



THE STATE OF THE STATUS QUO

“THE GEMARA STATES that only a free man can occupy himself with the Tora,” says Professor Ariel Rosen-Zvi, an observant Jew who opposes what he calls “religious totalitarianism.”

One of the authors of a proposed constitution for the state of Israel, Rosen-Zvi believes that religion must not be imposed by force; it can only function within the framework of freedom of choice. This principle is basic in the section of the draft constitution dealing with the rights of man. “Every person is entitled to freedom of religion and conscience,” it says.

Compulsion is a confession of defeat, a failure to convince, Rosen-Zvi contends. The U.S. has no official religion, in accordance with Thomas Jefferson’s “wall of separation” between church and state. Nevertheless, the 19th century historian, Alexis de Tocqueville, found more fervent Christians in America than in his native France where Catholicism was the established creed.

Rosen-Zvi does not recommend the American “wall of separation” for Israel but does not go to the other extreme either. Intransigent groups on both sides must learn to compromise, otherwise it will be impossible to live together. “We can have neither total identification nor total dissociation,” he says.

The draft constitution endeavours therefore to accomplish all three aims: to protect the right of secular persons to live as they will; to protect the interest of religious communities; and to give symbolic expression to Judaism as the religion of the majority.

How does that work out in practice? “All religious laws must be re-

The year 5747 is ending on a note of grave dissension between ultra-Orthodox and secular Jews. David Krivine examines five different views on the issue of religion vs. state.

voked,” he asserts, “except those having a general application. For example, we need a day of rest so it is reasonable to choose the Sabbath.

“But laws banning the sale of pork should be invalid because they do not have a general application.” Persons ought to refrain from eating pork by their own choice, not because it is not available.

“Following on that, anybody wishing to take a bus or visit a cinema on the Sabbath should be able to do so. A religious community has the equivalent freedom to close down these facilities in its own district.

“Weddings should be religious or civil according to choice. But if the couple chooses a Jewish religious wedding they must stick to that decision. Any divorce proceedings would have to be handled by a rabbinical court.” This is necessary owing to the halachic laws on *mamzerut* (bastardy). If two people are married in a religious ceremony and then divorced by a civil court, they still remain man and wife under religious law. Any children outside that wedlock are therefore *mamzerim*.

“Each community,” he continues, “is entitled to its own way of life. The observant pay taxes like everybody else, so religious schools should receive the same finance as ordinary schools. By the same token the non-believer has the right to be buried in a non-religious cemetery.”

“I agree there can be a conflict between the right to be separate and the need to be a unified nation,”

Rosen-Zvi replies. “But in any clash between human rights on the one hand and desirable social objectives on the other, human rights come first.

“Let me add that particular interests must give way to the general interest. Jerusalem’s proposed football stadium is near, though not inside, a religious area. If that is the best that can be done and there is no alternative solution, the stadium must be built as planned.

“On the other hand the defence forces are united in a comradeship of arms, and a spirit of solidarity pervades all ranks. In this case necessity overrides freedom. Kashrut must remain compulsory in the army.”

FOR ULTRA-Orthodox Rabbi Zvi Weinman, Israel is not just a state of Jews, it is also a Jewish state. The law of the Halacha must be the law of the land. Anybody not wanting to comply with the Orthodox code has the option of living elsewhere. Plenty of countries, he points out, offer the Jew freedom to do as he pleases. Israel offers only one discipline: the discipline of Judaism.

“If we don’t believe in religion,” says Weinman, “what are we doing in this land? God promised it to our ancestors on condition we observe the Tora. If we do not, then we are here as conquerors. We were united over the ages not by common ethnic descent nor by a common history, territory or language (we were scattered among the nations), but by a common faith.

“In Judaism, nation and religion

are one. Only when they are joined together can a Jewish territorial nationality be created.”

Weinman is a Jerusalem lawyer who specializes in pleading before the rabbinical courts. He boycotts national elections because he considers Israel’s statehood premature: the time of the Messiah is yet to come. He declines to be photographed for this article, arguing that people look at faces instead of listening to what is being said.

“What are your demands of the state?”

“Three things: marriage and divorce according to Halacha; the observance of the Sabbath in all public places; and kashrut in all public institutions. You see, I’m a minimalist. Strictly speaking, sins must be condemned wherever they are committed. But I cannot penetrate into a man’s private home, so I confine myself to condemning offences made in public.

“Commercial places like shops, cafes and cinemas must be shut. Public transport may not run.”

I ask him: “Is it reasonable to compel religious observance?”

“Of course. The Bible says that he who desecrates the Sabbath shall be put to death. You accept that people are punished for sins towards men, like theft or murder. Should they not be punished for sins towards heaven?”

“But I ride on the Sabbath. What does that have to do with you?”

“The Midrash recounts that a man travelling by sea was observed to be drilling a hole where he was sitting in

the ship’s hold. His fellow-passengers asked what he was doing. ‘It is no concern of yours, I am not drilling under you,’ he said. ‘But,’ they said, ‘the water will drown us all.’

