

Discussion Points: Separation of Synagogue and State in Israel

Sure, Israel is a Jewish state, but there are many questions that crop up as we attempt to mold an ancient religion and a secular state into one organic entity. We will discuss four "hot-topic" issues in Israel today. This packet provides a little more information about some of these issues.

Questions:

1. Who should control marriage, the secular or the religious branch of government?
2. How do we define a Jew? Do we use Halakhic standards or is self-designation enough?
3. Should it be legal/illegal to open businesses, operate buses or go to work on Shabbat?
4. Can we force people to go to the army if they have religious opposition to service?

As of 1999, 5% of Israeli Jews defined themselves as Haredim ("ultra-orthodox"); an additional 12% as "religious"; 35% as "traditionalists" (not strictly adhering to Jewish law or halakha); 43% as "secular"; and 5% as "anti-religious." Among all Israeli Jews, 65% believe in God and 85% participate in a Passover seder....the centrality of an Orthodox dominated Chief Rabbinate became part of the new state of Israel...when it was established in 1948. Based in its central offices at Heichal Shlomo in Jerusalem the Israeli Chief rabbinate has continued to wield exclusive control over all the Jewish religious aspects of the secular state of Israel...each Israeli city and town also gets to elect its own local Orthodox Chief Rabbi who is looked up to by substantial regional and even national religious and even non-religious Israeli Jews. Israel's population also contains several minority groups, the largest of which is the Muslim Arab population. Other minorities in Israel include: Russian Immigrants, East-Asian Immigrants, Christian Arabs, and Druze.

VII. By Area: Arab / Jewish Population (2003-2004)

	Israel	West Bank	Gaza Strip	Total
Jews	5,165,400 ¹	371,000 ²	7,500 ¹	5,543,900
Arabs	1,301,600 ¹	2,300,293 ³	1,337,236 ³	4,939,129

¹ The Gaza Strip was evacuated by Israel summer 2005

1. Weddings

Currently, Israeli marriage licenses are recognized only if performed under an official religious authority (whether it be Orthodox Jewish, Christian, Muslim, Druze, etc.) only between a man and a woman of the same religion, while civilian marriages are only officially sanctioned if performed abroad.

I. Weddings for the Non-religious

More Than One Voice Under the Chupa

By: Ilene Bloch-Levy

...More than 20,000 Jewish couples register their marriages at the Rabbanut annually, which means that they marry according to Jewish legal guidelines (halacha). These figures do not include interfaith couples, non Jewish couples (i.e. couples not recognized by the Rabbanut as being Jewish), and couples who may have married according to Rabbanut regulations outside of Israel but do not register with the Rabbanut. They also do not include an average of more than 4,000 couples annually who marry in civilian ceremonies outside of Israel, or the many Jewish couples, whose numbers are hard to come by, who marry in Israel and do not follow Jewish legal guidelines.

Emma and James are one of these couples. They married three years ago in what they describe as a "culturally Jewish" ceremony, which is not recognized by Israel's Rabbanut.

What makes a ceremony "culturally Jewish?" For British-born Emma, it meant designing a ceremony within a Jewish framework, but with a number of personally important changes. She and James first immersed themselves in the study of ancient and modern Jewish weddings and ceremonies. They also reviewed Jewish texts, including Bereshit, the Song of Songs, and others.

They chose as their wedding counselor Muki Zur, a kind of guru, as Emma describes him, of alternative wedding styles which enjoy great popularity particularly among kibbutzniks. Muki and they, rather than a Rabbi, directed the events... And, while they stood under a traditionally designed chupa, both bride and groom exchanged rings and both stomped down on the glass to the well-wishes of their friends and family.

II. Same-sex marriage

- Israel remains the most advanced and tolerant in the Middle East in terms of gay rights.
- In November 2005, a groundbreaking court decision in Israel ruled that a lesbian spouse could officially adopt a child born to her current partner, by artificial insemination from an anonymous sperm donor
- Common law marriage has already been similarly achieved (which grants most of the official marriage rights to the spouse), but full official gay marriage has not been sanctioned.
- In most other Middle Eastern countries homosexuality is illegal, often punishable by flogging and even hanging.
- Until 2001, Israel had been the only country in Asia where homosexuals are protected with anti-discrimination laws, which they now share with Japan. Israel still remains the only one in the Middle East with such laws.

Israel's high court orders gay marriage recognition

Steve Weizman, Associated Press (Tuesday, November 21, 2006)

In a landmark ruling, Israel's Supreme Court ordered the government Tuesday to recognize same-sex marriages performed abroad.

...Efforts by Israel's gay community to win approval for same-sex marriage, a key issue in the United States and Europe, face a major obstacle because Israel's religious authorities have a monopoly over marriage and divorce.

...Moshe Negbi, a legal expert, said the court's decision is mostly symbolic because same-sex couples in Israel already had many of the rights of heterosexual partnerships. The significant changes are that they will now get the same tax breaks as a married couple and be able to adopt children, Negbi said. Israeli law stipulates a couple must be married to adopt a child.

