

Israel's Nation-State Law: A Progressive View

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Our parasha this week, *Shoftim*, begins with justice. The Israelites, who've been wandering the desert for 40 years, stand poised to finally enter the Promised Land, but to long *endure* in the land, God says, they must pursue justice: *tzedek, tzedek tirdof, l'maan tichiyeh v'yarashta et ha'aretz*. The word for "justice" (*tzedek*) is repeated twice for emphasis. The Israelites are told in this opening passage to appoint judges and magistrates for their tribes, in all their settlements, and that those officials must govern with due justice. They must rule with fairness, showing no partiality, taking no bribes, nor doing anything else, the Torah says, that might "blind" their eyes and hinder the egalitarian treatment of those they govern. Everyone must be equal under the law in the Promised Land.

Immediately after this commandment, the Israelites are told that they are not to make or set up an *Asherah* near the altar of God in the Holy Land. The commentators take this to mean an object of worship that does not represent the *Jewish* God. Other gods mustn't be worshipped, for this is to be a *Jewish* Land. Somehow Jewish, and somehow upholding equality.

A few millennia later, after history bore witness to centuries of our people's exile, persecution, pogroms, and genocide, the founders of the State of Israel signed a document that both declared our homeland a "Jewish State" and upheld our parasha's call for justice and equality. Israel's founding document, its Declaration of Independence, affirms that the Jewish State will [quote] "foster the development of the country for the benefit of *all* its inhabitants" and "be based on freedom, justice, and peace," ensuring "complete equality of social and political rights to all its inhabitants irrespective of religion, race, or sex," and guaranteeing "freedom of religion, conscience, language, education and culture." The modern State of Israel was to be a Jewish and democratic state with equality for all.

The details of *how* the State was to secure a Jewish identity while maintaining equality and justice for all were not entirely clear—neither in biblical times nor in 1948. But Zionists of many persuasions held that over time—in charge of our own land and destiny, living in a Jewish majority, speaking our own language, and allowing Jewish creativity and culture to flourish in the safe environs of our own State—the State's Jewish character would become self-evident. The Jews as a people had—until the establishment of the Jewish State—been denied this possibility (to put it nicely). In the modern period preceding statehood, the rise of nationalism across Europe created conditions for Jews that made *Jewish* nationalism an absolute necessity. *Our* version of nationalism however, would be one that safeguarded the rights of all who lived in our nation, Jewish or not. How could we do otherwise, given our tragic history in other people's lands? You shall not mistreat the stranger that lives amongst you, for you were once strangers in the land of Mitzrayim.

So given our people's historic commitment both to the Jewish nature of life and law in the Promised Land and to equality under that law, it is understandable that many are upset over the passing of Israel's newest "basic law," known as the Nation-State law, which seems to affirm the Jewish character of the State while making no mention at all of "equality" or "democracy." Meanwhile, others feel that accusations that this is a "racist" bill and a "disaster" are inflated—that Israel is being unfairly criticised for simply codifying a reality that already exists, as compared to burgeoning nationalist tendencies elsewhere in the world that are much more dangerous and sinister. As pulses rise on both sides of the issue, and in light of the discord, it might be helpful to review where our *movement* lands on this spectrum of opinion.

As the rabbi of any Progressive community around the world will attest, there are individual Progressive Jews on both ends of the spectrum and at every point in between. The good news is that most speak with great passion about the issue, so while consensus may be lacking, engagement is high; there are many Progressive Jews who care deeply about the character of the State and its future. As for where the movement as a whole comes down, one of the most clearly articulated expressions comes from *former* president of the Union for Reform Judaism, Rabbi Eric Yoffie.

In a recent interview,ⁱ Rabbi Yoffie says that “in Israeli law and Zionist thinking, Israel has always been a Jewish state and a democracy, so the question Israel has faced [historically] is how to balance the two.” He says that the thinking has been that “Israel will be a Jewish state if it has a secure Jewish majority, that what [exactly] that means will evolve over time,” and that all the while, it will uphold the civil and political rights of the State’s 20-25% *non*-Jewish population. One problem with this is that the Jewish majority is growing less secure. The demographics are shifting due to the high Arab birth rate, as well as the Six Day War in 1967, when Israel found itself in control of an additional 3 million people who are not Jewish. When the majority shifts, Israel will be attempting to be a Jewish state but with only a minority of Jewish residents, and would then cease to be democratic. Therefore, says Yoffie, “ultimately, there has to be a two-state solution.”

The problem, of course, is that “there is no leadership right now on the Palestinian side that is prepared to embrace even the *minimal* elements of a deal that would be necessary” in order for there to be two states living peaceably side by side. So the task for Israel, Yoffie says, is “to keep our options open” and not take steps *on our side* that make peace and a two-state solution unachievable; to “show... that we’re willing and anxious ultimately, when the Palestinians are ready, to have a two-state solution.”

Consequently, while Yoffie does not see the Nation-State law as disastrous, he does see it as unhelpful. However slight the chances were before for peace and coexistence, it furthers us still from these goals to anger Israel’s non-Jewish residents and citizens—by, for instance, passing a bill they will view as demoting their language from official to “special” status or, as Yoffie says, by continuing to build settlements in places that ultimately may become a Palestinian state. It’s not that we’re not *entitled* to do these things—it’s just that they further us from what our movement, at least, sees as the *only* feasible solution that would preserve both the State’s Jewish character *and* equality for all its citizens.

The Nation-State law is not *inherently* a “disaster.” But much will depend on how government officials and citizens alike act on its stated principles, and how the courts resolve disputes that arise as a result. The “judges and magistrates” still determine the balance between Jewish and democratic values in the Promised Land. *Tzedek tzedek tirdof*—May they govern justly, that we may long endure in the land.

Shabbat shalom.

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ⁱ On the *Jewish Sacred Aging* podcast.