

Civil Rights in a Fledging Democracy

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Regional and Local Context

It would be quite unfair, particularly in the face of the current anti-Semitic and anti-Israeli propaganda in the international community, to write about civil rights problems in Israel without first presenting a factual context. The state of Israel, contrary to popular opinion, is not the foremost opponent of human and civil rights in the Middle East, not by a long shot.

Israel is not connected in any way with the child executions in Iran, or the horrid practice of female circumcision practiced in Egypt, Sudan, Syria, Jordan and the United Arab Emirates, or the ruthless Iranian terror campaign in Lebanon, Saudi Arabia and Iraq. The recent genocide in Sudan and the fighting between Yemen and Saudi Arabia have absolutely nothing to do with Israel. Likewise, the Taliban war in Afghanistan, the war between Egypt and Yemen where the Egyptians used the chemical weapons, and Saddam Hussein's use of poison gas against his Kurdish citizens have absolutely no relation to Israel. Certainly, Hussein did not attempt to conquer Kuwait because of Israel. In fact, from the genocide and ethnic cleansing in the last few years in Algeria, the ruthless murder of thousands of Syrian citizens in El Hamma by their own government, to the Libyan hijacking and destruction of the Pan-Am flight a few decades ago, none of these horrible abuses of human rights have anything to do with Israel whatsoever.

The main problem in our region, which includes 22 nations stretching from Afghanistan to Morocco and from Turkey to Somalia, is radical Islam, which has effectively booted over 300 million Moslems back into the dark ages. This whole region, with a land mass exceeding that of the USA, and massive oil and natural resources, has a combined GDP smaller than that of the nation of Italy. The gaps between those who have and those who have not, in this sad reality, are simply staggering. The status of women's rights is deplorable. Millions of children are exploited, abused and indoctrinated with militant hatred. Minority religions, such as Christianity and Judaism, are tolerated, but have virtually no rights, public representation, or substantive freedom to share their faith. In the heart of this terribly dysfunctional region, a tiny fledging democracy called Israel has somehow succeeded in not only surviving; indeed, it is thriving.

The fact that there are more Israeli companies traded on NASDAQ than all of Europe combined, even more than India, China, Korea and Japan combined, and that Israel has the fastest growing entrepreneurial economy, in the midst of an international global economic crisis, is quite impressive. But it is nothing less than a miracle that this miniscule Jewish nation, located in the midst of the most chaotic region on the globe, has succeeded in building a strong, democratic society, which places the highest value of the sanctity of human life, liberty and freedom of religion.

We are by no means stating that Israel is a utopia. If it were, there would be no need for the advocacy of a civil rights organization like the Jerusalem Institute of Justice. Anyone who has lived in this nation, for even a relatively short amount of time, knows that Israel, like every nation, has serious weaknesses and struggles.

In our opinion, Israel's civil rights challenges have evolved as the result of three major phenomena within its society. One phenomenon is the prevalence, and indeed the deepening,

of a collective mentality coined by the Israeli academia as a "siege mentality". The second phenomenon has more to do with the organic development of historic political realities, namely the disproportionately large political power granted to the ultra-orthodox Jewish sector in Israel, in spite of their relatively small numbers in the society at large. The third phenomenon, which is not a challenge faced exclusively by Israel, is the ongoing, unconventional, unethical, and downright evil attempt of radical Islamic elements in the region to infiltrate, undermine and ultimately destroy the egalitarian fabric of all western democracies. We will very briefly touch on how each of the above phenomena has developed and coalesced, and how their combination has created a situation of systematic illegal discrimination in certain cases in Israel.

Siege Mentality

A siege mentality is a common factor in people groups who have a collective history of persecution and constant existential threats. It would be superfluous to list here all of the attempts to eradicate the Jewish nation, from the pharaohs of Ancient Egypt, to the emperors of Rome, to the popes of the inquisitions and the leaders of the Third Reich; nation after nation, people after people, leader after leader have persecuted, hounded, harassed and brutally murdered innumerable amounts of Jewish people spanning several millennia.

The effect that this historic reality leaves on the collective mentality of any people group is the acute sense that they are under a constant siege. This mentality is unfortunately reinforced in Israel by current realities. Undeniably, genocidal despots still find a platform in the international community from which to spew forth their rabid anti-Semitism; Mahmud Ahmadinejad tops off the current list.

The siege mentality is so vivid in the Israeli society, that many times new or unusual streams within Judaism, let alone foreign movements or societies, are perceived as an existential threat, a "time-bomb", or an attempt to extinguish the Jewish people. There are organizations in the Israeli society which thrive on the promulgation and magnification of the siege mentality.

