

**UNINTENDED LONGEVITY: THE TENSE AND SOLITARY
EXISTENCE OF ISRAEL'S FOUNDING DOCUMENT**

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Thesis Submitted in Partial Fulfillment of Requirements for Ordination

Hebrew Union College-Jewish Institute of Religion

Graduate Rabbinical Program

New York, New York

February 1st, 2016

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❖ In memory of my brother, Roger, and my mother, Roberta. You will always be with me. *zichronchem livracha*

❖ A special thanks to my lovely wife, Samantha for your love and steadfast support...and, of course, for letting me hole up on top of a mountain in Colorado to write!

❖ With abundant gratitude to my advisor, friend, and rabbi, David Ellenson

יהי ביתך בית ועד לחכמים, והוי מתאבק בעפר רגליהם, והוי
שותה בצמא את דבריהם

This thesis stems from a major debate that began taking shape in Israel during the 19th *Knesset* in November, 2014, a debate with significant implications for the Jewish Diaspora as well as the State of Israel herself. Many foundational questions concerning Israel's identity as Jewish and democratic erupted from this debate over *hok ha'leom*, the so-called nation-state bill.

An Israeli Member of *Knesset* who opposed the bill contacted Dr. David Ellenson, Chancellor of Hebrew Union College, with a favor to ask. Could he write an opinion piece in the *Wall Street Journal* outlining why the bill should not be passed? An Israeli Jew and *Knesset* member had asked a well-known Diaspora Jew to write a piece about the Jewish character of her State. I found this fascinating. Ellenson, along with his co-author Deborah Lipstadt, quoted the democratic principles stated in the Israeli Declaration of Independence as they made their case against the nation-state bill. One of many pieces written and discussed, it seemed to encapsulate the tensions of Israel's Jewish and democratic identity among Israeli Jews and those in the Diaspora.

Thus began my preliminary thinking about Israel's foundation as a Jewish and democratic State, and the tensions that these twin commitments entail. This thesis explores the document at the heart of Israel's founding, a document that can provide us with some insight into this tension: the Scroll of Independence, *megilat ha'atsmaut*. The Scroll not only proclaims these twin poles as foundational principles of the State of Israel, it also elaborates on the context surrounding them. As the first document expressing Jewish sovereignty since the time of the Hasmonean kingdom, we cannot overestimate the importance of Israel's Scroll of Independence. Intended to serve as a

foundational document only until the time that Israel's constitution would replace it, that time has still not come--nearly 70 years after Israel's founding. Moreover, as Israel's society and geopolitical reality continue to grow more complex, that time does not appear anywhere on the horizon. The prospects for the adoption of any type of constitution remain remote. Thus, the Scroll continues to stand in solitude as Israel's only "canonical" document.

Many compromises enabled its unanimous and hurried acceptance across the diverse, political spectrum of the 37 members of *moetset ha'am*, the People's Council, in 1948. This thesis plans to conduct a deep analysis of the wording of Israel's Scroll of Independence, as well as discuss deliberate ambiguity and compromises within the document itself, two factors that greatly facilitated adoption of the document. The thesis's ultimate research questions center around these twin poles of the Jewish and democratic character of the State: How do the ambiguities and tensions within Israel's founding Scroll of Independence manifest themselves in contemporary society as they relate to Israel's identity as the homeland of *all* Jews and as a democratic nation embracing and affirming the rights of all her citizens?

This research question addresses three populations which Israel's founding influenced in fundamental and critical ways: Israel's Jewish majority, Israel's Arab minority, and the Jewish community of the diaspora. As we will see, the Scroll addresses these populations directly, and yet, the text raises more questions than it answers. Understanding the promises and proclamations that the document makes, how will Israel insure that she creates a cohesive society and unified country with a shared democratic

and Jewish vision in light of her large Arab population? What responsibility does Israel have for its Arab citizens, and vice versa? What does Israel's existence mean for the large Jewish Diaspora, and what are the rights and responsibilities of each party?

