

The Delicate Framework of Israeli Democracy During the 1980s: Retrospect and Appraisal

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More than 200 years have passed since the outbreak of the French Revolution, an event that shaped the face of France and brought political spirits that changed the face of world history. The revolution carried the flag of *Liberté, Égalité* and *Fraternité*, symbolizing the end of aristocratic rule and the growing aspirations for the rule of the people. The French nation paid dearly during that period when tyranny ruled the streets: some 300,000 people died. Nonetheless, the French Revolution provided the motivation for the spread of democracy, which has since become the preferred form of government.¹ We witness many states using the sanctified French trio as an Orwellian fig leaf with which to cover their nakedness, even when in essence they are very far indeed from these principles.

The representative, indirect form of democracy is considered throughout the world as the preferred form of government, for otherwise military governments, totalitarian regimes, single-party systems, theocratic states and even terrorist (or liberation) organizations would not take pains to call themselves 'democratic' or 'people's republic'. The themes of liberty, equality and fraternity have been adopted in the Western democracies; to them were added the liberal principle that places the individual at the centre, and the practical principle that enables this form of government – civic participation. Today, active individualism and the French trio constitute the very foundation, the necessary precondition, to define a democracy as liberal and to fortify its rule.

Many have grown accustomed to viewing democracy as the given form of government, forgetting how young liberal democracy is from an historical perspective – less than 100 years old. Full acceptance of the democratic idea and its establishment occurred only during World War I. Lord Bryce once wrote that 'seventy years ago [in the 1850s], the

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approaching rise of the masses to power was regarded by the educated classes of Europe as a menace to order and prosperity. Then the word Democracy awakened dislike or fear. Now [in 1921] it is a word of praise'.²

Because democracy is young, it needs protection and reinforcement to enable its continued development. Democracy is not without flaws and imperfections. One should, therefore, be aware of the 'ailments' challenging democracy and try to devise the proper supervisory and controlling mechanisms to reinvigorate it. By way of doing so, this article will examine some of the more daunting problems confronted by Israeli democracy during the 1980s, and suggest several remedies that might help heal Israel's tumultuous political culture.

WHAT IS DEMOCRACY?

Before discussing the Israeli case, a clarification of the term 'democracy' is in order, since there is no conclusive agreement as to its meaning, and it is difficult to find one definition that would be acceptable to all. The definitions of democracy range from seeing it as an idea and an ideal on the one hand, to a practical form of government and a mechanism on the other hand. To a great extent, the definition determines the point of reference: those who see democracy as an ideal will certainly view it as an *end*, whereas those viewing democracy as a mechanism will consider it a *means* for pursuing various ends.³

One of the accepted definitions of democracy views it as a form of government in which political power belongs to the public at large and not to a certain person or to a limited group of people. The term 'democracy' is used in relation to the terms 'monarchy' and 'aristocracy' to differentiate between states of monopoly, oligopoly and polyarchy. This definition is far from satisfactory because it characterizes the democratic process too sharply. Similar opinions view democracy as a political system in which the citizens enjoy the right to express their priorities, and in its framework these priorities are taken into consideration during the process of decision-making. Others suggest examining the extent of democracy in a given state on the basis of the number of participants involved in the decision-making process. The more citizens are able to influence the decision-making process, the more democratic the state. This view implies that democracy is a matter of degree, as opposed to a permanent concept with clearly defined conditions and principles.⁴

A different school of thought emphasizes the importance of the elite and its task in directing the masses to ensure the correct management of political life. As a consequence, the masses are seen as a mediocre population, lacking talent, justifying activities here and there only to remind the rulers that they are dealing with the rule of the citizenry. The

public is characterized as usually delegating the freedom of action necessary for the proper management of public life to the elite, upon the understanding that if the latter abuses this freedom, they will foot the bill on election day. The masses, therefore, seem to be commenting more than initiating. They must be active, but only to a limited extent, for otherwise they will be interfering with the elite group that is acting in their name and for their benefit.⁵

This article does not subscribe to this point of view, which cynically shifts the point of reference from the public to a small group of elected representatives, neglecting the importance of open discourse and the flow of opinions between the public and their representatives, a discourse that does most certainly exist in democracy. The responsibility of the citizens does not end at the ballot box; rather they should be encouraged to participate in everyday life through the variety of venues open to them. Moreover, a democracy that does not encourage its citizens to play an active role in community life is bound to degenerate. Participation is the jewel in the crown of democracy, the hinge holding and strengthening it.⁶ Without it, the government of the many will become a government of the few.

Furthermore, it is important to differentiate between the rule of the 'people' and the rule of the 'citizens'. *Demos cratia* means the rule of the people; in practice, however, it is not the people who take part in the decision-making process. It is the citizenry. Not everyone is eligible to elect and to be elected, and in every government a person must pass the requirements of age, mental health and criminal record, past and present, in order to receive this eligibility. Also, the process of naturalization in many countries is not a simple one, and persons choosing to emigrate from their country must meet certain demands to acquire the citizenship of their choice. Thus democracy is actually the rule of the citizens and not the rule of the people.

Moreover, policy is not the result of decisions made by the entire citizenry. In the modern state it is recognized that it is impossible to cater to all wishes. Compromise is achieved by fulfilling the will of the majority of the citizens, who provide their parliamentary representatives with the legitimacy and the authority to act in their name. There is always a minority that must accept what has been decided by the majority, and wait its turn in the democratic processes until it becomes part of the deciding majority. No majority is permitted to abuse the rights of the minority and prosper at their expense.

This article deals with Israeli democracy. To start with, it should be noted that Israel is not liberal in the sense that the United Kingdom and the United States are. Collectivist elements are still quite prominent in its structure, a derivative of the socialist ideology that shaped decision-making in Israeli society from the early days of the Yishuv (the pre-state

period) to the rise to power of the Likud Party in 1977. Israeli leaders never decided whether they wanted Israel to be socialist or capitalist, thus creating a mixture of these ideologies that has long influenced Israeli economic and social life. In addition, Israel's self-definition as a Jewish state introduces perfectionist elements into its framework that go against the neutral characterization of liberalism.⁷ Finally, the lack of separation between state and religion makes Israel prone to non-liberal tendencies, though it is by no means the only democracy where state and church inhere in the same body of the sovereign. The United Kingdom is a prominent example of such non-separation.

Yet the crucial consideration and the common denominator of all liberal societies is the acceptance of two principles: respecting others, and not harming others.⁸ Both of these principles underpin Israeli society. The Israeli political culture contains liberal and republican ingredients as well as a sense of a community that has been crystallizing since the late nineteenth century.⁹

True, the fact that since 1967 Israel has governed the Palestinians of the occupied territories under military rule, as this area (with the exception of Jerusalem) has never been made an integral part of Israel, has somewhat eroded Israeli democracy. And while the Oslo Accords (Oslo A in 1993; Oslo B in 1995) have resulted in the surrender of parts of these territories, and 95 per cent of the population, to the Palestinian Authority, the process has yet to be completed. This, however, does not mean that Israel, within its pre-1967 borders, is not a democracy. There are occasional manifestations of injustice, and liberal codes are not always closely followed in some parts of the land, as is the case in other democratic societies such as the United Kingdom, Australia, the US or Canada. In Northern Ireland, for example, liberal codes are not closely followed. And the attitudes of the United States, Canada and Australia towards their native American and aboriginal populations¹⁰ can hardly be described as liberal. In other words, occasional manifestations of injustice do not constitute the sole arbiter of whether societies can be described as liberal democracies. The United States, Canada, Australia and the United Kingdom are all described as liberal democracies despite, not because of, their less than perfect treatment of cultural and national minorities. No democratic society is immune to problems and deficiencies, and Israel is no exception.

