Introduction

RELIGION IN THE PUBLIC SQUARE: JEWS AMONG THE NATIONS

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The question of dealing with religion in the public square may not be Jewish in the same way that it is a modern or contemporary question because of the differences between Judaism, certainly in its classical form, and Christianity. Dealing with the issue in Israel requires an understanding of this and of the fact that Israelis and others have been misled for years in thinking that there are only two categories of Jews in the country, a secular majority and a religious minority, when in fact, in terms of actual belief and practice, the majority of the Israeli population is traditional and only minorities on either end of the spectrum are Orthodox or secular. This makes the question of religion in the public square a pragmatic one that needs to be answered in light of Israeli reality as well as the different expectations of the various population groupings. With regard to the diaspora, the struggle today is between Israel and American Jewry, almost entirely excluding the rest of the diaspora in Europe and elsewhere whose position on the issue is more like that of Israeli Jews but who are slowly acquiring the problems of American Jews. Those pragmatic solutions will have to involve both Jewish law and contemporary Jewish experience which will need to be reconciled so as to enable Jews with differing intensely held positions to live together as parts of one people.

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The question of dealing with religion in the public square may not be a Jewish question in the same way that it is a modern or contemporary question. There is considerable evidence that Jews have not made the separation that modernity brought about between religion and the public square in the same way as in the predominantly Christian West. When Jews talk about Jewish things, they cannot make the separations that Christians make when they talk about Christian things in a multi-religious world. We all know that many Jews in the modern world have become secular or certainly less than traditionally religious or different from traditionally religious in the premodern sense. Nevertheless, to an extraordinary extent, Jews keep coming back to an intermixture of religion and the public square; that is to say, the religious dimension of Judaism simply cannot be separated from the other dimensions, the civil, political, or cultural dimensions of Judaism.

Ironically, separation of religion and state, which Jews had a hard time conceiving for Judaism, became an article of faith for many diaspora Jews, especially the most Westernized and modernized, with regard to the Jewish people among the nations. We can understand why without difficulty. For diaspora Jews who wished to remain Jews and not convert to another religion, the ticket of entry into the world around them, particularly the new post-Westphalian state system, required that the states become religiously neutral, that Jews as well as Christians could be full citizens and recognized as such. Especially in the United States, most Jews rushed to embrace the idea of separation of church and state or, in some other countries, separation of the state and the established church, so that all "churches" could be treated equally by the government. In a relatively short time this separationist position became a canon of the modern Jewish liberal faith.

The idea of separating religion from the public square emerged some time after the middle of the seventeenth century in Western Europe, certainly by the middle of the eighteenth century. The idea of doing so received a distinctly mixed reception in Western Europe, but I do think that there was more of a separation by then than there is, let us say, in the Asian countries today. We Jews only began to consider this possibility of separation 150-200 years ago and we have not moved towards separation in the same way.

That is partly true because, after all, Western Europe came out of the Christian tradition which, even in the days of the greatest church-state integration, held to the idea of the "two swords." Hence, there was a certain separation between religion and state

at one level, even if not on the operational level, in a way that was not true in any Jewish society or community, even nominally, until very recently.

Jewish civilization either will not, cannot be, or still is not divided in that way, which leads us to an interesting kind of issue. Certainly, contemporary Jewish public discussion is based upon some conception of the modern idea of separation of church and state, however it is phrased. In Israel it is phrased in the most modest ways; American Jews phrase it in a most extreme way, based on their own historical experience in the United States. That is the way the discussion has taken form in the last 50 years that the issue has been on the public table in the way that it has been.

The result in the United States was summarized in *The American Enterprise,* the journal of the American Enterprise Institute, a few years ago in an issue on religion in America.[1] In the issue's introduction, the editor writes that if, as the surveys show us, the most irreligious people in the world are the Swedes and the most religious people in the world are the Indians in India, the United States is a nation of Indians led by Swedes. So, too, Israel can be said to be a country of Indians led by Swedes. I think that complicates the discussion enormously. Because so many of us cannot face our Indianness, we are so eager to demonstrate our Swedishness.