This will lead into a discussion of the relevance and implications of the Scroll in the present day. I will analyze the deliberate ambiguity hardwired into the text, and examine how this ambiguity continues to lead to ubiquitous tension in Israeli society. I will look at several case studies of how different groups have appropriated the *megilah* for their own political or societal purposes. After all, its mixture of the particular and the universal, the specific and the broad, allows for both easy ownership and easy manipulation. We will see the aforementioned debate over the nation-state bill as a direct continuation of the tensions embodied in the Scroll itself. Through this exploration, we can hope to shed some light on Israel's complicated and splintered identity as the "Jewish and democratic" state. The coexistence of these two terms affords Israel a great deal of pride, and yet also guarantees tension and demands delicacy within the tinderbox of Israeli society.

The Scroll of Independence safeguards sacred rights, delineating the identity that the Jewish state will take, as well as the relationships she must maintain. A deep understanding of it proves essential in order to understand Israel's current domestic standing, as well as her prospects for the future. In these terms, I believe this work has significant relevance for modern-day Israel, and contemporary issues relating to her. The thesis's goal is to illuminate some key points of controversy, and provide a foundation for future dialogue within the progressive Jewish community.

As a committed Zionist and unabashed lover of Israel, the promise of Israel's founding, as embodied in the *megilah*, appeals to me deeply. As an aspiring rabbi whose own identity is split between Israel and the Diaspora, I welcome this opportunity to analyze, discover, and reflect on Israel's origin as the Jewish State.

Chapter 1

As I write these words the Scroll hangs proudly over my desk, as it does in the rooms of countless Israeli schools and offices. Generations of students and citizens pass by its iconic presence daily, and yet the vast majority of Israelis remain ignorant as to its wording and content. Upon closer glance, its 19 short paragraphs seem rather simple, taking its readers through a straight-forward, almost chronological journey through Zionist history, culminating in the desired character and goals of the State. Though there is some truth to this kind of cursory reading, the Scroll reveals deep layers of meaning, as each of its carefully-chosen words represent a world of thought, debate and compromise. Written in one of the most dynamic and dangerous periods in Jewish history, the document stands as a product of its time, and a careful analysis needs to reflect that. In order to understand the Scroll, as well as to address larger questions of Judaism and democracy, we must first thrust ourselves into the circumstances surrounding that fateful day of May 14th, 1948.

“This was Genesis. And it was morning and it was night, the fifth of Iyar-and the State of Israel entered into the community of the nations as an established international fact.”¹ These words, written by the secretary of the People’s Council, Zeev Sharef, help encapsulate the perceived biblical proportions of the State’s founding. Whether intentional or not, they also help encapsulate the deliberate “secular” nature of the State as he reverses the biblical order of evening and day. With this highly suggestive statement of just a few words, Sharef sums up the paradox of the modern Jewish State of Israel.

¹ Zeev Sharef, *Three Days: An account of the Last Days of the British Mandate and the Birth of Israel* (New York: Doubleday & Company Inc, 1962), 298.

Israel's existence was yet fragile and would soon pass through the cauldron of the battlefield. As the people of Israel erupted in the streets in celebration at the declaration of independence, danger lurked and war loomed imminently on that late spring day in May. As one posted sign by the "*hagannah*" read, "The enemy threatens invasion. The entire public must give its full help. Shelters must be dug...Every assistance must be given to the commanders of the security forces in erecting barriers...No panic. No complacency. Be alert and disciplined."² As David Ben Gurion left the Tel Aviv museum, he did not rejoice or celebrate. He understood the burden that he had placed on his infant country, and knew that celebration was very premature. As an invasion by well-trained standing armies and the Egyptian navy stood imminent, he maintained his characteristic stoicism: "not for over one thousand eight hundred years have we been so grimly circumstanced."³

The State of Israel had just declared independence based on the UN resolution of November 28th, 1947 that stated "independent Arab and Jewish States and the Special International Regime for the City of Jerusalem...shall come into existence in Palestine."⁴ Violence, in the form of a civil war between Arab and Jew, had been raging ever since that decision, as the Arab side had rejected any type of two-state solution to the problem of Palestine. Apart from the hostile Arab population within the nascent state (roughly half of the population of the UN-State given to Israel was Arab,) five Arab states surrounded Israel and stood ready to attack if Israel declared independence. Under these terrible

² Sharef, *Three Days*, 288.

