

The
unJewish State

the politics of Jewish identity in Israel

Akiva Orr

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Preface

This book describes the collapse of a cultural identity. It deals with the numerous attempts – and failures – over the last thirty years to provide a secular definition of Jewish identity in Israel.

The state of Israel is a secular state: its law, its legislative assembly (the Knesset), and the majority of its population are non-religious. This is hardly surprising as Israel came into existence due to the efforts of a secular political movement motivated by non-religious nationalism, namely, political Zionism. In its early days Zionism came into fierce conflict with religious Jewry. The Zionists rejected religious submissiveness; the religious saw the atheist attempt to create a secular Jewish state as blasphemy. Yet, a mere decade after Israel was established, the atheist majority in the Knesset accepted religion as the criterion for defining secular Jewish ethnicity, and imposed this definition – by law – on a Jewish population 80% of which is non-religious.

The political Zionists never imagined that by achieving their goal they would create deeper dilemmas than the ones they had set out to solve. Nowhere is the meaning of secular Jewish identity more problematic than in Israel.

Cultural identity has a dual nature, public and personal. It has institutional aspects (law, ceremonies, education, etc) which are public and pertain to the collective culture; and it has psychological aspects which are personal, such as the individual's feelings of group identity. When cultural identity loses its meaning, symptoms of cultural insecurity emerge both in the public and in the personal domain. The individual – and the law – become obsessed with an urge to consolidate cultural identity, to elaborate it, to define it. Yet all these attempts fail to provide satisfaction. The more the problem is debated, the more emotional the debate becomes. Individuals and institutions are drawn inexorably, against their will, into emotional debates about the nature of their identity – their sense of existence, their "survival" and extinction.

This book is based largely on extracts from debates, in the Israeli parliament (the Knesset) and in Israel's Supreme Court, on the issue of "Who (or what) is a Jew?". This material – which is translated here for the first time – should enable the reader to observe in detail a particular case of a collapse of a cultural identity. It has its own characteristics, but it is by no means an exception. Group-identity breakdowns of this type affect most societies throughout the world today, and generate political violence which seems insensible and insoluble to traditional political thought.

Protestants and Catholics in Northern Ireland, Greeks and Turks in Cyprus, Muslims and Christians in Lebanon, Basques and Kurds, blacks and women are but a few instances of politico-cultural conflicts which reached the headlines in the press during the last few decades. In fact there is hardly a country without such a latent conflict simmering beneath the surface, gaining energy through the accumulation of frustration and anxiety until the moment of erupting into open violence to the utter surprise of all those who assume that social behaviour is motivated only by economic and political interests. It is an open secret that the Islamic revolution in Iran came as a total surprise to C.I.A. experts, Middle-East scholars in Western universities, the entire spectrum of Marxist intellectuals, the Oriental specialists in Moscow and Peking, and last, but not least, the revolutionary Left in Iran itself.

The reason for this surprise stems from the fact that the frustrations and anxieties generated by a feeling of threat to the identity of a collectivity (be it a clan, class, religious – or national – minority) were not considered as significant motivation for political action. Contemporary political thought (itself a product of an identity which considers economics as the prime motivation of human behaviour) sees all human behaviour in its own image. It is blind to self-images of other collective identities. Hence the surprise when other cultures follow a dynamic different from one's own. This book lets the protagonists of the cultural conflict within Judaism speak for themselves (their statements comprise two-thirds of the book). This should enable the reader to form an interpretation of the problem rather than accept one imposed upon it. If, as a result of reading this book, the sense of threat to a collective identity is accepted as a motivation of political action it will serve a wider purpose than merely clarifying the specific problem with which it deals.

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Introduction

For some two thousand years the Jews lived as minority communities dispersed throughout the world. During this period they absorbed many of the features of the local societies. Eventually the Jewish communities differed from each other in language, dress, food, customs, and even physical features, to such an extent that an outside observer would hardly suspect that they were linked together by a strong bond. Yet all these communities felt themselves to be part of one people, the Jewish people, and not part of the societies among which they had lived for many generations. The bond which held the various Jewish communities together – and separated them from the surrounding societies – was the Jewish religion.

During the feudal era, while religion dominated the mind, European Jews were culturally, socially, and legally segregated. They were confined by law to special areas (“ghettos”) and special occupations. But the cultural revolution of the European bourgeoisie (the Renaissance), and later its political revolutions, abolished this segregation.

The Renaissance substituted reason for religion, and the subsequent bourgeois revolutions replaced feudal monarchy with bourgeois democracy. Jews were granted civil rights and equality before the law. They were emancipated. As a result they began to leave the ghettos and come into social and cultural contact with non-Jews. Their contact with the new secular and rationalist philosophy influenced many to give up their religious convictions. This process became known as the Emancipation. This development, which started in Europe in the eighteenth century, gained momentum in the nineteenth, until a situation was reached in the twentieth century wherein only one in five Jews still practises the traditional religion and the rest vary from religious modernists to total atheists.

The loss of the traditional religion caused a change in Jewish identity. All those who dropped the traditional religion – and only those – were forced to question the meaning of their Jewishness.

Some concluded that since they no longer believed in God their Jewishness had become meaningless. They tried – often successfully – to assimilate. Others decided that since they still believed in God, though not in the traditional sense, they were part of the German, French, or some other nation within which they lived, except that they adhered to the Jewish rather than the Christian religion.

Both these groups shared the view that Judaism was a religion rather than a nationality.

Another group, also non-believers, who called themselves political

Zionists argued that the Jews were a nation rather than a religious denomination, and that they suffered persecution because they were national minorities in foreign nation-states. Political Zionism argued that only when the Jews re-established their own independent state in the land where they had once enjoyed independence, and became a majority there, would there be an end to persecution, as well as to the identity crisis.

Eventually the Zionists, who even as late as the 1930s were still a minority amongst the Jews, established in 1948 an independent Jewish state in Palestine and assumed the role of representative of Jews and Jewishness in the contemporary world. However, within two decades of independence it became clear that the secular Jewish state had failed in its attempt to provide a new, secular, Jewish identity. The leaders of Israel discovered – to their own surprise – that in the Jewish case religion and nationality were inseparable. This confronted the secular Zionists with a dilemma: should they accept or reject the religious definition of Jewishness? Reluctantly, they accepted it. The unfolding of this acceptance is described in this book.

Traditional, orthodox, religious Jewry has become a minority amongst the Jews. This minority does not suffer from an identity crisis, because its identity is defined, without an ambiguity, by its religious belief. However, the creation of an independent, secular, Jewish state poses ominous problems for the religious minority. The problems stem from the specific features of the Jewish religion, which differs qualitatively from other religions, particularly from its offspring, Christianity.

There are four major features which distinguish Judaism from Christianity: theocentrism, the daily religious practice of the believer, the constant involvement of divine providence in history, the notion of the religious nation, the so-called ‘chosen people’.

*Theocentrism is the essence of Judaism. The worship of God has no ulterior purpose whatsoever, either for the individual or for the community. It is not a means to achieve health, wealth, power, peace of mind, paradise, or to satisfy any human need. It is an end in itself, not a means. Everything else, including the very existence of the entire human species, is a means to reveal the glory of God. Worship is performed as an act of reverence to God; if it is performed for any other purpose it becomes profane.

In Judaism religion does not exist to serve humanity; humanity exists to serve God.

This point is made painfully clear in the Bible story about God commanding Abraham to sacrifice his own son Isaac as an offering. Abraham obeys without questioning and God relents at the last moment, saying, ‘Now I know that thou fearest God, seeing thou has not withheld thy son, thine only son, from me’ (Genesis 22, 12). In this test the believer is faced with a conflict between basic human morality and God’s word, and

passes the test only if he is ready to sacrifice his son, his human morality, his interests – in short, everything – to God. Christianity, by contrast, uses as its supreme symbol the cross, which symbolises God sacrificing his son for the sake of humanity. Christ overturned Judaic theocentrism and replaced it by an anthropocentric religion which has the well being of humanity as its goal.

*Judaism demands from the believer more than the acceptance of theocentrism. It demands that the believer demonstrate this acceptance by practising daily religious rules for the conduct of ordinary life (*mitsvot*). The daily commonplace activities of the believer in matters of washing, food, dress, work, and rest are prescribed by some 613 religious rules which regulate daily life. The purpose of these rules is to present the believer with a permanent, daily, burden, a test, and confirmation of his subordination to God. The performance of these religious regulations served, for two thousand years, as the demarcation line between Jewish believers and everyone else. The initiation ceremony of the Jewish adolescent is called 'Bar-mitsva', ie. 'capable of performing the mitsvot', indicating that this is the essence of the community which this youth is joining.

*History, as well as current political events, are, according to Judaism, a result of God's will. Wars, conquests, persecution, extermination, exile, peace are acts directed by divine providence for an ulterior purpose, namely, to guide humanity towards an awareness of God and a life dedicated entirely to his glorification.

*In this scheme of things the Jewish people have been selected by God to serve as an example. This is not a status of superiority, but a burden: to live according to God's rules or suffer the consequences. Accordingly, whatever happens to this community of believers serves as a lesson to everyone else. It is the entire community of believers, not the individual believer, that matters. Individual believers can serve as a model to other individuals, but it is the community of believers which serves as a model – of improper as well as proper conduct – to humanity.

It may come as a surprise to people with a Christian background that there are no death-rites for the individual in Judaism. Absolution does not exist in Judaism. The rites for the newborn, the circumcision, mark the acceptance of the newborn to the collectivity. The communal nature of Judaism is further demonstrated by the fact that many prayers require a quorum of 10 ('Minyan') to become valid. Judaism aims to maintain a community dedicated to theocentrism, not individualistic theocentrism. It is concerned with the total dedication of an entire people to God, not with individual dedication. The readiness of Abraham, the individual, to sacrifice his own son to God, serves as the supreme symbol of religious behaviour in Judaism, hence Abraham is called the Father of the People,

despite the fact that it was Moses who founded the Jewish people. This latter fact is demonstrated annually in the religio-nationalistic feast of Passover (Jesus' 'Last supper'), where every dish and every toast are rigidly prescribed by a religious text ('The Haggada'), to celebrate the exodus from Egypt, led by Moses, 30 centuries ago. This feast is simply the celebration of the birthday of the Jewish people. It is the birthday party of the Jewish nation. Despite Moses's central role he is not venerated as a central religious figure. No human being can be a central religious figure in Judaism, and no location, shrine, image, or text can be worshipped. Only imageless, nameless, God can be worshipped (it is forbidden to pronounce or write His name), worshipping anything else is idolatory profanation, blasphemy.

The theocentric essence of Judaism is ruthless in its rejection of saints, shrines, 'holy' places, objects, people. Only worship of God – for its own sake – is holy, all else is profanation. Drinking a cup of water can be imbued with holiness if it is carried out not with the intent to quench thirst, but with the intent to glorify and thank God. Asking God for favours like health, wealth, peace, etc. stems from self-interest, and is therefore profane. The insistence of some religio-nationalistic groups that the Wailing Wall, Jerusalem, or the territory of Palestine are 'holy' is blatant blasphemy, because the 'holiness' of a place or object is incompatible with theocentrism. Only God is holy, and only what is done to worship him alone has holiness imparted to it, everything else is profanity.

Judaism has no saints, but it has martyrs, like Hanna and her seven sons who preferred to die rather than renounce their Judaism. Martyrs like Hanna, or the thousand who were burnt at the stake rather than kiss the cross, are not saints who can be approached to bestow personal favours like health or wealth, or power, but are venerated as examples of the way in which a Jew ought to behave. They sacrificed everything for God's name.

There is a special term in Judaism for this sacrifice, namely 'Kidush Hashem' ('Sanctifying The Name'). Judaism does not venerate the military, or political, figures in its own history, not even those mentioned in the Bible as performing great and heroic acts, but it does venerate those who died for 'Sanctifying The Name', even if they were humble, ordinary people, whose only distinguishing feature was that they sacrificed all that was dear to them, particularly that which was most dear, to God.

This spirit of theocentrism is institutionalized in the 613 religious injunctions ('Mitsvot') of religious behaviour, regulating and prescribing every daily act. They instruct the believer about food, drink, dress, work, sleep, sex, and relations to others. Many religious Jews perform these Mitsvot as a routine without being imbued with their significance, but even a mere 'going through the motions' serves its purpose, because the daily

performance of the Mitsvot is a heavy burden, and the readiness to carry this burden (for which the believer never expects personal reward), is a first, essential, step towards the understanding and acceptance of theocentrism. The insistence on the actual, daily, performance of the Mitsvot, serves another purpose, – it constantly forces the believer to prove his conviction by actual, physical, acts. Mere belief in the existence of God, or an ideological acceptance of theocentrism, are not valid criteria in Judaism; you have to prove your conviction by action.

Those who perform the Mitsvot regularly know they are unique, and have a secure sense of their identity. They belong to the collectivity which practises theocentrism, they are 'God's People', they do not require any external definition or proof of their identity because they prove it to themselves daily. Hence the only valid definition of 'a Jew' is – one who performs the Mitsvot. All other definitions, both religious and secular, like 'A Jew is one born to a Jewish mother', 'A Jew is one who believes in the Old Testament', 'A Jew is one who is defined (or persecuted) by anti-Jews as a Jew', 'A Jew is one who feels himself to be a Jew', or 'One whose spiritual centre is Israel', are mere stopgaps designed to keep in the fold those who are about to stray away. They substitute an external definition for theocentric conviction demonstrated by action. They utilize origin, thoughts, feelings and persecution as substitutes for the daily proof of theocentrism, namely, the performance of the Mitsvot. In the long history of Judaism there were many Jewish movements and sects who tried to abolish some, or all of the Mitsvot, and proposed alternative definitions of Jewishness. Within a few generations they all vanished without leaving a trace. Only those who kept the Mitsvot (the 'Orthodox') remained indisputably Jews. It is this fact, rather than any personal opinion, indicating that a Jew is one who performs the Mitsvot.

According to the religious conception, it was God who brought about the destruction of the Jews' independence, of the Temple in Jerusalem, and their dispersal in exile. He did so as a retribution for their sins, for having abandoned him by worshipping other 'gods', like self-interest, political power, or simply other deities and customs.

All these aspects are woven into a single, coherent, religious system. In this system, God is omnipotent, and beyond any human reason, description or attribute, including space, time, or shape. He created the universe and humanity to demonstrate his glory. His plan for humanity is a historical process designed to produce a universal community whose sole purpose of existence is to lead a holy life.

But God wished men to achieve this condition through their own effort and granted them the freedom to choose between a holy and profane existence. Every human activity serving a purpose other than the revelation

of God's glory is profane. So is most of human history, which is guided by divine providence towards the realisation, through suffering, of the glory of God. However, God chose one people to serve as an example to the rest of mankind and to demonstrate how a religious community ought to behave and what happens to it if it strays from holy behaviour.

God made a covenant with this community whereby a certain region, namely the land of Canaan, would be trusted to it for the purpose of conducting a personal and communal life dedicated exclusively to God. The daily life of the members of this community should be subject to discipline, reminding them of their sacred mission. In this manner festivities and special occasions such as birth, wedding, death, or burial acquire holiness, so do washing, eating, dressing, working, resting – if performed as an act of worship.

When, however, the Jews failed to fulfil their part of the covenant and followed selfish motives, divine wrath was unleashed upon them. They lost their independence, the Temple was destroyed, they were exiled from the holy land, and had to live in exile until penance was done. Only when the entire community once more conducted its life in a holy manner would God resurrect its independence in the holy land, rebuild the Temple, and enable the Jews to demonstrate to the rest of mankind how a holy community should behave. When humanity emulated this model God's purpose in creating humanity would be achieved.

The Zionist movement, in contrast, started by rejecting the entire religious conception. First, Zionism did not believe in the existence of God; the movement was secular, not religious. Second, Zionism worshipped a new god – the Jewish people. As one leader put it: "My craft is the craft of one of the masons building a new temple for my supreme god, whose name is – the Jewish people".¹ Zionism insisted that suffering in exile was a result of minority status, not of sin. Zionism preached that the Jews must act on their own behalf to create their state in Zion, rather than wait till God did it for them. Finally, Zionism argued that when Jewish independence was resurrected the Jews would become "a nation like all other nations", or "normalised" as some put it.

In other words, Zionism was a heresy which overturned every single precept of religious Judaism. No wonder that the religious leadership, with few exceptions, started a struggle against this new heresy.

One of the few religious leaders who decided to follow the Zionist leadership rather than fight it was Rabbi A. I. H. Kook. He argued that Zionism was a product of divine providence, and that in due course the Zionist heretics would become religious. Knowing that religion and nationality were inseparable in Judaism he reasoned that the Zionists, being nationalists, would prefer to compromise their atheism rather than lose

their Jewishness because of it.

However, most of the religious leaders met in Katowice in 1912 and formed an organisation called *Agudat Israel* (Jewish Association) to conduct the struggle against Zionism and reassert the leadership of religious Jewry in all the Jewish communities.

The First World War and the issuing of the Balfour Declaration, Britain's pledge to support a Jewish homeland in Palestine and the rise of the Nazi regime in Germany weakened the Aguda and strengthened Zionism. In 1937, when Isaac Breuer, one of the leaders of the Aguda, asked its third Grand Assembly: "Tell us openly, is the (British) Mandate (over Palestine) an act of God or of Satan?"² no one dared give him the answer that had been clear a decade earlier, namely that the Mandate – and Zionism – were acts of Satan.

When the Second World War started and the Nazis embarked on their systematic extermination of Jews, the religious opposition to Zionism crumbled further. An argument was produced to legitimise the support of religious Jews for secular Zionism. The argument equated the effort to create a Jewish state and the effort to save a Jew's life. As there is a religious rule which states that religious obligations can be overruled if this serves to save a Jewish life, one was allowed to support Zionism because an independent Jewish state could act as a refuge to Jews fleeing from Nazi extermination. The fact that the Nazis could – and almost did (in 1942) – reach Palestine and could exterminate the Jews there, whether they had a state or not, was ignored. Within a few years Agudat Israel moved from active hostility to Zionism to co-operation with it. Only a small minority, calling themselves *Neturei Karta* ('Guardians of the Citadel' of Judaism), maintained the view that Zionism and Judaism were incompatible, and maintained their opposition to Zionism and the Zionist state. The rest moved towards a compromise with their former adversaries.

After the Second World War, when it became clear that an independent, secular Jewish state was about to be established, the Zionist leadership – fearing a cultural conflict with religious Jewry, a conflict which could split world Jewry into two warring camps – proposed a compromise and the Aguda accepted it.

This compromise, which became known as the 'status quo' agreement, was in the form of a letter from the executive committee of the Jewish Agency (the self-governing body of the Zionist community in Palestine before independence) to the world organisation of Agudat Israel, sent on 19 June 1947, five months before the UN General Assembly voted for the creation of two independent states in Palestine, one Arab and the other Jewish. It read:

The Executive of the Agency has heard from its Chairman of your

request concerning a guarantee in regard to marriage, the Sabbath, education, and the dietary laws in the Jewish State when it is established in our own days.

As the Chairman of the Executive has informed you, neither the Executive nor any other body in the land are qualified to determine in advance the constitution of the Jewish State when it is founded. The establishment of the State requires the confirmation of the United Nations, and this will be impossible without a guarantee of freedom of conscience in the State for all its citizens and without it being made clear that it is not the intention to establish a theocratic state. In the Jewish State there will also be non-Jewish citizens – Christians and Muslims – and it will be clearly necessary to guarantee at a later stage full equality of rights for all citizens and the absence of coercion or discrimination in religious matters or other matters.

We were pleased to hear that you understand that no body is qualified to determine the eventual constitution of the State, and that the State will be, within certain limits, free to determine its constitution and regime according to the will of its citizens.

However, the Executive appreciates your demands and is aware that these are matters that worry not only members of the Agudah but many others who are loyal to the faith of Israel, both in the camps of the Zionists and outside all parties, and it shows complete understanding for your demands that the Executive of the Agency should inform you as to its attitude to the questions you have put forward and what it is prepared to do, to the extent of its influence and authority, in order to fulfil your requests in relation to the said questions.

The Executive of the Agency has authorized the signatories to formulate its attitude towards the questions which you have raised in conversation, and we are now informing you of the attitude of the Executive of the Agency:

(a) *Sabbath*. It is clear that the legal day of rest in the Jewish State should be the Sabbath, with Christians and members of other faiths naturally being granted the right to rest on their own festive day of the week.

(b) *Dietary Laws*. All necessary measures should be taken to guarantee that in every state kitchen intended for Jews the food will be kosher.

(c) *Marriage*. All members of the Executive appreciate the gravity of the problem and its great difficulties, and on the part of all the bodies represented by the Executive of the Agency everything possible will be done to satisfy in this respect the profound need of adherents of the faith, so as to prevent the division of the House of Israel into two parts.

(d) *Education*. The full autonomy of every 'trend' in education will be guaranteed. (Incidentally, this practice also prevails in the Zionist

Federation and in the official Jewish community at the present time.) There will be no interference on the part of the government with the religious conviction and the religious conscience of any section in Israel. The State will naturally determine minimal compulsory studies, the Hebrew language, history, sciences, etc and supervise the fulfilment of this minimum, but it will give full freedom to every 'trend' to conduct education according to its own conviction and will refrain from any interference with religious conscience.³

The three signatories were David Ben-Gurion, Chairman of the Executive and leader of the largest Zionist Labour party, who became Israel's first prime minister a few months later; Isaac Gruenbaum, leader of the bourgeois sector; and Rabbi I. L. Fishman representing the 'Mizrahi', a religious-Zionist party.

The first two were militant atheists, known for their active hostility to traditional religious Judaism. The third was a representative of a religious minority which chose, as early as 1911, to become part of the Zionist movement and promote religion within it.

It is clear from the letter that the Aguda was already negotiating with the Jewish Agency a compromise, and the letter provides the terms of the Agency for such a deal. The terms were accepted by the Agudah whose leaders, from then on, participated in most Israeli coalition governments.

Of the four points, only point C presented a major problem, as can be seen from the letter. It is the only point which mentions the possibility of a schism in Judaism. The reason being that the vast majority of the Israeli Jews would insist that the legal procedures for marriage and divorce should be civil ones, independent of religion, whereas religious Jewry insists that they be according to religious law. Eventually, in 1953, the Knesset (Israeli parliament) passed the law of 'Jurisdiction of Rabbinical courts (marriage and divorce)' which granted the religious courts the sole authority to deal with marriage and divorce. Of course, the Muslims have to go to an Islamic court, and the Christians to a Christian one, but no civil marriage and divorce are possible in Israel. This fact is the source of constant suffering and anger for the secular majority in Israel. A referendum to introduce civil marriage and divorce in Israel would get a majority of 'yes' votes any time. Yet despite this fact, which was obvious to all Israeli politicians, the majority of these politicians – most of them atheists – voted for a law coercing the secular majority to submit to religious procedures of marriage and divorce. The usual explanation is 'political opportunism', a price to be paid for the votes of the religious political parties to keep Ben-Gurion's Labour party in power. But a closer analysis reveals that had Ben-Gurion really been keen on introducing civil marriage and divorce (as well as the religious procedures), he could have found enough votes to ensure his

majority in the Knesset. The deeper reason is the one hinted at in the 'status quo' letter, namely that such a step could divide world Jewry into two hostile camps. Even many non-religious Jews – outside Israel – oppose civil marriage in Israel. Their motivation is not religious outrage but an anxiety that civil marriage in Israel would encourage mixed marriages of their own offspring outside Israel and thus threaten their 'survival' as Jews. It is precisely these Jews, whose Jewish identity becomes insecure as a result of their loss of belief, who are the most militant supporters of Israel and Zionism. The Jewish state is for them what God is for religious Jewry, the source of their Jewish identity. Any attempt which they interpret – rightly or wrongly – as damaging the 'Jewishness' of the Jewish state, will mobilize them into preventive activity. The same energy and resources which they mobilize to support Israel while it conforms to their notion of 'Jewishness' will be used to prevent any change of this notion, even if it be brought about by democratic means within Israel. It is not easy for a non-Jew to grasp, and understand the nature of the fact that Israel is not merely the state of the Israelis, but of world Jewry. Ben-Gurion knew that if he introduced civil marriage and divorce in Israel he would risk losing the financial, political, and emotional support of most Jews outside Israel. Since he, like most Zionists, saw Israel as a tool for the cultural and physical preservation of world Jewry, he preferred to outrage the Israeli Jews rather than world Jewry. Hence the vote by atheists for religious monopoly on all matters of marriage and divorce. Apparently, loss of integrity is preferable to loss of identity.

This was only the first in a series of surrenders of the secular majority to the religious minority. Others were to follow. Yet despite all the surrenders the equilibrium between the two camps is fragile and unstable. The religious minority may – and most probably will – change its view and decide that the Zionist state was, after all, an act of Satan, not of God. And the secular majority discovers gradually that Israel failed to produce a secular Jewish identity.

In 1978, thirty years after establishing Israel, the 29th Zionist Congress in Jerusalem was opened by the veteran Zionist leader Dr. Nahum Goldmann with a major address entitled "80 years of Zionism". He stated:

. . . The real motivation for creating the modern Zionist movement was fear for the survival and future of our people after the Emancipation in the 19th century and the practical end of anti-Jewish persecution.

It may sound paradoxical and brutal but, as I said on other occasions, the survival of our people seems to be more threatened today than in the worst days of the Nazi regime.

Reliable statistics predict that, with the present rate of mixed

marriages, the lack of a real system of Jewish education and the indifference of the majority of the young generation toward their Jewishness, the number of convinced Jews in the United States may decrease in a few years to four or five million and may be less than one million within a decade or two.

. . . Our people survived despite persecution and the dangers of conversion, mixed marriages, and assimilation. It was always a minority which secured our survival, the 'Sher'erit Ha'pleta'. The great question today is whether this minority, which is indispensable to secure our future, can be counted upon. I fear that not only the rank and file, but even the majority of our leadership are unaware of the tremendous danger to our future.

To express it in an alternative way I would say that many more Jews are interested in the question of Sharm-El-Sheik⁴ than in the threat of Jewish assimilation. This illustrates the fundamental change in our awareness.

. . . Very seldom today does one find any real awareness of the internal danger – which is neither dramatic nor appears in the headlines – of the permanent erosion of our Jewish consciousness and the possible loss of the major part of the young generation.

. . . If there is a real task and *raison d'être* for the survival of the (Zionist) movement and even for its renaissance, we must seek it not in the day-to-day issues, but in the larger historical context of the role of Zionism.

The starting point for my approach, within the framework of our history is the uniqueness of the Jewish People. We are unique both in structure – religion and the national idea being so interconnected that it is nearly impossible to separate them – and in the character of our history, with its two spheres of life, the centre in Eretz-Israel and the periphery, the Diaspora, for which there is no parallel in the history of other peoples.

. . . The danger for the survival of our people after the Emancipation, when the force of Jewish religion lost its hold on the majority of Jews, and the 'Mitat Neshika', the kiss of death, became the real menace to our future, brought the ideological founders of the Zionist movement to their Zionist concept.

In the attempt to overcome this menace and to secure our survival, there were always two approaches, and the trouble with the Zionist movement is that a real synthesis of both never came about. The first approach, which remained dominating till today, is symbolized in the charismatic figure of Theodor Herzl. Having been an assimilated and very indifferent Jew, without any real knowledge of, or familiarity with,

the Jewish past and traditions, he saw the Zionist solution in what he regarded as the normalization of the Jewish situation by creating a state with all the paraphernalia of a modern state, allowing the Jews to become a people like all other peoples, hoping that the majority of the Jewish people would seize this opportunity, and, being so alien to the Jewish cultural values, that he foresaw in his *Altneuland* that German would become the official language of the State. Had Zionism remained totally Herzlian then its aim would have been fulfilled in the establishment of the State of Israel.

On the other hand, Herzl's basic purpose was to solve the Jewish problem by concentrating the Jewish people in its own homeland. If one analyzes the situation objectively today, 30 years after the proclamation of the state, one must realize that the Jewish problem is far from having been solved.

... I am deeply convinced, not only because of the historical aspect but in view of the present Jewish situation, with its menace of assimilation and indifference, that if Zionism had created no more than a state like all other states, the Jewish future would not be secure. Politically seen, even if there would be real peace with the Arabs, there would be a permanent potential danger for Israel, as a state of a few million Jews.

... Although I cannot accept the criticism levelled against Zionism by some of the extreme religious groups, which even today refuse the authority of the State of Israel, I agree that it would be a denial of the unique character of Jewish history if our purpose was merely to create in the Land of Israel a state like any other.

... The first and most essential (need) is to create in Israel not only a State with all its normal attributes, but at the same time what *Ahad Ha'am*⁵ defined as the spiritual centre for the Jewish People. The main task of Israel would thus be the creation of new values – religious, social, and spiritual – to inspire that part of the coming generation which wants to remain Jewish, to be proud of belonging to this unique people and convinced of its duty to live in solidarity with it and stand by it.

Many years ago I formulated the three forms of synthesis which the Jewish state would have to achieve in order to be true to this mission. The first would be a synthesis between the modern civilization which the State of Israel will help to create and the Jewish past, integrating into the character and structure of the new, Israeli, civilization, the great values and ideas of the Jewish past, from the Bible and the Prophets till our generation. The second synthesis would be one between the values and ideas to be created in the State and the cultural contributions and

achievements of the Jewish Diaspora. It will have to be based on a give-and-take relationship, on absorbing the creativeness of the Diaspora, so rich in intellectual, moral, and spiritual forces, into that of the State, by Aliyah [immigration] by an exchange of people, by Israel being part of Jewish education and so on. The third synthesis would be a connecting link between world civilization, with the participation of Jews dispersed all over the world, with the new civilization of the Middle East which, once peace is achieved, would be the common creation of Jews and Arabs cooperating as in many periods of the past.

... To sum up this concept of the task of Zionism today I would say that while it is incumbent upon the State and the people of Israel to secure the existence and the future of the state like all other states, it should be the task of the Zionist movement, representing the totality of the Jewish people, to enable the state to be unique and thus assure our future as a people in both spheres of our life. This would mean that we have to shift from our concentration on the external (front) to the internal front, to realize much more than we do today the dangers not from the threat of an Arab attack – which we must always keep in mind, nor of anti-Semitism, which may be revived, but of internal erosion. This will require creating a system of Jewish education and making Hebrew the second language common to the larger part of the Jewish people.

... As I see it, the condition for a change in the situation is to give this part of the Jewish youth the possibility to fight for larger universal problems through Jewish instruments, to create a Jewish movement which will participate with other progressive forces of the young generation as a Jewish constituent, instead of losing our young people by their joining other groups.

If the Zionist movement would make these tasks its *raison d'être* it would realize that it has not yet implemented even half of its historical ideal. Ben-Gurion himself shared this concept with me: you will remember that he always maintained that unless Israel becomes an "Am Segula" [a 'unique people] there will be no future for it.

... By proclaiming the State and even winning military victories we have not yet secured the existence and survival of our people from a long-term point of view. Despite all the importance it will continue to have, we will have to shift from the external front to the internal one, to the great ideals, ideologies, moral and religious values which – more than anything else – have secured the survival of the Jewish People.⁶

This statement, coming from a leader who has been in the Zionist movement from its early days reveals that political independence failed to

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solve the cultural problem. A State is not a substitute for God. An identity based on a belief in God becomes meaningless to a non-believer, and cannot be salvaged by identification with a secular state.

1. "Rebel & Statesman. The Vladimir Jabotinsky Story" by J. B. Schechtman. N.Y. 1956. Vol 1 p.104.
2. Quoted in "Facing the Spiritual Perplexity of our Time" by B. Kurzweil, Hebrew. Bar-Ilan University Press, Israel 1976, p.130.
3. See "Heaven at Bay" by E. Marmorstein. p.86-87. O.U.P. 1969.
4. Sharm-El-Sheikh: the southern tip of the Sinai peninsula, which was conquered by Israel in 1967. Goldman is referring to the public debate in Israel on whether the Sinai should be returned to Egypt in return for peace. Most Israelis accepted Moshe Dayan's famous phrase: 'Sharm-el-Sheikh without peace is preferable to peace without Sharm-El-Sheikh.' But Israel had, in the end, to bend under US pressure and trade the Sinai for peace with Egypt: the last part of the peninsula is due to be handed back in April 1982.
5. See the bibliography at the end of this book.
6. World Zionist Congress, press release, 21 February 1978.

Chapter One

Founding the Jewish State

The Independence Declaration of the State of Israel,¹ published on 14 May 1948 – the day Israel was declared independent – contains a number of peculiar formulations whose significance eludes anyone who is not intimately familiar with the contemporary crisis of Jewish civilization. One of these formulations is the key phrase, following the preamble, which asserts the independence of the state. This phrase ought to have read: ‘We hereby proclaim the establishment of an independent state in Palestine.’ This is what one expects from a declaration of independence. Instead, this phrase states:

‘We hereby proclaim the establishment of the Jewish State in Palestine, to be called *Medinat Israel* [the state of Israel].’

So that Israel, instead of being proclaimed an independent state, is declared to be a Jewish state. It may seem to some that the difference between the two terms is insignificant and does not merit analysis. Yet declarations of independence are not drafted haphazardly. They are drafted only once in the life of a state, and every single word and phrase is carefully and meticulously selected, debated, and agreed upon by all the parties who struggled for the creation of that state. This was the case with the Israeli Declaration of Independence, which had to satisfy deeply conflicting secular and religious trends within contemporary Judaism.² The Proclamation itself went through several drafts, each prepared by a different committee, yet even the final, approved, draft was an uneasy compromise.

The Declaration has no legal validity in any Israeli court.³ It is not a document which a judge or a lawyer can use, but it does express the spirit of political Zionism (and of its creation – the state of Israel), the *raison d'être* of all its institutions as well as its self-image. A ‘Jewish state’ expresses a concept of identity different from that of an ‘independent state’. It is a state whose main quality is its Jewishness rather than its independence. A ‘Jewish state’ is also different from ‘the state of the Jews’ the latter is merely a refuge, where Jews can find shelter, while the former means a state whose institutions embody the essential qualities of Judaism. The differences between these formulations were quite clear to those who drafted the declaration. Indeed, to many people throughout the world today the state of Israel is not merely another independent state but the embodiment of modern Judaism.

When the members of the National Council, representing the Jewish people in Palestine and the world Zionist movement, met together in solemn assembly (to use the words of the Declaration itself) at the Tel-Aviv museum and proclaimed the establishment of the Jewish state, they were unaware that the Jewishness of the secular Jewish state was a profoundly problematic issue that would eventually divide Jews everywhere, and cause endless problems in Israel itself. However, they did not convene the National Council at the Great Synagogue in Tel-Aviv but in its museum.

Moreover, when the last committee appointed to draft the final version of the proclamation met, the religious member (Rabbi Y. L. Fishman) insisted that the final phrase should contain a reference to the God of Israel, whereas the Marxist member (A. Zisling) objected to any religious terminology. Ben-Gurion proposed the compromise: 'With trust in the Rock of Israel, we set our hand to this declaration.' He pointed out that the 'Rock of Israel' could be interpreted as a reference to the God of Israel by the religious, and as 'Israel's might by the secular'.⁴

According to the Declaration, the state of Israel 'will uphold the full social and political equality of all its citizens without distinction of religion, race, or sex.' The significant omission here is 'ethnic or national origin'. Full political equality for all citizens, including the indigenous Palestinian Arabs, was not what the founders of the Jewish state had in mind. It was, after all, a Jewish state, not just another independent state, and in that state Jews, and Jews only, were entitled to special political privileges, hence the careful omission of any reference to ethnic and national origin. Full social and political equality for the Arab citizen of Israel is something to which most Israelis, and Jews everywhere, would object even today – thirty years after Israel's independence.

Some Israelis tend to argue that full political equality for the Arab citizen of Israel could jeopardize Israel's security, whereas Jews elsewhere tend to point out that such equality could eventually undermine the Jewish identity of the Jewish state. But whatever the argument, it soon becomes obvious that the failure to extend full social and political equality beyond the boundaries of national and ethnic origin was not some minor oversight by the formulators of the Proclamation of Independence in 1948, but a sensitive issue for Jews everywhere, and at all times. A political system which is designed by its founders to express and uphold a particular attribute cannot extend full political equality to those who lack that attribute. A Jewish state cannot extend full political equality to non-Jews, any more than an Arab state can extend it to non-Arabs, or a secular state to the religious (or vice versa).

The difference between 'a Jewish state' and 'an independent state' is

much more than a difference of terminology. It is an expression of a difference in the deepest feelings and attitudes towards social existence, and one's sense of identity as a human (i.e. societal) being. If Israel were – in its proclamations and daily practices – an ordinary independent state extending full political equality to all its citizens without distinction of religion, race, sex, or national and cultural origin, very few Jews anywhere would see any point in supporting it. It is precisely because it is not such a state that they do support it, as well as supporting the spirit and formulations of the Independence Proclamation.

Yet it would be wrong to conclude that the founders of the Jewish state intended to discriminate against non-Jews. They intended to discriminate, and did discriminate, in favour of Jews, but most of them refused to accept that discrimination in favour of Jews implies – by default – discrimination against non-Jews. There is a genuine mental block – indicating an inner conflict – in many Jews when they have to admit that any discrimination in favour of Jews (concerning, say, immigration or Israeli citizenship) inevitably implies discrimination against, and denial of rights to, non-Jews. The Independence Proclamation attempted to reconcile this conflict by 'calling upon the Arab inhabitants of the state to play their part in the development of the state, on the basis of full and equal citizenship and due representation in all its bodies and institutions – provisional and permanent.' 'Full political equality' was transformed into the vague phrase 'full and equal citizenship', i.e. minority rights. In practice the Palestinian Arabs in Israel were not even allowed to form their own political parties for elections to the Israeli parliament (the Knesset), the obvious argument being 'security'. Yet when 'security' cannot serve it suddenly transpires that by 'full and equal citizenship' most Jews mean the right of a Palestinian Arab to vote for political parties which already exist in Israel, rather than the right to create a new party which will, say, propose to transform Israel into a state where any discrimination by national origin is against the law. A party with such a programme would meet opposition even if it were started by Jews. But the Palestinian citizens of Israel (about 14% of Israel's population) would be prevented by the government from setting up such a party.

The difficulties of reconciling the idea of the Jewish state with equal rights for non-Jews, in particular for the indigenous Palestinian Arabs, are already noticeable in the Declaration of Independence. But the conflict between Zionism and the Palestinian people, though dominating Israeli politics, is marginal to the inner, cultural, conflict within the Jewish community. This conflict has been going on, in Europe, since the French Revolution, and has reached a critical juncture with the creation of Israel. This conflict, between – and within – religious and secular Judaism,

reached a peak in Palestine in the 1920s, when the orthodox religious Jews preferred to align themselves politically with Palestinian Arab parties against Zionism. The Zionists assassinated Jacob Israel De-Haan, the key public-relations man of the orthodox, on 30 June 1924 when he emerged from the evening prayer in the Sha'arei-Zedek hospital in Jerusalem. The assassination was carried out by the 'Hagana', the armed section of the Zionist Labour movement, and was the result of a long debate which ended in a vote. The 'Hagana' official history admitted this assassination.

In the 1930s and 1940s secular Zionism gradually won the upper hand and eventually most of the religious Jews in Palestine formed political parties which compromised with secular Zionist ones. A remnant of the old orthodox opposition to Zionism is the Neturei-Karta ('Guardians of the City', i.e. of Judaism) sect, which has remained militantly anti-Zionist to this day, and whose members in Israel never participate in elections, nor recognize the state.

Although religious Judaism has since the late 1920s trailed behind secular Zionism and accepted its political leadership, it has done so for a price, namely the 'status quo' arrangement between the two sectors. The religious sector in Israel (almost entirely orthodox⁶) has accepted the political leadership of the secular Zionist movement, and recognized it as the political representative of the Jewish people today. In return the Zionists have accepted the authority of orthodox Judaism in all legislation concerning birth, marriage, divorce, and burial. Neither partner is satisfied with the compromise. The orthodox are upset that non-believing individuals and parties lead the Jewish people. The secular majority is outraged that antiquated religious rules and rites in intimate matters of marriage and divorce, birth and burial are imposed upon people who do not believe in religion. Civil law in these matters cannot be legislated because it would immediately bring about a vehement 'cultural war' between the two parties, and split Jews everywhere into two hostile camps that would gradually drift apart. It is for this reason that both sides have agreed to compromise, which neither side likes. However, as we shall see later, the two sides cannot agree on the definition of the most fundamental term in the Jewish state, namely the term 'Jew', the reason being that the separation between personal matters and political ones – which is the guiding principle of the 'status quo' – cannot be applied to the term 'Jew'. The orthodox cannot accept a non-religious definition (which, by the way, secular Zionism cannot provide) whereas the non-believers cannot accept a definition of their identity based on a religion in which they do not believe.

The first inkling of a latent conflict between secular and religious Judaism in Israel was the issue of the constitution. The provisional State Council⁷ had appointed a special committee to prepare a draft constitution,

i.e. a set of laws defining basic rights, which could only be modified by special majority. The need for such a constitution was expressed by the representatives of all parties. Following the first elections (25 January 1949) to the Knesset, a new parliamentary committee, for Constitution, Law, and Jurisdiction, was set up by the Knesset, and one of its duties was to prepare a draft constitution. Today, thirty years later, that committee still exists, but Israel still has no constitution. When the chairman of the committee reported to the Knesset in 1950 after the first year of its work the conflicting views were already apparent on the need for a new constitution:

Nahum Nir-Reflex (Mapam. Chairman of the Committee for Constitution, Law, and Jurisdiction): Honourable Knesset, I have the great honour of opening the Knesset debate on the Constitution of the State of Israel a year after the opening of the first Knesset. We, the Committee for Constitution, Law, and Jurisdiction, were elected by the Knesset at the start, in April 1949, and our duties were, according to the Knesset decision, to consider Constitution, Law, and Jurisdiction. Some of us thought that this name bound us to start the preparation of a constitution, some thought that it did not. It was said that if someone presented us with a constitution we would work on it, but it was not up to us to take the initiative. Then we faced the problem whether we ought to elaborate a constitution at all during this year. Our debates lasted many meetings. They were started by the Minister of Justice, and we thank him for presenting us with a lot of material and for expressing his view that we need a constitution now. He emphasized that he appreciated the educational value of a constitution. He told us that the Prime Minister had an opposing view. We asked the Prime Minister to come to our meeting and give us his opinion and we thank him for coming, which he wasn't obliged to do. The Prime Minister expressed his views against (drafting) a constitution . . . (Knesset Debates, Hebrew, Vol.4, p.715, debate of 1 February 1950)

The Minister of Justice was P. Rosen, a German Jew and a genuine liberal. The Prime Minister was David Ben-Gurion, leader of the largest Zionist Labour party (Mapai), who was responsible for the status-quo arrangement with the religious parties. Rosen was motivated by democratic and legal considerations, Ben-Gurion by political-cultural ones. It was clear that the latter view would prevail, but the reason was not merely to attract the religious parties into the coalition with the Labour parties. The representative of one of the religious parties in the same debate stated:

Meir David Levinstein (United Religious Front): Honourable Knesset, I would like first to define the position of Agudat Israel⁸ towards the general issue of providing a constitution. According to the view of

Agudat Israel only the written Bible and the Traditional Annotations have sovereign authority in Jewish life. This was the view of the Jewish people throughout all generations. The Jewish religion is not a religion in the common sense accepted by other people. It does not regulate the relations between man and God, but it governs all human affairs of a person, all the affairs of the nation as far as it is a nation, and all affairs of the state in so far as it is a state. It is not the nation that produced the religion, it is the religion that produced the nation. Even while the Israelites were in the desert lacking natural conditions for national existence the Bible was given, and only with the giving of the Bible and its laws did Moses say to the Israelites: "This day thou hast become a people", to let you know that it was the Bible that gave purpose and aim to the Israelites as a nation among nations, to be a kingdom of priests, and a holy nation, different, utterly different, from other nations. And the king, who symbolizes authority in the state, was given, when enthroned, a Bible "to read throughout his lifetime" – to teach us that all relations between state and citizen should be fixed and sealed by the Bible, God's Bible. There is nothing with a scope as wide as the Bible's. It is deeper than the sea and wider than the land. Nothing eludes it. This is the great plan for Israel devised by a living God, the King of the world. Therefore there is no room for any man-made constitution in Israel. If it contradicts the Bible it is rebellious, if it is identical with the Bible it is superfluous. One of the principles of Judaism, formulated by the Rambam,⁹ is a firm belief that the Bible is irreplaceable.

P. Lavon (Mapai): This was said about the Koran and is not written in the Bible. It is not very original.

Meir-David Levinstein (United Religious Front): It says in the Bible, "Thou shalt neither add nor detract from it." We have to demonstrate our profound national image by one short declaration – Israel's Bible is Israel's Constitution. This short statement contains the laws of the Bible, the aspirations of the Prophets, and the best visions of the great Jews throughout the generations. From the historical and eternal viewpoint of Judaism, any other constitution is unlawful in Israel.

The first part of a constitution deals with principles; this part has to project the spiritual image of the nation. A constitution embodies the aspirations of a nation. A constitution has an educational role. A constitution is studied in school, so that the pupils will be familiar with it and respect it. Is it possible that a secular constitution – if there were one – should be studied in religious schools? The conclusions the pupils would draw would be that Moses's Bible had lost its validity in Israel and was merely an out-dated historical document. Any objective thinker

must understand that a secular constitution will necessarily be boycotted by any believing Jew who accepts the Lord's Bible, not only in our state but throughout the diaspora.

A. Zisling (Mapam): The Hebrew language was boycotted too.*

Meir David Levinstein (United Religious Front): Can such a situation raise good and loyal citizens? A secular constitution will profoundly damage our state's glory in the diaspora. It will dampen the enthusiasm for the state and reduce the will to immigrate. I hope there are no members of this house who harbour the silly idea about the division of this nation into Hebrews† and Jews. We all consider this land as the place for the ingathering of the exiles. We all consider the Jews of the diaspora as our citizens, if not actually then at least potentially. What is the moral authority of the inhabitants of our state, who constitute today only 7% of our nation, and what is the authority of this Knesset, elected by 5% of our nation, to legislate a constitution for the fatherland and the entire nation?

The entire Jewish people has a part in this state, not only historically, but as far as the very establishment of this state is concerned. Thousands came to defend it with their bodies. Millions donated money. The best personalities abroad used all their talent and authority to shift the political balance in our favour. We have no moral right to impose on the entire people and on future generations a constitution which is merely a translation into Hebrew of a concoction of alien constitutions. Should one say, 'But a constitution can be changed'? Let me answer that a constitution so flexible that one could change it daily lacks any quality of stability, and a system of laws is better than that. We are a people who have been cut off from statehood for two thousand years. One cannot legislate a constitution overnight, this requires a process lasting decades, maybe generations; it requires historical development and gradual maturation. Let us not hurry. No one denies that the state needs laws, that is our job all the time. Legislation will not rock the boat, will not divide the people. Laws do not have the same significance as a constitution. They are ephemeral. Therefore I propose that the Ministry of Justice, together with the Committee for the Constitution, prepare a book of laws of our own, which will be Jewish in spirit and content, to liberate us from the alien

*Until the 1920s orthodox Judaism opposed the introduction of Hebrew as a daily language in the Jewish community in Palestine.

†See Chapter Seven.

laws which are still in force in our country.

I warn and state: the attempt to legislate a constitution will necessarily cause a bitter spiritual strife, vehement and uncompromising, a spiritual war defined by the horrifying term *Kulturkampf*. We have been burdened, simultaneously, with many tasks, which no other state could have borne: ingathering of the exiles, absorption of the immigrants, settling the wilderness, military preparedness, political defence and economic struggle. We are a state in the making with over half of its territory desolate and more than a tenth of its inhabitants living in tents, shacks, and houses in danger of collapse. We are a state whose imports exceed its exports eightfold. Is this the time for a thorough and exhausting elaboration of our nature and purpose? Clearly there is no room here for any compromise, for giving in, for mutual agreements, for a person cannot compromise, or surrender, over matters on which his belief and soul depend. Let us not endanger, unnecessarily, the entire structure for something which today is merely a luxury and for decorative purposes only. We shall consider a secular constitution as an attempt to divorce us from the holy Bible, for which people sacrificed their lives throughout all generations. We shall consider it a deed about which our sages said: 'Write on the bull's horn that you have no part in the God of Israel and his Bible.' We would oppose this with all our might, with our very life and being, without compromise, and without concession.

P. Lubianiker (Mapai): There was no speech in favour of the constitution like yours.

(Knesset debates, Vol.4, p 774, debate of 7 February 1950)

These speeches suffice to illustrate the explosive nature of the issue. Israel's religious parties, and the entire religious minority, would have considered a secular constitution in the Jewish state as an unprecedented catastrophe, forcing them to denounce such a state as a blatant blasphemy against Judaism, and to act accordingly. The vehemence was not one-sided, as can be seen from the heckling. One of the hecklers, Lubianiker, who later changed his name to Lavon, was a key member of the ruling party, and later became Minister of Defence. But however vehement the feeling of the secular majority was, it was unwilling to risk an open rift with the religious minority. This is why Israel has no constitution, and will probably not have one for a long time. The two sectors are aware that the implementation of any constitution will initiate a vicious cultural conflict, and an inevitable, irremediable, division of the Jewish people in Israel and elsewhere into two hostile camps – a secular majority and a religious minority, linked only by their mutual hostility, each claiming to represent the true spirit of the

Jewish people:

No wonder that the secular majority, faced with this prospect, decided to defer the whole matter. This was not an easy choice, because a constitution defines, and safeguards, certain civil rights of the individual which are basic to secular existence – such as civil marriage and divorce. In Israel there is no civil marriage and divorce, hence the many difficulties and tragedies in personal life, and constant protest against ‘religious coercion’. But in fact the religious minority cannot, and does not, coerce the secular majority. It is the political parties, representing the secular majority, who have decided – of their own accord – to accept these hardships, in order to prevent permanent conflict with – and total separation from – the religious minority in Israel and elsewhere.

Nahum Nir-Reflex, chairman of the Committee for Constitution, Law, and Jurisdiction, member of the Zionist-Marxist party Mapam, said to the religious members:

We, the workers’ movement, whether right or left, aspire to change the existing regime. One cannot change the existing regime by doing nothing, but by definite action. Anything, any act, which is basically passive cannot be accepted by the workers’ movement. I suggest – knowing it won’t move you – that you read Borochov’s¹⁰ book on the social psychology of religious consciousness. I don’t think you will accept his theory, but I want you to understand it. I will only mention one sentence from his book. He says that the emotional centre of religious ritual is submissiveness or passivity and the workers’ movement cannot accept either. Please understand that when you tell us to enter in the preamble words similar to those you introduced into the Declaration of Independence – ‘trust in the Rock of Israel’ – let me tell you that you have forced us, the non-believers, to commit deception when you force us to sign this. (Knesset Debates, Vol.4, p 718, debate of 1 February 1950)

However, despite this emotional plea, the Zionist Labour movement chose to accept the demands of the religious minority. It was not ‘forced’ to do so. It chose to. It preferred self-deception to permanent cultural conflict.

Another member of the Zionist Labour party (Mapai), Jonah Kosoy, pointed out that the religious had already changed their minds once, when they accepted the political leadership of secular Zionism:

... What Mr Levinstein is proposing is not merely *Kulturkampf*, but a terrible, destructive war, in all spheres of our life in this country. The religious front should consider this before it is too late. Beware of chaining our spirit, our beliefs, our thoughts. What you propose means

in fact total domination of the minority over the majority in this nation in matters that are our soul and the core of our conscience. You are mortals like us and God's seal is not in your hands. The religious trend in this state has the right to acquire its just rights for the religious citizens in Israel, but if you attempt to dominate this state by force of politics you will raise a terribly fierce conflict and I am sure you will not emerge from it unscathed. Don't grab too much or you will get nothing.

I want to say something else, particularly to Knesset member Levinstein: by the same authority of the Bible and Tradition your own party boycotted Zionism and Zionists. By the same authority you ruled that Zionism is an alien growth in Judaism, forbidden by the Bible, and you denounced the Zionists as traitors to Judaism. Who knows and who can estimate the cost of your war against Zionism. Had the masses of our people obeyed you, we wouldn't have achieved what we now have.

There wouldn't have been a state of Israel, and the religion and tradition would have been uprooted too, for without a people and without a land there is no religion, no tradition, and even no God of Israel. On the basis of this historical experience we too may feel very doubtful whether you hold the key to the fate of the Jewish people and its future. (Knesset Debates, Vol. 4, p 782, debate of 13 February 1950)

The religious speakers did not like to be reminded of their anti-Zionist past because it revealed that by their acceptance of secular Zionism they had indeed compromised some of their religious convictions. If they could do it once, why couldn't they do it again?

Eventually, the religious speakers used the only ideological argument that could carry some weight with secular Zionism:

Abraham Haim Shag (United Religious Front): . . . How can one ignore the fact that the same Bible which served us as a claim by force of which we demanded from the world our land and our state is now presented as a fraud, while we are still demanding in its name a debt which has not yet been fully paid? (op. cit., p 795)

In other words, when the Zionists insisted that the Jewish state must be established in Zion only, and nowhere else, their arguments – and emotions – depended on the version of Jewish history presented in the Bible. It was dishonest to invoke the Bible as a valid document when laying claim to a Jewish state in Zion, while rejecting it as a document for regulating Jewish life in that state.

The Minister for Welfare, Rabbi Itzhak Meir Levin (United Religious Front), stressed that the problem of the Constitution was not merely political but existential, that it concerned the very meaning of Jewishness:

Honourable Knesset, it has already been said that a debate on the constitution means a debate on the character, essence, and specific spirituality inspiring our people, the vision upheld by our people concerning the past, the present and our aspirations for the future. Even more, it is a debate and investigation on the nature of that quality which makes us a nation, which transforms a collection of individuals into a unified nation. . . . The first question raised by a debate on a constitution is: What are we? What in fact is the Jewish people? There are two views on this issue. One says: 'We are a people like all other people,' i.e. there are various people in the world and we are one of them, like them, neither more nor less. The other one says: 'We are a special people, a unique people, God's people.' The difference between these two is the entire problem. If we accept the view that the Jewish people is like all other people, and does not differ fundamentally from them, everything is clear and simple: all nations have a state so we too must have a state, all have a language so we too will have one, all have a constitution so we need something like it. All nations shaped their culture and constitution with their own hands so we too must create this with our hands. . . . Allow me here, friends in the first Knesset, to express our view on the nature of the Jewish people. Let us open the Bible not merely for the language but for what it says. . . . He whose name be blessed chose the Jewish people from all other people, and this land from all lands (and the land of Israel is at the centre of the world) and instructed us: here in this land thou shalt live, flourish and bloom to reveal to the entire world the way of life. We are God's nation and the land is God's land, and only in this land can Israel, as individuals and as a whole, reach the highest spiritual level. . . . Therefore, when we attempt to create a constitution for Israel there is no other way but return to our self: 'Come back, Israel, to thy God.' We must find ourselves. We must reject all the alien heritage and return to our origin. Social justice – yes, but only according to the Bible; the vision of the prophets – yes, but only as the prophets themselves understood it, according to the Bible. The prophets' vision has been mentioned here, but let us mention that all prophets without exception emphasize that the Jewish people can only preserve its existence by adhering to God's Bible, meaning the actual observance of all religious rules. Leaf through the Bible and you will find that the prophets see a possibility for our existence in this land only if we uphold the Bible. (op. cit., pp 808-811)

This may sound unconvincing to non-believers, but it contains a question which secular Zionism has never managed to answer, namely, what is the meaning of Jewishness – for the individual and for the nation – without the

Jewish religion? The inability to answer this question haunts, perplexes, and troubles many non-believing Jews everywhere, and the entire Jewish state and population in Israel.

Although the problem of the constitution remained unresolved, there is one law in Israel which has a constitutional status in so far as it expresses the deepest aspirations of secular Zionism, the purpose of the state of Israel, and the spirit of its politics. It is, oddly enough, the Law of Immigration. But in Israel the Law of Immigration is not called by this name, instead it is called the Law of Return, the reason being that it deals exclusively with immigration of Jews to Israel and – according to Zionism – Jews do not ‘immigrate’ to Israel, but ‘return’ to it. The insistence on the latter term is an essential part of Zionism. The Zionist movement did not aspire merely to create a Jewish state, but insisted that this state be established in biblical Zion. It considers the Jews who come to Palestine as exiles returning to their homeland. The entire Zionist claim to Palestine is based on this conviction. This is not mere political expediency, it is a genuine conviction, and a powerful emotional drive. It would be no exaggeration to say that had the Zionist movement attempted to establish a Jewish state elsewhere (say, in Uganda, as Herzl, the founder of political Zionism, proposed) its support from Jews and Gentiles alike would have been significantly weaker, even to the extent of jeopardizing the entire project.

The Law of Return was passed unanimously by the Knesset on 5 July 1950. It states simply:

1. Every Jew has the right to immigrate to the country.
- 2.(a) Immigration shall be on the basis of immigration visas.
- (b) Immigrant visas shall be issued to any Jew expressing a desire to settle in Israel except if the Minister of Immigration is satisfied that the applicant:
 - (1) Acts against the Jewish nation; or
 - (2) May threaten the public health or state security; or
 - (3) Has a criminal past liable to endanger public peace.
- 3.(a) A Jew who comes to Israel and after his arrival expresses a desire to settle there may, while in Israel, obtain an immigrant certificate.
- (b) The exceptions listed in article 2 (b) shall apply also with respect to the issue of an immigrant certificate, but a person shall not be regarded as a threat to public health as a result of an illness that he contracts after his arrival in Israel.
4. Every Jew who migrated to the country before this law goes into effect, and every Jew who was born in the country either before or after the law is effective, enjoys the same status as any person who migrated on the basis of this law.

5. The Minister of Immigration is delegated to enforce this law and he may enact regulations in connection with its implementation and for the issue of immigrant visas and immigrant certificates.

There is no law regulating the immigration of non-Jews. That matter is left to the discretion of the Minister of Immigration, whose general policy is to discourage non-Jews from immigrating into the country.

The Law of Return is linked directly to the Law of Citizenship, which states that any Jew who comes to Israel by virtue of the Law of Return becomes – automatically – a citizen of Israel. There is no need for an immigrating Jew to go through any legal procedure in order to become a citizen. Quite the opposite. Such an immigrant must go through a legal procedure in order to ensure – if he so wishes – that he does *not* become a citizen of Israel. Many Jews who came to Israel from countries which do not permit dual citizenship, and were unaware of the extraordinary nature of the Israeli Law of Citizenship, discovered – often to their dismay – that they lost their former citizenship when they failed to declare on arrival that they did not wish to have Israeli citizenship imposed upon them.

The best exposition of the significance of these laws from a Zionist viewpoint was the speech by the Prime Minister, David Ben-Gurion, the key figure in Labour Zionism, Israeli independence, and the legislation of these two laws. He opened the debate on these laws in the Knesset (3 July 1950) with the following speech.

Mr Chairman, members of the Knesset . . . The Law of Return and the Citizenship Law placed before you have a mutual relation and a common ideological source which stems from the historical uniqueness of the state of Israel, a uniqueness in relation to the past and in relation to the future, in relation to the interior and in relation to the exterior. These two laws determine the character and the special mission of the state of Israel as a state bearing the vision of redemption of the Jewish people.

The state of Israel is a state like all other states, and all general features existing in other states also exist in the state of Israel. It stands on a certain territory, on a population existing within it, on its internal and external sovereignty, and its rule does not extend beyond its boundaries. The state of Israel rules only over its inhabitants. The diaspora Jews, who are citizens of their countries, have no legal and civil relation to the state of Israel, and the state of Israel does not represent them in any legal sense. But the state of Israel differs from other states both in the causes of its revival and in the purpose of its existence. It rose only two years ago but its roots are in the distant past and it feeds on ancient sources; its rule is limited to its inhabitants but its gates are open

to every Jew wherever he may be. This is not a Jewish state merely because Jews are the majority of its population, it is a state for Jews everywhere, and for every Jew who wants it.

On 14 May 1948 this new state was not established as something out of nothing, it was a return to a former glory, 1813 years after the destruction of Jewish independence, seemingly for ever, in the days of Bar-Kochva and Rabbi Akiva.¹¹ The causes of the creation of Israel were not just the immediate, direct acts which preceded the Declaration of Independence . . .

It is impossible to understand the revival of the Jewish state without knowledge of the new settlement in the last three generations of the movement of Hibat Zion,¹² of Zionism, the Enlightenment and Hebrew literature, of the national and revolutionary movements in Europe in the nineteenth century, the resurrection of Hungary, Italy, the Balkan nations, and more - without the results of the First and Second World Wars, the formation of the League of Nations and the United Nations. But it is also impossible to understand the resurrection of the Jewish state without knowledge of the Jewish people from its beginning, its history in the days of the first and second Temple, the history of prophecy, spirit, and vision, in the Jewish people, the history of the Jewish diaspora, the idea of Messianism and its many manifestations throughout the generations, the incessant efforts of the wandering nation to return to its homeland throughout the generations, under all circumstances since the destruction, and without knowledge of the eternal culture created in this land and its influence on Israel and other nations.

The resurrection of Israel was not an event limited to its place and moment of occurrence, it was a world event, in terms of both time and place, an event terminating a long historical development, re-ordering constellations and serving as a source of changes beyond its era and location.

It may be too early, and not necessarily relevant to the laws before you, to define the role of the state of Israel in the system of global forces and its contribution to the reshaping of humanity. But from the day the state was established it was clear, not only to the Jews within it, that something had happened to the Jews, the greatest event in Jewish history, affecting every Jew wherever he be.

Not by accident did the Declaration of Independence start with short statements on the continuous bond between the Jewish people and its ancient homeland, and as the first and main axiom about the path of the state it was declared, before anything else, that 'The state of Israel

will be open to the immigration of Jews from all countries of their dispersion', and a call was voiced 'to the Jewish people all over the world to rally to our side in the task of immigration and construction, and to stand by our side in the great struggle for the fulfilment of the dream of generations for the redemption of Israel'.

Just as it was obvious that the renewal of the state of Israel was not a beginning, but a continuation, a continuation of the ancient past, so was it understood that it was not a completion and an end, but another step on the long road to total Jewish redemption . . .

The Law of Return is one of the fundamental laws of the state of Israel. It embodies a central purpose of our state, the purpose of the ingathering of exiles. This law states that it is not this state which grants Jews from abroad the right to settle in it, but that this right is inherent by virtue of one's being a Jew, if one wishes to settle in the country.

In the state of Israel Jews do not have privileges denied to non-Jewish citizens. The state of Israel is based on the full equality of the rights and duties of all its citizens. This principle too is stated in the Declaration of Independence: 'The state of Israel will uphold the full social and political equality of all its citizens without distinction of religion, race, or sex.' But it is not the state which grants the diaspora Jews the right to return. This right preceded the state of Israel, and it was this right which built the state of Israel. This right originates from the historical bond between the fatherland and the nation, which was never severed. The law of nations has recognized this bond in practice.

The Law of Return differs from immigration laws which determine the conditions under which the state will accept immigrants, and their type. Such laws exist in many countries and they change from time to time according to internal and external changes.

The Law of Return has nothing to do with immigration laws. It is the law of perpetuity of Jewish history; this law asserts the principle of sovereignty by force of which the state of Israel was established.

It is the historical right of any Jew, wherever he may be, to return and settle in Israel, whether because he is deprived of rights in exile, or in insecure in his existence, or is expelled and expropriated, or cannot live a Jewish life as he wishes, or loves the ancient tradition, the Hebrew culture and Jewish independence.

The Citizenship Law completes the Law of Return and states that by force of the fact of immigration to Israel the Jew becomes a citizen in the fatherland, and has no need of any further act or formality, or any condition apart from the will to settle in the country and live in it.

These two laws, the Law of Return and the Citizenship Law, constitute the Bill of Rights, the Charter, guaranteed to all Jews in the

diaspora by the state of Israel.