It is indicative of the problem that in the formal language used in Israel, until recently there has been no place for anything but the extremes, particularly *haredi* (ultra-Orthodox) and *hiloni* (secular). Once in a while, Israelis would use the term *dati* (religious), but only in limited ways, and there was no accepted way to talk about the half of the population or more (and it is really more, the two-thirds of the people) who are *masorti* (traditional) in some way. That says something to us about how the Israeli talking classes, how the Israeli establishment, has been thinking about the issue and how that has affected all other Israelis. For example, if one asks most Israelis "What are you?," they will answer "*hiloni*" when they are not *hiloni* at all, because that is the word they have learned to use to express what they presumably are. They mean not Orthodox, not non-religious. But they have been taught only a radical term like "secular."

Israel has a population in which, according to the 1993 Gutmann Study,[2] 54 percent state unequivocally that they believe that God gave the Torah at Sinai. (But only 27 percent believe that God will take it seriously and will punish them if they do not observe the Torah's commandments.) Another 20 plus percent can-

not say whether a literal revelation actually took place but accept the possibility. That is a very high percentage. It has to include many, many so-called *hilonim*. It corresponds to the United States where the U.S. Supreme Court rules the way it does, on the one hand, and some two-thirds of all Americans claim on every public opinion poll in the last 30 years to believe in a real Devil, a living Devil who exists in Hell.

By impoverishing our language in dealing with this problem we have impoverished ourselves. The fact that there has been no identified grouping of people who fit into the *masorti* camp in the larger sense and no one has articulated a *masorti* position within the Israeli context has further impoverished the situation.

The question of religion in the public square in Israel must be a pragmatic question to a great extent, if it is to be handled in the polity. This disappoints and angers both liberals and Orthodox because it means that resolution of the problem has to violate the principles of liberalism and Orthodoxy alike. That is a reality that is occurring. If the Chief Rabbis feel it necessary to sit down with Reform and Conservative leaders, that certainly violates what they hold to be essential principles, both religious and political, of contemporary Orthodoxy. At the same time, if we polled American Jews we would probably find a view very much like the average Orthodox Israeli's view as to what they would want to be in Israel's public square in terms of formal religious expression. I do not think we would find that American Jews want to change the calendar so that the Jewish holidays were not national holidays. I do not believe they would not want to have *sukkot* and *hanukkiot* and all the appropriate symbols on the public buildings for those holidays. What they would want would be almost exactly what Israelis who are challenging the present system — non-*dati* Israelis, non-*haredi* Israelis — would want, which is very different than what they would expect in the United States. We would find some American Jewish ideologues who would want separation or something close to separation in the American way for Israel, but most American Jews probably would not.

So there is actually a greater convergence than many people probably would think. Although current controversies cannot be expressed in convergence language, the fact that convergence is occurring may offer some openings for pragmatic solutions for some problems in both countries. Some way must be found to cope with the real *hilonim,* whom we will call liberals for this purpose because they think of themselves as defending liberal democracy, and the people who are really Orthodox, either Orthodox or fervently ultra-Orthodox, both of whom would have trou-

ble with this kind of middle position that probably embraces about 70 percent of the Jewish people in both countries.

The problem for Jews in the United States is quite different. Jews there have a dilemma. As Jews seeking to be fully American, the separationist position has been quite helpful, but most Jews want to continue as Jews as well as Americans, and Judaism is a monotheistic religion. By a quirk of fate, the idea of keeping organized religion out of the public square was developed in countries which only knew monotheistic religions and in any case did not recognize paganism as legitimate religion. Thus, the strictures were applied to the organized monotheistic religions, albeit not to monotheism itself or to its "Christian" and subsequently "Judeo-Christian" expressions in public life.

Most recently, the advocates of separation have successfully pressed to eliminate public expression of Judeo-Christian monotheism as well. This has come at a time when paganism has reappeared as a presence in the West in two ways: one, through the arrival of Asian and African religions that are either avowedly or essentially pagan, who have claimed the same protection of religious rights as the monotheistic religions; and two, the emergence of neopaganism among people born into the monotheistic tradition in the form of "New Age" beliefs and practices, deep environmentalism, and similar developments.

Because both of these pagan expressions were not conventionally defined as "religions," they were able to secure entry into public life and constitutional protection as examples of folklore, multiculturalism, or even science, because they were not at all viewed as religions. This means that Jews, as part of the community of monotheistic faiths, are under assault in ways that would have been considered absolutely outlandish had someone tried to predict them a century ago or even less. Hence, a new understanding of the issue is called for and a new strategy to confront it is needed.