Although Messianic Judaism, for instance, currently accounts for less than 0.2 percent of the Israeli population, there are self-described "anti-missionary" organizations which raise tens of millions of dollars per year to "fight the Mission". Such organizations play on the siege mentality by constantly exaggerating the size of the Messianic Jewish movement, and presenting its members as devious individuals with the sole goal of converting as many Jews as possible to a foreign religion: a clear and present danger as far as they're concerned.

Political Power of the Ultra-Religious

The disproportionate political power of ultra-religious Jewish factions in Israeli politics is the direct result of the structure of our coalition-government-system.

Israeli democracy is both fascinating and admirable. It never ceases to amaze political science students to see how such a heterogeneous democratic system continues to function. After any given election, we usually have anywhere from ten to thirteen political parties represented in our parliament. These may include right-wing parties, left-wing parties, Russian immigrant parties, Arab communist parties, ultra-religious parties, national-religious parties, as well as parties with the sole goal of separating religion and state.

In fact, there are Arab members of parliament in Israel who do not believe in the legitimacy of the existence of the state of Israel. Yet these MPs are permitted to express that opinion in the parliament of the very state which they wish to undermine. In this sense, Israel is probably the strongest democracy in the world.

After each election, a coalition government is formed by creating a political pact of several parties representing at least 61 out of 120 seats in the parliament. Traditionally, the political map is split up into three political blocs; a large left-wing bloc, a large right-wing bloc, and relatively small ultra-religious bloc.

For the last three decades it has been impossible for either the right-wing bloc or the left-wing bloc to have enough seats to create a coalition government on their own. In the 2009 elections, for instance, the right-wing had a stunning victory, but they still lacked around 7 seats to reach the 61 seat majority; hence the need to incorporate the ultra-religious parties into the coalition government. Without them, there would be no government, and for this reason they are commonly referred to as the "swivel vote", a term used to denote their relatively large amount of power.

The ultra-religious parties will typically join either a right-wing or left-wing government, just as long as they can receive more funding for their educational institutions and maintain the control of key ministries in the government, particularly the Ministry of Interior; a position they have held for most of the last 30 years.

The Ministry of Interior is responsible in Israel for the administration of many basic civil rights, which affect the life of each citizen from the time they are born to the time they die; namely the registration of birth, the granting of citizenship, the registration of addresses and voting zones, the recognition of religious conversions, the allocation of funds to religious institutions, the licensing of fire-arms, the recognition of marriages, the administration of burial rights and the registration of deaths.

To complicate matters further, even though Israel's Declaration of Independence, its code of laws and its court precedents uphold the right of freedom of religion, many of the civil rights in Israel are administrated based solely upon religious affiliation. Such rights would include the granting of citizenship, the recognition of religious conversions, the allocation of funds to religious institutions, the recognition of marriages, and the administration of burial rights. One can see why the ultra-religious parties prefer to control this portfolio.

Simply by profiling any citizen as belonging to a certain religion, their representatives can grant or deny such a citizen basic civil rights. Thus the controversial question of "who is a Jew" goes beyond theological discourse in Israel and has very profound implications in the life of each Israeli citizen. By maintaining their position in the Ministry of Interior, the ultra-religious parties have effectively maintained a monopoly in Israel over deciding who is a Jew for every practical purpose.

Without going into extensive detail, it is sufficient to say that this reality does not just affect the civil rights of minority religious streams in Israel. If we take the issue of marriage as case in point, there are some 350,000 Israeli citizens who are prevented from getting married in Israel, because they do not fall into the orthodox definition of being Jewish (i.e. strictly by maternal

heritage), and they do not fall into the definition of any other religion either (e.g. one who has a Jewish father and a Christian mother). For this reason, around 11,000 Israeli citizens per year fly overseas, particularly to Cyprus, to get married, so that after they return, their own government will recognize their marriage.

Unconventional Security Threats

It is reasonable to say that in recent times Israel's, and indeed most of the western world's, security threats have become unconventional in every sense of the word. From sophisticated identity theft, to suicide bombings, to abuse of freedom of speech, freedom of press and freedom of religion for militant purposes, to intentional targeting of civilian populations, to plain-clothed soldiers hiding in houses of prayer and hospitals, to smuggling massive amounts of weapons on commercial freighters, the radical Islamic expansionist movement has made a gross mockery of conventional rules of engagement.

The major difference between Israel and much of the western world, however, is a difference of proximity. This nation of approximately 6,000,000 Jews is surrounded by some 300,000,000 Moslems, millions of which reside within its own borders. This situation has obviously not helped to diffuse or moderate Israel's already existing siege mentality.

