

ISRAEL'S ENLIGHTENMENT LEGACY AND ITS ENEMIES: A LONG PERSPECTIVE

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I am aware that my audience tonight is probably quite variegated. Some of you may be following the Israeli crisis up close; others less so. Some may support the move of the coalition government led by Netanyahu to realign Israel's constitutional arrangements, mainly the power of the judiciary. Others may fear the worst for Israeli democracy, and still others may be very sensitive to the ensuing image of Israel in the world, and especially in Germany.

I will try to be of use to these different listeners.

This is not merely an academic paper but also a call for your attention, your sympathy and perhaps your help. So I must state my position up front: I stand with the protest movement, and help several organized groups: the academics' protest, the student's protest, the women's protest and (even) the writers' and poets' protest.

The current situation: since the announcement of the so-called reform in early January, the Knesset has worked through several laws, and its coalition members are preparing dozens more, that effectively end the possibility of the Supreme Court reviewing any law legislated by the Knesset, as well as making it much more difficult to review the government and the administration's actions. This will be done by crippling the Court's role in judicial review, together with the coalition taking over the judges' election committee and appointing political judges. Following the outrage from the plans the President called to halt it and conduct talks at the President house to reach a broad agreement.

It is not yet clear whether the talks being held in the President's Residence between politicians from the coalition and the opposition – the civil society protest movement is not part of these

discussions – are going to continue. Last week Netanyahu dishonored his promise to the President to appoint new members to the judges election committee. Consequently, this crucial committee appointment will be delayed by at least a month. The opposition members, Ganz and Lapid, are therefore stalling the bipartisan compromise talks. Out on the streets, many of the civil protesters are against the President-mediated talks anyway. Any compromise, they say, will bite through the crucial veins of Israel's democracy; you cannot compromise by having half a separation of powers and half a tyranny of the majority.

However, some of the proposed laws have already passed most of the legislative process in the Knesset. Consequently, if the talks fail or if a legal crisis occurs, these laws can be passed, with the coalition's small but solid majority of 64 out of 120 Knesset members, within hours or days. Thus, "The loaded pistol is on the table", and if Netanyahu succumbs to the pressures of minister of justice Yariv Levin and the Likud's hardcore electoral base, the laws shall be passed and Israel's judicial branch will be politicized and crippled. If the Court attempts to use its existing right to review these laws and strike them down, we will be in the midst of a constitutional crisis, an active volcano. No one can predict the outcome.

I am not a scaremonger. I have always been known, also in this country, as a downright optimist about the future of Israel (and Palestine). But this moment is different from all previous bitter moments of external wars and internal strife.

It is different for the following combination of reasons:

1. The current Netanyahu government is the first wholly ultra-right and ultra religious coalition in Israeli history. It is made of three pieces: a Likud party already purged of every single moderate, center-right member it had in the past; an extreme-right party called "Jewish Power" that is openly racist toward Arabs and asylum seekers, believes that men and women have different roles as human beings and as citizens, and is adamantly anti-LGBTQ and non-traditional families; and the third partner are the ultra-Orthodox parties, which declare themselves anti-liberal, especially with regard to gender-based civil equality.

In other words, this is a coalition of forces opposing Israel's Enlightenment legacy, as spelled out in Herzl's vision for a Jewish state and in Israel's own Declaration of Independence.

2. The government intends to legislate – in future - a series of illiberal laws, being an Israeli version of laws already in place in Victor Orban's Hungary, a well known inspiration for Netanyahu and his advisors; in the Israeli case they include discriminating against Israeli Arab citizens, implementing religious gender-separation in public spaces, limiting the freedom of the liberal media and the academia, and forcing nationalist and religious values into the secular school system. Most of these moves are already in showing signs in the policies of several ministries, and the supportive legislation has been promised in coalition agreements.