This problem is not simply one for the United States and Israel. The rest of the diaspora, which almost equals U.S. Jewry in population, if it does not exceed it, is left out. Americans have this terrible hubris that because they are the largest Jewish community in the world they are the majority of the diaspora, and the Israelis have come to the terrible foolishness of believing the American Jews because they only look to the United States qua United States, so they think reflexively that American Jews equal the whole diaspora or all that counts.

The demographers believe that there are some 13 million Jews in the world. My guess is that there are probably between 14 and

15 million Jews in the world. The U.S. has about five and a half million and Israel about five million.

This leaves a third bloc of three to five million, certainly a significant bloc, that does not see the particular issue that has precipitated the fight in the same light as the American Jews do. Almost all live in countries where the relationships between religion and state are based upon equal state support of various religious institutions or activities. A majority of this bloc of Jews live in Europe where the major issue concerning religion in the public square deals with the rise of Islam in what were once well-nigh exclusively Christian countries. The mass migration of foreign workers and political exiles, so many of them Muslim, is a matter which evokes fear in the hearts of many Europeans, especially when religious Muslims demand equal rights to practice their customs publicly as others have.

This second volume of the *JPSR* dealing with Jews and religion in the public square examines various ways in which the issue is expressed, especially in this third bloc. Basically, it concerns itself with three themes: the rise of neopaganism and how that changes the terms of reference of the discussion; the way in which Jews do or do not receive equal treatment in countries where the policy is to provide equal state support for recognized religions; the problem of fundamentalist Islam in the public square; and the way in which organized Jewry has responded to the globalization of these issues.

So it is not a binary issue, it is at least a tripartite issue with many more parts that have to be considered, and we do ourselves a disservice if we reduce it to a binary issue. First of all, it is always harder to resolve binary issues. Those always become win-lose issues and almost never offer the opportunity of being win-win issues.

We have a problem here in that Jews live in all three blocs. Therefore, when they come to talk about the public square of Jewish things influenced by where they live, then they have to find some common language that will enable them to talk about it among themselves without their being able to fully transcend their respective environments, and this makes the problem more difficult.

What I am suggesting is that for Jews as Jews, traditionally there is no separate public or private square, that the idea of a public square as a separate square is much more a product of Western civilization and especially of the United States as the apotheosis of Western civilization, or the United States, Australia, Canada, etc., the new societies of the West.

When Jews start talking about the public square and Jewish issues, then we all come back essentially to that original idea which is not only a premodern but an ancient idea that one really cannot make that distinction between public and private in the same way that is done in the Christian (or post-Christian) West. There are some distinctions.

We do have a very serious question which cannot be underestimated in how we combine the different public squares that exist in the Jewish people today. Manfred Gerstenfeld has suggested that the very idea of the Jewish people is a construct. I would not go that far, but it seems to be quite clear that the Jewish people are gathered in different public squares today, at the very least on a geographic basis. How do we find a way to keep them within one common square now that the tasks that were trumps for Jews over the last 120 years have diminished and are rapidly disappearing? Survival, literally either staying alive or staying alive in some respect with some kind of Jewish existence, was the key issue to trump all other issues. Rescue of Jews in distress could trump all other issues. Building a Jewish state as a place of refuge, if not as a place for Zionism, could trump all other issues. All of these trumps are now closing down. Now Jews can leave any country if they want to. That is an enormous difference. When we played our hand in Ethiopia and the Soviet Union fell apart, we ended the days in which survival could be a trump. They may come back — it is not the end of history and who knows what will happen — but not in the foreseeable future.

There may be 6,000 Jews in the world today who cannot leave where they are for whatever reason. Obviously we now have to confront those divisive problems that we had to put on the back burner in the past on the grounds that there were these more important issues of rescue, relief, and rehabilitation.

Now the critical division that is emerging seems to be between those who think that being Jewish is a matter of personal religious experiences and those who see being Jewish as a matter of law or *halakhah.* It is almost impossible to exaggerate the degree to which these are fundamentally contradictory views of the world and that if one wins the other loses and there are no two ways about it. They have to be transcended somehow, at least on an accommodational basis, but they cannot be resolved by combining the two in a way that those who are partisans of one or the other will find acceptable.