³ David Ben Gurion. *Rebirth and Destiny of Israel* (New York: Philosophical Library, 1954), 235.

⁴ "The United Nations Information System on the Question of Palestine (UNISPAL)," Official United Nations Website, <http://unispal.un.org/unispal.nsf/0/7F0AF2BD897689B785256C330061D253>

circumstances, why did Ben Gurion and the People's Council insist on independence? Why did they not wait until more propitious circumstances appeared on the horizon?

The answers to these questions help illuminate the issues at the heart of this paper. In order to understand how the Scroll relates to its stakeholder audiences, we must first understand the motivations of Ben Gurion and the other founders of Israel. According to the first Sephardic Chief Rabbi of Israel, Ben-Zion Uziel, "the courage that the nation's leaders had in declaring the foundation of the State on that day, despite the great danger that it entailed, made the people of Israel--including those in the Diaspora--into an independent and sovereign people."⁵ The heavy sensations of destiny, fate, and mission hung in the balance as these founders strove to remedy the historic malady of exile thousands of years in the making. In this task, though the majority of world Jewry resided outside the new borders, all Jews stood implicated in the enterprise. Of course, the people who would feel the implications even more acutely were the "other," those Arabs who *did* reside in the new nation's borders, and yet rejected outright the State and her vision.

For David Ben Gurion, declaring independence at any cost, was a moral imperative. He believed Jews, no matter their location, could only live their lives one way: as independent citizens of a sovereign Jewish state. In his mind, Jews could

never bend the knee to the Mufti, to the masters of the Arab league, or to Bevin's policy...They are bound to defend themselves and their nation's right to Homeland and independence. Try to rob them of this right by force, and by force they will guard it."⁶

⁵ Rabbi Shmuel Katz, "The Fashioning of the Spiritual Character of Independence Day by the Chief Rabbinate in 1949" in *Koren Machzor for Independence Day* (Jerusalem: Koren Publishing, 2013), 350. (Hebrew) It is worth noting that, during this time, in contrast to today, the chief Sephardic Rabbi held strong Zionist beliefs, thus attributing religious significance to the State of Israel.

⁶ Ben Gurion, *Rebirth and Destiny*, 235.

Within this zero-sum equation, independence represented the only solution to the Jewish condition. He viewed the weight of history on the Jewish side, its momentum pushing them forward to an undeniable and irrevocable conclusion: the third return to Israel. Thus, the haste of the historical moment was self-evident, and the goal justified the tremendous costs.

Goals, Circumstances, and Inspirations of the Scroll

Ben Gurion and his counterparts attempted to found a State in a highly inhospitable part of the world with very few safeguards and models upon which to rely. The Scroll of Independence was intended to give the State some much-needed legitimacy, and to serve as a powerful aesthetic and ethical-political instrument around which the *yishuv* could rally. The new nation found itself in need of what any new entity seeks: powerful symbols. In the hurried preparations, there was no time to even test the quality of the parchment that was hastily-procured from a local shop. Nor was there time to even transfer the freshly-penned wording to the parchment prior to the ceremony. Thus, the members of the People's Council signed their names to blank parchment after Ben Gurion read the declaration from a separate sheet of paper. Moreover, though the Council numbered 37 members, only 25 could sign, as the remaining 12 were physically unable to arrive from besieged Jerusalem. In total, the ceremony took 33 minutes; 17 for Ben Gurion to read the declaration and 16 for the members to sign the parchment.⁷

⁷ Dr. Mordechai Naor, *The Friday that Changed Destiny: 5th Iyar 5708* (Israel: Yehuda Dekel Library, 2014), 31-32.

