

Can a Jewish State be a Democratic State? The Declaration of the Establishment of the State of Israel- Paragraph 13

United Nations General Assembly Resolution 181,
November 29, 1947

C. DECLARATION: A declaration shall be made to the United Nations by the Provisional Government of each proposed State before independence. It shall contain, inter alia, the following clauses:

...Chapter 2: Religious and Minority Rights

1. Freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, shall be ensured to all.
2. No discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex.
3. All persons within the jurisdiction of the State shall be entitled to equal protection of the laws.

Rabbi Gil Nativ

Freedom, Justice, and Peace: There is a tendency to use sets of three when declaring principles defining a worldview or categories of ideal human behavior. Thus, we find that the French Revolution raised the banner of "Liberty, Equality, Fraternity" and the American Declaration of Independence speaks about an individuals three basic rights ("Life, Liberty, and the Pursuit of Happiness"), the prophet Mica spoke of three behavioral requirements ("To do justly, to love mercy, and to walk humbly with your God"). In the first chapter of the "Ethics of the Fathers" we learn that the world stands on "the Torah, (Temple) Service, and Deeds of Loving-Kindness" and then at the end of the same chapter we see that the world exists on "Truth, Judgment, and Peace". The combined terms of "Freedom, Justice, and Peace" is nowhere found in Jewish sources, but each term on its own is of central importance in the Biblical and post-Biblical traditions.

...As envisaged by the prophets of Israel: The beginning of the Declaration of Independence declares our pride that the Jewish People "gave to the world the eternal Book of Books". This part of the Declaration, however, discusses the underlying principles of the State of Israel and refrains from mentioning the Bible in its entirety. Instead, only one of the three parts of the Bible is cited: the Prophets. In the eyes of the modern reader of the Bible, and especially of the Zionist thinkers, the prophets are considered as those who emphasized and claimed social and moral demands and gave social morality preference over the ritual and ceremonial (Temple sacrifice) commandments.

ירמיהו, כ"ב ; ג'
כה אמר ה' עשו משפט וצדקה והצילו גזול
מיד עשוק וגר- יתום ואלמנה אל-תנו אל-
תחמסו ודם נקי אל-תשפכו במקום הזה:

ישעיהו, א' ; ו'
ואשיבה שפתיך ככראשנה ועצריך כבתחלה אחרי-
כן יקרא לך עיר הצדק קריה נאמנה: כי ציון
במשפט תפדה ושביה בצדקה:

The Charter of the United Nations was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945. The Charter express the reasons to its establishments and the aims of the organization: "We The Peoples Of The United Nations Determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom ..."

The Jewish State will be based on full equal rights for all its residents – irrespective of religion and race in the political, civic, religious and national spheres, with no hegemony and no subservience. Every community will enjoy full autonomy in the management of its religious, educational, cultural and social institutions. The Arabic language and schools will enjoy all governmental rights. Independent municipalities will be established in every city and village. The State will seek to equalize the standard of living of every resident of the land of Israel.

The Jewish People will strive toward cooperation with the Arabs of the land of Israel for the sake of maximal development of the land for the benefit of all its inhabitants and to a covenant of friendship between the Arab states and the peoples of the neighboring Arab lands on the basis of mutual benefit and reciprocal help towards advancement and peace of all the lands of the Middle East.

(David Ben-Gurion -13 March 1945 Zionist Executive Committee meeting: Suggested clause for addition to the "Biltmore Plan", meant to advance the political Zionist cause and strengthen the Zionist position in world opinion. From: The Central Zionist Archives, S25/1787.)

נוסח מחלקת המשפטים " 12.5.48

המדינה תהיה מדינה דמוקרטית, חופשית לעלית יהודים, מדינת חרות, צדק ושלוש, ברוח חזון נביאי ישראל ואבי הציונות המדינית, תאודור הרצל ז"ל, חזרת העקרונות של מגילת האומות המאוחדות.

"A Version of the Legal Department", May 12, 1948
"The State will be a democratic state, freely open to the immigration of Jews, a state of Liberty, Justice, and Peace in the spirit of the vision of the prophets of Israel and the father of political Zionism, Theodore Herzl z"l, permeated with the principles of the United Nations Charter."

מדינת ישראל תהא פתוחה לעליה יהודית ולקיבוץ גלויות; תשקוד על פיתוח הארץ לטובת כל תושביה; תהא מושתתת על יסודות החירות, הצדק והשלוש לאור חזונם של נביאי ישראל; תקיים שויון זכויות חברתי ומדיני גמור לכל אזרחיה בלי הבדל דת, גזע ומין; תבטיח חופש דת, מצפון, לשון, חינוך ותרבות; תשמור על המקומות הקדושים של כל הדתות; ותהיה נאמנה לעקרונותיה של מגילת האומות המאוחדות.

The Declaration of the Establishment of the State of Israel (Final version, Paragraph 13)

The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.

(Official Gazette: Number 1; Tel Aviv, 14.5. 48 p 1)

ויקרא, כ"ד ; כב'
משפט אחר יהיה לכם פגר פאזרח יהיה
כי אני ה' אלהיכם:

The Declaration expressed a vision of establishing a Jewish state with the commitment to universal democratic values. What is the relation between the two? Are they combined or conflicted?