It is true that there are many Jews in the middle who say that Judaism is a bit of both law and experience, and that life is more complex than rigid categories. For them there could be some kind

of synthesis, but they are going to be led by leaders who have a stake in holding fast to either one or the other. Certainly, Reform rabbis, with the exception of a handful of significant people in their movement, basically depend upon the experiential definition of Judaism or they do not exist as rabbis. By the same token, Orthodox rabbis may be able to allow for a lot of experiential room, but their rabbinical authority depends upon upholding *halakhah*. This seems to be the main point of contention. Because enough Jews are a little bit of this and a little bit of that, it may be possible to find some accommodations, but there is no way to fully resolve that problem without one side losing all.

In essence this is a problem in federalism. How do you take two different things and put them together, not on the basis of pluralism which allows you to slide them together if both sides believe in pluralism or are at least willing to live with pluralism? How can they be put together where law is involved? Federalism is a product of covenant. Covenants are necessary to mobilize consent and generally to consent to specific items that are then binding. In our age of what we are calling "globalization," this is becoming the only way to organize human communities that bind, not only in the West but in an increasing number of parts of the world.

One of the extraordinary things about globalization is that it is becoming constitutionalized. Why? If not, there is a spreading feeling that the business, financial, and political elites will run roughshod over other interests to get what they want and all of us will be at their mercy. The global human rights movement in the world is one of the steps that is being taken by people who do not want to leave all decisions to the raw rationality of the market at the expense of human concerns, to provide some way in which they can provide a foundation whereby what will become law and what is becoming law will be able to restrain sheer economics, especially since the economics is dominated by financial interests rather than producers, as always.

The idea and method which they are pursuing involves pacts between consenting parties that build situations in which laws are established that have to be adhered to. This becomes important in looking for any kinds of resolutions or accommodations in this area as well.

Of course what those laws will have to do is what covenants always have been meant to do, namely, establish a basis for what John Winthrop, the seventeenth century American Puritan leader, called federal liberty or the liberty to live up to the terms of the covenant. That is very different from the individual autonomy that

the Reform movement envisages. It is also not the definition of being bound by *halakhah* that the *haredim* talk about, but it is something in between that combines elements of both into a new and different synthesis.

We are a way from figuring out how to do it. We had worked it out as long as we could keep this issue off the table. In the other areas when the aforementioned trumps were playing, we had found a way to work it out by keeping this on a low burner. Now we have to confront it more directly.

Finally, the problem is compounded. It is not only that there are different spaces in which Jews in different diasporas or in Israel live, but different times as well. Where American Jewry is is not where French Jewry is, although French and American Jewry are much closer to each other than where Israeli Jewry is. One listens to discussions about religion in Israel and, for Americans, it is going back to the village atheist arguing with the local pastor in some square in Ohio in 1890. That is about the level of sophistication of these discussions. Why? Because in discussion of this issue Israel was shaped by its original Zionist founding in the forty years before World War I and for many reasons it never had a chance to grow beyond that because other issues occupied the stage and preempted the attention of people. But that creates a situation where we are living in different times as well as in different spaces, which compounds the problem of how we find ways to bridge all this.

What should be clear to all is that an issue which at least a good part of the Western world saw as resolved only a few years ago has now been reopened, in part because its modern resolution when more fully implemented turned out to be unsatisfactory to many and often detrimental to civil society as it changed, and partly because of the impact of those changes. The separationist idea was directed to the relationship between the monotheistic religions and the civil states of the West because no one could conceive of any religions other than the monotheistic ones surviving in the enlightened world of modernity. In the postmodern world we can see all too well how paganism and neo-paganism not only can survive but can utilize elements of the civil state to propagate their views since the modern separationist argument never considered them to be "religions."

Beyond that, many of us have discovered that simple exclusion of religion from the public square impoverishes public life and sends people a signal that religion is not important when it comes to the "real" issues of civil society. Not only is that message a mistaken one but, in practice, it simply cannot be maintained.

That is to say, throughout the world, the forces of religion are asserting their legitimate right to be heard in the public square. Moreover, because they often have to force their way into the square, those that are heard most loudly are not the best forces that religion can put forward in light of the other precious norms of democratic civil society and civic republicanism. Hopefully, if we put our minds to it, we can find remedies or at least reasonable resolutions for most of these problems, but we can only do so if we look them squarely in the face as we have tried to do in this issue of *JPSR*.

Notes

1. "Bird's Eye," *The American Enterprise,* journal of the American Enterprise Institute (November/December 1995).
2. S. Levy, H. Levinsohn, and E. Katz, *Belief, Observances and Social Interaction Among Israeli Jews* (Jerusalem: Louis Guttman Institute of Applied Social Research, 1993).