

'Jewish and Democratic': Implications of Israel's Self-Description, at Home and Abroad

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ABOUT THE AUTHORS



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Ruth Gavison is the Haim H. Cohn Professor of Human Rights Law at Hebrew University, a founding member and former chair of the Association for Civil Rights in Israel, and one of Israel's leading experts on human rights and constitutional law.



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Stuart Eizenstat held high positions in the White House and the Treasury, State, and Commerce Departments during forty-plus years of public service.



Brief Analysis

What does it mean for Israel to identify as "both Jewish and democratic?" Watch a discussion with Ruth Gavison and Stuart Eizenstat on the hotly debated political, legal, and diplomatic consequences of Israel's core self-definition.

On October 31, 2014, Ruth Gavison and Stuart Eizenstat addressed a Policy Forum at The Washington Institute. Gavison is the Haim H. Cohn Professor of Human Rights Law at Hebrew University. Eizenstat co-chairs the board of directors for the Jewish People Policy Institute and has held senior positions in the White House and the Treasury, State, and Commerce Departments. The following is a rapporteur's summary of their remarks.

RUTH GAVISON

From the very beginning, Israel saw itself and was seen by the international community as a country committed to three principles: (1) it was the place where Jews could exercise their right to self-determination, (2) it was a democracy, and (3) it was a member of the family of nations with a general commitment to protect universal rights. The 1947 UN partition resolution referred to two states, one Arab and one Jewish, with the majority group in each state controlling immigration, settlement, land, and security in its respective territory by virtue of its sovereignty there.

Despite the fact that this was the UN-approved principle on which Israel was founded, some have been challenging

the idea that the state can be both Jewish and democratic. Yet these two defining traits are not inconsistent; rather, they complement each other. The Jewish majority's vision of the country as a democratic, Jewish state animated the struggle for Israel in its early years, and it still animates the endeavors that make Israel flourish today, in terms of science, technology, economy, the status of women, and so forth. The key is understanding that the Jewish and democratic qualities both formed the basis of Israel's creation. They are inseparable and fundamental; without either of them, there is no Israel.

While civic nation-states such as the United States tend to privatize non-civic identities, the situation is different in much of the Middle East, where primordial ethnic, religious, and cultural identities are often stronger than civic identities. The Jewish identity of Israel is not anti-civic, but it is non-civic. Therefore, Israel must work on the civic dimension, in part to prevent discrimination.

When it comes to the internal Israeli debate about the relationship between the state's Jewish and democratic aspects and the prospects of this formulation being enacted into Basic Law (Israel's incremental equivalent of a constitution), one must be careful not to construct definitions that are too narrow. To ensure that Israel's domestic life remains as inclusive as possible, it is important to prevent any new law from being used by one group -- whether ultraorthodox or others -- as a weapon against others. Ultimately, what is the Jewishness of Israel? It is not religious or national or historic; it is the presence of a Jewish majority. The people who will decide what kind of Jewishness their society is going to have are the Jews themselves.

As for the role of the "Jewish state" issue in peace efforts with the Palestinians, context is key. If both sides genuinely accepted the idea that the process is not just about two states, but about two states for two peoples, then it would be unnecessary to emphasize a formal, expressive declaration about Israel's identity. But if the Palestinians do not accept "two states for two peoples," Palestinian and Jewish, then any resultant peace agreement is unlikely to be satisfactory or stable anyway. So the question of how Israel will preserve its identity as the nation-state of the Jewish people is a crucial issue in any peace diplomacy. Accepting this identity does not mean that the two sides have to agree on any common historical narrative; this will not happen. Yet if they do not have empathy for one another's narrative -- at least believing that this is genuinely how the other side views the situation -- then it is difficult to see how they can live together.

STUART EIZENSTAT

After the United States issued the Declaration of Independence, defining what that declaration meant proved to be very difficult in the years before the Constitution was drafted and ratified. In comparison, Israel decided not to issue a constitution after its declaration of independence, in part because many of the basic issues about Jewishness and democracy could not be resolved at a time when the country was about to enter a conflict for its very existence. In essence, that situation has not changed to this day.

When Israeli justice minister Tzipi Livni asked Professor Gavison to submit a written opinion about a proposed new law that would define Israel as the nation-state of the Jewish people and relate this trait to the country's democratic character, the professor turned to the Jewish People Policy Institute for input. In response, JPPI took the unprecedented step of polling more than forty Jewish communities around the world to get their views on this issue.

The question of what it means to be Jewish is very much an internal debate within Israel and, increasingly, in the diaspora. Issues such as conversions, marriages, and "Women of the Wall" are growing irritants to diaspora Jews who resent having a rabbinical monopoly in Israel making decisions that impact them.

The democratic issue is an internal and external debate. While there are differences of opinion within the diaspora, the dominant view is that Israel is both democratic and Jewish. The diaspora community believes that Israel must act democratically with respect to the Arab minority, to Jews (in terms of different forms of religious practice), and to

Palestinians. As a minority in their home countries, they are sensitive to the needs of minorities in Israel. The idea of Israel being a liberal democratic state is hugely important to members of the American Jewish community. To be sure, diaspora Jews recognize the difficulties and constraints Israel faces given regional security threats, but the majority do not view this as justification for lowering the high values that Israel is expected to maintain.

Diaspora Jews are also showing more assertiveness in addressing criticism about Israeli policies. Those polled wished that Israel would consult with them on issues close to their hearts. While only Israeli citizens have the right to decide the state's direction, diaspora Jews believe they should have a right to be consulted about certain decisions so that they can help the sovereign state see the full implications of its actions.

Finally, Israel's peace treaties with Jordan and Egypt are agreements between states -- they make no mention of accepting Israel as a Jewish state. This has led some to question why the situation should be different in reaching an agreement with the Palestinians. Yet Egypt and Jordan were not contesting the existence of Israel, nor Israel of them, in those peace negotiations, while Palestinians and Israelis are contesting the same piece of land. This is why the issue of defining Israel is coming up now.

This summary was prepared by Raquel Saxe. ❖

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