(Knesset Debates, Vol.6, pp 2035-2037, debate of 3 July 1950)

This speech suffices to demonstrate the extraordinary significance of the Law of Return for political Zionism. If there is any law in Israel which has a status akin to that of a constitution it is this law. No wonder therefore that in the same debate there was a proposal by Israel Bar-Yehuda, member of the Zionist-Marxist party Mapam, to add an amendment forbidding anyone to abolish this law.

He said: 'I hope that when the Knesset endorses the state's Constitution, it shall be solemnly stated that the first paragraph of the Law of Return ("every Jew has the right to immigrate to the country") cannot be revised in the state of Israel, and no majority can abolish it' (op. cit., p 2042). This proposal was rejected.

This was the view of an opposition party. Even the Communist Party proposed only insignificant amendments to the Law of Return leaving its Zionist content intact.

All members of the Knesset vied with each other in expounding the unique significance of these two laws for the Zionist state.

The Chairman, Nahum Nir-Reflex (Mapam), closed the session with the words: 'Today, on the 20th of Tamuz, the remembrance day of the death of our great leader,¹³ the first Knesset has unanimously endorsed the Law of Return which symbolizes the two-thousand-year-old aspirations of our nation' (op.cit., p 2107).

The significance of this law might elude anyone not familiar with Jewish and Zionist history. When this historical background is provided the significance of the law becomes obvious. As for the law itself, its formulation looks fairly simple and straightforward. Its core is the first brief statement – 'Every Jew has the right to immigrate to the country' – and the rest are mere qualifying clauses. Yet this apparently clear law proved in later years – to the surprise of everyone in Israel, including those who had endorsed it in the Knesset – to be anything but clear and simple. It turned out to be the most explosive internal issue of Israel and Judaism, which has not been satisfactorily resolved to this day, and which could, eventually, render the entire Zionist enterprise futile – the reason being that the Knesset failed to provide a definition of the central term in this law.

Who determines, by what criteria and by what authority, whether the person who immigrates to Israel is a 'Jew'?

Since the Law of Return includes the term 'Jew', there is a need for a legal definition of this term. But any such definition immediately initiates a fierce *Kulturkampf*, between the secular majority and the religious minority, just as with the issue of the Constitution. Yet there is a difference. The secular majority could easily propose a modern, secular constitution,

but it could not propose a secular definition of the term 'Jew', i.e. of secular Judaism, because it had none. If it came to a cultural conflict the majority could – if it wanted – win the issue of the constitution by presenting a plausible secular alternative to the antiquated religious one. This might cause a schism within the Jewish people but the majority would still emerge as a viable entity adapted to the modern world. However, in the absence of any secular definition of the term 'Jew' it is impossible to win the inevitable conflict on this issue. And yet the issue of the constitution was postponed indefinitely whereas the term 'Jew' appeared in the Law of Return. It had to. Zionism could manoeuvre to avoid a confrontation with orthodox Judaism, but it could not sacrifice its central aspiration – a state in which every Jew in the world is an actual, or potential, citizen. Zionism did not aspire merely to create a shelter for Jews suffering from persecution, or to achieve political independence for the Jews who actually live in Palestine. It aspired to create a Jewish state for world Jewry to serve as a source for a secular Jewish identity. Those Jews who no longer believed in God yet wished to maintain their Jewish identity saw the secular Jewish state as a substitute. The Law of Return expresses this, and so does the Declaration of Independence. The Zionist state had to be defined as a Jewish state and not merely as an independent one, and every Jew throughout the world had to be granted the right of immigration and automatic citizenship. Anything short of this would have meant giving up Zionism. But when Zionism achieved its aim, established the secular Jewish state, and legally granted all Jews in the world citizenship in it, it stumbled on an unexpected problem – what makes the secular Jewish state specifically Jewish? It was precisely the absence of a legal definition of the term 'Jew' in the Law of Return that raised this problem. This is not something which can be glossed over with a phrase about 'an irony of history'. It is a genuine case of a wish whose fulfilment invokes disillusionment.

1. For the full text see: *The Israel-Arab Reader*, ed. W. Laqueur, Pelican Books, London, 1970, pp 159-162.
2. In 1950, during the Knesset (Israeli parliament with 120 seats) debate on the Constitution, one member mentioned the bitter debates about including the term 'independent' in the Proclamation of Independence:

'Meir Vilner (Communist): . . . The definition of the state, its character, have to be included in the Constitution. I mentioned earlier the word 'independent'. In the Transitional State Council there was a proposal, on the eve of establishing the state, to declare the state as

“independent”. Various other terms were added but not this word. There was a very bitter debate on this matter, but the decision was negative’ (i.e. the word was dropped). Knesset debates, Vol. 4, p 802, debate of 14.2.1950.

3. Various verdicts of the Supreme Court of Israel refer to the lack of legal validity of the Declaration of Independence. See verdicts No.10/48, 73/53, 301/63 (the second number refers to the year).
4. *Ben-Gurion* by M. Bar-Zohar, Vol.2, p.744 (Hebrew edition, Am-Oved, Tel-Aviv, 1977).
6. Religious Judaism in the West is split into three major trends nowadays: Orthodox, Conservative, and Reform, who rank in this order in their degree of adherence to the traditional religious practices as established in the West. In Israel the entire Jewish religious establishment is Orthodox.
7. The Provisional State Council – the body which governed Israel from the day it was declared independent (14 May 1948) until the first elections (25 January 1949).
8. Agudat Israel – A religious political party, founded in Katowice (28 May 1912), whose declared aim was to unify the orthodox Jewry of Europe in its struggle against the secular movements in Judaism – political Zionism on the one hand, and the socialist, non-Zionist Bund on the other. Agudat Israel was the major party of orthodox Jewry, and its branch in Palestine waged a bitter struggle against Zionism in Palestine until the late 1920s. Then it gradually started to trail behind the Zionist parties, and eventually became a partner in most coalition governments in Israel. Nowadays it repudiates its anti-Zionist past.
9. Rambam (Rabbi Moshe Ben Maymon) ‘Maimonides’ (1135-1204) Leading Jewish philosopher and theologian whose famous book *Guide to the Perplexed* provided a re-interpretation of Judaism, enabling it to stand up to doubts generated by Greek philosophy. This interpretation has proved meaningful up to the present day.
10. Ber-Borochov (1881-1917): Born and died in the Ukraine. Devoted all his writings to construct a synthesis between Zionism and Marxism. Spiritual father of all Zionist-Marxist parties, all of which eventually had to give up their Marxism in order to uphold their Zionism.
11. Bar-Kochva and Rabbi Akiva: Military and ideological leaders, respectively, of the last Jewish rebellion against the rule of Rome over Palestine (AD 132-135).
12. *Hibat Zion* – Love of Zion, an intellectual Jewish trend in Tsarist Russia, at the end of the 19th century, forerunner of political Zionism. Some members of the movement, like the philosopher Ahad Ha’am, proposed resurrection of cultural rather than political independence, and remained doubtful about the ability of political independence to sustain a secular Jewish identity.
13. Theodor Herzl (1860-1904), founder of political Zionism.

Chapter Two

Who is a Jew in the Jewish State?

On 25 June 1958 Israelis were amazed by the headlines in their morning papers. The news was that two ministers had resigned from their posts. Both were leaders of the National Religious Party (NRP) and the cause of it all lay in the new guidelines for the Registration of the Population* laid down by the Minister of the Interior, Mr Bar-Yehuda, member of the Zionist-Marxist party Mapam. These 'guidelines' – which did not have the force of law – stipulated, amongst other things, that if both parents declared that their child was Jewish it should be registered as Jewish. According to Jewish religious law (Halakha), a Jew is someone born to a Jewish mother or someone who has converted to Judaism. The guidelines were issued to regulate the registration of children of mixed marriages, particularly those where the mother was not Jewish but emigrated with her Jewish husband to Israel. The religious parties insisted that if the mother did not undergo the orthodox religious conversion to the Jewish religion the child could not be registered as Jewish. The Zionist Labour parties insisted that the registration applied only to the national status of the child and had nothing to do with its religious denomination. But this was precisely what outraged the religious parties. 'In Judaism', they argued, 'it is not permissible to separate nationality from religion. You cannot have a Jew by nationality who is a Christian, or Muslim, by religion. If the parents insist on registering their child as Jewish, let the mother convert to the Jewish religion.' This in turn outraged the labour Zionists, who knew that in most of these cases both parents were atheists and the demand that atheists be forced to undergo a conversion to a faith they did not believe in, was, for labour Zionism, a travesty of the freedom of conscience. Both sides felt that their basic convictions were threatened and that no compromise was possible. The confrontation took place in the longest and most emotional debate ever held in the Knesset, a debate which neither side wanted, planned, or was prepared for. It was a confrontation which both sides wanted to avoid yet were dragged into relentlessly.

The secular majority – in the Knesset and in the country as a whole –

*In Israel the law requires every inhabitant to be registered in the Population Register. This registration includes the religious belief and ethnic origin of those registered. This creates a special problem with new-born children, whose mothers are not Jewish, because according to the Jewish religious law these children are not Jews.

failed to understand the anxiety of the religious minority over an issue which seemed to be a minor administrative regulation, and attributed the resignation of the NRP Ministers to political opportunism designed to secure votes in the next elections (which were still more than a year away), or as an attempt to wrest concessions from the government. But whether the motives for the resignation were genuine or not, the separation of Jewish nationality from Jewish religion in Israel – the state which most Jews throughout the world consider as the expression of Judaism in our times – is certainly a genuine cause for concern amongst both the secular majority and the religious minority of Jews everywhere, particularly in Israel itself. The gravity of this issue does indeed transcend that of mere political issues, even extraordinary ones, because what is at stake is not just Israel but Judaism. Israel was conceived by its creators as an instrument to perpetuate Judaism in the modern world – and an instrument is normally subordinated to its purpose. If the state of Israel were to take a step which constituted a threat to Judaism, the danger would be far greater than any external threat. The anxiety of the NRP, and of all other parties of religious Jewry which support secular Zionism, was therefore fully justified.

A little over a year earlier the Israeli government emerged unscathed from a major political fiasco – the Suez war. Ben-Gurion, in a carefully planned military operation co-ordinated well in advance with the Eden and Guy-Mollet cabinets in Britain and France,* attacked Egypt. When the Israeli army reached the Suez Canal the British and French armies – amassed well beforehand in Cyprus – intervened in order to ‘separate the warring parties and ensure free passage through the Suez Canal’ (which had been nationalized by President Nasser a few months earlier). The uproar which this caused in the West and the outrage of the USA, which was not consulted, but misled, by the three cabinets involved in the plot, led to a hasty retreat by all three armies and to the humiliating resignation of Eden and Guy-Mollet. But Ben-Gurion’s authority in Israel remained as unshaken as ever despite his bombastic declaration that the Sinai was never a part of Egypt, and the island of Tiran, in the Gulf of Aqaba at its southern tip, ‘which until fourteen hundred years ago was an independent Jewish State, will return to be part of the Third Kingdom of Israel’ (*Davar*, 7 November 1956).

No minister resigned from Ben-Gurion’s cabinet after the flop of his shameful Suez adventure, nor was there an uproar in Israeli public opinion, but the issue of the registration of the children of mixed marriages caused the resignation of two ministers from the cabinet and a widespread public uproar. This politically minor issue touched a raw nerve causing a tremor in

*This collusion has always been vehemently denied by the Israeli establishment.

the very notion of Jewish 'existence', whereas a major political issue such as the failure of 'a war to preserve Israel's physical existence' failed to cause any inner turmoil.

Issues of cultural identity are usually overshadowed by immediate political issues, yet over period counted in generations rather than years the cultural issues shape the political ones. Awareness of this fact is shared by anthropologists and religious leaders, but rarely by politicians. The Knesset debate on the registration issue revealed that the religious leaders were acutely aware of the cultural issue at stake, whereas the secular politicians, apart from one or two, genuinely failed to understand why the religious leaders were so upset.

The debate was opened by the resigning Minister for Religion and Welfare, M. H. Shapira, who set out to explain his motives.

M. H. Shapira (National Religious Party): Mr Chairman, honourable Knesset, I belong to a party which does not welcome conflicts and does not want a religious conflict in the state of Israel. During our ten-year participation in the government we have been confronted more than once by most severe problems but have done all we could to find a compromise, a middle way, to avert a situation endangering the endeavour of our national renaissance in our country. The guidelines of our public-political activity in the state have been the words of Rabbi Kook,¹ blessed be he, in his Epistles, that he considers the building of bridges over the dividing chasms in the domain of beliefs and conviction as holy worship.

During the ten years of our participation in the government, including the years preceding the establishment of the state, we have laboured more than a little in this holy endeavour of constructing bridges over the chasms separating religious Jewry from other parts of the nation. Indeed, our labour was not in vain. The participation of religious Jewry in the governments hitherto added validity and authority to each of these governments which was not limited to a particular sector alone, an authority which gave a definite image to the government as representative of the majority of the people. By this participation in the leadership of the state, religious Jewry imparted its spirit to the great enterprise carried out on the soil of our holy land and to the life of the state – which we considered as first steps to the redemption of Israel and evidence that the God of Israel does not lie. . . . As for the actual subject causing the present crisis, the guidelines of the Minister of the Interior, given on 10 March 1958, concerning the registration of a Jew, state:

Therefore, any person innocently declaring that he is a Jew will be registered as a Jew, and no further proof shall be required.

This means that any Christian, or Muslim, or member of any other faith can declare himself as Jewish and no further proof can be demanded. Indeed, if this were accepted, in one form or another, in the state of Israel, we would achieve in Israel new types of Jew: Christian Jews, Muslim Jews, like the Christian Jews at the beginning of Christianity. But apparently the progress of the Minister of the Interior was too progressive for the rest of the Cabinet and they decided to add to this guideline the words 'and does not belong to any other religion'. But even this amendment can be an obstacle if the person does not believe in any religion but is a Christian from birth and can be accepted by his declaration as being a Jew.

Paragraph 18 of the above guidelines states:

If both parents declare their child to be Jewish their declaration is considered as a legal declaration of the child itself. According to the Equal Rights for Women Law of 1951, both parents are guardians of the child and their statements are like its own. Here too there is a condition of good faith, but one cannot consider the fact that one parent is non-Jewish, and declares it, as lack of good faith. The fact that according to Jewish religious law the child takes the nationality of the mother is – so it states in this guideline – of no significance for the registration clerk since it is possible that some other law, rather than religious law, namely personal law, applies to the child, and according to personal law the child takes the nationality of the father and not the mother. These are problems which the registration clerk is unable and unauthorized to resolve. It suffices that the parents declare their child as Jewish for the registration clerk to register it as Jewish.

From this it follows that the Minister of the Interior, endorsed by the government, asserts that a child whose mother is a Christian is also a Jewish child, thereby destroying and uprooting a religious law by which our forefathers lived for thousands of years. Only a government lacking a feeling for generational continuity, which has severed itself from the glorious past of this ancient people which has sacrificed its life to sanctify the name of the Lord, the sanctity of the Nation, and the faith in one God, could reach such decisions which – not to mention the practical consequences – constitute the living flesh of the nation.

The state of Israel, surrounded by enemies on all sides, has allowed itself at this time to start a war on the Jewish religion, on the national character, and national uniqueness, of the Jewish people. Why did they do this?

. . . This government, due to an inferiority complex rooted in the reality of exile, found an easy way to solve this difficult problem

concerning a small number of Christian women, and is ready to erase our great past and forfeit, for their sake, our honour and religion.

I wish to remind you at this solemn hour that Hitler's extermination murdered more than one million Jewish children, and what did the mothers say when they handed their children to the charity of certain Christians? Wasn't it their will to return these children to the Jewish people and remember that they are Jewish, don't convert them to another faith but return them to their parents' faith for they are Jewish.' This was the feeling of Jewish mothers and fathers on their way to the crematoria – that Jewish identity and Jewish religion are one. And now comes the government of Israel and declares publicly that there is no connection and identity between the concept of a Jew and his religion. Have we forgotten all our past? Shall we shed all the principles and injunctions which make us special among all nations? I am ashamed of this decision, which defiles the entire Jewish people, not only in this country but throughout the world. For the few tens or hundreds of cases we encounter you break down the separation between the Jewish people and other nations and erect separations between Jews and Jews. Thereby you encourage assimilation and mixing of Jews in all the lands of exile where they fight for their life. In Europe, unfortunately, there are countries where we have 30% mixed marriages, and assimilation spreads in all those countries, including America. What hinders a Jew in exile from taking the last step of severance from his origins? Only that a Jew explains to his son that the son born to him will not be Jewish. Sometimes this argument works and deters him from taking the decisive step. But now when a child from a mixed marriage is considered Jewish in the state of Israel, how can a Jew in the diaspora stop his son from such a step and what should the son do to avoid sinning? Isn't it the irony of our tragic history that it is precisely the state of Israel that gives permission to dangerous and disastrous acts which we preferred to die rather than commit throughout our history; that the state of Israel, instead of serving as a bastion and instrument to strengthen our people – as we hoped – sows divisiveness and separation in the nation, separating Jew from Jew, causing destruction in Israel and the diaspora?

In our state, which considers the ingathering of the exiles and their transformation into a single nation its first and foremost concern, the Jews loyal to religious law will be forced by this decision to keep genealogical records ensuring them generational continuity in the future according to laws sanctified by the nation for many generations in the past. No doubt, religious Jewry abroad, and not it alone, will move further away from the Jewish community in the state of Israel.

Moreover, by declaring a non-Jewish child as Jewish you deceive

both the child and its parents. For what will the child say when it comes to marry someone in Israel? That it cannot marry a Jewish person because matrimonial law in the state of Israel is – by your consent – religious law? Then it will come with its identity card* and say: ‘But I was told I was Jewish’. This will create scandals and tragedies far surpassing those you purport to prevent by this decision of yours, in the name of progress, so to speak.

Apart from this, your decision also violates the status-quo. This is not the only thing you have violated in our agreements, but this time you’ve gone beyond the limit and there is no room for compromise any more.

. . . The status-quo was severely violated. Not only the status-quo of the coalition agreement between the political parties, but the status-quo which prevailed among the Jewish people from the day it became a nation. But instead of discussing the substance of the matter the Prime Minister diverted the debate to another track which has no bearing on the serious problem itself. He used the phrase ‘the rabbis will decide who is a Jew’ to influence the public. I don’t know why the fear of the rabbis haunts the Prime Minister, but the truth is that this is not the law of the rabbis but the law of the Jewish people since it became a people. The chief rabbis in Israel did not promulgate this law; the rabbis are the guardians of this precious legacy of the national uniqueness of the Jewish people, but it is not their law. It is a law of thousands of years which is now violated. Apparently it is easier in this debate to frighten the public by rabbis, in the style used in the out-dated books of some freethinkers, rather than discuss and debate the subject itself which constitutes a violation of an ancient law of our people.

. . . True, there is religious coercion in Israel, but it is not the religious who coerce you, it is you who are coercing us in many cases. On one issue, namely marriage and divorce, there is some coercion, but this law was accepted with your agreement for the sake of the unity of our people. In the other cases there is coercion against religious Jewry, not the other way round. Therefore, if the Prime Minister is concerned to prevent coercion, so that each Jew will be able to live as he wishes, he can do it and we shall help him.

. . . In this crisis I was surprised to read in the press – perhaps I should not rely on this but we are discussing this only on the basis of reading the press – that the Prime Minister is in a difficult situation since his new coalition partners, Mapam and Akhdut-Ha’avoda,² have decided to resign unless the guidelines are accepted. I would advise the

*Every citizen in Israel is required, by law, to carry an identity card which states, amongst other things, the nationality of the bearer, i.e. Arab, Jewish, etc.

Prime Minister and the Minister of Defence³ to treat these threats of resignation by the Left just as he treated them in other cases such as the withdrawal from Sinai and Gaza, the Eisenhower Doctrine, etc. If my memory serves me right, Mapam and Akhdut-Ha'avoda threatened then to leave the coalition government if these policies were accepted, yet the Prime Minister was not scared by their threats. Perhaps the Prime Minister can explain to me – what has changed since? Why do the threats scare him today whereas he ignored them before? I am convinced, and so is the Prime Minister, that if the guidelines are dropped there will be no new crisis in the government, for it isn't a principle of the Left that Christian children must be Jewish.

I wish to say to the Knesset and the government: just as we knew when to be partners in the government during the past decade, for the benefit of the nation, so we shall know when to fight for the nation by this resignation. We cannot withdraw from what we said in the first cabinet meeting which discussed the guidelines. One can withdraw from the Sinai but not from the law given in Sinai.

. . . Who is a Jew? This issue is on the agenda in Israel today. For thousands of years we knew who was a Jew and why we were suffering as Jews. But the state of Israel, which has just passed its tenth year, has found it necessary to raise this issue and rule on it in a manner ignoring thousands of years preceding this state. This happens on the tenth anniversary of the state, which should have been a joyous occasion to the entire nation, strengthening it and unifying it around the state. Your decision might, heaven forbid, achieve the opposite. It could break up the foundations and bring about divisiveness and sorrow in the hearts of the Jewish masses, bewailing such a state.

. . . I appeal to all those, and to you Prime Minister David Ben-Gurion in particular, who cherish the state of Israel and the unity of the nation: withdraw from this miserable decision. Considering the state of the nation in the diaspora and in this country can you not find the courage to withdraw from this decision which endangers the state and the existence of the nation?

Let us not act in a way that breaches the walls of Judaism, severs the generational links, and creates a new people. Let us remember the prophets' words, the vision of ingathering of exiles and the eternal lasting warning: 'And your will shall not come to be, saying let us be like all other nations.' The Jewish people shall preserve its unity and the God of Israel shall preserve his people. (Knesset debates, debate of 8 July 1958, p.2232)

The next speaker was Dr Joseph Burg, who had resigned from his position as Minister of the Post, and was a prominent leader of the NRP:

Honourable Chairman, honourable Knesset, on 23 June, during the cabinet debate on the guidelines for the registration of personal status, the cabinet decided explicitly that a child from a mixed marriage, whose mother has not been converted to Judaism and has expressed no wish to do so, and who itself has not been converted, shall be registered, according to its parents' declaration, as Jewish. This decision motivated the leading bodies of the NRP to inform the Prime Minister of their resignation from the cabinet until this decision be abolished, modified or changed, so that the religious ministers and deputy ministers will not be parties to this fraud.

. . . I am saddened and embittered not because of the resignation. For a party this can be very good. In politics too the biological laws, which state that unused muscles degenerate, are valid. For a party it may be very good to fight, and very good to fight for slogans like this. But I'm saddened and embittered as a Jew, as a member and educator of religious Zionism, as someone brought up loving the teachings and loving the people, as someone from the camp of religion and labour who wished to prevent the chasm, and the tragic schism between the labour camp on one side and the religious camp on the other. I'm talking to you as someone who wanted to contribute his modest and meagre part to the task of bridging the gap between the camps, to prevent the emergence of a chasm that would swallow us all.

I am talking to you as someone who justifies our working together, but I see no possibility of continuing in the light – and darkness – of the current resolution about the guidelines, whose implications point in many directions and portend grave dangers to the entire nation. What is the meaning of this resolution? That a mere statement suffices to turn a Gentile into a Jew. It states that even someone who is not a Jew as understood by tradition for generations will be registered as a Jew. It means that there is no need for an act of conversion. It means that the historical unity of nation and religion has broken apart.

. . . I say to the nation and the world: we the religious do not demand a conversion to Judaism by someone who is not a Jew, and do not define the civil liberties of anyone by his religious documents. But we say that someone who is not a Jew by our religion, or is not a Jew by his religion or that of his parents, shall not be registered as a Jew.

. . . Let us assume for a moment that the people in Zion, the one million and eight hundred thousand Jews who live in this country, agree unanimously that a non-Jew can register as a Jew. Have those abroad no say on the concept 'Jew'? Has the Israeli government the right to decide on Israeliness or Jewishness while the majority of our nation lives abroad? Where is the public justice in that? Where is the Jewish justice?

Is this the meaning of the spiritual centre we wanted to establish here? Is this the meaning of the home for the nation we wished to construct here? The meaning is – confusion of issues due to confusion of wills.

... Let us not consider Judaism as a matter for one individual or for a single generation. Take into account this generation, the next, and the one after, and see what remains. If the leaves begin to fall from the tree of life of Judaism, if the roots are chopped off, what will remain?

... What is the result of this blurring government decision? That those who live abroad will not be encouraged to immigrate, and those who immigrate will not be encouraged to strike roots. We all know, with all due respect to isolated cases, that mixed marriages and conversions from one religion to another, are partly a result of assimilation and partly a cause of assimilation. Was the state of Israel established in order to ease the process of assimilation? Did we come here to forge or to demolish, to heal or to abolish? Why did we all sacrifice, some with blood, some with money, regularly for the construction of this state? To create an Albania or a Montenegro, or to preserve here a historical heritage for our historical destiny, for our Jewish consciousness, for our Jewish purpose?

... What you are doing in your decision is, from a historical perspective, the reversal of the reform process. Geiger and Holdheim⁴ said: Jerusalem – a desert city; Palestine, Zion – an empty word. Only what they considered as religion mattered. And what are you doing in your decision? A decision of governmental Canaanism⁵ – you take the external signs of territory, language, or army – this was before military service in France was considered a substitute – you take these as decisive and definitive signs of Judaism.

I refuse to accept that living in the holy land is the one and only definitive sign of Judaism, be it in a kibbutz, or a co-operative, or even in a Mapam kibbutz. I will not accept this as sufficient legitimization of who is a Jew and what is a Jew.

... I am not speaking as a party man, I am not speaking as a member of a sect, I am speaking from the broadest Jewish perspective: let us not tear up the genealogy of the Jewish people. Anyone who tears up the Jewish genealogy tears up the only record which justified our return, which justified – and justifies – our being here. Do not tear up the unity of the nation. Do not divide the nation because of some isolated cases. Do not allow registration as a Jew without conversion. Do not agree to separation of religion from nation. However we might define it – whether we say they are identical, or congruent, or that religion and nation are like siamese twins, each with its own form but linked at some spot – anyone who comes to separate them kills both. Whatever the

definition, there is a historical uniqueness in the entity we call 'the Jewish people'. Do not contribute to burning the bridges between Jew and Jew. I do not dictate a philosophy, but I demand for Judaism, for the last remnants, unity, identity and biological identification. We came here to save Jews; we came here to save Judaism. Are the members of the cabinet convinced that their decision supports and strengthens (Judaism)?

My credo is: I wholeheartedly believe that the Jewish people is alive and exists, and that we must contribute to unity and uniqueness. But there can be no unity at the expense of uniqueness . . . (Knesset debates, 5 July 1958, pp 2233-2235)

Dr Burg's speech – despite its emotional rhetoric – presented three perplexing questions to secular Zionists:

- (1) Is Zionism willing to implement its atheist principles and risk a cultural confrontation with religious Jewry?
- (2) Is not the Zionist endeavour to 'make the Jews a nation like all other nations' (i.e. a secular nation in a secular state) an attempt to assimilate the Jews as a nation?
- (3) Why did the Zionists choose Palestine (i.e. biblical Zion) rather than, say, Uganda, as the site for their state and how could they justify their claim for national rights in Zion if they rejected the Jewish religious heritage?

Most speakers in the debate ignored, or rejected, these arguments. But in actual life these arguments proved effective. The secular guidelines were withdrawn and were replaced, in due course, by religious guidelines which remain in force to the present day.

The leverage by which the religious minority managed to pry these concessions from the secular majority was not political or economic but cultural. Secular Zionism was scared of a cultural confrontation with religious Jewry. It feared a schism in world Jewry and it lacked the main requirement for such a confrontation, namely, a secular definition of a 'Jew'. The atheists who aimed 'to save not only Jews but Judaism' never managed to provide a definition of secular Judaism. Their opponents had a religious definition, backed by tradition and a 2,000-year-old history. The fear of a schism and the lack of a definition of secular Judaism gave religious Jewry a decisive advantage over the secular majority in every cultural confrontation, and forced the majority to surrender, one by one, all its atheist principles concerning the rights of the individual, whenever the religious minority stood its ground and threatened the majority with a confrontation.

The Minister of the Interior, Mr Bar-Yehuda (Mapam), defended himself from the religious criticism:

... I am told that what I wrote about minors of mixed marriages is formulated in a manner that can, wrongly, create the impression of relating to religion as well as nationality. If there is any doubt on this matter I am ready to amend it, as this is not what I meant. I stressed all the time that I have no right to interfere in religious matters. But even this is incorrect. Paragraph 17 [in the new registration proposals] states: 'The registration "Jew" – and here clearly the reference is only to nationality – determines who is a Jew for legal purposes, but it does not determine who is a Jew for the purposes of religious law.' Our registrars do not rule by religious law, this is done by the rabbis. But who is a member of the Jewish nation is determined by us, the Knesset, the elected. If this is what the debate is about then it is a serious debate. For this the state was established and I am ready to face the debate.

Esther Raziell-Naor (Herut): Exactly.

Bar-Yehuda (Mapam): I ask to be heard in the same silence as the two ministers who resigned and tried to explain their resignation. (Op. cit., p.2236/7)

Bar-Yehuda's insistence that his proposed regulations would only determine who is a Jew by nationality but not by religion could hardly satisfy his religious critics. For these critics insisted that in Judaism religion and nationality are inseparable. To introduce a separation between these two by laying down a secular criterion for Jewish nationality, while leaving the religious definition valid for religious purposes, is exactly what outraged the religious critics. Bar-Yehuda knew this, yet despite his promise he never faced this debate. His main argument was not ideological but bureaucratic:

... On 14 May 1957 another clerk issued instructions for registration of the religion and the nationality of the child is passed on to higher authorities in the Ministry of the Interior. This means that when the matter reaches the Minister of the Interior he can decide differently from what the mother's religion implies. I heard of this immediately, and after three days, on 17 May, wrote to the head of the department to come and meet me. It turned out that individual districts, sometimes even individual clerks, allow themselves to act as judge and legislator, registering absurd and illegal things, such as: 'nationality – Christian', 'nationality – convert to Judaism', 'nationality – Arab' (of a Jew converted to Islam), and similar 'original' creations of this sort, including different and contradictory things for children of mixed marriages. I have in front of me some forms and I can show you three forms of 1956/7. On one form, where the father is Jewish, the mother Christian, the three children are registered as Jewish by nationality. On

another form, the father is Jewish, the mother Christian, and the daughter of 'Polish nationality'. On a third form the father is Jewish, the mother Christian, and the nationality of the child is 'Christian'. (op.cit., p 2239)

. . . I gave instructions to prepare meticulously standard instructions, binding all clerks, and to pass the proposal for a further judicial inspection, to prevent absurdities, illegalities, and privately decided cases. When this was brought for an amendment I said: let us return to the status-quo apart from the religious registration which, according to my understanding, cannot be determined by the registration office as it is under the exclusive authority of those at the head of each of the religions in our country, for people who consider themselves members of the same religion. As for one who is not religious, he himself is the highest authority on religious matters, asserting his atheism. (Op. cit., p 2239)

This conciliatory argument could only infuriate the religious critics further, because according to them a Jew is not free to define his own religious-national status; this is imposed upon him by the sheer fact of being born to a Jewish mother. Even an actual conversion to another religion does not abrogate – according to the Jewish religious law – one's Judaism, one's Jewishness.

Bar-Yehuda also mentioned the status-quo agreement between the religious minority and the secular majority:

. . . There are things in the history of nations which precisely when not formulated in words and exact formulae determine the basic, decisive matters for generations. There was an unformulated agreement between the religious sector and the non-religious sector that:

- (1) This state would not allow any campaign against any religion.
- (2) This state would not bind any person by laws that are not laws of the state, by religious laws.

Even the areas we defined as the domain of religious laws - the laws of marriage and divorce - we so defined not because they exist in religion, but by Knesset decision that religious law would be binding in such cases. I don't know religious law . . . but I know one thing: that by the same religious law different rabbis decide differently, sometimes contradicting each other . . . The issue is not religious law. And those who say 'according to religious law' say something else. They say: 'According to what will be decided by those who can speak in the name of religious law', and these have not been elected by the people. They are honourable people, versed in religion and in laws which have been accumulated for generations. I do not want to speak lightly about this.

But they are not representatives of the people. Even as rabbis they are not elected.

Isaac-Shlomo-Rosenberg (National Religious Party): That was forbidden.

Minister of the Interior, Bar-Yehuda: I know that in my grandfather's town the Jews simply elected their rabbi. But the Israeli people has not elected them, not even the supreme rabbinate. Even the religious councils are appointed by you to this day.

Moshe Haim Shapira (NRP): Allow me one question.

Bar-Yehuda (Minister of Interior): Had I discussed some religious law you should have corrected me, but I am not an expert on that.

Moshe Haim Shapira (NRP): Tell me, when did the government, during its ten years of existence, ever pass a decision that contradicted the Jewish religious law?

D. Ben-Gurion (Prime Minister): I'll tell you.

Bar-Yehuda (Minister of Interior): I'm willing to answer. Mr Shapira, you asked, and I'll answer.

S. Mikunis (Communist Party): The Equality of Women [Law].

Instead of answering the religious challenge directly Bar-Yehuda and the rest of Labour Zionist government preferred to polemicize. Their argument was:

- (1) There was no unanimity about the interpretation of the religious law even among religious Jews, and the orthodox interpretation, which was dominant in Israel, could not claim a monopoly over the 'correct' interpretation.
- (2) If the orthodox had their say they would deter many Jews with mixed families from emigrating to Israel, thus hindering a major Zionist objective.

The secular-nationalistic approach was presented by Mr Menachem Begin, leader of the extremist-nationalist Herut party.

M. Begin (Herut): Mr Chairman, honourable Knesset, in order to proceed in this debate, which, to my understanding, is a most crucial one not merely in the history of young Israel, but of our ancient people as well, one has to clarify three basic concepts: citizenship, nationality, and religion.

Who can be citizens of the state of Israel according to their national status? Jews, Arabs, Druzes, and members of any other nation who have

entered the country legally and become citizens according to its laws.

In this context the interpretation matters as well as the text. If I shall argue, for example, that we must separate completely citizenship on the one hand and nationality and religion on the other, the journalist of the *New York Times* or of the *Jerusalem Post* will translate my words thus: an argument has been put forward in the Knesset for the separation of nationality from nationality-and-religion. When, in what follows, I shall try to convince you that as far as Jews are concerned once cannot separate nationality from religion, that same foreign-language journalist might translate my words thus: an argument has been presented in the Knesset according to which there can be no separation of nationality from religion for Jews. No one will understand the real intention.

This has historical reasons. In the West, there is no distinction between citizenship and nationality; both concepts are called 'nationality'. This results from the fact that the ruling nation was so superior in number and culture, and the readiness of the national minorities not to secede but to adapt was so deep, that the dominant nation and the state were one and the same. Not so in central, eastern and southern Europe, where the dominant nations attempted to identify with the state, but the national, religious, linguistic, and cultural minorities strongly resisted this attempt, and where as a result there is a distinction between citizenship, nationality, and religion.

In the same country there can be different nations and not merely different religions. I therefore specifically request the translators to notice that when I speak of citizenship I mean citizenship, and when I speak of nation [I mean] nationality.

My argument is that in the state of Israel it is necessary to separate citizenship from nation and religion.

And now we face the question whether – for Jews – one can separate nation from religion.

I state my conviction: there can be no separation of nation from religion for Jews. It is impossible to separate them. It is forbidden to separate them. It cannot be that we shall separate them.

Some may ask: why not? There are great civilized nations where such a separation exists. A Frenchman can be Catholic, Protestant, Muslim, an Arab can be Muslim or Christian, an Indian can be Brahmin, Buddhist, Muslim, Christian; so why can't we separate the two?

When asking this question I remember a conversation between Jabotinsky⁶ and the French statesman and thinker De Monsey. The French statesman said to Jabotinsky: I accept the entire Zionist conception. I understand your aspiration to your fathers' land, I recognize your right to establish a state; but one thing I fail to understand, I cannot accept why you need the Hebrew language. There are civilized European languages, great and rich. Hebrew has been a dead language for many generations. Why do you need the Hebrew language in the land of Israel? Jabotinsky thought for a while, and answered: Because.

De Monsey replied: Now I understand, and added, There are questions for which the absence of a verbal answer is the answer.

And the answer concerning the inseparability of nation from religion with regards to Jews is – Because.

. . . There was an attempt by the Jewish people to separate nation from religion. It was done by the assimilationist thinkers. They said: one can be a member of the German, Polish, Czech nation, etc. and a member of the religion of Moses. That is the separation in this direction. The thinkers of Zionism never accepted this separation. Ahad-Ha'Am, one of the greatest thinkers on Jewish nationalism, replied to the assimilationists: you insist that only religion distinguishes you from other people, yet in your view religion is nothing more than an external ceremonial ritual.

Herzl wrote explicitly: the return to Judaism precedes the return to the land of the Jews.⁷

The state of Israel arose. It has existed for ten years. We now have the 'thinkers of the registration' and they attempt to separate nation from religion in another direction. They say: one can be a Jew from a national aspect but this aspect must be separated from the religious aspect. Today I heard this rule uttered by the government's spokesman. I wish, with all due respect, to dot the i's and cross the t's in this rule: does the government really believe that one should separate nation from religion for Jews? If it does, I must ask: can a member of the Jewish nation be a Catholic? Can a member of the Jewish people be a Calvinist, Anglican, Baptist, Anabaptist?

I am ready to wait for an authorized answer, if the Minister of the Interior – the government's spokesman – were here, or if the Prime Minister were present. In the absence of an authorized answer let me make it easier for all by saying that there is not a single member of this Knesset, from any party whatsoever, whatever his convictions, who will argue that a member of the Jewish people can be a Catholic, Protestant, Muslim, etc. by religion. If I am wrong let those members who disagree with me correct me.

Yigal Allon (Ahdut Ha'avodah, Poalei-Zion): It says in the registration proposal: 'and is not a member of another religion'.

M. Begin (Herut): In a moment, Yigal, since we are not discussing the withdrawal from Gaza today,⁸ I shall reach this. Believe me, this precisely was my intention.

It means that it is your view too that such separation is impossible, but you argue for separation, and you say: there are those who will decide who belongs to the Jewish nation, and others to decide who belongs to the Jewish religion.

... after all this the cabinet meets and passes two resolutions stating that a person will be registered as a member of the Jewish nation if he so declares and adds that he is not a member of another religion. If you separate nation and religion why do you inquire about the religion? Why does religion concern you? . . . The problem is not who is a religious Jew, but who is a Jew. . . . Who can decide who is a Jew? The government says: the rabbis will not decide who is a Jew. I wish to add to this: and will non-rabbis decide who is a Jew? I think we have no right to decide who is a Jew, none of us has this right. I believe that our forefathers decided who is a Jew. As I deeply and wholeheartedly believe what I am going to say, with the full faith on which I was brought up in my mother's and father's home, and will keep to my last day on earth, I say: the Almighty decided who is a Jew. Thus began the history of our people. (op. cit., p.2245)

This may sound plausible to those who assume that Mr Begin, who became Prime Minister in 1977, is a religious Jew. He is not. He does not obey the Mitzvot, and it is doubtful whether he really believes in the existence of God, any God. Yet his insistence that it is impossible, and forbidden, to separate Jewish nationality from the Jewish religion is common to a large part of atheist Jewry everywhere. Such people are haunted by a latent anxiety: 'My national identity is inseparable from my religious identity?' If two components of an identity are inseparable and one becomes meaningless, what happens to the other?

This is the latent dilemma which haunts the majority of atheist Jews who insist on their Jewish identity. This weakness enables the religious minority to win every cultural confrontation with the secular majority.

This fact is not always obvious. It was not obvious to many of the speakers in the Knesset who thought they were discussing a mere administrative regulation and found themselves embroiled in an unexpected cultural conflict.

Peretz Bernstein (General Zionists): Mr Chairman, honourable Knesset, it seemed at first – and I've heard it here even today – that the present cabinet crisis was like every other crisis; and there was no need to be surprised by a cabinet crisis, certainly not with this cabinet. It was riddled with so many contradictions that there was no point in being surprised. Many said at first: OK, in a day or two they'll reach a compromise and everything will be settled. Yet we see, as a result of this crisis, the flaring up of one of the most difficult and profound debates not merely in the state of Israel and its brief history, but the most difficult debate imaginable. And here I wish to ask first: how could this cabinet – apparently for administrative reasons – pass a decision which was bound to lead to this difficult debate? . . . I am for order, also in the Ministry of the Interior, but did the order – I still do not see great disorder in this domain – require this conflict, this war, this debate?

I wish to remind you of the period immediately after the establishment of the state. There was a problem of the constitution. The nation was promised a constitution, and those who took matters into their own hands smuggled – instead of constitution – the 'First Knesset'. Even the term 'First Knesset' was meant to cover up, partially, the absence of a constitution. Why didn't we get a constitution? Because of the realization that it is impossible to present the state, from its very beginning, with the most difficult problems stemming from the fact that part of the people no longer considers itself religious, has left the 'faith in God' and opposed a constitution based on what is generally termed the 'Law of the Teachings'. I know well that the 'Law of the Teachings' developed from the Bible for generations, according to many interpretations which introduced numerous changes. All this we know, and not only this. There was a view, even in many religious circles, that the state of Israel could not be established as a theocracy, and therefore it was preferable, for the time being, perhaps for a long time, not to lay down a complete constitution, but to live by compromises on the degree of religious influence on the general life of the state. This is not a question of religious freedom.

. . . The Minister of the Interior argued that nothing fundamental has changed, yet stated that according to his guidelines he believes that the rabbinate must decide who is a Jew by religion, but the government must decide who is a Jew by nationality. This is really the decisive issue because the separation of authorities means the separation between nation and religion. And here we really face the crucial problem of the Jewish people and Judaism, contrary to many other nations, perhaps all other nations: the unity – not the identity – of religion and nation was self-evident, at least until 200 years ago. Before that time no one,

amongst Jews or gentiles, had any doubt about this unity. . . . Yet today there are many amongst us who consider religion negatively, or in any case do not accept any religious faith. I do not wish to enquire which of them and how many of them will really be able to defend their philosophy, and to what extent this is a matter of conscience. But to my mind one thing is clear: it is impossible to imagine a return to Zion without accepting the meaning of Zion. Why do we consider Jerusalem our capital, and why have we made it our capital despite all the decisions of the rest of the world? Hebron could be a capital no less than Jerusalem. Jerusalem was conquered by David centuries after the conquest of Cana'an by the people of Israel. The aura of Jerusalem is the aura of the Temple, of the two Temples.* Therefore it is impossible, to my mind, to speak about the historical continuity of the Jewish people today in the land of Israel and the state of Israel while ignoring our entire history which alone gave us the right to be here.

How could the government take upon itself to rule on such a fundamental issue knowing that it thereby puts on the agenda the difficult problem we have tried to postpone for a few decades, I don't know for how long, when we refused to legislate a constitution so as to avoid this difficult problem – by using some administrative regulation? Didn't those who made this decision know that it must produce these results? (op. cit., p.2247)

Bernstein was not a religious Jew, but he understood that secular Zionism, being an atheist movement, a break away from the religious dominance and authority of Judaism, had not – and could not – fully liberate itself from the Jewish religion. A state for the Jews could be established in many places other than in Zion. Those who insisted on creating it in Zion did so because their nationalism was linked to the Jewish religion. To separate this link would mean ceasing to be 'Zion'-ists.

The ambiguous attitude of secular Zionism to the Jewish religion was put forward – as a positive argument – by one of the atheist Zionists as follows:

Moshe Erem (Akhdut-Ha'avoda, Poalei-Zion: . . . We socialists are not religious people. That is correct. We have our own views, that is why we can respect the feelings of others. But precisely because of this, our deep conviction – not laid down in any regulations or party programme – is

*The Temple in Jerusalem in antiquity was the religious centre of Judaism. The First Temple, built by King Solomon in 961-920 BC was destroyed by Nebuzaradan (a general of the Assyrian King Nebukhadnezar) in 586 BC. The Second Temple, built between 538-518 BC during the reign of Cyrus II, was destroyed in 70 AD by the Roman Emperor Titus. The Wailing Wall is said to be a remnant of that Temple.

that a Jew who converts to another religion thereby wilfully severs his links with the community, with the nation, since neither faith nor conviction moved him to this step but desertion from the destiny of the people, its suffering and struggle. (op. cit., p.2260)

This argument is based on unjustified assumptions about converts – who often act out of principle rather than expediency – as will be seen in one such case discussed in the next chapter. But it is a good example of the ambiguous attitude of non-religious, often anti-religious, Zionists to the Jewish religion.

One of the socialist Zionists pointed out that the religious political parties also suffered from an ambiguity.

Jacob Riftin (Mapam): The very name 'National Religious Party' indicates that you understand that there is a national religious party and a secular national party, that there is no identity between the national and the religious. (op. cit., p.2261)

Another speaker for Ben-Gurion's Labour Party added:

Israel Yesha'ayahu-Sharavi (Mapai): You will not gain prestige by competing in religious fanaticism with Neturei Karta⁹ and the Satmer Hassids¹⁰. They will always outdo you in fanaticism. But they are consistent and reject not only the Zionist government but also the Zionist state. You will be unable to face the difference between these two. Those of you who denounce this government emphatically will find themselves pouring oil on the flames of those who excommunicate Rabbi Maimon and beat up Rabbi Parush. (op. cit., p.2271)

A different aspect of the ambiguous position of the religious parties was brought up by a speaker of the National Religious Party who was one of the resigning ministers:

Moshe Una (National Religious Party): I wish to assert that none of those represented in this debate has argued that in the state of Israel, as it is today, religious law must replace the law legislated by the Knesset. Everyone knows and admits that, in a representative democracy with a non-religious majority, it is impossible to give religious law a decisive role in the life of the state. . . . The main thing is that with regard to the focal points of our life which ensure unity, and continuity, we recognize the need that the entire Jewish public in the state of Israel will rely on what we were taught by religious law and tradition for generations. These points are not many: (perhaps I should say 'unfortunately') one of them is the issue which created this crisis, namely the definition of the term 'Jew'. (op. cit., p.2288)

The principled arguments of Labour Zionism were presented by I. Ben-Aharom, who later became general secretary of the Histadrut (the Zionist Labour Federation).

I. Ben-Aharon (Ahdut-Ha'avoda): A new Israeli nation is being shaped in Israel, whose collective hallmark is not its religious affinity. Religion returns to its proper place in the life of all nations as a matter for the individual.

I.S. Rosenberg (National Religious Party): What is the hallmark of the Jews in this country?

I. Ben-Aharon: It is the hallmark of a member of a normal people: speaking Hebrew. Attachment to the destiny of this people, giving his sweat to achieve its aims, giving his blood for the security of the state, integrating in the national-political life of the nation. It is the hallmark of a people, a nation.

J. Katz (Agudat Israel): Without a Jewish content?

S. Rosenberg (NRP): And what links does he have with the diaspora?

I. Ben-Aharon (Ahdut-Ha'avodah): Member of Knesset Katz, I am a man who is Jewish to the last drop of his bone marrow and have no Jewish content acceptable to you. I am a Jew in all my 248 organs yet there is nothing in my life that you call Jewish content. In this spirit I educate my children and they are Jews, they are patriots, they are people of this nation. Every Jewish child, from any family whatsoever, who comes to this country, we link his fate with that of this people, the Jewish people. He will be a Jew in every respect.

. . . I know no different notion from the notion of faith, and faith means personal faith.

. . . I do not demand that the religious believer compromise with my beliefs. . . . But you demand from the state that it denote national identity by means of religion, and make its citizens, who wish to belong to the nation, undergo a religious ceremony which is contrary to their convictions and beliefs, but enforced by the state. This is a total contradiction of every religious and moral notion and value. There can be no religion and morality without the freedom of a person to his own truth. (op. cit. p.2292)

The appeal to morality was irrelevant, since Judaism, as a truly theocentric value-system, puts loyalty to God before loyalty to man, i.e. to human morality. Whenever the two come into conflict morality is sacrificed, as in the symbolic biblical story of Abraham's readiness to sacrifice his own son

to God.

One of the leaders of the Agudat-Israel Party, which changed from anti-Zionism to Zionism, gave an overall survey of the history of the problem.

Rabbi I. M. Levin (Agudat Israel): Honourable chairman, honourable Knesset, a thorough analysis of the issue discussed by the Knesset now reveals that we face not a cabinet crisis but a crisis in the nation. Its origin is not in the guidelines presented in the last few weeks but 150, or 60, years ago. The question of 'who is a Jew' and of the definition of the Jewish people was raised at that time. It is difficult to exhaust the problem in the few minutes at my disposal, but I shall make the effort to do so. Despite my inner turmoil I shall try to subdue my emotions and speak calmly about an issue which troubles the soul of every religious Jew. Let us not kid ourselves. There are two definitions of the nature of the Jewish people: one asserts that we are God's people and that every Jew is an integral part of that people; the other asserts that Jews are 'a people like all other people'. Two contradictory views, separated by a chasm.

150 years ago the 'emancipation' period started, and later, 60 years ago, the Zionist organization, the 'national revival' movement started. According to its conception and precise definition, religion is a private matter whereas nationality is the basic link binding the people. The religious who joined the 'national revival' movement did not delve into, did not clarify to themselves, the foundations of the national movement and erred in interpreting its assumptions; they failed to realize that it conflicts with their religious conscience and were angry with the Jewish sages who opposed this movement. Jewish sages already saw then what others see today – the spiritual crisis of this nation due to this conception.

There never was, nor is there today, opposition to the land of Israel and its reconstruction and growth in all respects. The religious Jew is deeply attached to the land of Israel with all his heart and mind, with all his thought and prayer, in his joy and sorrow, from the moment he forms his own views to the day of his death, with unlimited devotion and love. But the religious Jew opposes and resists the falsification of the image of this people and its content. This was an ongoing theoretical debate for decades, accompanied by disquieting signs of an ever more complicated spiritual crisis. Whereas the national movement prevented assimilation of individuals, it directed them towards national-group-assimilation.

The attempt to uproot the religious conscience from the heart of the Jew and to create a national substitute created this great confusion.

Then came the change. The state was established. We attempted to exclude the state, as a public instrument, from the domain of the ideological conflict. Even before the creation of the state, Agudat Israel was promised that the state as such would not touch the religious foundations, would protect [religious] marriage and divorce, education, dietary rules, and the sabbath.

We wanted to believe that the state, which by virtue of circumstances binds its Jewish citizens – not the aliens who live in it – for life and death, that this state which world Jewry watches anxiously – would, at least, not enter the ideological conflict which divides the nation, would not contribute to the deepening of the crisis of this people. We thought that although we were separated by an ideological chasm we should at least work together on matters which unite us and avoid everything that divides us, and that we should show more consideration for religious Jewry. But things changed completely. The people who shaped the image of this state refused to see it as an all-Jewish instrument, and guided by the secular-national conception viewed it continuously from this dangerous and ominous angle. Hence the arguments that the Jewish religion has no connection with the state, just as religion has no practical connection with secular nationalism. Hence the assumption that we are a nation like all other nations and a state like all other states. Just as no one will ask an Englishman or a Frenchman about his religion, so it is nobody's business what is the religion of an Israeli, and generally religion is a private matter and has nothing to do with the nation and the state.

This conception gave rise to the theory that there is no longer any need for religion in the state of Israel. Some, with 'magnanimity', will add hypocritically: perhaps there was a need for religion in the diaspora where religion was the unifying force binding the people into a single unit, but here – in the state of Israel – it is superfluous, heaven forbid, and some see the need to place religion in a museum, and some see fit to fight against it. This conception, which brought us to the spiritual crisis, was not created today. It was with us throughout the decade of the existence of the state.

This slogan produced the most terrifying and shocking phenomenon which cannot be discussed calmly by a religious Jew. It produced the terrible religious transgression of thousands of new immigrants, Jews who came here full of yearning for Judaism, who wished to be elevated here, and who relinquished every link with religion. Threw away the prayer shawl and phylacteries, whether due to seduction or to threats. Jewish orphans, little children from the youth immigration, or other immigrations, were completely cut off from Judaism and religion.

We had fundamental cultural struggles during the first decade of the existence of the state, while it was still far from basic consolidation. In order to prevent serious conflicts the confrontation was deferred to the distant future. Until the appearance of the Minister of the Interior, who is particularly consistent in his negative attitude to religion, who has stated officially, and received the endorsement of the Israeli government, for the first time in history, that there is Jewish nationality and there is Judaism. The state considers secular Judaism as its moral foundation and denies any legal status to Judaism and Jewish religious teachings. It is not the Jewish religion that determines who is a Jew, but the viewpoint of secular nationalism. He who is a Gentile according to the Jewish religion is a Jewish national by that conception. The present government realized that the state can, apparently, enter a serious conflict with religious Jewry. And if some three thousand years ago our fathers stood on mount Sinai and heard God's voice saying: 'I am thy God', which made us into a people, 'this day thou hast become a people to Yahveh thy God', and if since then the Bible has been the soul of this people and its content, and if for thousands of years our fathers faced death by fire and water, were burnt and slaughtered, and literally gave their lives to preserve this holy principle – now the Israeli government comes and asserts that this framework is no longer officially binding on the state of Israel, and that it has no part whatsoever in the Jewish religion. And what was the issue which brought about this public stance? The issue of the alien wives.

It is not the first time that alien wives have bothered our people. In the days of Ezra and Nehemia, Jews returned to Israel with alien wives.¹² How Ezra and the people cried we can read in the book of Ezra. . . . But then, after the people had cried much, they decided . . . and expelled the alien wives and Israel repented totally. But how bitterly we have to cry today when many of our brethren have departed so far from these holy principles.

. . . Religious Jewry is prodded to enter a struggle, though we have no wish for conflict and wars, and it is impossible to limit the struggle to this state alone, as the state is like a glasshouse and everything done here is seen and known throughout the world. I doubt if this struggle is necessary now precisely when our enemies unite to exterminate us. And all this due to blindness to any logic: alien women demonstrating their non-identification with the Jewish religion shall remain supposedly loyal to a shaky secular nationalism which cannot withstand any test.

. . . We know what a Jew is and what the Jewish people is. Forgive me if I say that if you search you will discover that all those who maintain that Israel is 'a nation like all others' have never seriously contemplated

their own words. They have no idea themselves where they are going and where they are leading others. There is no substitute for the eternal Jewish community. On the contrary, come and find out for yourselves the nature of the new society you intended to create here, its content and nature. You helped to destroy the old one, to demolish it, but without any substitute. The rot infested the ruins, a rot that will destroy everything. We must return to our origin, there is no other way.

Without religion there is no vision, without vision the people go wild. The Bible made us into a people and it alone can sustain us. As Rabbi Sa'adiah Gaon said: Our nation exists only by its religion. That is the only cement binding us together into one unique nation. And here, precisely in the land of Israel, we could be elevated, individually, and collectively, only if we lived by the Bible and the faith, and we could really be a unique people. To declare that we are unique and, simultaneously, to declare that religion does not matter,¹¹ is an absurd, a glaring contradiction.

Those who think that there is no room for religion and faith in our time are mistaken. We live through a period of the Lord's concealment, but the rock of Israel will not fail. We have passed many difficult and bitter periods, and a period of 150 years cannot decide our people's fate. I have no doubt that we shall survive this period, perhaps the last one, we shall overcome it and prevail. (op. cit., 2272/4)

This speech, which openly admits a deep division of the Jewish people, reveals the nature of the division better than any of the conciliatory approaches whose craving for unity blurs their assessment of the crisis.

Everybody participating in this extended and emotional debate expected a summing-up speech by the Prime Minister, David Ben-Gurion, whose cabinet had brought this crisis to a head. To everyone's surprise, Ben-Gurion made no speech but read out an extremely short statement.

D. Ben-Gurion (Prime Minister): Mr Chairman, members of the Knesset. Perhaps I shall surprise members of the Knesset – I don't know whether I cause disappointment or pleasure by saying that I shall not state on this occasion what I intended to say at the end of this miserable debate, as in the meantime serious events are taking place, and are about to take place, in our region, which were discussed this morning in the cabinet meeting and will be discussed tomorrow in the Foreign Affairs and Defence Committee. I shall therefore read the cabinet's statement adding only two points: nowhere in the world is there, to my mind, a Jewry so firmly rooted, genuine, meaningful, and original as in Israel. More than once have I stated on behalf of the government that this is a state of secular law and not religious law, and

all the parties here have committed themselves by signing the declaration of independence of the state of Israel on 14 May 1948, in favour of freedom of conscience and religion.

Here is the cabinet's resolution: 'To set up a committee of three, the Prime Minister, the Minister of the Interior, and the Minister of Law, to examine and formulate guidelines for registration of children from mixed marriages whose parents wish to register them as Jews. The Committee of Three will listen to views of Jewish sages in Israel and will consider statements of opinion by Jewish scholars in Israel and abroad on this subject and will formulate registration rules in keeping with the accepted tradition among all circles of Jewry, Orthodox and non-orthodox of all trends, and with the special condition of Israel, as a sovereign Jewish state in which freedom of conscience and religion is guaranteed, and as a centre for the ingathering of exiles.'

I propose that the Knesset register the cabinet's resolution and reject the no-confidence motion of the Herut party. (op. cit., 2314)

This motion was carried by 59 to 40 with one abstention and 20 absentees.

Ben-Gurion's statement, like his politics generally – as demonstrated by the Suez fiasco – was a mixture of adventurism, bluff, and compromise. This may work in politics, but not in cultural conflicts. The secretive hint about 'serious events about to take place in the region . . . to be discussed in the Foreign Affairs and Defence Committee' was his usual resort to 'national security' whenever the going got rough for his politics. And in Israel in the 1950s this trick always worked. Everybody would unquestionably bow before any unsubstantiated 'national security' argument made by the government. This applied not only to the Knesset, but also to the law courts, the press, and all political parties (except the Communists, who were considered 'traitors' anyway).

In fact, there was no outstanding security issue, and in any case this could hardly be a reason for evading a proper summing-up of the debate and a statement of his own decision on the issue. What happened in fact was that Ben-Gurion, who had not expected such vehement resistance from the religious parties, decided to avoid a confrontation, and to drop the controversial registration proposals. But as he did not wish to be seen in public as backing down, he invoked the 'national security' argument as a pretext for not making his speech, and proposed to the cabinet the compromise resolution which amounted to a total capitulation to the religious minority. The creation of a Committee of Three to decide on the registration of the children of non-Jewish mothers meant that Bar-Yehuda's proposed regulations were, in fact, dropped. From now on it was this committee – not Bar-Yehuda – that would decide how to register these children. This capitulation was in stark contrast to the militancy of the

Labour majority in the Knesset debate. An absolute majority, which vehemently defends atheist guidelines for the registration of nationality and then votes for the dropping of these guidelines, is an odd phenomenon which cannot be explained entirely by purely political motivations, particularly when matters of conscience are at stake.

Clearly, those who spoke vehemently for the guidelines and then voted for dropping them at the end of the debate (and this was done by the majority, which could easily have defeated the minority) had to sacrifice their consciences on a very basic issue of “freedom of conscience”. Such behaviour has a psychological element which cannot be ignored and cannot be written off as mere opportunism or betrayal of principles. Why was the majority willing to betray its own freedom of conscience which it had so vehemently defended during the debate leading up to this vote?

The second part of the cabinet’s resolution – about formulating registration guidelines acceptable both to the religious and the free-thinking of all trends – coming at the end of a debate which had vividly demonstrated that this was impossible and where each speaker had stressed that on this issue there could be no compromise, was nothing more than a verbal smokescreen to cover up the retreat. Similar things had happened before. On 6 November 1957 Ben-Gurion gave a speech in Sharm-el-Sheikh in Sinai declaring that the Straits of Tiran had returned to become part of the Third Jewish Kingdom (after 1400 years . . .) but 30 hours later he declared that Israel must withdraw (under US pressure) from this territory, because it had never intended to annex the Sinai anyway . . . That was only eight months before the registration debate.

The reference to the “freedom of conscience and religion”, as if the two were compatible in Israel, was particularly jarring coming from Ben-Gurion, who had repeatedly accused the orthodox of trying to impose religious laws on the secular majority. Moreover, the orthodox made it quite clear that the Jewish religion was opposed to the freedom of conscience of the individual Jew. According to religious law it is the religion of one’s mother – not one’s own conscience – that determines who is a Jew. This religious definition is binding in Israel, even if it contradicts the self-definition of the individual in question. The contradictory behaviour of the Labour majority – speaking in favour of the guidelines yet voting to replace them by a committee – was fully revealed five days later when the Committee of Three declared:

Local registration clerks will not register children from mixed marriages according to their own judgement. Each case will be brought to the Committee of Three.

All previous guidelines on this matter since the state was established are abolished. (Knesset Debates, Vol.25, p.432, 20 July 1958)

This included the guidelines of Bar-Yehuda, the Minister of the Interior in the cabinet which passed this resolution . . .

The next step in the registration controversy was as extraordinary as the subject itself. Ben-Gurion, the Prime Minister, sent an official letter to 50 “Jewish scholars” in Israel and abroad, soliciting their opinion on the issue of registration of children of mixed marriages. It has never been disclosed how these 50 scholars were selected, by whom, and according to what criteria. Many well-known scholars were left out and others, hardly heard of, were included. Numerically they did not represent the spectrum of views in Judaism on this subject. The entire ‘consultation of Jewish scholars’ was a unique event that has never been repeated since. It is doubtful whether anyone believed that this odd collection of individuals could come up with a consensus opinion that would be ‘in keeping with the accepted tradition among all circles of Jewry, orthodox and non-orthodox of all trends’.

The reason for consulting ‘Jewish scholars’ throughout the world about an issue facing the Israeli parliament was spelt out by Ben-Gurion a year after sending out the letter:

We did this to demonstrate that there are matters in Israel which are general Jewish issues and not merely matters of the state of Israel . . .

This is a Jewish problem, not an Israeli problem. It was to demonstrate this point that I wrote to the Jewish scholars throughout the world. That was my point in this appeal. (Interview in *Panim el Panim* magazine, 6 November 1959)

In this manner Ben-Gurion again pressed home this point that Israel was not merely a state where Jews were a majority, but the Jewish state, i.e. the focus of Jewish identity for all Jews in the world. As the Knesset had dealt with an issue which affected Jews everywhere it had to consult Jews everywhere even if this consultation had no legal validity as far as Israel was concerned.

The letter itself – with the official state seal heading – reads:

13 Heshvan 5719
27 October 1958

I am approaching you in accordance with the decision adopted by the Israel Government on 15 July 1958, according to which a committee consisting of the Prime Minister, the Minister of Justice and the Minister of the Interior was appointed to examine the rules for the registration of children of mixed marriages, both of whose parents wish

to register their children as Jews. In this decision the Government instructed the committee to consider "statements of opinion by Jewish scholars in Israel and abroad on this subject," and to formulate registration rules "in keeping with the accepted tradition among all circles of Jewry, orthodox and non-orthodox of all trends, and with the special conditions of Israel, as a sovereign Jewish State in which freedom of conscience and religion is guaranteed, and as a center for the ingathering of the exiles."

The Register of the Population has been in existence in Israel since 1949, and among the particulars which have to be recorded according to the law are "Religion" and "Nationality." The Ministry of the Interior is responsible for the execution of the Registration of the Population Law, and the registration officers are authorized by law to demand and receive from the residents liable for registration such documents and information as they require for the purpose of verifying the particulars before they are registered. Each resident receives an Identity Card according to the particulars recorded in the Register, and this serves him for various purposes. In time of emergency every male resident has been obligated by law to carry his Identity Card wherever he goes.

From time to time proposals have been made to abolish the Register or the registration of "Religion" or "Nationality" as part of the Register, but we have so far been unable to accept these proposals, for security and other reasons, and we shall be unable to do so in the near future. In the light of our special situation, when there is no practical possibility of a thorough and permanent control of the country's borders to prevent the entry of infiltrators from the hostile neighboring countries, who are a source of grave and constant danger to the peace of the country and its population, it is essential that a legal resident in Israel should be able to identify himself at all times by means of a document supplied by an official authority.

The laws of Israel forbid all discrimination between one person and another on account of differences in race, color, nationality, religion or sex, but Jews enjoy one special privilege alone by virtue of the Law of the Return. A non-Jew who wishes to immigrate to Israel must receive permission to do so, and the state is empowered to withhold such permission. If he settles in the country he may become a citizen of Israel only by naturalization, which he can request after two years' residence. A Jew, however, is entitled to settle in Israel according to the Law of the Return by virtue of the fact that he is a Jew (if he is not a habitual criminal who is liable to endanger the public welfare or suffering from a disease liable to endanger the public health), and as soon as he settles in

it he becomes, automatically, an Israel citizen.

