

Israeli Democracy

Fact or Fiction?

by WILLIAM A. COOK

Israel's bulldozing of 62 shops in the village of Nazkt Issa, north of Tulkarem next to the West Bank line with Israel on Tuesday and its refusal to allow International and Israeli peace activists to witness the devastation illustrates the total control of the military in what is supposed to be a democratic state. Americans saw and heard little of this action except that it was caused by the illegal establishment of the shops by Palestinians. In a democratic state, the alleged "illegality" would be dealt with in a court of law, not by an army protecting bulldozers from citizens throwing stones. But Americans hear only what Sharon allows the corporate media in America to receive from his minions as he prevents outsiders from witnessing the demolition.

The impending Israeli elections and the plethora of commentary that touts Israel as the only bastion of Democracy in the mid-east warrants consideration of the truth of the claim in light of Tuesday's devastation. It would appear that the American public accepts the reality of Israel as a democratic state and finds comfort in its compatibility with American values. That comfort translates into approximately three billion dollars per year for Israel, more aid than any other country receives.

A true Democracy must meet two criteria: one philosophical that presents the logic of its argument in a declaration and/or constitution; the other practical that demonstrates how the Democracy implements legislation, distributes resources, and makes equitable all policies and procedures for all its citizens.

Democracy is first and foremost a concept, a philosophical understanding concerning the rights of humans relative to the government that acts in their name. A Democratic government serves through the manifest consent of the governed. That government receives its authority through the citizens in whom the right resides. Inherent in this philosophical understanding is the acceptance of the rights of all citizens that reside in a state: each and every citizen possesses the right to consent to the legitimacy of those who govern, and each and every citizen must receive equal treatment before the law.

For a state to claim a Democratic form of government, it must have an established geographic area accepted by other nations as legitimate and defined. The need for established borders is both obvious and necessary with necessity arising out of the obvious. Without borders, there can be no absolute determination of citizenry, and, therefore, no way to fulfill the establishment of the rights noted above. What has this to do with the Democratic state of Israel? Everything.

Israel has no accepted legitimate borders other than those provided to it by Resolution 181, according to Anthony D'Amato, Leighton Professor of Law at Northwestern University, in his brief "The Legal Boundaries of Israel in International Law": "The legal boundaries of Israel and Palestine were delimited in Resolution 181." Since the 1967 war, the borders of the current area controlled by Israel exceed those outlined by the UN in Resolution 181 of 1948 as the current incident in Nazkt Issa illustrates. Despite numerous resolutions from the UN demanding that Israel return to its proper borders, most especially Resolution 242, Israel defies the world body continuing to retain land illegally held. The reality of this dilemma is most manifest in the settlements. Here, Jews residing in Palestinian areas continue to vote while Palestinians literally surround them and cannot vote. Where is the state of Israel? A look at a map would make it appear that Israel has the spotted coloration of a Dalmatian. Clearly, those living under Israeli domination are not considered citizens of the state of Israel even though they reside within parameters controlled by Israel. Since they are not citizens of Israel, and since there is no Palestinian state, these people are without a country and, therefore, without rights; an untenable position for any group which is recognized as a distinct governing group by the UN through its election of the Palestinian Authority as its governing body. That election followed democratic procedures including the creation of a constitution and the international monitoring of the election process.

A Democratic state must declare the premises of its existence in a document or documents that present to the world the logic of its right to govern. That usually comes in the form of a constitution. Unlike the Palestinians, Israel has no constitution. Chuck Chriss, President of JIA writes, "Israel has no written constitution, unlike the United States and most other democracies. There was supposed to be one. The Proclamation of Independence of the State of Israel calls for the preparation of a constitution, but it was never done." It's been more than 50 years since that "call". Why has Israel demurred on the creation of a constitution? Both Chriss in his article and Daniel J. Elazar, writing in "The Constitution of the State of Israel," point to the same dilemma: how to reconcile the secular and religious forces in Israel. Elazar states: "Israel has been unable to adopt a constitution full blown, not because it does not share the new society understanding of constitution as fundamental law, but because of a conflict over what constitutes fundamental law within Israeli society. Many religious Jews hold that the only real constitution for a Jewish state is the Torah and the Jewish law that flows from it. They not only see no need for a modern secular constitution, but even see in such a document a threat to the supremacy of the Torah"

The consequences of this divide can be seen in the discrepancies that exist in practice in Israel. While "the State of Israel is described in the Proclamation of Independence as both a Jewish State and a democracy with equal rights for all its citizens," the Foundation Law of 1980 makes clear that Israeli courts "shall decide [a case] in the light of the principles of freedom, justice, equity and peace of Israel's heritage." Without a written constitution, Israel relies on a set of laws

encased in Israel's heritage, "some blatantly racist in their assignment of privilege based on religion," according to Tarif Abboushi writing in CounterPunch in June of 2002. But the structure of Israel's governing process that depends on a Knesset is also flawed. According to Chriss, "Members of the Knesset are elected from lists proposed by the parties on a national basis. Following the election, the parties get to assign seats in the Knesset based on their proportion of the national vote, drawing from the party list. Thus, individual MKs owe allegiance to the party chiefs and not directly to the electorate." (Emphasis mine). He goes on to say, "This political system has resulted in some distortions in which Israeli law and government do not reflect the actual wishes of the voting population."

For a state to claim a Democratic form of government, it must accept the equality of all residents within its borders as legitimate citizens regardless of race, ethnicity, creed, religion, political belief, or gender. For a state to claim it is Democratic and reserve the rights of citizenship to a select group negates its claim. It is an oxymoron to limit citizenship rights to Jews alone and call the state Democratic. As Joel Kovel has stated in Tikkun, "a democracy that is only to be for a certain people cannot exist, for the elementary reason that the modern democratic state is defined by its claims of universality." Yet this inherent contradiction exists in Israel. And this brings us from the philosophical phase to the practical one.

