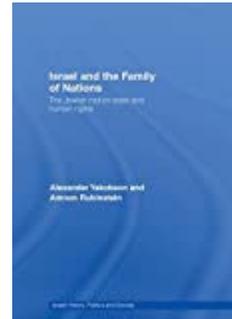




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The Theory and Practice of a “Jewish and Democratic” State

Israel’s Basic Law: Human Dignity and Liberty (passed in 1992) classifies Israel as a Jewish and Democratic State. Alexander Jakobson and Amnon Rubinstein, a historian and a law professor respectively, examine whether a state built to satisfy the national aspirations of its majority population can be a democratic state for all its citizens. Rather than comparing Israel’s practice to abstract rights norms or principles of democratic theory, *Israel and the Family of Nations* measures the state’s behavior against that of Western democracies. Hence the authors’ approach is comparative and pragmatic. Their response to the question of whether a Jewish state and a liberal democracy are compatible is that “no ... contradiction exists” (p. 2).

The early chapters provide a history of the origins of Zionism and the founding of the state, while the later chapters offer direct comparisons with other democracies. Much of the early focus is on defending the idea that the Jews are primarily a national rather than religious group. The authors demonstrate that the state gained recognition—in the Balfour Declaration and the UN Par-

titution Plan—in large part because the British government of 1917 and the UN General Assembly of 1947 decided Jews were a nation with a right to self-determination.

Jakobson and Rubinstein provide a list of ways in which Israel’s behavior is consistent with that of other democracies: a) the Israeli Supreme Court has actively upheld Israeli Arabs’ rights, for example defending Arabs’ right to purchase land that had been set aside for Jews, and it is a court of first resort for Palestinian petitioners alleging rights abuse in the territories; b) in recent years the state has made the family allowances for Arab citizens comparable to those received by Jewish citizens; and c) the Knesset passed bills in 1998 that put in place a system of affirmative action whereby the boards of state corporations have to ensure proportionate representation for Arab citizens. They also demonstrate that the vision of Israel as a state for all its citizens is grounded in the founding documents and statements of Zionist leaders, although at times they overstate the founders’ commitment to equal status for Arabs and Jews.

At the same time they note many ways in which the state has failed to live up to its promises of equality. Appropriately, they place these failures in the context of Israel's permanent state of emergency, which was declared during the 1948 war and has never been lifted. Still, even given the different standards of rights observance expected during conflict than in peacetime, they suggest, Israel might have done better. The administration of the West Bank has created two populations living in the same area under two different systems (p. 103). Palestinians are required to carry military permits that restrict their freedom of movement. The West Bank settlements have, by design and contrary to international law, disrupted the territorial integrity of the Palestinian people's future state. Israel's Arab minority has seen a good deal of its land expropriated in the name of public necessity and then sold to Jews. Funds allocated to Arab villages for housing, education, and medicine have lagged behind the allocations for Jewish areas.

The authors do not go as far as some Israeli academics associated with the "post-Zionist" movement (e.g., Baruch Kimmerling, Oren Yiftachel, and Ilan Pappé). In particular, they reject the view that Israel is an "ethnic democracy," which they see as a second-class designation. Yet it is not clear why. At least in sociologist Sammy Smooha's use of it, the term is descriptive rather than pejorative; it classifies one among a number of types of democracy, ranging from the monocultural model of the French republic, to the multiple nationalities model of Russia, to the multi-ethnic model of the United States. A "typology of democratic systems" (p. 141) is precisely what the authors undertake in the second half of the book, in which they maintain that a model of ethnic nationalism is more realistic and typical than a model of neutral civic nationalism (p. 176).

The authors are refreshingly candid in facing problems in their own perspective, and their candor makes what could be merely apologetic arguments more persuasive. While arguing that Israel's immigration law is consistent with the practice of other democratic states, they acknowledge that the law was unique in providing for mass immigration to a national "home" in which there was, to begin with, little of the nationality's population (pp. 39-40). While making a strong case against the possibility of a bi-national state, they admit that partition (i.e., a two-state solution) along national lines is problematic: it threatens territorial integrity and often involves violent struggles, and "there is no international consensus" on how self-determination should be implemented when two just claims clash (p. 33).

The authors' most original contribution is in the comparative studies they undertake. They maintain that in many cases Israel's behavior is not exceptional but typical of that in democratic countries. "It is not exceptional," they argue, "for a country's national religion to be bound up with its mother country" (p. 86). In comparisons with the relations between religion and state in democracies like Ireland, Greece, Turkey, Pakistan, and India, they seek to show that Israel is "rather less unique than many would assume" (p. 98). While certain strands of liberal democratic theory emphasize that the state must remain neutral in dealing with religious or language differences, the authors maintain that many democracies often do give official status to specific religions or specific languages—in their pragmatic view, "this is what happens" (p. 144)—while still being considered democracies. Israel's relation with Jews in diaspora today sounds "natural and legitimate" (p. 87) in the context of the diaspora nationalism of Kurds, Armenians, ethnic Hungarians, and other groups with an ongoing relationship with their kin-states (p. 127).

While there is a clear agenda here, the parallels provide a welcome control group in a field in which the focus can often be unhelpfully self-referential. Most importantly, the authors make an extensive case that Israel's Law of Return, which provides automatic citizenship for Jewish immigrants, is consistent with ethnic repatriation laws in both long-standing democracies like Finland and newer democracies like Poland and the Czech Republic. They demonstrate that the United Nations Special Committee on Palestine, which drew up the original partition plan in 1947, believed a repatriation law to be necessary in order for the Jewish people to exercise their right to self-determination. Even if readers are persuaded of Israel's original need for a repatriation law, however, many will remain unconvinced of the need for it now, when most of the Jews in diaspora who are going to immigrate have already done so.

There are some rights issues the book does not address, such as practices by the Israeli Defense Forces that have incurred charges of abuse—torture, arbitrary detention, house demolitions, and collective punishment. The behaviorist approach also prevents the authors from considering the normative claims of international law. When they discuss the question of Palestinian refugees' right to return to the lands from which they were displaced during the 1948 and 1967 wars, the authors' argument depends on comparisons to India's revocation of Pakistani Muslims' right of return. But the authors do not discuss the refugee problem in the light of the relevant

international law. There is a principled legal debate over whether the right to return applies in the Palestinians's case, and the book would have been stronger if the authors had wrestled with it.

Overall, however, Yakobson and Rubinstein have

written a thoughtful and provocative study that sheds real light on Israel's approach to civic equality, in the context of the behavior of other democracies. The book will be a valuable addition to courses on the Israeli-Palestinian conflict, Middle East politics, or liberal democratic theory and practice.

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