The establishment of the religion of Israel residents is also essential for this reason. According to the existing laws of Israel matters of marriage and divorce are under the authority of the religious courts: the Shar'ia Courts for Moslems, the Religious Courts of the various Christian communities for Christians, and the Rabbinical Courts for Jews. According to the existing law, marriages and divorces are conducted in Israel only according to the religious laws and by religious ceremonies; and according to the existing law marriages and divorces of Jews are held in Israel only according to Jewish religious law.

The question has arisen how to register under the heading of "Religion" and "Nationality" children born of mixed marriages, when the father is a Jew and the mother is not a Jewess and has not become converted as a Jew. The opinion has been expressed that since the Register is a civil one and does not serve for religious purposes (the religious authorities are not obligated to be satisfied with it or to rely upon it, and in general they are not prepared to do so), this registration should not be governed by purely religious criteria. Others say that since "Religion" and "Nationality" are inseparable, and since religious allegiance is naturally a religious question, only religious criteria should be followed, both in registering religion and registering nationality.

The Government has decided that the religion or nationality of an adult shall be registered as "Jewish" if he declares in good faith that he is a Jew and does not adhere to another religion. According to the Law of the Equality of Women in force in Israel both parents are the guardians of their children; if one of them dies the survivor is the guardian. Generally, therefore, the declaration of both parents is accepted in any case in which a declaration is required from a child who has not yet reached maturity. In regard to the question of the registration in the Register of Population of children born in mixed marriages, the following question has arisen, however: If the mother is non-Jewish and has not been converted, but both she and the father agree that the child shall be Jewish, should it be registered as Jewish on the basis of the expression of the desire of the parents and their declaration in good faith that the child does not belong to another religion, or is any further ceremony of any kind required, in addition to the agreement and the declaration of both parents, for the child to be registered as a Jew? On this question the Cabinet Committee has to make its recommendations to the Government, after receiving expressions of opinions by Jewish scholars as above.

Four considerations should be taken into account for the understanding of the problem as a whole:

(1) The principle of freedom of conscience and religion has been guaranteed in Israel both in the Proclamation of Independence and in the Basic Principles of the governments that have held office until now, which have included both "religious" and "secular" parties. All religious or anti-religious coercion is forbidden in Israel, and a Jew is entitled to be either religious or non-religious.

(2) Israel serves in our time as a center for the ingathering of the exiles. The immigrants come from East and West, from both progressive and backward countries, and the merging of the various communities and their integration into one nation is one of Israel's most vital and difficult tasks. Every effort must therefore be made to strengthen the factors that foster cooperation and unity, and to root out as far as possible everything that makes for separation and alienation.

(3) The Jewish community in Israel does not resemble a Jewish community in the Diaspora. We in this country are not a minority subject to the pressure of a foreign culture, and there is no need here to fear the assimilation of Jews among non-Jews which takes place in many prosperous and free countries. On the contrary, here there are, to a slight extent, possibilities and tendencies making for the assimilation of non-Jews among the Jewish people, especially in the case of families coming from mixed marriages who settle in Israel. While mixed marriages abroad are one of the decisive factors making for complete assimilation and the abandonment of Jewry, mixed marriages among those who come here, especially from Eastern Europe, result in practice in the complete merging with the Jewish people.

(4) On the other hand, the people of Israel do not regard themselves as a separate people from the Diaspora Jewry; on the contrary, there is no Jewish community in the world that is inspired by such a profound consciousness of unity and identity with the Jews of the world as a whole as the Jewish community in Israel. It is no accident that the Basic Principles of the Government lay it down that the Government shall take measures for "the intensification of Jewish consciousness among Israel youth, the deepening of their roots in the past of the Jewish people and its historic heritage, and the strengthening of their moral attachment to world Jewry, in the consciousness of the common destiny and the historic continuity that unites Jews the world over of all generations and

countries.”

In the light of all the above considerations, we shall be grateful if you will be good enough to give us your opinion on the course which we should pursue in the registration of the children of mixed marriages both of whose parents – both the Jewish father and the non-Jewish mother – wish to register their children as Jews.

David Ben-Gurion

There are some points in this letter which require clarification.

The first is the security argument. Ben-Gurion argues that the proposals to abolish the Register or the registration of “Religion” and “Nationality” cannot be accepted for “security and other reasons”. He never clarified what the “other reasons” were, but the security argument – which may appear plausible due to Israel’s conflict with the Arab states generally and with the Palestinians in particular – is hardly an argument. What is there to prevent dedicated Palestinian freedom fighters from undergoing conversion to Judaism in, say, Iraq or Egypt, and then to pose as Jewish by religion and nationality? By features and culture they are hardly distinguishable from Oriental Jews anyway. It is not too difficult to forge Israeli identity cards either. Ben-Gurion’s argument may carry some weight with innocents abroad, but not in Israel.

The second point, asserting that “the laws of Israel forbid all discrimination between one person and another on account of difference in race, colour, nationality, religion or sex”, is simply untrue. There is no law in Israel which forbids such discrimination. The only law which actually ensures some equality is the law for equal rights for women (1951), but the validity of this law is seriously limited by the law of jurisdiction of Rabbinical courts on marriage and divorce (1953), which – like all religious laws – denies equal rights and status to women. Moreover, the only document which mentions equality is the Declaration of Independence of Israel which is not a law and lacks legal status. This declaration states that: “The state of Israel . . . will uphold the full social and political equality of all its citizens, without distinction of religion, race, or sex.” “Nationality” has been deliberately omitted from this list, so that even on a purely formal basis Israel has never committed itself to full equality without distinction of nationality. Such equality would directly contradict the core of the Zionist aim, namely a Jewish nation-state, and would be resisted by the majority of Israeli Jewish citizens. The “freedom of conscience” which, according to Ben-Gurion, “has been guaranteed in Israel both in the Declaration of Independence and in the Basic Principles of the governments that have held office until now”, was precisely what was at stake, and could not be “guaranteed” by a declaration which lacked legal status or by governments which compromised all their “basic” principles. After all, the very purpose

of Ben-Gurion's letter was precisely another compromise.

And finally, point No.4 in the letter. This point highlights a fundamental flaw in secular Judaism concerning "Jewish identity". If, as Ben-Gurion states, "there is no Jewish community in the world that is inspired by such a profound consciousness of unity and identity with the Jews of the world as the Jewish community in Israel", why had the Basic Principles of his government laid down measures for "the intensification of Jewish consciousness among Israel youth, the deepening of their roots in the past of the Jewish people and its historic heritage, and the strengthening of their moral attachment to world Jewry, in the consciousness of the common destiny and the historic continuity that unites Jews the world over of all generations and countries"? If a community with a profound sense of its cultural identity must still take measures to intensify this identity among its youth, there must be an inherent weakness in this identity which requires constant strengthening.

The replies to Ben-Gurion's letter were predictable. The majority recommended the religious view. This was hardly surprising as the religious constituted a majority amongst the recipients of the letter. Some of these propounded the orthodox view, others a more lenient reformist or conservative religious view. A minority put forward a secular view, considering Jewishness as a subjective matter and proposing a separation of religion from nationality.

There is no point in quoting the religious replies since they merely repeat the views expressed in the Knesset debate by the religious speakers.

Of the secular replies it is interesting to quote one, by the writer H. Hazaz, who lives in Israel and has both a sensitivity to the crisis of Jewish identity and the courage to write about it openly. He wrote:

In the past, prior to the time that our people was dispersed and transformed from a nation into religious communities scattered all over the diaspora, our religion was sufficiently powerful to preserve our unity and national existence. In the interim times have changed; human behaviour has been transformed, scepticism dominates our times, the destruction of diaspora Jewry has been brought about in our era, and religion has been abandoned. These matters are well known. The Jewish settlement in Israel emerged victorious over its enemies and established its own state. But this state was established exclusively as a secular state; religion does not exercise control in as much as the individual is granted the privilege of following his own inclination in religious matters. (*Jewish Identity: Modern Responses and Opinions*, Feldheim Publishers, Jerusalem-New York, 1970, p.277).

All this is well known to religious Jewry, but to accept this situation as final

would imply – to the orthodox at least – that the state of Israel is an instrument not for strengthening Jewish identity, but for its destruction. Once this conclusion is reached by the orthodox they are compelled to fight against this state, which threatens – within Jewry – everything they stand for. For the time being, the orthodox prefer to struggle for implementing some of their demands rather than reach such a momentous conclusion.

The responses to Ben-Gurion's letter had no legal consequences. The Knesset did not resume its debate on the subject and no new guidelines were put forward. When the next elections took place and the 4th Knesset was elected on 16 December 1959, the Committee of Three was dissolved, and M. H. Shapira, whose resignation from the post of Minister for Religion and Welfare in Ben-Gurion's previous cabinet had initiated the entire Knesset debate, resumed his place in Ben-Gurion's new cabinet, but now as Minister of the Interior, authorized to issue his own religious guidelines on registration . . . As for Bar-Yehuda, whose proposed guidelines had initiated the crisis, his Zionist-Marxist party joined the new coalition too . . . accepting the religious criteria for determining Jewish nationality. This capitulation could be noticed five days after the Knesset debate on the issue.

At the end of the debate, on 15 July 1958, Ben-Gurion announced the setting up of the Committee of Three, which decided five days later that all registrations of minors from mixed marriages would be brought before the committee, and that all previous guidelines would be abolished. But there was another change – decided by the entire government – on that same day, concerning not minors but the registration of Jewish identity in general. The government declared that:

“A person who states in good faith that he is Jewish, and has not been converted to another religion, will be registered as Jewish.”

The phrase “and has not been converted to another religion” was new. The former guidelines had stated: “A person who states in good faith that he is Jewish will be registered as Jewish, and no further proof shall be required.” This was a change in the guidelines, and guidelines are not laws binding the courts; but it signified a decisive shift of the Labour majority from its principled atheist position.

The next chapter in the crisis of secular Jewish identity in Israel revolved around this “little” change.

1. Rabbi A.I.H. Kook (1865-1935), Rabbi of Jerusalem (1919), and first Chief Ashkenazi Rabbi in Palestine (1921) was the major religious authority who advocated support, and alliance, of religious Jewry with secular Zionism. Until his time the consensus view of the Jewish religious authorities considered secular political Zionism as blasphemy, and actively opposed it. Kook argued that although the Zionists were atheists there was "a positive spark in their lost soul" which could be redeemed. He realized that the quest for Jewish national identity was a substitute for the loss of religious identity, but that in the long run Jewish national motivation would be forced to realize that it could not separate itself from Jewish religion. He therefore advocated conciliation and collaboration between religious Jewry and the secular Zionist enterprise in Palestine. He was the architect of Jewish religious support for Zionism, which has become the consensus opinion of religious Jewry (apart from a dissenting minority) ever since the 1930s.
2. Mapam ('United Workers Party') – Zionist-Marxist party, had 9 members in the Knesset at the time of this debate, and was a member of the ruling coalition led by Ben-Gurion's Mapai ('Workers of the Land of Israel' 40 M.K.s.) Akhdut-Ha'avoda ('Unity of Labour') – the most nationalistic of the three Zionist labour parties, had 10 M.K.s at the time of this debate. Together these three parties had 59 votes in a Knesset of 120 members. Had the issue of the 'guidelines' brought about a vote of no-confidence in the government the 6 Communist delegates would have supported the government and prevented its downfall, but Ben-Gurion couldn't tolerate the idea of bringing about a cultural confrontation between the religious minority and the secular majority of Jews in Israel and elsewhere.
3. The most important post in the Israeli cabinet after that of Prime Minister, has always been that of Defence. Ben-Gurion always held both posts, indicating a certain mistrust of even his closest colleagues.
4. Geiger and Holdheim – German Jewish thinkers in the 19th century who argued for "reforming" Judaism by making it into a purely religious belief for the individual.
5. Cana'anism – A cultural trend among young Israelis in the 1950s arguing that the new Jewish generation in Palestine should be seen – culturally – as a new phenomenon rather than a continuation of Jewish culture during two thousand years of exile. For further details see Chapter 7.
6. Ze'ev Jabotinsky (1880-1940): Founder of the extremist nationalistic party in the Zionist movement, which called explicitly for a military conquest of both banks of the river Jordan and was prepared to impose (Jewish) minority rule on the Arab majority in Palestine. Begin's mentor.
7. However, at one stage Herzl proposed mass, public conversion of Vienna Jews to Christianity in front of the central cathedral in Vienna. One of Herzl's daughters converted to Catholicism.
8. Begin here taunts Allon about his party's volte-face early in 1957, when Israel was forced, by the USA, to withdraw from all the territories it occupied in the Suez war of 1956. Ben-Gurion's Labour cabinet, which included Allon's party; argued strongly against any withdrawal from any occupied territories, then – bending under US pressure – argued strongly for withdrawal from all occupied territories. (Just as Begin was forced to do by the Camp David agreements of 1978/9, under the pressure of President Carter.)
9. Neturei-Karta: 'Guardians of the City' (of Judaism). An orthodox religious Jewish sect which consistently opposes Zionism from a religious point of view. They argue that Zionism is an attempt of sinning Jews to bring about "Jewish redemption" by creating a secular state. But this is a false redemption as it is non-religious, and worships the Jewish state not the Jewish God. Until the 1920s this was the attitude of the vast majority of orthodox Jewry, but gradually some sectors – such as the National Religious Party – went over to support Zionism and participate in its politics. The Neturei-Karta – including their community in Israel – do not recognize the state of Israel, boycott its elections, and

- consider all religious parties in the Knesset as traitors. They clashed with the NRP, beat up Rabbi Parush, and excommunicatd Rabbi Maimon.
10. Satmer Hassids (an orthodox sect from the town of Satmer): A Jewish religious revivalist sect which shares attitudes to Israel and Zionism similar to those of orthodox Neturei Karta.
 11. A thinly veiled reference to the Prime Minister, Ben-Gurion, who stated repeatedly that Jews (in Israel) must retain their uniqueness yet insisted that Israel must be a state of secular law.
 12. In the 6th century B.C. on return from exile in Babylon, see footnote on p.50.

Chapter Three

Daniel in the Zionist Den

The case of Oswald Rufeisen, a Polish Jew who converted to Catholicism during the Second World War and emigrated to Israel in 1958. He demanded the automatic right of immigration and citizenship granted by the Law of Return to every Jew, insisting on being a Jew by nationality, and Catholic by religion. The Israeli government refused to recognize him as a Jew, and the Supreme Court upheld this refusal.

The 'Who is a Jew' debate in the Knesset in 1958 was the first occasion on which many Jews, particularly in Israel, became aware of the problematical relation between secular Jewish nationalism and the Jewish religion. At first, there was a tendency to interpret the cabinet crisis of June 1958 exclusively in political terms. It seemed as if the religious parties were using the registration issue as a pretext to exact more religious concessions from Ben-Gurion's Labour party. But the case of Oswald Rufeisen, four years later, changed this view. The Supreme Court in Israel, which discussed the case and gave its ruling, was no political party seeking concessions, nor was its verdict preordained. The verdict revealed to a startled Israeli public that the very notion of secular Jewish nationalism, and its psychological foundation, were shaky.

Rufeisen's case is, briefly, as follows. Born of Jewish parents in Poland in 1922, he converted to Catholicism in 1942 and was ordained as Brother Daniel. In 1958 he emigrated to Israel and requested the automatic right of entry and citizenship granted by the Law of Return to every Jew. He considered himself (and still does) a Jew by nationality and a Catholic by religion. The Minister of the Interior allowed him to stay in Israel but refused to consider him a Jew because of his religion. After a year of wrangling he filed a plea to the Supreme Court of Justice requesting it to order the Minister of the Interior to provide legal justification for his decision or else to recognize him as a Jew.

The Supreme Court of Justice considered the case for nine months in 1962, finally deciding – by a majority vote – that Rufeisen could not be considered as a Jew.

The court had to decide whether the term 'Jew' as used in the Law of Return could be applied to a person who genuinely considered himself a Jew by nationality despite the fact that his religion was Catholic. The

difficulties facing the court were considerable:

1. The court had no legal definition of the term 'Jew' to refer to, because the Israeli parliament had consistently failed to provide one. The most fundamental legal term of the secular Jewish state had been left, deliberately, undefined.
2. According to Jewish religious law, Rufeisen was a Jew because anyone born to a Jewish mother remains a Jew even if he converts. But the secular court refused to base its ruling on religious law.
3. Political Zionism was a movement of non-religious Jews who, in direct defiance of the Jewish religious establishment, had created a secular state as the expression of their secular nationalism. The founders of Israel were conscious atheists whose firm conviction was that one could be a Jew by nationality without adhering to the Jewish religion. Most Zionists are non-religious, and most religious Jews are not political Zionists. A court verdict that Rufeisen could not be considered a Jew by nationality because he was a Catholic would imply that Jewish nationality depended on religion and thereby enhance an existential insecurity among the non-religious majority of Zionists.
4. Israel constitutes a source of cultural identity for many Jews outside it. Most of these would become apprehensive, some even outraged, if Rufeisen were to be declared a member of the Jewish people despite his Catholic faith. These people would consider such a verdict as encouraging conversion, i.e. the extinction of Jewishness as they understood it.

Any decision of the court was therefore bound to outrage a significant number of Jews. If the court (and hence Israel) accepted Rufeisen as a Jew most of the older generation, particularly outside Israel, would be enraged. If the court refused to accept him as a Jew most of the younger generation, particularly within Israel, would be outraged. It was the non-religious Jews who were perplexed by this problem, since from the religious viewpoint there was no problem: Rufeisen, being born to a Jewish mother, remained a Jew, despite his Catholic beliefs.

The five judges called to tackle this dilemma represented the different views on this matter prevalent within Israel at the time. Justice Silberg expressed the conservative nationalistic view. Justice Landau added to this a Zionist slant. Justice Mani – whose verdict consisted of a mere two sentences (compared with the eight pages of Justice Silberg) – was the only Oriental Jew amongst the five. His brevity reflected the lack of concern of Oriental Jewry with a problem relevant, at the time, mainly to Western Jews. Justice Cohen expressed the view of the liberal minority. His was the only dissenting verdict. Justice Berenson was the liberal who sacrificed his liberal convictions to his nationalistic anxieties, and supported the

conservative view.

The court decided by a majority vote that Brother Daniel could not be considered a Jew by nationality, and was a person without nationality. The verdict revealed for the first time that secular Jewish nationalism (i.e. political Zionism), which had emerged as a rejection of religion, nevertheless depended on religion. The non-religious definition of Jewish nationality was based on religion. This was not a matter of party politics but a genuine existential crisis of secular Jewish identity.

We start with the story of a unique person, Brother Daniel, a man whose sincerity, honesty, integrity, courage, and readiness for self-sacrifice were never doubted by any of the five judges.

Justice Berenson outlined his biography as follows. Rufeisen was born in Poland in 1922 to Jewish parents, and was raised as a Jew. In his youth he was active in the Zionist youth movement, Akiva, and after graduating from high school in 1939 he spent two years in a pioneering preparatory farm in Vilna preparing to emigrate to Palestine. When the war between Germany and Russia broke out in June 1942 he was arrested by the Gestapo but managed to escape and acquire a certificate stating that he was a German Christian. As such, he later became an interpreter and secretary at the German Police Station in the town of Mir. While there he managed to establish contacts with the Jews living in and around Mir and informed them about the plots of the Germans and their planned actions against the Jews. When he found out that the Germans intended to destroy the Jewish ghetto he informed the Jews and supplied them with arms. As a result of this information many Jews fled to the forests, 150 were saved and joined the guerrilla fighters, and most of them were saved and live today in Israel. However, as a result of denunciation by another Jew, who informed the Germans that Rufeisen had leaked their plans to the Jews, he was interrogated by his superiors and revealed his true identity. With Jewish pride he stated that he had helped the Jews because he was a Jew himself.

He was imprisoned and sentenced to death, but managed to escape and found shelter in a nunnery, where he spent a long time. When it became possible he left the nunnery and joined the Russian guerrilla fighters. The Russians suspected him of being a German spy and sentenced him to death. He was saved miraculously when one of the Jews he had saved in Mir turned up by accident and verified his true identity. He received a Russian medal for his activities as a guerrilla fighter. In 1942, while in the nunnery, he converted to Christianity and when the war ended in 1945, he became a monk and joined the Carmelite Order.

Rufeisen joined the Carmelite Order on purpose, he said, as it had a monastery in Palestine which he could later join. During the war of independence (1948), and on many subsequent occasions, he asked his superiors

for permission to emigrate to Palestine. Finally, in 1958, he received permission. When Israel's ambassador in Warsaw informed him that he would receive a visa for Israel, he applied to the Polish authorities for a passport and a permit to emigrate to Israel for good. His application is reproduced in full, because it indicates clearly that even after converting to Christianity he had not ceased, inwardly or outwardly, to consider himself a Jew by nationality, linked in his heart and mind to the Jewish people:

I the undersigned, Oswald Rufeisen, priest, Father Daniel in the monastery, hereby politely request you to grant me a permit to travel to Israel for good, and to grant me a passport. I base this request on my Jewish national identity which I have maintained despite conversion to Catholicism in 1942 and my entry to a monastery in 1945. I have declared it on all occasions when asked about it officially, for instance when I received a military certificate and an identity card. I chose a monastery which has a base in Israel considering that I would receive the consent of my superiors to travel to a land for which I have longed since childhood as a member of a Zionist youth movement. My national identity is known to the authorities of the church. I hope that by my emigration I shall be able to serve Poland, which I love with all my heart, amongst her sons dispersed throughout the world, as well as the country to which I travel. I enclose the confirmation of the Israeli Embassy in Poland.

The Polish authorities consented to the application only after he gave up his Polish citizenship and granted him a travel document of the type given only to Jews who emigrate to Israel and leave Poland for good – implying that, as far as his country of origin was concerned, he was emigrating to Israel as a Jew after severing his ties with Poland. On arrival he requested an immigrant's certificate, and asked to be registered as a Jew in his identity card, but his request was denied on the basis of the government's decision of 20 July 1958 which stated on the matter of Jewish nationality: 'A person who innocently declares that he is a Jew, and does not belong to another religion, will be registered as a Jew.'

The applicant's personal appeal to the Minister of the Interior did not help either. Mr Bar-Yehuda, the Minister of the Interior at the time, wrote to the applicant clarifying his own personal view, namely:

A 'bona fide' declaration ought (according to the Minister) to suffice, in the state of Israel, for registration of the applicant as a member of the Jewish people notwithstanding his religion, which is not a matter for the secular authorities to decide . . . everything I have read and heard about you is sufficient to make me recognize your right to demand to be recognized as a member of the Jewish people, even though I am

uncertain whether in your special case this means the possibility of organic merging with the nation. But the government has decided otherwise . . .

The above account is based on that given by Justice Berenson, one of the five members of the Supreme Court who had six months to deliberate the issue.

The actual plea filed by Rufeisen, asking the Minister of the Interior to explain to the Court why he refused to register him as a Jew and grant him automatic right of entry and citizenship as stated in the Law of Return, consisted of 47 points, most of them describing the history of his case. The salient ones state:

38. On 12 February 1962 the applicant was received by the Minister of the Interior. At this meeting the Minister attempted, politely, to dissuade the applicant from filing a plea but refused his request to grant him the status of an immigrant according to the Law of Return.

39. The applicant claims that he was born a Jew, raised as a Jew, has suffered as a Jew and feels himself nationally [a Jew], and that his religious belief cannot detract from his Jewishness or deprive him of the rights granted by the Law of Return to every Jew.

40. The Law of Return of 1950 does not apply only to religious Jews and does not limit the rights of the immigrant Jew according to his religious belief.

41. The government's decision of 20 July 1958 enclosed in its letter of 12 August 1959 to the applicant (appendix 1) is not binding as it contradicts the Law of Return of 1950 and/or for lack of legal authority of a government to amend the Law of Return (1950) and/or lack of a law which authorizes the government to make such decisions.

42. In at least one case the Ministry of the Interior has recognized the Jewish nationality of a person who was a Christian, as known to the applicant. Mr Abraham Shmuelof, a Christian and a priest in the village of Abu-Ghosh, holds identity card No. 112646/C issued on 7 May 1953 by the registration office in Jerusalem, signed by the then Minister of Interior, I. Rokah, which states, under citizenship 'Israeli', under nationality 'Jew' with 'Catholic' added in brackets, and under profession 'priest'. On page 7 of this identity card, under 'Changes and Amendments' it states: 'Known as Brother Joseph'. . . .

44. The applicant claims that the term 'nationality' is not identical with the term 'religion', and that a Jew by nationality need not be a Jew by religion.

45. The applicant claims that even according to the Jewish religious law he qualifies as a Jew, since according to this law a Jew is one born to a

Jewish mother. Even a Jew who does not observe the religious rulings, who converts to another religion, is considered, according to Jewish religious law, a Jew, as it is stated: 'A Jew, even if he sins, is a Jew.'

46. The applicant claims that the government's decision, which is the basis of the refusal by the Minister of the Interior or the district office for immigration and registration in Haifa [to register him as a Jew], lacks legal foundation, is unauthorized, and contradicts the law, hence it cannot be binding.

47. The applicant claims that the refusal to grant him the rights [of the Law of Return] is arbitrary, results from considerations outside the framework of the law, contravenes the law and the applicant's rights, and consists of discrimination against him.

Evidently, the psychological and legal issues which the court was asked to resolve touched on the most fundamental aspects of the secular Jewish state, namely, the secular-law definition of the term 'Jew'. All the judges were fully aware of the gravity of the issue. Justice Silberg, president of the court, described the difficulties:

The great psychological difficulty facing us right from the start in this unusual case is – paradoxically – the great sympathy and deep gratitude which we owe, as Jews, to Oswald Rufeisen, the apostate 'Brother Daniel' who filed this appeal. We have here a person who, in the worst years of the holocaust in Europe, risked death innumerable times for the sake of his Jewish brethren, carrying out brave acts of rescue from the lions' den of the Nazi-German beast. Shall we deny such a person his great aspiration: to merge fully with the nation he loves and to naturalize not as an alien immigrant, but as a Jew returning to the land of his dreams?

But this reverence and deep gratitude must not lead us to make an exception out of compassion; it must not serve as a pretext to defile the name and content of the term 'Jew'. When we study the issue deeply, surveying and recalling all its aspects, we see that Brother Daniel is asking us to cancel the sacred, historical meaning of the term 'Jew' and to deny all the spiritual values for which we suffered daily in the various periods of our long exile. The glory and the halo enveloping our martyrs of the Middle Ages will grow pale and wan till they become unrecognizable; our history will lose its continuity and start to count its days from the beginning of the emancipation following the French Revolution. No one can demand such a sacrifice from us even if they have merits as great as the appellant before us.

The problem facing us in its naked legal simplicity is: what is the meaning of the term 'Jew' in the Law of Return (1950), and does it apply

to a Jew who has converted to Christianity but feels and considers himself a Jew despite his conversion?

I still refrain from decision on the case and do not give an unequivocal view. I wish first to investigate its various aspects. But let me say now that had I accepted the second argument of the appellant's representative, namely that the meaning of the term 'Jew' in the Law of Return is identical with its religious meaning in the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law of 1953, then I would suggest that the appeal be accepted and order the Minister of the Interior to grant the applicant an immigrant's certificate according to paragraph 3(A) of the Law of Return (1950). I would do so despite the oddity and strangeness of a convert invoking the concepts of a religion which he has left and despite my great aversion to such eclectic argument. However, the dominant view in Jewish religious law is – it appears to me – that converts or apostates are considered as Jews in most cases, apart (perhaps) from some 'marginal' rulings which have no serious bearing on the issue of principle. I shall not rely here on the famous quotation – 'A Jew, even if he sins, is a Jew' – as it is possible (as some authors state) that its legendary value exceeds its legal one. But whatever its value, it is a fact that this phrase served as a guide to religious law throughout the ages; it was relied on, whether as an auxiliary or basic argument, in almost all religious rulings concerning the Jewishness, in traditional language the 'Israeliteness', of converts. The Israelite [i.e. religious] rulings are not only rulings of Israelites but are binding on Israelites, and if the Halakha [religious law] as explained further, makes them binding on the convert, then he too is an 'Israelite', i.e. a Jew. (pp.2432/3)

This point, namely that according to Jewish religious law (Halakha) a Jew who has converted to another religion remains a Jew, albeit a sinner, surprises most secular Jews. The popular (secular) belief in Israel and elsewhere assumes that according to the Halakha when Jews convert to another religion they cease to be Jews by religion and therefore are no longer Jews by nationality. This is not the case. This mistaken belief gave rise to protest and accusation against the religious authorities in Israel for identifying Jewish nationality with Jewish religion. It is clear that the charges were levelled at the wrong people. According to Jewish religious law, Rufeisen remained a Jew even after his conversion to Catholicism. When the court finally ruled that Rufeisen was not a Jew, it did not invoke religious law. It promulgated its own, secular definition. Justice Silberg also stated:

The representative of the defendant, State Attorney Bar-Niv, has argued that, even according to the religious law, a convert is not totally

Jewish but only “partially Jewish”, by half, third, or quarter, e.g. he is not considered as Israelite for the purpose of inheritance, bank interest, and prayer quorum. I cannot accept this argument. First, from a principled point of view, Judaism is a status, and status is indivisible.

After dealing with the various objections on religious grounds, brought up by the secular attorney of the secular state, Justice Silberg stated:

. . . Had I assumed that the term ‘Jew’ in the Law of Return and the term ‘Jew’ in the Rabbinical Court’s Jurisdiction are identical, namely according to the ruling of the Jewish Halakha, I would have accepted the appeal, and made the order binding.

But this is the trouble – if ‘trouble’ it is – that one is unlike the other, the ‘Jew’ mentioned in the Law of Return is unlike the ‘Jew’ mentioned in the Rabbinical Courts Jurisdiction Law. The latter has a religious meaning as prescribed in Jewish religious law; the former has a secular meaning as regularly understood in ordinary parlance, and I add emphatically – as understood by ordinary Jews.

The reason is clear and need hardly be stated. The Rabbinical Courts Jurisdiction Law came to expand rabbinical authority, and it is a well known secret that this authority was requested – and granted – in order to extend the validity of Jewish religious law over [non-religious] Jews. Hence the issue of who is a Jew [in that law] ought to be resolved by the religious law, since if it were resolved by some other – external, secular, non-Halakhic – consideration, it would invalidate the religious law. But that is not the case with the Law of Return. This law, with all its tremendous historical importance, is a secular law whose terms – due to lack of definition in the secular and religious law alike – we must interpret according to their ordinary meaning, taking into consideration the need to deviate from the commonplace in accordance with the legislative aim which gave rise to the decrees of the legislator. Since the Law of Return is an original Israeli law and not a translation, it is reasonable that we ought to interpret the term ‘Jew’ as we, the Jews, understand it. We are ‘the relatives of the fallen’ and who can know the content and meaning of the term ‘Jew’ better than we do? The issue then falls into place: what is the ordinary [i.e. secular] Jewish meaning of the term ‘Jew’, and does it apply to a Jew who converts to Christianity?

The answer to this issue, to my mind, is sharp and clear: a Jew who converts to Christianity is not called a ‘Jew’.

I do not come here to preach religion and I do not represent here any specific view on the desired development of the Jewish people. I know that views on what is desirable and what is possible vary widely in Israel across a broad spiritual spectrum – from extreme orthodox to complete

atheist. But one thing is common to the entire population of Zion (apart from a handful), namely we do not detach ourselves from the historical past and we do not ignore our ancestors' heritage. We go on drinking from the original wells. The forms are different, the channels are different, the conclusions are different, but we do not block up the wells, for without them we should be miserable paupers. Only fools can imagine that we are creating a new culture here. It is too late! A people whose age is (almost) as old as humanity's does not start *ab ovo*, and our new culture in this country can be, at best, only a new edition of the culture of the past. Whatever the heritage of a Jew in Israel – whether he is religious, non-religious, or anti-religious, and whether he likes it or not – he is umbilically linked to historical Judaism: he draws his language and idiom from it, he celebrates his feasts by it, and its giant thinkers and spiritual heroes – including those burnt on the stake in Spain, and those massacred in 1096 – feed his national pride. Is this the sphere for the “geometrical location” of a Jew converted to Christianity? What is it that appeals to him in this nationality? Will he not see from a different aspect – and evaluate differently – the poisoned cup we drank to the full in the dark Middle Ages? Of course, Brother Daniel will love Israel, that he has proved, and I don't doubt it. But this brother will be a lover from the outside, ‘a distant brother’, he will not share and will not have a true feeling for the world of Judaism. His merging with the Israeli Jewish society and his genuine sympathy towards it will not replace the lack of inner identification.

To prevent any error and misunderstanding, let it be said: we have no quarrel here with the Catholic Church and we do not identify the modern Church of John XXIII with the popes of the Middle Ages. We most definitely do not hold Brother Daniel responsible for the sins of the apostate Nicholas or Pablo Christiani in the 13th century, we are certain that he will not despise Israel; he will maintain and demand a mutual, correct attitude of ‘don't touch my messiah, and don't harm my prophet’, but the personal, human integrity of Brother Daniel is beside the point. The issue is whether he is entitled to call himself a ‘Jew’, and this we have to answer in the negative.

The appellant's representative claimed here that the refusal to recognize the Jewish nationality of his client is tantamount to transforming Israel into a theocratic state. This charge is unfounded and I reject it completely. Israel is not a theocratic state as it is not religion but the [secular] law which regulates the life of the citizen in it. The case before us proves it! Had we applied the religious categories of Jewish [i.e. religious] ruling to the appellant he would have been considered a Jew, as we saw before.

The fundamental view that ‘Jew’ and ‘Christian’ are terms that cannot unite in a single person is universally upheld, by laymen and scholars alike, as is clear from the books quoted here by the State Attorney.

Experience teaches us that converts ultimately disappear from the lineage of the nation, for the simple reason that their sons and daughters marry into other nations. This was the answer given to the appellant’s representative during the hearing when he complained that a convert is treated worse than an atheist. His frivolous remark, that in the case of his client there was no danger of the offspring since being a Catholic monk implied celibacy, was – at best – tactless. Granting Jewish nationality is not a prize or reward available only to the childless.

What, then, is the nationality of the appellant? Jewish? No. Polish? No, since he gave it up before he left Poland. If so, what nationality should be entered in his identity card?

The answer is: it does not matter. Brother Daniel is devoid of nationality; the space under the entry ‘Nationality’ will remain, according to paragraph 4(f) of the population registration law (1949), empty and unfilled. This is no anomaly, since not every applicant can fill in all the entries, for example – the unreligious [who cannot fill in the entry ‘religion’].

My view is that the appeal should be rejected. (p.244)

Next we have the view of Justice H. Cohen, a former legal adviser to the government, who expressed a liberal view, and was the only one to uphold Rufeisen’s appeal and instruct the Ministry of the Interior to grant him Jewish nationality.

Justice Cohen: On three points I agree with my honourable colleague Justice Silberg, and on one point I cannot agree with him.

I agree that, according to religious law, a convert remains a ‘Jew’ . . . I also agree that the Law of Return (and the Population Registration Order) cannot be interpreted according to the religious law, but must be interpreted according to the rules upheld in the [secular] courts in Israel with regard to all Knesset legislation.

. . . I also agree with the president of the court that “we do not cut ourselves off from the historic past, and do not ignore our ancestors’ heritage.” Let me add that a fundamental law such as the Law of Return, which translates one of the state’s fundamental aims into practical reality, requires – and merits – an interpretation that takes account of the circumstances of the creation of the state of Israel, and contributes to the realization of its aims and vision. I cannot agree that such an interpretation of the Law of Return requires or makes possible

the withdrawal of the rights of a Jew from the appellant.

True, the history of our people in dispersal is soaked with the blood of thousands, and tens of thousands, of innocents tortured, afflicted, killed and burnt by the Catholic Church and its officials for sanctifying the name of the Lord God of Israel. Even the most recent sufferings during the Nazi holocaust have not erased the memory of the earlier ones during the Crusades, the Inquisition, and the pogroms. The war of the Church against Judaism was total: if it could not force the people to spiritual destruction it was determined to destroy them physically. As far as the Jews in every generation were concerned, it mattered little, and was no consolation, that the Church did this for the sake of God.

If I fully understood the view of my learned colleague, Justice Silberg, the “continuity” of Jewish history requires that we can never consider as a Jew anyone who makes a pact with the Catholic Church and joins one of its orders. Though it is no longer, in spirit or in practice, our enemy, the Church cannot ignore its past, just as we cannot ignore ours. Hence Jew and Catholic will remain for ever contradictory terms.

I do not uphold such “historical continuity”. Though history “continues” and cannot be severed from its roots, this does not mean that it is not changing, progressing, and developing. On the contrary, historical processes, by their very nature and quality, change times and concepts, develop ways of thinking and cultural values, and constantly improve the way of life and the law. It seems to me that historical continuity demands that we construct on the foundations of the past, adding stone upon stone, innovating and advancing – rather than freezing up.

No event in the history of the scattered and dispersed Jewish people has been as revolutionary as the establishment of the state of Israel. Whereas in our dispersal we were a tolerated or persecuted minority, in our state we have become an independent people like all others. Whatever our [previous] status as a minority – religious, ethnic, national, or racial – in our state we have established “equality of status among the family of nations” (as stated in the Declaration of Independence). This revolution was not only of a political nature, it implied values different from those of our upbringing in exile. It required a revision of the way of thinking which we had grown used to for hundreds of years in exile. All this is well known and I am saying nothing new. At the doors of this state, which (as the Declaration of Independence states) “shall be open wide to every Jew”, there knocks the appellant saying: I am a Jew, open the gate; and the Minister of the Interior, in charge of the implementation of the Law of Return, refuses, because the appellant wears the robes of a Catholic priest and a cross

around his neck, and asserts that he upholds the faith of the Gentiles. Had he packed his robe and hidden his cross and faith, the gates would have opened without a murmur, but he came innocently and openly as he is and finds the gates shut.

It is impossible not to remember those Jews who remained loyal to their fathers' faith, and in order to remain in countries they liked and to reap what they had sowed with sweat, pretended to become Christians. Loudly did they proclaim: we are Christians, open the gate to us. Had they shown their true face, their devotion to the Jewish faith, every gate would have closed in their face.

Times have changed and fortunes have been reversed. To the state of Israel comes a man who considers the Jewish homeland as his homeland and who desires to create and be re-created within it, but whose faith is that of the Christians. Shall we therefore shut the gates in his face? Does the changing destiny of history require that we repay him measure for measure? Should the state of Israel, "based on the principles of liberty, justice, and peace, as conceived by the Prophets of Israel" [as stated in the Declaration of Independence], treat her inhabitants and those returning to her as the evil authorities of the Catholic monarchies did?

. . . From the notice sent to the appellant by the Haifa District Office of immigration and registration on 12 August 1959 it transpires that the Minister of the Interior, in refusing the appellant's request to be recognized as a Jew for the purpose of the Law of Return, was relying on the government's decision of 20 July 1958, which states: "A person who declares that in good faith that he is a Jew, and who is not a member of another religion, will be registered as a Jew." As the appellant is a member of the Christian faith he cannot be "registered as a Jew" and therefore the Law of Return cannot apply to him. In other words, were it not for the Christian faith of the appellant no one would disagree that he is a Jew. It is only because he upholds another religion that the government has decided that he is not a Jew. Moreover, it transpires from that notice that there is no doubt concerning the good faith of the appellant in declaring that he is a Jew. The only obstacle is his adherence to another religion. I uphold the government's decision that a person declaring in good faith that he is a Jew be considered as a Jew for the purpose of the Law of Return, but I do not uphold the qualifying clause which says that this declaration is useless if he is a member of another religion. We have said already that religious law cannot apply to the Law of Return . . .

In the absence of any objective criterion fixed by the law itself, there is, to my mind, no escape from concluding that the legislation was satisfied with the subjective criterion; in other words, the right of

return to Israel is granted to anyone who declares that he is a Jew returning to settle in his homeland. The additional condition of “good faith” in the said decision of the government is justified; the legislator has no intention of granting the right of return to those who wish to use it for other purposes, external to the purpose of the law. But the further addition, that the right is only granted to a Jew who is not a member of another religion, is to my mind outside the government, whose authority is only to carry out the law. It is therefore not valid and not binding. Had the legislator wished to limit the validity of the Law of Return only to those Jews who are not members of another religion, or to those who believe in the God of Israel, or other religious qualifications, he should, and could, have said so explicitly. As he did not say so, the law must be interpreted and executed as it is, in its plain meaning, in a manner enjoining no religious content or religious qualification to the term “Jew”.

As the declaration of the appellant that he is a Jew was accepted as given in good faith – and considering the material before the Minister of the Interior, and before us, it could not have been accepted otherwise – the appellant is entitled to an immigrant’s certificate according to the Law of Return, and to be registered as a Jew in the Population Register. I would like the appeal to be upheld.

The next judge to express his verdict was Justice Landau. His views are representative of the attitude of political Zionism towards secular Jewish nationality.

I have read the statements of my honourable colleagues, Justices Silberg and Cohen, and I share, without hesitation, the view of Justice Silberg. Not detracting from the validity of his words, I wish to add a few comments.

Apparently it seems a paradox that we should come to deny the appellant the title of “Jew”, as understood in the Law of Return, for reasons stemming from his conversion, when the Jewish religious law itself continues to consider him a Jew despite his conversion. But the astonishment is not so great when we consider that the Jewish religion arrives at this conclusion from its fundamental assumption that a Jew cannot extricate himself from Judaism even if he strongly desires to. This is not an attitude of forgiveness or tolerance towards a Jew who converts to Christianity of his own accord; on the contrary, the attitude is one of total rejection and contempt, it is to ignore this act in order to establish his personal status as a Jew who remains for ever a Jew. The appellant, as a man of conscience and self-respect, should not have expected succour from Jewish religious law, which considers the Jew

who converts to another religion in this light . . .

However, as Justice Silberg has explained, the fate of this appeal will be decided not by religious law but only by the Law of Return, which is a secular law of the state of Israel. As such, I fully endorse his striking formulation. The problem before us is: whom did our legislator have in mind when he spoke of a “Jew” in the Law of Return?

The state of Israel was created by Zionists on the foundations of Zionist doctrine, and the Law of Return itself expresses one of the principles of Zionism. It is therefore justified that in interpreting it not only should we ask the “ordinary Jew” our question about a Jew who converts to another religion, but we should also trace the thinking of the fathers of Zionism. The State Attorney did well in directing us to Herzl’s words in his letter to Dr Bodenheimer of 12 September 1897 (Herzl’s correspondence, Vol.3). It deals with a Jew called De Jong who converted to Christianity and wished to join the Zionist organization as a member. On this matter Herzl writes simply: “Mr De-Jong, as a Christian, cannot join our organization. We shall be most grateful to him if he would help us a non-member.”

Mr Yaron [Rufeisen’s legal representative] quoted from *The Jewish State*, where Herzl says that the state will not be theocratic. This evidence contradicts the appeal. The words appear there associated with the comment on the language of the future state [Herzl states that it cannot be Hebrew] where the prophetic spirit of the prophet of the state failed. Today it raises – luckily – a smile on our lips. “We cannot, after all, converse with one another in Hebrew. Which of us knows enough Hebrew to ask for a railway ticket in that language?” And he continues: “The language which proves to be of the greatest utility for the general intercourse will be adopted without compulsion as our principal tongue. Our community of race is indeed peculiar, unique; for we actually regard ourselves as still associated only by the faith of our fathers.” He goes on to discuss theocracy: “Then shall we finally have a theocracy? No, indeed . . . * We shall keep our spiritual authorities in their synagogues, just as we shall keep our professional army within the confines of their barracks.”

Let us now consider Ahad-Ha’Am, whose ideas, together with Herzl’s version, shaped the synthesis of modern Zionism. His view on the Jewish religion as a property of our national culture was clear, even

*The full quotation reads: “Then shall we finally have a theocracy? No, indeed. Faith unites us, knowledge gives us freedom. We shall therefore not permit any theocratic tendencies to emerge among our spiritual leaders. We shall keep them to their synagogues, just as we shall keep . . .” (*The Jewish State*, T. Herzl, English edition by M. Newman, Tel-Aviv, 1956, p.135)

extremist. And so he says, the agnostic, on religion: “Jewish nationality devoid of any imprint of all those things which constituted the breath of life of the nation for thousands of years, and through which it achieved its unique place in the cultural development of the entire human species – such a strange creature no one can imagine, unless he is miles away from the spirit of our nation.” (“At the crossroads”, in Hebrew, Dvir, 1959)

Twelve years later he repeats and quotes these words of his in his article “Teachings from Zion”, which is worth reading in its entirety. This is a strong criticism of an article which appeared earlier in *Ha’poel Ha’tsair* (Young Worker), which had stated that, “It is possible to be a good Jew while responding with religious awe to the Christian legend about the son of God sent to humanity whose blood atoned for sins of generations” Ahad-Ha’Am replied: “National consciousness ‘free’ from the national past – that is an absurdity unheard of in any nation and tongue. Nothing can be freed from the natural circumstances of its reality unless it also ‘frees’ itself from its very existence. Can a tree be freed from its roots, buried deep in the soil and denying it freedom of movement?”

And further on: “. . . the phrasemongers of ‘freedom’ cannot tolerate this past since despite their ‘freedom’ they are slaves to their hatred of the living religion of the present. They always imagine a horde of fanatics chasing them to robe them in a prayer shawl and phylacteries, therefore they forsake the national heritage of the past so as not to appear as having any relation to matters of faith and religion in the present.

. . . A national Jew, even if he is a heretic, cannot say: I have no part in Israel’s God, in this historical force, which gave life to our people, influenced its spiritual qualities and its way of life for thousands of years. He who really has no share in the God of Israel, who does not feel any affinity to that ‘higher world’ in which our ancestors immersed their minds and hearts in every generation and from which they drew their spiritual strength, can be a proper person, but not a national Jew, even if he lives in the Holy Land and speaks the holy language.”

He ends by explaining that his “free national consciousness”, with its complete denial of the Jewish religion, could produce a reversal of the negative attitude to Christianity on the part of “Jews, who will plug their ears from hearing their ancestor’s blood calling from the past”.

Some say that since Ahad-Ha’Am wrote these words, the fear of the “fanatic horde”, attempting in its intolerance to impose a religious way of life on the entire country, has increased. But that cannot change the basic fact of the influence of religion on our national heritage.

Is it necessary to mention the declaration of the establishment of the

state of Israel, which begins with the description of the “historical and traditional relation” of the Jewish people to Palestine, “where the spiritual, religious, and political identity was formed” of a people “who have never ceased to pray and hope for the return to their land and to restore therein their political freedom”?

This is the spirit of the Law of Return, the law of *sons returning home* [emphasis by Justice Landau]. One cannot separate the meaning of this law from the past sources from which its content was drawn. In these sources nationality and religion are inseparable intertwined.

A Jew who cuts himself off from the national heritage of the past of our people by conversion ceases to be a Jew in that national sense expressed in the Law of Return. It does not matter whether he converts for opportunistic reasons or from a genuine inner conviction as in the case of the appellant before us. He rejects his national past, and even in the present he can no longer merge organically and completely with the Jewish community as such, since by conversion he has created a separation between himself and his Jewish brethren, particularly as his conversion took the extreme form of entering a monastery . . .

The appellant extricated himself from the common destiny of the Jewish people and linked his destiny to other forces whose promptings he obeys. This is the reality, and such is still the feeling of the vast majority of Jews today, in Israel and abroad, a feeling emanating from a positive national sense, and not from a desire to repay the Church “measure for measure” for its attitude to Jews in the past. As for the future generations, as my colleague hinted, nobody knows what the future holds and how the national character of the people in Zion will develop.

The defendant [the Minister of the Interior] was right in drawing a line between Jew and non-Jew, for the purposes of the Law of Return, at the point of conversion from one religion to another. Our state is based on freedom of conscience, so one cannot force any non-believing Jew to declare himself a believer. This implies, to my mind, that a Jew who considers himself non-religious fulfils his duty of registering his religion according to the Population Register Order (1949) when he informs the registrar of this fact. But a person who values the religious faith to such an extent that he converts from one religion to another – particularly the appellant, who places religion at the centre of his life – faces that total contradiction which prevents him being recognized as a Jew according to the Law of Return, though by origin he remains a Jew.

My colleague, Justice Cohen, suggests that we base the solution of the problem only on the subjective feeling of the appellant and on his innocent declaration to the registrar. In this my colleague goes beyond

the arguments of the appellant and his representative. The appellant argued that he was “born a Jew, brought up as a Jew, suffered as a Jew, and feels himself a Jew by nationality” (point 39 of the appeal). In other words, his subjective feeling constitutes, for him, only one of the elements of his demand to be recognized as a Jew. In any case, the sole criterion of my colleague Justice Cohen does not appeal to me at all. It was certainly not the legislator’s intention that anyone could declare himself a Jew, in the sense of the term used in the Law of Return, and be a Jew or cease to be a Jew according to his changing whim. The genuineness of the appellant’s declaration and his desire to contribute to the construction of the state of Israel are honourable. We are most grateful to him for his heroic deeds in the past. But there is still an obvious objective factor preventing the acceptance of his appeal.

There is no need to emphasize again what has already been emphasized by my colleague Justice Silberg, that the issue before us is quite distinct from the issue of the separation of religion from the state in the legal structure of the state; the issues have nothing in common. And the words of Herzl quoted earlier prove it.

Moreover, I would like to comment that Zionism repeatedly emphasizes the national aspect of Judaism against its adversaries who consider Judaism simply a religious faith. But it is a fact that even today the religious affiliation continues, if only through loose observance of certain religious customs, to be the main link between the diaspora Jews. For the Jew in the diaspora conversion is the first step towards national assimilation; it is the purpose of conversion. The Law of Return was promulgated for Jews who immigrate to Israel from the diaspora. This highlights the basic weakness of the appellant’s interpretation of the term “Jew” as used in the Law of Return. I agree that the appeal should be rejected. (pp.2444-2448)

The fourth judge, who joined Justices Silberg and Landau in concluding that the appeal be rejected, was Justice Mani. But, unlike the others, who deliberated the issue extensively, he used only two sentences to state that he “fully agrees with what they have said and does not think he could effectively add anything to their words”.

It could be that Justice Mani, the only one of the five whose background was Oriental-Jewish rather than European-Jewish, shared the general awareness of Oriental Jewry to this issue. In the Arab world, from which most of the Oriental Jews in Israel come, religion still dominates most minds, as well as dominating the law. It has hardly been confronted by secular thinkers in the intellectual, philosophical, and legal sphere. This attitude also permeates the non-Muslim communities in the Arab world. The Jews there were not exposed to the problem of a secular national

identity, devoid of religion.

The fifth and last judge to consider Rufeisen's appeal was Justice Berenson. In many respects he was as liberal-minded as Justice Cohen, yet he agreed with the verdict of the conservative-traditionalist Silberg and the Zionist-nationalist Landau. His was the case of a liberal facing a conflict between his liberalism and his Zionism and finally subordinating the former to the latter.

The case of the appellant is not an ordinary case of a Jew pushed to conversion for familiar reasons. Usually material and social considerations are the motive for conversion: assimilation, mixed marriage, improvement of the social or economic status, and similar causes, which bring about a separation of the convert from the Jewish people and his estrangement from Jewish values. This is not the case with the appellant. He is a remarkable person and the pursuit of material pleasures or worldly desires is beyond him. He was born a Jew, brought up as a Jew, suffered as a Jew, and acted as a Jew and even when captivated by Christianity he did not turn against his people. He testifies – and his acts confirm – that in his consciousness he remains a Jew by nationality, and he argues that his Christian faith does not detract from his Jewish nationality. It is therefore his view that he cannot be denied the right to receive Israeli citizenship as an immigrant according to the Law of Return . . .

After giving the description which was quoted at the beginning of this chapter, Justice Berenson commented on the views of the Minister of the Interior, Mr Bar-Yehuda. As a Zionist-Socialist and a conscious atheist, the latter had stated that although he personally considered Rufeisen a Jew, and was opposed to the government's current definition of the term, as a member of that government he had to reject the appeal. Berenson went on:

I do not think one can justify Minister Bar-Yehuda's approach to this issue from the legal point of view, but on the substance of the issue I sympathize with his approach. If I too could follow my heart's inclination I would concur with the appellant, but unfortunately I am not free to do so, for I have to interpret the term "Jew" as used in the Law of Return, not according to my own inclination, but as I have to assume that its creators intended or, more correctly, in the sense in which the people today commonly use it. It seems that Minister Bar-Yehuda thought he was bound by the government's decision as to who was a Jew and therefore subordinated his view to the government's. In this he was undoubtedly mistaken. The authority for granting an immigrant's certificate according to the Law of Return is the Minister of the Interior and not the government. He decides who is a Jew, and is

not at all forced to follow the government's words. He can, like any legal authority, consult other opinions, but in reaching his decision he is independent of the advice received, and in the last resort he has to decide and act as his conscience dictates.

The Knesset did not find it suitable to express explicitly its view as to who is a Jew for the purposes of the Law of Return. It left this to the Minister of the Interior, and, as a last authority, to the court. The government's view can have a bearing only in the sense of indicating the spirit and views prevailing among the leaders of the state on this matter. But the court must interpret the law according to the letter and to the legislator's apparent intention in legislating the law.

The question of Minister Bar-Yehuda no longer has practical significance in the case since, in the meantime, there have been major reshuffles in the Ministry of the Interior and the new Minister of the Interior has no scruples about the government's decision which, apparently, reflects his own view.

The learned representatives of both parties have agreed that the Law of Return is a national law whose purpose is to fulfil the central purpose of the state of Israel, the purpose of ingathering the dispersed of Israel, and that one must interpret the term "Jew", in that law, as having a national-secular meaning and not a religious one. But they disagree on the nature of this meaning. The appellant's representative argues that since the law does not define a Jew as a member of the Jewish religion, the appellant, who is by origin and conviction a member of the Jewish people, should be considered a Jew, and that faith and religion are irrelevant. The State Attorney, on the other hand, argues that a Jew who has converted to another religion has withdrawn from the Jewish community precisely in the secular sense accepted amongst the people, and in this sense – contrary to the religious approach – he is no longer a Jew. To support their views each quotes opinions and statements by national and spiritual leaders, historians, researchers, and well-known authorities.

Personally, I do not think these can be of much use to us, since each view and each statement can be good and suitable in its own time and place, but as times and places change so do views and opinions. After all, since these things were said momentous events have occurred in the life of the nation. It has suffered the wave of the Nazi holocaust which came to destroy, kill, and wipe out the entire Jewish people without distinguishing between believers and heretics, adherents and converts; and there emerged the state of Israel, which made us an independent people with an equal status to all other nations. Had the appellant fallen into Nazi hands after his conversion, Christianity would not have saved

him from their murderous claws and he would have become their victim as a *Jew* [Berenson's emphasis]. Now that the state of Israel has been established and the appellant comes to its gates, will it not recognize him as a Jew?

As I said, if I were allowed to decide this issue according to my personal conviction, I would not hesitate to recognize this appellant who stands before us as a member of the Jewish people.

Ben-Yehuda [who revived Hebrew as a spoken language] defines the word "nation" as a collectivity of people of one origin, language and common history, who usually inhabit one country. There is no mention of religion as the hallmark of the members of one nation, and one cannot assume that the author failed to consider the Jewish nation in this definition.

Dr Arthur Rupin, in his book *The Struggle of the Jews for Their Survival*, says on page 11: "A person belongs to that nation, that is to say to that national collectivity, to which he feels he is most bound by history, language, culture, and common customs. A nation means a group of people with a common destiny and culture."

Again, there is no mention of religion as the common element unifying members of one nation, and the nation in this sense is mentioned as a different and separate concept from religion.

Elsewhere, when Rupin mentions departure from Judaism, he says: "When the Jews began sharing the language and culture of their Christian neighbours this brings them into social contact with them, leading to mixed marriages, conversion, and departure from Judaism."

Religious conversion is the last step before departure from Judaism, but it is not the departure itself, which is a further and final step in departure from Judaism.

The identification of the appellant with the Jewish nation is, from his point of view, genuine and truthful. He is of Jewish origin, was educated as a Jew and a Zionist, acted and suffered as a Jew, and even when he converted to Christianity did not cut his family ties and did not try to withdraw from the Jewish community. This is not a pretence on the part of the appellant, a caprice, or a passing whim. He has persevered in his conviction and his Jewish consciousness throughout the twenty-five years which have passed since his conversion to Christianity, proud of his identification with the Jewish people, mentioning it on every occasion, sincerely and with Jewish pride. He is not one of those, mentioned by the State Attorney, who consider that their membership of the Jewish people is like membership of a social club, which you join today and leave tomorrow. His association with the Jewish people, steeled by suffering and heroism rare even in our

generation, which has experienced much suffering and heroism, is a genuine membership conscious and faithful, in word and deed, his latest deed being his immigration to Israel and his desire to live in this country and work on its behalf.

All this ought to suffice, in my view, to open the gates of the country to the appellant and register him in the Population Register as a member of the Jewish nation. Incidentally, in the Population Register one is asked separately about citizenship, nationality, and religion, indicating apparently that religion and nationality are separate from each other. As has been stated, the appellant has given up his Polish citizenship and has never considered himself a member of the Polish nation, and now that he is not registered as a member of the Jewish nation he is a member of no nation. Why? Because he converted to another religion. Is a Jew who rejects religion, any religion, and even fights it and all that is sacred to it, still a Jew, and is the appellant, who believes in another religion but remains tied to his people, not a Jew? Had he declared that he believes in Buddhism, a religion which does not require conversion, and had he lived as a Buddhist monk, he would apparently be recognized as a Jew. Well then, a Buddhist monk yes, a Christian monk no?

After quoting *Ahad-Ha'Am*, to indicate that people like Rufeisen should still be considered as Jews, though they should not be allowed to lead the people, Justice Berenson gradually turns to the opposite view.

But the people, as we know, with their developed sense of self-preservation, decided otherwise and acted otherwise throughout the generations. For them, a Jew who converted to another religion severed himself not only from the Jewish religion but also from the Jewish nation, and has no place in the Jewish community. Not for nothing is a Jew who has converted to another religion called a 'self-destroyed' person (*meshumad*), since from the national point of view they consider him and his offspring as persons lost and cut off from the people. The family would tear their clothes, as if mourning the dead, and break off any contact with him. In the consciousness of the Jewish people, Jew and Christian cannot be accommodated in a one person; Jew and Catholic monk certainly not, they are mutually contradictory.

I think that this is the spirit of the Law of Return, and in using the term 'Jew' the Knesset had in mind a Jew in this popular sense. The Chairman [of the Knesset] when he announced the Knesset's unanimous acceptance of the Law of Return said that this law 'symbolizes the aspirations of our people for two thousand years'. The central aspiration of the people throughout the generations was to resurrect the independence of the Jewish people, renew our

independent national life in the land of our ancestors, the cradle of Jewish nationality and religion. When Mr Moshe Shertok [Sharett] appeared before the UN Special Committee on Palestine (UNSCOP) and was asked by one of its members whom the Jewish Agency* considered as a Jew, he replied: "I would say technically, and in terms of the Palestine legislation, that the Jewish religion is essential. It is essential that the person has not converted to another religion. He need not be an active, pious Jew. He is still considered a Jew. But if he converts to another religion he can no longer demand to be recognized as a Jew. The religious test is decisive."

These words, by the official representative of the Jewish people to a committee of the world's nations, doubtless reflected the dominant view amongst the people. There is no sign that since they were spoken, a mere fifteen years ago, the Jewish public has changed its mind on this matter. The government's decision of 20 July 1958, repeating the same idea, proves this; and let us not forget that the government reflects the majority in the Knesset, which represents the view of the people.

My final conclusion therefore is that a Jew who has converted to another religion cannot be considered a Jew in the sense meant by the Knesset and as currently understood by the people. I do not think that we, as judges, can act as a vanguard and decree today what we presume will happen later. The judiciary follows life rather than life following the judiciary. Lucky is the judiciary which manages to keep up with life rather than lag behind it. True, new attitudes appear even in the religious world. In place of hatred and competition there emerge attitudes of understanding and co-operation between them, hitherto unknown. Who could imagine that priests of various faiths would convene together to pray for world peace or protest about blatant social injustice? Who could imagine that a day would come when Jewish clergymen would enter a Christian church to consult their Gentile colleagues on joint social issues? But this new reality is still in its infancy and has not crystallized in the people's consciousness. It will probably take much longer before opinion changes and the feeling rooted in our people against Christianity, which so maltreated the Jewish people and soaked its history with the blood of Jews who refused to convert, disappears. Till then the appellant should not be recognized as a Jew according to the Law of Return. Accordingly I agree that the appeal be rejected.

*Jewish Agency – The 'government' of the Jewish community in Palestine during the British Mandate.

Thus by a majority of four to one, the court rejected Rufeisen's request to be considered a Jew.

Rufeisen was, of course, allowed to stay in Israel and to become a citizen. But he was not granted these rights automatically, as the Law of Return guarantees to every Jew, but according to laws pertaining to non-Jews.

The issue of the cultural identity of an individual, as crystallized in this unique court case, poses an acute dilemma: can this identity be determined subjectively, according to the personal feelings and convictions of the individual, or must it be determined by other criteria? What are these other criteria?

The Knesset has done its best to evade these issues. 114 people were dissuaded from turning to the courts for a verdict on an issue which parliament has evaded. Rufeisen was an exception. Most others settled for some "deal", outside the courts. The secular establishment in Israel was dragged into these issues against its will, but once forced to face them it resolved them in a consistent manner by surrendering to religion.

The fact that the parliament has evaded its duty of legislating a clear definition of secular Jewish nationality, in a state established by atheists, with an atheist majority, is itself revealing. Party politics played no role in this matter. The inner reason was the fact that secular Zionism could never stand its ground in a cultural confrontation with Judaism because it had no independent cultural ground of its own. It stood on the cultural ground of religion.

In the absence of legislation, it was left to the current Minister of the Interior to issue "guidelines" defining the term "Jew". These "guidelines" lacked legal validity and were challenged in the courts. They also underwent constant modification – in one direction only, from the secular to the religious. The first "guideline", of 10 March 1958, stated: "A person who innocently declares that he is a Jew will be registered as a Jew and no further proof shall be required." This directive expressed the feeling of the secular majority in Israel. It makes the individual the sole authority concerning his/her own national identity.

When it was challenged by the religious parties it was changed, on 20 July 1958, to read: "A person who innocently declares that he is a Jew, and is not a member of another religion, shall be registered as a Jew." The changes are significant. Religion becomes a criterion for nationality.

Finally, on 1 January 1960, the following guidelines were issued to determine the nationality of the newborn: "For the purposes of population registration one will be considered a Jew if: (1) one is born to a Jewish mother and is not a member of another religion, and (2) one is properly converted to Judaism." These are the exact requirements of orthodox

Judaism. The term “properly” hints that conversions conducted by Jewish rabbis of the “conservative” or “reformist” trend are “improper”, and shall not be recognized. Obviously, parents are denied the right to decide the nationality of their children and children themselves are denied the right to make up their own minds on this matter when they wish to do so. This ruling imposes Jewish identity on the newborn according to the identity of the mother. Neither parents nor child have any say in this matter, even if they are all atheists.

As can be imagined, the Rufeisen verdict was jubilantly received by the religious minority in Israel (and elsewhere), although it was contrary to Jewish religious law (Halakha). The atheist majority in Israel was outraged. For years it had been told that Israel was a state of secular law and not of religious law, and that national identity was a matter determined solely by the subjective feelings of the individual, whereas this verdict of the secular court imposed religious belief as the only criterion of nationality, ignoring the individual’s own feelings in the matter. Most outraged of all was the younger generation in Israel, brought up as atheists, with a latent hostility to religion in general and to orthodox Judaism in particular. Many of them were furious. They couldn’t understand why the secular court, parliament and government, representing the secular majority in Israel, chose to accept religion as a criterion for a secular Jewish identity. Their feelings were expressed by Uri Avneri, owner-editor of the widely read weekly *Ha’olam Hazeḥ* (This World), who wrote the following leader when the Rufeisen verdict was announced, under the heading, “Our Brother Daniel”.