3. These projected laws are likely to be overturned by the Supreme Court, which will probably interpret them as inimical to Israel's nature as a liberal democracy and contrasting our basic laws concerning equal civil rights and freedoms. However, this will not happen if the coalition will manage to take over the Court and replace some of the judges (as had happened in Poland and Hungary)

4. Therefore, Netanyahu and his partners, primarily Justice Minister Yariv Levin, have put forward the initial legislative drive, announced in January and temporarily stalled, which will weaken the Supreme Court, annul its capacity to rule on Knesset legislation, and gradually change its personnel by appointing only judges that agree with this government's policies.

It is important to say that Likud is insisting that such changes are good for democracy, and accusing the Supreme Court of over-intervention and left-wing leanings. When using the term left wing, Likud's politicians and supporters

often imply liberal democracy as such. For example, equal civil rights for Jews and Arabs are considered not a mainstream value but a left wing demand.

5. Meanwhile, Netanyahu himself is in the midst of a trial on three offences of bribery and breach of trust. Other members of his coalition have also had brushes with the judiciary on cases of violence, incitement to terror, and large-scale corruption. It is strongly believed by both supporters and opponents of Netanyahu that he is eager to influence his trial by transforming the Supreme Court before his cases are brought before it.

6. A campaign of fake news, alternative facts and rival-demonization is under way, by what we call Netanyahu's shofars. Two instances: blaming Israel's current economic deterioration on the anti-government protestors; and claiming that many other democratic nations have a weaker Supreme Court, while hiding the plain fact that these countries have written constitutions and bills of rights, as well as various mechanisms of checks and balances. Israel does not.

Now, this combination of causes has never occurred before. Israel is considered to be a vibrant democracy, albeit a flawed democracy, mainly due to the conquest of the Palestinian territories. Israel's elections have been fair and open, its judiciary is famously independent, and its public discourse is very sharp but usually non-violent; the horrid exceptions of several political murders, best known of course Rabin's murder, happened against a background of very sharp but mostly democratic debate. Until recently we were proud of this legacy, both the right and the left.

I myself stood on stages in this city and many others, proclaiming the virtues of my country's democratic habits, which I think ensue from the Jewish tradition of debate as an intellectual value.

I no longer believe that the Jewish State's democracy is as strong as I thought. Perhaps it is much weaker. But perhaps it is even stronger, because the pro-democracy civil protest is the strongest in Israeli history, and possibly in world history in the wake of the current populist and anti-democratic climate.

I invite you to take a moment to think about the history of Jewish sovereignty in the land of Israel. The First Temple lasted about 400 years, the Second Temple held for 600 years, and the Third Temple—if modern Israel may assume that name—is dangerously close to kicking the bucket at 75 years. Only this time there is no Assyria, no Babylon, and no Roman Empire. Much as Iran would have liked to be our latter-day vanquisher, the real danger today is that the Jewish state may be demolishing itself from within.

This is a shameful situation but not unique: look at Trump's and De Santis's US, the anti-democratic voices in European countries, including the rise of AfD in the German Federal Republic. What is unique to Israel are two things: the hypersensitivities already existing between Jews and Arabs, Israelis and Palestinians; and on the good side of the scale, the unmatched and unparalleled rise of Israeli civil society in defense of our democratic institutions. When you look at the pro-democracy movement, which has so far effectively stalled the coup d'état, there is no room for shame in Israel, but great reason for pride.

Over half a million people have been demonstrating on the streets, in Tel Aviv, Jerusalem and dozens of other places from the Lebanon border to Eilat, every Saturday evening for the last 24 weeks. In between, tens of thousands of protest activists are demonstrating outside the President's House and the homes of government ministers. An estimated 2 million, one fifth of the country's population, is actively involved in the protest one way or the other. The protest is genuinely grassroots yet highly organized. It has inspired unique alliances: the reserve soldiers' protest, for example, walks together with the LGBTQ protesters. Women's equality demonstrations include both Jews and Arabs. In my view two of most important civil society groups in the protest movement are the university and school students, an age group which failed to take to the streets in Hungary and in Poland; and also, unique to Israel, the reservists.

