreme Court has interpreted it with regard to racial and gender discrimination. In both cases, judges have relied upon the principle of federal liberty to modify what would otherwise be in their eyes, unbridled individualism.

Federal liberty, in this sense, stands in contrast to natural liberty, that is to say, the right

of every individual to do as he or she pleases, restrained only by nature. The latter is only possible outside of society. Otherwise, it is both self- and socially destructive to the highest degree. Governments, including and especially democratic governments, are instituted to overcome the deficiencies of natural liberty, which lead to anarchy and the war of all against all, whereby the strongest win at the expense of all others. So, if the biblical teaching stands in opposition to unbridled individualism, that is a sign that it is among the best friends of true liberty, which is based on restraining natural liberty through covenant.

So, too, with equality. The biblical teaching is concerned with maximizing the basic equality of all members of the polity through sabbatical and jubilee legislation and other equalization measures. On the other hand, Jewish tradition does not insist upon pure equality, only upon basic equality and understanding the difference.

Were all this simply a matter of biblical teachings, we might say that Judaism has a classic tradition in harmony with democracy, but that it has long since disappeared. That is emphatically not the case. There is a Jewish political tradition which has persisted as an integral part of Jewish tradition in which all of these principles have found expression throughout Jewish history, while the Jews were in their land and in the diaspora. It has not been without struggle nor has it been perfect by any means, any more than can be said of any other people, but it has worked in real ways.

Both those on the right and those on the left who denigrate and deny the relationship between Judaism and democracy not only do both a great disservice, but are simply wrong. Each is trying to manipulate one or the other for their own ends. Unlike them, I would submit that Israel would be well served to carefully consider the Jewish political tradition. We can learn much from it in the matter of building a good polity and society.

* See Daniel J. Elazar, "The End of the Chief Rabbinate," VP 42, 31 October 1985.

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