At last the mask has fallen away. At last we’ve been told clearly what it is all about. At last the curtain of phrases, illusions, and lies has been torn down. For fourteen years we’ve been told: this is not a religious state. This is a national state. It belongs to the Jews. The Jews are a nation, not a religion. And now comes the supreme court and rules by a decisive majority: not at all. It has unambiguously defined the fundamental identity of the regime in this state: this is a Jewish regime, and a Jew is one who has not departed from the Jewish religion. Religion has become the only practical criterion. Let no one blame the court. A court is by its very nature a part of the existing regime. It can be its best element, but it cannot be a revolutionary institution aiming to overthrow the regime and transform its world-view.

So: a Jew is a Jew according to religious criteria, whether he is religious, non-religious, or anti-religious, because a Jew ceases to be a Jew when he converts to another religion. And this was decided not by religious law but by (secular) law.

Many years ago we said: one must make an absolute separation between nationality and religion. Nationality and religion cannot be

yoked together. To effect this separation clearly, we stated: a Jew is a person belonging to a religion (even if he is not religious). A Hebrew is a person belonging to a nation.

We were labelled 'Canaanites', abused as betrayers of the Jewish people, enemies of Zionism, of the Israeli Jews, and of the state; but it was not the ones who heaped libel and abuse on us who angered us. We were angry with those of our own generation who said: please, will you stop bothering us? What does it matter? What do we care if we are Jews, Hebrews, or Israelis?

Now comes the court and rules: it matters. It has to do with the law of the state.

On the very day that the state was established, it was declared that 'Jews' have special rights in it, rights guaranteed in the founding statement and defined in law. The Declaration of Independence stated that its authors had established "The state of the Jews* – namely, the state of Israel". The "state of the Jews" precedes the "state of Israel", implying that the state belongs to the Jews, it exists for the Jews, and any non-Jew has no genuine part in it. A non-Jew can be an inhabitant, even a tolerated citizen, but he does not belong to the body upholding the state.

A second step was the 'Law of Return'. It ruled that any Jew has the automatic right to emigrate to Israel and live in it. With regard to this basic right the law created a differentiation between Jew and non-Jew.

The third step is the law of citizenship, granting automatic citizenship to a Jew from the moment he steps on this soil. This right is denied to non-Jews, even to a Jew's wife. All this asserts, in a most practical manner, that the state belongs to all Jews and to no one else. When it was stated, in effect, that the Jews are a religious sect, this created an intolerable situation, anti-state, anti-national.

Why? This will become clear if we bother to clarify the practical consequences. The court ruled that, as far as Jews are concerned, one cannot separate nationality from religion. Nationality and religion are the same thing. But nationality and religion cannot be the same thing. Nationality and religion are opposites, not only in theory but in reality.

Nationality is a relatively new concept. It is a product of Western civilization. It was born in one of the great revolutions of humanity, at the end of the medieval era, the national revolution. Until that time religious identity was decisive in society.

A person belonged to his religion, no matter where he lived, or what

*The Declaration of Independence states that Israel is "the Jewish state" not "the state of the Jews". For a discussion of the difference see Chapter 1.

his language was. Only by chance was he subject of this or that king. Until the birth of nationalism, which made religion into a private matter. It said to a Parisian, your first loyalty is to the French motherland. Whether you are Catholic or Protestant, you are French. Thus was nationalism born out of a rebellion against religion. The state becomes a national asset. The demand to separate religion from the state became a national battle-cry.

There were national leaders who tried to exploit religion for national purposes, as an instrument of internal or external policy. But it never occurred to them that religion could replace nationality, or that religion and nationality were one and the same thing. This invention belongs to Zionism.

Zionism was born when, after a long delay, the national revolution was accepted by the Jewish masses. It was, originally, a national movement, more precisely a movement that wanted to create a nation out of nothing. But the Zionists committed an original, dangerous, sin. They lacked the courage to admit: there is no Jewish nation, we wish to create one; we call on all Jews, members of the persecuted religious sect, to emigrate to Palestine; all those who respond, and concentrate in the land of Israel, will constitute the new nation; the rest will remain a religio-cultural sect.

The Zionists deceived themselves. They shunned a confrontation with the Jewish religion. They wanted to unify the Middle Ages with the modern age. They said: we are a unique nation for whom there is no difference between religion and nationality; the religious symbols are national symbols; the prayer shawl is the flag; all the Jews in the world, all those belonging to the Jewish religious sect, constitute the Jewish nation.

One could forgive the founding fathers of Zionism if this had been a temporary compromise, if this miserable compromise had been buried at the moment when a new national structure emerged in Israel. Or if, at the least, they had put an end to this lie on the day the state of Israel was born.

But on the day the state was established the sons of the new nation were busy shedding their blood [in war] throughout the country.

The state's image and its laws were shaped by Zionist politicians. The Zionist regime, with its views and its parties, became the state's regime. Thus was the original sin perpetuated throughout the life of the state. The supreme court was appointed to maintain it. The outcome is dangerous for the state. This is proved by the case of Brother Daniel; that is, of Oswald Rufeisen.

Brother Daniel feels himself to be a member of our nation. He does

not consider himself as belonging to any other nation. He identifies with this state, having forsaken any other citizenship. He speaks Hebrew and we've all heard on the radio his fluent, friendly voice, the voice of one of us. If he was of the right age he would have served in the army. If he were not a priest he would have produced sons loyal to the state and the nation, sons who would have served in the army and shed their blood for the state in times of trouble, and paid their taxes. These are the hallmarks of belonging to the nation. There are no others. But Oswald Rufeisen does not belong to the nation, we are told, because he converted to another religion.

Suppose for a moment that Brother Daniel had a cousin, one Charles Rufee, formerly Rufeisen, who lives in Brooklyn. Charles is an American citizen and identifies wholeheartedly with the American nation. He contributes to the Jewish Appeal (as long as he can deduct his contribution from his income tax) and will visit Israel once, to be photographed in a kibbutz. But Charles Rufee is an American for all practical purposes. With his taxes he maintains the nuclear weapons and the armed services of the USA. He speaks English. He will educate his son to be loyal to America. The son will serve in the US navy and fight against any nation on which the President declares war – including the state of Israel. Yet Charles Rufee belongs to our nation, according to the law and the decision of the Supreme Court. The state of Israel is his state, the state of the Jews. He has the right to come here and become a citizen, automatically, whenever he wishes, despite the fact that he has declared publicly that he wouldn't dream of doing so.

Suppose Brother Daniel had another cousin, one Eli Rafaeli who grew up in Israel. But Eli Rafaeli emigrated, he tore up his Israeli passport, naturalized in Australia, served in the Australian army, denounces Israel and ignores it. But Eli Rafaeli (who changed his name to Palmers in the meantime, and whose sons speak English with a Sydney accent) is a Jew. He belongs to our nation, as defined in the Declaration of Independence and the Law of Return. The state belongs to him even if he denounces it twice a day. It belongs to someone who does not want to live here, to link his fate with its fate; but it does not belong to someone who wants to live and die for it. Thus states the law.

This is an absurd situation, which the mind cannot tolerate for long. It requires that we demand again a new separation and a clear definition. Brother Daniel demanded that he be recognized as a 'Jew', for this is the term which appears in the Law of Return. But Jewishness cannot be the name of both a religious affiliation and a national affiliation. This nationality to which Brother Daniel belongs had better be called by a separate name. Therefore we denote it as "Hebrew", as

was done in the Bible. (We do not call it “Israeli”, because an Israeli, a citizen of Israel, can also be a member of the Palestinian Arab nation who fulfils his duties as a citizen in the state of Israel.) A Hebrew is a person identifying with the Hebrew nation, its culture, its language, attached to the Hebrew fatherland, linking his fate with its fate, living its life, and bearing the burden of its wars for survival. This is a national, patriotic, voluntary definition. Justice Cohen is right in his decision, and it will shine out for generations: anyone who genuinely wishes to belong to a nation belongs to it.

A Jew is a person belonging to the historical affiliation of the Jewish congregation, who fulfils the religious injunctions, who believes in the Jewish faith, or accepts it passively by not converting to another religion or actively separating himself from it. One can affirm this affiliation by the religious ceremony of circumcision. Separation is not alienation. The majority of the Hebrews are Jews, just as part of the Jews are Hebrews. The mutual attachment is an emotional and a practical fact. But the two concepts differ, and both will benefit from a clear distinction.

One can be a Jew, anywhere in the world. One can be a Hebrew in only one place in the world: in the Hebrew homeland. That is our definition. Accordingly, Brother Daniel is a Hebrew Catholic. He is welcome to our community, whatever the present regime and its laws may say. The regime will vanish, the nation will remain. (*Ha’olam Hazeh*, No.1318, 12 December 1962)

This view, that the new Hebrew-speaking generation actually living in Israel constitutes a new national entity, not depending in any way on religious belief, was first pronounced by a group of young intellectuals in Israel two decades before Rufeisen’s case. They called themselves “Canaanites”, to indicate that they had an affinity to the land of Canaan (the ancient name of Palestine, and of the people who inhabited it before the Jews in biblical times) rather than to the Jewish religious congregation as shaped in exile over the previous two thousand years. Although this view, in its explicit form, was upheld only by a handful of intellectuals, it was always viciously attacked by all Zionist and religious leaders, who considered it a dangerous heresy. Avneri’s article illuminated the difference between the sense of identity of those who had founded the Jewish state and that of their descendants who had been born in it. The founders shaped the citizenship, immigration, and registration laws, indeed the state itself, according to their sense of identity. But the descendants of these founders, the generation born and brought up in the secular state which Zionism had created, evolved a completely different sense of cultural identity, namely one based on their actual experience in Palestine; this experience consisted

of speaking Hebrew as a daily language, of being a settler élite with a superior technology to that of the indigenous Arab population, and of not having experienced persecution because of their origin. But the emergence of this new identity was anathema to the Zionist founders. Their intention was to create a secular Jewish state that would serve as a centre of secular Jewish identity for non-religious Jews everywhere. It never occurred to them that once the Jewish state was established they would have to define its Jewishness, in particular, that they would have to define the term 'Jew' without resorting to religion.

The Rufeisen case revealed that the secular Jewish state had failed to provide a secular definition of the Jew. The legal wrangle exposed a crisis of identity. The secular majority in the Knesset hesitated to legislate a secular definition of this crucial term, while the secular courts refused to utilize the only existing definition, the religious one, because according to religious law a convert remained a Jew despite his conversion. This produced an inherently contradictory situation in which a non-religious court, for non-religious considerations, rules that a person's religious belief is a criterion of his non-religious nationality. This verdict, and the corresponding Knesset legislation which later implemented this definition, revealed a fundamental flaw in Zionism, namely, its inability to provide a secular Jewish identity. Zionism succeeded in creating a secular Jewish state only to discover that it was clinging to a definition of Jewishness based on religion.

This baffling revelation came as a totally unexpected shock to most Israelis. It revealed a contradiction inherent in the Zionist mentality – a wish to escape from a religious identity which is no longer meaningful, coupled with an anxiety about achieving this aim by establishing a secular identity fully separated from the religious one. The Zionists are non-religious but they do not wish to be fully separated from the Jewish religion. They want a non-religious identity that will somehow retain its links with the Jewish religion.

A mental state of inherent contradiction, in which one craves for something yet abhors the fulfilment of the craving, is a manifestation of a mental conflict. The verdict in the Rufeisen case has the same qualities: the aspiration to provide a non-religious definition of the term 'Jew', by a non-religious court which rejects the religious ruling on this case, ends up by invoking religion as a criterion of Jewish identity. This verdict revealed both the personal and the legal (i.e. public) aspects of the crisis. As a person Rufeisen himself suffered from no identity crisis. His national identity was genuinely separate from his religious one, and both were meaningful and unambiguously defined. The same can be said for a person like Avneri, who feels his national identity to be 'Hebrew' rather than 'Jewish', and is a convinced atheist. Similarly, an orthodox religious Jew who considers his

national identity to be congruent with the Jewish religion has no group-identity crisis. Those afflicted with the crisis are the ones for whom the Jewish religion is no longer meaningful as a living faith, who have not been brought up as Israelis, yet feel “different” from the non-Jewish societies in which they grew up – even when they suffer no persecution or discrimination. These are the people who feel themselves “Jewish” rather than “Israeli” or “Hebrew”, yet lack a definition of their secular Jewishness. These people created political Zionism and exerted themselves to create, and maintain, a specifically Jewish state in Palestine, a state whose main quality was to be its secular Jewishness.

Zionists themselves often argued that their inability to provide a secular definition of “Jewishness” was unimportant since it was, after all, the anti-Semites who defined the Jews. But a group-identity defined negatively, by persecution, can last only as long as the persecution lasts. What happens to such a definition in the absence of persecution? At first there is a lingering belief that the persecution persists, though in a new disguise. Thus, for the first twenty years of Israel’s existence, the Arabs’ hostility was interpreted as motivated exclusively by anti-Jewishness. Yet it is not easy to transmit a persecution complex to a generation that has not been persecuted. Thus in Israel itself it became clear that Jewish identity could not be defined by persecution exercised by others, but required an inner identification with group values, similar to those of the religious Jews. A religious person has a religious identity due to his beliefs, not to his persecution. That was exactly what the non-religious Zionists lacked. The great debate in the Zionist movement, whether the Jewish state should be “like all other states” or “a light unto the nations”, was in fact a debate about the uniqueness – or lack of it – of the Jewish state. It was a debate about the unique qualities of the group identity proposed by Zionism. As it turned out, the only unique feature of Israel was the Hebrew language spoken there. As every nation state has its own specific language, this feature does not endow Israel with any values different from those of other states. In other words, Israel turned out to be “like all other states”. This is certainly not enough to sustain a uniquely Jewish, non-religious identity. During two thousand years of exile, Jews had not possessed a common language, but they had possessed a common religion, unique in its values, and that had endowed them with a unique identity.

Keen observers of the cultural crisis of Jewish identity had pointed out that the Jewish state which political Zionism had aimed to create would be “a state like all other states”, thereby bringing about an assimilation (i.e. loss of uniqueness) *en masse*, rather than the individual assimilation which Zionism rejected. The idea that “if you don’t want me as an equal individual I’ll create my own state and achieve a collective being like you all the same”

is revealed in the life and work of Theodor Herzl, the founder of political Zionism. His entire endeavour was an attempt to achieve in the political realm what he had been denied in the civil realm, namely to be treated by the non-Jews as one of them. His famous statement – “We might perhaps be able to dissolve ourselves without a trace in surrounding races if we were left in peace for only two generations on end. But we shall not be left in peace” – could never be accepted by any religious Jew. But the weakness inherent in Herzl’s view is obvious. What if the Jews in their own state have no more enemies? “What then? The Jews in their own state might well have no more enemies, and as they will grow feeble and decay in prosperity might they not disappear altogether? I think the Jews will always have enough enemies, like every other nation.” Herzl’s answer reveals a total dependence on external hostility to save the Jews from “disappearing altogether”, i.e. from losing group-uniqueness. He is saying in effect: “I hope the Jews will always have enemies, for if they don’t, then according to my understanding of their problem they are bound to disappear altogether.” To anyone with such a view, peace and the absence of discrimination are anathema.

Chapter Four

Conscience Unsacrificed

The verdict of the Supreme Court in the case of Oswald Rufeisen (case No.72, 1962) applies only to one of the three usages of the term 'Jew' in Israeli law, namely the one in the Law of Return. Of the remaining two, the one in the matrimonial law had already been defined by the Rabbinical Courts Jurisdiction Law (marriage and divorce) of 1953, which stated:

- (1) Matters of marriage and divorce of Jews in Israel, whether of citizens or inhabitants of the state, will come under the exclusive jurisdiction of rabbinical courts.
- (2) Marriage and divorce of Jews will be performed in Israel according to religious law.

Accordingly, for the purpose of this law, the term 'Jew' has to be defined by a religious court. The religious definition is: "A Jew is a person who was born to a Jewish mother, or who has properly converted to Judaism."

This left only one usage of the term 'Jew' still undefined, namely the one in the Population Registration Law. The judges in the Rufeisen case, and the legislators of the registration law, stated explicitly that registration was purely a formal matter, that the registration clerks had to write the details about the citizenship, religion and nationality of those registering as they were stated, unless there was a blatant attempt at deception. The registration offices were under the authority of the Minister of the Interior, which was a post usually held by the religious political parties participating in the coalition government. The religious parties covet this ministry, which has a say in crucial areas of individual life.

The case described in this chapter arose from the demand of an Israeli Jew, a commander in the navy, who married a non-Jewish wife and insisted on registering his children as Jewish. The registration clerk and the Minister of the Interior refused to do so, arguing that children of a non-Jewish mother are, by religious law, non-Jews. The commander – Benjamin Shalit – took the case to the Supreme Court demanding that the court instruct the government to register his children as Jews, since Israel was a state of secular, not religious, law.

The actual controversy was about the entry for "nationality" (which in Hebrew means "membership of a nation" and not, as in Britain, "citizenship"). There is a separate entry for "citizenship" in the same register, so that a Palestinian Arab can for example enter: citizenship – Israeli,

nationality – Arab, religion – Christian. Many Israelis write: citizenship – Israeli, nationality – Jewish, religion – none.

The gravity of this court case can be seen from the fact that the court consisted of a panel of nine judges (the largest in its history), who deliberated the issue for almost two years (the longest in its history).

At the end of the first meeting of the court's full panel (25 February 1968), the court sent a plea to the government to initiate legislation abolishing the "nationality" entry in the registration procedure, an entry which the court called "superfluous". This proposal, coming from nine judges, all Zionists, was amazing, and quite unthinkable for Zionism. Israel's "grand old man of politics", the ex-Premier Ben-Gurion, responded to this proposal in the daily press:

The proposal to abolish the [entry for] nationality in the Population Register suits, perhaps, the conception of the "Canaanites" – if there are still any around, but not a Jewish citizen of the state of Israel. The Jewish people in Israel are part, for the time being (and for a long, long time – perhaps for ever – will remain part), of the Jewish people. To delete nationality from a document of a Jew in Israel is to begin breaking our ties with the Jewish people. The Declaration of Independence was signed by all Jewish parties in Israel, from the Communist Vilner to Rabbi Kalman Kahana, and it was unanimously stated that "We hereby proclaim the creation of a Jewish state in Israel, to be called the state of Israel." We also stated in that declaration that the state "will maintain full social and political equality of all its citizens without distinction of religion, race, or sex," and that every citizen in this state is an Israeli citizen, but not every Israeli citizen necessarily a Jew. An Israeli citizen can be Arab (Muslim or Christian) or a member of another nation who has settled as a citizen in this country. But by this [phrase about "full social and political equality"] the declaration certainly had no intention of diminishing the state as a "Jewish state", just as Britain is a British state, not only for the English, but also for the Scots, Welsh, Irish, Jews, or other citizens, without ceasing thereby to be British. (*Ma'ariv*, 6 February 1970)

In Britain there is no registration by ethnic origin, and if anyone were to try to legislate such registration there would be a public outcry. But Ben-Gurion's argument expresses the basic Zionist conviction that Israel must be a "Jewish", rather than merely an "independent", state, and that it is a state belonging to world Jewry rather than solely to the Israeli Jews, providing all Jews with a secular political identity, rather than merely a religious one. This was made clear by the Prime Minister, Mrs Golda Meir, in her speech in the Knesset on the same issue:

The judges of the Supreme Court reached a certain point – as explained by Justice Silberg, and I can understand this – when they felt fright at deciding on such a matter. Or, as I think Justice Landau said, [they risked] dividing the court, and they wanted to avoid this. They proposed to the government, or to the legal adviser to the government, that perhaps the government would abolish the entry for “nationality”. As this is not a verdict it can be criticized. I cannot accept this proposal. But let us leave the judges. Members of the Knesset,¹ what do you propose? In Germany there were assimilated Jews who called themselves “Germans of the faith of Moses”. In America there was the “Council for Judaism” of Americans of the Jewish faith. Are you proposing, in the twenty-second year of the existence of the Jewish state, to throw away the prayer shawl and phylacteries?² A small thing, to delete the word “nationality” and thereby create the impression – perhaps a wrong one as this will not be the reality – among the Jewish people that they are set apart, and that we are Hebrews, Canaanites, Yevusites, I don’t know what, but not Jews; that they are Jews but we are not. (Knesset debates, debate of 10 February 1970)

Mrs Meir rejects the view that Jewishness is merely a religious faith, and considers it an ethnic identity. On the other hand, she insists – although an atheist – that the external religious symbols, such as the prayer shawl and phylacteries, have to be maintained because they link together world Jewry. This inner conflict haunts secular Jews everywhere. It was the attempt to resolve this conflict which motivated Zionism.

When the government rejected the High Court’s proposal that the entry for “nationality” be deleted from the Registration Law, the court had no choice but to deal with the case.

Justice Kister described the case as follows:

The appellant, born in this country in 1935, stated in his registration form filled in on 8 November 1948, that he was non-religious. Under the heading for “nationality” a line was drawn signifying that the appellant did not identify with, or belong to, any nationality. This was done according to the Population Registration regulations of 1949, and signed by the appellant himself, who was then over 13 years of age. In 1951 an identity card was issued to the appellant, stating under the heading for “nationality”: “Jewish”. The appellant did not protest about this and for years there was no problem over it.

In 1958, during his stay in Britain, the appellant married Anna Magali Geddes and she arrived in this country in February 1960 with a permit of permanent residence. In her registration form, filled in on arrival in Israel, it was stated under “religion”: “not religious”, and

under “nationality” nothing was written.

In October 1960 the appellant’s wife filed a request to change two items in the registration books: (1) to correct the entry under “nationality” from “non-registered” to “British”, and (2) to change her name from Anna to Ann.

The appellant argued later that in fact his wife had asked to change only her private name from Anna to Ann because this was how it was pronounced in English. As for the amendment of the nationality item, let me note that the appellant’s wife arrived in this country as a British subject and since then neither the appellant nor his wife has served notice of a request for citizenship, so that to this day she is not an Israeli citizen.

As for the request to amend the entry for “nationality”, the appellant says, in an additional statement, that when his wife asked to amend her name the clerk told her, on seeing her British passport, that she must register as belonging to the British nation. There is no need to investigate here whether it was as described by the appellant in his statement, as this has no relevance to the matter. It will be sufficient if I mention that the appellant and his wife are educated as follows in the documents presented. The appellant is a professional psychologist and his wife is a biologist and lecturer. They certainly understand what is written and what has to be written. It should be added that in 1962 the appellant’s wife applied for an identity card designating her nationality as British. She was issued with that document.

In Britain the term “nationality” is used vis-à-vis the state, and to possess British “nationality” means to possess British citizenship. “British national” means British citizen.

As for the ethnic status of the appellant’s wife, his letter of 4 March 1967 written to the Minister of the Interior, states concerning his wife: “My wife (Ann, identity card No. 6/589816) was born in Britain to a Scottish father who comes from a veteran Zionist family (Sir Patrick Geddes)³ and a French mother from a family known for non-identification with any religion whatsoever.”

In this manner the appellant defines the national status of his wife – if one uses the term “national” only in an ethnic sense – as the daughter of a Scottish father and a French mother.

What is meant by “veteran Zionist family”? It turns out that the appellant meant to say that they were friends of the Jewish people, as her grandfather Sir Patrick Geddes, whom he mentions in his letter, was a well-known British *savant* invited by the Mandate government to advise on planning, and he helped Professor Chaim Weizmann to plan the Hebrew University and was generally a friend of the Jewish people.

Let us return to the chain of facts. In 1965 the appellant asked to change his identity card and stated under "nationality" that he was "Hebrew". Despite this, the clerk in charge issued an identity card registering him as a "Jew" by nationality as stated in his previous card (or cards). He did not protest about this. The controversy started only with regard to the registration of his children.

On 13 April 1964 his son Oren was born and on 11 February 1967 his daughter Galiah. When the son was born the proper form (birth certificate) was filled in and signed by the appellant. Under "religion" there was a line and under "nationality" it stated: "Jewish". But when this birth certificate was transferred to the Population Register Office, the entry for religion was registered as "Jewish father, alien mother", and the nationality as "unregistered". According to the appellant's statement, this was done in his presence. In any case, the appellant did not protest about it until 1967. On 11 February 1967 the daughter Galiah was born and in the birth certificate it was stated that the appellant's nationality was "Israeli" and his wife's "Israeli". Under "religion" there was a line in both cases. The appellant signed a statement. Apparently he did not fill in the entries concerning the religion and nationality of his new-born daughter. The statement is dated 15 February 1967, and on 1 March 1967 a registered letter was sent by the appellant and his wife; the full text is as follows: "We the undersigned hereby seek to register our daughter Galiah as non-religious. We also seek to register her as belonging to the Hebrew, or Jewish, nation, and state that any other registration would be contrary to our wishes and to our freedom of conscience."

Let me say here that the statement by the appellant and his wife that any other registration would be contrary to their wishes is understandable and logical, but I fail to understand how the registration could be contrary to their freedom of conscience. Registration can only be true or false. There were Jews in the diaspora who, whether "sincerely" or not, stated in registration offices that they were of German, Polish, or some other nationality, as the assimilationist Jews, mainly in Germany, developed a conception that Jews were not a nation but a religious denomination. Would it occur to anyone to say that it was contrary to a Jew's freedom of conscience if the clerk were to reject the assimilationist conception and believing the Jewish nation to be a living reality, registered that Jew, contrary to his statement, as a member of the Jewish nation? Such a Jew could, at best, complain that the non-Jewish clerk was wrong in his view about the existence of the Jewish nation.

From this chain of events we can see how the appellant's view of his

registration developed. In his youth he refused to recognize that he was a Jew by nationality, later he defined himself as "Hebrew" and, again, as "Israeli". After his daughter was born he sought to register her nationality as "Hebrew" or "Jewish".

The registration clerk's reply to the request of 2 March 1967 is enclosed in the document in the form of a note stating: "Mr Halevi, according to the regulations in such a case, the entry for religion must state 'unregistered', and the nationality entry: father Jewish, mother alien." This is dated 2 March 1967.

The next document in this case is the letter, a copy of which has been added to the appeal as Appendix 3, part of which I quoted before about the national status of his wife. In the same letter the appellant argues that he was born in this country, was an officer in the Israeli army, and is a Jew by education and national feeling. At the end he states: "I intend to educate my children as Israelis and Jews in their culture and spirit. This registration can harm their integration in my fatherland and is false in spirit. I request that you give instructions for proper registration, or else that you explain why you cannot do so."

Then came an exchange of letters. In one letter from the appellant, of 23 May 1967, he states concerning the children's registration: "The arbitrary registration of my children's nationality (different for each child) constitutes a deliberate falsification and distortion of my declaration to the registration clerk."

In the reply given by Mrs Hibner, deputy director of the immigration and registration department in the Ministry of the Interior, she states that the birth certificate was legally sealed and hence any correction or change must be made by public document, as she had told him earlier.

This is how the appeal to the Supreme Court [to order the Minister of the Interior to register the children as requested by the parents] came about and the issue does not concern the appellant alone but raises the whole question of the registration of religion and nationality, particularly in relation to Jewish nationality and to children from mixed marriages where the father is Jewish and the mother alien, and generally raises the question "Who is a "Jew"?"

The gravity of the case was spelt out by Justice Silberg, the Deputy President of the Court. He stated:

The issue facing us in this debate is of greater importance and significance than anything debated in this court since the moment it became an Israeli court. Despite being, from the concrete aspect, a personal issue, small and limited in nature, the discussion of this

problem and its ideological components will require piercing introspection, penetrating the depths of our being as a people, our character as a nation, and our Zionist-political role in reviving this land.

I admit unashamedly that had I been asked beforehand, before the appeal was filed, if the problem involved could be fully exhausted in our court, I would have answered No with a capital N. This is, in the Talmudic phrase, “a shoe too large for the foot”, for the foot of us all, even for the collective foot of all the inhabitants of this state. For the appeal is directed not to the Israeli government of the state of Israel, but to the entire Jewish people, the Jewish nation as a whole, and only a representative body, all-Jewish, world-wide, could – if it existed – be capable of confronting this issue. But the die has been cast, the appeal filed, and we are no longer free to rid ourselves of it. We are therefore obliged to consider it, to plumb its depths, and ascertain, as best as we can, the position of Judaism on the issue in this case.

Before entering the core of this debate I wish to state publicly that I have no intention of burying the problem under a pile of procedural, formal instructions pertaining to the Population Registration Law of 1965 or 1967. It could be that, by digging in behind this or that paragraph of the law, we could, without too much difficulty, decide for or against this appeal. But I shall not proceed in this way, though it would be easy, since it is not this, not the solution of the problem of the Shalit family, that is our main concern in this trial. The problem, in its full fearsomeness and gravity is: what is the meaning of the term “Jew”, and can a person belong to the Jewish people without belonging at the same time to the Jewish religion? This problem concerns our soul and has to be fully resolved.

The question, briefly, is whether there is any other criterion, other than the criterion of religious law, to determine the national identity of a Jew?

. . . We have to decide whether the first respondent has to register them [the children] as Jews by nationality only because their parents – the father and the mother – consider themselves to be Jews and intend to educate their children in the spirit of Israeli Judaism according to the meaning and content which they attribute to this abstract concept.

. . . Here I wish to digress a little to remove a query staring us in the face and preventing us from proceeding with the clarification of the issue. Many people ask if this court has forgotten what it ruled in the Rufeisen case (case 72, in 1962). It was in that case that the court preferred a secular criterion to the religious one, justifying its decision by the argument that the Law of Return discussed in that case is a secular law. Why then do we not do so in this case, since the Population

Registration Law is also a secular law?

My answer is that this problem does not worry me at all, because that case differs from this one, and a somewhat deeper consideration of both cases will solve the problem. In the case of Rufeisen, or Brother Daniel, we had an extreme and remarkable case of an eccentric Jew who had converted to Christianity and become a priest, and who insisted that he be registered as a Jew. Towards such an apostate there are indeed, surprisingly, two contradictory views: the religious one, which considers him a Jew in spite of everything, and the ordinary view of the common person – even if he is religious and abides by religious law – which considers him in daily life as a complete Gentile, and even calls him so. As the law which used the term “Jew” was a secular law, and its creator was the Knesset which “speaks the ordinary language”, we accepted the popular, secular meaning of the term and decided that an apostate could not enjoy the privileges of the Law of Return. In the case before us the situation is different. Here we are not concerned to interpret the term “Jew”, but the term “nationality”, and the question under discussion is whether the son of a Jewish father and an alien mother can, under the entry for “nationality”, write “Jew”. If our investigation concludes that there is no general, effective definition of the term “Jew” apart from that used in religious law, we shall have to adopt the religious criterion, despite the fact that the law requiring the registration of nationality is also a secular law.

Thus we return to the point mentioned earlier. We are offered, as guidelines, two different criteria: one, which the appellants uphold, is the criterion of inner identification, to be called here “the subjective criterion”, the other, upheld by the legal adviser [to the government] is the criterion of religious law, to be called here “the objective criterion”. We have to weigh one against the other, without haste, and without any preconceptions. When I say without preconceptions I mean without prejudices, but I do not mean that we must exclude from consideration the fact that the criterion of religious law is “a very ancient conception” in time, and is backed by a long history of several thousand years. Even a historian who does not accept the sayings of the sages. . . has to admit – unless he is an ignorant simpleton – that the religious ruling, defining the child by the mother’s origin, has existed in Judaism since the time of Ezra, i.e. since the 5th century BC. . . Such antiquity certainly deserves to be considered as an asset in the balance sheet of religious law.

The problem of the quality and nature of the concept of nation and nationality is an extremely difficult and complicated issue. A lot of ink has been spilt, and many pens broken, over this issue, and yet we have no clear-cut, unambiguous definition of this controversial concept. . .

The unsolved problem is: what is that quality which binds millions of people into a single national unit? Some say that the feeling of national identity is a basic, monolithic feeling which cannot be explained by other concepts, just as the colour green cannot be explained by stating its wavelength or frequency. But luckily this problem is not raised by the case before us. Here both sides agree that the Jews constitute a people and the question is only how, and according to what criteria, one can identify its individual members.

Due to the exclusive status of the Jews in the world, due to the fact that we are always so different from others, whether for better, as our few friends say, or for worse, as our many enemies insist . . . it is very difficult to deny to Judaism the character of a people, or nation. Incidentally, the words 'people' and 'nation' are synonymous in Hebrew and have the same meaning.

The way has now been cleared for the consideration of the issue before us, namely what criterion should the court adopt to decide the Jewish national identity of a person? The objective, accepted criterion of Jewish religious law, which considers a Jewish mother or conversion as the exclusive criterion, or the subjective criterion chosen by the appellants, which considers the person's attachment to the Jewish-Israeli culture and its values as the mark of a national Jew? The appellants' children were, at the time of the appeal, four-year-old Oren and two-year-old Galiah, who, "though not of Moses' (or any other) faith, have a Jewish-Israeli attachment, and are brought up in this spirit" (paragraph 5 of the appeal).

Therefore they have to be registered, in the appellants' view, as Jews.

It is true that, had I desired to spare myself the headache caused us by this appeal, I would have rejected it by stating that we have no proof of what the children themselves, Oren and Galiah, will think when the time comes for them to choose their future cultural attachment. The appellants are the parents and we may trust what they say about the education of the children, but – and this is the main thing – there is no guarantee of the success of that education and its perpetuation . . .

Perhaps they will one day grow tired of the synthetic Judaism their parents feed them with and will prefer to become completely "Gentile", or prefer Canaanism, or the modern cosmopolitanism of the New Left? Can this shaky foundation serve us as an edifice for the national identity of these "mini-minors"?

. . . But not for this reason shall I reject the appeal. Rejection on such grounds is useless and will not solve the problem. Tomorrow we might face grown-up, bearded appellants, children of a Jewish father and a

Gentile mother, who will argue for themselves what the appellants here have argued on their children's behalf. We have to drink this cup of poison to the bitter end, without seeking special reasons applying only to the case of the Shalit family. We must deal with the appeal as if presented by Oren and Galiah themselves with all the arguments now before us.

But even this fiction or "distortion" cannot serve to uphold the appellants' case, since the criterion they propose – "inner, emotional and rational attachment to the Israeli-Jewish culture and its values" – is useless for unravelling the mystery of nationalism, of minors and adults, simpletons and *savants*, as will be explained in the following paragraphs.

The state of Israel does not contain the majority of the Jewish people. At least four-fifths of it – some 10 million out of 13 million – live abroad, and there are two countries, Russia and the USA, with a Jewish population larger than that in Israel. If there is any hallmark characterizing the Jewish person it ought to be one shared by the American Jew, the Russian Jew, the Scandinavian Jew, and the Yemeni Jew, because the nation whose hallmark we are seeking is not the small local Israeli community, which – as a nation – does not exist at all, but the great Jewish nation, with 13 million individuals dispersed in every country of the world, including Israel.

I have not ignored, of course, the tremendous effect of the creation of the state, or the identification with it, which Israel has awakened among Jews in dispersal. I know, and everyone knows, that the 1967 war and its aftermath have made Israel, the state and the people, the major concern of every Jew wherever he may be. Even the "silent Jewry" rotting in the countries of the eastern bloc have lately begun "to make their silence heard loudly" . . . Someone may ask: considering all this, will it not be true to say that, from now on, this state will "set the tone" throughout the Jewish world, and that Israeli-Jewish nationality is, *ipso facto*, Jewish nationality?

My answer to this is a double no.

(1) There is no, or more precisely there is still no, Israeli-Jewish nationality in existence, and if it does exist it is not necessarily a secular nationality.

(2) Even if such a secular nationality existed today, it would not be identical with the nationality registered in the Population Register.

As for the first point, the state of Israel was designed to be a state of immigration, the ingathering of the exiles. This was its main purpose according to the Declaration of Independence, and without it it cannot last in this ocean of hostility surrounding us. At the beginning, immediately after the creation of the state, massive and urgent

“immigration of misery” started, and drained the diaspora of the Arab and Islamic world almost completely, enriching the [Jewish] population of this land by three-quarters of a million. Later the rate of immigration declined. It varied in size for some 16 or 17 years, and brought into the country some half a million people.

The 1967 war brought with it the traumatic experience of the sudden meeting between the people and the land. Since then a new wave of immigration has loomed on the horizon, this time not from lands of misery, but from the affluent countries.

The immigration we expect today will also be an “immigration out of misery”, but this misery is not the economic, physical, degenerating kind of misery but the “misery of affluence”, the mental, spiritual misery which every Jew who is not totally assimilated feels in a foreign environment. This will be an immigration of people with considerable spiritual experience, who will bring with them education, morality, culture, and knowledge, and who with all these attributes will influence the character and qualities of the people in Zion, and shape the spiritual image of the new Israeli Jew.

I can see that day of that immigration. I can see it even though it hasn't come. It is not imminent, but it will surely come, and though it lingers we shall await it, for it is the prime goal, the foremost and all-inclusive aim of our Zionist and religious faith. Without it there is no purpose and no point to our suffering in this country. For the time being, and for some time to come, we do not know where the reserve of future immigration is, whence it will come, what countries and what circles will feed it, so that today we cannot even predict its image and character, the views and attitudes, of the future Jew in our country.

Even if we turn our eyes not to the desired future but to the existing present, we cannot conjure up the character and image of the Israeli-Jewish nationality as described by the appellants.

The appellants have erred in two points:

(1) They ignore completely, and without justification, the educated religious younger generation, who have a respectable status in Israeli society and exert a considerable influence on beliefs and opinions in Israel. Gone are the days when lack of belief was a significant sign of enlightenment. An era has started in which science will not displace faith.

(2) The appellants also fail to understand the “free” younger generation and do not fully grasp their world view. In particular, they do not understand and appreciate the “shift to the right” which has occurred amongst young people since the 1967 war. The two young appellants [the parents] represent – so they think – the world view of

secular young people in Israel, by distancing themselves from any trace of tradition and religion. They did circumcise their own son, but not as an act of Judaization (heaven forbid!) but only from convenience.

In this view, they are, with all due respect, wrong. This is not how Israel's young people act. They do not indulge in exercises of rigid atheism, petty and insistent, and do not commit apostasy out of spite. And the fact that our young people do not, for the most part, observe the religious teachings and instructions does not mean that they are spitefully anti-Jewish, or breakers of the Covenant, or Hellenists.¹

Something happened in June 1967 – an event occurred in Israel, amidst the rushing sound of history, during the storm of a cruel war, a sudden meeting occurred between the nation and the land. This significant event could not pass without leaving deep marks on the hearts of our young fighters. With the liberation of Jerusalem they felt for the first time “not the Israeliness but the Jewishness of the nation” (*Siah Lokhamim*, p. 163²) and it is not their fault that their commanders and educators failed to stir “the embers glowing deep in their heart” (op. cit., p. 69). Let us take note, in parenthesis, of the apt comment of one of the soldiers, that the radio broadcast of 7 June, announcing the conquest of the Wall,³ deserves our thanks “for clarifying to us suddenly how silly was the hair-splitting dispute about ‘who is a Jew’” (op. cit., 236).

The ember is not extinguished, its heat is still there, it still glows. Its warmth is fed not only by the shock of the experience of meeting but also by the shattering of alien idols. One of the great idols shattered was the wretched and one-sided flirtation with the dominant ideologies of the eastern bloc. With the shattering and smashing of this gigantic idol, many other illusions evaporated and disappeared. The result was that we were on our own, and we had to fight on our own. And when they stood alone in the battle against a hostile – or at best indifferent – world, our young fighters realized that Israel had no friends but the Jews, and that friendship required cultivation, that the friend must be understood, attracted, loved. Hence the urge to return to ourselves, the urge glowing in the heart of our [atheist] “freethinking” young people for more than two years, because some of them suffer from a sudden inner vacuum, and the vacuum must be filled through the great shattering of idols. To say that our young people have lost all attachment to the traditions of our ancestors is tasteless, shallow, libellous, and insulting; the opposite is true, and the traditions they are following relate, for the most part, to religious values and symbols. The truth is that those who misunderstand our young people are also present in the religious camp. Let us hope that this misconception will not cost them

dearly.

These traditions of our ancestors which all or most of us are attached to, to a greater or lesser extent, are among the cornerstones of our right to inherit and settle this land. We were exiled from the land 1,900 years ago, but we were not absent from it even for a day. We thought of it incessantly, day and night; all our concerns were in it “from the beginning of the year to its end”. Our spiritual presence in this land was much more intensive than the physical presence of all other peoples and tribes – Romans, Greeks, Crusaders, Persians, Tartars, Mamelukes, Turks and Arabs – who ruled or inhabited it during the 19 centuries after the Destruction. We prayed – in the diaspora – for “dew and rain” not during the rainy season in Poland or Ukraine, but during the rainy season in the land of Israel . . . The religious sages sought the “International Dateline” in the vicinity of Jerusalem (see *The Crescent Basin* by Rabbi Zimmerman, 2nd edition, pp.3-25).

Anyone who separates Jewish nationalism from its religious foundations injures the core of our political claim to the land of Israel. Such a separation is tantamount to treason.

As for the second point which I mentioned, its proof is very simple. Any Jew who arrives in the country, particularly if he enters on the basis of the Law of Return, declares on leaving the ship, or plane, that his nationality is Jewish. At that point in time he most certainly has not yet managed to “assimilate” into secular Israeli-Jewish nationality, whose existence is claimed by the appellants. Hence the name “Jew” in the entry for “nationality” in the Population Register must also apply to a Jew whose nationality is not necessarily identical with the one conjured up by the appellants.

The destructive results of the appellants’ criterion are clear and serious. Whoever says that a person can belong to the Jewish nation without belonging simultaneously to the Jewish religion will be forced to go on to say, whether he likes it or not, that a Christian or Muslim, if he has a genuine attachment to the Israeli-Jewish culture and its values, can also demand to be registered as a member of the Jewish nation. It ought to be said that the appellants themselves have not demanded that their thesis be extended to members of other religions. They don’t need to, hence they limited their thesis to the non-religious, or to children whose father at least is Jewish. But this concession cannot help us much. Other appellants will come, total Gentiles, with Christian or Muslim fathers or mothers, and will demand that the “Shalit precedent” be applied to them. And they will be right. There is no reason to distinguish between such cases. Whoever says A in this matter must also say B, and if Jewish religious affiliation is not required for the purpose

of Jewish nationality, then Christian religious affiliation cannot be a hindrance.

Let us consider the practical results of such a verdict with regard to the Jews of the diaspora. Two diseases devour like a cancer the body of the nation in the lands of dispersal: conversion to other faiths, and mixed marriages. A Jew who has converted to Christianity or Islam cannot, of course, be accepted by the Jewish community, and if he was accepted before conversion, he leaves or is expelled. This serves as a defence against conversion, as any Jew abroad aspires to be an active, respectable member of his community.

If this court rules that a Christian, Muslim, or Buddhist can under certain circumstances be registered as a member of the Jewish nation, the floodgates will open, and a way to rehabilitate these apostates will emerge, namely: immigrate to Israel, register here as a Jew by nationality, without concealing the conversion, and present this document whenever required. Even if we are not worried about such a practical danger, the sheer possibility of an apostate registering here as a Jew will prevent the communities abroad from rejecting or expelling apostates. Thus one demolishes the structure of the Jewish communities, which are perhaps our sole remaining lifeline in the diaspora.

This is the place to point out the fact known to all or most of us: in North American Jewry a non-Jew cannot become a Jew unless he undergoes a process of conversion. This is the case in the orthodox community, the conservative community and even in the reform community, as stated in the Rabbi's Manual (Cincinnati, 1946, p.300 ff).

One question directed to the convert is: "Do you promise to cast in your lot with the people of Israel amid all circumstances and conditions?"

And the document given him by the presiding rabbi states that so-and-so, son of so-and-so, "having come before me . . . with the express desire of joining the Jewish religion and having declared . . . acceptance of the principles, doctrines, and institutions of Judaism, etc." It is irrelevant to our case what they consider the principles and doctrines of the Jewish religion to be. What matters is that even the free reform community recognizes that no one can join the Jewish nation without accepting the Jewish religion – that covenant between religion and nationality made more than two thousand years ago, when the Moabite Ruth told her mother-in-law Naomi: "your people is my people and your God my God" (Ruth, 1, verse 16); this, when transferred to Israel, is the religious criterion.

The consideration of the possible influence of this issue on diaspora Jewry plays some role even in the appellants' argument. But they consider, not the Jewry of the free world, but the Jewry "behind the curtain". The religious criterion will, if accepted – so the appellants argue – alienate Russian Jewry, should they, as we want, see the "iron curtain" rise and be allowed to leave, or be expelled, to Israel, since these Jews, cut off from their nation for over 50 years, have assimilated amongst many men and women who are not of Jewish origin and many of whom cannot be considered as Jews by the religious criterion. I do not ignore this argument, but I cannot give it much weight. For two reasons:

(1) There is a distinction to be drawn. The immigration from the free world is an experiment which has been carried out, a fact, a reality – it is immigration of Jews whose nature and desires are known to us. The immigration from behind the [iron] curtain is a mere vision, a hope, a dream, a distant prospect, and we cannot, we are forbidden to conduct our life in this land on this assumption. Should the miracle occur and the Jews of the Soviet Union wish, and be allowed, to immigrate en masse to the state of Israel, that in itself will prove the strength of the link binding them to Jewish tradition; hence I do not hold the opinion that their immigration would mitigate against the use of the religious criterion. The content of the emotional and moving letter from the Georgian Jews to the UN Committee for Human Rights shows us that a religious-national attitude to the state of Israel on the part of Jews who have lived for decades under the boot of communist rule in the USSR is still possible.

(2) Second, and this is the main thing, I firmly believe that, should large-scale immigration from the communist countries really start – immigration which could determine our fate here, for good or ill – there will be wise leaders who will use all their authority to facilitate the absorption, into the land and amongst the people, of the lost tribe from Russia. The ties of religious law have always held the people together but without strangling them. The sabbath is, as everyone knows, one of the holiest values of Judaism, outweighing all other religious instructions . . . yet the Talmud says: "Keep the Sabbath; it is given to you, you are not given to it." The most profound meaning of this wonderful saying is that religion is the servant of the people, not its master. If only Rabbi Kook were alive. Only he and his followers were, and are, capable of giving this generation the religious teaching it needs, the [religious] "laws of the state".

Let me emphasize that I have not ignored the problem of non-recognition (by the rabbinical courts) of the mixed marriages arranged

by the “communist immigrants” in their countries of abode. But this problem is not relevant to our case, and will not be solved whether we accept the appeal or reject it. One of the arguments used by the appellants is that acceptance of their appeal does not contradict the law and should Oren and Galiah, in due course, wish to marry a Jewish spouse they will have to undergo – despite being registered as Jews – a religious process of conversion to Judaism. In short, the non-recognition of mixed marriages by rabbinical courts is based on an existing Israeli law, and cannot be used as an argument for or against the present case.

The religious test is a simple and easy test to decide the nationality of the Jew. This test is clear-cut and can be applied to any Jew, whether he is from north Iceland or south Yemen, whether he is righteous or sinful. It seems paradoxical, yet if we observe it closely we shall see that Judaism acted with great justice and wisdom towards its sons by requiring from them – in order to be named – neither a belief of the heart nor the execution of religious instructions. Thereby it prevented departure from Judaism and prevented a final, total breakaway of the individual from the community. Otherwise the nation would have disappeared (heaven forbid) during an “entirely guilty generation” which is one of the two alternative generations in which the Son of David – the redeeming Messiah – will appear.

One very strange argument has been levelled against the use of the religious criterion, namely that this criterion – heaven forbid – forces us “to use concepts taken from the Nazi dictionary”. I would not have answered such a vulgar argument were it not for the many souls it wins among the perverse Jewish New Left in the universities on the west coast of America. A Jew accusing his people of Nazism – is there a greater masochistic pleasure than this?

Clearly, to equate the Jewish Mother test employed by religious law with the despicable, insulting Jewish Grandmother test employed by Nazi doctrine is an unparalleled absurdity. The evil of the Nazi doctrine is not that it recognized the existence of different races; its evil is in denying the right of life and existence to the non-Aryan, inferior races. The Jewish religion does not at all recognize the concept of “inferior race”, as can be seen from the fact that a Gentile who has converted to Judaism is considered a “son of the Jewish nation” even if he is a descendant of Blacks or Indians . . .

But there is a strong, negative connection between the acts of the Nazis and the appellants’ views, a connection they ought to consider. The Nazis exterminated six million Jews, mostly religious Jews, who chanted “I believe” while marching to the gas chambers and the

crematoria. These victims – we make bold to say in our egocentrism – did not die in vain, for by their death they ordered us to live, and with their suffering and misery they brought us the state of Israel. If that is so, where is that grain of respect for the holy values of those dead Jews? Could an extremist-secular state of Gentile Jews, as envisaged by the appellants, be the “*Morituri te salutant, Patria*” which those martyrs thought of in their last moments?

Finally, a reply to one, very impressive, “show stealing” argument^{*} namely, how is it that the son of a Jewish mother who joins the saboteurs of the PLO,^{*} and desires wholeheartedly to destroy Israel, is to be considered a Jew by nationality, whereas one born to a non-Jewish mother, who has spilt his blood for this country, and is willing to give his life for it, is to be considered a Gentile, an alien, a non-Jew? Can it be? Where is the simple, healthy logic, I wonder.

My reply to this “impressive” argument is: the son of the Jewish mother who joins the PLO saboteurs is a despicable and utterly wicked Jew, and there are many like him in the circles of the Jewish New Left. The appellants’ children are, in contrast, nice poor non-Jewish children who, due to their parents’ stubborn opposition to religion, have not acquired an entry ticket to the Jewish nation. Judaism is not a prize given to someone, like an honorary degree, for services rendered. Judaism is a religio-legal title, applied or endowed only under definite conditions, and the appellants’ children, for certain reasons, have not qualified under these conditions . . .

Had the appellants not been such fanatical atheists they could have arranged the process of religious conversion to Judaism calmly and peacefully, without in any way compromising their atheist convictions. I assume that what they find difficult to overcome is not the act of circumcision – since Oren was circumcised (though not in a ceremony of conversion, but only for convenience). They were principally opposed to obeying religious instructions, which they considered a betrayal of their principles. But they, the learned appellants, failed to realize that, according to religious law, “a minor convert is baptised by the decision of a [religious] court”. “By the decision of a [religious] court” means solely by decision of a court, without demanding from the minor or his parents a declaration of acceptance of religious law; a court arranges the baptism, the circumcision and the rest; acceptance of religious instructions is not obligatory, and when it is impossible it is abandoned. If the parents, even the mother alone, brings him to court, he will be converted even if they are not converted with him . . .

^{*}Shortly before this speech, a Palestinian, son of a Jewish mother and Arab father, was sentenced to prison for being an active member of the Palestine Liberation Organization.

But the most interesting thing about conversion of minors by decision of court is that the convert may, when grown up, protest and renounce his conversion. Remaining a Jew after growing up depends on his free will: if he wants to he remains a Jew; if he wants to he says, I cannot remain a convert, and the conversion is undone. In other words, had the appellants converted their children while minors by decision of court, they would not have sealed their fate for ever, but would have left it to their free will after growing up, and no one could have accused them of inflicting spiritual harm on the children's souls.

As I said earlier, had the appellants been a little less extreme, and a little more flexible and learned, they could have settled the matter of the nationality and religion of their children without creating a sensation and without raising a burning issue capable of dividing the Jewish people at a time when it has to fight, on the battlefield or in the [UN] Security Council, for its physical existence in the world.

To seek a new criterion for our national identity constitutes a total negation of the continued existence of the Jewish people. Its meaning is: it's all over! There is no Zionism any more, no tradition, no history, there is only an aspiration to establish a new state, without a past and a tradition, on the eastern shores of the Mediterranean. Not for this did we take upon ourselves the great mission, and the very heavy burden, of spreading Zionism among Jews everywhere – not for the creation of a small, poor, grey, mute democracy, which has nothing of its own to say. I said in the court's verdict 72/62 [i.e. the Rufeisen case]:

“Only a fool can imagine that we are creating a new culture. It is too late. A people whose age is almost as old as humanity's cannot begain *abo ovo*, and our new culture in this land can be at best only a new edition of the culture of the past.”

And the culture of the past is, first and foremost, our national identity, as it has been determined for at least 2,400 years.

The Order Nisi should be annulled and the appeal rejected.

This statement, by the Deputy President of the Supreme Court in Israel, sitting as a High Court of Justice, expresses the view held by many Jews, including many non-religious ones. It is a view which utilizes the Jewish religion to serve as the moral and ideological justification of secular Zionism. Justice Silberg is not an orthodox Jew, he is a Zionist. An orthodox Jew will accept Justice Silberg's verdict, but not its justification. From a strictly religious point of view it is sacrilege to say that the Jewish religion given by God is an instrument for the preservation of the Jewish people, that it is something which has a worldly purpose. Instead, the religious view considers the Jewish people as an instrument for demonstrating God's only true religion. The religion and the nation, though closely

linked together in Judaism, are not equal partners. For a religious Jew the nation is subordinate to the religion; for a Zionist the religion is subordinate to the nation. This difference constitutes what Justice Silberg called “the burning issue capable of dividing the Jewish people” and which will, inevitably, divide it in the not too distant future. The existence of the secular Jewish state merely clarifies, and accelerates, this division by demonstrating that Zionism – whatever it may turn out to be – is not Judaism. The problem itself existed before the state of Israel, and will exist despite the state of Israel. The belief that Israel could – and would – resolve the problem was erroneous, but it took some decades for this to be realized.

Justice Landau, in his verdict, dwelt on this issue:

. . . We are used to speaking of two camps in our state, divided by their opinions about the relation between the state and religion, between secular law and religious law: the free-thinking camp and the religious camp. But things are not that simple, because the spectrum of beliefs and opinions is more colourful. True, there are two extremes, at the one end the orthodox – and I don’t mean the [Neturei Karta] sect of state-haters, who don’t recognize it *de jure*, with whom we have no dialogue on issues of state and religion – I mean orthodox Jews loyal to the state. For them our problem is no problem, since their religious belief obliges them to accept the criteria of religious law on a person’s Jewishness. This is the view expressed in the verdict of my honourable colleague, Justice Kister, on the case before us. At the other extreme are the complete free-thinkers. For them religious law is a relic of the past, and the total separation of religion from the state, which they uphold, also requires the separation of religion from the concept of nationality which is taking shape in the state of Israel. This view was explained by my honourable colleague, Justice Cohen, in his verdict on the Rufeisen case (case 72/62). But between these extremes there are those with more moderate views. I have not counted them, for this can only be done by a census, but I’m not mistaken in saying that this too is a large camp within our community. Amongst them there are some free-thinkers whose views on religion are not motivated by spite, but who view with concern the religious fanaticism which is trying to impose its will on the entire state. They are outraged by such phenomena as the harmful attempt of the Chief Rabbinate to exert pressure on the judges of this court while the present appeal is still pending, to such an extent that they feel the need to take an extreme anti-religious position if only to repeal theocratic tendencies. And there is the large camp of the non-religious, who do not obey religious instructions, but recognize the uniqueness of the Jewish people, the close traditional link between the people of Israel and its religion, and consider religious law as a national

asset, and due to anxiety for the unity of the people in Israel and the diaspora do not consider it possible or permissible for our generation to cut itself off from all this and cast away the rich spiritual heritage which it has retained throughout the millennia of its existence. This is the opinion expressed with all its ideological significance in the verdict of my honourable colleague, the Deputy President, on the case before us, and it is also the opinion defended by the legal adviser to the government in his reply to the appeal.

In the Rufeisen case we enquired about the attitude of the majority of our people on the question of whether a Jew who had converted to Christianity could still be considered a Jew by nationality, and we had no difficulties in answering this. But what reply can we expect from the ordinary Jew to the question which perplexes us this time? The personality of that typical Jew will split immediately, and the replies will differ according to the opinions of those questioned. We have no ideological unity on such fundamental issues, and the strength of our democratic system stems from the fact that it permits very diverse views to co-exist and struggle for the things which unite everyone, and first and foremost for the continued material and spiritual existence of the people. This struggle for survival requires that we do not exacerbate ideological differences stemming from the fanatical and argumentative motives which have always marked our people, but search constantly for a tolerable *modus vivendi*, through necessary compromise. David Ben-Gurion expressed this desire in classic form when he wrote in 1964:

“The talent for compromise is an essential condition for the existence of every community, organization, and state. Even a stable and established state requires a talent for compromise in matters that do not demand immediate, final decision. The state of Israel requires it much more. It should not hurry through a decision that could badly impair its ability to merge the [immigrants from the] diaspora, and to cultivate the qualities of national unity. Not all debates and decisions can or should be avoided, and no abstract rules can define the areas of decision or of compromise, but clearly there is no need nowadays to decide on matters of opinion and belief which will go on dividing us for a long time. There is an earlier and a later in history, and one must distinguish between the essential and the marginal, the permanent and the temporary, the transient and the lasting. A non-compromising controversy about the status of religion in the state, or attempts to impose [opinions] in matters of religion, can become explosive subjects within the nation, which – at best – will delay the process of internal cohesion, which is the essential need and preliminary condition for the existence of the

state.”

It was in this spirit, and out of this concern, that we took an extraordinary step in this extraordinary case and suggested to the government that it avoid the controversy in the only possible way: by omitting the very source of the controversy, i.e. the entry for “nationality” in the registration form. We did not ignore the possible objections to this proposal – theoretical, principled, and practical – and yet we concluded that it should be accepted, to avoid worse consequences. The government rejected our proposal out of hand, and what we feared followed: controversy and divisiveness entered this court. No one will gain anything from it, but the severe public damage involved in this is obvious.

What can a court contribute to the solution of such an ideological controversy which divides the community? The answer is: nothing. Anyone who expects a redeeming word from the judges is naively deluding himself.

The book of state laws offers no hint as to how to interpret the term “Jew”, apart from the Rabbinical Courts Law (Marriage and Divorce, 1953), but obviously a rabbinical court will interpret the term “Jew” according to religious law. No one appearing before this court has claimed that this definition should also apply to the registration of nationality in the population registration law. In the absence of guidance in the law, what can a judge do to guide himself when a matter of opinion and belief comes before him? Let me quote my comment in the verdict of Zim against Maziar (461/62, p.1335). I referred there, in a different context, to notions of “putting the world to rights” in the interpretation of contracts – ideas whose source is to be found not merely in positive jurisdiction, but in basic notions of justice and morality and the changing needs of the social and economic system.

I said that this does not mean the court can rule according to the judge’s private opinion of what he considers good and useful in these matters of principle. Instead he has to be a faithful interpreter of the consensus among the enlightened members of the community in which he resides.

. . . Since there is still no common agreement, not even among the majority of our community, on these fundamental issues, the “trumpet” can only sound dissonances, and the sad result is that the court apparently leaves its proper place, above the controversies dividing the community, and its judges descend into the arena; as my learned colleague, the Deputy President, said in another case, the court becomes a house of judges who take sides in a public controversy. My opinion is that we must do our best to avoid being dragged into this

situation. Of course, each of us has his personal opinion on matters of prime importance, but let us not consider the judge who withholds his opinion while on the throne of justice as one who is shirking a decision. It is my conviction that it is our duty to exercise restraint in these matters. Does anyone seriously believe that nine experienced judges can resolve such an ideological-political issue by a majority vote, or even unanimously, when the famous appeal of the government to dozens of Jewish sages in 1958 resolved nothing?

. . . A legal solution to this political problem does not exist. Its solution by verdict of the court is an illusion. However, a temporary political solution has been reached, for the time being, in the Knesset debates, and the expressed will of the majority in the Knesset was clear and was reflected in what it did, and refrained from doing, with regard to the guidelines issued by the Ministry of the Interior from time to time. There were changes and variations in these lengthy debates, and more new changes might occur in the future. That is the proper way for the expression of the nation's will through its representatives, until in due time things achieve a final formulation that will stamp its imprint on the image of the state and the nation in it. We have not been granted this yet.

The debate on the old order of 1949, mentioned by my honourable colleague, Justice Susman, was still superficial. The debaters were concerned mainly with the registration of religion. Mr Greenbaum, the Minister of Interior at the time, explained that a free-thinking person could be asked to register as non-religious. As for the registration of nationality, he replied to an interjection, quoted by my colleague: 'If he thinks that he belongs to no nation, let him be registered as: without nationality. If he thinks that he is by nationality neither Arab, nor French, nor Armenian, let it be written: without nationality. Nothing disastrous will come of this, either to the nation, or to the religion, or to the state.'

In other words, anyone who declares himself as devoid of nationality can be registered in this negative manner. Does this imply that a person can register himself, or his children, in a positive manner as a Jew according to his own definition, if by the objective definition they are not Jews? Those who uphold the view that the matter of membership of a nation should be left to the individual's subjective will have a clear answer, but to my mind one cannot interpret the words of the Minister of the Interior in this manner.

On 10 March 1958 the Minister of the Interior, Mr Bar-Yehuda, issued his guidelines for the implementation of the Population Registration Order, which stated: 'the registration clerk writes only what the registering citizen tells him to write', in other words, the

subjective approach in essence. . . . The guidelines of 10 March 1958 soon caused the resignation of Ministers Shapira and Burg from the government on 1 July 1958 (Knesset Debates, Vol.24, p.2201). In the long debate following these resignations it was mentioned that there were earlier guidelines (of 22 May 1956, and 14 May 1957) suggesting that the religion of the child of a mixed marriage should be registered according to the mother's religion, and if the parents declare a different religion, the matter should be passed on to the decision of the Population Register Office, or to the Central Office in Jerusalem. (See M.K. Shapira's words, *op.cit.*, p.2231.) This debate ended on 15 July 1958 in a Government decision stating:

'To set up a committee of three, the Prime Minister, the Minister of the Interior, and the Minister of Justice, to examine and formulate registration guidelines concerning children of mixed marriages whose parents wish to register as Jewish. The committee of three will hear the opinion of Jewish sages in Israel and abroad on this matter and will formulate registration instructions appropriate to the tradition accepted by all circles of Judaism, the free and the orthodox, of all tendencies, and to the specific circumstances of Israel as a sovereign Jewish state which guarantees freedom of conscience and religion and serves as a centre for the ingathering of the exiles.'

This decision was accepted by majority vote in the Knesset, and as a result the Prime Minister approached the Jewish sages on 27 October 1958. But in December 1958 the controversy in the Knesset flared up anew, in the long debate on the entry of Rabbi Toledano into the cabinet. From this debate we learn that the committee of three had already agreed on 21 July 1958 that:

'Clerks of the local registration office will not register by their own authority children of mixed marriages, and any such registration will be brought before the committee of three . . . All instructions on this matter (registration of children of mixed marriages) from the time the state was established are hereby annulled.'

It turns out that the guidelines of the Minister Bar-Yehuda lasted for only four months, until annulled together with all other instructions. Let it be noted that this was still while Bar-Yehuda held office as Minister of the Interior, and it was he who announced this during the Knesset meeting of 2 December 1958 (Knesset debates, Vo.25, p.425). A day later Mr Ben-Gurion, the Prime Minister, repeated and clarified:

(a) The committee of three exists, and will exist, until the replies of the Jewish sages from Israel and abroad are received. The committee will then formulate proposals to the cabinet, and the cabinet will

debate and decide.

(b) All guidelines on registration of the children of mixed marriages since the state was established are annulled, and we stand, on this matter, facing a clean slate. Only after a renewed debate and clarification will the matter be decided upon. (Knesset debates, Vol. 25, p. 432)

The replies of the sages were received during 1959: it can be said that the attempt to 'square the circle' (i.e. to formulate 'registration instructions appropriate to the tradition accepted by all circles of Judaism, the free and the orthodox, of all tendencies, and to the specific circumstances of Israel as a sovereign Jewish state which guarantees freedom of conscience and religion and serves as a centre for the 'ingathering of exiles') failed. The question of the guidelines ended, for the time being, with the guidelines of 1 January 1960. The legal adviser (to the cabinet) informed us that they had been issued by the Minister of the Interior, after being authorized by the cabinet.