The civil movement for defending democracy is reviving and reclaiming Israel's Enlightenment legacy, on which I'd now like to say a few words. Because the deep end, this is a so far bloodless civil war between Enlightenment and its enemies. The tragedy of the Likud, once a center-right party proud of its support of the rule of law and the Supreme Courts' independence, is that once indicted in court, Netanyahu and his close circle abandoned Menachem Begin's legacy and turned against the judiciary and its independence.

The Zionist movement was a child of the Haskalah, the Jewish Enlightenment of the eighteenth and nineteenth century, which itself was a branch of the European Enlightenment and especially indebted to the deutsche Aufklärung.

Paradoxically, Zionism emerged from a great disappointment of emancipated Jews from the Enlightenment's promises. The moment when Theodore Herzl, himself a student of the Enlightenment and political liberalism, faced French anti-Semitism during the Dreyfuss affair, was the moment Zionism emerged, and Herzl's Zionism did not reject the Enlightenment despite its unfulfilled promises; rather, he added nationalism into the blend. His imagined Judenstaat is a liberal democracy with civil equality of men and women, Arabs and Jews, but it also demands a nation state where Jews can finally defeat anti-Semitism.

One of the most important moments in Israeli history and one of the most important points in my presentation tonight is May 1948, in the midst of Israel's war of independence, David Ben Gurion announced the State of Israel with a text, known as our Declaration of Independence, which is today more relevant than ever before. Because the Declaration of Independence carries the torch of the Enlightenment, the Haskalah, Herzl's Zionism, and declares the new Jewish state to be liberal democracy; not these exact words, "democracy" appeared in an early draft but was deleted, as was the term "enlightened". But Israel's Declaration of Independence is both Jewish and liberal, offering peace to Israel's neighbors, equal civil rights to its Arab minority, and equal human rights to all citizens regardless of "race, religion and sex". From the great Jewish legacy, the authors of the Declaration consciously chose "the morality of the prophets", namely the most universalist

and humanist aspect of the Hebrew bible. By today's standards in Israeli politics, this is a left wing document through and through.

Which is why some extremist politicians, drunk with their electoral victory, are currently beginning to whisper about whether a possible annulment of the Declaration is legally possible.

I do not claim that Israel lived exactly by its Declaration of Independence. I wish it always did. There were shortcomings, felt by Arab citizens under a temporary emergency rule, while the Palestinians in the occupied territories do not enjoy the defenses of the Declaration of Independence. But the country subsisted as a democracy, with one great flaw. Ben Gurion and the Founding fathers and mothers must be turning in their graves because of that flaw, and that is Israel's failure to create a written constitution.

During the sixties and seventies, a discourse of liberal democracy based on Enlightenment values prevailed the academic elites and the famed Supreme Court; there was a subtle change, which has grave results today. The term 'haskalah' was replaced with the neologism 'ne'orut', and became synonymous with the liberal elite and the Supreme Court, in its quest to interpret the law according to the viewpoint of "an Enlightened person". By the nineteen eighties and nineties, as I have shown in a paper I recently published, 'Enlightened' and 'Enlightenment' became synonymous in pseudo-academic hate speech with 'the hegemony', 'the old elites', the Ashkenazis and the liberal center and left.

During the four following decades Israel's fragile web of coexistences was politicized and crudely mishandled. Since the late 2000s, feeding on the outgrowth of commercial news channels and the social networks, Likud's public voice has been aggressively sectarian: anti-secular, anti-liberal and anti-Ashkenazi. The three millennia of Jewish history became chips in Israel's political game: nationalists claiming biblical borders miraculously emptied of Arabs, ultra-Orthodox leaders despising nonbelievers.