All Israeli citizens are formally equal before the law, regardless of ethnic affiliation, religious beliefs and political stands. Still the country's Arab citizens,¹¹ the Bedouins and the Druze, do not fully share and enjoy the same rights and duties as do Israeli Jews. The Law of Return, passed on 5 July 1950, for example, accords automatic citizenship to every Jew who decides to make *aliya* (immigrate) and to settle in Israel. This Law – as Israel's first Prime Minister, David Ben-Gurion, described it – is the law

of perpetuity of Jewish history. And while Israel is not wholly unique in granting citizenship as of right based on ethnicity – a similar law on the admission of ‘ethnic Germans’, wherever they are, to full citizenship existed in Germany – its pronounced Jewish nature is certainly more ubiquitous than is the case in Western societies, which identify nationality with citizenship in the state.¹²

Notwithstanding these reservations, Israel is a democracy. It is far from ‘perfect’, certainly, although a perfect democracy has yet to be found in today’s world. But it is certainly no less democratic than such Western countries as Germany,¹³ Austria,¹⁴ France¹⁵ and Italy,¹⁶ all of which are considered fully-fledged democracies despite the less than satisfying attitude of their governments and/or peoples towards foreign nationals and minorities living in their midst. Notions of the separateness, purity and uniqueness of European and other cultures are prevalent in all these as well as other countries. Hostility towards foreigners finds its expression in murders, attacks, threats, damage to property, graffiti, malicious pamphlets and bodily harm. The increased xenophobia, racism and anti-Semitism in Europe has propelled those organs of the EU concerned with labour and immigration to call for more EU action against hatred of foreigners. Thus, on 29 May 1990, the Council of the European Communities and representatives of the governments of the member states adopted a declaration on combating racism and xenophobia. The European Parliament in turn noted its concern that certain democratic parties were giving way to pressure from racist and extreme right-wing movements and were taking advantage of the situation to limit the right of asylum.¹⁷

As for Israel, its democracy is young and fragile. It is still at a formative stage and it suffers from internal schisms and tensions. These make Israeli democracy vulnerable to anti-democratic and illiberal notions. The Jewish–Arab divide is one such schism. Other important examples are those between orthodox and secular Jews, and between Sephardim and Ashkenazim.¹⁸ The Jewish state was founded in accordance with democratic principles. Its political system is based on free elections and multi-party competition. It honours the basic freedoms of its citizens (speech, journalism, movement, assembly, demonstration and religion, as well as freedom to resist the government within the law) and on most occasions refrains from resorting to arbitrary arrests. The Israeli political culture values open exchange of ideas and compromise, acknowledges the plurality of ethnic groups, cultures, religions and nationals that exists in the land, promotes tolerance and peaceful conflict resolution, and denies legitimacy to intolerance and violence. This democratic culture finds explicit and formal expression in leaders’ utterances and in the laws and declarations of the state. Israeli leaders hold that Israel maintains a ‘stable democratic regime’, and that it guarantees a maximum degree of civic

freedom.¹⁹ The Declaration of Independence affirms that Israel will foster the development of the country for the benefit of all its inhabitants; that it will be based on the foundations of liberty, justice and peace; that it will ensure complete equality of social and political rights to all of its citizens, irrespective of religion, race or sex; and that it will guarantee freedom of religion, conscience, language, education and culture. Furthermore, two Basic Laws guarantee the basic rights and liberties of all citizens. Basic Law: Human Dignity and Freedom (1992) purports to protect human dignity and freedom in order to anchor the values of the State of Israel as a Jewish and democratic state. It maintains that a human being's property must not be harmed; that every person is entitled to the protection of his or her life, body and dignity; and that no person's freedom may be taken or restricted by arrest, imprisonment, or extradition, or in any other manner. In turn, Basic Law: Freedom of Occupation (1992) holds that every citizen or resident of the state is entitled to engage in any occupation, profession or line of work, and that every governmental agency must respect the freedom of occupation of every citizen or resident.²⁰ Formal law is of course not enough. There is still room for hard work to eliminate existing prejudice in Israeli society against non-Jews as well as against Jewish cultural minorities, most notably Russian and Ethiopian immigrants.

DEMOCRACY'S NEED TO DEFEND ITSELF

Liberals view democracy as a form of government preferable to all other known forms of government, and emphasize that tolerance towards various opinions is the essence of democracy. With this in mind, the limitations of democracy must be recognized. Indeed, one of the problems of any political system is that the principles that underlie and characterize it might also, through their application, endanger it and bring about its destruction. Democracy, in its liberal form, is no exception. And because democracy is a relatively young phenomenon, it lacks experience in dealing with pitfalls involved in the working of the system. This can be termed the 'catch' of democracy.

Democracy is the rule of the majority while protecting the rights of the minority. There are two parts to this statement, both of which are necessary for describing a given form of government as a democracy. For one thing, decisions are made and followed on the basis of the will of the majority, though this does not necessarily make them just or right. In a group of ten people, a decision on the part of nine to kill the tenth person does not make it just or moral solely because it was a majority decision. Immoral majority decisions make such actions more horrid, not more just.

A democracy that allows the many to oppress the few is no more just than a personal ruler pursuing self-serving interests at the expense of the

nation. Democracy should encourage and strengthen the Galileos to stand up to a tyrannical majority, to reach yet greater exposure of truth, and to bring society at large a step further in their collective advance. Democracy must defend itself from the tyranny of the many and to prevent injustices to the few, just as it must guard against attempts at tyranny by the few.