. . . My honourable colleague, Justice Susman, quoted from the book of Mr Eliezer Goldman, member of Kibbutz Sdeh-Eliahu. Mr Goldman says further on, following the quotation referred to by my honourable colleague, on page 68: 'However, behind this seemingly technical matter lurked the burning question of what was to constitute Jewish nationality.' This is also the way I see the matter. Indeed, how can one belittle the political and social significance of the registration, which is no less important than the narrow technical aspect, when the Knesset debated this issue emotionally in long and bitter debates? It can be asked: if this is a trifle, why has the appellant defended it so stubbornly, and why has this case generated such general concern in all sections of the community, in Israel and also in diaspora Jewry? Is the entire nation mistaken in understanding the importance of the formula which has become a bone of contention among adversaries?

. . . Here is, in my humble opinion, the crux of the matter: we have to recognize that for that part of the community in this state which considers the religious criteria as binding, being Jewish depends exclusively on objective criteria – that is, being a child of a Jewish mother. For that part of the community, to declare a child of a non-Jewish mother to be Jewish is factually false . . . and it is not only the religious community that upholds, uncompromisingly, this view; there is an additional part of the community which does not uphold religion, but which accepts this objective criterion as a historical-traditional test, for their own reasons . . . Although this is the religious criterion it has no inherently religious content, but is a simple rule – some might say a 'vulgar' rule – of biological origin according to objective criteria since

mater semper certa est. There is one group in our community, a group to which the appellant belongs, which utterly rejects this criterion. But – and here I repeat the basic principle of judicial neutrality in matters of world-views in dispute – who appointed us to impose our private opinion in these matters on the community, or, more correctly, each one of us his own opinion, without any judicial justification? The very starting point of my colleague, that belonging to the Jewish nation is a matter for the self-definition of the individual, is in dispute, and consists of a typical *petitio principii*, i.e. a vicious circle based on an assumption which is far from being accepted by everyone. It was different in the Rufeisen case where the majority could base their verdict on the accepted opinions of the enlightened community within which we live, that is, on the feelings of the vast majority of Jews today – or, in the words of my learned colleague Justice Berenson, on what is ‘routine for the people’. This, most certainly, cannot be said about the appellant and those who think like him.

. . . To abstain from ruling, which we must accept in this case, is not the result of the non-judicial nature of the issue, but results from our inability to find a legal solution to the problem in any of the legal sources by which we are inspired. As I explained, the opinions held by the enlightened [sector of the] community are also a valid source for our verdict, when we have no other source. More than once has this court drawn on that source for our verdict, when we have no other source. More than once has this court drawn on that source in verdicts that have become milestones in its development, and we shall certainly have many occasions to do so in the future. But this time this source has failed too, because of the genuine controversy taking place in the community. Despite this there can be cases where the judge sees himself forced to give his private answer to a matter of world-view which is in dispute. But this is not the case before us. Here we are asked to state our opinion on the guidelines issued by the Minister of the Interior as an authorized administrative act. Anyone contesting these guidelines must convince the court that they are defective. The appellant has not fulfilled this duty.

Justice Landau did not abstain or compromise, as he had advocated. He rejected the appeal.

Justice Susman pointed out certain aspects of the logical tangle into which the court had been dragged.

. . . The verdict of this court in the Rufeisen case negates the principle applied by the respondents [i.e. the authorities] to the Population Register Law. Rufeisen did not only ask for an immigrant’s permit by

virtue of the Law of Return, he also asked for an identity card according to paragraph 7 of the order, and in this card he asked that in the nationality entry it should state: Jew. (Verdict 72/62, p.2431.) There is no doubt that according to the Jewish religion he is considered a Jew despite his conversion to Christianity, according to the rule: 'A sinning Jew is still a Jew', as was stated by this court in that case. If that is so, why was he not registered in the population register as a Jew, as he requested, even if he had not entered the country by virtue of the Law of Return?

Justice Silberg ordered (*op. cit.*, p.2440) that Rufeisen be [declared] devoid of nationality and the entry for 'nationality' remain unfilled. The respondents resolve this difficulty by not registering someone born a Jew if he belongs to another religion, but in this manner they deny the religious principle according to which they purport to act.

Even if there is no necessity that the term 'Jew', or any other legislative term, should have a uniform meaning in all laws, it stands to reason that the meaning of 'Jew' in the Population Registration Law will be the same as in the Law of Return, otherwise a person who has converted to Christianity will not be recognized as a Jew by paragraph 3(A) of the Law of Return, but immediately after entering – by permit – and living in Israel, he will be considered a Jew by nationality and registered as such, which is impossible.

In addition to the above two laws, the Rabbinical Courts Jurisdiction Law and the Population Registration Law, there are other laws mentioning the term 'Jew'. For example, paragraph 7(B) of the Hours of Work and Rest Law of 1951 distinguishes between Jew and non-Jew for the purposes of the weekly rest. Someone born to a Jewish mother who does not consider himself a Jew, whether he has converted to Christianity or not, requests a rest day on a Friday or a Sunday but works on a Saturday. Is his employer guilty of an offence according to paragraph 26(A) of that law?

... From the above it is clear why it is an error to ask: who is a Jew? The multiple meanings attributed to this term make it impossible to answer such a question. One can ask: who is a Jew under one particular law, or – as the court asked in the Rufeisen case – what is the meaning of the term 'Jew' in the Law of Return of 1950. In the case before us the question will be: must the respondents register the children as members of the Jewish nation according to the Population Registration Law?

... When we ask who is a Jew for the purposes of the Law of Return, which was legislated to establish the status of those returning to their land, the legislative purpose requires that someone who has cut himself off from Judaism will no longer be considered a Jew. But if the subject of

two laws is identical, or similar, *in pari materia*, as with the Law of Return and the Population Registration Law, it stands to reason that the legislator did not speak with two tongues [i.e. if the religious criterion of the Jewish mother was not applied in the Rufeisen case, it cannot be applied in the Shalit case].

. . . I mentioned before, in paragraph 9, the earlier guidelines issued on 10 March 1958 and annulled on 1 January 1960. These guidelines influenced the cabinet when it decided on 20 July 1958 that:

“A person who declares in good faith that he is a Jew, and who is not a member of another religion, will be registered as a Jew (see case 72/62 p.2450).

These guidelines were changed in 1960, apparently due to major changes in the Ministry of the Interior (see Justice Berenson’s verdict, 72/62, p.2450). In other words, had the children been born before 1960, the Ministry of the Interior would not have refused to register them as Jews, and many other people, with similar qualifications, probably registered as such between 1958 and 1960, perhaps even earlier. It is not the law that changed in 1960, but the composition of the cabinet. But the meaning of a law is fixed and cannot change due to changes in the cabinet. No one argued that the changing of the guidelines was meant to correct an error made by the cabinet. When a citizen derives the details of the registration which he – and not the registration clerk – has to declare, from the opinion of the previous cabinet and not necessarily according to the guidelines of the present one, it cannot be said that his act is unreasonable; otherwise he does not submit to the authority of the law, but to its opposite, the authority of the regime. Changes of government are political changes, but they do not justify the conclusion that what was done by the previous government has from now on lost its plausibility.

. . . To conclude:

- (1) The registration clerk has to register the statement of the person registering unless he has reasonable cause to assume that the information is incorrect.
- (2) The religious criterion, on which the registration clerk based his assumption that the information was incorrect, is not the determining criterion for the purposes of the registration of nationality.
- (3) The data on which the appellant bases his claim justifies his request, especially as he is following the guidelines laid down by the government itself, and according to which it acted until 1960.

In my opinion be heard the appeal should be upheld.

Justice Susman was motivated by his liberal views on the matter, but he

was also angered by the political manipulation of the legal code. Ben-Gurion's deals with the religious parties – using the post of Minister of the Interior, with its authority to lay down guidelines on 'who is a Jew', as bait – put the courts in an impossible situation, and outraged more than one judge. But the crisis of the legal definition of the term 'Jew' was not a result of petty politics, it was a reflection of the cultural – and existential – crisis of secular Judaism.

The last verdict to be quoted here will be that of Justice Berenson, who had rejected Rufeisen's appeal, but upheld Shalit's.

I agree with the verdict of my learned colleague Justice Susman, including his arguments and conclusions. At first I intended not to add anything. But as a result of the documents I have received from some of my honourable colleagues and of things I said in the Rufeisen case which were quoted to deny their application to the case before us, and to support a view other than the one I uphold, I consider it my duty to clarify, briefly, two things.

First, nothing has changed in the opinion I expressed on the Rufeisen case, nor in the arguments with which I supported it. Second, application of that opinion to the substance of the case before us, concerning the registration of the nationality of the appellant's children, leads me to the same conclusion as Justice Susman.

In the Rufeisen case we had to clarify whether, for the purposes of the Law of Return and the population registration, this man, who was born a Jew but converted and became a Catholic priest, could still be considered a member of the Jewish people. According to Jewish religious law the answer is positive, but all the judges agreed that it was not the Jewish religion that must guide us in the solution of that problem, and by majority vote we ruled that he could no longer be considered a member of the Jewish people with the right to get an immigrant's certificate by virtue of the Law of Return and to register in the population register as such.

In the case before us we face the same question in reverse. Can a child born in this land to a Jewish father and a non-Jewish mother, a child who under Jewish religious law is neither a Jew by religion nor by nationality, be registered in the population register at the request of his parents, who live in the country, as a member of the Jewish nation? Perhaps we should emphasize that the mother, who is of Scottish origin, and from a non-religious, pro-Zionist family, and who married the appellant in London, chose to return with him and build her family home here on the basis of national Jewish life.

In my verdict on the Rufeisen issue I based my opinion on the established view within the nation on the matter of 'who is a Jew' by

nationality. Hence I reached the opinion that by the word 'Jew' used in the Law of Return the Knesset meant a 'Jew' in the popular and not the religious sense. I also think that in the case before us the religious conception does not suit the actual reality in the state of Israel. In ancient times there was, probably, a justified anxiety that in a mixed marriage between a Jewish man and a pagan woman the children would learn from the mother her abominations and would follow her alien worship. Hence it was decreed that such children could not be Jews unless they converted, and in the days of Ezra and Nehemiah they even decreed the expulsion of alien women with their children, without the option of conversion to Judaism. Must, and can, this consideration guide us in every case today, and in the state of Israel? To my mind, no.

Mixed marriages in this country between Jews and Muslims, or between Jews and Christians, though not common, are not negligible in number. Cases of Jewish men marrying non-Jewish women are rare, but marriages of Jewish women with non-Jewish men are quite numerous. In the latter case the woman is almost always lost to the nation. She leaves her family and goes to live with her non-Jewish husband and his family. According to the Jewish religious law the children born to such couples are Jewish and, as far as I know, according to the Muslim religion they are Muslim and the society in which they live certainly considers them as members of the Arab nation. How will the registration clerk register the nationality of these children if not according to their parents' statement? Will he prefer, by his own choice, the ruling of the Jewish religion to that of the Muslim religion and of Arab society? And by what authority? Let us not forget that the law is general and applies to all religions and nations in this country, without preferring one to the other.

On the other hand, the daughter of a Jewish man and a non-Jewish woman, even if born and educated in this country as a Jew like all other Israelis, is considered – according to Jewish religious law – as non-Jewish, and if she marries a Jew and has children they will be considered as non-Jews. Even their children (the grandchildren of that Jewish man) may marry Jewish spouses in this country. The outcome? Such a grandson, if he marries a Jewish wife, remains a non-Jew but his wife and her children are considered Jewish. Conversely with such a granddaughter, if she marries a Jew, she and her children are considered non-Jews. One can imagine the chaos in such a family, where the sons of a brother and sister who have lived for generations in this country, and have lived a Jewish life in every respect, remain of different religions and nationalities merely because of the 'original sin' that one of their grandparents married a non-Jewish wife. Should the father's sin be

inflicted on the daughters, on the third and fourth generation and their daughters, even though they do not sin like their forefathers?

According to this law the leader of the saboteurs of East Jerusalem, who is born of a Jewish mother and a Muslim father and who is determined to kill, annul and destroy the state of Israel, will be considered as an ally, and a member of the Jewish people, whereas the son and daughter of a Jewish major, fighting the wars of Israel, will be considered as devoid of nationality. The mind boggles to think of such an outcome in the state of Israel.

Let the Jewish religion state what it will, the population register is not a register of the Jewish religion, but a general register of all the inhabitants in this state, of all religions and nations, and the term 'nationality' has to be interpreted according to the concepts of people in our place and time. In the Rufeisen case I have already hinted at this when I said: 'In the population register one is asked – separately – about citizenship, nationality, and religion, which indicates, apparently, that nationality and religion are separate.'

I also added that to my mind opinions and statements by various people on the subject of 'who is a Jew?' cannot help us much. The numerous attempts to provide a verbal framework for the concepts of 'nation' and 'nationality' are useless for the solution of the actual case before us. Sometimes the definition is too wide, and sometimes too narrow. The concept of 'nation' must be given a common meaning suitable to the spirit of the times and expressing the accepted view of the enlightened part of the population. In this case, the wife of a Jewish man loyal to this state, though non-Jewish by religion (or non-religious), immigrates with her husband, identifies with the Jewish people and wishes to share its destiny in the Jewish state, and they educate their children like all Israeli children. Can we refuse to recognize these children as members of the Jewish nation for registration purposes and leave them as devoid of nationality in the state of Israel?

In the great immigration in our times mixed marriages constitute quite a problem, because in most cases the wife is non-Jewish. Can we (heaven forbid) prevent their immigration, or even make those who have already immigrated emigrate in disillusion, because the Jewish religion, and in its footsteps the state, do not recognize them as members of the Jewish religion? I am worried to death about what might happen when the time comes and the gates open to the masses of the Jews from Russia who wish to immigrate and join their nation, and a large part of them face this difficult dilemma because of their non-Jewish wives. And when the great awakening of American Jewry, which we hope for, takes place, what will happen then with the mixed marriages which are a

significant part of that community? Shall we remove them and eject them from the nation?

In a symposium on the subject 'Who is a Jew? What is a Jew?', organized by a group of enlightened Jewish independent thinkers, one participant (Jacob Cohen) stated:

Our problem today is the fact that for the first time in the history of Judaism the majority of the nation, in this country and abroad, no longer accept the definition of Judaism provided by religious law.

This is not a quantitative change, which can be voted on . . . but a qualitative change.

Or, as another participant in that symposium (Joseph Bentwich) said:

A person like that (i.e. who deliberately chooses by himself to be Jewish) who wants to identify with the Jewish people, who are not a very popular people nowadays, and share its destiny, in the sense of 'your people are my people, and your god is my god', must we block the way for him just because his mother isn't Jewish? To be a Jew is not a biological matter, we are not a race. If so, should he convert?

The trouble is that our Rabbinate is very strict in admitting converts: it considers itself bound by religious law and unauthorized to modify it.

The person who said these things is not a heretic or someone remote from Jewish values. In a talk he gave on the subject of 'Contemporary Jewish society' he said:

The first thing is to recognize the fact that any person – at least any educated person – seeks some inner, mental perfection . . . and a person cannot achieve this perfection without identification – at least partial – with his past, his parents, his forefathers, the history of his people . . . every people attempts to preserve values, traditions, and customs of its own – and is even proud of them. The identification with the Jewish people, with its history, with the Jewish culture, the Bible, and the tradition – we cannot rid ourselves of these things and say that we don't need them any more.

I am afraid that in the heat of the internal debate on purely Jewish matters we forget that in the state of Israel there is a mosaic of people of other nations, communities, religions, which are included in the general legislation of the state and have nothing to do with Jewish religious law.

In such a situation can the concept of 'nationality' – which most people understand to be different from religion, as does the Population Registration Law by compelling people to register religion and nationality separately – be interpreted according to Jewish religious law? In the Rufeisen case we ruled that even for the concept 'Jew' – which is explicitly mentioned in the Law of Return – that is not the

case; nor is it the case for the purposes of the registration of 'nationality' in the population register. In this situation, can the registration clerk, or the Minister of the Interior, who issued the disputed instructions to the registration clerks, dictate to the registering person, against his will and deep conviction, a different nationality or lack of nationality from the one he innocently believes he belongs to?

When a person from the United Kingdom comes to register his nationality, can the registration clerk decide for him whether he is English, Scottish, or Welsh, according to criteria of his own? And for a Belgian person, will he instruct him whether he is Walloon or Flemish? Is it the duty of the registration clerk, who basically has the technical role of registering certain details about all the inhabitants of the country, of all religions and nations, to investigate and enquire about these complex matters on which the best sages and thinkers cannot reach a common opinion? Can he know the origin, beginning, development, transformation, unification, and division of all peoples and nations, and dictate to each his place in the entry of 'nation'? To me the answer is clear.

Incidentally, it seems that the legislator of the Population Registration Law foresaw the possibility of a difference, in some cases, between a person's nationality and religion, and took it into account by safeguarding (in paragraph 40) the laws permitting and prohibiting marriage, which are enforced by the various religious courts according to their religious laws.

To sum up: the conception held by Jewish religious law of the nationality of an inhabitant of this country cannot serve as the basis for the ruling of the civil courts in the state of Israel. The legislator did not intend this, either in the Law of Return, or in the Population Registration Law, which are both secular laws, the latter applying to all inhabitants of the land without distinction of religion or nationality. In any case, neither the registration clerk, who has a purely technical role, nor the minister in charge of fulfilling this role are the ones to decide on these matters. The clerk has to carry out the registration according to a statement given innocently, unless it is blatantly false.

Therefore the order *nisi* should be upheld.

Justice Berenson's statement sounds reasonable, but his reasoning is secular. At the root of the problem lies the fact that there simply is no secular definition of the term 'Jew' and this is then left to each individual to decide. But can the secular Jewish state, which insists on being Jewish, in law and in spirit, leave this basic definition of identity – which grants automatic right of immigration and citizenship – to the individual?

The religious definition, labelled 'objective' by some judges to indicate that it is not left to the subjective consideration of each individual, is, of course, anachronistic. A religion which imposes a group identity on infants according to the group identity of the mother (as in Judaism) or the father (as in Islam) is displaying an inner insecurity and lack of confidence in its power of conviction. Apart from the obvious logical flaw in such a recursive definition (a 'Jew' is someone born to a 'Jewish' mother, but how can one confirm the 'Jewishness' of the mother? By tracing back her lineage to the year dot? And how is one to trace lineage? What if the records are lost? Can a religious identity depend exclusively – as it must in the Jewish case – on lineage records?) The definition comes from religious law, and may have plausible historical justifications, but it is not a definition based on the religious beliefs and convictions of the person concerned. The definition imposes Jewish identity from the outside, but what good is such a definition – which also implies religious affiliation – if the person does not believe in that religion? A plausible religious definition of a 'Jew' would be: a Jew is one who upholds the Jewish religion and lives by Jewish religious law. But religious Jewry will not accept such a definition, certainly not at present, probably never.

The case of the Shalit children was not the only one of its kind. There were many similar cases in Israel and at least a dozen reached the courts. Children of non-Jewish mothers have to face enormous social and legal difficulties in Israel, particularly when it comes to matters of marriage and divorce which are – officially and legally – under the jurisdiction of rabbinical courts. Many resolve the problem by going, at least formally, through the religious procedure of conversion to Judaism. The Shalit case was unique because Ann Shalit – a convinced atheist – refused to undergo formal conversion, despite the fact that many rabbis would have been willing to perform it even while knowing that she remained a non-believer. But Ann Shalit refused to sacrifice her conscience and her integrity, and it was this fact – which the public in Israel understood – which caused the vehement debate in the Supreme Court, and, after its verdict was given, in the Knesset. Stripped to its essentials, the conflict was between loyalty to one's conscience and loyalty to one's nation. Ann Shalit's loyalty to her conscience forced the entire society and its institutions – the Supreme Court and the Knesset – to face the same choice. To choose between country and conscience is never easy. The majority usually accept the dictum 'My country right or wrong'. (Or my party, class, tribe, religion, -ism, etc.). But often this majority finds out later that its choice was wrong. Majorities are never good judges on conflicts of conscience.

However, in the Shalit case five judges (Susman, Vitkon, Berenson,

Mani, and Cohen)⁷ upheld the appeal, and four (Agranat, Silberg, Landau, and Kister) rejected it. The government was instructed to register the Shalit children as Jewish and to pay costs. The verdict was announced on 23 January 1970.

1. Mrs Meir refers here to some members of the Knesset who joined the judges in the proposal that the entry for “nationality” in the Population Register be dropped.
2. Prayer shawl and phylacteries. A white shawl which religious Jews wrap themselves in during prayers. The Israeli national flag has a close similarity to it. The phylacteries are special thin leather stripes, with a little box containing a hand-written scroll, which are strapped on the right hand, with the box strapped to the forehead, during certain prayers. This symbolizes the bearing of God’s name in one’s mind and body.
3. Sir Patrick Geddes: Scottish environmentalist, town-planner, philosopher, mentor of Lewis Mumford. Though a gentile he sympathised with Zionism, and was invited in 1923 by the Zionist leader (later first President of Israel) Chaim Weizmann to assist in re-planning Jerusalem, and to design the layout of the Hebrew University.
4. Hellenist – a derogatory title for those in the Jewish community in Palestine in the 3rd century B.C. who imitated the Greek way of life.
5. “The Seventh Day War”, a book published after the ’67 war by the then Zionist-Marxist party MAPAM, consisting of debates among soldiers on the difficulties in resolving the conflict between their nationalism and socialism. Eventually all succumbed to nationalism.
6. “The Wall” – the “Wailing Wall”, or “Western Wall” in Eastern Jerusalem (under Jordanian rule until conquered by Israel in June 1967.) The supreme Jewish symbol of both exile and past political glory. (Reputed to be a remnant of the Temple) on the ambiguity of the symbolic meaning of the Wall, see chapter six.
7. Five of these judges (Silberg, Landau, Berenson, Cohen, and Mani) had made up the Court which ruled in the Rufeisen case eight years earlier. Of these, only Justice Cohen had upheld Rufeisen’s appeal to be recognized as a Jew. The other four had rejected that appeal.

Chapter Five

Conscience Sacrificed

When the Supreme Court verdict on the Shalit case was announced political pandemonium broke out in Israel. It was the first time that the religious bias of the Ministry of the Interior, and of the entire religious lobby in Israel, had been defeated in the High Court. The point was lost on no one. The secular majority in the population rejoiced, the religious minority was outraged. The government itself, particularly the prime minister, Mrs Golda Meir, was worried about two consequences – that the religious political parties would leave the National Unity coalition cabinet, and that the Jews outside Israel might consider this verdict as a legitimization of mixed marriages. Driven by these anxieties Mrs Meir started negotiations with the leaders of the religious parties. The outcome of these negotiations was that the secular members of the National Unity cabinet agreed to amend the Population Register Law in order to prevent the ruling of the High Court from becoming a legal precedent. According to this new amendment a person could be registered as a Jew only if born to a Jewish mother, not adhering to another religion, or converted to Judaism. The government had to propose the amendment to the Knesset, and allow a debate before the vote made it law. There was no shred of doubt that the amendment would be approved by an absolute majority since all the parties of the National Unity coalition, commanding an absolute majority in the Knesset, had accepted it before the vote, and imposed party discipline, forbidding a ‘free vote’ according to one’s conscience, on their members in the Knesset. But this did not make the debate in the Knesset any the less serious. On the contrary, it enabled the various secular speakers to pronounce their basic beliefs on the matter with unprecedented openness, without the diplomatic formulations required in controversial issues, and then vote against their belief, according to party orders.

The Knesset debate on the government’s proposed amendments to the registration procedure, designed to prevent the Shalit verdict from becoming a legal precedent, was due to start on 9 February 1970, about two weeks after the verdict was pronounced. During these two weeks a debate on the issue raged in the Israeli media. The grand old man of Israeli politics, David Ben-Gurion, though no longer active in politics, published his view in the press.

More than once has it been declared in the Knesset that the state of Israel is a state of secular law and not a state of religious law. No doubt one must respect every Jew loyal to religious law, but religious law does not

bind every Jew. Only someone who has failed to study thoroughly the literature of religious law could be ignorant of the fact that religious law changed with the spirit of the times. In the Bible it says 'an eye for an eye', and it is very clear and beyond any doubt what is meant by 'an eye for an eye'; but in later times sages concluded, correctly, that 'an eye for an eye' is cruel, and said 'an eye for an eye' means monetary compensation (*Bava Kama*, p.83). Anyone studying this chapter will see how the sages struggled for five or six pages to adapt this interpretation to the biblical text, since in the Bible it says explicitly: 'And if a man cause a blemish in his neighbour, as he hath done so shall it be done to him' (Leviticus 24, verse 19), and elsewhere it says: 'And thine eye shall not pity; but life shall go for life, eye for eye, tooth for tooth, hand for hand, foot for foot' (Deuteronomy 19, verse 21). There is no shred of doubt about the meaning of this in the Bible, but the sages realized the cruelty of this punishment and said 'an eye for an eye' means money, as if the one who wrote the Bible, if he meant money, couldn't say it himself.

. . . The word 'convert' nowadays has a different meaning from the one it had in the Bible. In the Bible 'convert' does not mean a Gentile who becomes a Jew. For this there is another word, appearing in the Bible only once: 'Judaize'. In the Book of Esther it states: 'And many of the people of the land Judaize for the fear of the Jews fell upon them' (Esther 8, verse 17). Now one says 'convert', but there is no hint in the Bible of how one converts. When Moses married a negro woman – that was after the commandments had been given – it does not say that she converted to Judaism, or was baptized. Nor does it say so about Ruth, although the narrator mentions that she slept with Boaz all the night.

Had baptism determined her conversion there is no doubt that the text would have mentioned it, because this story, particularly the last chapter, contains many details less important than the significance the orthodox attach nowadays to baptism and conversion. A whole chapter in the Book of Ruth deals with the issue of the 'redeemer', i.e. a redeemer of a brother who dies without children, and he has to redeem the brother's wife. Had the baptism been the essential condition for the conversion to Judaism of a non-Jewish woman it would certainly have been mentioned. In the entire Bible we find no hint of the duty of baptism, which for the orthodox nowadays is the first condition for the conversion of a woman.

. . . The [judge's] proposal to erase from the Population Register the entry for 'nationality' perhaps suits the ideas of the 'Canaanites' – if they are still around – but not a Jewish citizen of the state of Israel. The Jewish people in Israel is part of, for the time being (and for a long, long

time – perhaps for ever – will remain part of) the (world) Jewish people. Erasing 'nationality' from a document of a Jew in Israel is the start of erasing our being part of the (world) Jewish People. The Declaration of Independence was signed by all the Jewish parties in Israel, from Vilner the Communist to Rabbi Kalman Kahana, and it was unanimously decided that 'we hereby proclaim the establishment of the Jewish state in Palestine, to be called the state of Israel'. In the same declaration we also stated that the state 'will uphold the full social and political equality of all its citizens, without distinction of religion, race, or sex', and every citizen in that state is an Israeli citizen, but not every Israeli citizen is necessarily Jewish. An Israeli citizen can be an Arab (Muslim or Christian) or a member of another nation who has settled in this country as a citizen. But this statement certainly was not intended to diminish thereby the state's character as a 'Jewish state', just as Britain is a British state, not only for the English, but also for the Scots, Welsh, Irish, Jews, or other citizen, without thereby ceasing to be British.

But there is nowadays a desire, also held by the chief rabbis, who have no authority in state matters, and who are subordinate to state law and not religious law, contrary to the principle agreed upon by the 'Religious Union' which consisted of four religious parties; Agudat Israel, Poalei Agudat Israel, Hamizrahi, and Ha'poel Hamizrahi, and underlying the first elected government, to propose a law, which, if passed, could cause a schism between the Jewish people in Israel and the diaspora Jewry. In the diaspora, religious law no longer binds the majority of Jews, neither the Conservative Jews, nor the Reform Jews and certainly not the Jews who belong to no Jewish sect, and who nowadays are merely Jews, and there are nowadays hundreds of thousands, maybe more than a million in the USA, and tens of thousands in other countries.

Even in Israel the Jews who belong to religious 'Orthodox' parties are a minority of 12%-16%. All three religious parties today (the National Religious Party, Aguda, and Poalei Aguda) have 17 representatives (in the Knesset) which is a little less than 15%. No doubt there is a considerable number of religious Jews who are not members of any religious party. The number of the progressive community is unknown to me but apparently it is not yet a large part of the public. But there is no doubt that the majority of the Jewish population in this country is not for religious coercion and for the rule of the Chief Rabbinate aided by the religious parties, and this majority doubtless objects to the difficulties placed in the way of members of mixed marriages who wish to settle in this country and bring up their sons and daughters as Jews and not merely as Israelis, i.e. merely citizens of the

Jewish State but not part of the Jewish People. (D. Ben-Gurion, *Ma'ariv*, 6 February 1970)

So Ben-Gurion, the chief architect of the 'status quo' agreement between the secular and religious sectors of Jewish society in Israel, considered the proposed religious amendment to the definition of the term 'Jew' as 'a law which, if passed, could cause a schism between the Jewish people in Israel and diaspora Jewry'. It could also, of course, cause a schism within each of these. But all his talk about the 'religious coercion' of the secular majority by the religious minority begs the question: how can the minority coerce the majority when decisions are passed by majority vote? If the majority submits to the minority's pressure, why does it do so? One doubts very much whether Ben-Gurion, who surrendered to the religio-cultural pressures of the religious minority more than once, would have acted differently had he been in power instead of his close colleague and disciple Mrs Golda Meir. But in any case his view on this issue is quite illuminating, even if he had voted the other way, as did all Zionist Labour Members of Knesset.

Other statements in the press expressed different opinions: 'Judaism in history took shape as a phenomenon in which religion and nationality are two sides of the same coin. Innovators of some "Israeli Jewishness", who wish to be logical and honest, had better sever all connection with historical Judaism and label themselves "Cana'anites".' (Prof. Baruch Kurzweil, *Ma'ariv*, 10 February 1970). 'We have to ask some basic questions about ourselves: What is our identity as Jews in the twentieth century? What brought us to this land? What is the meaning of the spiritual revolution we underwent following our reunification with our ancestors' land? The basic question is not about this or that borderline case (like the case of the children of Major Shalit) but about all of us. It is the question of the identity of the Jewish people, its aim and purpose, its unity as a single historical and spiritual entity. We have come a very long way since we returned to Palestine some 60 or 40 years ago, but we haven't yet reached the verse: "We are brethren, sons of one man in the land of Canaan". This is still beyond us because our common identity has been distorted and adulterated due to the spiritual transformations we underwent in the diaspora. We must find this identity and redefine it.' (Har'el Fish, *Zot Ha'arets*, 13 March 1970)

'We have to ask ourselves: since 1948 who, and what, is a Jew? A person loyal to the Jewish religion? A member of the Jewish race? Is the criterion the consciousness of and readiness to take part in Jewish destiny, or the fact that others – Jews or non-Jews – consider you a Jew?' After these opening words of the article by Professor Jacob Talmon ('Origins of Totalitarian Democracy') one expects some clearcut answer, but there is none. 'Religion

is not the full and only criterion of Judaism. Such an attitude I would call doctrinaire.' But 'the purely atomistic approach, which insists on the right of the individual to define himself, is unsatisfying . . . apparently it is impossible to point out anything concrete and measurable in the Judaism of a Jew, and yet there lies between us and the world that painful, gnawing self-consciousness . . . I think that the ties binding the Jews together are – to use the words of Edmund Burke – as invisible as air and as strong as chains, and the Jewish substance is extra-sensory, and yet as real in its products as the vitality of life itself.' (Professor Jacob Talmon, *Akhdut Ve'yikhud*, pp.219-222)

Such generalizing waffle will do for a lecture or an article, but when it comes to a court ruling or the passing of a law, and the issue is clearcut – whether or not a religious definition of the term Jew will be made legally binding on a non-religious population – one has to give a clear 'yes' or 'no' to that question, and not evade it with soliloquies. All this merely indicates that when the incisive and inescapable question of dropping the religious definition of the term 'Jew' is put to non-religious Zionists, they suddenly discover that they cannot say yes. They don't believe in God, but they need religion for the sake of their national identity.

The debate in the Knesset lasted two days. It would take too much space to quote here the full statements by the representatives of all the parties. The following translations (by the author) are from the official record of the Knesset (*Divrei Haknesset*, session of 9-11 February, 1970).

The Knesset debate was opened by the Minister of Justice, Mr Y. S. Shapira, who surveyed the history of the problem.

Mr Chairman, honourable Knesset, the proposed law which I present to the house today arose from the verdict of the High Court of Justice in the matter of Benjamin Shalit. In that verdict the High Court ruled that the population registration clerk was not permitted to follow the guidelines of the Minister of the Interior which had been in force since 10 January 1960.

The guidelines stated that: 'For the purposes of registering details of nationality and religion in the population register a person will be registered as Jewish if (1) he was born to a Jewish mother, and is not a member of another religion; or (2) he was properly converted to Judaism.'

The history of the issue does not start in January 1960. It was preceded by a great storm in the life of the state, a storm with reverberations audible to this day.

In the first days of the state, in August 1948, emergency regulations for population registration were laid down, stating that everyone would be questioned about his nationality and religion. On the face of it this

was a simple matter: the state was established as the state of the Jews, with deep conviction in the existence of the Jewish nation dispersed throughout the world. The Declaration of Independence calls for the concentration of the entire Jewish people in the state of the Jews and calls on them to immigrate to it and strike roots in it.

It was only natural that the population register would pose, and answer, the question of the nationality of those registered. A study of the 'Debates of the Temporary State Council' shows that there was not a single member questioning this regulation, apart from a call from the floor, which could, perhaps, be taken as a form of disagreement. But it is not known who made that call. The report does not mention it.

Apparently it never occurred to the members of the Temporary State Council that the term 'nationality' could ever become a complex legal problem. Apparently they did not consider the totality of problems involved in mixed marriages.

The Jewish people, in its dispersal, faces many problems. In our generation the most severe one is that of mixed marriages in the various [countries of] exile. This is a phenomenon which could extinguish the Jewish people like a kiss of death. And the problem gradually crept into the country. Mixed couples arrived, with children or without. Those who had converted to Judaism did not constitute any problem, though the procedures of conversion were, and still are, harsh. Not only do Jews fail to distinguish between a Jew by origin and a Jew by conversion, but also the fact that the state of Israel is a melting-pot for communities of different cultures and habits eased the absorption of the converted into the society. But not all had been converted, and not all converted their children; some from conviction, some because of the particular difficulties of conversion to Judaism compared with conversion in the Muslim or Christian world.

The government department handling most of these cases was the Ministry of the Interior. The Ministry of the Interior is responsible, as is known, for the execution of the Law of Return, the Citizenship Law, and the Population Registration Law.

In the period before the late Mr Bar-Yehuda, blessed be his memory, became Minister of the Interior on 2 November 1955, the practice changed from case to case and from one Minister of the Interior to another. The lack of clarity continued for a considerable time, even during the office of the late Mr Bar-Yehuda; until 10 March 1958, when, after two and a half years in office, Bar-Yehuda laid down clear guidelines stating that 'a person who innocently declares that he is a Jew will be registered as a Jew, and no further proof shall be required'. These guidelines created a public controversy. One of the charges against them was that a Jew who had converted to another religion could

still register as a Jew. As a result the government decided to amend the guidelines. On 22 June 1958 it stated 'a person who declares in good faith that he is a Jew, and is not a member of another religion, will be registered as a Jew.' On the same occasion the government decided, against the votes of the religious members of the cabinet, that if the father and mother declare that their child is Jewish it will be registered as Jewish. On 1 July 1958 the Ministers of the National Religious Party resigned from the government.

Studying the press during that period one realizes that this crisis was not a trivial matter which could be resolved by some tactic or concession, it was a deep crisis on matters of principle. The government did not stand still but searched for a solution to the controversy.

On 15 July 1958 the government decided as follows: 'We decide to appoint a committee of three (the Prime Minister, the Minister of Justice, and the Minister of the Interior) to study the guidelines for the registration of children from mixed marriages whose parents want to register as Jewish. The committee will listen to the viewpoints of Jewish sages in Israel and abroad and will formulate registration guidelines suitable to the tradition accepted by all Jewish circles, by all the religious and secular trends, and to the special conditions of Israel as a sovereign Jewish state which guarantees the freedom of conscience and faith, and as a centre for the ingathering of the exiles. Until the committee terminates its task the manner of registering children from mixed marriages will be determined by decisions of the committee.'

In other words, from 15 July 1958 onwards every case had to be discussed and decided by the committee of three ministers – the then Prime Minister, Member of Knesset David Ben-Gurion, the then Minister of Justice, Mr Rosen, and the then Minister of the Interior, the late Israel Bar-Yehuda, blessed his memory.

Five days later, on 20 July 1958, the committee of ministers decided as follows: '(1) Local registration clerks will not register their own children from mixed marriages; each registration of this kind will be brought before the committee of three. (2) All guidelines on this matter issued since the establishment of the state are cancelled.'

Thus, the guidelines of Bar-Yehuda, blessed be his memory, with their amendments, were in force for only four months and a few days.

As has been said, on 21 July 1958, all instructions – including Bar-Yehuda's instructions – issued since the establishment of the state, were cancelled. Moreover, on 2 December 1958, the late Bar-Yehuda stated in the Knesset that his guidelines were cancelled. On 3 December 1958, the then Prime Minister, Mr David Ben-Gurion, announced during the debate on Rabbi Toledano's joining the cabinet that the

guidelines of the Minister Bar-Yehuda were cancelled.

Nowadays one occasionally hears the argument that Bar-Yehuda's guidelines are still in force. Those who use this argument do not know the facts, or know the truth but try to revolt against it.

The committee of ministers immediately decided to conduct an opinion poll of Jewish scholars of all trends, and in the meantime to cancel all instructions on mixed marriages that had been in force since the establishment of the state.

I do not know how the Jewish scholars were selected for the poll. On reading the book which contains the question as formulated by the then Prime Minister, David Ben-Gurion, and the answers, one notices three things. First, the Prime Minister stressed in his letter that a proposal to delete the entry for 'nationality' was out of the question.

Second, the replying Jewish scholars included Orthodox, Conservative, and a host of Reform trends, as well as Jews whom it is hard to classify in any of these groups, some in Israel, some in exile, religious and secular, rabbis, intellectuals, writers, and members of different communities. Third, 45 replies were received, of which 37 replied unequivocally that there could be no separation of the religious meaning from the national meaning of the term 'Jew'. Two of the remaining eight stated that in our generation such a separation was impossible. Three gave unclear replies. As far as I could delve into it, read and search the 'punch line' as they say, there wasn't one. Three advocated the separation of the religious and the national meaning of the term 'Jew'.

Each of those questioned expressed it in his own way, but that was the substance.

There is no doubt that the results of this poll paved the way for drastic changes in this matter. Indeed, after the election to the 4th Knesset, a new government was established on 16 December 1959, headed by Member of Knesset David Ben-Gurion, in which Member of Knesset Haim Moshe Shapira was appointed Minister of the Interior, a post which he holds to this day. The party of Bar-Yehuda, blessed be his memory, Akhdut-Ha'avoda Poalei-Zion, was also a partner in this government. The fact that Mr Shapira took over the post of Minister of the Interior after that serious controversy provided sufficient indication of the guidelines he was to issue. Mr Ben-Gurion, then Prime Minister, wrote to the Minister of the Interior on 4 January 1960, three weeks after forming the government, what he had stated earlier in the Knesset – that Bar-Yehuda's guidelines were cancelled. Indeed, a week later, on 10 January 1960, the Minister of the Interior laid down the guidelines stating that for the purpose of registering details of religion and

nationality a person would be registered as a Jew if he had been born to a Jewish mother and had not converted to another religion, or if he had properly converted to Judaism.

These guidelines applied of course to the Law of Return, to the Citizenship Law, and to the Population Registration Law. The guidelines were upheld and applied continually, from the day they were written till the day of the verdict on the Shalit case.

These guidelines were written in the spirit of the common view of the majority of the Jewish sages. And should one ask how it could happen that such a varied assortment of 37 scholars were united, despite all their differences of views, traditions and locations, in reaching one conclusion, the answer must be the historical fact of the place of the Jewish [i.e. religious] law in the life of the Jewish people throughout its generations and history.

The place of the Jewish [religious] law within the framework of the [secular] law of the state of Israel emerged in a case in the High Court in the early 1950s. Justice Agranat, president of the Supreme Court today, pronounced the main verdict of the court. I shall not read the entire verdict, as the chairman probably wants me to leave some time to other speakers, but I shall read two sections from it:

'Nowadays it is hardly necessary to explain what ought to be clear to everyone, namely, that the Jews, even after being exiled from their land, never became, in their own eyes, a religious sect, and never ceased to be in their view a nation whose place is among other nations in the world, whose absence from its land, to which its sons remained loyal, was temporary, and which carried with it throughout its dispersal and period of exile the basic assets of its culture, its national assets, including the Hebrew law. During the long period when the Jews in their dispersal were forced into isolation behind the ghetto wall the Hebrew law gradually acquired a significantly religious form, but despite this it never ceased to serve as the regular law of the Jews even after the ghetto walls were breached and they emerged into the wide world. This law also applies to those Jews who, having tasted "enlightenment" and gained civil and political rights in many countries of their abode, began to consider certain rules of that law, perhaps even many of them, as alien'.

'As stated, I do not attribute great importance, in view of the problem concerning us here, to the problem of the extent of application of Hebrew law, as part of municipal law, to Jewish inhabitants in foreign countries. I refrain from doing this because when we admit, as we must, the continued existence of the Jews as a

separate nation, throughout their generations and dispersal, we must consider the nature of the Hebrew law according to the historical attitude of the Jewish nation towards it, and then we are forced to conclude that the Jewish nation, in all periods and dispersals, considered the Hebrew law as its special property, as its inalienable asset. This means that this law served in the past as the national law of the Jews, and even today has a national character for Jews everywhere. If this conclusion based on the said historical approach is correct, then we can easily liberate ourselves from the artificial view – stated earlier – which imposes obedience to a ‘religious’ law on people who do not consider themselves religious at all.’ Thus stated the president of the Supreme Court.

The verdict in the Shalit case determined, by a majority, that Shalit’s young children should be registered as Jews according to their father’s declaration, despite the fact that the mother is not Jewish, that she has not become a citizen in Israel, and that the children were not converted to Judaism. This verdict changes the registration practices that have been in force since 10 January 1960.

As is known, this verdict was given by a majority of five to four, but of that majority there was one who ruled that the children were Jewish whereas the other four judges based their verdict on the principle that the population registration clerk must write what the father tells him. According to this view the clerk must write in this matter of nationality whatever the father tells him.

The government must accept the verdict of the Supreme Court as it is and behave accordingly, and so it has done. As long as the law has not been amended the government must also, of course, accept the interpretation of the four judges on the role of the registration clerk. According to this interpretation the clerk becomes a kind of an automaton unable to challenge the father’s words unless his story is so far-fetched that no one in his right mind can accept it; indeed, one judge gave as an example an adult claiming to be a baby aged five.

The government believes that if this is the interpretation of the law then the law must be changed. I hear complaints about the very attempt to change the law, interpreted as it was by the Supreme Court. These complaints are unfounded. The Supreme Court has no choice except to interpret this unreasonable or absurd instruction. The court cannot change the law to make it plausible. Here it is the duty of the legislator to remove what is contradictory. It is not difficult to see how contradictory the registration law is on this point in its present form according to the court’s interpretation, which is the interpretation we must accept. The example of the Shalit family suffices to show the many possibilities that

exist in this matter. The appeal to the Supreme Court was made by Mr Shalit in his own name and in the name of his children. I assume that Mrs Shalit agreed with this step, but let us imagine what the clerk would have to do if both father and mother turned up together, or separately, and the father demanded to register the children as Jewish while the mother demanded to register them as British or Scottish. What must the clerk do? The law of equal rights for women (1961) asserts that both the mother and the father are the natural custodians of their minor children. The Supreme Court has already ruled that 'both' means both together. According to this interpretation, a woman was found guilty of kidnapping her minor daughter because she travelled abroad without the consent of her husband.

What then can, and must, the registration clerk do when faced with contradictory instructions from the father and the mother with regard to children of mixed marriages?

Moreover, according to the law as [now] interpreted, Mr Shalit could register the boy as Jewish and the girl as Scottish, or the other way round, or without nationality. Indeed, it is hard to describe the number of complications that could arise for a family of mixed marriage with a large number of children when there is no domestic harmony between the parents.

The Supreme Court tried to prevent the Shalit case from taking place. The president of the court, with the consent of the nine judges, asked during the case that the legal adviser to the government propose to the government that it – the government – present to the Knesset a draft law that would delete the entry for 'nationality' in the population register. The government did not accept this proposal and informed the court of its decision through its legal adviser. It is no secret that at this time, during the debates within the government, the Knesset parties, the public and the press, renewed proposals for the deletion of the nationality item in the population registration were put forward. The government again rejected this proposal. I shall not enumerate all the arguments for opposing the deletion. Two arguments were provided by Knesset member David Ben-Gurion. In his letter to the Jewish scholars in October 1958 he wrote:

From time to time proposals have been put forward to abolish this registration or to cancel the registration of 'religion' or 'nationality' in this registration, but security and other reasons have prevented us up to now, and will prevent us in the near future, from accepting these proposals. In view of our special situation when there is no practical possibility of maintaining permanent and real control of people infiltrating into this country from the neighbouring hostile

countries which are a source of permanent grave danger to the peace of this state and its inhabitants, it is imperative that a legal inhabitant in Israel should be able at any time to identify himself by a document issued by a certified authority.

If this argument carried weight on 27 October 1958, when Knesset member Ben-Gurion wrote his letter to the Jewish sages, its weight has increased manifold today, in October 1970.

A completely different argument against the deletion was put forward by member of Knesset Ben-Gurion in an article published in *Ma'ariv* on 10 February 1970, in which he said:

The proposal to cancel the nationality item in the population register suits, perhaps, the view of the 'Canaanites', if they are still around, but not a Jewish citizen of the state of Israel. The Jewish people in Israel are for the time being a part (and for a long, long time, perhaps for ever, will remain a part) of the Jewish people. Cancelling the nationality in a document of a Jew in Israel is the beginning of cancelling our being part of the Jewish people.

Thus said member of Knesset Ben-Gurion.

From the start of the Zionist movement, and even before that, a debate went on for generations whether Jews are a people, a nation, or merely a religious group. The belief in the existence of the Jewish people as a nation dispersed in exile is the ideological foundation of the entire Zionist movement and of the entire Jewish community [in Palestine] since its renewal.

About half of the Jewish people have their Jewish nationality registered in their identity cards: two and a half million Jews in Israel and more than four million Jews in the Soviet Union and the countries of Eastern Europe. Those who propose the deletion [of the nationality item] from our identity cards are going to separate us and them. No government in Israel can afford to propose to the Knesset that it do such a thing.

Even if we had persuaded ourselves and deleted the nationality item from the population register the problem would not have disappeared. The problem is much more serious in the Law of Return. You cannot ignore the controversy between the two views of this issue when it comes to the Law of Return. There it is insufficient to say that the clerk should write whatever he is told. The Law of Return grants great and actual rights: entry into the country by right and not by charity; receiving citizenship automatically and immediately instead of citizenship by charity after a number of years. In any case we are forced to define in the

Law of Return who is a Jew, or to continue with legislation and cancel the Law of Return from the laws of the state.

We have therefore no alternative but to propose to the legislator that he speak his mind. We propose that paragraph 4B of the Law of Return should say that, for the purposes of this law, that is the Law of Return, 'a Jew is one born to a Jewish mother, or converted to Judaism, and is not a member of another religion.' This definition followed the only verdict in which the Supreme Court defined the term 'Jew', namely the case of the priest Rufeisen, Brother Daniel.

We suggest in paragraph 2 of the proposed law that the above-mentioned definition from now on also apply as binding in the Population Registration Law. It is important that a person register as a Jew unless there is actual proof that he is not a Jew.

As for the issue, or duty, of conversion to Judaism, I quoted earlier part of the article of Knesset member Ben-Gurion with whom I agreed . . .

Call from the floor by Ygal Hurwitz (The State List): Indeed only a part, perhaps you could quote the rest?

Calls.

Minister of Justice J. S. Shapira: I regret to say that I cannot agree with the final part of the article in which Knesset member Ben-Gurion opposes the demand for conversion to Judaism as a condition for joining the Jewish people. He formulates the essence of his argument as follows: 'but what the majority of the present government, under the pressure of the National Religious Party, intends to do is religious coercion contradicting the character of our state, which could debase Israel in the eyes of diaspora Jewry whose majority is no longer orthodox, no less than the majority in Israel which is no longer orthodox. This is the first attempt at religious coercion.'

I shall say, in parenthesis, that the law of marriage and divorce, which has existed in this country since the creation of the state, is, it seems to me, much more of a coercive law, and in that letter of 4 January 1960 which I mentioned, addressed by the then Prime Minister Mr Ben-Gurion to the then Minister of the Interior Mr Shapira, it was stated explicitly that the law of marriage and divorce would remain in force. I continue the quotation: 'If one of a family of mixed marriage who emigrated to Israel is non-religious but both want their children to be Jewish, why should we prevent them from merging with the Jewish people in its country, which is the reason the parents came to Israel?'

As I have said, I oppose this view, but I am not alone in my opposition. I have a most honourable partner: in the Knesset Debates, Volume 28, page 2783, of 29 July 1959, a most honourable member of the Knesset stated, while mentioning correspondence with the editor of the Jewish paper *Der Tag* in the United States, the following: 'I can only express my view and, as far as I know, that of my colleagues six months ago. My view is that if both the father and mother want the child to be Jewish – the problem exists only when the mother is a Gentile and the father Jewish – then if it is a girl let her be converted according to the rules, and if it is a boy let him be circumcised and converted according to the rules. But I express this only as my own opinion and, as far as I know, that of my colleagues.'

The honourable Knesset member who said these things in the Knesset was Prime Minister Ben-Gurion, and though it is clear that this was his private opinion it was also, in his view, that of the rest of his colleagues.

Mr Chairman, honourable Knesset, if we return to the proposed law, then the amendments mentioned here are insufficient. The people and the government are aware of the damage which mixed marriages have caused to the Jewish people. We are convinced that the only effective cure to avoid loss is immigration to this country. Those who desire to immigrate, and do so, will, it is hoped, be absorbed by the Jewish community in this country. Hence we said in the proposed paragraph 4A of the Law of Return that the wife of a Jew, even if she is non-Jewish, and the child of a Jew, even if it is non-Jewish, and his grandson, will have the right to immigrate according to the Law of Return and enjoy all the rights of a Jew immigrating by virtue of the Law of Return. That is: immigration by right rather than charity, immediate naturalization by right and not by charity, and the right to benefit from every law affecting immigrants. All with one condition – that they are not Jews who have converted to another religion. This paragraph will entitle them to immigrate, naturalize, be housed in the country, establish themselves in it, and join the Jewish people should they so wish.

We hope that many will respond and take advantage of this right, and that most of them will want to join the Jewish people.

I suggest that the proposed law be passed on to the Committee for the Constitution, Law, and Jurisdiction.

(Knesset Debates, 9-11 February 1970, pp.723-726)

The next speaker, Rabbi Isaak Meyer Levin, was a key figure in the religious Agudat Israel party which was founded to combat secular Zionism and as late as the 1920s was opposed to political Zionism, but later decided

to support it. His view represents the orthodox religious view of Jewish history.

I. M. Levin (Agudat Israel): Honourable Chairman, honourable Knesset, for some weeks the entire Jewish world has been in a turmoil long unknown. The verdict of the secular Supreme Court could extinguish the soul of our people, change its image and content, and declare once again that 'the Jewish people is like all people', and this precisely when we are in extreme danger to our physical existence and Jewish victims are dying daily.

Not only the Jews here in Israel, and not only those who abide by religious law, but all Jews with any affinity to Judaism, trembled in the depth of their soul that a Jewish Supreme Court in the State of Israel should rule that religious law is non-existent for our people. This is really terrible and horrible.

We could have appreciated the government's decision if it had stated that 'a Jew is one born to a Jewish mother or one properly converted to Judaism', without deciding at all about the Law of Return. But when the Minister of Justice explains, on the radio and in the press, that he also means Reform and Conservative conversion [to Judaism] when such conversion is worth nothing, and moreover includes the registration law in the Law of Return which officially authorizes even members of mixed marriages – who went abroad [to marry] or a Jew from abroad who married a Gentile and has sons and grandsons – to be granted the same rights as a Jew, that again encourages mixed marriages. We are opposed to this. On this, and on the accretions of the law, I shall speak later.

If so much is said on the question of 'Who is a Jew?' and 'What is a Jew?' perhaps it is good that you should also hear our view on this matter, as far as this is possible in a few minutes.

This is a battle of beliefs. For seventy years there has been an attempt to change the nature of our people and say that 'the Jewish people is like all people'. Almost all great Jews struggled against this, and for that they formed Agudat Israel. Our view is that we are not a people like other people, and not a religion like all religions. We are not religious and not national, nor even religio-national, but we are a special people, God's people, the people of God's law. We are not religious like all people, not national like all people, nor both together, only genuinely different from all people. We are the people of Israel, God's people, and no other name suits us. Any other name, modelled on all other people, only distorts our image and essence. 'Lo, the people shall dwell alone and shall not be reckoned among the nations' (Num. 23, 9). Gentile concepts and names cannot apply to us or suit us. We cannot be named

or compared in respect to other people. God created the world and in the world He created the Jewish people, saying: 'that people I created for myself, to tell my glory'. Not only to tell orally, but by its very existence, by its history in the world, by passing through all exiles from the furnace of Egypt, to all exiles and sufferings in our unique history: 'that people I created for myself, to tell my glory'. The troubles and hardships we suffered, and still suffer, made us forget our nature, our purpose, and our title.

When the commandments were given no bird sang, no fowl flew, no ox mooed, the sea did not stir, the world hearkened silently, and the voice said: 'I am the Lord thy God, who has brought thee out of the land of Egypt, out of the house of bondage.' He brought us out of all sorts of Egypts and all sorts of bondages and lies, and since then 'thou hast become a people to God your Lord'. Our nation is a nation only by virtue of its religious law. We have become a special people to God, God's people. That is the name of our people, God's people. Our purpose and destiny is to fulfil in life the religious law and rulings.

During our long exile we saw the assimilation of Jews, there was assimilation of individuals who escaped from us to live the life of the Gentiles. Seventy years ago national assimilation started. It said: let us be a nation, but let us be like all other nations. Let us mix as a nation with all other nations. Since then there has been, continuously, an ideological-philosophical war, and those who believed that Israel is like all other nations invented new new titles, national and religious titles, and began to give a new content and essence to this people; hence the difficulty of the problem.

The verdict of the Supreme Court, serious as it is, has been brewing for a long time, and a large part of our people, who live like the Gentiles, find it very difficult to change, for they have become used to it all their life; they have been educated for a generation or more on this basis, though according to our view this is nothing but a blatant and basic contradiction of the true essence of our people.

The verdict of the Supreme Court means to separate this state from its roots, to destroy within the state the foundation of our people, to endanger its spiritual and physical existence.

Jews observing the religious laws are not impressed by this, it hardly affects their inner life, they only said: 'conspire and it shall fail, declare and it won't come true, for God is with us', but on the other hand it is hard to imagine the damage which this has caused the state. Since if we act according to this verdict and logic, if we move consistently in the domain of ordinary law then we have no belonging, no connection, and no claim to Palestine, since the Bible alone is the only source of [our ties

with] Palestine, whereas according to legal logic it is an Arab country, and what claim have we here?

Moreover, we know all the time that if all nations are against us we have only one ally assisting us in all our struggles and situations – the Jewish people in the diaspora. Why do they deserve to be repaid in such manner?

I have been many times in America and know the condition of Jewry in that country. There are many there who have a difficult struggle against mixed marriages. They want at least some of their children to remain within the framework of Judaism. They struggle with all their energy in a situation wherein their children, who study with the Gentile children, are seduced into mixed marriages. But now what will these children say to them: what do you want from us if the Supreme Court of the state of Israel states that mixed marriages are permitted? This matter touches the very life of the parents and their future.

So a Jew marries a Gentile and she refuses to be converted to Judaism. She is granted civil rights like everyone else. But do we have to change the entire image and essence of our people throughout history to please this Jew even more? And why does she not want to convert to Judaism? What did Ruth say to Naomi? 'For whither thou goest, I will go; and where thou lodgest, I will lodge; thy people shall be my people and thy God my God.' That was our understanding of those who wanted to attach themselves to our people and convert to Judaism.

This verdict came at the precise moment when we need real unity in all parts of Jewry. Was it worth while thereby to cause divisiveness and agitation within all parts of the nation, in this country and abroad, and who can foretell the consequences?

Many talk of large-scale immigration from Russia. Would that there were. But from the echoes reaching us from those who wrote letters and those who dance near the grand synagogue in Moscow we see the yearning to our nation and country, which flow from our belief, despite the fact that for 50 years everything was done to destroy them and cut them off from us. Who says that they will not influence their families to convert to Judaism, when they are here? Perhaps those who entangled themselves in mixed marriages are unwilling to come at all? For even if they come no one hinders their remaining as they are. On this matter [that mixed couples from Russia will refuse to come to Israel if they are subordinated to religious law] I can only say all this complaint about Russian Jewry is void, and is someone's supposition a reason for changing the entire image and nature [of our people]? Even in the Western countries, where emigration is open and free, we do not yet see the great queue of immigrants even when they are misled by being told

that Jews and Gentiles are the same and that mixed marriages are permitted. These are mere suppositions and empty notions.

As I said, the proposed law should have stated explicitly that a Jew is one born to a Jewish mother, or one properly converted to Judaism, for if Reform conversion is also recognized it is just like a *void voucher*. There is no such thing as Reform conversion to Judaism. That is why we are opposed to it. Why did the government decide to change the Law of Return in this manner and grant all rights to members of mixed marriages? Such a decision will only encourage them. Therefore we oppose it.

We oppose the creation of a ministerial committee to speed up conversion to Judaism. This matter is the concern of rabbis alone. We trust them completely and this is their job. They did not have to carry out the verdict of the court and register Shalit's children when the entire verdict is fundamentally wrong.

I do not wish to enter more polemics, but Knesset member Dr Sneh distorted things when he said that all orthodox Jews declared themselves as members of the Jewish religion and members of another nation. I remember the entire period of the last 60-70 years. The Jews who were organized in Agudat Israel said what I said: we are neither religious nor national, but God's people, with all the consequences.

Anyone who believes that this debate in the Knesset, and the decisions reached, will settle the entire issue concerning the question 'Who is a Jew?' is wrong. Those who uphold the viewpoint that we are 'like all other nations' will continue their struggle, and their first task will be to incite others to fight against those who abide by the religious law and obligations. A great, and unprecedented, hate campaign against all rabbis and religious observers is under way.

Everything will be exploited to vilify the community of those who abide by the religious law, without checking whether there is any truth in it.

Unfortunately the secular way of life is such that having been brought up for a number of generations according to the view that 'Jews are like all nations' they find it very hard to admit that such life is devoid of meaning. Let them point out a single meaningful element. All alien gods lie shattered. Let them see how many hundreds of thousands of souls have been misled by socialism and communism. What is the attitude of communism to the Jewish people, and what is the attitude of all nations, even the most enlightened, to us? And if behind these circles there is also the verdict of the Supreme Court, there is no reason to believe that the matter will die out.

Yet it must be said that since the Six-Day War a certain spiritual

revolution has started, and even those who follow the Gentiles in everything, who forgot everything, started to feel within themselves that God abides in Zion, and that he, and he alone, defends us and protects us.

We are with those who always pray: see the suffering and not the sins. We suffered so much, including the holocaust, that we had enough, even though Jews are not what they ought to be. But we see that every day Jewish blood is shed. There are great disasters as in Eilat and elsewhere, according to our view just as one cannot rely on charity of alien nations one cannot rely on 'my power and the might of my hands', and if we are in a situation requiring God's charity every day, we must draw nearer to God, blessed be He, and not further away.

You cannot imagine the sorrow and pain this verdict caused to tens of thousands of Jews. They prayed that this would not turn into an indictment. Our position is extremely difficult, no one knows to what extent. We are being discussed continuously in Washington, Moscow, London and Paris. Some of the powers support the Arabs all the time. There is no natural way out, only a miraculous one.

But we believe that the revolution that began after the Six-Day War is gathering strength, and every simple Jew who is asked 'How will it all end?' raises his eyes to heaven, for every Jew knows within him that at every moment we need God's charity.

The present debate on the question of who is a Jew was inspired also by the spiritual revolution. I saw, and each of us could see, that there exists now some confusion, that although some always thought we could be like all other nations all can now see that this is something different, that it is not good for us.

We believe that the day is not far off when the entire people will open its eyes [to see that] the people of Israel has a content different from other people. It is only necessary to enquire deeper and study the essence. To us it is insufficient that the child's registration will state: Jewish. We hope it will not be only in the certificate of registration but in the heart of every Jew that it be engraved that we are God's people.

There must be a fundamental revolution, though we do not delude ourselves and know that it is not so easy, but that is our aim and purpose, that we draw all conclusions and start to interpret the word of God. For us it is a very modest start, but it must broaden and strengthen. Despite the fact that a large part of the people have strayed very far, our Lord who protects us, our saviour and deliverer, will also draw us to our essence and we shall all realize that we are God's people, in word and deed.

The next quotation is from Mr Menachem Begin's view on the subject. He was at that time a minister without portfolio in Mrs Meir's National Unity cabinet. Some seven years after that debate Mr Begin became Prime Minister himself. His view on the subject is more nationalistic than religious and can be seen as representing the opinion of the conservative, non-religious, nationalistic European Jews.

The Minister M. Begin: Mr Chairman in this debate, which is repeating itself, after a dozen years, but in the opposite direction, I shall direct my words in the main to three topics: nationality and citizenship; nationality and religion; and where does one coerce?

Only genuine and stunning ignorance, or feigned ignorance, can produce the argument that if a citizen in a free and democratic state is required to state to which nationality he belongs such registration damages the equality of rights of inhabitants and citizens. It is even stranger to argue that the absence of a demand to register nationality is a mark of progress. Both arguments are unfounded. A democratic free state can have citizens of various nationalities, all equal by law, all with the same rights. We recognize not only the Jewish nationality, we recognize the Arab nationality, we recognize the Druze nationality. We are ready to recognize a member of any other nationality staying with us as an inhabitant, or who will naturalize legally amongst us.

Let me tell you something typical about the Druze nationality. Some years ago a delegation of young Druze appeared before the committee for constitution, law, and jurisdiction, of which I was a member, with complaints against the Sheikhs and Qadis.¹ We listened carefully to the delegation. One of them said to us the following words: the Druze are not a nationality, they are merely a religion. The Druze are members of the great Arab nation, they merely have a religious tradition of their own.

One of the members of the committee, a Jew, had to say to a member of this Druze delegation: sir, this has happened before, we the Jews have heard the argument: the Jews are not a nation, the Jews are only a religion. We the Jews, who know what it costs to be a minority recognized as a nationality and to demand full equality of civil rights, we recognize the Druze nationality. We shall grant members of the Druze nationality and the members of the Arab nationality, and the members of the Jewish nationality in the land of Israel, in the Jewish state, full equal rights.

One must distinguish between nationality and religion on the one hand and citizenship on the other. That is the custom in a free democratic state. But it is true that historical developments vary in different parts of the world. In a certain part of the world the concept

'nationality' – so it sounds in Spanish and French - was identified for generations with 'citizenship'. Why this linguistic and essential outcome? Because the ruling nation in the countries of one part of the world was so powerful physically and culturally that it dominated for generations every minority within it. And the minorities living with that ruling nation accepted, even willingly, its view, religion, and nationality.

In another part of the world there was a different development. People were conquered. The countries were invaded. It happened that a dominated minority had a higher culture than the occupying majority. The minority refused to surrender, refused to assimilate. It claimed: I belong to a nationality different from the ruling nationality. I declare so and I demand equal rights.

How did we, Jews and Zionists, feel about these two trends? I mention these titles - Jews and Zionists - with a feeling that they bestow honour and glory on those upholding them.