Over a dozen men collaborated in creating the document, leaving their distinct impressions and personal stamps on its drafting during the frenzied weeks between Passover and May 14th, 1948. Mordechai Beham, a little-known lawyer in the yet-unformed Ministry of Justice, stands as perhaps the least renowned and recognized of these names. That said, he played an outsized role in crafting the document as its first draftsman. Not only did he use the Hebrew Bible for inspiration and authority, he utilized the American Declaration of Independence as the model for the Israeli one. Though the Israeli Scroll did retain the general structure of its American counterpart, only a few words survived the arduous drafting process. Most importantly, the American predecessor left its greatest mark by giving the Israeli document form and substance to “face its own independent choices, and then letting it go.”⁸ Thus, the American document provided an inspiration and a blueprint at a critical point before it ceded influence to the organically-evolving and dynamic Israeli process.

The drafting of the document was a dynamic process that synthesized a variety of diverse and even contradictory thoughts vying for position. In the final 24 hours prior to the ceremony, Ben Gurion showed his political and literary genius by appropriating and manipulating the poetic words of its previous drafters including the 3rd President of Israel (Zalman Rubashov/Shazar,) a future Supreme Court Justice (Zvi Berenson,) as well as the 2nd Prime Minister (Moshe Shertok/Sharet.)⁹ Ben Gurion imposed his own worldview and Zionist narrative upon their words in order to create a fluid and coherent document. As we analyze some of the wording in later chapters, we will come back and

⁸ Yoram Shachar, “Jefferson Goes East: The American Origins of the Israeli Declaration of Independence,” *Theoretical Inquiries in Law* 10:589 (2009): 591.

⁹ *Ibid*, 27.

recover some of the voices of these earlier authors, as well as their specific word choices. In so doing, we will see how they, too, left an indelible impression on the document's relationship with democracy and Diaspora Jewry.

In addition to its American predecessor, the Israeli Declaration of Independence had several other inspirations. Beginning with Beham and ending with Ben Gurion, the *Tanach* also played a large role in inspiring the Scroll. Also written on parchment as the nation's founding scroll thousands of years before, the Hebrew Bible would help anchor the Scroll's Zionist narrative in history and spiritual/religious authority. Though its official name is "Declaration of the Establishment of the State of Israel," the document has come to be known as *megilat ha'atsmaut*, the Scroll of Independence. Indeed, this name intended to have serious implications for the document itself, as well as for the fate of the nation. The word *megilah* reinforces the historical, Jewish link to the Land of Israel while also ascribing an elevated sanctity to the document.¹⁰

The Scroll's Place in Jewish History

The nation's founding, as embodied by the *megilah*, would integrate well into the timeless and foundational Jewish tradition of ancient texts and their analysis. In turn, it would then grow into the unbroken chain of tradition (*shalshet ha'kabbalah*,) from Mt Sinai until the present day. This Scroll would become as timeless and canonical as its five biblical predecessors. Just as each of the five previous *megilot* attach themselves to a crucial Jewish holiday and collective memory, so too would this *megilah* forever link its

¹⁰ Ben Gurion coined the term "*mamlachtiut*" (Statism) to describe this approach of unifying around a new Jewish Israeli personality and appropriating symbols. As we will see later, Ben Gurion deliberately employed religious forms in the creation of the State for these same purposes.

people to this day and her Land. Indeed, today, nearly 70 years later, communities all over Israel and the world continue to celebrate Independence Day (*yom ha'atsmaut*) by reading excerpts from its poetic lines.

It represents a great coincidence that this period was the same time that other critical *megilot* surfaced in the Land of Israel. Between 1946 and 1956, the Dead Sea Scrolls (*megilot yam ha'melach*) were discovered in Qumran by Bedouin shepherds. On the very day that the UN voted in favor of partition (November 29, 1947,) Professor Eleazar Sukenik “discovered” the scrolls for the Jewish State, verified their authenticity, and sought to purchase them. Both he and his son, the famous Israeli archaeologist Yigal Yadin, would later understand and articulate this immense coincidence as a direct link between the destruction of the 2nd Temple, and the renewal of the State via another scroll. As he worked alone authenticating the scrolls, with bombs falling in Jerusalem and the *yishuv* fighting for its existence, “the thought encouraged me, strengthened and reinforced my conviction that I too was a soldier in the War of Israeli Liberation, together with all those suffering in the name of our nation’s glory and existence.”¹¹ Ben Gurion and other Zionist founders would incorporate this same messianic spirit as they conducted their own parallel work in reinforcing a proven Jewish connection to the Land of Israel.