Liberalism, as espoused by Alexis de Toqueville, John Stuart Mill and James Madison, underscored the danger of the tyranny of the majority, to an extent that belittles the dangers emanating from a non-democratic minority exploiting the mechanisms provided by democracy to ruin the base upon which it stands. The question to be asked in this context is: should one tolerate in the name of democracy any opinion, however repugnant, and allow it to compete in the free marketplace of ideas, even if the consequence could be the destruction of democracy itself?²¹

A popular view, which seems very attractive at first glance because of its straightforward logic, advocates fighting action with action and fighting opinion with opinion. This is a view reinforced by the handy quip that 'sticks and stones can break my bones but names will never hurt me'. Its proponents believe that freedom of speech should be without constraints, and that any restriction on freedom of speech compromises the very principle of tolerance that stands at the root of democracy. They also claim that those who wish to place restrictions upon words distance themselves from the democratic ideal, since the essence of democracy is nothing without the provision of free expression of opinion. Any harming of liberty, even the smallest, harms democracy. Moreover, in a place where there exists the possibility of constraining the freedom of speech, there may also be a possibility of placing further restrictions: what seems to a 'democrat' (so say those who oppose) to be a window of opportunity for protecting democracy (such as the restriction of marches by racists in African-American neighbourhoods) might enable further limitations on marches and demonstrations and might increase oppression.²²

On the other hand, history has demonstrated the opposite as well. The example of the Weimar Republic, which in many ways promoted national-socialism in a democratic fashion, should serve as a caution those who support total freedom of speech. Must society stand idle while political movements, clearly boasting totalitarian leanings, accumulate power and attract growing public support, knowing that upon taking power these movements will destroy the very democracy that enabled them to obtain that power? Is not the damage caused by allowing them that freedom greater than that caused by placing limits on tolerance? These questions are central to the discussion of the paradox of tolerance and the concept of defensive democracy.

THE PARADOX OF TOLERANCE

Karl Popper asserted that it is paradoxical to allow freedom to those who would use it to eliminate the very principle upon which they rely, and that one should therefore claim in the name of tolerance the *right* not to tolerate the intolerant. He urged that any movement preaching intolerance be placed outside the law, and that incitement to intolerance and persecution should be regarded as criminal, in the same way as incitement to murder or to the revival of the slave trade are considered.²³ Acts of self-defence against the intolerant may necessitate inflicting pain upon them. Sometimes this may be the only way to prevent the pain one person is willing to cause to others.

Tolerance needs to be limited when it is necessary to protect the moral principles that justify it. The concept of tolerance as a prerequisite for democracy supposes mutuality, and those who do not accept it as a condition for their action do not have the right to demand it of others. Because there is a conflict of demands that might harm democracy, democracy must stand on the side that protects it and allows intolerance towards its oppressors.

By the same principles that underlie criminal law, democracy can deny and punish people for taking part in organizations aimed at its destruction. There is no part in democratic ideology that asks the individual to sit idly by while witnessing attempts to harm the very foundations of democracy. Tolerance does not mean pacifism, nor does it mean impotence.

The State of Israel has painfully questioned these issues in the past two decades with the rising of Kahanism. The atmosphere in Israel at the time of the Lebanon War (1982–85) was a comfortable greenhouse for the growing of the Kahanist ideas. The war did not actually cause the polarization and the rift; rather it raised notions of ‘no consensus’ regarding the justifiability of the war to the surface. Consequently, the schism between the leadership and large segments of the public was expanded. Into this schism seeped the effects of the Kahanist ideology.²⁴

Violence and terrorism were meaningful determinants for Meir Kahane, who himself confessed that ‘every further victim [of Arab violence], and I say this with pain, builds our movement’.²⁵ The Lebanon War deepened the split between the left and right wings, and it also drove a wedge between the leadership and wide sectors of the population. Israeli society, tired of the vague promises of its leaders, sought solutions there and then. Kahane was there to offer his decisive plans and to capitalize on them.²⁶

Prior to the 1984 elections, the Israeli parliament plunged into its first in-depth discussion about the Kahanist phenomenon, in the face of surveys that predicted the entry of Kahane’s political party, Kach, into the Knesset. Until that point, the Israeli political system saw in Kahane a minor episode of a strange screamer. The surveys, which showed for the first time that Kahane had a fair chance to enter the house of legislators,

shook the parties into action to stop the evil. A wall-to-wall consensus grew to do away with Kahane's legitimacy and to stop him. It was mainly the left-wing parties that could not come to terms with what they considered a form of Jewish fascism.²⁷ Some of the right-wing parties were also shocked by the words of Kahane, and they had additional pragmatic interest in stopping him: the fear of losing votes to the Jew from Brooklyn who had come to preach about the best way to 'handle' the Arabs. The entire Israeli political system joined forces to 'handle' Kahane, and to deny him legitimacy.

As a result of these initiatives, the Central Elections Committee disqualified the Kach list, as well as the 'Progressive List for Peace'. The Supreme Court, sitting as the High Court of Justice, rejected this in its ruling of the Neiman case, and called upon the Knesset to establish the necessary legal basis for the exclusion and disqualification of the two movements.²⁸

Kahane won one seat in the 1984 elections. A year later, the Knesset decided to take legal measures to provide grounds for the disqualification of racist and/or anti-democratic parties. It thus amended the Basic Law: The Knesset (1958) so as to include Section 7A. It is clear that this section was legislated under the influence of the Court's ruling in the Neiman decision, and that Kach was the prime concern which brought about this piece of legislation. The section reads:

A list of candidates shall not participate in Knesset elections if any of the following is expressed or implied in its purposes or deeds:

1. Denial of the existence of the State of Israel as the State of the Jewish people;
2. Denial of the democratic character of the State;
3. Incitement to racism.²⁹

Section 7A served as the basis for the disqualification of Kach in the 1988 elections. Kahane appealed again to the High Court of Justice, but this time the Court reaffirmed the decision and allowed the disqualification of Kach.³⁰ While I am not happy with the existing procedure for the disqualification of lists on the grounds of ideology and political aims, I nevertheless think that the Court's decision was correct as an act of self-defence, since it is one thing to express an opinion and quite another to pass laws that transform democracy into an anti-democratic entity. Hence there should be more room for freedom of expression than for the freedom to be elected and enjoy the ability to pass laws. The power to legislate could immediately transform society from a democracy, allowing the expression of detestable opinions, to one that imposes uniformity and coercion. Hence, as a matter of moral principle, violent parties which act to destroy democracy or the state should not be allowed to run for parliament.³¹

Liberals in Israel did not, by and large, accept this view. They claimed that just as there was room in Israel for small, marginal movements on the left and on the right, there was also room for the Kahane phenomenon; the people of Israel were clever enough to keep Kahane's supporters in a powerless stand without any real governing, and thus there was room for Kach as well. The case in favour of Kach competing in the free marketplace of opinions was made on two parallel and complementary planes during the 1980s: as a matter of principle, every citizen was entitled to express his or her truth without interruption; and as a political issue, it was seen as appropriate and important that such a person came along to put the Arabs in their 'rightful' place.

Kahane exacerbated Israeli society's encounter with the Palestinians. Following the 1967 War, the occupied territories began to provide Israel with cheap labour willing to take any relief work at minimum wage, thus creating a split labour market.³² The employers, the labour managers, and the contractors were consequently less and less interested in the better paid Jewish labourers, when they could make a much higher profit by employing Arabs; thus a menial labour market composed almost exclusively of Arabs was established.

This phenomenon had, and still has, far reaching psychological effects, because Jews of North African and Middle Eastern origin, who were, and still are, found in large numbers in the lowest echelons of Israeli society, found that an even lower class had come into existence. Certain occupations acquired the nickname 'Arab jobs', referring to the menial jobs rejected by Jews. Some employers defined the situation bluntly, saying that there were jobs that were not suitable for Jews but were only appropriate for Arabs.