We Jews, we Zionists, supported the second trend and considered it progressive. Otherwise we would have had to admit that assimilation and progress are identical. But we said that assimilation is reactionary, that it is a denial of rights, a denial of the past and of the future. Therefore we Jews, and we Zionists, were the pioneers of the idea of nationalities, of minorities within a majority, demanding equality of civil rights.

There was a time when a tendency of organized assimilation grew up. It demanded the separation of nationality from religion. Saying: 'We are Jews upholding Moses's religion, but we are French; we are Jews upholding the Israelite faith, but we are British', and so on.

Herzl stated that the return to the land of the Jews comes before the return to Judaism; he was not a religious person but that was his feeling when he wrote the simple, great words, and only simple words can be great: we are a people, one people; we have no territory, we have not even a common language; we are ruled as minorities all over the world, and yet we are a people, a nationality.

Uri Avneri (Ha'olam Hazeh - New Force): 'Folk' and not 'Nation' - a people, not a nation.

The Minister M. Begin: Member of Knesset Avneri, even if you stand on this platform and toil for hours you won't convince any sensible person what is, from a historical point of view, the difference between a people and a nation.

It is typical that even in countries where the concept 'nationality' is

identical with 'citizenship', the attempt to assimilate minorities does not succeed, particularly nowadays. British nationality includes the English, and today there is a tremendous demand in Britain to recognize the Welsh nation and the Scottish nation. The day is not far off when this recognition will be granted. All three British parties consider granting recognition to each of these two nationalities beside the English nationality.

In the United States of America, where the development was completely different, in the process of creating this new nation they talk of ethnic groups. This is merely a linguistic difference. For it is in line with human development, and human progress, to recognize nationalities. The idea that the state must be mono-national and mono-ethnic is profane, it originates from Berlin, not from Weimar. A free state can be multi-national, with members of all nationalities having equal civil rights.

On this background I'll say something about the Soviet Union.

What a list of complaints have we against the regime which took over, after some eight months of genuine freedom, mighty Russia? What they did to our people, for more than 50 years after the Bolshevik revolution to this very day when they provide deadly, destructive weapons against survivors of the Jewish people. We have a list of complaints against the Bolshevik evil, against communist wickedness, against Soviet hostility, but precisely because the complaints are correct let us not add to them something incorrect. It is a mistake, which innocent people often make, to argue that since in the identity card of a Soviet Jew it is written: 'Nazionalnost Yewreiskaya' or 'Yewrei', it is like the 'J' profaned by [Nazi] hands dripping Jewish blood, meaning 'Jew', so that the person's origin be known. That is incorrect and should not be said. On the contrary, in the past recognition of 'Yewreiskaya Nazionalnost', from Lenin's day, was considered a great achievement. It is true that the Russians, the communist rulers, drained this concept of all content when it came to Jews, but what concepts remained undrained? Justice, truth, honesty, aggression, national defence – all these concepts were drained, by this regime, of all content, as well as the concept concerning recognition of the Jewish nationality.

Despite this it is incorrect to say that this is like the Nazi 'Jude', and one must not say an incorrect thing about this regime. For thirty years, from 1917 to 1947, the Soviet Union recognized the Jewish nationality although it had no territory like the tens of other nationalities comprising the Soviet Union, and in 1947 the Soviet Union recognized the Jewish state. Let it be known that the state which the Soviet Union recognized was not called 'Israel', or 'Palestine', nor was it called any

other name but 'Yewreiskoye Gosudarstvo' – the Jewish State; on the basis of this twofold recognition – Jewish nationality and Jewish state – we demand from Russia the right to allow members of the Jewish nationality to come to the Jewish state, just as the Russians called members of the Armenian nationality to come to the Armenian Republic. It is true that the direction is the other way, but the principle is the same. Members of the Armenian nationality go to the Armenian Republic, to the land of their fathers. Members of the Jewish nationality ought to go to the Jewish state, the land of their fathers.

This is the way one ought to understand the entry 'Yewrei' or 'Yewreiskaya Nazionalnost' written to this very day in the Soviet Union with regard to Jews.

Mr Chairman, I come to sum up this point, namely: only in a period of total perplexity, breakdown of concepts and confusion of ideas, when progressive anti-Semites arise, when the New Left in Paris attacks Jewish students with the well-known yell "death to the Jews", is it possible to confuse minds by abolishing the distinction between religion and nationality on the one hand and citizenship on the other. In our state there can be members of different nationalities, different religions, but as citizens they are all equal; that is our belief.

Nationality and religion – Mr Chairman, I apologize to you and to all Knesset members for saying something on this matter which is rather elementary – but these are times when you must, can have the right and the obligation to return to the little fire, to the glowing flame, to go back and learn the ABC.

Most nations, if not all, are multi-religious; most religions, if not all, are multi-national. The Jewish people is mono-religious, the Jewish religion is mono-national. That is the truth, that is history, that is the difference.

How did this difference emerge? There is no mystery, no mysticism here. It can be explained in the most rational manner by observing the historical development. Most people had their religions imposed upon them by an external force, usually by fire and the sword, sometimes by convincing proselytizing. Therefore the people can be Christian, Muslim, Buddhist, Brahmin, Catholic, Protestant, as this is the way their history developed. How did the history of our people develop? How did it start?

A person, so we have read, of seventy-five years of age, had an inner change. He lived among worshippers of idols, man-made, with eyes that cannot see, ears that cannot hear. Suddenly he started to believe in a single god, without a body or a shape of a body. How could this happen to him? That we cannot know. But even nowadays we meet adults, or

old people, undergoing an inner revolution. Herzl was not old, but he was fully adult when such a mental revolution happened to him – the return to Judaism, to the land of the Jews.

At the time, in antiquity, it was said of that man: “And he believed in the Lord and he counted it to him for righteousness.” And Rashi* interprets: “The Lord counted it to Abraham, as yet without reciprocity” as a right and charity for his faith in him. And it continues: “And he said unto him, I am the Lord that brought thee out of Ur of the Chaldees, to give thee this land to inherit it.”

Hundreds of years later exodus repeats itself. We all use the phrase “Let my people go”, but not all remember the continuation: “That they may serve me.” With these two momentous events – the exodus of the nation’s father from Ur of the Chaldees and Haran, and the exodus of the nation from slavery in Egypt to freedom – the sons of Israel come forth to worship their God. The faith of the sons of Israel was not imposed by external force, not by the sword, not by coercion, not by convincing proselytizing. On the contrary, they depart from countries to maintain their belief in their land of origin, in the land of origin given them to inherit. Thus started the history of the Jewish people and thus it continues for nearly four thousand years. For the Jew there never was a separation of nationality from religion. The absence of separation does not mean coercion of religiosity. It is forbidden, impossible, to coerce, but with regard to the two concepts – nationality and religion – there is no separation. There is no separation between Jewish nationality and Jewish religion, and between Jewish religion and Jewish nationality. That is how our people developed contrary to other people. How can we not recognize this fateful difference?

I heard an argument that today we are about to change the status quo. What status quo? These are Roman words, and they are disjointed. There is no status quo in the abstract; there is a status quo ante, or post. What status quo are we about to change? On the contrary: anyone who rules, decides, or legislates to separate nationality from religion for Jews proposes to change the status quo ante, which existed before the State, before Zionism, before Socialism, before the Communist Manifesto, before the concepts of Left and Right, before the Inquisition, before the trials of blood and fire. That is what those who propose to separate nationality from religion in the Jewish case are offering. Those who reject this proposal are merely doing one thing – they uphold the continuity of the Jewish people from the day it appeared on the stage of history to this very day.

When one says that since there is no separation between nationality

*The classic commentator on the Bible.

and religion for a Jew, and that is my view, the answer to the question 'Who is a Jew?' – from both the religious and the national aspect – is determined, and will be determined, by the *Halakha* [religious law]. Some people demand, when they hear the word *Halakha* uttered by someone, that all those present should fall on their faces and beat their breasts in repentance. This is reactionary, they say, these are obscurantists who should not be allowed to mix with the progressives, certainly not in the next world, but not even in this one. I regret that I am not shocked or shaken.

Why pick on this 'Halakha'? Why complain about it, degrade it, abuse it? This *Halakha* by which eternal life was planted in us, this *Halakha* which sustained us in trials of blood, fire, expulsion and wandering.

There are some who use obscene language and do not hesitate to say that the Jewish *Halakha* is racist, and that it reminds one of Nazism. Woe to the ears that hear this. These days, when all our sworn enemies label the liberation of our country as 'Nazi occupation', when those who signed the agreement with Nazism and unleashed the fetters of evil towards the Second World War label us by the profane name, some of our own people, in our own state, make this profane charge against our people's entire history. What do these people want, that our children should feel ashamed for being born Jews? What do they want? That we'll say we have to escape from our ancestors' heritage to be decent people, and not Nazis or racists? The Jewish *Halakha*, existing for thousands of years, is racist and a self-respecting person will run a thousand miles from it? Did we come here to be ashamed of our Jewishness, of our ancestors, or to continue their tradition?

How can a Jewish person unashamedly compare the 'Jew' written in the identity card and in the register with the 'Aryan' of the most defiled of them?

The Jewish *Halakha* is racist? . . . The *Halakha* condemns anyone who reminds the convert of his origin. It accepts the convert lovingly, with charity and mercy and complete mental wholesomeness. Can this *Halakha* be called racist?

True, since antiquity there exists a prohibition of marriage between Jew and non-Jew. Is this racism? If so, perhaps our Hebrew language, to which we are attached, is also racist? Why did we pick this language which we had forgotten for generations? No, we said, we'll talk Hebrew. How attached were we to this land, how did we pray for rain in it while being thousands of miles away from it, when there was nothing we could gain from this prayer. Is this racism too? True, the Jewish people has unity and uniqueness, otherwise it wouldn't exist. Let any do-gooder

come to this rostrum and tell us – I have another proposal. Let him lock himself up in a room and say to himself, would this people exist without this prohibition? Wouldn't it disappear, together with much more powerful people, without leaving a trace, or by leaving only a trace? The few against the many, it had to be defended. If mixed marriages were permitted we would have disappeared without leaving a trace. Our people could have numbered some 200 to 250 million people, for it is one of the most ancient people on earth whose continuity of existence has not been severed for even a single day for thousands of years. Why did we remain only thirteen million? For two reasons: extermination and assimilation. Who knows if assimilation did not take as many as extermination? Certainly many millions throughout the generations. Without this prohibition we would have been assimilated a long time ago.

There are some who argue: why ought this people to exist? It suffers. Others suffer. We Jews and Zionists have never accepted the teaching of disappearing. We seek no justification for our existence. We ask no recognition of our right to exist from king, general, ruler, government, or any other nation and creed. We exist, we have the right to exist, and will continue to exist. We do not want to leave the stage of history. We do not want to assimilate. We have a contribution to ourselves and to humanity. That is the essence of Judaism and of the national liberation movement called Zionism.

There is a marriage prohibition as said "Thou shalt not marry them, thy daughter thou shalt not give to his son and his daughter thou shalt not take for thy son, lest they lead thy son away from me to worship other gods." Our sages interpreted this as Rashi did, namely: "Thus, thy daughter's son born to a Kuti is thy son, but thy son's son, born to a Kuti wife, is not called thy son but hers, for it does not say about his daughter: 'thou shalt not take her lest she lead away, but lest he will lead away thy son.'

Thus arose the religious law according to which the son of a Jewish mother is a Jew even if the father is not Jewish. Not vice versa. Can this be called racism? That atrocious racism for which a single drop of Jewish blood was sufficient to lead the person in whose veins it flows to a place of no return, whereas the Jewish religious law states: if the mother is Jewish, and there is a certainty that he is not, the child is Jewish. Who, if not for this prohibition, and this religious law, will confront the disappearance, and the problem of survival, throughout the diaspora?

What do certain people wish? That from the state of the Jews, which cost the Jewish people much suffering and sacrifice and super-human, even inhuman, efforts, from the state of the Jews the message will go out

that mixed marriages are not taboo and no obstacle? That the majority should assimilate? Go to Scandinavia and see what still remains of the Jewish communities there as a result of mixed marriages. Soon the only remnant will be found in a synagogue that hardly stands.

Why complain about this Halakha which determines who is a Jew? Go out and see how we interpret our laws in the state of Israel for more than twenty years according to the English common law. If in the days of Elizabeth the First, Queen of Britain, a British judge made a certain ruling the Israeli judges still accept it for interpreting our laws and rule justly. The English common law is a fine human creation. It contains some very fine things. The criminal law is one of the best on earth. The English say it is a Magna Carta for the defendant. It is much more human and progressive than all the rules in continental Europe. But even in the English common law there are some unpleasant and dated things. And yet no progressive figure stood up in this house, or outside it, to argue: why do we resort nowadays to a common law existing for hundreds of years which contains good, and not so good, things?

What is wrong, what is the crime, that in such a fateful issue as 'who is a Jew' we shall resort to the interpretation of the common Jewish law – forgive the expression – the Jewish Halakha, which exists for thousands of years? To what free-thinking person is this an insult?

Thirdly, Mr Chairman, where does one impose? I propose the following rule to the entire Knesset and all parties. Judaism shall not be imposed on anyone, and no one shall be imposed on Judaism. Can free people accept this rule? Where is the coercion?

True, if the mother is not Jewish the child is not Jewish. But any person generally, who is not Jewish, and wishes to join the Jewish people, must undergo conversion. That is the Halakha. Heaven forbid, coercion upon thee, Israel. But I wish to ask those members of Knesset who so think: what if there will be no conversion yet he be recognized as Jewish, isn't that coercion? Surely that is coercion upon the entire Jewish people throughout its generations, coercion on the millions who are dead, on the millions who are alive, and on the millions who will be born. The person who according to their conviction, and the rules by which they lived for thousands of years, is not a Jew, is now presented as: accept him, for he is a Jew.

Nothing is to be coerced. If the person doesn't wish to convert, let him not convert. He will not be a member of the Jewish people. If he doesn't wish to register as a member of the Jewish people – let him not register. One can enter under the nationality heading – 'unregistered'. He can be a citizen with equal rights, free. He can be a person of no religion and no nation. Why must one impose a non-Jew on the Jewish

people? True, coercion, even on a single individual, is a serious matter; and on the many? I repeat my question to our do-gooders: where is coercion here?

True, one must ease the conversion procedure. It is not for us to judge what happened in previous generations. There are various interpretations for converts. Some harder, some easier. Ours is a special era, and it is our right, Mr Chairman, to propose from the rostrum of this Knesset, in the name of the nation that chose us, to the religious authorities, to our scholars and rabbis, in honour and sincerity: this is a special era. There was a war without precedent in human history. In that war six million Jews were exterminated. There were individual men or women who helped our brethren and even saved them. There were women who saved Jewish women, our sisters, risking their own lives. They come to us. They want to be Jews. They are willing to convert. For God's sake, make it easier for them, for they did a great service to the Jewish people, they saved a Jewish soul.

In the Soviet Union circumstances were created which made mixed marriages almost common practice for Jews in a certain period. No one is to blame, these were circumstances. They come to us; we request, and call to make it easier for them to join us.

But with the same degree of sincerity and honour in which we voice this request we have the right to request those who wish to join the Jewish people that they make it easier for us. What conversion? Coercion? Prohibition? But this is the rule according to which we and our parents' parents lived for thousands of years. You wish to join us? Make it easier for us, accept the conversion. What is this thing labelled coercion? What did we do in the Knesset? We laid down a rule stating: A Knesset member shall not enjoy rights of a Knesset member unless he gave a pledge of allegiance saying: "I promise to be loyal to the state of Israel and to perform sincerely my mission in the Knesset." Don't we know that there are various interpretations of loyalty to the state of Israel? of mission and sincerity? And yet we force all members of Knesset to say these words, to commit themselves publicly. That is democracy. Obviously. But to join the Jewish people and uphold a rule sacred to our history for generations is impossible? Prohibition? Coercion? Let us observe, and draw conclusions.

Mr Chairman. About a dozen years ago I participated, on behalf of the Herut movement, in a debate on the great historical, moral, and fateful question – who is a Jew? Whether it is possible to separate between nationality and religion in the case of a Jew, as it can be done for a Frenchman, Englishman, Pole or Russian, or impossible? I stated then to the Knesset: "For the sake of our people and country, for the

sake of our children and the nation's future, which is a remnant from one generation to the next, let us not sever the link, which is simple and great, clear and mysterious, abstract and concrete, sublime and profound, which is the essence of our existence and its secret, which is eternal – the link between our nation and the God of our fathers.” I was then in the opposition. Today I have the honour to be a member of a cabinet in Israel which proposes the house of the elected legislature that for a Jew there is no separation between nationality and religion.

Let the jokers joke, the denigrators denigrate, and the fumblers fumble, I am willing to stand upright, with conviction, before my generation which knew extermination and independence, denigration and renewal, slavery and exodus, freedom and its conquest, and before the young generation that will shortly take over and will have to guard the nation and the country, its wholesomeness and future and say to them too: indeed, for a Jew there is no distinction between nationality and religion. That is the origin of our people and the continuity of its existence. For this we died, and for this we live. The historical continuity of the renewed Jewish state in the liberated land of Israel, in redeemed Jerusalem, has not been broken, but strengthened. Let the Jews everywhere, in nations near and distant, know that this continuity has been renewed, strengthened, and sanctified, and will be upheld from generation to generation (pp.731-735)

Reading this ending the reader might assume that Mr Begin, who became Prime Minister of Israel seven years after this speech, is religious. He is not. It is doubtful whether he believes in the existence of God, but even if he does he daily ignores the Jewish religious law on prayer and dietary regulations. In Judaism belief counts for little. What does count is the daily performing of all religious regulations concerning, food, cleanliness, prayer, work. The prohibition against intermarriage with non-Jews which Mr Begin supported in his speech, does in fact rule out Mr Begin's offspring as possible candidates for marriage by any religious, orthodox Jew in Israel. An orthodox Jew observing Mr Begin's private, daily life would find out that he fails to observe the daily religious duties, thus making him 'non-kosher' (unfit), from a religious point of view, for marriage, and even for eating in his house.

Thus, the genuinely believing Jews who observe all the religious rules on daily behaviour do not intermarry with Jews who fail to observe these rules. This self-imposed restriction has always existed, and exists in Israel today quite apart from any state law. For an orthodox Jew the Knesset is no authority on religious matters whatsoever, nor is the Supreme Court. The orthodox will oppose any Knesset law or court ruling which deviates from the religious law and they would like to see the religious law become the

state law in the Jewish state. But should a deviation from religious law be legislated the orthodox Jews in Israel will ignore it, and abide by their own religious rules. The Chief Rabbi publicly ignored an Order Nisi to appear before the Supreme Court to explain why he refused to honour the 'kosher' seal of an abattoir run by some kibbutzim. Such defiance of the highest legal institutions in the land is rare, but it reveals that the acceptance of religious definitions by the secular Knesset affects not the religious, but the non-religious. Begin's arguments represent the views of those Jews who use the Jewish religion to justify and sanctify their Jewish nationalism, even when they do not believe in God. They always produce nationalistic interpretations of Jewish religion. The genuinely religious put forward only religious interpretations. However, the genuinely religious can always exert moral and cultural pressures on those who failed to reject religion.

Thus, in the same Knesset debate, Rabbi M. Z. Neria, a member of Knesset for the National Religious Party, said:

... This Friday the former Prime Minister presented us with an article. He opposes this law, the religious coercion of conversion, he opposes the baptism, but when writing about the need to embrace the sons of mixed families to the bosom of the Jewish people, he smuggles in the words: 'those circumcised', to imply that circumcision he accepts, he approves. I permit myself to ask: according to this method of Knesset member Ben-Gurion, that in the State of Israel there be no coercion depending on religion, by what right does he permit himself to impose circumcision on someone who considers himself a Jew without it, and is ready to serve in the army, etc.? Isn't this religious coercion much harder than baptism in the Mikveh?

Rabbi Neria directed a much more potent argument at Ben-Gurion, reminding him of his appearance before the Royal Commission on Palestine, headed by Lord Peel, in 1936. This commission, set up as a result of the Arab revolt in Palestine in 1936, eventually proposed the partition of Palestine into an Arab state and a Jewish state. The Zionist Congress accepted this plan, with qualifications. Ben-Gurion appeared before the Peel Committee (7.1.37), and in response to a committee member who commented: 'The Mandate is the Bible of Zionism', retorted by saying: 'On behalf of the Jewish people I can say the opposite, namely that the Bible is our Mandate.'^{*} The Peel Committee report was hailed as a tremendous political victory for Zionism because it proposed, for the first time, in realistic terms, partition of Palestine as an immediate policy, and thereby, the imminent creation of a Jewish state.

^{*}Ben-Gurion, *Ba'ma'arakha* ('In the campaign') Vol. 1, p.103

Ben-Gurion, like all members of his Labour Party, was a devout atheist, firmly opposed to Jewish clericalism, insisting that the Halakha must not be state law but he genuinely believed that the Bible was a valid argument for a Jewish state in Palestine. Rabbi Neriah, like most orthodox Jews who came round to support secular Zionism, recognized the weak spot in the psyche of a non-religious Zionist who invokes religion for political purposes. He continued his speech: “. . . He who declared before the Peel Commission that ‘the Bible is our mandate’ cannot come afterwards and state resolutely: ‘We are a state of (secular) law and not of religious law’. This is self-contradictory; the very right of this state to exist stems from the source of Jewish religious law, and those who founded the state cannot ignore all the sources of the existence of the nation. You cannot take from the Bible only what pleases you . . .” (p.736)

This is not just a point challenging Ben-Gurion’s logical inconsistency. It challenges the central cultural and psychological inconsistency of secular Zionism. It says in effect: ‘Since you atheist Zionists chose to create the Jewish state in a country already populated by another people, only because of the Bible, your atheism will crumble under the pressure of your own politics. You are prisoners of religion.’ One of the best demonstrations of this captivity is the speech of the Prime Minister, Mrs Golda Meir, in the same debate, quoted later on. But first let us see how one of the major theoreticians of Marxist Zionism dealt with the problem.

Ya’acov Hazan (Labour Alignment – Mapam):

Honourable Chairman, Honourable Knesset, This campaign in which we find ourselves is serious, for on both sides of the barricade stand Jews fully convinced of the righteousness of their position. It is serious because on both sides stand people who love the Jewish nation, and each side is convinced that its position is the one that will guarantee the future of the Jewish people whereas the other’s will divide the nation and gravely damage its struggle for the renewal of its national life. Indeed, the proposed amendment to the Law of Return, and through it to the population register law, is not an ordinary amendment. It is a major crisis in the development of our state. It damages the very quality of Israel as a state of [secular] law, a law treating all as equals, be they religious or secular. This is an amendment threatening to transform our state, at one of the most sensitive points of our life, into a state of Halakha which imposes the religious law by means of secular legislation on all Jewish citizens in Israel.

The campaign is serious, since the common division of the Jewish community into believers on one side and into secularists, i.e. non-believers on the other, is based on a lie. On both sides of the barricade

stand believing Jews. On one side the religious, who believe that God created man in his own shape and image, and all that man has comes from God. On the other side, we the secular ones, who believe that man carves out his belief from within himself, and shapes his conception of justice and morality through a constant struggle with himself and his instincts, as one of the national community and society within which he lives. One believes that his god is in heaven, the other that his god is within himself. The common conception of both is that a person lives by his faith. The differentiating aspect is the fact that one, the secular Jew, respects the belief of the religious person, and rejects any anti-religious coercion, whereas the other side, the religious-orthodox, aspires to impose his authority, his religious conviction, even by force of the secular law, on us, the secular Jews.

We do not doubt the prime role of the Jewish religion as shaper of the image of our people, and its unifying force which defended its existence for generations. We know that the garb of the miraculous cultural and social creation of our people for generations was a religious garb. We are proud, as secular Jews, of many of the moral, cultural, and social values shaped within it and by it.

Secularism is not an abolition of this historical continuity, but its extension and renewal. For it is a fact that in our generation the fortified wall of religion has been breached. The times are past when the religious Halakha, particularly the orthodox one, was the sole foundation of the existence of our people. It is a fact which cannot be denied that the vast majority of our people, in Israel and the diaspora, are either not religious at all, or their religious image is very far, and getting ever further away, from the orthodox religious conception attempting to dominate our country.

Our people now fights its great war for its very existence on two fronts: against the danger of extermination, by which the Arab rulers threaten the state of Israel, and against apostasy in the diaspora; apostasy not only in the religious sense, but also in its general national conception – escape from the nation, estrangement from the joint fate of the nation, national assimilation. We are both united, religious and secular, as one, in the first campaign, but our ways part in the second.

Our ways part not due to ill-will. We can be charged with any quality, but not spiteful infidelity. I understand that a member of the Jewish religion identifies our national existence with our religious essence. For him religion determines who is a Jew. That is an unshakeable conviction for its adherents. But it is an inescapable fact that a great part of our people, its decisive part, does not accept the authority of this view. It considers the Jewish national problem as

immeasurably more complicated and multi-faceted in our generation. We believe that Jewish nationality in our generation is acquired by identification, love, suffering and joint creation. It is acquired by identification with the fate of the Jewish people and its historical heritage, by love of this people and readiness to accept all the suffering that this national belonging imposes today on the national Jewish person, and – mainly – by joining the effort to reconstruct its renewed national life, in its homeland.

Julian Tuwim was the greatest Polish poet in our generation. According to the Halakha he was, apparently, a Jew for any purpose. For us, the national, pioneering-Zionist youth he was what he considered himself to be: a Pole of Jewish origin. We admired him as a poet, we were proud of his origin, and grieved over losing him to another nation. So it was until that stirring poem of confession he wrote with a bleeding heart in old age, when a wave of anti-semitism swept his Poland, Popular Democratic Poland.

“We Polish Jews” was the name of that poem, and in it the stirring lines: “I am a Jew not due to the blood flowing in my veins, but due to the blood spilled in our generation from the veins of my people, gushing out in a terrible, great, stream.” That was a tragic return to Judaism. Were I told after this poem that Julian Tuwim’s mother was not Jewish, and that he is not a Jew according to the Halakha, it wouldn’t have changed anything in my appraisal: Julian Tuwim was a Jew.

We have no interest in a confrontation between these two conceptions, certainly not now, when our entire life is dedicated to a struggle for our very existence. Unfortunately we are pushed into it by the fossilization of the Halakha, and the pettiness of the Halakhic authorities in Israel in our generation. The essence of the Halakha is progress, flow with life. Its content is the adaptation of the eternal to the language of changing life, which constantly changes forms. Rabbi Akiva, says the legend, interpreted the Commandments so loftily that even Moses, who received them at Mount Sinai, couldn’t recognize them. Yet the Halakha was according to Rabbi Akiva. ‘An eye for an eye’ – this law became an abstract symbol, when the Halakha, wise and revolutionary at the same time, emptied it of its original, cruel, content and poured into it a new human content. But the people of the Halakha today are no longer capable of this. Nowadays, when it is our duty to mobilize all creative forces to assist this nation in its great struggle for renewal of its national life in its homeland, the Halakhic people do the opposite. In their intransigence, whose centre is precisely in Israel, where the survival of the Jewish people is safer than anywhere else, the Halakhic people threaten to divide the nation, reject the remote instead

of attracting them.

The number of mixed marriages in the diaspora is ever increasing. Who rejoices in this? Who considers this an ideology? Yet who would be foolish enough to believe that a law in Israel will reduce mixed marriages? There are countries where they have reached 50% and more. Even in the great Jewish continent of America, where quantity itself becomes Jewish quality, the number of mixed marriages has reached 20%. And religion can't help. No moralizing will help here. A religion is acquired by belief not by reason. The concepts of nationality have changed. The national religious conception gets shakier all the time. A large part of the mixed marriages – about two thirds – departs from the ancient Jewish stock and disappear. A small part, about one third, clings to it. What is the duty of all those who struggle in such times for the future of the nation? To reject or to attract? As a Jew clinging to our historic heritage with all my heart my view is that anyone who does not do everything possible to save those knocking on our gates – is harming the future of our people.

With the establishing of the state, with the establishing of the State of Israel, a revolutionary change took place here. No one can deny this and ignore the fact that the non-Jewish future of mixed marriages in the diaspora is more probable than their Jewish future. Even those who wanted, and still want, to identify with the Jewish people, are under a great question mark. But for those of them who emigrate to Israel today, after the establishing of the State of Israel, the situation is quite different. The Halakha which refuses to see this might being a disaster upon our future. Immigration to Israel is worth more than the 613 religious regulations. This is the main commandment of our renewed national life. This is the great identification, the unlimited identification, with the fate of the Jewish people. If you wish, this is the most genuine and profound conversion of those who wish to cling to our people and identify with it. To reject these people, to make their life difficult, not to open widely the gates of our national home and accept them as Jews for any purpose – that is the direct opposite of the supreme national commandment in our generation.

I have before me a letter of a young comrade, a member of our (youth) movement, the movement of Hashomer Ha'tsair, a letter written and sent to the Prime Minister, whose copy I received. This letter has been published in our newspaper and it is important that it be recorded in 'Divrei Ha'Knesset':

Kibbutz Revadim, 31.1.1970

To Mrs Golda Meir, Prime Minister of Israel.

Dear Madam,

Last week I rejoiced to hear that the Supreme Court has ordered the Ministry of the Interior to register the children of Major Shalit as Jews, despite the fact that their mother is not Jewish.

This week I have heard that the government has decided, and the Knesset is about to decide, that a Jew according to the law will be only one born to a Jewish mother, who has not converted to another religion. I write to you because according to the proposed law I am not a Jew. I am a new immigrant from Holland. In Holland my non-Jewish acquaintances considered me a Jew, whereas some of my Jewish acquaintances considered me as non-Jewish. I myself felt that I belong to the Jewish people. My father suffered in the concentration camps during the war and wore a yellow star because he was Jewish.

My father and I felt ourselves to be Jewish, therefore I decided to emigrate to Israel with my brother. I am in the country about one and a half years. I belong to a group designed to join Kibbutz Revadim. We are a group of European origin (Holland, France, Belgium, and Italy) numbering today 35 members. Many of our members are offspring of mixed marriages. For example, we are eleven Dutch comrades and only two of us come from families where both mother and father are Jewish. In some families the mother is Jewish, in some the father is Jewish. After two months in the country I was conscripted to the Pioneer Fighting Youth of the Army. After the initial training we settled in the Nahal Zofer settlement in the Arava region. While there I was wounded in combat and lost both my legs. I am now a disabled serviceman, with 100% disability. Since I heard about the law to be proposed to the Knesset I am haunted by gnawing and disturbing questions which I like to ask you and receive your answer:

1. According to your view, what should Jewish offspring of mixed marriages, whose father is Jewish, do? In Europe we are considered as Jews, yet here we are considered as non-Jews (my father did not emigrate to Israel at the time because my mother was non-Jewish).
2. According to your view, did I do right in coming to this country? Is my place as a 'non-Jew' by local law really here?
3. According to your view, did I do right by joining the Army – like

every Jewish citizen who has to do so – where I was wounded?

4. Did I lose both my legs for the fatherland, or was I wrong and this is not my fatherland?

It was because I considered myself Jewish that I emigrated to Israel and joined the army. It turns out that this is not enough. What really do I have to do as a Jew? Stay in the country and be ashamed because my mother is not Jewish or return to Holland and be ashamed there because of my Jewish father?

Awaiting your reply,

Sincerely,

Hanan Frank.

Who will take upon himself to decide that this youth is not a Jew? Who will tell his comrades, who emigrated to Israel with him to merge here with the fate of the Jewish people, that they are not Jews? To my mind they are Jews in the deepest and loftiest sense of this term.

In the name of the Minister for Religions, Zerah Varhaftig, it has been published in the press that according to his information some 300-350 mixed families have desisted from emigrating to Israel, in the recent wave of emigration, apparently because of the mounting difficulties of their absorption by Israel. The prevention of immigration of such a family with its children, due to the orthodox Halakhic authorities, is an unforgivable national crime.

Today we are facing the almost Messianic phenomenon of national awakening amongst the young Jewish generation in the Soviet Union. Jewish teachings – don't exist (there). Jewish culture – non-existent. The Hebrew alphabet is for most of them like hieroglyphs. No regime has managed so far to destroy everything connecting the Jewish person with our people as the Soviet regime has. And yet they are awakening, not a religious awakening but a national awakening. And marriages by religious procedure – a tiny minority. A lot of mixed marriages. From the Halakhic point of view – one great mix up. A great Halakhic chaos, and only the spirit of great love to the nation, to the People of Israel, hovers over it. They are attracted to Israel by their thousands. And they will come, I'm sure they will come. Their immigration will decisively determine the shape of our entire future. Over there they are Jews for any purpose. And here, when they come to Israel after breaking through all barriers, will you receive them – many of them – as standing outside the camp? You won't even know whether many of them have to be converted according to the Halakha at all.

I don't know, and no one knows, what they will be like when they arrive. Perhaps many will be attracted, as a protest against their

oppression there and against the attempt to deprive them of their Jewish identity, to conversion. It is their right. Their honour. But I am sure that many of them, the vast majority, will arrive as inherently secular Jews. Will you discriminate between them and the rest? Do you think this will be tolerated, that it will not have shocking consequences for the size of this immigration, and thereby for the future of the Jewish people?

The amendment to the Law of Return has two paragraphs. One, paragraph 4A, is entirely positive. It is designed to ease immigration of mixed families and guarantee the entire family the rights ensuing from the Law of Return. But from here onwards comes increased stringency – the great calamity. Paragraph 4B of the proposed law will determine who is a Jew, and that according to the Halakha. Thus some of these Jews will be placed outside the law as Jews. This right will be denied them unless they accept the law of the Halakha.

The view that this has not changed anything in the status quo [between secular and religious definition of ‘Jew’] since – so we are told – even before this law all matrimonial law was under the authority of rabbinical law, is incorrect from the start. From now on, all instructions and regulations introduced by the Minister of the Interior into the population register will become a law by force of the amendment to the Law of Return, which is one of the basic laws of Israel. The state of secular law will become the State of religious law.

If the government proposal is accepted it will carry within it the danger of a split in our people. It will sow perplexity instead of deepening its sense of joint fate. Will reform Judaism be considered as fully Jewish by this law or not? Will those who join Judaism through it [i.e. converts to Judaism by the procedure of the “reform” branch of Jewish religion] remain Jews when they come to Israel, or will they discover that they are Jews for any purpose in the diaspora, whereas emigration to Israel disqualifies their Judaism?

We are told that their conversion will be accepted, for the law states: “he who was born to a Jewish mother or converted to Judaism”, rather than “converted to Judaism according to Halakha”. That is true about their right to register as Jews according to the population register law. But will an orthodox rabbi in Israel have to perform the wedding of a Jew converted abroad by a reform rabbi? Will the secular law force him to do so? Will a reform rabbi be authorized to convert to Judaism only while he is abroad, but be disqualified to convert when he immigrates to Israel? The law leaves here a gap as wide as a hall about the national identity of religious Jews who are non-orthodox. This law will deepen not only the gap between the religious and the secular in the nation, it will also deepen the gap within the religious camp itself [between

Orthodox, Conservative and Reformists].

We shall therefore vote against paragraph 4B in the amendment to the Law of Return as proposed by the cabinet, and suggest it be left unchanged. Because the proposed change does not amend, it perverts the image of the state of Israel. From a state of Law, it becomes, in one of the most crucial domains, a state of Halakha.

As for the Population Register Law, it never occurs to us to coerce a religious Jew to separate religion from nationality. Likewise we have no right, being a state of secular law, to impose the religious conception about the nation on a secular Jewish person. The way to do it is to by-pass the controversy or find a compromise formula that will not change the nature of the status quo and enable both sides to consider themselves as Jews. We shall vote against this law as proposed here by the government. If it passes the first vote and is transferred to the committee we shall vote there in the spirit in which I spoke here. If our amendment proposal is not accepted we shall vote against it in the second and third vote as well. (pp.737-740)

The government's amendment was, predictably, carried through all three votes, and Mr Hazan and his Zionist Marxist Mapam party remained in the government. It has always been the same with this party. Whenever they joined a coalition government with Ben-Gurion's Zionist Labour party and were presented with unpalatable decisions, they vehemently denounced the government – but remained in it. Exactly the same happened in the Suez war of 1956, when Ben-Gurion presented them with the accomplished fact of a 'preventive' war against Nasser's Egypt. They spoke against the war, but remained in the government. It would be wrong to interpret this as mere hypocrisy. Their verbal opposition was not mere lip service. They genuinely believed what they said. There is no shred of doubt that Hazan was utterly sincere when he opposed paragraph 4B. His party, which published almost all the Hebrew translations of the works of Marx, Lenin, and the world's progressive literature, and taught these works systematically in its youth movement Hashomer Ha'tsair which educated its youth to practise what it preached by founding the most left-wing kibbutzim, was genuinely anti-religious in its ideology and practice. Why then did it not leave the coalition government?

One common answer is that by so doing it would have lost all the economic and political benefits enjoyed by member parties of the ruling coalition. Another answer argues that Mapam's departure from the coalition wouldn't have been sufficient to bring the government down, thus halting the objectionable decision. Neither of these explanations is satisfactory. Mapam's economic and political empire managed quite well during the years it spent in opposition. By departing from the coalition over an

issue of principle it could have become a rallying force for a much larger sector of the population ready to support an extensive civil and political campaign against the government, similar, say, to the campaign of the Labour Party in Britain against the Conservative government during the Suez war. There is little doubt that had Mapam resigned from the cabinet and organized a massive campaign, in the Knesset and outside it, against the policies which its spokesmen rejected, it could have divided the country and put the government of the day in an extremely difficult situation. It is doubtful whether Ben-Gurion could have continued the Suez war, or Golda Meir her surrender to the orthodox minority on the 'Who is a Jew?' issue, had Mapam resigned from the coalition and started a campaign against it. Such a possibility was precisely what scared Mapam most. Not so much the fear of failing, nor a fear of being involved in a fighting campaign, but a fear of 'dividing the nation' over a crucial issue. Mapam, which apart from the Communist Party was the only one in Israel upholding Marx's view of the class struggle, put national unity before all else. Whenever its anti-clericalist, or anti-imperialist, ideology presented it with the possibility of leading a significant section of the population against policies which it rejected, thereby 'dividing the nation', Mapam stepped back from the confrontation.

Hazan's emotional eloquence in the Knesset is a good example. His main argument against paragraph 4B is that it will divide the nation and drive people away from it. This possibility certainly exists. But the argument itself – apart from sounding a little odd coming from a self-confessed Marxist – was aimed at the wrong target. The religious minority could in no way be held responsible for imposing its definition of Judaism on the secular majority. For two reasons. First, in a parliamentary democracy like Israel's a minority can only impose its will with the consent of the majority. If the majority dissents the minority is defeated. If the majority desists from defeating the minority least this 'divide the nation', it can only blame itself. Second, for an orthodox Jew, the identity of the people chosen by God is, by its very nature, determined only by God's decree, i.e. by religious law. By expressing their view, that both history and the nation are subordinated to God's decree, they voiced their conviction, not their intention to impose it on others. Judaism, being a theocentric system, subordinates all else, including the nation, the individual and his conscience, morality, etc. to God. That being the core of the Jewish religion, how could anyone expect a religious Jew to subordinate God to the national interest?

Religious Jewry never hesitated to separate itself from non-religious or non-observing Jewry. In fact it does so all the time. An orthodox Jew, observing all the religious dietary regulations, will never dream of eating in a place where these regulations are not meticulously observed, as, say, in the

home of a non-observing Jew. Needless to say, he will never allow his offspring to marry a non-observing Jew. For an orthodox Jew, God is above the nation, hence he would not hesitate to divide the nation in God's name if he believed that part of the nation – even the majority – had rejected God. For an atheist Zionist, such as Hazan or Golda Meir, God and religion are subordinated to the nation, whose existence and unity are the supreme value.

In the confrontation between orthodox Jewry and secular Zionism, it was the Zionists who faced an inner conflict: to uphold their atheist convictions thereby dividing the nation into orthodox and secularists in constant strife over an issue of conscience and belief, or to sacrifice their conscience, and atheist conviction, for the sake of national unity. The outcome was a forgone conclusion, because an Orthodox Jew could not accept a non-religious definition of Jewishness without shattering his religious identity, i.e. the meaning of his existence, whereas a non-religious Zionist could sacrifice his atheist convictions on the altar of national unity, thereby maintaining his national identity, i.e. the meaning of his existence. This conclusion was borne out by the fact that in all the confrontations of this type in Israel, the secular majority always surrendered to the orthodox minority. There is not a single example to the contrary.

However, by subordinating their atheist conviction to their national identity, and accepting a religious definition of that identity, they introduced a fundamental flaw, an ambiguity feeding an existential insecurity, into the definition of their own national identity. They accepted that their identity depended on a religion in which they no longer believed.

The Prime Minister, Mrs Golda Meir, leader of the Zionist Labour Party which dominated all Israeli governments and politics from the day Israel was founded, took the opportunity to explain why this sacrifice of conscience was necessary. Although she, like all atheist Labour Zionists, shared all the arguments which Mr Hazan put forward, she could not afford the luxury of speaking against the amendment and acquiescing in its being carried. Her party decided to make the sacrifice and she had to explain it. Since a free vote was forbidden to members of the ruling coalition, an absolute majority for the amendment was guaranteed beforehand and Mrs Meir could use the occasion to express her credo on this emotional issue without having to compromise her argument. The speech therefore reveals her genuine views on this issue. The occasional discontinuities and incoherences in this speech are in the original. Mrs Meir was very agitated, and did not read her speech from paper. She expressed, spontaneously, her inner turmoil and distress. She was an atheist who came to defend a law that was contrary to her atheism. She carried out an act of sacrificing her conscience for the sake of national unity and identity.

Mrs. G. Meir (Prime Minister):

Honourable Chairman, honourable Knesset, in fact I ought to say after the introductory speech of the Minister of Justice, when he introduced the proposed amendment in the Knesset, and after much else said here, there is no point in my speech, but I asked for the opportunity to say a few words, for two reasons: one, completely egoistic. I simply wanted to share the honour of my colleague, the Minister of Justice, in presenting this law to the Knesset this means that I share all arrows, some not very civilized, aimed now at the Minister of Justice for two sins: 1) his belief that this is the way things ought to be and 2) that he carries out the cabinet's mission. Apparently there are today people who have nothing to say against the proposal, because this does require some minimal qualities, they try something much easier and simpler: to denigrate, abuse, and direct arrows at a person. Many are good at this. They don't know how to argue, but in this they are great artists.

On this occasion I wanted to state, from this rostrum, my credo. Many important and interesting things have been stated from this rostrum, even by members of Knesset whose views I do not accept as well as by the others, of course. But I wish to state my credo.

Above anything else in the world, to my mind – and I hope to the mind of most Knesset members, though I cannot say all – there is one thing, namely – the existence of the Jewish people. For me this is above the state of Israel and above Zionism, for – heaven forbid – without the existence of the Jewish people there is no need for anything else, nor can anything else exist.

Second: love of Jews because they are Jews, religious and atheists alike. I think there is one demand – forgive me, religious observing Jews, members of the Knesset, but I sometimes have the feeling that your love is great, very great, but it is even greater towards religious Jews. From you one can demand, I think it is a duty to demand, to love a Jew because he is a Jew, and to protect him because he is a Jew, even when he is not as you would like him to be.

There were times and epochs in the history of the Jewish people when various dangers threatened its existence. At almost all times there was a danger to the existence of the people, of physical extermination, in all forms, in many countries; it reached the terrible and shocking peak at the hands of the Nazis during the Second World War.

In all years, in many countries, a Jew could save himself, or, as in Czarist Russia, save what he considered the future of his son's career and studies, by doing only one small thing – converting to Christianity. Some did. But luckily there were Jews, certainly the great majority, who withstood suffering and inquisitions as well as this seduction that by an

easy escape from our people a big world with unlimited opportunities would open up to them.

None of us – perhaps I shouldn't say this when there are here members of Knesset who do have an explanation, yet I'll say it – none of us has a really rational and full explanation of the riddle of our existence. There is nothing like it, under such circumstances; always the few amongst the many. Yet here we are, existing in the Israeli Knesset, in an independent, free state. We, the vanguard of the people, and we can only consider ourselves as a vanguard of the people; a Jewish state of two and a half millions is only an indication that there can be a Jewish state, if millions of Jews are dispersed throughout the world, even when in large communities they are still a minority amongst the many – being a vanguard we cannot stay calm telling ourselves: at the present epoch there is no danger to the existence of the Jewish people, true, nowadays there is no danger to our life, no danger to the physical existence of the Jewish people. There are Jews, in Arab countries, who as isolated Jews, or small communities and congregations, certainly face even such danger. But when I am speaking about the physical existence of the Jewish people, about its millions, there is at present no such danger.

There arose, however, another danger. And it is real. The danger is great. There are reasons, I shall not enter long descriptions why and how. It is a fact that in the Soviet Union, in a community of three and a half to four million Jews, under the circumstances of Jewish life there, there is a large number of mixed marriages.

We are told nowadays, I hope it is true, I'm willing to believe it, that since the great awakening following the Six-Day War, perhaps even a little before it, and the identification demonstrated today – and it is demonstrated, and in such circumstances it can only be demonstrated if the love of the State of Israel is very great, and perhaps not every one of us has such love as they need to overcome all dangers and threats and demonstrate their love to the State of Israel, we are told that due to this awakening the number of mixed marriages has fallen.

And there are great [Jewish] communities in the world, the great community in the United States – a wonderful Jewry. Every one of us who had at all the privilege to be a messenger of the State of Israel, and before the establishing of the State – of the Jewish community in that country, knows that this was a great privilege in his life and learnt the quality and wonderful character of that Jewry. But nothing can compare to what is happening to this Jewry nowadays. And I know this Jewry well. It wasn't always like this, but it is a fact that in the last ten or fifteen years, in an ever-increasing number, there are mixed marriages, in numbers that scare me. It matters not, they say, it's only 18%, and

someone insists and says 20%, and there is someone who says 25% among students in universities. But for me the smallest figure is enough: 18%-20%. Let a statistician sit with a pencil and paper and calculate what will happen. One heavy calamity already hit us – when a free, independent Jewish state arose in the fatherland, six million Jews were no longer alive. It is intolerable that precisely now, when a Jewish state exists, the number of mixed marriages increases, meaning the number of Jews in the world decreases.

Uri Avneri (Ha'olam Hazeh): Perhaps the contrary, let us attract them, bring them over.

Mrs Meir (Prime Minister): This situation makes me – and I'm sure many of us – restless. What is so frightening in this? As I visited America often I often saw a family here and there that suffered such a disaster. But what is threatening here? That it is no longer considered a disaster. Why? Not that the family is not smarting under the blow, but it is a general malaise. It happens to a neighbour, a brother or sister, an acquaintance. What to do?

I think that whoever says or thinks that this is not a duty of the state of Israel is mistaken. It is perhaps our first duty, after state security, and linked to it. It is worth it, regretfully, to pay any price for the state of Israel and its security if it is recognized that our duty is also to safeguard the Jewish people. I know there is no guarantee that a Jew will remain a Jew, and that his children and grandchildren will remain Jewish if they are not in Israel. Indeed. But until they come, and so that we can convince him to come, he must remain a Jew. He and his children. I consider this the most important thing, with a capital 'T'. Without this nothing else matters.

I am not a person observing the religious injunctions. But no one will uproot this from my heart and consciousness: for generations, but for religion, we would have been like all other nations, which once existed and disappeared.

In 1948, when I visited the Moscow Synagogue at New Year and the Day of Atonement, and on the day of atonement I stayed there all day long, I thought to myself: had I remained longer in the diplomatic service I would have visited the synagogue not as a duty of the representative of the Jewish state, but I would have gone to the synagogue; I – Golda Meir – must be in the synagogue, be in the synagogue among Jews.

Heckling: This can be done in Tel-Aviv too.

Mrs Meir: Please give me the address of the synagogue. He who does not

understand what it means to be in the synagogue in Moscow cannot understand the heart of the matter.

When we hear that thousands of young ones dance at the Succoth feast around the synagogue, I know and you know that they don't know what it is. But I think only, in Moscow and Leningrad, Kiev and Odessa, and other places, when there is no Jewish club anywhere, where can Jews congregate as Jews? And I thought, luckily there is a synagogue and religious feasts as a focus around which thousands of young boys and girls can congregate and sing and dance, without even knowing the nature of that feast.

I know that we were taught from this rostrum that these are new times, modern times. True. And we must progress. True. I read today in the paper that one of the demonstrators* yesterday said: "We are Jews of the twentieth century." It's a fact. This cannot be denied. I know where the majority [of the demonstrators come from,] excellent boys and girls, who build the state of Israel. But he who says, "We are Jews of the twentieth century" must feel deeply the long thread binding us to Jews of earlier centuries. Otherwise – there is little in it. And we must see to it that also in the twenty-first century there will be Jews.

Each of us with his opinions and conscience, and each – if he has a conscience – must, automatically, respect the other's conscience. If he really believes in something he must have respect for the belief of someone else. We had the wisdom to live together and compromise. I read somewhere that a miracle occurred: part of religious Jewry decided for the proposal – they certainly didn't find it easy – to see itself within the Zionist movement, together with other parts of our people, and actually to go and build the country. There was a [Jewish] workers' movement which refused this, and there was a [Jewish] workers' movement which said to the Zionist Congress: together with the bourgeois and the religious? No. Luckily there was a part of the workers' movement which said, 'together with the entire nation, to build the fatherland of the entire nation.' In this joint endeavour, through much wisdom, through self-denial, one reaches compromise. There are 'heroes' who never compromise, because they are alone, they have no one to compromise with. Luckily we are part of a large people, each one of us. No one can live alone. When there is one joint aim, and it unifies, one must make peace. We did this. My comrades did this. We are not ashamed of it. I am sure that the religious parties too, according to their own views, accepted compromises. I hope they too don't regret it. And we achieved what we did. Together.

*Mrs Meir refers here to the mass demonstrations by secular Jews in Israel against the proposed amendments.

One of the fundamental issues is – marriage and divorce, and how to register a Jew in this country. It is a defamation of the state and of the Jews in the state to say that all this is done to discriminate against others. This is libel. He who says this knows it is libel. We lived in such a regime from 1960 to 1970. There can be different opinions. But let no one who objects to this law – and it is his right to object – pretend that something terrible has suddenly happened in this state. Member of Knesset Shostak, you have lived with these ‘terrible’ things, with this ‘coercion’, till that Friday morning some three or four weeks ago, when the court ruled as it did. With all respect to the court, and each one of us must obey the verdict even though carried only by one vote. Never mind. They were five against four, so that one person carried it. Never mind, the court decided and we cannot hesitate and think whether it has to be carried out or not. It has been carried out.

The issue is how shall we live in the future. Member of Knesset Shostak, and Member of Knesset Abramov, and other members of Knesset have a ‘patent’. The judges, members of the Supreme Court, were struck, at a certain moment – and I can understand this – by the fear of deciding on such an issue, as Justice Silberg explained. Or as Justice Landau said, that the division reached that house, meaning the court, and they wanted to avoid it. They suggested to the government, or to its legal adviser, that perhaps the government will omit the entry of ‘nation’ [from the Register]. As there is no verdict [on this] I may criticize this. I am opposed to this, and do not accept that proposal.

But let us leave the judges alone. Members of Knesset, what do you propose? In Germany there were assimilationist Jews who called themselves Germans of Moses’ faith. In America there is the Council for Judaism, Americans of the Jewish faith. Similarly, probably, in other countries. Do you propose, on the twenty-second anniversary of the existence of the Jewish state, to throw away the prayer shawl and the phylacteries? A small matter, to erase the word ‘nation’ and thereby create – perhaps that is not so, this will not be the reality – but suddenly to create an impression amongst the Jewish people [abroad] that they are alone, and we [in Israel] are Hebrews, Canaanites, Yevusites, I don’t know what else, anything except Jews. They [abroad] are Jews, but we [here] are not.

Russian Jewry, there, what is written in their passport is not ‘Jewish religion’ but ‘Yevrei’ [a Hebrew] that is – a person of the Jewish people, of the Jewish nation.

Eliezer Shostak (‘Free Centre’): In ours it is written ‘religion’.

Prime Minister G. Meir: There [in Russia] ‘religion’ is not written.

Uri Avneri ('Ha'olam Hazeh): It is very bad there.

Prime Minister G. Meir: You should introduce an amendment there. There it says 'nation'. And I'm not sure at all, that among those dancing boys and girls, perhaps already their parents, there are not some who grew up in homes where out of fear or assimilation they never heard anything about Jews. And this stigma 'Yevrei' was perhaps the first thing they started to ask about. And I'm sure that when they began to explain, they said: the Jewish people. And the evidence: those letters which so stir our hearts. When they write the letters to Kosygin, what do they write?

They write: each people has its fatherland, my people also has its fatherland, I want to go to my people and fatherland. Then, one bright morning, I shall announce to Member of Knesset Shostak, who cannot continue to live as he did since 1960 to 1970: 'Nation' – No. That shall be torn out of the book. I utterly oppose this. What for? To re-introduce the situation that existed on Thursday night before Friday morning [when the Court's verdict was announced].

There are people who cannot tolerate that significant amendments, on this matter, are carried out now. On that morning, when the Minister of Justice phoned me and told me there was a verdict, I thought of two things. First, that this could be interpreted in the diaspora as a permit from Israel for mixed marriages. Second, about the Russian Jews, mainly about them, but also about families of mixed marriages in the West who wish to immigrate to this country, and I hope they will, and that here I shall not have to worry that the children of such marriages will be Jews.

True. We looked for ways. The government searched for a way, since what happened, to find a solution to both problems alike. Not perfection. We have here perfectionists, that if something is not perfect – then [better] nothing. Well, here too there are some compromises, but that makes it possible: first, to return to the earlier situation, not for the worse but for the better, and second – to make an important amendment, a fundamental, very necessary one, to the Law of Return. When a family of mixed marriage comes to the country, if he – the husband – is Jewish, he comes through an open gate, the main gate, his wife and children did not come with an equal status. A family does not come on an equal status. That is to be amended now. I know of horrifying cases. One was mentioned by member of Knesset Hazan. Member of Knesset Hazan, that terrible, tragic case – I'm convinced it is not the only one – happened before the proposed law. It is not a result of the proposed law. I am convinced, knowing you a little, member of Knesset Hazan, that you did not say that this case was a result of the

proposed law. I am saying this so that we all know that this case happened before this law.

As for conversion – it has already been said from this rostrum – it was decided that there must be a Cabinet Committee to see that conversion procedures will be simpler, faster. That is for the benefit of us all. We want the [mixed] families to stay in the country. They didn't come here for a visit. They have to live here. We must speed up this process, so that there will not be, as far as possible, problems within the family. That is necessary.

As for the conversion itself, I can imagine that there are non-Jewish women who find it unpleasant. I understand this. But members of Knesset, [consider] a non-Jewish woman who: 1) marries a Jew 2) goes with him to live her life in the state of the Jews. She goes with him to the state of the Jews. She leaves her family, her neighbourhood, her relatives, her language, her faith – if she was a believer – and comes to live among Jews. She knew that here her children will be Jews. As Jews they will fulfil all the duties of Jews. I think she makes a great sacrifice. She makes this sacrifice out of love for her husband, perhaps also out of love for the Jewish people. But it is a sacrifice. Even for pure Jewish families. We see what massive immigration there is from the West. I hope such mass immigration will still come, freely, not – heaven forbid – due to persecution. But we see what it means for a non-Jewish woman to emigrate with her Jewish husband to Israel. But when she comes here with her children, she is obviously concerned with their well being. No doubt. She must make a sacrifice. True. [Mrs Meir means in this cryptic formulation that since children of non-Jewish mothers are often molested in school and neighbourhood by Jewish children, and when grown-up will have difficulties in marrying, the mothers must, to avoid such hardships, undergo the religious conversion to Judaism.]

Heckling: What if this is contrary to her convictions?

Mrs G. Meir: Then she must make an additional sacrifice [of her conviction] I know of no normal mother who will find any sacrifice for the sake of her children beyond her powers. And this woman [Ann Shalit] already contributed much for the integrity of the family, for the benefit of the family. She must contribute one more thing [her conscience]. And those who are so concerned about the conscience of this woman I want to ask them: if something like that happened in their family – or maybe they know a relative to whom this happened – did the woman convert or not? And if it was not a matter of conscience for their relative, why does it become immoral, and anti-conscience, for others?

I am wholeheartedly for this law. Not for the sake of the religious parties. Not for maintaining the unity of the cabinet, though this too is not a minor matter, not at all. I wouldn't have been ashamed had this been the argument. I don't consider it a shame. But that is not the argument. I see the main point in the two things I mentioned. I don't know, and I am unwilling to state, that if we accept this law mixed marriages in the diaspora will stop. But perhaps this will deter them a tiny bit. At least they will know that from here there is no permission. That is one thing. The second thing – to enable this people to live together here, as we lived until the verdict. It so happened that one person – he has the right – appealed to the court and won. This put us in a situation where we had to do something. People ask: what's the hurry? I'll say openly: had the government, or the majority in it, been against the substance of this thing [the amendment] there would have been no question of haste. But if the government accepts it, by decisive majority, then to avoid torment, suffering, and crisis we'd better do it as quickly as possible. To postpone it for a month or two? For whom? Those who accept it don't need this anyway. And those who oppose it should not argue against haste. Would they have voted for it in six months' time?

I hope a big majority in the Knesset will accept the proposed amendment and decide to pass it on to the committee for the constitution, law, and jurisdiction. May we have to debate many more problems arising from the immigration of masses of Jews both from the Soviet Union and the West. (Knesset Debates, Feb. 10 1970, pp.770-773)

Some Knesset members challenged the government to allow a free vote on this issue so that members could vote according to their conscience. The cabinet refused to allow a free vote. The only reason being that with a large number of abstentions and votes against the motion in case of a free vote the government could not be absolutely certain of having a majority. Members of the coalition parties, many of whom were against the amendment, and spoke against it, were forced, by party discipline, to vote for it. The motion was carried by 69 to 23, with 15 abstentions.

Mrs Meir's speech, being a genuine expression of her feelings on this matter, merits closer analysis. Mrs Meir, who played a major role in Zionist and Israeli politics for 50 years, was known as a cool and calculating politician, yet in this speech she was unusually emotional, agitated and spontaneous. She was, quite obviously, under strain. She insisted on taking the rostrum and making her own statement more as an individual than as Prime Minister. There was no need for her to speak on this issue. The vote was guaranteed beforehand by prohibiting a free vote, and the Minister of

Justice could bring the government's position on what was, technically, a legal matter to the Knesset. Yet Mrs Meir insisted that her statement be heard and recorded for posterity, because it gave her an opportunity to reveal the source of all her politics. In fact, in this statement she reveals why she is in politics at all. Those who know Mrs Meir's generation know that there is nothing unique in her motivation or views.

These motivations are common to the vast majority of Zionists, most of whom share Mrs Meir's views on the issue. The view that the very purpose of the Zionist movement is to perpetuate the existence of the Jewish people throughout the world, was the emotional and ideological foundation of Zionism. Therefore when the Prime Minister of the State of Israel stated in the Knesset that for her there is something more important than the State of Israel, and even more important than the Zionist movement, namely, the perpetuation of the (world) Jewish people, no one in the Knesset, or outside, made a single critical comment. Everyone accepted the assumption that the purpose of the State of Israel, and of its politics, is not the well being of the Israeli population but the perpetuation of the existence of world Jewry. How many prime ministers consider their state a mere instrument for another purpose, and how many would dare to say so publicly? But deeper complexities come to the surface when Mrs Meir spells out her concept of the survival of the Jewish people, for she says: 'It is true that nowadays there is no danger to our life, no danger to the physical existence of the Jewish people, . . . but there is another danger, and it is real . . . mixed marriages in large numbers.' In other words, according to Mrs Meir's viewpoint, mixed marriages are as much of a threat to the 'survival of the Jewish people' as actual extermination. In both cases a person ceases to be a 'Jew'. The fact that in one case the person is exterminated physically, whereas in the other case he leads a happy life, is – from the Zionist viewpoint – irrelevant. What matters is only the fact that when the Zionists count the number of Jews, they cannot count that person as a Jew. The existence of that person as a person hardly matters; what counts is the existence of that person as a Jew.

The same disregard for the difference between physical survival and cultural survival is expressed again by Mrs Meir – "One heavy calamity already hit us – when a free, independent Jewish State arose in the fatherland six million Jews were no more [having been exterminated by the Nazis] It is intolerable that precisely now, when a Jewish State exists, the number of mixed marriages increases, meaning – the number of Jews in the world decreases." In short – mixed marriages are as great a calamity as extermination, because they decrease the number of Jews just as if the people were exterminated. Thus, the problem of 'survival of a Jewish identity' is equated to the problem of physical survival. Obviously, if the

group is physically exterminated, so is its identity. But often the group leads a comfortable, secure, physical existence (as, say, U.S. Jewry does today) yet its identity loses its meaning, and uniqueness, for many of its members. In such a case it is the survival of the group's identity, rather than its physical existence, that is at stake. But from the viewpoint of the group's existence as a group, and its members' existence as members of that group, the loss of the group's identity is the end of the existence of that group as a specific group, and that means for most of the group's members the loss of a particular meaning of their lives, of their way of experiencing existence, and although this is not the physical termination of that existence they genuinely, and spontaneously, equate the two. Only such a frame of mind can consider mixed marriages on a par with extermination of Jews by Nazis.

The same anxiety compels Mrs Meir, a convinced atheist herself, to sacrifice some of her atheism to religion: ". . . I am not a person observing the religious observances . . . but if it were not for religion we would have . . . disappeared," or ". . . I – Golda Meir – must be in the synagogue, to be in the synagogue among Jews." She means "I Golda Meir, the atheist, feel that I have to be in the synagogue, not for God, in whom I don't believe anyway, but for the Jews." Those who knew Mrs Meir knew that this was a genuine conviction of hers, not a political concession to the religious parties. She herself was, apparently, puzzled by this contradiction, and she expressed this in a roundabout way: ". . . No one of us has a really rational explanation, with details, to the riddle of our existence." The 'us' here means 'atheist Zionists', because for the religious Jews there is a fully satisfactory religious answer, and no riddle at all. The atheist Zionists, who insist on remaining Jews despite having lost their religious conviction, are confronted with a riddle concerning the meaning of their Jewish existence. What requires a rational explanation is not 'Jewish existence' per se but the Zionist mode of Jewish existence.

Mrs Meir's major compulsion is "to see to it that there will be Jews in the twenty-first century as well", but she never refers to the content of that which is to be continued. She does not say – 'for two thousand years we were the bearers of theocentrism, and of the ideas of social justice, and social salvation, and it is unthinkable that we should give this content up now'. No, there must be Jews in the 21st century, whatever 'Jew' may mean. She is striving for the continuity of a label, not of a content. When she talks about 'feeling deeply the long thread binding us to Jews of former centuries', the thread itself is never discussed. What is the thread, and how does it bind? The usual Zionist answer is that this thread is 'the historical fate of the Jewish people', but what is this fate, and how does it bind people? Here too the orthodox see no problem. This fate is simply God's choice. But Zionism, which started as a rebellion against the religious notion that the

fate of the Jewish people is determined by God, and set out to change this fate by independent action, cannot accept this religious answer. The best that Zionists can do is to say that the fate of the Jews is to be historically discriminated against, and persecuted, by non-Jews. This is satisfactory as long as discrimination and persecution exist. When they cease they have to be imagined, even secretly longed for, and when even this phobia becomes insufficient for sustaining the sense of Jewish identity, there is a genuine existential problem, for which 'no one of us has a really rational, detailed, explanation'.