As we will see later, the messianism of the founders stood largely devoid of religious elements, and yet the cultural foundation and implications of the Hebrew Bible would remain vibrant in the document. They dedicated themselves to writing a new

¹¹ Dr. Scott Copeland, “National Myths and their Embodiment in Israel’s Scroll of Independence” (Graduate Thesis, Bar Ilan University, 2005.) (Hebrew) Copeland proceeds to analyze the strong influence that archaeology and Eretz Israel physical connection had on the Zionist enterprise.

Israeli-based “*torah*” with Zionism and Theodore Herzl replacing religion and the patriarchs. Though the English translation of the Scroll reads “at the summons of Herzl,” the original reads “*l’kol kriato*,” something which literally translates to “at his voice’s calling.” This construction comes from the *Tanach*, from the very beginning of Second Isaiah. The prophet consoles his people after the loss and the destruction, as a “voice calls” (“*kol kore*”) for God through the wilderness.¹² The State’s founders, well-versed in their nation’s heritage, appropriated the ancient and religious words, as they ascribe a messianic, albeit secular, vision to their sacred task.

As new discoveries demonstrated the thousands-year-old Jewish connection to the Land of Israel, the founders of Israel represented the authors of the next chapter. They presumed to speak for the entirety of the Jewish people, a stance that would have profound implications in the future. As we will see later on, the Zionist leaders sought to bring to fruition a fundamental revolution in Jewish identity and consciousness. This revolution would have serious consequences for all Jews, regardless of their geography or affinity to the Land of Israel. As with any revolution, the leaders of Zionism “had a special need for values and symbols of a sanctified character which would attract Jews to its ranks, integrate them into its new society, and mobilize them in the pursuit of Zionist Goals.”¹³ This formation of Israeli “civil religion,” with the *megilah* at its center, would

¹² Isaiah 40:3. In terms of Herzl, his is the only name directly given in the entire document. Though earlier drafts mentioned the Covenant and Biblical patriarchs, Moshe Shertock and Ben Gurion took out those references. See Yoram Shachar’s work on the Declaration’s early drafts, pg. 589.

¹³ Ophir Yarden, *Sanctity of Time and Space in Tradition and Modernity* in “Jewish and Christian Perspective Series, Volume 1” (Brill: Boston, 1998), 323.

have an impact on other people as well, as we will see with Diaspora Jews and minority residents of Israel.

Balancing Conflicting Needs

Of course, Ben Gurion and the others were very aware of the sensitive balance they would have to strike. On the one hand, they knew that UN Resolution 181 (November 29, 1947,) a document emphasizing universalistic obligations, represented the international and legal justification for their State. On the other, the *Tanach* and the Zionist movement underscored the particularistic, Jewish leanings of the new state. This tension between the “universal/particular,” the “external-facing/internal-facing” represent the founding tension of the State, a tension which would later find a compromise in calling Israel the “Jewish and democratic” State. As we will explore in greater depth at a later point, both of these elements find themselves interwoven throughout the Scroll, speaking to different audiences, and yet co-existing in a fragile balance. So too would the State mirror this tense compromise for many years to come.

Thus, the different sections of the Scroll reflect these various considerations and constituents. We can divide the 19 paragraphs of the Scroll into the following five distinct sections.

1. Paragraphs 1-8 present a concise and poetic summary of Jewish/Zionist history, stressing the age-old emotional and physical link to the Land of Israel.
(particularistic)

2. Paragraphs 9-12 present the legal justification for the State flowing from the UN Resolution into the declaration of the State's name and its functioning.
(universalistic)
3. Paragraphs 13 and 14 outline some of the founding principles of the State. As we will analyze later, these stem from the democratic principles laid out by the UN as well as the Zionist movement. (universalistic)
4. Paragraphs 15-18 use the collective "we" (*anu*) to request help from interested stakeholders (15: UN assistance, 16: Arab-Israeli citizens of Israel, 17: Neighboring Arab States, 18: Jewish Diaspora.) Each of these parties will find themselves enwrapped in the complicated reality of Israel's founding paradox (universal vs. particular)
5. Paragraph 19: Proclamation of signatures embedded in "Rock of Israel" (*tsur yisrael*.)¹⁴