...Civil marriages cannot be performed in Israel because of the rabbinate's monopoly on family law. But couples married in civil ceremonies abroad have all the rights of a married couple, and their marriages are registered in Israel...

2. Who is Jewish?

Chief Rabbinate preparing bill to change Law of Return; converts won't be recognized as Jews

By Amiram Barkat (November 22, 2006)

Converts will no longer be recognized as Jews under the Law of Return, according to a bill formulated by the Chief Rabbinate and presented to Prime Minister Ehud Olmert a few days ago. The revolutionary bill is now awaiting a decision by the prime minister whether to make it a government-sponsored bill.

The bill was initiated by Chief Rabbi Shlomo Amar in an effort to block the possibility that the High Court of Justice could recognize Reform conversions carried out in Israel. Amar expects the government to adopt the initiative after other solutions proposed by the state to the High Court, such as a recent suggestion to establish a second Ne'eman Committee to discuss conversions, seemed no more than stall attempts.

The Chief Rabbinate said yesterday the proposal was an egalitarian one that would withstand the scrutiny of the High Court. It argued the bill would "close the loophole" in the Law of Return that allowed foreign workers to convert in order to receive Israeli citizenship.

Panel to discuss bill that would recognize Judaism through father

By Shahar Ilan, Haaretz Correspondent (December 3, 2006)

A bill to recognize as Jewish those in Israel with a Jewish father and a process of secular conversion will be discussed on Sunday by the Ministerial Committee on Legislation.

Meretz-Yahad Chairman MK Yossi Beilin proposed the bill, which is the first time a political party has sought to intervene in the question of who is a Jew in this way, and he says he believes the committee will vote it down.

Beilin's bill would amend the registration law for the Population Registry and for identity cards, but has no effect on the Law of Return, granting of citizenship or immigrant benefits.

...Beilin says the amendment will mean that 300,000 Jews from the CIS who at present are not considered Jewish will be able to register as Jews if they so desire...

3. Shabbat

As of now, it is legal to work and drive on Shabbat in Israel. Many government run organizations, such as the public transportation, close for Shabbat. Some religious neighborhoods attempt to ban driving on their streets for Shabbat.

After discussing these four issues, break the kids up into two groups and have each group read one of the two sources that follow. To spice things up, have the kids who believe that Israel should be a religious state read the Leibowitz article and have the kids who believe that Israel should be purely democratic read the Rav Kook pieces. This way they are forced to engage a contrary source.

State and Religion

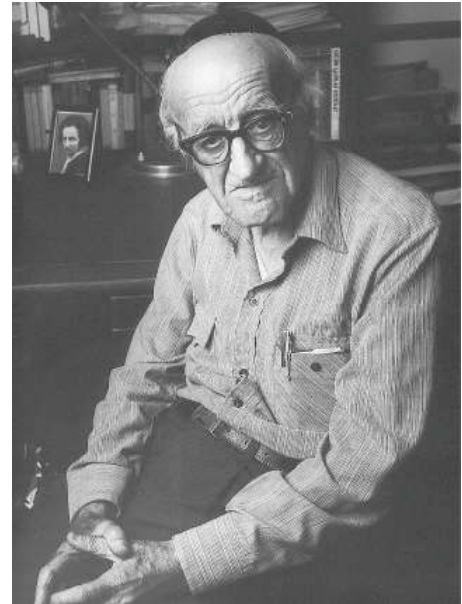
Dr. Yeshayahu Leibowitz (1903-1994)

Translated by David Landau

First appeared in Tradition Volume 12, No.3-4 (Winter/Spring 1972)

A. General Principles

- (1) ...The only reason, the only justification, for the existence of the state is the need it fulfills. This "need" exists on two levels: the existence of the individual ("Were it not for fear of the government men would swallow each other alive"); and the existence of "The Nation." All power and all authority of the state beyond the fulfillment of these vital needs is tyranny...
- (3) The two levels of needs which the state fulfills are really one and the same: if there exists a national consciousness, then the existence of the nation becomes the personal need of the individual, who sees himself as part of that nation. Thus, the basis and justification for the existence of the state are anthropocentric—it exists for the sake of the individual, and it is led and guided by the individual's needs and their fulfillment...
- (4) The historical Jewish Nation...was not identified as a national entity by criteria of race, territory, language, or political structure. As long as the very existence of the Jewish Nation was not problematic—either to Jews or to Gentiles—the only definition of the continuous existence and identity of the Jewish Nation was its Judaism. This was embodied...in the Torah and Mitzvot, the crystallized form of which is the Halakhah. By this definition, the Jewish Nation is a group of people who have the obligation to observe Torah and Mitzvot...
- (5) ...the pattern of life laid down by the Halakhah for the individual and the community is not anthropocentric but theocentric....It does not recognize the rights of man, but only the duties of man towards God.



Even the network of Mitzvot between man and his fellow man...were not instituted from a humanist motivation. Human reality—both individual and collective—is viewed not per se, but from the viewpoint of the service of God. That which from an anthropocentric angle is seen as the ends of the state and the needs and interests of the individual...is seen from the religious viewpoint as only the means to an end [(i.e. service of God)]...