As Mrs Meir herself sacrificed her atheist convictions to her obsession with the 'continuity of the Jewish people' she cannot see why Mrs Ann Shalit can't do the same: "... She must make a sacrifice. True. (Heckling: and if this is against her convictions?) Then she must make another sacrifice", meaning – sacrifice her convictions. Mrs Meir means – 'if I could sacrifice my atheist convictions, why can't she sacrifice hers?' In making this demand Mrs Meir reveals that she herself is willing to sacrifice her conscience to her nationalism just as Abraham was ready to sacrifice his son, and his morality, to his God. All members of the Knesset, Orthodox and Zionist alike, knew that even had Mrs Ann Shalit undergone the ritual conversion to Judaism, she would have remained a convinced atheist, but this hardly affected them. For them, performing the ritual of conversion is the main thing. Even if done without conviction. The ritual itself is, of course, out of date, just like the religious definition of Jewishness. It was prescribed by medieval circumstances, when Jews were persecuted by the Catholic church and often had to convert to Christianity for expediency, while remaining adherents of the Jewish faith. A simple, modern, religious definition could simply be: 'A Jew is one who upholds the Jewish religion, and observes its commandments', but orthodoxy is always hostile to innovation. Thus we get the bizarre spectacle where non-believing Zionists and their orthodox allies demand that a convinced atheist undergo a ritual of conversion, then they will accept the atheist as a Jew, even though they know that the convert remains an atheist.

There can be no doubt, after reading this speech, that Mrs Meir was deeply concerned about the survival of the identity of the non-religious Jews. She considered the danger of the erosion of this identity a threat to Jewish 'existence' like the Nazi extermination or the Arab military and political hostility. That is indeed the case. If the identity is lost the living organism counts for nothing, because the identity is concerned with its own existence, not with that of the organism, and when the two are in conflict the identity – seeking to maintain its uniqueness – is not interested in existence of an organism, be it a nation, state, or individual, which is 'like all others', i.e. lacking uniqueness. This problem is shared by many other

nations, tribes, and states, almost by entire humanity. But its solution is a totally different matter from what Mrs Meir proposes. An identity depends on values – religious, social, and spiritual. Values, by their very nature, cannot be subordinated to other purposes, such as uniqueness, because they are the entities which set up the purposes. Moreover, if Judaism were to uphold other values than its religious theocentric ones, it would become something different from Judaism. Cultures are not malleable, they are brittle, and so are the identities defined by them. If a new one is accepted the old one is, by definition and as an existential reality, rejected.

There have been umpteen attempts, over the last century, by Jewish philosophers, historians, and intellectuals, to provide a secular Jewish identity, through upholding some secular values. Some saw the uniqueness of secular Judaism in its insistence on 'social justice' and 'moral values'. This can never be accepted by the Jewish religion, where everything, including morality, society, and justice, is subordinated to God, and where God tests his believers by asking them to carry out immoral, anti-social and unjust acts, like sacrificing their own children to him merely to test the strength of their conviction (Genesis 22). But quite apart from the fact that no religious Jew can accept any other values than his theocentric ones, all these attempts have failed. It did seem for a while as if in Palestine itself, in the 30s and 40s, the dominant value of the new Zionist community would be one of 'social justice'. It is a fact that in this community politics were always discussed in terms of rights (which imply justice) rather than in terms of might, or expediency, as is common everywhere. But when the moral consequences of the Zionist conflict with the Palestinian Arabs began to become obvious, Zionism was forced into a distressing choice, as Arthur Rupin, head of the colonization department of the Jewish Agency stated in his diary: "It became clear to me how hard it is to implement Zionism in a way compatible with the demands of universal ethics. I was quite depressed." (A. Rupin's diaries, entry on 26 May, 1928). Moreover, since June 1967 Israel has occupied the whole of Palestine and has under its rule about a million and a half Palestinian Arabs who are a conquered and oppressed population. Anyone whose dominant values are social justice, universal ethics, or human rights, must stand up and openly denounce this occupation. Yet how many Israelis have stated: "We refuse to be oppressors of the Palestinian people"? A mere handful, and they have been viciously attacked by the majority, whose dominant value is national loyalty. In short, apart from loyalty to the Jewish people, or state, as a supreme value (rather than loyalty to God) Zionism has, de facto, produced nothing new. As for the loyalty to the Jewish nation or state, it may be new but it is certainly not unique. No wonder that "the young Jewish generation, mainly its intellectual and idealistic members are increasingly indifferent to Jewish

endeavours. Their efforts are much more dedicated to larger international issues, like the struggle for peace, against poverty, and helping the oppressed.”* Are they wrong? Should they insist on uniqueness for its own sake, rather than for its content?

*See Goldman’s speech in the Introduction.

1. Sheikh – Arab notable. Qadi – Arab religious judge.

Chapter Six

Religion in Turmoil

In AD 70 Titus destroyed the Temple in Jerusalem, sacked the city, and put an end to Jewish independence. From that time on, the majority of the Jews became dispersed throughout the world. They formed communities in various countries and lost most of the common features marking a nation. They did not live on a common territory, they did not speak the same language, they differed in dress, customs, taste, food and living habits.

Those who stayed in the Orient were closely integrated into their host societies, and were rarely discriminated against or persecuted. Those who went to Europe kept more to themselves, and were, particularly in Christian countries, discriminated against, persecuted, and often massacred. Islam has no quarrel with Judaism and Jews reached high status as poets, philosophers, doctors, and sages under Islamic rule (e.g. the 'Golden Age' in Spain). Christianity, purporting to be the true continuation of Judaism, was hostile to the Jews, who refused to recognize Jesus as the Messiah¹ ('Saviour') prophesied in the Old Testament. Since Christianity revered both the Old and the New Testament it could not tolerate those who revered the Old Testament but denounced the New as heresy.

Underlying this conflict of legitimacy lurked the fundamental incompatibility of the two faiths – of Judaism's theocentrism and Christ's anthropocentrism. Christ turned the essence of Judaism upside down. Instead of considering humanity as a means to glorify God, he saw God, and religion, as a means to improve humanity. This difference makes the two faiths irreconcilable. A vulgar and crude expression of this conflict was the accusation that the Jews were responsible for the crucifixion of Jesus. The Jews, on the other hand, considered the Christians as pagans who worshipped saints, shrines, images, and a particular person (Christ), in order to gain personal favours. The hostility was mutual, but since the Jews were always in the minority they were the ones who were persecuted, tortured, burnt, and massacred in large numbers. And yet, despite all the permanent threats to their physical survival, the Jews never doubted their spiritual survival; they had a total conviction in the superiority of their religion; they never questioned their identity or its future. The first cracks in this state of mind started to appear in Europe after the cultural revolution of the bourgeoisie (the Renaissance) and the political bourgeois revolution in England and France which abolished legal discrimination against the Jews.

The country where those cracks became deepest was Germany. This

was due to the fact that in Germany, during the nineteenth century, the Jews absorbed the local philosophy, literature, and the attitudes of the enlightened bourgeoisie more than anywhere else in the world at that time. A drift away from religion started amongst Jews throughout Western Europe in the nineteenth century, but in countries like Britain and France it was motivated more by expediency than conviction, whereas in Germany it was motivated more by conviction than expediency. Moreover, German philosophy, with its compulsive rationalism, carried the critique of religion and religious thought further than any other philosophical trend. Nowhere else in Europe did anyone write anything remotely comparable to Feuerbach's *The Essence of Christianity* (1841). This prompted Marx to comment that "in Germany the critique of religion has been completed, and the critique of religion is the beginning of the critique of everything else." No wonder that many intelligent young Jews, groomed by Jewish culture to indulge in intellectual confrontations, were won over by the new philosophy.

This drifting away of the best minds from the fold granted legitimacy to the many who did so for reasons of expediency, and presented the religious leadership with a serious challenge. It could not resort to threats, exhortations, or excommunications. It had to produce a coherent argument which would stand up to the acid test of the rationalist critique. Moreover, even those who still stayed in the fold were keen to modify many of the *Mitsvot*, which they considered as dated, superfluous, and the residues of superstition. As a response to these pressures the Jewish religious authorities held a number of national conferences to decide on the means to stem this flow. The first conference took place in Braunschweig (12-19 June 1844) and appointed a committee to formulate a declaration of faith that would state the essence of Judaism. The second took place in Frankfurt (15-28 June 1845) to discuss whether the language of prayer ought to remain Hebrew (which was a dead language to most believers) or German. The entire role of the Hebrew language in the Jewish religion came under scrutiny. Eventually, the insistence on Hebrew was dropped.

The third conference took place in Breslau (13-14 June 1846), and debated the significance of the Sabbath. Eventually, Jewish employees in the German civil service were allowed to work on Saturdays, because their service to the state was a 'holy service' . . . On the whole, the insistence (or lack of it) on maintaining the Sabbath as a holy day (not a day of rest, but a day dedicated to God) in a modern industrial society is still a major stumbling block for the religious authorities in Israel today . . .

Twenty-five years later, another two conferences, in Leipzig and Augsburg, in which non-Rabbinical thinkers joined in, tried to reach agreement on reforming most of the religious rites so as to make them meaningful

in a new, contemporary social setting, that would enable Jews to stick to their religion without feeling ashamed of its archaic and outlandish appearance. There is hardly an issue of religious thought or practice affecting Judaism's response to the challenges of the modern world that was not discussed in great depth at these conferences. Nowhere else was there anything similar. These conferences failed to stem the drift away from Judaism, but they produced a profound interpretation of Judaism in the writings of Shimshon Raphael Hirsch, who, in full awareness of modern thought, elaborated in great detail and with great conviction the theocentric essence of Judaism and the central role of the daily performance of the Mitsvot as a constant proof of readiness to carry the burden of a life dedicated to God alone.

This interpretation did not stop the drift away from Judaism, but it placed Judaism on a secure ideological foundation, enabling it to repel the onslaught of rationalism not by means of irrational faith alone, but by means of reasonable, coherent, rational argument.

A further problem facing Judaism in the modern world stems from its attitude to the process of history, which is considered as a manifestation of God's will. In Judaism God is not only the creator and master of the universe, but also the prime mover in the historical process. This theme is stressed in the Passover text, the Haggadah, which emphasizes again and again that it was God, and He alone, who took the Jews out of their slavery in Egypt. The pillar of fire and smoke which led the way, the opening of the sea for the fleeing Jewish slaves, and the return of the sea onto the pursuing Egyptian army, as well as the ten plagues which struck Egypt, and even the refusal of Pharaoh to grant Moses' request: "let my people go", all are direct acts of God's will and instances of His direct intervention in human history. It was He who chose the 'Chosen People', not they who chose Him. This part of Judaism, which is not really essential to theocentrism, is deeply embedded in the soul of every religious Jew. But this conviction can cause profound problems and dilemmas. The most recent examples concern the two major events in Jewish history in the last four decades: the extermination of six million Jews by the Nazis, and the founding of an independent Jewish state.

A religious Jew cannot evade the questions:

1. Why did God choose to inflict unprecedented suffering, culminating in the extermination of six million of His 'Chosen People'? What was the sin that unleashed such a terrible punishment?
2. If God decided to found an independent Jewish state, why didn't He create a religious state? Why did He allow the atheist, non-believing Jews to create a state in their own, non-believing image?

Or, put in other words, is the state of Israel a positive act which should

be endorsed and supported by religious Jews, on religious, not nationalistic grounds, or is it an act of blasphemy by sinners, which ought to be opposed and destroyed?

The majority of religious Jews chose to evade these perplexing and haunting questions under various pretexts and excuses, but there is no doubt whatsoever that sooner or later this evasion will come to an end through the internal dynamics of religious Jewry, and the outcome will be an unprecedented tearing apart of Judaism, compared to which the catastrophic results of Shabtai-Zvi's failed attempt in the seventeenth century to create a Jewish state in Palestine, which shook Judaism profoundly, will be mere child's play. There is only one sect in religious Jewry, Neturei Karta, which continues to live according to the traditional, orthodox, way of life which all Jews shared for millennia and which gives a clear, unambiguous answer to the two questions mentioned above. For this sect, the sin for which God punished His people by mass extermination (using the Nazis as His instrument) was simply Zionism, the attempt of non-believing Jews to create, and worship, the golden calf of ethnocentrism, the secular nation-state. It is the worship of this idol, instead of God, which provoked God's anger.

Needless to say, most religious Jews are outraged by such an answer, but this rage is no answer to the problem. Future generations of religious Jews will form their own opinion on the issue, and to judge by the direction in which the Jewish state has developed in the last thirty years there is ample reason to assume that Neturei Karta's bold answer to the two questions above will, in due time, be shared by the majority of the future generations of religious Jews.

While answers to these questions can be deferred, no religious Jew can defer passing judgement on the daily practices of the state itself, the public services, the nationalized industries, etc, when they conflict with religious practice.

The rule which prohibits any kind of work on the sabbath (Saturday), states: "But the seventh day is the sabbath of the Lord thy God; in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates. For in six days the Lord made heaven and earth, the sea and all that in them is, and rested the seventh day; wherefore the Lord blessed the seventh day and hallowed it" (Exodus, chapter 20, verses 10/11). The sabbath is not a day of rest, it is a day of activity, but of activity dedicated to God alone, not to one's own interests.

This prohibition, as practised by all orthodox Jews today, forbids one to strike a match, touch an electrical switch, or use a car or a telephone on Saturdays. Only if it is a matter of life or death – of a Jew – is one allowed to

break this rule. In Israel, the secular majority smokes, drives, plays – and watches – football matches and other sports on Saturdays, thus violating, publicly and collectively, the holiness of the sabbath. Moreover, most public services operated by the state – water, electricity, health, defence, communications, radio and TV – function on the sabbath, requiring a large number of people to work on Saturdays. This means that the Jewish state can function on Saturday only if a large number of Jews violate the holiness of the sabbath. A ruling on this matter cannot be deferred to future generations, nor can it be treated as a sin committed by individuals. The orthodox authorities had to decide: either they should define the work necessary for the running of public services on Saturdays as a matter of life or death and modify the religious ruling, declaring that the performance of these tasks did not constitute a sin; or else they should exert all their efforts to prevent this sacrilege from taking place. They did neither. They acquiesced. The orthodox are able to observe the sanctity of the sabbath in the Jewish state only because other Jews violate it (by running the public services).

In the 1920s the orthodox held demonstrations and campaigns in Jerusalem against the football matches played on Saturdays. All this is long forgotten. The matches multiplied, the protest is now non-existent. One wonders whether sport on Saturdays is still considered a sin.

The violation of the sabbath by the public services cannot be treated as sins committed by indulgent individuals. A sacrilege committed by an individual is one thing, a sacrilegious state is another matter altogether. A sacrilegious, blasphemous Jewish state is not something towards which the Jewish religious authorities can remain indifferent for very long. They have had 30 years to consider the nature of that state and still they have not yet made up their minds about it. Unlike Christianity, Judaism has no central religious authority. There is no Jewish Church, no Pope, no archbishop. There is a Chief Rabbi, even two – one for the Sephardic (Oriental) Jews, and one for the Ashkenazi (European) Jews. There is also a High Rabbinical Court. But all these are recent innovations (established by the British authorities during the Mandate) and can be overruled by any rabbi. The major authority is the consensus among the believers. This allows a time-lag until a consensus has emerged about the attitude to the – secular – Jewish state. This can be seen from the fact that there is still no prayer to thank God for resurrecting Jewish sovereignty in Zion, although such a major event in Jewish history can hardly be considered insignificant for Judaism.

The relation between state and religion in the Jewish state is an explosive one. A majority amongst the religious Jews believe that the Jewish state must uphold and observe the precepts of the Jewish religion. Only a handful amongst them demand a separation of the Jewish religion from the Jewish

state.² But religious Jews are a minority in Israel and the secular majority, outraged at having religious matrimonial law thrust upon them, would never accept a religious state. Even an attempt to ban football matches on Saturdays would lead to mass riots and demonstrations. So far both sides have tacitly agreed “not to rock the boat”, particularly while the country as a whole is involved in a bitter conflict with the Arab world. But when the external pressures diminish the internal cultural conflict will – sooner or later – flare up and its consequences are bound to cause a schism in world Jewry.

When orthodox Jews formed political organisations earlier in this century (e.g. Agudat Israel), they did so in order to repel and challenge the Zionist bid for leadership of world Jewry.

This was the general response of orthodox Jewry everywhere. In the elections to the Polish parliament (Sejm) in 1919, the Zionists put up candidates of their own, whereupon the orthodox leadership called on Polish Jewry to vote for the candidates of the Polish ruling party and threatened to excommunicate any Jew who voted for the Zionists. As late as 1931 one of the leaders of the orthodox Jewish community in Jerusalem, Moshe Blau, wrote:

I have the clear impression that if it were not for Zionism, the National Home, and the Balfour Declaration, we wouldn't have seen the Land of Israel in its spiritual collapse . . . we see the flames engulfing the Land of Israel . . . we shall have to account for having kept silent and for having flattered God's enemies . . . for it is better to live in a country like Poland, or in anti-Semitism in Germany, than to live in this wicked environment which devotes all its efforts to uproot any vestige of religion.³

A few days earlier he stated in another letter:

We see the flames engulfing the Land of Israel and we know that we are flatterers and politicians, for if we had been truthful we would have had to break the yoke from our neck [i.e. stop the collaboration with the Zionists] and would have explicitly preferred that the Arabs be rulers of Palestine rather than these wicked people . . . we don't want political rights, we want to prevent our children being given over to apostasy and blasphemy.⁴

This may sound extreme, but it expresses the basic dilemma which Zionism presents to an orthodox Jew: how to relate to the secular Zionist state and its dominant role in Jewish life everywhere. Is religious authority without political sovereignty preferable to Zionist sovereignty? When Rabbi Sonnenfeld, leader of the orthodox community in Jerusalem, met Sherif Hussein and his sons Faisal and Abdallah (who later became kings of Iraq

and Trans-Jordan) in January 1924, to discuss an alliance of anti-Zionist orthodox Jewry with Arab nationalism, he gave an unambiguous answer to the problem. He preferred Arab rule to Zionism. Lord Northcliffe, the British press baron who passed through Palestine on his world tour in 1922, stated:

How many in England know that the Orthodox Jews do not believe in Zionism? Witness the delegation of Orthodox Jews which came [to see me] to express its protest against Zionism.⁵

This was not a matter of petty politics. Zionism challenged Jewish orthodoxy for the role of leadership of the entire Jewish people. The stakes? The cultural and spiritual identity of the Jewish people.

Zionism won, as can be seen from Blau's letters quoted above, when he refers to the members of his own party, Agudat Israel, as flatterers of Zionism and political wheeler-dealers. He is also right when he states that in due time, when the spiritual collapse precipitated by Zionist state-worship fully manifests itself, the orthodox establishment which supported Zionism will have "to account for" its collaboration – it will no longer be able to present itself as an alternative spiritual leadership. In supporting Zionism it shares the responsibility for the outcome. It is not immediately obvious how a religious faith can feel responsible for a political system but it is enough to recall that the prophets of the Old Testament poured much of their wrath on the sinning kings and public of ancient Israel. Judaism has never accepted the dictum "render unto Caesar what is Caesar's and unto God what is God's". It is for this reason that the Pharisees (the religious political party of the day) tested Jesus with this issue, and when he pronounced this view, "they marvelled at him"; the Hebrew text doesn't use the term "marvelled" but "were immensely amazed" (Mark chapter 12, verse 17). The orthodox establishment in Israel, being the ideological descendant of the Pharisees, is forced by its own conviction either to denounce or to support the state of Israel. It chose to support it.

Religious Jewry prayed for centuries for the resurrection of independence in Palestine. But this resurrection had to be religious. In Judaism the nation is subordinated to the religion, not the religion to the nation.

One example of the relation between religion and national politics in Judaism is the Passover feast, celebrated annually by every Jewish family, even by the non-believers. Jesus's famous "last supper" was in fact the Passover meal, the Sedder. This meal, every detail of which is laid down in a religious text (the Hagadah), is the celebration of the religious birthday of the Jewish nation. Every dish in it has a religious-national significance which has to be read out before the dish is eaten. The unleavened bread (Matzah): "Because our ancestors had not sufficient time to leaven the

dough when the Holy Supreme King of Kings, blessed be he, appeared unto them and redeemed them” liberating them from slavery in Egypt. “This bitter herb, why do we eat it? Because the Egyptians made bitter the lives of our ancestors in Egypt”; only then can the specially prepared bitter herb be eaten, etc. The very name Passover “denotes that the Most Holy, blessed be he, passed over our ancestors’ houses in Egypt” when he inflicted death upon all the Egyptian first-born infants. The Hagadah makes it abundantly clear that Judaism sees the entire Jewish nation as a religious entity, and relates to it as such. This nation is considered to be the one chosen by God (the chosen people) to demonstrate His will and glory to all other nations. The notion of a “chosen people” does not imply superiority, but a burden, due to the special role assigned by God. The role itself is not one of converting others to the faith; there have never been Jewish missionaries; on the contrary, converts have to undergo arduous tests; the role is to lead a life dedicated to God. Therefore the resurrection of the state of Israel – by non-believers – has a major religious meaning for Judaism. Is its meaning positive or negative? The majority of religious Jews everywhere today believe that it is positive, the minority believes it is negative has, so far, refrained from saying so publicly (apart from the Neturei Karta sect).

One of the issues which puts the religious attitude towards the secular Jewish state to the test is that of the Wailing Wall (or the Western Wall as it is called in Hebrew) in Jerusalem.

According to Jewish history the Wailing Wall – a gigantic wall of enormous, carved stones in the Old City of Jerusalem – is the actual remnant of the last temple, the spiritual centre of Judaism until the sacking of the city by the Romans in the first century. It scarcely matters if this is truth or fiction because the belief is deep and widespread among Jews everywhere, and a belief is effective even if untrue. Ever since the destruction of the temple, and throughout the 1,900 years of Jewish dispersion, the Wailing Wall symbolized both the national and religious destruction of the Jewish people. It symbolized the exile both of the divine and of the nation. The destruction of the temple, the exile of the divine, and the exile of the Jewish people were inseparable aspects of one integral reality. When Jews came, for generations, to pray and mourn at the wall, they mourned the fate of the nation but also prayed that the temple be reconstructed and that the divine return to it. In Jewish tradition, the redemption of Israel in its land is linked with the redemption of the wall by the reconstruction of the temple.⁶

Zionist ideology rejected this conception. According to Zionism, Israel will be redeemed if the nation mobilizes its might and money, migrates to Palestine and establishes there a new society. From this viewpoint there is no connection between the resurrection of the nation and the resurrection of the temple. Moreover, the resurrection of the temple, and of the religious

ceremonies in it, contradicted the social, moral and aesthetic views of the leaders of secular Zionism. But the temple retained its symbolic significance even for secular Jewry; not a religious, but a national significance. The orthodox Jew constantly in front of the wall became a symbol as powerful as the wall itself: an anti-religious symbol. Whereas the wall itself, being an actual fragment of past greatness, of political independence, heroism, and national independence, symbolized these values of Zionism. A visit to the wall was a religious experience for the believer, but for a Zionist it provided direct contact with a great past, with which one identified, and with a miserable present – symbolized by the praying orthodox Jews next to him – which one rejected. A religious Jew experiences the wall as part of a shrine that, God willing, is eventually to be rebuilt. A secular Jew experiences it as a monument of a glorious past – inspiring new generations to emulate that past.⁷

These differing attitudes were a source of conflict between Zionists and orthodox throughout the period of the British Mandate, particularly as the wall has a religious significance for Muslims too. The Zionists demanded Jewish sovereignty over the wall as early as 1928. But the orthodox authorities did not. They feared Zionist sovereignty, and insisted that from a religious point of view the wall must remind the Jews of still being exiled by God.

All this was dramatically changed when the Israeli army conquered the old city of Jerusalem in June 1967. The traumatic experience of “the liberation of the wall” cannot be described in words. Many religious Jews experienced it as “a miracle”; so did many non-believers, whose emotions overflowed into actual tears. People were euphoric, ecstatic, dumbfounded. It was an emotional catharsis. But the cultural implications were immense, and ominous. Professor Baruch Kurzweil, Head of the Literature Department at the religious university of Bar-Ilan, in Tel-Aviv, wrote:

Secular-national redemption was complete. Worldly messianism had achieved its goals. Divine messianism was brought down to earth. The complete legitimacy of the Zionist claim to the mantle of continuity and living actualization of Jewish identity, has almost been proved. The ancient myths of Judaism – even in their rational interpretation – have become a historical presence. The soldiers who conquered the wall were like dreamers. The hour of attack on the old city, its conquest, was a meta-temporal presence. The present was the past. The past became the present. A synoptic vision united all. Divine historicity, which is meta-history, and ordinary, temporal, secular history fused and became one. That is why many spoke of a religious revival. The momentary continuity masked the break in the continuity. The wishes of Bardichevsky⁸ were realized. The distinction between secular and

sacred was abolished. From now on everything was, or could be, sacred.

Zionism and its offspring – the state of Israel – which have arrived at the wall by military conquest, as a realization of worldly messianism, can never surrender the wall or evacuate the occupied territories of Palestine without renouncing their own politico-historical conception of Judaism. Zionism has been trapped by fulfilling its goals. To abandon them now means to admit its failure as spokesman and executor of the historical continuity of Judaism. The secular messiah cannot withdraw; he can only die. In this manner he pays the price for his daring attempt to bring the destiny of Judaism into the domain of secular history. Practical Zionism had to see from the start that it was engaged in an intimate dialogue with death.

Any withdrawal reveals the break in historical continuity, which is the only truth. All else is illusion. One cannot halt an apocalyptic messianic cavalcade in order to enable the participants to admire God's lovely landscape.

Withdrawal confronts Zionism and the state with the nature of the conflict between divine and secular conceptions of history – the latter being always in terms of political power. From now on it becomes impossible to present the acts and consequences of the historization of Judaism in the guise of the continuity of the Jewish religion. There is even no shred of sense, or reason, to embellish secular history, the temporal life of the people, with religio-messianic ornaments. The people in our state have been irrevocably returned, actively and passively, to the realm of power. The sounding of the rams' horns by all the chief rabbis at the wall⁹ will change nothing, and is from now on a merely magic act. There can be no commencement of redemption, after full redemption has been achieved and forsaken.

Seeing no alternative we have turned away from the eternal to the temporal. Since Auschwitz we have been chasing the flow of time, and time has swept us into the whirlpool of the secular history of all nations. Zionism was a wave within this whirlpool, a wave which brought us to the wall, to the boundaries established in the divine conception of history. Another wave of secular history has swept us to our starting point. Even further back. But to what starting point?

The trouble is: we've been pushed back beyond our starting point because the cards of redemption were played but the game was lost. Were the cards at fault? Or did the winner lose faith in his cards? History has never known such a game of winner and loser. Such a [political] redemption before [spiritual] revival has never occurred before. After two thousand years of expectation, after the worst ever holocaust, what can we expect from now on?

And because this is the true state of affairs, we have been confronted

even more urgently with a question whose seriousness has been evaded by the official spokesmen of Judaism, both religious and secular, who live off Judaism but don't contribute to it – the question what is Judaism today? Perhaps it is a corpse to be dissected from archaeological, historical, psychological, ethnological, and ecological viewpoints. Is it an anachronism, or has it still something to demand, teach, and reveal? What does it mean to ponder its 'essence'? What is its 'essence'? It is impossible to achieve a consensus today about its nature, image, vitality, and essence.¹⁰

Such a scathing critique of both the Zionist and the orthodox establishments is exceptional. Professor Kurzweil, whose mentors were M. Buber, F. Rosenzweig and I. Breuer, was not an orthodox Jew but a religious existentialist. There is only one Jewish religious intellectual in Israel who made a similar critique from a religious position, Professor Y. Leibowitz, who published the following statement six weeks after the conquest of the wall.

The Wailing Wall Discothèque

The abundance of articles, speeches, sermons, and letters to the press, by religious, political and rabbinical authorities, on the religious and national significance of the liberation of the Western Wall, on the religious revival and national unity displayed by the mass 'pilgrimage' to the wall during Pentecost, which occurred ten days after liberation day, etc, etc; all this demands a clear response.

Ever since the wicked King Menashe Ben Hizkiyahu placed statues and idols in the temple, and made his son pass through fire in the valley below the temple, and ever since the day a 'detestable abomination' was placed in the Temple by the Syrian-Greek King Antioch Epiphanes and his hellenized Jewish servants, there has been no desecration [of the Temple] to compare with the pilgrimage to the Western Wall by 200,000 Jews in 20,000 cars this Pentecost, and the fact that the Israeli police assigned special car-parks near the temple for those who visit it on the Sabbath; and there has been no disgrace to the Bible and Judaism to compare with the sight of thousands of Jews going every Sabbath to the Old City to buy "bargains" in the Arab Bazaar.¹¹ As for national unity in the shadow of the wall, here is my proposal: let the space in front of the wall¹² be fitted out as the largest discothèque in Israel, and let it be named the "Divine Discothèque". This will satisfy all circles and sections of the nation: the secular by being a discothèque; the religious by being called "divine". This will serve as sublime symbol of the national unity represented by the coalition stretching from the National Religious Party to Mapam,¹³ and from Mapai to Agudat Israel in the

Jerusalem municipality – a symbol of the atheist-clerical regime of the secular state known in public as religious.
(*Ha'aretz*, 21 July 1967)

This strong religious critique was, despite its publication in the most respectable newspaper in Israel, totally ignored. Professor Leibowitz was written off as a “crank” and only a handful understood the seriousness of his criticism. Both he and Kurzweil have no part in the religious establishment and are not considered as religious authorities. The religious-nationalist “Wailing Wall Festival” which started in 1967 continues to this day.¹⁴ Leibowitz also wrote in another, less ironic, vein on this issue.

The conquest of the whole land of Israel, including the Holy City of Jerusalem and the Temple, by the Israeli army two thousand years after the people of Israel lost possession of their land, and was exiled from it, is an unprecedented event in history and its impression is profound even though its actual consequences are as yet unclear. It has created, without a doubt, a change in the reality of Jewish existence, a change which is now an established fact. The question is whether it is also a change in consciousness, in the spiritual foundations of Jewish consciousness and its relation to Judaism, the Jewish religion, in the form and content of Jewish existence in history – a change of values.

Due to the fundamental fusion between Jewish religion and the history of the Jewish people, many religious Jews, particularly the state-appointed representatives and the patriotic younger generation, believe that the events of 1967 are linked to a process of “messianic redemption” with all the many connotations attached to this concept in the Jewish tradition for generations. The victory appears as a religious achievement, the military heroism as a religious revival. Some believe – or spread the belief – that, as a result of the reality shaped by the 1967 war and its achievements, there will be a revival of Jewish religious values and beliefs, and a return of the nation to these values, which had been generally rejected. The following words aim to dispel this conception.

No possible interpretation of the term “spirit”, and there are many and conflicting interpretations, can assign to the 1967 war, the victory and conquest, any “spiritual” meaning. And no consequence in the “spiritual” domain can emerge from these events. In so far as there was an “awakening” in the Jewish people in Israel and the diaspora it was a militaristic awakening, which is an ordinary phenomenon in every nation, every society, and every civilization, even the inferior ones. This has no Jewish specificity. . . . There is no need to admire military heroism and fighting ability, either in Israel or in other nations. These

qualities are common and exist even today amongst good and bad, righteous and wicked, pure and profane, among fighters for lofty values and fighters for folly and wickedness. There is no need to be excited by the fact that in our time Jews too can fight heroically; this cannot change the evaluation of this generation. Fighting heroism is a general human quality, indifferent as a value; it appears in most nations, not only during a threat to survival but also in aggressive wars which are of no use to the nation – as Hitler's Germany demonstrates. It was not only the Jewish militants defending Jerusalem during its destruction who displayed heroism, but also the legions of Titus who destroyed Jerusalem. Military heroism proves nothing about the intellectual, moral, or spiritual – let alone religious – quality of the human being. We have seen, and see, people of great humanity, and people who are corrupt, can both be heroes. There is no connection between military heroism (i.e. the ability to fight courageously and sacrifice one's life) and one's level of humanity. Even the world's wicked – the armies of Assyria and Babylon, Lacedemonian hoplites, Roman legionaires, Crusaders, Janissaries, Cossacks, Waffen SS and Hitler Youth – were military heroes. An awakening of heroism in a society at war has no correlation with the human quality of that society, or the quality of its social and cultural existence. Such an awakening disappears immediately with the termination of warfare and never becomes an educational factor. This we see also in our society one year after the 1967 war.

As for the religious "aspect" of heroism . . . nowhere in the sources of Judaism is there a hint of admiration for military warfare or enthusiasm towards it, as displayed towards studying the religious teachings or observing the religious laws. Judaism has never instituted days of commemoration, or thanksgiving, for victories and conquests. Even the Hasmoneans,¹⁵ who are mentioned so often nowadays, are mentioned in the sources and the tradition only because of their war to save religion, and not because they were heroic fighters. . . . The attempt to blur the religious meaning of the concepts and original values of Judaism, or to reject and exchange them for a secular-nationalistic meaning – a tendency prevalent even among religious Jews – is demonstrated by the use of the term 'binding'¹⁶ to denote the mental condition, the pain and mourning of parents who lost their sons in our wars. This is another example of the secularization and devaluation of religious values.

The feelings of a father for his son, on the one hand, and the self-sacrifice of a noble soul for the nation, fatherland, freedom, etc, on the other, are natural human emotions, which reside in every human being

by his very nature. When they are on conflict it is up to the individual to make one overcome the other; in so doing he exerts his own will. This is a common phenomenon in the history of all nations and civilizations, and is not necessarily related to religious consciousness. But that “binding” which served the Jewish people as the supreme symbol of belief means the subordination of all human feelings to something which has no validity and meaning in so far as natural human existence is concerned: doing God’s will. When Abraham went to bind Isaac he overcame not only his feelings for his son but also surrendered the entire vision of the future and God’s promises in the Covenant,¹⁷ which were all tied up with Isaac. Similarly the Mother of the Seven¹⁸ sons could say that she underwent seven “bindings”, because her sons did not die for human values but for God’s name. With all due respect for the bereavement of our brothers and sisters, it must be said that from the phraseology of army rabbis or of other appointed rabbis and mourners, both religious and secular, it appears that they substituted the fatherland for God and patriotism for the worship of God.

It is said that the 1967 war dissipated the feeling of lack of purpose in the political and social reality which prevailed among the Israeli public before 5 June.¹⁹ This can be contested factually by saying that nothing has changed and the same feeling of lack of purpose exists today too. It has to be said even more so from a religious point of view, where the concept of “purpose of existence and life” has a specific meaning, a meaning expressed in the final prayer on the Day of Atonement: “For man has nothing over animal as all is vanity”, but “Thou hast differentiated man from the beginning as fit to stand before You.” Human existence has no purpose of its own, other than the status of man before God. From this viewpoint it is impossible to consider national-political achievements, military victories, wartime conquests, etc, as giving purpose to state and society, which are indifferent entities and acquire value only if they constitute a framework within which humanity conducts a struggle about the way to worship God. If the Israeli social and political reality lacked a sense of “purpose” before the 1967 war, it did not achieve a sense of “purpose” as a result of the war – which was not a war for the religious teaching, nor by its authority or under its guidance, but was a great national-political event, of no religious significance. Amongst religious Jews much is said nowadays about a “miracle” performed for us by the war. Actually, every historical, national, or political event is – by itself – a common worldly affair; there is no “miracle” apart from events enhancing and hallowing God’s name. It is doubtful whether there ever was in Jewish history sacrilege on such a mass scale, all-Israeli national-Jewish, as happened,

and still happens, in the wake of the 1967 victory and the liberation of the Wall and the Temple, when tens of thousands of Jews, in thousands of cars, perform "a pilgrimage" to the Wall on sabbaths and feasts, and thousands rush to profane Arab restaurants in the Old City, Hebron, Bethlehem, etc. This time the Temple was liberated not by the Hasmoneans¹⁵ but by the Hellenized. Some trumpet and cheer that "God's hand" and "providence" were revealed by our victory and by the liberation of Jerusalem and the whole of the land of Israel. This reveals an odd selectivity in the use of such terms as "God's hand" and "providence" when evaluating historical events. "Providence" applies to everything, and everything is caused by "God's will", therefore "God's will" says nothing about the evaluation of such events. Not only is the liberation of the Temple "God's will", but so is every wicked and evil act that is committed, including the profanation of the sabbath and the raising of pigs²⁰ in the kibbutzim of "The Liberators of The Temple". Despite this we are obliged, from a religious point of view, to treat certain things as positive, and others – which are also an expression of "providence" and "God's will" – as negative. It is better not to use the concept of "God's will" in the evaluation of historical events lest we make an arbitrary choice between what pleases us, which we consider a revelation of providence, and what displeases us, which we refuse to consider as such. Either one or the other: either I accept the concept of providence in its folkloristic sense ("No person moves a finger on earth unless it has been decreed from above", Eccles 7) – in which case it is indifferent and says nothing about the evaluation of events because it applies equally to the acts of Isaac Rabin²¹ and his men and to the actions of Adolf Eichman²² and his men; or else we refuse to accept it in this sense but only in its profound religious sense, namely, that a person is under divine providence when he knows God ("Know this well", 'Guide to the Perplexed', Ch.52), in which case I cannot use it in judging history and its events.

There is even talk today of reconstructing the Temple and renewing worship in it. The Temple and worship are functions of a Jewish people which upholds the Bible and obeys its laws, functions which serve as supreme religious expressions for those observing and maintaining these laws. The majority of the Jewish people today is heretic. They have forgotten and suppress the religious teachings. They profane the sabbath, eat non-kosher food. Such a nation not only does not need a Temple, anything it will do to a Temple is sacrilege. Until the nation changes, until it repents, or is made to repent, the idea about the Temple cannot even be thought of. But such change, if it is to be achieved at all, cannot be achieved by military victories and wartime heroism, but by

totally different means which have nothing to do with politics and conquests.

. . . Some try to attribute religious significance to the 1967 war and its conquests by means of religious arguments – that we were ordered by the Bible to conquer this land, and therefore the conquering soldiers were abiding by religious instructions even though they had unshackled themselves from the yoke of the religious teachings and laws. Against this let it be said emphatically that the selective application of religious categories to desirable facts, in the context of a political and social reality which does not recognize the authority of religious law, is a distortion and falsification of religion and represents a high degree of duplicity and hypocrisy. The main problem of religious Jewry today is the fact that it is impossible to apply the categories of traditional religious law to a reality which the religious past never imagined as possible, namely, the reality of a Jewish people the majority of whom have forsaken religion. It is impossible to combine the religious instruction to conquer the land, build the Temple, etc. with the denial of the existence of God, the desecration of the sabbath and to present all these phenomena and acts as an expression of the fulfilment of religious law. The prophet has already said what he thought of this when he spoke about making the Temple into “a den of robbers”, and belief in God’s Temple which has become idolatry (Jeremiah, chapter 7, verses 4-11).

In short, no religious or educational significance can be attributed to the victory in the 1967 war and to the conquest of Jerusalem and the whole of the land of Israel. One cannot discover in these events any religious meaning. The problems which the Jewish people and Judaism faced before the war have not been solved.

. . . Most stunning of all is the ease and simplicity with which “religious” representatives rule on the problem which human contemplation – religious, philosophical, psychological, and moral – has worried about throughout history without being able to resolve: is it proper to use violence against evil and kill for the “good”, the “right”, the “just”? In contrast to the selective approach to the sources of Judaism, let it be stressed that Judaism, like many other civilizations, is divided on this issue. The militaristic-nationalistic verdict of our religious patriots is challenged, amongst others, by the prophet Isaiah who presents the ideal image of the Jewish people as God’s slave, as he states in Chapter 53. . . . Without accepting the passive-pacifist view, which is not the view of Judaism in general, one must protest emphatically against the shallow finality of our religious spokesmen on this profound issue which penetrates the depths of human consciousness and conscientiousness. No wonder that the voice of these

religious ones was not heard after the horrors of Deir Yassin,²³ and the scandals of Kibiye²⁴ and Kafr-Qasim.^{25*}

. . . The arguments about the “beginning of our redemption” never cease in debates and discussions on the subject . . . In reality there is a stunning analogy between the Shabtai Zvi movement (see footnote 1) and the ideology of the “beginning of redemption” nowadays . . . Even the appointed rabbis and our rabbis in uniform, swept by nationalistic-patriotic ideals and admiration of military heroism, which they elevate to the rank of religious values, consider the victories and conquests of the Israeli army as messianic phenomena. . . . Our religious patriots are ready to ignore the total neglect of religious teachings in the secular state as long as it is victorious and conquering. The disillusionment with the messianism of Shabtai Zvi inflicted very deep spiritual and religious wounds on Judaism, which were felt for a number of generations. There is a danger that a terrible disaster to the religious teachings and beliefs could result nowadays from the artificial messianic frenzy which gripped Rabbi Goren²⁶ and his colleagues. The disillusionment with the “beginning of redemption” of those who believed in it could cause a catastrophe to the Jewish religion.

Much anger was caused by the assertion that this time the Temple was liberated not by the “Hasmoneans” but by the “Hellenized”. Let it therefore be said clearly: the Temple was liberated in 1967 by the army of a Jewish state which does not recognize the authority of the religious teachings and is functioning according to the legislation of a secular Knesset which ignores religious law; a state which provides most Jewish children with an education devoid of religious teachings and rulings and designed to inculcate in them the values and way of life of that society and culture which are considered as “enlightened” nowadays in the non-Jewish West. In so far as historical analogies can be used at all, this is a typically “Hellenized” state. This is the historical problematic of our times – that the Jewish people renews its independence by creating a Hellenized state. In vain do the “religious” try to cover up elegantly the great crisis of Judaism with the phrase “though sinning, they are still Jews”.

(First published in 1968, in Hebrew, in Israel. Reprinted in *Judaism, the Jewish People and the State of Israel* by Y. Leibowitz, Schoken, Tel-Aviv, 1975, pp 405-414).

*Nor, it must be added today (1972) after the destruction of the water holes of the Beduins in the Judean desert by order of a Jewish military governor (cf the waterholes of our Fathers Abraham and Isaac and the Philistines).

This penetrating religious critique of the entire Jewish religious establishment, voiced by a single individual, may still become the consensus opinion of future generations of religious Jews (this was the case with most of the prophets), but even if this happens the state of Israel and its impact on Judaism will remain a terrible trauma. A glimpse of this trauma is provided by Kurzweil:

We have to admit openly that our religious perplexity has a face of its own. It is much more serious and ominous than the perplexity of an Englishman or a French Catholic. The reason being that our situation is something which can be described as a grotesque dialectic. To others, and to some extent also to ourselves, we justify our existence as a people and a state by reference to that religious mission, that version of divine history, in which we no longer believe and whose demands we ignore. In comparison to other civilizations we have no culture worthy of the name apart from the cultural values stamped by the absolutist religious demand. What is the Jewish culture without religion? The attempts of the intellectuals to rationalize the Jewish religion have a glorious history of continuous bankruptcy extending over almost a hundred and fifty years. There is no article dealing with the revival of the Jewish religion which does not repeat, in principle, things which can be found in greater depth in Geiger, Graetz, and Holdheim.²⁷ Historically these attempts were justifiable in their day, but today these things have no solid hold. The grotesque element in the arguments for the revival of religion is the attempt to renew the arguments of the Reform period with the addition of a little Jewish nationalism and militaristic enthusiasm. We have to see our perplexity in the full force of its gravity. Instinctively we feel that the religious sphere is essential, and fatal, to our very existence more than to other nations.

(B. Kurzweil, "Facing the spiritual perplexity of our time", Bar-Ilan University, Ramat-Gan, 1976, p.190. From a lecture given in 1958.)

Kurzweil the religious existentialist and Leibowitz the religious intellectual – both Zionists – spell out Zionism's ominous repercussions for Judaism. According to them, it is the Zionist state which is the greatest threat to Jewish identity and thus to Jewish existence.

The game of resurrecting national independence could only be played by those who rejected religion. When the game was won the resurrected nation turned out to be a religious corpse, worshipping its state instead of God. This poses no problem for atheists, but religious Jewry has still to face the consequences of its participation in this secular redemption. As Kurzweil put it:

“We’ve been pushed back beyond our starting point because the cards of redemption were played, but the game of redemption was lost”.

The “game of redemption” was not the creation of the secular Jewish state by secular Zionism, but the acceptance of this state by the religious sector, and the legitimization of that state as “the beginning of the redemption”.

Once the Zionist state has been legitimized from a religious point of view, the responsibility for its creation, existence, and implications, is shared by the religious leadership. Should that state, eventually, be considered as blasphemous, the result will be a far-reaching crisis for the religion.

The price for supporting a false messiah is the loss of credibility not only of the religious leaders, but of the faith itself.

1. Messiah (i.e. “Anointed”) – the Saviour, sent by God, to bring about the redemption of the Jewish people. More than once in Jewish history individuals and movements have emerged claiming to be the Messiah. Part of the controversy between Judaism and Christianity is whether Jesus was a true or a false Messiah. But “false messianism” also applies to political movements attempting to resurrect Jewish sovereignty in Palestine. The most famous of these, led by Shabtai Zvi (1626-1676), swept European Jewry in the 1660s by promising resurrection of Jewish sovereignty in Palestine, using Kabbalistic interpretation of the Bible as proof. The orthodox rabbis at first opposed the movement, but fell silent when too many of their flock followed it. In 1666 Shabtai Zvi converted to Islam, the movement disintegrated, and the trauma which this false messianism produced among religious Judaism until recently prevented any analysis of the movement. Prof. G. Scholem of the Hebrew University has unearthed it in his research and writings. In April 1977, Scholem participated in an Israeli TV programme discussing whether political Zionism (which he supports) had similarities with the Shabtai Zvi movement and could, eventually, turn out to be a false messianism. He was reluctant to accept this view, which is upheld by the religious Neturei Karta sect.
2. The Neturei Karta sect and the foremost religious intellectual in Israel, Professor Yeshayahu Leibowitz.
3. *Heaven at Bay* by Emile Marmorstein, Oxford University Press, 1969, p.320.
4. *Heaven at Bay* p.287. Both quotations are from a letter written by M. Blau on 29 October 1933.
5. *Hevra Vedat* (Society and Religion) by M. Friedman, in Hebrew, p.242; see bibliography. The date of this quotation is 13 February 1922.
6. This fact is expressed in many prayers, as in the following one, taken from a supplementary prayer said on feasts: ‘Let it be your will . . . to have mercy on us and your temple and shortly rebuild it in your great mercy . . . ingather our exiles from alien nations . . . bring us to Zion, your city, in song, and to Jerusalem, your temple, in everlasting joy, and there we shall fulfil our sacrificial duties.’
7. This discussion of the symbolic significance of The Wall is taken mostly from M.

- Friedman's book *Hevra Vedat* (Society and Religion), Ben-Zvi Institute, Jerusalem, 1978, pp.297-299. However, since the translation is not literal, and as I have added some formulations of my own, I have not presented it as a quotation.
8. M. J. Berdichevsky; a Jewish writer of the Enlightenment movement in the late 19th century. One of the precursors of Zionism.
 9. The sounding of the ram's horn by a religious authority always denotes a major religious occasion. After the conquest of the Wailing Wall in June 1967 the chief rabbi of Israel sounded the ram's horn at the wall to mark the religious significance of that conquest.
 10. First printed in *Ha'aretz*, 30 September 1970. Quoted in *Lnokhakh Hamvukha Harunkhanit Shel Dorenu* (Facing the Religious Perplexity of Our Time) by B. Kurzweil, in Hebrew, Bar-Ilan University Press, 1976, p.193.
 11. Driving a car and using money on the Sabbath are forms of sacrilege.
 12. Shortly after the conquest of the Wall in 1967 all the houses in front of it – owned by Palestinian Arabs – were bulldozed, and a large open space was created. This was done free of charge, out of patriotic motives, by Jerusalem building contractors. This arena in front of the Wall is now the scene of the annual swearing-in ceremony of the Paratroopers Corps. The swearing-in ceremony takes place under flaming torches, at night, and is a religious-nationalistic scene unheard of before the 1967 war.
 13. The ruling coalitions in the government and the municipality of Jerusalem, dominated by the secular Zionist Labour Party, also includes the religious parties.
 14. In addition to everything mentioned by Leibowitz, the swearing-in ceremony of the Paratroopers, chauvinist-militaristic ceremony, takes place annually in front of the Wall.
 15. Hasmoneans – a family which led a victorious revolt against Greek rule in Palestine (2nd century BC) and overthrew the dominance of Hellenized (i.e. assimilated into Greek culture) Jews.
 16. "Binding" (*Akeda* in Hebrew): from the story in the Old Testament (Genesis 22) where God asks Abraham to sacrifice Isaac to Him, and Abraham starts to bind him without arguing or questioning. At the last moment God says, "Lay not thine hand upon the lad, neither do thou anything unto him for now I know that thou fearest God, seeing thou has not withheld thy son, thy only son, from me." (Genesis 22, verse 12.) Professor Leibowitz repeatedly stresses that this story is the supreme symbol of Judaism in its dramatic demonstration that all human values, morality, interests are subordinated to "reverence of God".
 17. The Covenant: God's covenant with Abraham (Genesis 17), declaring that his descendants through Sarah (who was still sterile) would inherit Canaan. The circumcision, which God told Abraham to perform on himself, denotes this covenant.
 18. Hannah and her seven sons: a famous story in Jewish tradition about a mother of seven who, during the Greek conquest of ancient Israel, was forced by Greek soldiers to make her children bow to the Greek idols or see them killed. She encouraged each in turn not to bow to alien gods and saw them all killed. On 24.12.82 an official ceremony to commemorate the 2107th anniversary of this event was held in Safad, Israel. This story, like the one about Abraham's obeying God's instructions to sacrifice Isaac, symbolizes Judaism's insistence that submission to the One and Only overrules everything else: morality, compassion, natural impulses and worldly interests. A human being must, according to Judaism, submit everything, absolutely and completely, to God. This implies that the Zionist state and its interests can in no way be a supreme value in Jewish religious life.
 19. 5 June 1967, the day the 1967 war (called in Israel the Six-Day War) started.
 20. Pigs: Judaism forbids a Jew to touch anything which has to do with some animals. Pigs are among the animals forbidden to a Jew. Not only their products, but raising pigs, is forbidden. Yet many in Israel eat pork, and many kibbutzim raise pigs.
 21. Itzak Rabin: Chief of Staff of the Israeli Army in 1967, and Prime Minister of Israel at the time when the article was written.

22. Adolf Eichmann: a Nazi official, prominent in the project of exterminating the Jews. Captured by Israel and tried in Jerusalem in 1962.
23. Deir Yassin: a Palestinian village on the outskirts of Jerusalem which was attacked (on 9 April 1948) by two Zionist armed underground organizations, the IZL (National Military Organization led by the present Prime Minister M. Begin) and the LEHI (Fighters for the Freedom of Israel) who killed some 200 of its inhabitants, including 150 women and children, despite the fact that this village refused to take part in any hostilities against the Jews.
24. KibyeH: a Palestinian village attacked by the Israeli army, Unit 101, on 14 October 1953, where 50 civilians, including many women and children, were killed. Ben-Gurion denied (on Israeli radio 19 October 1953) that the Israeli army carried out this massacre but he had to resign shortly afterwards because of it. After 1967, the members of Unit 101 were lauded as national heroes, and admitted publicly their responsibility for the KibyeH massacre. The commander of Unit 101 was Ariel Sharon, who became Israel's Minister of Defence in 1981.
25. Kafr Qasem: a Palestinian village in Israel where a regular Israeli army unit, acting under orders, stopped (29 October 1956) inhabitants returning from work, lined them up and machine gunned 50 Palestinians, all peaceful law-abiding citizens of Israel. Most participants were later courtmartialled, but received symbolic sentences (the commander was fined one penny), and pardoned shortly afterwards.
There were numerous denunciations of all three atrocities by many people in Israel, but none by the religious establishment.
26. Rabbi Goren. Chief Rabbi of the Israeli Army and later Chief Rabbi. Chief religious apologist for official policy.
27. See footnote 4, Chapter 2.

Chapter Seven

The Hebrew-Speaking Gentiles

The material in the preceding chapters provides ample evidence for the failure of the secular Jewish state to produce a secular Jewish identity. But there are now some three million Jews living in Israel, more than half of whom were born after the state became independent. What about their cultural identity?

Let us consider the cultural experiences of a *sabra* – a Jew born in Israel after 1948. Hebrew is the mother tongue, and is spoken daily everywhere; there is no discrimination against Jews; there is no feeling of belonging to a minority group; the Jewish religio-national feasts are official holidays celebrated by the state and the entire Jewish population; four out of five people do not believe in the existence of God; most of the entertainment, particularly films and TV, comes from the West. The discrimination and persecution of Jews, and even the holocaust, are things one hears about in school but are never experienced. The Jews abroad are remote, speak different languages, and appear – especially when they come as tourists – as affluent, amiable, insecure, and culturally remote from one's own experiences. They seldom speak Hebrew or serve in the Israeli army or earn their living by working in Israel.

There is a distinct generation gap between the sabras and the older generation. Most of the over 40's came as immigrants during the last fifty years. They belonged to a minority in their country of origin. They did not speak Hebrew as their mother tongue, and they underwent the experiences of immigrants before, during, and after their immigration to Palestine. They had to adapt to a new language, new jobs, new attitudes, new social and political institutions, etc. They find it difficult – often impossible – to transmit their social experiences to their children. The children are culturally conditioned by school and by their peers, not by the home. They do not share the traumas and anxieties of their parents, nor do they share the same mother tongue. The parents are strangers to their children's culture. In these circumstances a cultural gap is inevitable. As Zionism insists on cultural continuity, and claims to perpetuate Jewish culture, the issue of an actual cultural discontinuity within the Jewish population in Israel is anathema to Zionism. It is rarely discussed, and when it appears it is viciously attacked as a hideous heresy.

One of these "heresies" was the "Canaanite" phenomenon, derided by Ben-Gurion and Golda Meir during the debate on the Shalit affair, espec-

ially when the judges of the Supreme Court suggested that the entry for "nationality" be dropped from the population register.

The Canaanites were a small group of young Israeli artists and intellectuals who issued literary and cultural statements in the 40s and 50s asserting the discontinuity between the new Israeli identity and that of the Jewish diaspora. (Cana'an was the biblical name of Palestine before it was conquered by the Israelites, and the name implied a continuation of an ancient, pre-exile cultural tradition and a break with the recent cultural tradition of the diaspora.)

Shortly after Israel's 'war of independence' (1948) one of the Canaanites published the following statement which succinctly expresses their views.

To die _ but what for?

by Jacob Ashman (footnotes added by Akiva Orr)

The time has come to collect the bones of truth. We are fed up with the truth of public speeches and military parades. Let us go and search for what is said around bonfires in the cold Negev nights.

The gods are lazy. They say it is too early to see the truth. The blood is still warm. The flies are on the corpses. Truth must be softened. It must be introduced gradually, by stages. First, a preliminary impression. Noble, refined, delicate. Some philosophical contemplation about destiny, life and death, humanism among the corpses. Later, much later, lovely history will make it into an interesting, tranquil museum. But we have no time. War has taught us that our time is short. Delay means death if thought cannot manage, cannot dovetail with reality.

Our young talents write fluently, they draw bows,¹ travel through the steppes, compose ballads and write songs. But don't worry. None of them dares look at the soldier himself. Few of them actually took part in the war.

The gods are lazy. They observe, and make historical experiments. For instance: take a figure from a kibbutz discussion, throw him into the war and protect him from any change. Or perhaps send a Russian soldier to the defensive war to encourage our boys and sing the Song of the Russian Cavalry.² You can even weave an original soldier in slang. When the gods are joking they conjure up a Zionist soldier. Let the truth be stated simply: we were alone in our death. We were sent to the war with an ill fitting cultural baggage. Hollow values, scarecrows. So each of us fought the war alone, had to do it alone. Each of us was an individualist, whether he liked it or not. We were alone, alone, alone. None of us rushed into the attack yelling, "For Zionism", "For the purity of arms",³ "For the defence of the motherland", "For the

protection of what exists". No.

You might say: [we] didn't yell, but [we] did think. Lies. We were confused. We were forbidden to hate the enemy. We were instructed to remember the six million,⁴ and who "cared" to remember them?

In the bombardment and under the shower of bullets we remembered no one. Not "the boys". Not father and mother.

We remember today the burden of the individual with the entire war on his shoulders and we are scared. It was a tremendous effort to face the war alone. Me, just me, and nothing with me. Sometimes we envied the Russians. Their effacement of individualism and their deep hatred for their enemies sustained them in their war. We read *The Storm*⁵ by Ehrenburg. Heroes appear and disappear. Dozens and dozens. Appear and disappear without a tremor. We don't know if the one who appeared is the one who disappeared. It hardly matters. The Russians don't bemoan their dead. They prepare themselves seriously, coldly for the next war.

You might say: Palmakh.⁶ You might say: Giv'atai.⁷ The Palmakh had spirit, had values. And so had Giv'ati. Yes. In so far as they had, it was the Israeli spirit which all [our] institutions had rejected and opposed for years. Yes, in so far as they had spirit it was personal heroism, drawn from the inner resources of the individual. Sometimes it was the combat fraternity, which disintegrates after the battle. On the whole, a good football-team spirit with sportsmanship and a feeling of fraternity towards the comrades. But an individual devoid of human national values cannot face the war alone.

Our soldiers hate ceremonies of death and heroism: "Dead is dead, and nothing can be done."

We were good children. We did not hate the Egyptians who loaded the shells into the cannons and pulled the trigger. "They were sent by the British"⁸ and anyway: "They fought heroically and honourably for their country". We even played football with them. We honoured their crack unit. We certainly didn't hate the Egyptians because of the six million. What has chalk to do with cheese? We didn't hate the British because, according to the entire Jewish community, they were liberal gentlemen, who by mistake left this country in chaos. Our soldiers hate ceremonies of heroism and death.

So what remains? To act like robots, load bullets, fire them, and treat the death of every comrade as if it were the end of the world. Until we reach total apathy.

Why? Why apathy? Because the whole thing is a mistake. A sad error, pointless victims. The British and the Arabs simply misjudged our pure and humane intentions.

This fear, the fear of fighting alone, and its consequences, are not to be found in literature and art. This is forbidden. It could be said: but this fear is the product of base instincts, selfishness, individual survival, which mustn't be made an ideology. But the hour of fear extends indefinitely. It will fill the entire space between the last war and the next, the war to come.

Note: space, not peace.

The fear destroyed [our] values. They could not live up to their task. They failed the test, the only true test of values – to shackle the instinct, to make it surrender. They failed even to pass the test of victory. Victories cost blood too.

No. There is no sign of this failure in literature and art. This failure of the values. But its marks are deep and clear in the most honest and popular of expressions: soldier's slang. A "job" used to mean a dangerous battle assignment. "Job" today means a cushy assignment in the rear. This [change] took place during a single year of war, and of victories.

This was not a national war. It was a war imposed on the individual, a defensive war of the individual, and the individual was crushed in his loneliness, in the battle with the selfish instinct of self-preservation. In the next war we shall storm the jobs, by any means possible. If need be we shall fake insanity. Let the volunteers from abroad, who are non-Israeli and bewitched by Zionist ideology, go and fight. Or let those go who stood watch over this ideology in its offices during the war, they guarding Zionism and it guarding them.

We are scared stiff of the next war. We are frightened to death. This is the truth. We are scared because we don't want to die [a] lonely [death].

We fought for something, and they, the 'old guard', fought with the values of humanitarian liberalism, a brew of internationalism and Anglo-Saxon gentlemanly. In the end we were completely dazed. What is going on here? Where are we and where are they? Which of the two is the dreamer? Or are there two wars, one ours and the other theirs? The crime continues. It goes on in the literature of war. The crime eternalizes itself. Our war songs are: "There were times", "Believe a day will come", and "Hey, the Jeep". One of our young writers (M. Talmi) wrote a hate-story without any constructive positivity ('Salekh Jaber', in the army magazine *Bamakhane*). What cheek! At least he offered a solution. One can agree or disagree. In any case let us remember: this was the feeling which sustained a major power – Soviet Russia – in its war. But when his stories were published in a book this one was omitted. We are told to call the fear of truth the fabric of

illusions, art.

This art is supposed to furnish us with values for the baptism by fire of the next war. There is a feeling that the entire old guard with all its talk about the coming war within a few years, is peddling phrases which it hardly believes in. Or perhaps they think that “peace and truth will reign in their time”, as they will die of old age before the next war.

We do not think so. We shall not die in time. In fact, none of us has the will, the conviction, to start building a private career. It looks ridiculous. Tomorrow I could die in the war. If I didn’t die till now, with all my friends, it is merely an accident, perhaps a just one.

You’ve read the story by Yosh (‘The great hoax’), the choices which the author sees: marriage with a rich girl, suicide, or robbery. Think about this story, not about the other one, the one about the ‘Priest’, the moralizer, who fails to answer the question, and who is nothing but a collective priest, the editorial board.

We have a pseudo-war literature. Every month a new book. Cheers. The theatre in Tel-Aviv plays sketches by the Palmakh (which has been dismantled).

Did you hear the scream of the fighters in all this? Did you hear their piercing question? Did you hear the enormous, horrifying doubt? The sound of the collapse of the entire value system bequeathed to us? You haven’t heard. There is no time. We are busy with rationing, austerity, planning, housing.

Oh yes, I forgot. The war left us one problem – the hitchhiking. Nothing penetrates like this symbol. The poor soldier raises his hand to hitch a ride, and the cruel driver ignores him. But they, of course, write only about the ride.

And have you heard “The voice of the grey soldiers”? They merely ask the girls to spread “The Gates of Love”. Some solution. Did you know we had a “Cultural Department”? Did you know what hope remained to the soldiers after being fed by the culture from this department? They said it was a wonderful thing but it would do better if it simply provided them with prostitutes.

No bitterness, comrades. No sorrow. Play with dolls. After all you did something and you deserve a reward. We forgive and allow you to speak and write slang. To produce plays in slang.

We all hear this slang with the official seal. Slang? please. New Style? please. Who heard about a new style without a new content? I did. Granny Mapai⁹ and granny Mapam (granny Herut has no stories) agree to dress all old dolls with new clothes. They agree. But you must be good children and not ask with this slang of yours all sorts of odd questions likewhy? how? what for? and what about the future?

Go to sleep, children, and granny will tell you a fairytale. Tales about the Palmakh, blessed be its soul, tales about “jobs”. All pure slang, just like the Palmakh boys (good boys, damn them) used to talk before they died in the war – alone.

The big and stupid child mumbled slang, carried on literary masturbation and fought alone without any values (I forgot the binational state with the Jewish majority¹⁰) and broke or disintegrated. Pity. This was our largest and best-organized unit. The Palmakh could have produced a serious value system based on common experience, awareness, and response. The Palmakh could attract the youth, it could defeat the fear of being alone. The Palmakh could fight the next war with Israeli values and even win . . .

But Mother Mapam forbade it to play with bad children. Mustn't get dirty, darling, mustn't play with the Yemenites,¹¹ with the street, with the village. Dirty. They carry all sorts of diseases.

A good child must grow up locked up at home. With the family. A difficult, problematic, child is sent to the kibbutz. Mum sent the unruly child to grow up in the kibbutz, in the children's home.

It grew. Became strong. Beat the Yemenites and the Arabs, chasing them away. Even Daddy became afraid and sent it to the army. To learn discipline.¹² This is really very serious and very sad, comrades. What can we do? An entire system of human values, national values, was destroyed. Perhaps we should serialize this in articles in *Ha'aretz*? We must write about it. Some paper read by everybody must print it. Perhaps this will help. Enough with jokes. The fear is great and the war imminent. We are afraid of another war and we are naked.

Let the question be asked most sceptically.

We learnt that our life is cheap.

Let the question be asked openly, honestly, fundamentally.

We ask and demand an answer.

We refuse to die uselessly.

Speeches are no answer.

For what values are we going to face death?

(*Aleph* No.2. 1950, reprinted in *Prosa*, September 1977, p.28)

This outspoken statement, published by participants in Israel's “war of independence”, presents a totally different, unknown, image of the new Israeli generation. At least, of a significant part of it. Nothing portrays the generation gap more than the phrase: “We certainly didn't hate the Egyptians because of the six million. What has chalk to do with cheese?”

What indeed. But in the subconscious of the Zionist establishment everybody who was in conflict with Jews fitted into the same pattern: totally irrational anti-Semitism. The author of the article above was in fact

referring to the “Orders of the Day” of the Giv’ati brigade on 8 July 1948, which read:

And yet, the battle will continue and the war will be resumed. Bigger and more cruel than at the start. Since the logic of invaders is the logic of insanity. An insane illusion. The same illusion that guided Hitler. . . . For our homes. For the lives of our children. For the eighty generations looking down on us. For the souls of the six million who perished, calling us from the grave – let the big revenge start . . .