Daniel Elazar, reflecting on this conundrum in the postmodern era, notes that this "makes it impossible for the State to distinguish between the entitlements of Jewish citizens and others based upon obligations and performance; i.e., more benefits if one does military service than if one does not."

How does Israel implement the Democracy it claims to possess? First, any Jew from anywhere in the world can come to Israel and receive citizenship by virtue of his/her Jewishness. By contrast, a Muslim or Christian Palestinian living in exile because of the 1948 war cannot claim citizenship even though they were indigenous to the area, nor can their descendants claim citizenship. Second, ninety percent of the land in Israel is held in restrictive covenants, land initially owned by Palestinians for the most part, covenants that bar non-Jews from ownership including the Palestinians who hold a limited version of Israeli citizenship. Third, Israeli citizens who are Muslim or Christian do not share the rights accorded Jews who serve in the military, nor do they receive the benefits extended to those who serve in the military. Non-Jews are taxed differently than Israeli citizens and the neighborhoods in which they live receive less support. As recently as June 12, 2002, Paul Martin writing for the Washington Times noted "Israeli Arabs are trying to strike down a new law reducing family benefits, arguing that it has deliberately been drafted in a way that will affect Arabs more harshly than Jews."

While Arabs constitute 20% of the population within Israel, their voice in government is limited. Recently, an "expert" working for the General Security

Service submitted his "expert opinion" to the Central Election Committee that undertook to disqualify Azmi Bishara and other Arab MKs from taking part in the election. This action would have deprived the Arabs of a voice in the Knesset if it had not been overturned by the Israeli court. The reality of Israeli political parties virtually assures non-representation of the Palestinians in the governing process. Even with Bishara permitted to run, the voice of the Palestinians is muted. As Uri Avnery noted recently, "One glance at the political map shows that without the Arab votes, no left-wing coalition has any chance of forming a government not today, nor in the foreseeable future. This means that without the Arabs, the Left cannot even dictate terms for its participation in a coalition dominated by the Right."

Perhaps the most graphic illustration of the non-democracy that exists in Israel comes from Human Rights Watch and the US State Department reports published in Jurist Law. The range of abuses listed by the State Department includes detainees beaten by police, poor prison conditions that did not meet international standards, detainees held without charge, holding of detainees as bargaining chips, refusal to allow access to Obeid by the Red Cross, imposition of heavier sentences on Arabs than Jews, interference with private rights, etc., and finally, "Trafficking in women for the purpose of forced prostitution is a continuing problem."

Human Rights Watch offers a litany of abuses, many more serious than those proffered by the Department of State: Israel has maintained the "liquidation" policy targeting individuals without trial by jury, lack of investigations to determine responsibility for killings and shootings, increased use of heavy weaponry, including F-16 fighter jets etc. against "Palestinian police stations, security offices, prisons, and other installations." HRW also references the Israeli Information Center for Human Rights in the occupied Territories for the wanton killing of civilians by settlers. The listing is too extensive to offer in its totality here.

As I mentioned at the outset of this article, the American public hears constant reference to Israel as the only democratic nation in the mid-east. They receive little or no information about the accuracy of that statement. Yet Americans accept this administration's and past administrations' support of Israel in large measure because they believe that it reflects the ideals expressed in the American Constitution and they are willing to spend their tax dollars in support of those ideals. In reality, American democracy and Israeli democracy are decidedly distinct.

Democracy cannot exist in ignorance of policies, processes, and actions undertaken on behalf of the people including the refusal to admit citizens to areas like Nazkt Issa where non-democratic action exists. Silence by the peoples' representatives concerning reasons for actions taken in their name corrodes democracy. Americans have not been told, for example, that American authorities removed 8000 pages of information from the 12,000 provided by the Iraqi

government to the UN Inspectors, according to former MP Anthony Wedgewood Benn in an interview on BBC January 12th , pages removed to protect corporations that provided Iraq with chemicals and other material that could be used to develop WMD. Die Tageszeitung, a Berlin Daily, reported the names of the corporations that acted with the government's approval through the '80s and up to 1991 supplying Saddam with nuclear, chemical, biological and missile technology. An extensive report on the chemicals sent to Iraq by the US was disclosed in the Sunday Herald by Neil Mackay and Felicity Arbuthnot, but received little press beyond this paper. How can the American people respond intelligently to the designs of this administration against Iraq without knowing how Iraq obtained its capability to develop WMD and the reasons for developing them?

Similarly, Israel cannot restrict its citizens, including peace activists, or its American supporters, from knowing how it acts relative to Palestinians by preventing reporters or activists from describing what is done in their name. Preventing the UN investigation of the Jenin "massacre" is only one example. Restricting journalists from occupied territory is another. Preventing Israeli and international peace activists from Nazkt Isa is the most recent.

While the founding fathers' verbalized the concepts and ideals that are the foundation of American Democracy in the Declaration of Independence and the Constitution, the full implementation of those ideals took many, many years to bring to fruition: a Civil War that freed slaves more than 70 years after the creation of the nation, Women's Rights more than 120 years after the founding, and the Civil Rights Acts of the '50s and '60s more than 150 years after its birth. That, however, is not a reason for Israel, or any nation moving toward a democratic status, to delay implementation of equal rights for all of their citizens; rather it is a demonstration of the necessity to introduce and ensure equity from the outset.

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