In came Kahane, giving literal, pseudo-establishment legitimacy to these feelings and thoughts. His words justified Jewish superiority at the expense of Arabs. The Jew was nobler than the Arab, and so it should be. Kahane planted seeds of doubt in democracy, which he attacked without hesitation, claiming that it granted too much freedom to various groups which he saw as traitors to the national spirit. On the other hand, he also coined the phrase 'Democracy for the Jews', excluding all those who did not pass the ethnic-religious criterion test successfully. Kahane was not pretentious and did not mince his words: if you were not a Jew, you would be disqualified from the democratic game.³³

Even though the political system viewed Kahane as the person it 'loved to hate', to ordinary Israelis he was worth noting. He created some consensus about the Arabs, the treatment they deserved, and their place in society. Kahanism paved the way for further movements that gave legitimacy to the open expression of opinions which earlier, if expressed at all, had been expressed privately, and furtively. When the struggle against Kahane ended with his removal from the political stage, many of the votes which would have been cast for him, had he competed in the elections,

went to his authentic Sabra successor, a man deeply rooted in the soil of the land, General (res.) Rehav'am Ze'evi (and his Moledet Party).

Since the disqualification of the Kach and Kahane Hai (Kahane Is Alive) movements in 1988, and even more so since their outlawing in 1994, following the massacre by Dr Baruch Goldstein of Muslims praying in the Hebron Cave of Machpellah, the media has hardly used the term Kahanism and treats the Kach movement as a historical rather than contemporary phenomenon.³⁴ And yet, though Kahane is dead and the Kach movement politically defunct, Kahanism is still alive and flourishing, and will continue to exist so long as Arabs are not seen as fully equal to Jews.

The situation is further complicated, since a distinction should be made between *formal* citizenship and *social* citizenship. Formal citizenship expresses official belonging to a certain state, regardless of whether the minority has a feeling of identification and true partnership with the population at large; whereas full social citizenship applies to citizens who enjoy equal respect as individuals, and who are treated equally by the law and in its administration. Israeli Palestinians formally enjoy equal rights and liberties with the Jewish community, yet they see themselves as an aggrieved minority whose rights are not respected by the majority.³⁵ A democracy that perpetuates feelings of disappointment and deprivation inexorably moves towards disintegration.

DEMOCRACY IN THE SHADOW OF THE INTIFADA

Israeli Arabs found themselves in an especially severe state of dissonance after the outbreak of the *intifada* in December 1987. Their loyalty to the state collided with their brothers' striving for liberty and self-determination. The popular uprising came as a surprise to Israel's democratic structure. The turning point was 1982. The Palestinians understood that it was possible to harm substantially the Israeli Defence Forces (IDF) by using guerrilla warfare. The stature of the IDF as a victorious army following the Six Day War was waning after the 1973 Yom Kippur War, and the Lebanon War had shown that organizations without any real framework could use guerrilla warfare to wear down the IDF. The Lebanese battleground brought the change of consciousness that is necessary for any revolution or uprising. There was no need to match the Zionist power in order to fight against it. Even a mosquito can harm an elephant if it finds the right spot. An organized group of mosquitoes could drive an elephant mad. Because of Israel's great sensitivity to the lives of its hostages, it did not follow a rational and organized decision-making procedure, and it gave its enemies the organizational framework they needed by freeing well-trained fighters to the streets of the villages (the Jibril Deal of May 1985, in which hundreds of convicted terrorists were released in return for a handful of hostages). At the right time, after consciousness was augmented by organization, the *intifada* broke out.³⁶

The *intifada* had a far-reaching impact on Israeli democracy in the 1980s. Prior to the uprising, the concept of occupation was alien to large segments of Israeli society. The uprising brought the occupation to every Israeli home, making deep inroads into peoples' souls and minds. Many Israelis who had no wish to visit the territories in their civilian lives found themselves chasing stone-throwing boys as part of their military reserve duty. At the beginning of the 1990s, an original Israeli folklore dealing with the phenomenon was developed: poetry, prose, theatre, films and even humour. On the political plane, the *intifada* brought a wave of followers to movements and political parties offering sharp and precise cures for its termination while dismissing moral considerations (Moledet and Tzomet); other parties offered an anchor to hold on to in the face of what was seen as implacable Palestinian enmity, hope enhanced by the strength of God (the religious party Mafdal moved substantially rightward).

THE NEED FOR EXPANDING PARTICIPATION

Another danger to Israeli democracy is posed by the over-centralism of its politics. The roots of the Israeli political establishment lie in the pre-state Yishuv period, when decisions and policy were determined in the various forums of Mapai, and were often modelled by the preferences of one man, David Ben-Gurion. Since then to this very day, life in Israel is highly political, to the extent that any voluntary organization, even the seemingly most apolitical, would find it difficult to disassociate itself completely from politics. A clear example of this situation is the phenomenon of sport associations that are subordinated to political parties. Indeed, sport associations often serve as a political springboard for meddling third-class politicians to climb up the rungs of their party hierarchy. The inevitable consequence is the stifling of many voluntary groups whose members fear entering the political sphere, as well as growing centralism in public life. The place of participation in democracy has been largely seized by Israeli centralized democracy.

In the last decade or so the major parties have been holding American-style primaries that create the illusion that the ranks of decision-makers have expanded. It is true that today political candidates are elected by hundreds of thousands of party members, and that, as far as participatory democracy is concerned, this phenomenon is preferable to the era of organizing committees. Nevertheless, power is still concentrated in very limited corridors. Instead of decentralizing its power, to create more intimate communal frameworks in which citizens can take part in communal life and promote interests directly related to them, the Israeli system prefers to channel all its power to the parties and the Knesset. Instead of bringing politics to the citizens, to bring them closer to public

life as the democratic concept requests, Israeli democracy creates alienation between politics and ordinary civilians to the extent that they lose faith in their ability to bring change.

A system operating in this manner should be subjected to effective supervision and control to prevent malfunction. Any government working without effective opposition is ultimately likely to increase authority and corruption, particularly in a centralized democratic system like Israel's. Indeed, between 1984 and 1992, when the two major parties (Labour and Likud) shared power in what is known in Israeli politics as a 'national unity government', there seemed to be no effective opposition that could challenge governmental practices and decisions.

CONCLUSION AND FURTHER THOUGHTS

This essay has emphasized the importance of the active participation of citizens in democratic life, as well as the need for compromise and pluralism. It has also described the tension between majority rule and minority rights, and asserted that threats to democracy could develop from either the majority's or the minority's tyrannical disposition. It is therefore incumbent upon democracy to protect itself from both evils, as well as from the pursuit of parochial interests and an unbridled desire for power at the expense of the citizenry.