The Giv’ati brigade was engaged in battle with the Egyptian army in the south, and the political officer of the brigade, the poet and Warsaw-ghetto resistance fighter Aba Kovner called upon the troops to take revenge on the Egyptians for what Hitler did to European Jewry. Little wonder that this sounded like hollow emotional blackmail to the new Israeli generation.

One of the most vehement critics of the Canaanites, Professor Baruch Kurzweil, pointed out that it was Zionism, and its misconception of its own enterprise in Palestine, that had produced – inevitably – the alienation of the new generation.

In his article on the Canaanites he wrote:

The Judaism of the previous generations is bound to seem alien to a large part of Israel’s young people. The educational material does not uproot this feeling of alienation but strengthens it. What have they in common with those stagnant Jewish towns in Europe which were considered degenerate even by their teachers? What do the religious rules mean to them when even their parents and teachers considered them meaningless?

They might have appreciated all this as historical material, and felt respect towards things of the past which may have been necessary at the time, provided one enabled them not to identify with what appeared so alien to them. But this is never done. The new generation is denied the opportunity to form an objective attitude of respect towards the alien culture because there is an attempt to make them identify with it.

A significant part of the young people here hardly differs – emotionally – from the Gentile in the diaspora. This is a fact which cannot be obliterated. This is the achievement of our education during the last decades. This is the result of the normalization of which Zionism dreamt. It is not the fault of the younger generation if Zionism is shocked by the realization of its dream. What did these good people think? Can one play the game of modern, secular nationalism and then be shocked by the outcome?

It is Zionism itself that provided a positive interpretation of the collapse of religious Judaism.

. . . Just as the isolation within the walls of religious life, which suited certain conditions in the diaspora, totally ignores the fact of the creation of the state of Israel, and the situation in the world at large – as has been stated clearly by Y. Leibowitz – so too the rupture between the present and future from the past, expounded by the young Hebrews (“Canaanites”), can bring about the complete impoverishment of our spiritual and moral life, levantinization, and finally extinction. (B. Kurzweil ‘Our new literature – continuation of revolution’, from “In the struggle for the values of Judaism”, Hebrew, Schocken, 1959 Israel).

This statement, coming from a member of the Zionist establishment, blames Zionism for the cultural discontinuity in Israel. Many consider this view too radical, but even if it were, could the alienation of the Israeli-born generation from the Jewish culture of the diaspora be avoided? Respect towards a cultural past is hardly a substitute for a culture which is meaningful in the present. When religion is no longer meaningful, and life as a minority group is no longer a reality, what can bind the new, Israeli-born, generation, to Judaism as it was shaped by 2,000 years of religious life in the diaspora?

The Canaanites, in their manifesto, asserted the reality of this cultural discontinuity:

. . . Anyone who is not a son of this land, the land of Hebrews, cannot be a Hebrew, is not a Hebrew, and never was a Hebrew.

Anyone who comes from the diaspora is a Jew, not a Hebrew, and can be nothing but a Jew. Good or bad, proud or humble, but a Jew.

The Jew and the Hebrew can never be identical. He who is a Hebrew cannot be a Jew, and he who is a Jew cannot be a Hebrew. A son of a nation cannot belong to a religious community which considers that nation to be a religious community.

(From the first manifesto of the Canaanite Movement, 1945)

The Canaanite “heresy”, summed up in this brief statement, was the proclamation and affirmation of the discontinuity between traditional diaspora culture and the new Israeli culture. This is unthinkable for Zionism. Ben-Gurion and Golda Meir accused the judges in the Shalit case of Canaanism because they proposed to delete the entry for “nationality” from the population register. But the spectre of this discontinuity keeps haunting Zionism.

In the early 1960s Kurzweil revised his view of the Canaanite heresy and began to see it as the inevitable outcome of the existence of the secular Jewish state. In a speech delivered in New York in 1964 he declared:

The secular Israeli state is a new and serious challenge, a tremendous hope and a new experiment. The new Israeli reality has rendered the problem of Judaism, as an eternal religious message, acute to a degree unknown to us before. The dialectical nature of all the achievements of the human spirit is demonstrated in its full tragic character in the achievement of our aspirations, in the creation of the state of Israel. It can be said, *cum grano salis*, that in some respects Canaanism, which (once) seemed to me a mood, was in fact Israeliness in the making, just as the Jewish community in Palestine during the Mandate was the state in the making. New Israeliness, like the Canaanism which preceded it, made possible the emergence of a new type of Jew who can ignore Judaism and all its implications without difficulties of conscience or morality. From now on there is no longer a need (to feel) one is betraying the nation. One can sever the connection with Judaism as a religious source and remain a good Jew, i.e. an Israeli. If it used to be said that those (Jews) who refused to remain Jews could still be Zionists, then – unlike the Zionist existence, which lacked a sound and actual political foundation – Israeliness is adequate from an existential viewpoint.

I distinguish here three phases: (1) secular Zionism paved the way for Canaanism. (2) Canaanism produced Israeliness, whose realization took place in the secular state of Israel. (3) Israeliness believes that, as the legitimate heir of the aspirations of Judaism, which it has realized, it can now take a risk and make the last, decisive, step, which Zionism had shunned – namely, it can create for itself an ahistorical historiosophy and sever its connection with Judaism as a compulsory religion. Israeliness, like the Israeli, leads an actual existence without a positive link to a religious value system. Auto-emancipation is given – by birth and by the Hebrew language in the Hebrew state – and becomes the most dangerous version of assimilation. Both Gentiles and Israelis feel this: ‘He is not a Jew, he’s an Israeli.’ Many students told me, ‘We feel closer to Gentiles in the diaspora than to Jews in the diaspora.’ (From a speech delivered in New York, in November 1964, entitled ‘On the Role of a Religious University’, given to the Friends of Bar-Ilan University, quoted from ‘Facing the Spiritual Perplexity of Our Time’ by B. Kurzweil, Bar-Ilan University Press, in Hebrew, 1976, p.224.)

As late as 1972 the Minister for Education and Culture, Aaron Yadlin, made the following statement at the Tel-Aviv University during a conference entitled “Jewish identity of young people in Israel”.

I wish to present a few background facts and trends in educational activity linked to the subject of the Jewish identity of young people in Israel.

There are societies which are not troubled by the problem of identity. According to the theory of sociology or social-psychology the problem of ethnic or national identity emerges primarily in minorities within a multi-national society. These minorities identify with those in proximity to them who belong to the majority and also with others far off. The Italians in the USA, for example, identify with the Italians in Italy. Ever since the Emancipation, the Jewish minority in the diaspora has been bothered by the problem of its identity. Are we Jews or Americans? ask the Jews in the USA.

To our great surprise this problem also bothers the younger generation in Israel. Despite the fact that they belong to the majority group in Israeli society. The youngsters in Israel ask themselves: who are we, Jews or Israelis?

In the discussion on the image of the younger generation in Israel, and also in the educational programmes adopted and developed recently by the education system, two notions are intermixed: the notion of Jewish consciousness and the notion used by the organizers of this conference: Jewish identity.

Consciousness deals with the question: What do I know about my people? Whereas identity is concerned with the question: who am I, a Jew, or an Israeli?

Research conducted by Professor S. Herman in Israel has revealed that when Israeli-born Jews were asked "What are you: primarily Jews or primarily Israelis?" most of those questioned had difficulty in answering. But when pressed and presented with a polarised problem, Jewish on the one hand and Israeli on the other, 32% considered themselves closer to the Jewish pole, 32% insisted that they were in the middle, and 45% considered themselves closer to the Israeli pole. It turned out that the non-religious consider themselves closer to the Israeli pole, whereas young people who consider themselves religious see themselves closer to the Jewish pole.

The research of Professor Herman revealed the problematic nature of Jewish identity for those born in Israel. I shall mention some of the questions presented to youngsters during this research, and some background factors revealed by the answers. For example, one question states: if you could be born anew would you be willing to be born as a Jew or does it not matter to you?

The average of all the answers was: 69% were willing to be born anew as Jews, 28% were indifferent, 2% abstained from giving any answer.

When an analysis was carried out among three types of young person, the orthodox religious, the traditional, and those ignorant of religion, a fairly clear picture emerged. Amongst the religious, 92%

were willing to be born anew as Jews, and 8% didn't care. Amongst the traditionalists, 76% were willing to be born anew as Jews, 22% didn't care, and 2% abstained. As for the non-religious, only 55% were ready to be born anew as Jews, 41% didn't care, and 4% gave no answer.

In order to clarify the self-definition of Israeli young people, the following question was asked: had you lived abroad and not in Israel, would you wish to be born a Jew? Contrary to the 69% who replied they were willing to be born as Jews in the previous question, which did not emphasize the place of birth, only 53% gave that answer to this question, which – when classified according to the three types – was distributed as follows: 84% of the religious group, 57% of the traditionalist group, 35% of the non-religious group. In other words, all groups showed less inclination to be born a Jew abroad, with the Israeli-born non-religious showing the highest decline.

This research revealed that the Israeli component in the identity of those born in Israel is strong, yet amongst the non-religious the Israeli component in the identity is stronger.

The problem is: what is the strength of the Jewish component, and what are the relations between the Israeli component and the Jewish component? Does one component support the other or does one exist at the expense of the other? The research asked the question: does the fact that you are Jewish have an important place in your life? The average answer was: 23% – a very important place; 45% – important; 27% – minor importance; 5% – no importance. Then the question was asked about the Israeli component: does the fact that you are Israeli have an important place in your life? The answers were: 42% – very important; 50% – important. In other words, for more than 90% the Israeli component has an important, or very important, place in their lives. Therefore, although someone born in Israel does not state that he is first of all Jewish, it turns out that the one component in his identity does not conflict with the other but complements and supports it.

The situation is different for a Jewish youth in the USA. If his identity as American is high it can harm his Jewish identity, and vice versa. One question was: when you feel yourself to be Jewish, does this strengthen your feeling of being Israeli, or not? 70% said their feeling of being Israeli was strengthened; in other words, their Jewishness does not damage but strengthens their sense of Israeliness. Only 27% said there was no connection, and only 3% said that when they feel themselves to be more Jewish their feeling of being Israelis decreases. Neturei-Karta share the view that to be more Israeli means to be less Jewish.

Following these results, I wish to discuss the problem of how to

strengthen the Jewish identity.

I think there is a danger in the simplistic answer which says that Jewish consciousness should be strengthened by increasing religious education. We have to remember that the majority of Israel's young people are non-religious and live in an Israeli society which, due to historical processes, is mainly secular. Therefore one must avoid creating the impression that to be a Jew means only to be religious.

. . . What is Judaism? To this I have no answer, and I doubt whether our generation must give an answer.

(“The Israeli as a Jew”, Vol. 1. Am-Oved, Tel-Aviv, 1977, pp 143/146)

Everything in this statement by the Minister of Education and Culture is a bit out of the ordinary – the research itself, the questions, and the conclusions. But one thing is undeniable: the non-religious Jew has a problem of Jewish identity not only in the diaspora but even when he is born, and grows up, in the (secular) Jewish state. The Canaanites, who were the first to state this openly in 1950, were vindicated by the Minister of Education and Culture, in 1977. But the Canaanites went further. They heralded the emergence of a new “Hebrew” identity, which had nothing in common with the previous identity of the diaspora Jew, whether religious or non-religious. “He who is a Hebrew cannot be a Jew, and he who is a Jew cannot be a Hebrew.” The emphasis here – and in the Canaanite message generally – is the proclamation and affirmation of cultural discontinuity. “We are Hebrews, not Jews.”

But what is a Hebrew? What is the new culture and the new values which constitute “Hebrew” identity?

This is a subject which is taboo in Israel, because it implies that the Zionist vision of a new Jewish identity produced Hebrew-speaking Gentiles who have little in common with traditional Judaism. Many in Israel are aware that the Israeli differs from the Jew. The subject of “The Israeli as a Jew” keeps haunting Israeli writers and thinkers.

One of the foremost intellectuals of the Zionist Labour establishment, the writer Izhar Smilansky, spoke at an annual conference on “The Israeli as a Jew”, and discussed the educational aspects involved:

The subject [of this conference] is “Educating the Israeli as a Jew”. Education is a problem. The Israeli is a problem. A Jew is a problem. All three are a compounded problem. Not that there are no solutions, not that various people haven't proposed good definitions for each of these. But sometimes, suddenly, there is a need to ask questions. To ask more than to answer. That is because people are in distress. Without distress people do not raise such questions unless they are philosophers or researchers who are obliged to ask questions.

Had we been spared this distress everything would have appeared self-evident. All human beings have various questions, but the questions we ask do not bother the others: they are spared this distress.

Merely to state the subject implies a point of view. When one speaks of “The Israeli as a Jew” one distinguishes two categories, Israeli and Jew, which are not identical. Is there an Englishman and his Englishness, a Frenchman and his Frenchness, as separate entities? Unless one speaks of the English as a people and Anglicanism as a religion. In that case Judaism is a religion and Israeliness a nationality. [But] when we studied nineteenth-century history we objected to the expression “a Frenchman of Moses’ faith”, as if the categories [of Jewish nation and religion] could be separated.

What then makes an “Israeli” different from a “Jew”? Since “what is a Jew?” is an on-going issue, and “what is an Israeli?” is a similar issue, to ask these questions is not to seek an answer, but is an expression of an annoyance. We are still in the midst of this annoyance.

What does it mean that the Israeli differs from the Jew? It means that one admits that there is a Jew as an American, and a Jew as a French, and a Jew as an Israeli – who have something in common which makes each of them a Jew and something differentiating them which makes each a personal category in his own right. What this category is can be answered easily – the American is similar to Americans, the French to the French, but their common denominator as Jews was self-evident while the Jew was religious. The difficult question facing us in the following discussion is: what does it mean to be secular and Jewish? Also I said the American [Jew] was like all Americans; the question is: what is the Israeli [Jew] like? What is his type, his pattern? Is the Israeli like the Israeli preceding the Israeli asking this question? Or is everything too young, the paint too fresh? (“The Israeli as a Jew”. Vol.2, Am-Oved, Tel-Aviv, 1977, pp 17/18)

After posing the problem Smilansky adds another fifteen pages, and reaches the conclusion:

The Israeli is a person in the making, who will never be complete, who will never be perfect. Open to what is around him, attentive to what is ahead, yet bearing the continuity of what has been. Many remember the American “Sherman” tank introduced many years ago into the Israeli army. Within a few years everything in it has been changed. The gun, the turret, the engine, and what not. And still it is a Sherman. What has to be changed so that it will stop being a Sherman? Imagine a situation in which limb transplant is permissible and limbs are implanted in human beings – a heart, kidneys, etc. When will this person cease to be the

person he was? Perhaps when he gives up his "I remember". When he has no "I remember" he has no continuity with his past, he has no "I". So too with this national "I", the collective "I". (op. cit., p 30)

This is not an answer. It is a re-formulation of the problem. But the use of the military metaphor hints at the pattern of the Israeli identity which has been in the making during thirty years of armed conflict with the Arabs generally, and the Palestinians in particular, a conflict whose moral implications were brilliantly described by Smilansky himself thirty years earlier. There was an "I" in 1948, and there is another "I" in 1978; they differ not so much in what they remember as in how they interpret what they remember. Let us consider what Smilansky (now known as S. Yizhar) had to say on the moral qualities of the Israeli type in his famous story 'Khirbet Khiz'eh' in 1949. The story describes the moral turmoil of an Israeli soldier in the 1948 war whose unit drives the Palestinian villagers of Khirbet Khiz'eh from their village.

A platoon of Israeli soldiers enters a Palestinian village in 1948/9, in an area which has already been conquered by the Israeli army. Their task is to expel the remaining inhabitants, women, children, invalids and old people, across the cease-fire line into Arab-held territory. There is no fighting since none of the inhabitants are capable of resisting. The Israeli soldiers fire warning shots, call the inhabitants out, order them to take some of their belongings and point them in the direction of the Arab side. The inhabitants, bewildered, shocked, and unprepared, start their slow walk into exile. The soldiers watch this procession with mixed feelings, sensing – in varying degrees – that they are doing something wrong. They have been brought up to see such acts as utterly immoral. All the soldiers are upset, and one of them is unable to contain his outrage:

"What do we need all this business for?" suddenly escaped from my mouth more angrily than I expected.

"True," agreed Shlomo, "I prefer ten battles to this business."

"What's got into you?" muttered Yehudah his nails scratching layers of dried mud. "What do we do to them? Kill them? We transfer them to their own side. Let them sit and wait there. That's very decent of us. Nowhere in the world would they have been treated like this. Moreover, no one asked them to start this business." He stopped for a moment and added, after some thought: "What will happen to them there? Let them ask their lovely leaders. What will they eat and drink? They should have thought of that before they started!"

"Started what?" I said.

"Don't you play the saint," Yehuda said with great anger. "We brought some order to this place."

Yet Shlomo was continuing his line of thought: "When you go to a place where you might get killed that's one thing. When you go to a place where others may get killed and you only watch them, that's another thing. That's what I think."

"You too," shouted Yehuda. "Don't think too much, and if you are like that you can go with them where they are going, if you are so much like that."

"Don't shout at me," said Shlomo. "I don't tell you where to go," and he walked away.

"Getting excited," said Yehuda into space, to no one in particular. "I would like to see 'them', how Arabs conquer 'their' village, there, where 'they' live!"

"Precisely," I said.

"What do you mean: precisely? No one asked them to start these wars and this business. Big saints. Too much of our blood was shed. Bastards. Let them eat what they cooked for themselves."

We then saw a woman passing in a group of three or four others. She held the hand of a boy of about seven. There was something special about her. She seemed resolute, restrained, withdrawn in her sorrow. Tears, which looked as if they were not hers, rolled down her cheeks. The child too was whining something like "What have you done to us?" through tightly shut lips. It suddenly seemed that she was the only one who knew exactly what was going on here. It affected me so much that I felt ashamed in front of her and lowered my eyes. It was as if a scream rose from her being, something like a hating "Damn you". We saw that she was too proud to pay us any attention. We realized she was a lioness and saw the wrinkles of restraint and the will to suffer courageously, and how now, when she had lost her world, she refused to break down in front of us; and uplifted in their suffering and sorrow above our – wicked – existence, they passed, and we saw too how something was happening in the heart of that child, which when he grew up, could not make him into anything but a poisonous snake; but now there was simply the helpless crying of a child.

Suddenly something hit me like lightning. Everything suddenly sounded different, sounded better – exile. This is exile. That is what exile is. This is what exile looks like.

I couldn't stand still, I had to move. I left and walked to the other side, where the blind ones were sitting. I hurried away from them. I passed through the gap into the plot surrounded by the prickly-pear hedge. Tension mounted within me.

I was never in exile – I said to myself – I never knew what it was like. But I was told and taught, again and again, to memorize in every

corner, book, and newspaper, everywhere: exile. All my emotions were played on. I must have imbibed it with my mother's milk. What, in fact, are we doing?

There was nowhere to go and nowhere to run. I returned and mixed with them like someone looking for something. Words rang in my ears – I don't know where from. I passed among them all. Among those who cry aloud, those who grit their teeth silently, those who feel sorry for themselves and their property, those who fight their fate and those who accept it quietly, those who despise themselves and their shame, and those who already plan how to manage somehow, those who cry over fields that will stay waste, and those who are silent out of weariness, gnawed by hunger and fear. I wanted to find among them one who will be sombre and fiery, who will mould within him a fury, and call chokingly to God from the wagons of exile. The puddle on the road cleared, its ripples return to make love to the image of the sky. I searched for the meaning of the tremors within me, and the source of this echo, the echo of footsteps in my ears, footsteps of other exiles, blurred, distant, almost mythical, but angry, unforgiving, rolling like thunder, distant and ominous, foreboding, from beyond, an echo evoking anxieties. I couldn't stand it . . . I bumped into Moshe. "What are you looking at me like that for?" said Moshe. "It's a dirty war, this one," I said choking. "Come on," said Moshe. "What do you want?" Yet I did want something. And I had something to say. Only I didn't know how to say something that would be rational and practical rather than merely emotional. Somehow he had to be shocked. He must be made to understand the seriousness of the matter concisely and immediately.

Instead Moshe spoke to me, pushing his hat backwards like someone weary of a nuisance, speaking as one man to another, searching in his pockets for cigarettes and matches, and trying to put into words an idea he had just thought of: "Listen to what I'll tell you," said Moshe, and his eyes searched mine. "To this Khirbe – what's its name? – immigrants will come – do you hear? – and will take this land, and will cultivate it, and it will be wonderful here!"

Of course. What else? How had I not thought of it before? Our Khirbet Khiz'eh. Problems of housing and absorption. Hurray, we'll house and absorb. We'll open a co-op, build a school, maybe even a synagogue. There will be political parties. They will debate many issues. They will plow fields, sow, and harvest, and do great deeds. Long live Hebrew Khiz'eh. Who will dream that there once existed another Khirbet Khiz'eh, which we expropriated and inherited? We came, shot, burned, blew up, repelled, expelled, exiled. What the hell

are we doing in this place?

I lowered my eyes, but couldn't fix them anywhere. Behind me the village fell silent, its houses piled up on the hill, hedged with tree-tops which the sun cuts into silent silhouettes, watching silently, knowing much more than we do, observing the silence of the village, that silence which coalesces more and more and creates an atmosphere of its own, of desolation, the sadness of parting, an empty house, a lonely beach, waves, waves, and an empty horizon, and that strange silence like a corpse. And why not? Nothing; one uncomfortable day, and then ours will take root here, like a tree by the water. Whereas the wicked – but they are already in the wagons and will soon be like a page completed and turned over. Surely, isn't it our right? Haven't we conquered it today?

I felt on slippery grounds. I tried to control myself. My guts screamed. Colonizers, screamed my guts. Lies, screamed my guts. Khirbet Khiz'eh isn't ours. The machinegun never grants any rights. Ha-ha, screamed my guts. What weren't we told about refugees? Everything for the sake of refugees, their safety and saving . . . our refugees of course. Those that we expel – that's a completely different matter. Wait: two thousand years of exile. And so on. Jews massacred. Europe. Now we are the masters.

And for those who live in this village, won't the walls scream in their ears? And all those sights, screams shouted and unshouted, the frightened innocence of a stunned herd, the surrender of the weak, and their valour, their one valour, who know not what to do and cannot do, weak-mute, won't these sounds and shadows and looks stir the air here?

I wanted to do something. I knew that I wouldn't scream. Why the hell am I the only one who gets upset here? What inferior material was I made of? I was in a fix. There was something rebellious within me, shattering everything, renouncing everything, cursing everything. To whom should I speak and who would listen? They'll only laugh at me. There was a stunning collapse inside me. Only one notion remained stuck like a nail, that it is impossible to acquiesce in passivity while the tears of a child roll, crying and walking into exile with his mother, restrained in her fury of silent tears, and carrying a scream of injustice, a scream that could not possibly be lost, that was bound to be picked up one day somewhere in the world. Then I said to Moshe: "We have no right, Moshe, to expel them from here!" and I didn't want my voice to tremble.

And Moshe said: "You start again?"

And I knew that nothing would come of it.

(S. Yizhar, "The story of Khirbet Khiz'eh", in Hebrew, Sifriat Poalim, Kibbutz Merhavia, 1949, pp 82-88)

This powerful story, the most powerful to come out of the 1948/9 war in Israel, caused an uproar in Israel and was widely discussed. Although it was a fictionalized version of actual situations, no one challenged its accuracy and authenticity. The discussion centred on the moral dilemma involved: "Was it right or wrong to do what the soldiers did?"

The background to this dilemma was the conflict between humanist and nationalist values. The generation exposed to this dilemma grew up in Palestine during the 1918-1948 period. Most of them – excluding an extremist nationalistic minority – were brought up on socialist ideas, on values which stressed the equality of all human beings, and aspired to create a society based on social justice. The fact that the Palestinian Arabs were human beings, and that the notions of social justice had to include them too, was ignored. It is surprising how effectively – psychologically, emotionally, and intellectually – Labour Zionism managed to exclude the Palestinian Arabs from its notion of a just society in Palestine.

The entire Zionist enterprise was based on an ethnocentric value system. Zionism was a movement by Jews, to create a Jewish state, with special rights for Jews, in Palestine.

Socialism, on the other hand, is an anthropocentric value system, insisting on equal rights for all human beings, in direct negation of ethnocentrism.

As these two value-systems are incompatible one would expect them to come into conflict, resulting in the elimination of one or the other. It is amazing how successfully Labour Zionism, which was the main force creating and shaping Israel, managed to suppress this latent conflict during the first five decades of its existence. But one result of this suppression, of the insistence that ethnocentric Zionism and anthropocentric socialism are merely "two sides of the same coin", was the emergence of a new generation totally unprepared to resolve this conflict when it faced it in actual situations, like those described in 'Khirbet Khiz'eh'.

How then did the new generation resolve this conflict? For the majority by opting for Jewish ethnocentrism. The narrator in 'Khirbet Khiz'eh' says: "And I knew that nothing would come of it," meaning that he chose not to protest against this social injustice (by telling himself that it would have no effect on the other soldiers), knowing that having once acquiesced in this injustice he would remain a moral invalid, a broken personality, for the rest of his life. He would either consider himself a coward, unable to practise what he believed in, or he would adopt the "realistic" view, that human affairs are based on "interests" and not on value systems, ignoring the fact that all interests (and all human will and motivation) depend on value systems. This is what happened to many of the young Israelis who participated in the 1948 war. They forsook humanism.

But what about those who grew up after 1948, in an independent Jewish state where the entire education system was run by the Ministry of Education and Culture, and where the government was, for three decades, in the hands of Labour Zionism?

One of the few social-psychologists who dared to tackle this question was Dr George Tamarin. In the early 1960s, while employed by Tel-Aviv University, he conducted research amongst Israeli children on "The influence of ethnic and religious prejudice on moral judgement".

The research consisted of presenting about 1,000 Israeli school children (ages 9 to 14) with two texts and asking them to comment on the texts. The first questionnaire read:

You are well acquainted with the following passages of the book of Joshua: "So the people shouted when the priests blew the trumpets, and it came to pass, when the people heard the sound of the trumpet, and the people shouted with a great shout, that the wall fell down flat, so that the people went up into the city, every man straight before him, and they took the city. And they utterly destroyed all that was in the city, both man and woman, young and old, and ox, and sheep, and ass, with the edge of the sword" (Ch.6, 20, 21). "And that day Joshua took Makkedah, and smote it with the edge of the sword, and the king thereof he utterly destroyed, them, and all the souls that were therein; he let none remain; and he did unto the king of Makkedah as he did unto the king of Jericho. Then Joshua passed from Makkedah, and all Israel with him, unto Libnah, and finally against Lakhish. And the Lord delivered Lakhish into the hand of Israel, which took it on the second day, and smote it with the edge of the sword, and all the souls that were therein, according to all that he had done in Libnah" (Ch.10, 28-32).

The children were then asked to answer the following two questions:

1. Do you think Joshua and the Israelites acted rightly or not? Explain why you think as you do.
2. Suppose that the Israeli army conquers an Arab village in battle. Do you think it would be good or bad to act towards the inhabitants as Joshua did towards the people of Jericho and Makkedah? Explain why.

The answers were classified into three groups:

A – total approval

B – partial approval or disapproval

C – total disapproval

D – confused or irrelevant (excluded from the statistical analysis).

The answers were:

To question 1: A-66%, B-8%, C-26%

To question 2: A-30%, B-8%, C-62%

This seems to indicate that although two-thirds would approve of Joshua's action, only one-third would justify such behaviour by the Israeli army. The results become more interesting in the light of an additional test. Two groups of pupils were given one question each. The first group had to answer Question 1 above (about Joshua), whereas the second group was presented with a "Chinese version" of the Joshua story, reading:

General Lin, who founded the Chinese kingdom 3,000 years ago, went to war with his army to conquer a land. They came to some great cities with high walls and strong fortresses. The Chinese War-God appeared to General Lin in his dream and promised him victory, ordering him to kill all the living souls in the cities, because those people belonged to other religions. General Lin and his soldiers took the towns and utterly destroyed all that was therein, both man and woman, young and old, and ox, and sheep, and ass, with the edge of the sword. After destroying the cities, they continued on their way, conquering many countries.

The children were asked to answer the question: Do you think that General Lin and his soldiers acted rightly or wrongly? Explain why.

The answers of the two groups were classified as before, and the results were:

Group 1: A-60%, B-20%, C-20%.

Group 2: A-7%, B-18%, C-75%.

In other words, while two-thirds approved of the behaviour of Joshua three-quarters totally disapproved of the same behaviour if carried out by someone else.

The publication of this research caused an uproar which eventually brought about the dismissal of Dr Tamarin from Tel-Aviv University. But privately many Israelis admit that the results reflect the real state of mind of Israeli children at that age, and that if the Tamarin tests were to be carried out repeatedly throughout the entire country the results would be largely the same for almost every year from the early 50s to the present. It is a pity that the research did not compare the responses of children from religious schools with those from the secular ones. Even so a predictable pattern of responses and attitudes emerges, and it differs from the pattern of behaviour associated with a "Jew". In other words, there is an Israeli type and the Israeli is not a "Jew".

This view is further strengthened by another piece of research by Dr Tamarin on "Two types of national mythology: the 'Sabra' superman and the inferior 'Diaspora Jew'". The results showed that the 'Sabra' (the nickname for an Israeli-born Jew) is idolized whereas the Diaspora Jew is degraded. This is hardly surprising, as Zionism rejected the Jewish condition in the diaspora and frowns upon those who accept it. It educates

Israeli youth accordingly. This general attitude towards the diaspora Jew often impinges on those parents who, if they are immigrants to Israel, are in fact diaspora Jews. So that the Israeli is not just different from the diaspora Jew, but is also conscious – and proud – of this difference. This would come as no surprise to most Israelis, and the majority of the Sabras state it approvingly. No Sabra will deny that the Diaspora Jew is a Jew and some, like the Canaanites, insist that the two types are one, namely – the “Jew” is by definition the diaspora Jew. Hence their assertion: “He who is a Hebrew cannot be a Jew and he who is a Jew cannot be a Hebrew” (today one would use “Israeli” instead of “Hebrew”).

Since there are only two or three generations of “Hebrews” it may still be too early for the general pattern of the Israeli personality to be fully shaped, but the experiences of the four wars fought against the Arabs since 1948 hastened this process. There are certain features which are so widespread and persistent for the last thirty years that one can reasonably assume they will be woven into the final pattern. The first is the mentality of creating accomplished facts first, with total disregard for approval by others and discussing the results later. This is a direct spin-off from the general attitude of the Zionist settlers to the Palestinian Arabs. The only way to create a Jewish majority and state in a country where the vast majority of the population was Arab (until 1948) was by creating accomplished facts of settlements, or conquest, or military attacks, and debating them later. This attitude started from the political leadership in its struggle vis-à-vis the British and the Arabs, but spread to the political parties, the schools, the home, the individual. The general attitude is: if you want to achieve something which others object to, go ahead, create facts, and achieve it without their approval and only then propose a compromise that will be based on the acceptance of the facts that have already been accomplished. This is fast, effective, and straightforward even though it generates hostility and mistrust which, after all, are to be expected anyway.

Another feature common to many of the new “Hebrews” is an exaggerated sense of self-confidence which stems from the sequence of successes of Zionist activity in Palestine in the last half century. This exaggerated self-confidence contributed to the surprise, and unpreparedness, of the Israeli army in October 1973. Despite all the Intelligence reports about the Arab preparations no one in power was able to interpret the data as an imminent attack. A well known joke describes a tourist asking an Israeli in Eilat (before 1967) whether he didn't think that the situation of being surrounded by a Jordanian army five miles to the east, a Saudi army ten miles to the south-east, and an Egyptian army 10 miles due south, was dangerous; “Dangerous to whom?” asks the Israeli, “To us, or them?” Before 1967 this sounded like arrogance, but the '67 war confirmed the self-

confidence to such an extent that even the shock of the '73 war, though sobering, failed to replace the arrogant self-confidence by modesty and caution.

Another feature is the provinciality of the new Israeli. This manifests itself in a superiority/inferiority complex vis-à-vis the rest of the world. Ben-Gurion used to say: "It doesn't matter what the Gentiles say, it only matters what the Jews do," but he was extremely proud when the West German government bought light arms from the Israeli arms industry. The fact that a military power like Germany was willing to buy Israeli light arms was in fact a political move adding a seal of "decency" to the new "Wehrmacht", but for Ben-Gurion and many Israelis it was a compliment. If it wasn't important what the Gentiles said, it still matters to many Israelis what the Gentiles think. This manifests itself in various ways, one of which is the attitude to UN debates criticizing Israel. First there is fury against those who dare to criticize Israel, which gives rise to a vehement denunciation, both in the Israeli press and at the UN, but when the debate is over and Israel finds itself in a minority of one against the rest of the UN the attitude switches to "after all, what does it matter?". If it didn't matter anyway why the preliminary fury and the vehement denunciations?

The three elements – "accomplished facts" mentality, exaggerated self-confidence, and provinciality – mark almost all settlers' societies and are not unique to Israel, but they are worlds apart from the attitudes of the diaspora Jew. So that the Zionist movement, seeking to create a "national rebirth" of the Jewish people achieved its aim but the new-born turned out to be so different from its progenitors that they are shocked at this outcome. This was not obvious with the first Palestine-born generation, when people like Dayan, Rabin, Weizman, and Peres symbolized a whole generation which followed its parents' leadership. But the generation born in the first decade of Israel's existence was marked by disaffection, and later generations tend towards privatised self-interest, and indifference to society as a whole. This may look similar to other societies in the West but stems from different causes. The second generation of Israeli-born Jews find themselves locked in a military – and moral – conflict with the Palestinian people, a conflict which was created by the Founding Fathers, and which the descendants do not desire or control. They are prisoners of a conflict created by the Zionist movement, and are caught – like the soldiers in the trenches of the first World War – between a hostile army in front and despised leaders behind. They – and all the future generations of Jews born in Israel – are not Zionists, but they are caught in a conflict created by Zionism, and in a situation wherein others assume that they are Zionists. In reality the Israeli-born Jew has no identity complex. He is fully secure in his Israeli identity, which means speaking Hebrew and sharing the daily

experience of a majority in a sovereign state. This is diametrically different from the diaspora Jew, who is a member of a minority group and – if not religious – suffers from a cultural identity complex. It is extremely difficult for the Israeli to understand the state of mind of the diaspora Jew. The gulf between these two widens continuously. Eventually they will drift apart.

With every passing year there comes further confirmation of the “Canaanite” view that “He who is Israeli cannot be a Jew and he who is a Jew cannot be an Israeli”. The debate on “Is the Israeli a Jew” indicates that Zionism has failed in its attempt to create a secular Jewish identity. It did create an Israeli identity, but if this Israeli is a Hebrew-speaking Gentile (in terms of attitudes, views, and psychology) rather than a Jew, then the entire Zionist enterprise is – in terms of Jewish history (which is the Zionist central term of reference) – an enormous failure. All the efforts, sufferings, sacrifices, all the injustices perpetrated under the banner of “My nation – right or wrong”, are in vain and really beside the point, because the point was to create a new Jewish nation, not a new nation, or another state “like all other states”, which differs from other states only by its language.

The Zionists believed that their political solution (“The Jewish State”) would solve the identity problem of secular Judaism by creating secular Jewish nationalism. To their own amazement they discovered that without religion the Jewish identity ceases to be Jewish. It will take time before other Jews, and non-Jews, including Arabs and Israelis, realize the same fact, come to terms with it, and conduct their politics towards Israel accordingly. Only after overcoming the collective-identity crisis can a stable solution be achieved to a conflict which stems from that crisis.

As long as the collective-identity is insecure there is inflammable material for an ethnocentric conflicts. The Zionist movement is, in fact, dying out. It lacks appeal to the majority of younger Jews in the diaspora and is meaningless to Israeli youth. What emerges in Israel is a population with a secure identity, namely an Israeli identity, whose cultural links with the diaspora are dying out. The Jew and the Israeli are slowly drifting apart. The process may take three or four generations, but its direction is quite clear.

1. *Writers' Bow* was the name of a literary magazine of the establishment writers. Many phrases in this article are puns on various literary creations of the cultural establishment. "The Gods" are the establishment writers.
2. The Marxist sector of the Zionist establishment was brought up on the songs and tales of the Russian partisans during the Second World War. The "Song of the Cavalry" was one of these songs.
3. "Purity of Arms": a principle of the Haganah (Defence) underground movement – never to hit innocent bystanders.
4. "The six million" – the Jews slaughtered by the Nazis.
5. *The Storm* by I. Ehrenburg was the official Soviet version of the mentality of the Russian soldiers during the Second World War. It was translated into Hebrew and was used by some writers as a model.
6. Palmakh: the crack unit of the Haganah.
7. Giv'ati: another famous unit of the Haganah in the 1948 war.
8. The official Israeli attitude towards the Arabs in the 1948 war.
9. Mapai – Ben-Gurion's Labour party, Mapam – the Zionist-Marxist party, Herut – the extremist-nationalistic party led by M. Begin.
10. In the 1940s Mapam put forward the proposal to create a bi-national, Jewish-Arab, state in Palestine, once the Jews are – and remain – the majority.
11. Yemenites – Jews from the Yemen, brought to Israel in the 1920s and employed in menial, and domestic, jobs.
12. The entire paragraph starting 'The big, stupid, child' parodies the history of the Palmakh which was formed in 1942 and dismantled by Ben-Gurion shortly after the 1948 war.

Chapter 8

Conclusion

The various Knesset debates, Supreme Court cases, cabinet crises, articles and research findings described in this book display a coherent pattern – namely, a quest for a collective identity. This is recognized and stated by all those involved. This quest torments state institutions and individuals alike, both seek the same identity. The search fails. The solutions proposed by some are rejected by others, and the search goes on for decades, endlessly. The problem has a psychological dimension and a political one, intertwined to such an extent that they merge into a single, psycho-political issue. This presents a unique difficulty for any traditional interpretation which attempts to explain a political problem in political (or economic) terms and a psychological problem in psychological terms. We are dealing with individuals who seek their collective identity, not their private identity. The nagging question is not “Who am I?” but “What am I?” – what group do I consider myself to be a member of?

The fact that the issue haunts many people indicates that there is a collective identity component in the psyche of the individual, and like other elements of the mental structure, it is revealed when it breaks down or faces a threat. The group can be a tribe, clan, nation, religious denomination, social class, or even a sports club. The threat can be a war, intermarriage (into a different clan, tribe, nation, or religious denomination), and even a defeat in a sporting event. The response to the threat will be some form of aggressive behaviour, never indifference. It is easy to notice, and respond to, an external threat. It is much more difficult to cope with the inner “falling apart” of the collective identity. In such cases there is a strong tendency to seek an external threat to serve both as a cause and a remedy for the internal disintegration. This condition can linger on indefinitely indicating the existence of a need which has not been satisfied. It is tempting to assume that this need is a permanent feature of every culture, but there are enough contrary examples to disprove this assumption. It can also be argued that those suffering from actual persecution will tend to develop a persecution complex, and the Jews were persecuted in Europe for a very long time. Yet religious Jewry never developed a persecution complex despite being persecuted for millennia. In other words, a secure cultural identity responds to an external threat very differently from an insecure one.

There are a number of symptoms characteristic of the Jewish identity

crisis, as it reveals itself in Israel:

- * The debate between orthodox Jews and secular Jews on the definition of Jewish identity (and on related issues such as civil marriage, divorce, and burial, in Israel) is always conducted in an agitated, emotional, and aggressive manner. Each side considers the other's view as a threat to its own being and existence.
- * The arguments presented by secular Jewry are often riddled with contradictions, e.g. "I am not religious but without the Jewish religion I wouldn't be what I am," or "the whole of Jerusalem is not worth the little finger of my son who died (in the 1967 war) to liberate it, but without Jerusalem I cannot live," etc.
- * The terms "survival" and "existence"¹ are the key terms in the debate.
- * There is a tendency to personalize the state. Such phrases as "the state (not the government) has promised . . .," or "the state (not the Knesset) has vowed . . ." are commonly used.
- * The state merges with the personality and becomes one of its components. "In Israel the state is us, we are the state".² The individual who thinks this way considers it a personal affront when the state or its policies are criticized.
- * During international sports contests the entire population – including a majority which has never displayed any interest in the particular sport – is totally absorbed in the match, often bursting into mass euphoria when the Israeli team is victorious. Thus, after the victory in the European basketball championship in 1977, hundreds of thousands burst into the streets shouting "*Am Israel Kha*" ("The Jewish people lives"), waving the national flag and prayer shawls (the two are very similar), and paying no attention to the resignation of Rabin's Cabinet (due to corruption charges), which coincided with the victory.
- * The phrase *Ha'olam kulo negdeinu* ("The whole world is against us") is evoked recurrently (on the eve of the 1967 war it was turned into a song which became a national hit) engendering a feeling not of despair but of national purpose – "We shall overcome."

These features are so common that few Israelis ever reflect upon them. They have become "normal attitudes" to such an extent that those who do not display them are considered to be abnormal. Thus, during the international basketball match in 1977 the State TV team, filming the deserted streets and coffee houses, came upon a lone person buying a ticket for a cinema who said he was not interested in basketball. The interviewer, who, like most Israelis, found this answer implausible, then inquired; "Are you by any chance one of those who hate the state?" – it being tacitly assumed that when the national team plays a crucial match every Israeli, whatever his interest in sport, is supposed to be concerned.

Those Israelis who are critical of Zionism and Israel are rarely considered as political objectors or dissenters. They are always accused of being “self-hating Jews”, whose criticism stems from some psychological perversion. If the criticism is voiced in front of non-Jews they are immediately labelled “traitors”, since it is genuinely felt that any Jew who criticizes the Jewish state outside a Jewish milieu betrays his Jewish loyalties.

Interpretative psychology, including Freud and the various schools of Adler, Jung, Rank, etc which developed from his work, fails to account for all these features. They often invoke assumptions, such as Freud’s notion of “Thanatos” to account for the readiness of millions to die “for king and country” in the First World War, which contribute nothing to resolve the problem. To say that people are ready to die in war due to an inherent and latent “death wish” is to beg the question.

An approach which can shed light on the crisis of cultural identity is the one which deals with the related crisis of personal identity. This approach to the breakdown of the individual’s sense of personal existence deals with a number of features which have a remarkable similarity to those displayed in the breakdown of cultural identity. R. D. Laing in *The Divided Self* describes some of these features:

An argument occurred between two patients in the course of a session in an analytic group. Suddenly, one of the protagonists broke off the argument to say, “I can’t go on. You are arguing in order to have the pleasure of triumphing over me. At best you win an argument at worse you lose an argument. *I am arguing in order to preserve my existence.*”

Laing then adds: “This patient was a young man who I would say was sane, but, as he stated, his activity in the argument, as in the rest of his life, was not designed to gain gratification but to ‘preserve his existence’.”

This is very similar to the heated debates about the preservation of cultural existence.

One patient was much addicted to scrutinizing her face in the mirror. “One day it came to her mind how hateful she looked. It had been in the back of her mind for years that she had her mother’s face. The word ‘hateful’ was pregnant with ambiguous meanings. She hated the face she saw in the mirror (her mother’s). She saw, too, how full of hate for her was the face that looked back at her from the mirror; she, who was looking at the mirror, was identified with her mother. She was in this respect her mother seeing the hate in her daughter’s face.”

If we take the “mother” to represent “orthodox Jewry”, and the “daughter” to represent “Zionist Jewry”, we have a description of the emotional attitudes involved in the Jewish cultural conflict. The “mirror” is the daughter’s version of history. When the “mother culture” analyzes its

version of history it discovers itself; when the “daughter” analyzes her own version of the past she discovers her mother and mutual hatred.

Laing mentions a story by Franz Kafka, “Conversations with a Suppliant”, and says: “The suppliant starts from the existential position of ontological insecurity. He states; ‘There has never been a time in which I have been convinced from within myself that I am alive.’ The need to gain aliveness and the realness of things is, therefore, the basic issue in his existence. His way of seeking to gain such conviction is by feeling himself to be an object in the real world; but since *his* world is unreal, he must be an object in the world for someone else, for objects to other people seem to be real, and even calm and beautiful. At least ‘it must be so, for I often hear people talking about them as though they were’. Hence it is that he makes his confession: ‘. . . don’t be angry if I tell you that it is the aim of my life to get people to look at me.’”

If for “object” we substitute “state” and consider the suppliant to be a nation seeking its collective identity the entire passage will still make sense. Perhaps the fact that Kafka as a non-religious Jew considered, and rejected, the Zionist notions of his friend Max Brod contributed to his awareness of the identity crisis. In any case it is a fact that many Zionists get satisfaction from seeing Israel mentioned in the world’s press and TV. Of course, if Israel is criticized they will attribute this to anti-Jewish feelings, but even this is better than not to be mentioned (i.e. related to) at all. If others mention you it proves that you exist. The need for this proof is in an index of the problem.

Laing discusses the feelings of a person who is existentially insecure.

“The individual in the ordinary circumstances of living may feel more unreal than real; in a literal sense, more dead than alive; precariously differentiated from the rest of the world so that his identity and autonomy are always in question. He may lack the experience of his own temporal continuity . . . It is, of course, inevitable that an individual whose experience of himself is of this order can no more live in a ‘secure’ world than he can be secure ‘in himself’. The whole ‘physiognomy’ of his world will be correspondingly different from that of the individual whose sense of self is securely established in its health and validity. Relatedness to other persons will be seen to have a radically different significance and function. To anticipate we can say that in the individual whose own being is secure in this primary experiential sense, relatedness with others is potentially gratifying; whereas the ontologically insecure person is preoccupied with preserving, rather than gratifying, himself. The ordinary circumstances of living threaten his low threshold of security.”

This is very similar to the attitudes of non-religious diaspora Jews towards

the non-Jewish society around them. It does not apply to religious Jews in the same society. They may despise the Gentile environment, but they don't feel threatened by it. Laing outlines an anxiety which he labels "engulfment", as a recurring component of ontological insecurity.

"A firm sense of one's own autonomous identity is required in order that one may be related as one human being to another. Otherwise, any and every relationship threatens the individual with loss of identity. One form this takes can be called engulfment. In this the individual dreads relatedness as such, with anyone or anything or, indeed, even with himself, because his uncertainty about the stability of his autonomy lays him open to the dread lest in any relationship he will lose his autonomy and identity. Engulfment is not simply envisaged as something that is liable to happen willy-nilly despite the individual's most active efforts to avoid it. The individual experiences himself as a man who is only saving himself from drowning by the most constant, strenuous, desperate activity. Engulfment is felt as a risk in being understood (thus grasped, comprehended), in being loved, or even simply in being seen. To be hated may be feared for other reasons, but to be hated as such is often less disturbing than to be destroyed, as it is felt, through being engulfed in love. The main manoeuvre used to preserve identity under pressure from the dread of engulfment is isolation. Thus, instead of the polarities of separateness and relatedness based on individual autonomy, there is the antithesis between complete loss of being by absorption into the other person (engulfment), and the complete aloneness (isolation). . . . To be understood correctly is to be engulfed, to be enclosed, swallowed up, drowned, eaten up, smothered, stifled, in or by another person's supposed all-embracing comprehension. It is lonely and painful to be always misunderstood, but there is at least from this point of view a measure of safety in isolation.

If for "person" we read "culture" the passage becomes an accurate description of the state of mind of many Zionists.

"There is a failure to sustain a sense of one's own being without the presence of other people." "The polarity is between complete isolation or complete merging of identity, rather than between separateness and relatedness."

Anyone familiar with the Israeli dread of "Levantinization" (i.e. merging with the culture of the Middle East), with Israeli ambivalence about the desirability of peace with the Arabs even after the trauma of seeing President Sadat's visit to Jerusalem in 1977, will find Laing's observations illuminating.

Despite the many similarities between the personal and cultural identity

crises, it would be wrong to assume that they are identical. For the individual, personal identity is primary and forms a foundation which sustains everything else, including that person's cultural identity. If the personal identity collapses there is no person, but if the cultural identity collapses its members will still exist as people. They may be able to assimilate into other cultures or evolve a totally new culture. This is not easy, but it is never as disastrous as the collapse of personal identity.

Cultural identity or the individual's feeling of belonging to a particular group of people, the sense of being one of a collectivity, of having a group identity and having the same sense of being in the world as other members of that group, is a basic ingredient of a person's psyche in any human collectivity. When this sense becomes blurred and the person starts to wonder to which group he/she belong, and why, a sense of insecurity and vulnerability arises, and the individual will seek to defend the threatened identity, and become excessively touchy to jokes and any, real or imagined, reference to his/her origin. This conditions affects most traditional societies which come into contact with Western culture, and nowadays even the West itself, where the constant creation of new material needs is losing its zest, and scientific rationalism has lost its omnipotence. One response to the loss of a cultural identity is the attempt to renew, update, and modernize the old identity. This means that some elements of the old identity are pushed into the background, others are brought into the foreground, and new ones are added. This is known as 'cultural change'.

The difficult problem in cultural change is whether the new culture can maintain enough components of the old one so as to preserve continuity, or whether this process of change is so drastic that the new culture is (and is seen to be) a qualitative break. This is the problem for those who insist on maintaining cultural continuity. Those who desire a revolutionary break with the past face the opposite problem: how to ensure that basic features of the previous culture are not carried over with the change. Both cases require deep insight into the most fundamental features of the culture. If these features are properly assessed the attempts to preserve or destroy continuity stand a better chance of success. However, there is always the possibility that the specific structure of a culture is such as to frustrate any meaningful continuity. There is also the possibility of its being destroyed from the outside by an alien culture.

In her classic work *Patterns of Culture* the American anthropologist Ruth Benedict relates an observation made by an American Indian chief:

In the beginning God gave to every people a cup, a cup of clay, and from this cup they drank their life . . . They all dipped in the water, but their cups were different. Our cup is broken now. It has passed away.

This beautiful metaphor, in which a culture is depicted as a cup of clay,

rather than, say, a tree, a river, or some other malleable entity, illustrates its brittleness. When a cup of clay breaks it falls apart, and nothing can recreate the original. Benedict then comments:

He did not mean that there was any question of the extinction of his people. But he had in mind the loss of something that had value equal to that of life itself, the whole fabric of his people's standards and beliefs. There were other cups of living left, and they held perhaps the same water, but the loss was irreparable. It was no matter of tinkering with an addition here, lopping off something there. The modelling had been fundamental, it was, somehow, all of a piece. It had been their own.

One could say, "It had been them," for a culture moulds the entire meaning of life of a people, and if that meaning is lost their very sense of existence, and they themselves, will be qualitatively different from what they were before. It is not the extinction of a physical existence, it is the extinction of the meaning of that existence. Yet it is no exaggeration to say that societies value the meaning of their existence more than their mere physical existence. People are willing to risk, and sacrifice, their physical life to defend the meaning of their life. The millions who volunteered to fight in religious, national, or ideological wars, whether "for the faith", for "king and country", for "freedom", "liberty" or for any "-ism", provide abundant proof that the meaning of existence is valued more than physical existence.

It is simpler to defend the "cup of life" when it is threatened by external forces. But what can one do when it slips from one's own hands?

The Jewish scholar G. Scholem relates the following episode about the Jewish thinker Steinsneider:

One of the last pupils of Steinsneider said that he, a young Zionist, was amazed by his teacher's library and began preaching to him about national revival, latent values, and so on. The ninety-year-old sage replied: "Please sir, we have no other duty than to give all this a decent burial."³

Nowadays, a century later, we have ample evidence confirming Steinsneider's view. Numerous attempts to revive, modernize, or secularize Jewish culture – including the creation of Israel – have been tried, and have all been found wanting by their own creators.

The reasons for these repeated failures become clear too, namely the specific nature of the Jewish identity, i.e. its utter dependance on the Jewish religion, and the specific nature of the Jewish religion, i.e. its rigid theo-centrism affecting ordinary practice of everyday life.

All attempts to modernize these two features are doomed from the start. Whatever they produce will always differ qualitatively from Jewishness.

Burial, revival, existence and survival are the most common terms in

debates on cultural change, indicating that, psychologically, the process is one of death and birth. The old culture dies, the new is born. But can the newborn resemble the dead to such an extent that one can speak of the dead being re-born? Perhaps the answer depends on the specific nature of the culture. In the case of Judaism, which is a theocentric religious culture, the answer is negative. Secularization cannot preserve theocentrism. It destroys it utterly and completely.

The alternatives to theocentrism are ethnocentrism, egocentrism, or anthropocentrism. The Israelis are already imbued by their own provincial ethnocentrism. Most Jews, like most people everywhere, are gradually succumbing to the dominant value of capitalism, namely ego-centrism.

Those who reject all these three values have but one choice – anthropocentrism, i.e. to accept the wellbeing of the entire human species as the dominant criterion of personal and political behaviour and action. There are various interpretations of this ‘wellbeing’, often differing and even contradictory, but it is humanity as a whole, not one’s self, nation, or God, that is at the centre. Whenever a new generation encounters afresh the anxieties generated by the collapse of a collective identity it will save itself a lot of time, turmoil, and suffering if it directs its efforts and energies not towards putting together the shattered old cup, but towards moulding a new one. Those who reject theo-, ego-, and ethno-centrism must shape their own version of anthropocentrism.

1. In Hebrew there is no distinction between “survival” and “existence”. The word *kiyum* (existence) is used to convey both meanings. There is no special term for “survival”.
2. *Julius Klausner*, by Margot Klausner, Düsseldorf, 1974, p.126.
3. “Dvarim Bego” (‘Explications and Implications’, writings on Jewish Heritage and Renaissance) by G. Scholem. Hebrew. Am-Oved. Tel-Aviv. 1976, p.393.

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Hebrew

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Piskei din Beit Ha'mishpat Ha'elion – Verdicts of the Supreme Court in Israel. Official publication of the judges' statements and verdicts in the highest court of law in Israel. Reliable source. Back copies available in all major libraries in Israel.

Ya'hadut, Am Yehudi, Umdinat Israel (Judaism, the Jewish People, and the State of Israel) by Yesha'ayahu Leibowitz. A selection of articles by the most important religious intellectual in Israel. An unparalleled, incisive critique of both the secular state and the religious establishment. Leibowitz holds a number of PhDs in the sciences and lectures in biochemistry and physiology at the Hebrew University, Jerusalem. He is the editor-in-chief of the Hebrew Encyclopedia, an authority on Maimonides (who is, to a considerable extent, his religious mentor), and well acquainted with European philosophy. He is well known in Israel, but most people choose to consider him an eccentric. This selection of articles, covering the period from the 1940s to the 1970s was published by Schocken in Tel-Aviv, 1975. So far the Schocken branch in the USA has not published an English translation of this book; when – and if – it does, it will initiate a rethinking, amongst many Jews, in the West, of their attitudes to Israel.

Le'nokhakh Ha'meukha Ha'rukhanit shel Doreinu (Facing the Spiritual Perplexity of our Time) by Barukh Kurzweil. A collection of critical essays by the former head of the department of World Literature and Hebrew Literature in the religious Bar-Ilan University, Tel-Aviv. Kurzweil's mentor was Martin Buber, and like him he held the cultural values of Judaism in high esteem yet did not keep the Mitzvot. Kurzweil is far more perplexed than Leibowitz, but his critique of Zionism and Israel has an existential dimension which Leibowitz's religious critique lacks. This volume was published by the Bar-Ilan University, Ramat-Gan, 1976.

Ba'ma'a'vak al Erkei Ha'yahadut (In the Struggle for the Values of Judaism) by B. Kurzweil. Another volume of critical essays by the same author,

dealing mainly with existential problems in religious texts and literature. Kurzweil was haunted by the anxiety that the success of political Zionism in creating Israel and the central role Israel plays in the cultural consciousness of most non-religious Jews could end in a calamitous collapse of the Jewish culture. Schocken, Tel-Aviv, 1969.

Hevra Vedat (Society and Religion – The Non-Zionist Orthodox in Palestine 1918-1936) by M. Friedman. The best detailed and documented account of the struggle of the traditional (orthodox) community in Palestine against the heresy of Zionism. The account traces the decline of this struggle and the emergence of the collaboration of the orthodox establishment with the Zionist leadership. The Neturei-Karta sect is the last remnant of this community, and refused to collaborate with Zionism. Ben-Tsvi, Jerusalem, 1978.

Kol Kitvei Ahad Ha'Am (Collected Works of A'had Ha'Am). The works of A. Ginsburg (A'had-Ha'Am, i.e. 'one of the people', was his pseudonym), the foremost critic of political Zionism from a cultural point of view. A'had Ha'Am wrote around the turn of the century. He gave up religious belief but upheld the cultural values of Judaism. His main critique of political Zionism was that political independence would not help to preserve the Jewish people unless it brought about a cultural revival. He realized that the problem was not merely the creation of a state that would provide shelter for individual Jews fleeing from persecution, but the creation of a new, secular, interpretation of Judaism, that would sustain its essential meaning in the modern, atheist, age. The problem was not merely the Jews, but Judaism. Whether the Jewish culture can be modified to suit a non-believing Jew is doubtful, and A'had Ha'Am never spelled out how it should be done, apart from proposing the creation of a Jewish cultural centre in Palestine wherein a new literature and poetry would be created. The content of this new culture was never discussed. A'had Ha'Am was deeply worried (even in the 1880s) that the conflict between the Zionist enterprise and the Palestinian people would corrupt the Jewish sensitivity to social justice with colonial attitudes and a quest for military and political power. Many issues of his works were published in Israel, mostly by Dvir publishing house, Tel-Aviv.

Ha'israeli Ke'yehudi (The Israeli as Jew) – Selected lectures, discussions and papers from symposia held in memory of L. Yishai Ron, in Oranim, the educational research institute of the Kibbutzim. Two volumes of speeches and debates (attended by the Minister of Education) on the failure of the state education system to inculcate 'Jewishness' into the new, Israel-born, generations. Everybody agreed that there is a problem, but its causes, and

the remedies, are hardly touched upon. Yishai Ron memorial foundation, Givataim, 1974, Israel.

Ha'hesder (The Arrangement – From a State of Secular Law to a State of Religious Law) by Shulamit Aloni. A little volume by a leading campaigner for women's rights, and (Jewish) civil rights, in Israel. She was a member of Ben-Gurion's Zionist Labour party, and was shocked by the concessions her party made to the religious minority. A number of cases are described in which these concessions created personal tragedies. However, the author, being a Zionist, is unable to pinpoint the cultural background and source of the concessions, and of the betrayal of atheist principles of her party. Otpaz, Israel, 1970.

Mihu Yehudi bedinei medinat Israel (Who is a Jew in the Law of the State of Israel) by Dr Avner H. Shaki. Three volumes of religious apologia attempting to justify the position of the religious establishment in Israel. Publication No. 16 of the Faculty of Law in Tel-Aviv University. Published by the Rabbi Ovadiah Shaki Institute for family and family law research, Jerusalem, 1976.

Mishnato shell harav Kook (The Philosophy of Rabbi Kook) by Z. Yaron. An exposition of the views of Rabbi Kook, the orthodox religious authority who pioneered and legitimized the support of orthodox Jewry for Zionism. Published by the department for education and religious culture of the World Zionist Organization, Jerusalem, 1974.

Hadat Ha'yehudit betkufat Ha'emancipacia (The Jewish Religion in the Era of Emancipation) – by Max Wiener. The best account of the turmoil and struggle of religious Jewry in Europe (mostly German) in the 19th century against the new influence of atheism and secular philosophies on European Jewry. The original was published in German. Published by Bialik Institute and Rabbi Leo Beck Institute in Jerusalem 1974.

Hayehudi Haboded vehayahadut (Judaism and the Solitary Jew) by Eliezer Schweid. An attempt by an atheist Labour Zionist to provide a meaningful interpretation of Jewish identity and religion. In effect, an apologia for Labour's concessions to the orthodox. Am Oved, Tel-Aviv, 1974.

Adam Bamivkhan (A person in the Test) by Hillel Seidel. A personal account of the experience of life under Nazi rule in Eastern Europe; contains an informative chapter about Oswald Rufeisen (Brother Daniel), whom the author knew. Published by the author, Tel-Aviv, 1971.

Ani Ma'amin (I believe) edited by Mordechai Eliav. A moving collection of personal accounts, describing the mental agony of orthodox Jews under the Nazi occupation in Eastern Europe, attempting to reconcile their faith with the horrors they saw and experienced. Published by Rabbi Kook Institute, Jerusalem, 1969.

Prosa (Prose) No.17-18. August/September 1977. A special edition of a literary magazine dedicated to the Canaanites. Many of the important statements of this 'cultural renaissance' group appear in this issue.

Dvarim Bego (Explications and Implications, writings on Jewish heritage and renaissance) by G. Scholem. Hebrew. Am-Oved. Tel-Aviv, 1976. A collection of articles on Judaism by the most prominent authority on Jewish mysticism, and the author of the study of the 17th century false *Messiah Shabtai Tsvi and the messianic movement in his lifetime*. (In Hebrew). Once a member of *Brit Shalom* a group of intellectuals in favour of cooperation with the Arabs, he was by his own account always an ardent Zionist.

English

Jewish Identity: Modern Responsa and Opinions. A documentary compilation by Baruch Litvin. Edited by Sidney B. Honig. Answers by 43 leading Jewish scholars to the question posed by David Ben-Gurion: Who is a Jew? Feldheim publishers, Jerusalem-New York, 1970.

Heaven at Bay: The Jewish Kulturkampf in the Holy Land by Emile Marmorstein. A restrained account of the resistance of orthodox Jewry to Zionism in Palestine. Provides some background explanations which render the orthodox position more plausible to non-believers. Oxford University Press, London, 1969.

A Crisis of Identity: Israel and Zionism by Dan V. Segre. An attempt by an atheist Labour Zionist to apologize for Zionism by presenting it as a movement against the "cultural colonialism" of atheist European culture. The author ends up by proposing a return to the religious roots. Confused and contains some mistakes and falsification of quotations. Oxford University Press, 1980.

Patterns of Culture by Ruth Benedict. The classical work on cultural relativism by a great anthropologist. Routledge & Kegan Paul, London, 1938, 1968.

The Farther reaches of Human Nature by A. H. Maslow. A volume of articles by Maslow, a student of Ruth Benedict, which contains a chapter on "Synergy in the society and in the individual" which is based on an unpublished lecture by Ruth Benedict and is essential for understanding her views. Penguin Books, 1976.

The Israeli Dilemma: Essays on a Warfare State by Dr Georges R. Tamarin. Essays by the only Israeli sociologist who has dared to probe into racist and authoritarian attitudes among the Israeli-born generation. He lost his post at Tel-Aviv University for doing so. These important essays are substantiated by painstaking sociological research. The author is now working at the Institute for Social/Psychological Research, Givatim (P.O. Box 104, Israel). These essays were published by Rotterdam University Press, 1973.

The Divided Self by R. D. Laing. A collection of accounts of the disintegration of personal identity. Pelican, 1964.

German

Julius Klausner – eine Biographie by Margot Klausner. Verlag Kalima Druck, 1974.

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The unJewish State: the politics of Jewish identity in Israel *by Akiva Orr*

The founders of Israel believed that a secular Jewish state would provide the source of a modern Jewish identity but discovered — to their surprise — that they were wrong. Their disillusionment and its consequences are described here with source material translated from Hebrew for the first time.

While at first reading this book provides a totally new analysis both of Israeli and of Jewish identity, its underlying purpose is to provide a new insight into the political significance of the identity problem. In reporting dramatic court cases and Knesset debates, the author lays bare ideological and psychological forces and shows how the quest for identity becomes a major motivation in politics.

It is a story which shows how the success in producing an Israeli state has ironically led to the creation of a non-Jewish identity and to the personal tragedy of those involved. Its relevance extends to everyone attempting to revive or sustain an identity which is threatened by the modern world.

Akiva Orr was born in Berlin and came to Palestine in 1934 after Hitler's rise to power. He served in the Israeli Army in 1948. He read science at the Hebrew University in Jerusalem. He became critical of Zionism in the early 1950s. Akiva Orr has lectured on Middle Eastern politics in the Department of Peace Studies, Bradford University, and lives in London.