“Jews are responsible for each other, and if one man transgresses God is angry with the whole community.” This inter-dependence must be accepted, in Weinman’s view. If a person wants to eat ham in a restaurant or choose a spouse from another religion, there are plenty of countries in which he can do that. He doesn’t have to live in Israel.

“In exile, he may face the danger of anti-semitism.”

“His life is in danger here too. Where are Jews more exposed to perils than in Israel today?”

“I desecrate the Sabbath, according to your interpretation. Would you put me to death?”

He roars with laughter. “Only the Sanhedrin can do that. It will be convoked in the days of the Messiah, so you don’t have to worry. When the Messiah comes in all his glory and splendour, you will return to religion. You will observe all the commandments of your own free will, I promise you,” he adds comfortingly.

ZEVULUN HAMMER, Minister of Religions (and former minister of education) is Orthodox like Weinman, but looks deeper into the problems of the contemporary scene. He recognizes the existence of a secular community and seeks a dialogue with it.

Hammer is a disciple of the late rabbi Avraham Yitzhak Kook and Yitzhak Sfoveichik, who believed that the sacred must come to grips



From left: Amnon Rubinstein; Professor Ariel Rosen-Zvi; Zevulun Hammer; Professor Aviezer Ravitsky.

STATUS QUO

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with the profane. What bothers the minister is a loss of culture among the secularists. With the passage of time, he fears, the controversy may be less between religious and lay culture, and increasingly between religious culture and no culture.

He sees religion as an essential underpinning for all culture, and that is the source of the dialogue he has in mind. Secularists tend towards materialism, whilst the devout tend towards ritualism. Both are apt to overlook something critical: the moral aspect of their respective cultures.

"Observance of the Sabbath does not mean just preventing the metal structure called an aeroplane from flying. More important to me is what the pilot does on the Sabbath." That day is special. "It is said that on the Sabbath every Jew acquires an extra soul. We cannot treat the occasion as an ordinary unconsecrated day like the other six. Temporal occupations are put aside, place must be made for spiritual activities - if not religious worship then reading, conversation, family life."

Hammer wants the two parts of the nation to talk together about the Sabbath and other subjects. He is sure there is common ground within the Halacha. "We have a great traditional culture built up over the ages of which half the population knows nothing. This heritage is relevant to the non-believers too; we can all live within its purview."

He puts his faith less in legislation and more in education. The religious must deal not only with prayer and theology. They must widen their horizons and think about the impact of religion on the big issues of daily life: the use of political power; the avoidance of corruption; the task of the doctor, the teacher, the parent; the pros and cons of permissiveness; the problem of road accidents; the relation between officers and soldiers; the relation between the generations. Every issue is relevant and must be studied in the religious context.

He strongly urges the intermingling of the two cultures, the religious and the lay. "We wanted once to put on the air an advertisement inviting people to phone a certain number if they had a religious question to ask - the date of a festival, the application of the rules of kashrut in a certain situation or whatever. The Broadcasting Authority said no, our request savoured of Khomeinism."

"Yet the Tourism Ministry promotes TV films of pretty girls in bathing costumes, to attract holiday-makers. We don't call that Hellenism, so why should the radio people classify a Jewish answering service in that odious way?"

He does not want the existing religious laws repealed, he accepts the status-quo agreement, which freezes religious legislation at the level prevailing 35 years ago. He will not compromise on that, opposing (for example) civil marriage on the ground that Israel is small enough and isolated enough without creating more divisions within the coun-

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try. "Some price has to be paid for Judaism," he points out. "We can't split the country into two sectors who don't study together, are beginning not to live together, and soon won't be able to marry each other."

"The status quo is far from ideal; still, it constitutes a kind of ceasefire. We should use the pause to ponder the problems of living together, to seek agreement on the values of our society. I'm against sundering the communities into separate ghettos: that will only aggravate divisions and sharpen hostilities."

"We possess a common birthright. Israel embodies a higher purpose - for all of us. We need to find an elevation of the heart in our Zionist homeland. We did not come to Israel just for negative reasons: anti-Semitism, the Holocaust, running away from persecution. There is something greater uniting us, a spirit whose fount and origin lie in Judaism. We must rediscover all this together."

"Israel is a symbol for the Jewish people and a source of inspiration to the Diaspora. Heaven forbid that the light shed from Zion should be no more than the light of a discotheque."

"I PRACTICE RELIGION like an Orthodox Jew but find myself thinking like a Conservative," avows Aviezer Ravitsky, a youthful and liberal-minded professor of Jewish

Philosophy at the Hebrew University. We met at the Van Leer Institute, where I pressed him with questions; first about the status-quo agreement.

"It (the agreement) was concluded in the early 1950s and was based on false assumptions," he replies.

"Each side thought the other side would disappear within a generation or two. Ben-Gurion dismissed the Halacha as belonging to the Diaspora; the state would create its own legal system through parliamentary procedures."