Israeli democracy is young and fragile, and saddled with inherent problems. It is quite reassuring to realize that during the State's first fifty years, democracy has proved resistant to the extraordinary domestic and external pressures confronting Israel. Yet further measures are needed to ensure that it survives and flourishes, especially in view of Israel's special circumstances. It is a nation in arms, whose citizens live under a constant feeling of siege; whose institutions do not separate between church and state; whose territory includes occupied zones (which shrink with time); and which includes a substantial Arab minority. All of these factors hinder the development of the liberal tradition in Israel. Many politicians and ordinary citizens still believe that it is the citizens who should ask what they can do for their country rather than the other way around. The state is thus put at the centre of reference, and the individual is subordinate to its needs. This in turn makes it easier to justify the compromising of individual or minority rights in the name of the national interest and majority will.

The Kahanist phenomenon did not create the need for democracy to defend itself; rather it increased the awareness of this need. The fact that a movement that boasted blatantly anti-democratic ideals won representation in the legislative house and received a measure of popularity indicates the extent of the problem and the degree of urgency for ample remedies. The Israeli public is unaware of the necessity and

importance of democracy, as witnessed during the 1980s by repeated surveys showing that some 20–30 per cent of the adult population, especially the younger adults, did not see the necessity of democracy and expressed a willingness to establish an authoritarian government. Such a government would provide, as they understood it, an immediate answer to the problems confronted by Israel, problems which could be solved by tough measures.³⁷

Moreover, the settlers in Judea and Samaria have occasionally warned that should the Israeli government decide to withdraw from these territories, they would oppose such an act by all means at their disposal, including the use of arms if need be.³⁸ This is because, in the opinion of many members of Moetzet Yesha (the council of the Jewish settlements in the territories), the government and the Knesset do not have the authority to decide on the matter of returning territories, certainly not as long as the decision is based upon the votes of Arab representatives. Thus, for example, when the ideologist of the Jewish Terror Organization, Yehuda Etzion, was asked if he recognized the legitimacy of the Israeli government, he answered: 'I recognize its legitimacy as a sovereign government in the nation. I do not recognize the legitimacy of every law. I must examine each law individually: does it exist in accordance with the superior law of the Torah and the Jewish chronology, as we understand it, or does it contradict. And these are two different planes'.³⁹

This claim has been publicly repeated in various ways by different segments of the nation. It is no secret that part of the religious public does not recognize the authority of the state or its laws, and an even greater part of this public would prefer abiding by Halachic decisions if and when they would contradict, in their opinion, the laws of the state. Moreover, members of the radical left received much attention during the 1980s owing to their claim that under certain conditions it was permissible and correct to disobey the rules of the state (Yesh Gvul (There is a Limit) Movement).⁴⁰ The cumulative effect of this view paves the way to a state in which each person does as he or she pleases.

On this issue of upholding the law, Israel faces a real battle which the government is procrastinating in fighting, despite being given the blessing of the system at large. A key role in reinforcing the democratic infrastructure and uprooting any Kahanist notions must be played by the educational system.⁴¹ If left unchecked, the growth of prejudice and bigotry could lead to the destruction of Israeli democracy.

The severity of the evil became clear on 4 November 1995, when Yigal Amir assassinated Prime Minister Yitzhak Rabin. The writing had been on the wall for many years, but the various systems – political, security, judicial and rabbinical – had treated the ideological law-breakers complacently, even when they used force to promote their ideas. In their complacency, they aided the growing fanaticism. They should have

condemned the fanatics and excluded them. The complacency transmitted a message, its consequences proved quite destructive. Messages were transmitted in both directions: the security forces conveyed that they had 'more important things to do'. Most of their energy was invested in preventing Palestinian terrorism and they treated Jewish fanaticism lightly. This message came through to the radical right: they understood that they would be able to proceed with their activities without paying a price.

Immediately after the assassination, Minister of Justice David Libai and Attorney General Michael Ben-Yair recommended that the Penal Law dealing with seditious conduct be refined and defined more clearly. Libai initiated a draft proposal of a new incitement law, but this initiative was quickly abandoned, apparently for partisan political reasons. Titled 'Prohibition of Incitement and Indirect Incitement', the proposed law was drafted by Professor Mordechai Kremnitzer of the Hebrew University in Jerusalem. Its first part read as follows:

Any person who does one of the following shall be liable to imprisonment for five years

1. publishes a call, explicitly or implicitly, to commit a crime or act of violence;
2. publishes anything which involves exertion of pressure to commit a crime or act of violence;⁴²
3. publishes anything which is likely, in the circumstances, to bring about commission of a felony or act of violence ... with the aim that such an offence will be committed.

In private discussions and public forums Kremnitzer presented his draft proposal, explaining that his aim was to draft the legislation as narrowly as possible so as not to make room for the slippery slope syndrome. Yet in its current phrasing, this draft proposal may well open the door to excessive limitations on free speech. Let me explain why.

First, rather than talk about 'indirect incitement', it might be better to use such terms as *preaching*, *teaching* or *advocating* violence since incitement, by definition, is a direct mode of action. 'Indirect incitement' constitutes a contradiction in terms. In his renowned work, *On Liberty*, John Stuart Mill wrote that opinions lose their immunity when the circumstances under which they are expressed constitute by their expression a positive instigation to some mischievous act. Thus, the opinion that corn-dealers are starvers of the poor may be prevented from being delivered orally to 'an excited mob assembled before the house of a corn-dealer, or when handed about among the same mob in the form of a placard'.⁴³ Nevertheless, that same opinion ought to go unmolested when simply circulated through the press.

Though Mill does not explicitly define an intention to drive people into a harmful action – in circumstances conducive to such action – as instigation, this is certainly implicit in his analysis. At the same time, Mill approves of an advocacy voiced as a matter of ethical conviction. This is indeed one of his major contributions to the free speech literature: being the first to distinguish between instigation and speech (or discussion) as a matter of ethical conviction. This essential distinction should be incorporated into any legal and political framework aimed at shoring up Israeli democracy. For, as vividly demonstrated by Mill's corn-dealer example, instigation is speech closely linked to action.

Second, there is a wide gap between the intentions of Kremnitzer's draft proposal and its actual wording. While expressing the wish to be as specific and focused as possible, section 1 of the draft proposal holds any person urging, whether explicitly *or implicitly*, a crime or an act of violence, as liable to five-year imprisonment. How a *specific* call can be implicit the draft proposal does not say. In referring to this point, Kremnitzer explained that what he had in mind was a pre-determined code known to the speaker and to his audience. But if this is the case, would it not be better to speak only of 'explicit calls' and forego any reference to 'implicit calls', which open a wide door for possible restrictions on free speech.

It is striking to note that this illiberal phrasing, 'explicit or implicit', is common enough among Israeli liberals. To the best of my knowledge, no liberal jurist or judge has ever questioned this phrasing, which has become part of the Israeli legal environment. Consider, for instance, section 7A of Basic Law: The Knesset (1958) (see above) and similarly, Section 5 of the Parties Law, 1992, which provides that:

A party will not be registered if any of its purposes or deeds, *whether explicitly or implicitly*, contains

1. negation of the existence of Israel as a Jewish, democratic state;
2. incitement to racism.
3. reasonable ground to deduce that the party will serve as a cover for illegal actions.⁴⁴

Both provisions are problematic in that they lay the ground for the disqualification of a party from competing in elections, or even from registration, on the basis of *implicit* possible actions. But then, intentions can be implicit, but activities speak for themselves. It is unclear how any one of the above three categories can be implied from an attempt to bring them about. And if a party could be disqualified just because any of these issues are conceivably implied from its actions, or even its agenda, then again the scope for curtailing fundamental democratic rights is too broad, and the slippery-slope syndrome becomes tangible.