The Scroll represented a broad and sweeping attempt to consolidate and present Zionist history, ideology, and goals in poetic fashion. As such, it also represented a tremendous compromise and near-miracle that so many disparate parties agreed to rally under its banner. Together with the Zionists and the Revisionists sat the United Workers and the new immigrants. Across from the *Sephardim* and Yemenites sat the Communists and the religious groups.¹⁵ Each party came with their own ideologies and guiding

¹⁴ Though it is not this paper's goal, this term, "Rock of Israel" contains many resonances, layers, and implications, and represented a fragile compromise. For more information, see Mordechai Naor's book.

¹⁵ For a good description of the various parties, their platforms, and biographies of the signers, see Naor, pp. 34-43.

principles, many of which stood diametrically opposed to one another. In order for the Scroll's wording to accommodate all the different factions, Ben Gurion and the other drafters became masters of purposeful indeterminacy. As Israeli philosopher Eliazar Schweid comments, the Scroll was deliberately ambiguous, "...with multiple meanings, so that each signer, in the name of his party, could interpret it according to his own party's ideology, and only afterwards, struggle in a democratic way so that his interpretation would be accepted in the *Knesset*."¹⁶ This rare consensus represents a true watershed moment in the formation of Israeli society, and the compromises necessary for her survival. As we will continue to see, this democratic spirit of pluralism and multiple meaning was hard-wired into the text from the outset, as each participant knew that he would have to fight for his chosen interpretation.

As with any process as delicate and far-reaching as this, tension has surfaced consistently and has coexisted with the document every since. The final days and hours leading up to the ceremony revealed the mediation skills and political genius of Ben Gurion as he maneuvered between moderates, radicals, and everyone in between. He gauged what he could expect to achieve, knowing full well that it was "preferable to postpone goals still obfuscated in fog until the time for realizing them was right."¹⁷ As such, the Scroll represented a preliminary effort at advancing the nation's vision, and exhibited a remarkable self-awareness that caused it not to overstep its limitations by attempting too much. Thus, the Scroll lays out in precise detail in paragraph 12 the steps

¹⁶ Eliazar Schweid, "The Constitutional Document of the State of Israel" in *The Jewish State and its Tests of Realization* (Jerusalem: The Zionist Library, 2012), 258. (Hebrew)

¹⁷ Elyakim Rubinstein. "The Declaration of Independence as a Basic Document of the State of Israel." *Israel Studies*: Vol. 3, #1: 198.

that will enable the nascent state to govern, as well as a deadline for arriving at a constitution.¹⁸ In so doing, the Scroll reveals itself as an aspirational document that facilitates both compromise and consensus, all the while leaving the more intractable issues to a later date and setting.

The Issues of Democracy and Diaspora:

Only a few months after the ceremony, at the time that the constitution was supposed to come into effect, the Israeli Supreme Court ruled that Israel's Declaration of Independence, rather than representing law, represented "the nation's vision and basic credo." Its role in society, however, seems to be *increasing* as the nation approaches its 70th birthday. As current Israeli Supreme Court Justice and Vice President, Elyakim Rubinstein says,

...the importance and centrality of the Declaration of Independence has been on the ascent. In the age of technological, scientific, and social progress, when post-Zionism is being seriously discussed, when an academic debate is raging between historians of the "old school" and proponents of the "new school," who attack long-held concepts about the nature of the *Yishuv* and Zionism, when more and more scholars are claiming that diplomatic and military histories have outlived their use and should make way, at least partially, for social-cultural history-in the midst of all this, we find the Declaration of Independence now achieving renewed legislative vitality.¹⁹

This "social-cultural history," of which Rubinstein speaks, undermines the traditional and dominant Zionist narrative by allowing for critical analysis and debate over Israel's founding and identity. In so doing, it has also succeeded in unearthing and empowering

¹⁸ Of course, this deadline (October 1st, 1948) passed with no constitution. Later on, this paper will examine the lack of constitution as it relates to the Scroll's modern day tensions.