Secular and liberal Jews like myself entered the fray to claim our right as legitimate heirs to Jewish history and culture, with a modern and selective approach to such treasures as the Bible and the Talmud. This was the gist of the book I co-authored with my late father Amos

Oz, Jews and Words (2012). We truly believed—how naively, in retrospect!—that the big Israeli arguments are about ideas; a new round of the great Jewish battles waged in words.

Demography may not be on our side, we thought, because Orthodox families are far larger; populism is not on our side, because it caters to haters. But we did have the discreet charms of modern Hebrew culture and literature, Jewish humanism. Tel Aviv or even the kibbutz, we thought, may yet win the hearts of youngsters living in more traditional worlds. “The next great aliyah,” I would say, “may come from Bnei Brak and Mea She’arim.”

Years went by. Netanyahu was put on trial and turned against the judiciary. His cronies, now a well-organized network of pseudo-journalists and “shofars,” built up a case against the Israeli Supreme Court, accusing it of Ashkenazi elitism and left-wing (that is, human rights-oriented) leaning.

And still, we did not see what was coming. We believed in democracy and in the market of ideas.

When Netanyahu formed his “full-right government” in December 2022, filling it with extreme nationalists and ultra-Orthodox members, it seemed that we still inhabited an age-old Jewish universe: bickering sects of Jews nursing mutual anger, even loathing, but somehow pulling together and sharing history, language and fate. Or, in the Israeli format, a delicate social contract that allowed the ultra-Orthodox not to serve in the army; the alt-nationalists to settle in the West Bank; and the liberal seculars to enjoy Tel Aviv, the economy they helped to boost and the beauty of our imperfect but livable state. This easy trust has now come crashing down.

At 75 years, Israel is not a new country. Its democracy is older than itself, dating to 1897, when the first Zionist Congress was held in Basel. It was a democratic congress, even more so (and astoundingly early) in the following year when women entered as full delegates. But only in 2023 did Israeli civil society discover its dormant power. We are now wider and more comprehensive than the so-called “First Israel,” the secular, liberal and well-to-do. There are many more of us than merely “the Left,” and we are out to reclaim symbols all too easily hijacked by the nationalists, including Israel’s flag and national anthem, “Hatikva.” Above all, we have the leading light of the

Declaration of Independence, the magnificent document of Jewish national pride, commitment to peace with the Arabs, *and* equal civil and human rights.

Millions of Israelis who voted for the center and the left will no longer take abuse from Netanyahu and his partners. We, the protesters, have served Israel faithfully in the army, industry, technology and education. We have seen stark inequalities rise and persist between this country's serving citizens and its non-serving, not-even-working citizens. We have seen the chances for peace disappear into the distance and Iran becoming a nuclear power while our leadership is busy elsewhere.

I am awed by the number of my countrywomen and countrymen who are out on the streets fighting this good fight. It is a very dangerous moment, civil society pitched against state, honest ideology straining against counter-ideology coupled with power-mongering and individual self-interest. This fight must be won. Its outcome – if Israel is to prevail as an even stronger democracy – must not be back to square one, to a democratic state based only on the Supreme Court and the Attorney General to keep it at bay. Various groups in the protest movement are working on constitutional proposals based on basic principles of liberal democracy. These include, at best, a written constitution and bill of rights in line with Israel's Declaration of Independence. But at the very minimum, we demand a fortified basic law dealing with legislation – and retaining the Court's capacity to critique and in the extreme case annul – anti-democratic and anti-humanistic laws. Moreover, we demand the most crucial civil and human right, which is the right to equality. Equality between men and women, between Jews and Arabs, and equality in the burden of civil duties such as military service.

My heart goes out to Israel's friends abroad. Please know that we shall be grateful for your moral support, but we assume full responsibility for our future. There are tremendous energies out on the streets these months. 2023 may become a very significant year in Jewish history. We are determined that the Third Temple remains standing, but only in the form of a democracy. Only as an heir to the European and the Jewish Enlightenment.