Bearing in mind these two problematic laws, in adopting the terms 'explicitly or implicitly', Kremnitzer's draft proposal treads a familiar and fashionable Israeli path. This, however, is not the path that liberals should take.

NOTES

1. Cf. Keith Michael Baker (ed.), *The French Revolution and the Creation of Modern Political Culture*, Oxford, 1987; Steven L. Kaplan, *Farewell, Revolution: Disputed Legacies: France, 1789–1989*, Ithaca, 1995.
2. James Bryce, *Modern Democracies*, Vol.1, London, 1921, p.4.
3. For further discussion, see C.B. Macpherson, *The Real World of Democracy*, Oxford, 1972, *Democratic Theory: Essays in Retrieval*, Oxford, 1973, and *The Life and Times of Liberal Democracy*, Oxford, 1977. See also Andrew Levine, *Liberal Democracy: A Critique of Its Theory*, New York, 1981; J. Roland Pennock, and John W. Chapman (eds.), *Liberal Democracy*, New York, 1983; Anne Phillips, *Engendering Democracy*, Cambridge, 1991; David Held, 'Democracy: From City-States to a Cosmopolitan Order?', *Political Studies*, Vol.XL (1992), pp.10–39; Robert D. Putnam, Robert Leonardi and Raffaella Y. Nanetti, *Making Democracy Work*, Princeton, 1993; Anthony Arblaster, *Democracy*, Buckingham, 1994.
4. P. Railton, 'Judicial Review, Elites and Liberal Democracy', in J.R. Pennock and J.W. Chapman (eds.), *Liberal Democracy*, New York, 1983, pp.153–80; J. Lively, *Democracy*, Oxford, 1986, p.51.
5. J.A. Schumpeter, *Capitalism, Socialism and Democracy*, London, 1943, especially pp.284–5; Bernard Berelson, Paul F. Lazarsfeld and William N. McPhee, *Voting*, Chicago, 1954; G. Sartori, *Democratic Theory*, New York, 1962; Lester Milbrath, *Political Participation*, Chicago, 1965, especially pp.143–6; W.H. Morris Jones, 'In Defence of Apathy: Some Doubts on the Duty to Vote', *Political Studies*, Vol.II, No.1 (1954), pp.25–37; Eva Etzioni-Halevy, 'Elite Power, Manipulation and Corruption: A Demo-Elite Perspective', *Government and Opposition*, Vol.24, No.2 (1989), pp.215–31.
6. Cf. Carole Pateman, *Participation and Democratic Theory*, Cambridge, 1979; Richard Dagger, *Civic Virtues*, New York, 1977, esp. ch.9.
7. For deliberation on the distinction between neutrality and perfectionism, see Joseph Raz, *The Morality of Freedom*, Oxford, 1986; John Rawls, *Political Liberalism*, New York, 1993; R. Cohen-Almagor, 'Between Neutrality and Perfectionism', *The Canadian Journal of Law and Jurisprudence*, Vol.VII, No.2 (1994), pp.217–36; Stanley Eugene Fish, *The Trouble With Principle*, Cambridge, MA, 1999.
8. Cf. Ronald M. Dworkin, *Taking Rights Seriously*, London, 1977, and *A Matter of Principle*, Oxford, 1985; R. Cohen-Almagor, *The Boundaries of Liberty and Tolerance*, Gainesville, 1994.
9. For further discussion, see Benjamin Neuberger, 'Israel's Democracy – How Liberal? How Stable?', *Kaplan Centre Papers*, University of Cape Town, 1988, pp.1–33; Yoav Peled, 'Ethnic Democracy and the Legal Construction of Citizenship', *American Political Science Review*, Vol.86, No.2 (1992), pp.432–43.
10. Cf. William Janzen, *Limits of Liberty: The Experiences of Mennonite, Hutterite, and Doukhobour Communities in Canada*, Toronto, 1990; Robert Williams Jr., 'Sovereignty, Racism, Human Rights: Indian Self-Determination and the Postmodern World Legal System', *Review of Constitutional Studies*, Vol.2 (1995), pp.146–202; Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford, 1995; Guy Laforest and Roger Gibbins (eds.), *Breaking the Impasse*, Montreal, 1997; Will Kymlicka and Raphael Cohen-

- Almagor, 'Democracy and Multiculturalism', in R. Cohen-Almagor (ed.), *Challenges to Democracy: Essays in Honour and Memory of Isaiah Berlin*, London, 2000, pp.89–118.
11. This essay uses the terms 'Arab' and 'Palestinian' interchangeably when referring Israel's non-Jewish citizens. In recent years, there has been a growing inclination among these citizens to define themselves as Israeli Palestinians rather than Israeli Arabs.
 12. For further discussion, see Roselle Tekiner, 'Race and the Issue of National Identity in Israel', *International Journal of Middle Eastern Studies*, Vol.23 (1991), pp.39–55. See also Raphael Cohen-Almagor, 'The Intifada: Causes, Consequences and Future Trends', *Small Wars and Insurgencies*, Vol.2, No.1 (1991), pp.12–40; Yonathan Shapiro, 'The Historical Origins of Israeli Democracy', in Larry Diamond and Ehud Sprinzak (eds.), *Israeli Democracy Under Stress*, Boulder, 1993, pp.65–80, and Riad Ali, 'Us and You', *Davar Rishon* (Israeli daily), 1 February 1996, p.5.
 13. The problem of a diffuse, populist sentiment in Germany is fed from different sources, among them the fear of uncontrolled immigration, particularly from former Eastern Bloc countries; tensions in the relationship between former East and West Germans; and worries about the socio-economic stability of the Federal Republic of Germany in general. Between 10 and 15 per cent of the German people have some reservations regarding foreigners. The number of attacks on asylum seekers, migrants and Jews has risen tremendously since 1991. Until 1989, the number of such acts in a given year hardly ever exceeded 100. In 1991, estimates of recorded acts of violence range from 1,483 to 2,426. The year 1992 witnessed an increase in the number of such crimes to 6,336. The first quarter of 1993 indicated 1,339 criminal acts against foreigners. Since 1992, at least twenty-one people have lost their lives. In most cases the violence was directed against foreigners from south-eastern Europe, Asia and Africa. In the former GDR, the incidence of violent acts was twice as high as in the former West Germany. The German government has been criticized for doing little to control the violence or to deal with the underlying hatred. It is further contended that the police have failed to perform their duty in several instances. Cf. Peter Frisch, 'Right-Wing Extremism in Germany', in *German Democracy on Guard: Confronting Political Extremism, Neo-Nazism and Xenophobia*, Washington, 1993, pp.3–10; Michael Mertes, 'Right-Wing Extremism and Radicalism in Germany', *ibid.*, pp.17–22; Wolf-Dieter Pfitzenreuther and Hans-Joachim Veen, lectures in a conference on German-Israeli Relations held at the Davis Institute, Jerusalem (15–17 June 1993). Transcripts and valuable material were provided by Dr Michael Lange of the Konrad Adenauer Stiftung. I am grateful to him for his assistance. For information on right-wing extremist organizations and the measures of the Federal Government to combat extremism and xenophobia see 'Xenophobia and anti-Semitism in Germany', *Justice*, Vol.2 (June 1994), pp.12–13, and German Federal Ministry of the Interior, *Survey of the Policy and Law Concerning Foreigners in the FRG*, July 1993; Human Rights Watch, 'Germany for Germans' – *Xenophobia and Racist Violence in Germany*, New York, 1995. See also 'Soldaten an die Grenzen', *Der Spiegel*, No.37 (9 September 1991), p.36.
 14. Austria experienced a growing wave of xenophobia and racism during the 1990s. Jörg Haider, the controversial leader of the Freedom Party, grows from strength to strength. In the last national elections, held in October 1999, the far right Freedom Party finished second, gathering more than 27 per cent of the votes. Haider's declared aim is the office of the Chancellor. 'A moral duty for Austria', editorial, *Ha'aretz*, 5 October 1999. For further discussion, see Anti-Defamation League and World Jewish Congress, *Anti-Semitism Worldwide, 1997/98*, pp.46–52; Eva Wakolbinger, 'The Danger of Populism', in Bernd Baumgartl and Adrian Favell (eds.), *New Xenophobia in Europe*, London, 1995, pp.10–27; Gil Feiler and Rachel Rimon, 'Xenophobia, Immigration and Refugee Trends and Legislation in Europe and the Middle East in the Aftermath of the Cold War', *Newsletter*, Vol.7 (1992), The International Association of Jewish Lawyers and Jurists, pp.5–14.
 15. The French Movement against Racism and for Friendship Between Peoples (MRAP) estimated that more than 200 racist murders were committed in France in 1990–91. Hostility towards immigrants has been exploited by the extreme-right FN of Jean-Marie Le Pen, which won almost 14 per cent of the vote in regional elections in March 1992. See Feiler and