"The religious saw godlessness among Jews as a passing phase. The return to the Holy Land and the use of the holy tongue would bring a revival of the faith. The agreement between the two sides had nothing to do with mutual tolerance. Both parties consented to bide their time until the other side expired."

"By now," Ravitsky continues, "it is acknowledged that neither side will expire, both are here to stay. The confrontation has consequently been toughened, the status quo is becoming hard to keep."

"The population is divided over the religious issue in to five groups: the ultra-Orthodox, the observant, the traditionalists (who are a majority), the secularists and the anti-religious."

The problem is how to run a modern Jewish state. As things stand, none of the groups has an answer. Ravitsky thinks they must all come to terms with reality. "We want a country which will be free and which will be Jewish," he admonishes.

Those who do not belong to the religious camp require the country to be free. The religious must go along with that, but in return the non-religious have to cooperate in keeping the nation Jewish.

Ravitsky believes the two can reach a compromise. He is prepared as an observant Jew to make significant concessions for the sake of freedom. He supports, for example, the rule that Jews have to marry according to the Torah, but also believes that a human being is entitled to choose whatever life-partner he or she wishes. He concludes that civil marriage is needed and should be introduced, but only for persons debarred from marriage under religious law. A Jew wanting to marry out of the faith, or a *cohen* eager to espouse a divorced woman must be allowed to do so. Such persons - and only they - should be given recourse to the civil procedure.

Ravitsky sees the Knesset as the country's sovereign law-making

body, but he wants the Knesset to base its decisions as far as possible on Jewish law and tradition. The rabbis for their part need to up-date the halacha. Each side has to meet the other's requirements as far as it can. There must be give and take.

The religious have principles which are holy to them, but so have the secular. Neither must cross the other's red line. Concerning the Sabbath observance, Ravitsky would ban all bus transport because that is financed in part from the public purse. He would permit private cars and taxis to run, however, since they are financed by the individuals who

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travel in them.

It is an ingenious formula, making obeisance to Jewish law while providing a safety-valve for those whose desire to travel overrides their religious scruples.

"LIVE AND LET LIVE," that is the slogan of Knesset Member Amnon Rubinstein, apostle of the philosophy of liberalism in Israel. He was minister of communications until his Shinui party resigned from the present coalition, in protest against breaches in the religious status quo.

Rubinstein receives me at his modest party headquarters in Tel Aviv. Under the name Shinui on the door there gleams a new insertion: Liberal Centre.

Live and let live, he says - and his maxim applies both ways. "Twice I voted in the Knesset with the religious parties and against Labour. Once was over a bill that gives observant persons who do not work on the Sabbath, the right to be employed in companies permitted to function on the Sabbath."

"The second bill that I supported states that if 25 per cent of the inhabitants in a coastal resort want separate beaches for men and women, they should have them."

Both laws were passed. "But I stressed at that time," Rubinstein recalls, "that if I honour their rights

they must honour mine. If they want separate bathing-beaches in their areas of habitation they must let me have Sabbath transport in mine."

Rubinstein does not belong to Ravitsky's fifth category of anti-religious Jews. "I accept the old Jewish precept that each man should live within his faith. Look, I also backed the religious parties' Anatomy and Pathology Law, though with an important qualification."

"The law states that a person who does not want his body dissected after his death should have his wish respected. The same applies if his family holds that view."

"The law as passed forbids autopsies if a single member of the family opposes it, and to that I did not agree."

In general, Rubinstein supports all the proposals in the draft constitution on state and religion as described by Rosen-Zvi. "They have been part of the Shinui programme since 1981," he observes, adding: "Orthodox Jews in Brooklyn are content with their situation there, since all their freedoms are respected. Well, what is good for Brooklyn should be good for Israel."

The difference in Israel is that religion has become mixed with politics and the results are disastrous. "Jerusalemites wanting to eat in a restaurant on the Sabbath drive to the Arab part of the city. Youngsters seeking a good time on Friday nights travel in their hundreds to Tel Aviv. Do Sabbath laws preserve the sanctification of the Sabbath? I don't think so. They create antagonism. My children went to synagogue with me gladly in the U.S. Here they refuse point-blank."

The politicization of religion leads to crazy distortions. "The ultra-Orthodox are at one and the same time anti-Zionist and Zionist chauvinists, supporting the illegal Jewish underground," he declares.

"Jews in countries abroad stress the universalist aspects of Judaism. They fight for equal rights regardless of race or creed; they argue for freedom of conscience. The Orthodox abroad are of one mind on this with the other Jews."

"Here the narrow, sectarian, xenophobic tenets instilled by political rabbis, like Haim Druckman and Moshe Levinger, endanger the situation of the Jews world-wide."

Israel has indeed to be a Jewish state at the formal level. Rubinstein supports that view. At the practical level it is live and let live - for all Jews, Reform as well as Orthodox, secular as well as observant. There is room for everybody in Israel, he is convinced. □