*Eliezer Schweid**

The combination of these three values in this particular order--Freedom, Justice, and Peace -- reveals an ancient heritage that has been reinterpreted in modern Jewish thought and in Zionist ideology. This combination was purposefully determined: Freedom, Justice, and Peace (in this conceptual order) are the basis of the vision for redemption, which integrates the redemption of the Jewish People and redemption of humanity. Firstly, as it is expressed by the latter prophets--Amos and Hosea, Jeremiah, Isaiah and Ezekiel; secondly, as it is expressed by the founders of Zionism (in spite of the different trends) who based their words upon ancient tradition, offering modern interpretation ... Furthermore these values, in this order, are the foundation values of the Law of Moses, which were originally given to a people who had left slavery in Egypt and prepared for a life of freedom in its own land. The Bible interprets the significance of a life of freedom on the basis of social justice, whose implementation for all Jews and non-Jews is what will assure the Jewish people peace in their own country, internal peace and peace with their neighbors.

Does the Declaration merely pay lip service to the UN demands?

Eliezer Schweid

It is worthwhile to pay special attention to the central place given in the Declaration of Independence to the value of justice, in its social definition, among the basic values of Israel as a Jewish State dedicated to the universal values of humanity. ... Note that the obligation to equal social rights (justice) is not included amongst the demands of the United Nations for the establishment of a state, but rather this is a self-commitment, which Israel took upon itself based on the ancient Jewish heritage and Zionist ideology. It encompasses the historical mission of the state of the Chosen People: not only a just nation in the comity of enlightened nations, but a exemplary nation for whom social justice is a guiding light.

מדינת ישראל תהא פתוחה לעליה יהודית ולקיבוץ גלויות; תשקוד על פיתוח הארץ לטובת כל תושביה; תהא מושתתת על יסודות החירות, הצדק והשלום לאור חזונו של נביאי ישראל; תקיים שוויון זכויות חברתי ומדיני גמור לכל אזרחיה בלי הבדל דת, גזע ומין; תבטיח חופש דת, מצפון, לשון, חינוך ותרבות; תשמור על המקומות הקדושים של כל הדתות; ותהיה נאמנה לעקרונותיה של מגילת האומות המאוחדות

*David Kretzmer***

"I see the Declaration of Independence, from the beginning, as a schizophrenic document that tries to do two things--and we know from the historical perspective why it was written this way. On the one hand, we want to express the establishment of a Jewish state, while on the other hand expression is given to those democratic principles...I think they discharged their duty and fulfilled the minimum requirements so that they could say...we are working in accordance with the partition plan of the United Nations. I am not convinced even today that there was a true commitment here to those principles....

Paul Eidelberg***:

The document declares that "The State of Israel ...will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants..." it should not need saying that the prophets of Israel would have denounced such equality. Under the Torah, non-Jewish living in the land of Israel would have the status of foreign residents (*ger toshav*); and while they would enjoy civil and other rights, none could hold any government office. The prophets were not liberal democrats or moral pluralists. They did not regard "freedom" as moderns are wont to do, as living as one likes. Nor did they reduce "justice" to mere equality. They saw in every domain of existents ... hierarchy. As for "peace", the prophets of Israel understood this to mean "perfection" or "completeness" which could be achieved only when every heart and home in Israel was imbued with the Torah. ... (The Declaration's) prescription for the establishment of a democratic state in the land of Israel run contrary to its insistence that this state is to be, and ever remain, a Jewish one.

David Krechmer

Everyone speaks about "Equality" and mentions the Declaration of Independence and "equality of political and social rights without regard to religion, race, or gender". But, as has been said, equality requires that the State will be neutral. The State of Israel is not neutral. It sees itself in a clear, harsh way as a tool for advancing the interests of the Jewish People or at least for those who live here... Today, the inclination is to say that this attempt to emphasize only the dominant culture at the expense of, and without also trying to encourage the culture of other significant groups in the population, does not reconcile with the most basic outlook of a democratic state.

Berl Katznelson, 1940

"Whoever comes to uproot the redemption of Israel from the tractate of moral values and the liberation of Mankind is not strengthening the causes of redemption. For if Justice, Law, and Freedom were not another basic moral, then: Why Jewish immigration? Why settlement? Why save the People and establish a state?

No, Zionism would not have arisen--and will not stand--in a world that denies Justice, Law, and Freedom to all who are created in the Divine Image, and it won't repudiate these human values, for in these [Zionism] will have to judge itself."

בתוך: 'יבוסות המבוכה ובגנות הטיח' (בכינוס מודריכי עליית הנוער. ב. בתמוז ת"ש), כתבים - ברך ט' תש"ח, עמ' 262.

* *Eliezer Schweid*, "The Unique Qualities of Israeli Democracy", *Ait HaDaa't*, 1, 1997, p.100

** *David Krechmer* (from the protocol of RHR Yom Iyun, May 18, 1998)

*** *Eidelberg Paul*. "Foundation of the State of Israel: An Analysis of Israel's Declaration of Independence" *Judaism* 36 (1987), pp 397-398.

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