- Rimon, 'Xenophobia', pp.5–14. For further discussion, see Maxim Silverman, *Deconstructing the Nation: Immigration, Racism and Citizenship in Modern France*, London, 1992, especially chs.4, 6; Shlomo Ben-Ami, 'The Pang of Conscience', *Ha-aretz*, Special Issue dedicated to the European Unification (December 1992), pp.56–7; Christian Charrière-Bournazel, 'Immigration and Asylum – Conflicting Rights and Interests', *Justice*, Vol.14 (September 1997), pp.32–3; *Anti-Semitism Worldwide, 1997/98*, esp. p.64; Rob Witte, *Racist Violence and the State*, London, 1996, esp. p.111.
16. On intolerance and prejudice against foreigners in Italy see Stefano Curti, 'Becoming an Immigration Country: Italy's New Attempts to Control non-EEC Immigration', *Immigration and Nationality Law & Practice*, Vol.5, No.1 (1991), pp.8–12; Georgio Sacerdoti, 'Legal Protection Against Anti-Semitism – The Case of Italy', *Justice*, Vol.5 (May 1995), pp.28–30.
 17. For further deliberation see Peter Leuprecht, 'Europe vs. Intolerance', *Justice*, Vol.12 (March 1997), pp.27–33.
 18. Generally speaking, three groups of people are distinguished in the Jewish population in Israel: Sephardim, whose origins lie in Asia and Africa; Ashkenazim, whose origins lie in Europe and America; and Sabras, native-born Israelis. For further discussion see R. Cohen-Almagor, 'Cultural Pluralism and the Israeli Nation-Building Ideology', *International Journal of Middle Eastern Studies*, Vol.27 (1995), pp.461–84.
 19. See David Ben-Gurion, *Israel: Years of Challenge*, London, 1964, pp.212–40, 233, and *Rebirth and Destiny of Israel*, London, 1959, pp.363–80.
 20. On the importance of these two basic laws, see Chief Justice Aharon Barak, 'Constitutional Revolution: Protected Basic Rights', *Mishpat U-mimshal*, Vol.1, No.1 (1992), pp.9–35; 'Protected Human Rights: Scope and Limitations', *Mishpat U-mimshal*, Vol.1, No.2 (1993); *Constitutional Interpretation*, Jerusalem, 1994, especially pp.261–646 (all in Hebrew).
 21. For criticism of the 'marketplace of ideas' metaphor see J.R. Pole, 'A Bad Case of Agoraphobia', *Times Literary Supplement*, 4 February 1994, pp.13–14, and his article in Cohen-Almagor (ed.), *Challenges to Democracy*.
 22. See, for instance, Alf Ross, *Why Democracy?*, Cambridge, 1952; Hugo L. Black, 'The Bill of Rights', *New York University Law Review*, Vol.35 (1960), pp.865–81; Alexander Meiklejohn, *Political Freedom*, New York, 1965; Aryeh Neier, *Defending My Enemy*, New York, 1979; Anthony Skillen, 'Freedom of Speech', in Keith Graham (ed.), *Contemporary Political Philosophy*, Cambridge, 1982, pp.139–59; Lee C. Bollinger, *The Tolerant Society*, Oxford, 1986; Norman Dorsen, 'Is There A Right to Stop Offensive Speech? The Case of the Nazis at Skokie', in Larry Gostin (ed.), *Civil Liberties in Conflict*, London, 1988, pp.122–35. See also Frederick Schauer, 'The Cost of Communicative Tolerance', and Owe Fiss, 'Freedom of Speech and Political Violence', both in R. Cohen-Almagor (ed.), *Liberal Democracy and the Limits of Tolerance: Essays in Honor and Memory of Yitzhak Rabin*, Ann Arbor, MI, 2000, pp.28–42 and 70–8, respectively.
 23. K.R. Popper, *The Open Society and Its Enemies*, Vol.1, London, 1957, p.265. See also his essay, 'Toleration and Intellectual Responsibility', in S. Mendus and D. Edwards (eds.), *On Toleration*, Oxford, 1987, pp.17–34.
 24. Eliezer Shveid, in A. Ravitzky (ed.), *Kahanism as a Consciousness and Political Phenomenon*, Jerusalem, 1986, p.47 (in Hebrew).
 25. Haim Shibi, 'Wherever There Is Bloodshed – Kahane Is Around', *Yedioth Ahronoth*, 1 August 1985, p.11.
 26. Cf. R. Cohen-Almagor, 'Vigilant Jewish Fundamentalism: From the JDL to Kach (or "Shalom Jews, Shalom Dogs")', *Terrorism and Political Violence*, Vol.4, No.1 (1992), pp.44–66.
 27. See the statements of Shulamit Aloni and Tamar Gojzanski in *Protocol No.14 of the Central Elections Committee*, 17 June 1984 (in Hebrew).
 28. E.A. 2/1984, *Neiman and Avneri v. Chairperson of the Central Committee for the Elections to the 11th Knesset*, P.D. Vol.39 (ii), p.225 (in Hebrew).
 29. Basic Law: The Knesset. Amendment No.9, 1155. *Sefer Ha-hukim*, 1985 (in Hebrew).
 30. E.A. 1/1988, *Neiman and Kach v. Chairperson of the Central Committee for the Elections to the 12th Knesset*, P.D. Vol.42 (iv), p.177 (in Hebrew).