B. Religion and the State of Israel

The problem of "state and religion"—which is in fact the problem of the future character of the Jewish Nation and Judaism—is not raised by the official existence of the State of Israel, but by the administrative and legal disputes between the various partners in the executive and judicial apparatus of the state. The two great states of values, the religious and the humanist, the open conflict between which moulds the character of the individual and his society, are not represented by two camps fighting for these values. The "religious" camp does not fight for the Torah, the "secular" camp does not fight for man: they both fight for the state; the nationalist passion which is common to both sides leads to the situation wherein the state—which is only the external trappings of some content of intrinsic value—takes the place of that content itself.

Lake George Retreat (Prepared by Shalom Schlagman)

Dec. 7-10, 2006

A basis was found for running the state by a clerical-atheistic coalition, independent of the substance of the political reality: it was agreed that the state was to be secular, but that it was to be "known in public" (Yadu'a Batzibbur) as religious. This agreement is offensive both to religious and to humanitarian values. From the religious viewpoint, it leads to profanation of God, contempt for the Torah and the downfall of religion; from the humanist viewpoint, it leads to the corruption of public life; from the viewpoint of any sensitive person, it leads to the corruption of the people by lies and hypocrisy.

The State of Israel was established in 1948 by the common actions, common efforts and common sacrifices of both religious and irreligious Jews as a state of secular character. It has remained of secular character, and it will continue perforce to be of secular character—until a spiritual and social metamorphosis of revolutionary dimensions overtakes the people who live in it. The secularism of this state is not the product of any conscious intent but of its essential reality: it was not established on the strength of the Torah, nor from any impetus of the Torah, nor by the guidance of the Torah or by its commands, nor is it run according to the Torah.

... Whether we define ourselves as "religious" or as "irreligious," all of us set up together this state as Jewish patriots, and Jewish patriotism—like all patriotism—is a secular human trait with no religious or holy content. Holiness only exists in keeping the Torah and observing the Mitzvot—“and you shall be holy to your Lord.”

We have no right to connect the establishment of this State of Israel with religious concepts of Messianic redemption, which entail the idea of the religious salvation of the world, or at least of the Jewish People. One must not affix a religious halo to a politico-historical event, and one must not view the very existence of this state as a religious phenomenon.

Orot (Lights)

Rabbi Avraham Yitzchak Ha-Cohen Kook (1864-1935)

Translated by Shalom Schlagman

Originally written in 1921



“The Land of Israel” (Page 9)

The Land of Israel is not a peripheral matter or a simple national acquisition whose central purpose is assembling the nation and strengthening her material, or even her spiritual, undertakings... It is futile to believe that the Land of Israel exists only to assemble the nation, even when the intent is to gather the Diasporic Jews and to strengthen the character, faith, and performance of mitzvot into the proper form; this belief stands on unstable foundations when compared to the unwavering holiness of the land. The true Jewish strength will come to the Diasporic Jew after he immerses himself in the Land of Israel, because by longing for Israel he only reaffirms his [Diasporic] character. The Diaspora Jew was strengthened and preserved by awaiting salvation, but the Judaism of the Land of Israel is the salvation itself.

“Israeli Nationalism” (Pages 158-159)

The nationalist aspiration of Israel is the outer shell for her spiritual aspiration, and [Israel's spirituality] is the soul and the light of her nationalism... Throughout the Diaspora the vessel (the nationalist aspiration) was thoroughly broken, and the light (the spiritual aspiration) existed in abstract form. Its face was constantly heavenward, and Israel's only national activity stemmed from her religious unity. The Godly light, the essential spirit of the nation, stood outside the vessel meant to house it and shined on the downtrodden people. God's presence (*ha-Shekhina*) descended to the Diaspora to dwell with her people, and was afflicted with their misery. The soul did not spread out, as it desired, but focused the people on fear of God, faith in God, and the passionate performance of Torah and Mitzvot, which are the commandments of God.

The foundation of Israel's nationalism is essentially different from that of other nations. Other nations found their nationalism on a natural psychological connection, based on individual psychological development. Israel, though, bases its national activity on deep-seated moral value, not on natural development. Many mitzvot have an obvious nationalist purpose. In fact, the hidden purpose of the entirety of Halakha is the support of the nation. From a nationalist perspective we see that that performing mitzvot nourishes our national purpose, since our nation is supported by moral enterprise.

...“The State is not the highest achievement of man.” This applies to regular States, whose value is not greater than that of a large community. In such a state, most thoughts and ideas are lost. The ability to think is the life-crown of mankind, and [in a normal state, ideas escape man] floating above him, never quite touching him. How different is the State founded upon ideology! Man realizes his greatest accomplishment when he structures a State in the framework of ideology... Our State, the State of Israel², is of this type. [The State of Israel] is the foundation for God's throne in this world...

² 1. It should be noted that Rav Kook lived before the declaration of the State of Israel. These essays were written ca. 1920. When he invokes the name “State of Israel” he refers to a future state that he hopes to see founded.