Sophisticated warfare requires sophisticated defense mechanisms, and Israel, for pragmatic reasons, is far ahead of the international community at adapting to this new reality. Through the use of very advanced intelligence tactics and administrative cross-referencing, Israel is able to carefully monitor suspects posing a security threat and to prevent them from reeking havoc in the Israeli society.

Unfortunately, no advanced system of profiling, monitoring and prevention, no matter how sophisticated, can be on target 100% of the time, and a small percentage of innocent civilians are bound to suffer the consequences from time to time. This is an inconvenience that we all bear due to the dubious methods practiced by Islamic terrorists in our modern societies.

Case in Point

An excellent illustration of civil rights problems caused by the convergence of the aforesaid phenomena is the issue of the Ministry of Interior's Denial of Service Regulation (DSR). The DSR, which was condemned by the Supreme Court in 2004 and is still in practice to this day, was created to protect Israel from security threats both from within and from outside its borders.

If, for instance, an Arab woman who is a resident of East Jerusalem marries a Jordanian citizen who is suspected by Israel's security forces of being a terrorist, the Ministry of Defense can notify the Ministry of Interior with regards to its suspicions. According to the DSR, the Ministry of Interior must mark the file of the aforesaid citizen and deny her services, until such a time as the file is cleared by the legal department of the Ministry of Interior in collaboration with the Ministry of Defense.

This method, in theory, can prevent suspected terrorists from infiltrating Israel by obtaining citizenship through marriage. Unfortunately, the Jerusalem Institute of Justice has handled many cases where the DSR has been used against innocent citizens in Israel over the past few years, simply because of their religious affiliation.

In most cases, so called "anti-missionary organizations" have written letters to clerks in the Ministry of Interior, who were appointed by the ultra-religious factions in control of that office, accusing certain Messianic Jewish citizens of being a "threat to the existence of the Jewish state", because of missionary activity. Regardless of the fact that no Messianic Jew in the history of the State of Israel has ever been indicted, tried, or convicted of illegal missionary activity (which in Israel consists either of actively proselytizing a minor under 18 years of age, or bribing someone to change their religion), and regardless of the fact that such clerks are not authorized to apply the DSR based notifications from non-government sources, the inevitable result always occurs.

Numerous Messianic Jewish citizens have been denied basic services from the Ministry of Interior, ranging from denial of entrance into the country, to refusing to register a newborn child, to refusing to renew a passport, to refusing to grant citizenship to a spouse (and unfortunately, the list goes on and on), because their file was marked with a denotation prescribed for terrorists.

The clerks in the Ministry of Interior, like the vast majority of the Israeli society, usually suffer from a siege mentality, and they see their position as an opportunity to protect the nation of Israel from "the others". No matter how well-intentioned they may be, they are susceptible to propaganda from ultra-religious extremists which create phobias by magnifying perceived threats to the existence of the Jewish people. These same clerks report to representatives of the ultra-religious parties which appointed them to their positions, and which consistently look for ways to favor citizens who fit into their narrow, warped definition of who is a Jew and to deny basic rights to those who don't fit into it. To complicate matters, these same ultra-orthodox parties have at their disposal very sophisticated systems that were created to profile, monitor and prevent infiltration of radical Islamic terrorists into Israel.

Civil Rights Advocacy

The good news, as mentioned in the beginning of this article, is that Israel is a strong democracy. We have an excellent independent court system which upholds the rule of law, and a free and independent media. This means that the Jerusalem Institute of Justice, and other civil rights advocacy groups in Israel, have all of the tools necessary to achieve justice in cases of discrimination.

Indeed, thanks to the tools that are available to us, we have successfully handled over 350 cases of discrimination over the past 5 years, including 15 victories in the High Court of Justice. We have combated the unequal application immigration laws, prevented revocation of citizenship and residency rights, safeguarded freedom of worship, and prevented unlawful termination of employment based on religious affiliation.

Our goal is to make Israel an even stronger democracy. There is a war raging between western democracy, which values human life and dignity, and radical Islamic fundamentalism, which thrives on oppression and terror. Israel stands at the forefront of this war and, no matter where you live, her success as the only democracy in the Middle East will have profound effects on the peace and security of you and your children.

For more information about the Jerusalem Institute of Justice, civil rights in Israel, and how you can help strengthen Israel's democracy, please visit us at: www.jij.org.il.

If you, or anyone you know, are facing a civil rights problem in Israel, you are welcome to turn to the Jerusalem Institute of Justice for help at: counsel@jij.org.il.