31. For elaboration on this theme, see R. Cohen-Almagor, *The Boundaries of Liberty and Tolerance*, Gainesville, FL, 1994, esp. ch.11, and 'Disqualification of Political Parties in Israel: 1988-1996', *Emory International Law Review*, Vol.11, No.1 (1997), pp.67-109. This view differs significantly from those of Thomas Scanlon and Frederick Schauer, among other philosophers. While they concentrate on the practical consideration of the magnitude of the threat, I address the ethical question of the constraints on tolerance since, in my opinion, the fundamental question is ethical rather than practical. See, Thomas Scanlon, 'A Theory of Freedom of Expression', in R.M. Dworkin (ed.), *The Philosophy of Law*, Hong Kong, 1977, pp.153-71; Frederick Schauer, *Free Speech: A Philosophical Enquiry*, New York, 1982.
32. On the split labour market theory see Edna Bonacich, 'A Theory of Ethnic Antagonism: The Split Labor Market', *American Sociological Review*, Vol.37 (1972), pp.547-59, and 'The Past, Present and Future of the Split Labour Market Theory', *Research in Race and Ethnic Relations*, Vol.I (1979). See also Michael Hechter, 'Group Formation and the Cultural Division of Labour', *American Journal of Sociology*, Vol.84, No.2 (1978), pp.293-318.
33. See Meir Kahane, *They Must Go*, New York, 1981, *Listen World, Listen Jew*, New York, 1983, and *Uncomfortable Questions for Comfortable Jews*, Secaucus, 1987.
34. The two movements were outlawed on the basis of the Prevention of Terrorism Ordinance (No.33 of 1948). Section 1 of the Ordinance defines 'terrorist organization' as 'a body of persons resorting in its activities to acts of violence calculated to cause death or injury to a person or to threats of such acts of violence'. The Ordinance specifies the penalties for activity and membership in such an organization. Section 2 holds, *inter alia*, that a person performing a function in the management or instruction of a terrorist organization or participating in the deliberations or the framing of the decisions of a terrorist organization or delivering a propaganda speech on behalf of such an organization commits a criminal offence and is liable to maximum punishment of twenty years imprisonment. Mere membership in a terrorist organization is liable to imprisonment for a term not exceeding five years (Section 3). In addition, a person publicly expressing praise, sympathy or encouragement for acts of violence calculated to cause death or injury, and a person assisting the organization in its activities, is subject to criminal proceedings and a maximum penalty of three years imprisonment (Section 4). Cf. *The Official Gazette*, No.24 (29 September 1948).
35. A survey held by the Guttman Institute of Political Social Research in June 1989 by E. Katz, M. El-Haj and H. Levinson demonstrated that 45 per cent of Israeli Arabs 'do not feel at home' in Israel and 69 per cent felt that discrimination between Jews and Arabs occurs 'often' or 'very often'.
36. See Don Peretz, *Intifada*, London, 1990; R. Cohen-Almagor, 'The Intifada: Causes, Consequences and Future Trends', *Small Wars and Insurgencies*, Vol.2, No.1 (1991), pp.12-40.
37. See, for example, the survey by the magazine *Monitin* (February 1981), in which 21 per cent preferred a non-democratic government and 40 per cent supported a strong government of leaders who were independent of party manipulation and control. The Van-Leer Institute survey of 1983 tells of 30 per cent of the youth who wish an authoritative government. The *Monitin* survey of April 1985 speaks of 36 per cent who ask for a strong government of leaders independent of party manipulation and 23 per cent who ask explicitly for a non-democratic government. Ephraim Yaar conducted two surveys in July 1987 and in January 1988, which brought him to the conclusion that 15-20 per cent of the Israeli public hold anti-democratic opinions. See Eli Tavor, 'Israel is Too Democratic', *Yedioth Ahronoth*, 20 March 1988, p.17.
38. A survey held in Kiryat-Arba in 1986 showed that 30 per cent of the inhabitants would forcefully oppose evacuation. The head of the Shomron district council, Benny Katzover, when asked what would actually happen, answered as follows: 'I estimate that 95 per cent of the settlers will leave quietly; 5 per cent will take weapons in their hands'. See Ariella Ringel-Hoffman, '5 per cent Lunatics Will Take Weapons in Their Hands', *Yedioth Ahronoth*, 20 January 1989, p.11. Also see Dan Margalit, 'Isaiah Hammers Again', *Ha-aretz*, 27 September 1985, p.15; Orna Qadosh, 'The Salvation Army', *Ha-ir*, 8 November 1985, p.20; statements

- of Elyakim Ha-etzniin, *Nekuda*, No.94 (20 December 1985), pp.22–5; interview with Sefi and Benny Elon, *Yedioth Ahronoth*, 7 Days Supplement, 24 November 1995, p.21.
39. Aviva Shabi, 'In Tel-Mond I have Established the Geula (redemption) Movement', *Yedioth Ahronoth*, Political Supplement, 6 January 1989, p.13.
40. Yishai and Dina Menuchin (eds.), *The Limits of Obedience*, Tel Aviv, 1986 (in Hebrew).
41. Studies have shown a positive correlation between education and tolerance. See, for example, Samuel Stouffer, *Community, Conformity and Civil Liberties*, New York, 1955; James W. Prothro and Charles M. Grigg, 'Fundamental Principles of Democracy: Bases of Agreement and Disagreement', *Journal of Politics*, Vol.22, No.2 (1960), pp.275–94; D.G. Lawrence, 'Procedural Norms and Tolerance: A Reassessment', *American Political Science Review*, Vol.70, No.1 (1976), pp.80–100; John L. Sullivan, James E. Piereson and George E. Marcus, 'A Reconceptualization of Political Tolerance: Illusory Increases 1950s–1970s', *American Political Science Review*, Vol.73, No.3 (1979), pp.781–94; John L. Sullivan, James E. Piereson, George E. Marcus and Stanley Feldman, 'The Sources of Political Tolerance: A Multivariate Analysis', *American Political Science Review*, Vol.75, No.1 (1981), pp.92–106; John L. Sullivan, James E. Piereson and George E. Marcus, *Political Tolerance and American Democracy*, Chicago, 1982.
42. Kremnitzer explains that by 'exertion of pressure' he refers, *inter alia*, to rabbis who issue persecution orders (*din rodef*) against designated individuals.
43. J.S. Mill, *Utilitarianism, Liberty, and Representative Government*, London, 1948, p.114.
44. Parties Law, 1992, in *Dinim*, at 12036c (in Hebrew).