¹⁹ Rubinstein, 203.

the voices that the document fails to address adequately. As the postmodernist, revisionist trend continues to reign in intellectual circles, Arab and Diaspora Jewish voices will also continue to gain strength. Thus, although the document's importance rises, its fragile balance finds itself increasingly strained.

These minority voices, though they represent major stakeholders in Israel's future, find their collective destiny interwoven and yet separate from that of mainstream Israel. The document speaks about them and to them, and yet does not necessarily represent their own vision. Both Arab Israelis and Diaspora Jews are deeply implicated in the nation's fate, and yet they played no role in drafting the values inherent in it. Thus, from the very beginning, conflict seemed inevitable as these two large and influential groups find their voice inherently at odds with that of Israel's official Jewish voice. Diaspora Jews, though a fundamental part of the People of Israel (*am yisrael*), may not subscribe to the traditional Zionist narrative and vision. Arab Israelis, for their part, do *not* align themselves whatsoever with the Jewish vision, and yet reside in the Jewish State.

Upon accepting the formal responsibility from President Reuven Rivlin for putting together the coalition government of the 20th *Knesset*, Prime Minister Benjamin Netanyahu promised that the government would “ensure equal rights to all of its citizens irrespective of religion, race, or sex.”²⁰ Netanyahu chose these words, identical to those in the Declaration of Independence, to align himself and his government with Israel's founding vision of democratic values. By doing this, he self-consciously placed himself in an on-going dialogue surrounding Israel's past and future. Far from being relegated to

²⁰ From official ceremony on March 25th, 2015. Exact Hebrew wording: “תקיים שוויון זכויות לכל אזרחיה בלי הבדל דת, גזע ומין.” This and all subsequent excerpts from the Israeli Declaration of Independence come from the Knesset's official English translation of the document: https://knesset.gov.il/docs/eng/megilat_eng.htm.

the dustbins of Israel, the Declaration of Independence remains vibrant and essential for understanding Israel's founding circumstances, nearly 70 years later. It is "screaming out" for further inspection and interpretation as a way of illuminating differences and unifying various stakeholders through the age-old Jewish tradition of text and *mahloket*.²¹

This thesis aims to constitute a small link in this continual process of Jewish renewal and discovery. In order to accomplish this, it is necessary to continue to re-ground ourselves in history, and re-examine the prism through which Israel was founded. Rather than falling victim to the temptation of applying a postmodern and/or post-Zionist worldview on it, we will look at the document as it was intended; as a fulfilment of two thousand years of history and Jewish values yearning for sovereign expression. Israel enshrines the rights of all of her citizens and stakeholders as a "Jewish and democratic" State, a label she fulfills--even if imperfectly-- with great intentionality and vision.

²¹ *Israeli Talmud: Independence Tractate: the 7th Paragraph*. (Israel: Yediot Books, 2014) (Hebrew)

Chapter 2

The drafters of the Declaration harnessed language to express their vision and goals in both universalistic and particularistic ways. Though the narrative represents a clearly Jewish one, it purports to be as broadly appealing as possible. Its target audience is as varied as the themes upon which it touches as the drafters intended to speak for *all* of the citizens of the nascent State of Israel. In fact, the word *all* appears three times in paragraph 13 (the operative one concerning Israel's democratic principles) in order to emphasize Israel's obligations to its entire base of citizens. Moreover, as paragraph 3 also states, Israel's founding heralds the "blessings of progress to *all* of the inhabitants of the Land." Far from speaking to a narrow Jewish audience, by its choice of language and theme, the document address a universal audience, Arabs as well as Jews, in a very self-conscious manner.

The Curious Nature of Democracy within the Scroll

The drafters devoted themselves to their sacred task with the same messianism that past generations of Jews composed pieces of liturgy. Just as the central Jewish prayer, the *aleynu*, conveys a universalistic, messianic vision of the future, albeit packaged in a highly particularistic envelope, so too does this Declaration of Independence.²² It does not conceal its particularistic mission of declaring Jewish sovereignty in a Jewish homeland; yet its scope applies widely to all people regardless of national or racial distinctions. In so doing, the Scroll occupies a natural place in the broad

²²Yehoyada Amir, *The Bible's Place in Israel's Declaration of Independence*, Footnote 6 (Professor's Scholarly Paper at HUC-JIR Jerusalem) (Hebrew Original)

spectrum of Jewish texts that have tried, through the centuries, to balance Jewish self-expression in a non-Jewish world.

As a result of this balancing act of competing tensions, it is fair to say that the Scroll of Independence constitutes two separate declarations: One looking inward at Jewish history and settlement, and the other looking outward at a non-Jewish world. Obviously, each of these declarations had unique target audiences with unique characteristics and demands. The Jewish declaration, for its part, weaves a masterful narrative of Jewish history designed to justify the Zionist enterprise and motivate its constituents. The external declaration addresses non-Jewish stakeholders and, especially, the United Nations, with whose partition plan the Declaration maintains constant dialogue. Though the framers succeeded largely in balancing the two to create a workable narrative, the tensions remain clear. These same tensions accompany Israel to this day as the unique homeland of the Jewish people within a modern, non-Jewish world.

Fascinatingly, although democratic principles show themselves throughout the text, the words “democracy” or “democratic” do not appear once. The document outlines in meticulous fashion the democratic contours of the State, and yet, somehow, avoids the actual word. Moreover, given the number of drafters carefully crafting the content, the absence appears very intentional. Why is this the case? Why does the document declare in no unequivocal terms that the State belongs to all of its people - the very definition of democracy- and still chooses to avoid the word itself?

Frustration surrounding this decision surfaced from voices even within the Zionist enterprise. Yitzhak Yitzhachi, one of the leaders of the Worker’s Party, expressed his

profound disappointment on the very morning of the Declaration (May 14th, 1948) saying that “democracy must be explicitly mentioned because sovereignty is not the same thing.” The preeminent scholar of the Declaration’s earlier drafts, Yoram Shachar, conjectures as to what Yitzhachi meant when saying this. He maintains that Yitzhachi intended to delineate the features of each word because “sovereignty is about force, whereas democracy is about that force’s boundaries.”²³

It also stands to reason that this frustration arose from the fact that “democracy” had existed in previous iterations of the text, only to lose its place in the final version. Zvi Berenson, the trade union’s then-legal advisor and soon-to-be Supreme Court Justice, composed the following wording in his early, influential draft: “We thus declare the establishment of a free, independent and *democratic* Jewish State in the Land of Israel within the boundaries outlined in the United Nations decision.” This draft, though the first to explicitly say “democratic,” relied heavily upon the earlier drafts of Beham and Shazar. As the fluid drafts continued to progress through the hands of Sharett, the People’s Committee, and Ben Gurion, the word disappeared among many other changes. Although recent generations have grown accustomed to their tight proximity and mutual dialogue, the words “Jewish and democratic” only stood side by side in Israel’s founding document for a few brief moments.²⁴

²³Yoram Shachar, “The Early Drafts of the Declaration of Independence,” *Iyunnei Mishpat* 26:2, (2002): 568. (Hebrew Original)

²⁴ *ibid*, 561, 571. Not only did this word disappear; so too did the reference to the UN partition plan borders. Ben Gurion astutely realized it would not be in Israel’s best interest to constrain itself to such wording. For Berenson’s draft, see Shachar 561-2. For Shazar’s draft, see Shachar 582-3. This draft, a highly poetic and literary rendition, created much of the language regarding progressive principles and basic human rights that made it into the final version.

Its exclusion from the document represented a calculated choice by the drafters in order to emphasize the *Jewish* roots of the country and the *Jewish* roots of progressive principles. The word “democracy” after all is a *loazit* word, a foreign word to Hebrew, originating from the Greek. As we will soon investigate in greater depth, the largest parties originated from inherently social-democratic and liberal-democratic worldviews. Thus, without using that exact word, they already agreed from the outset that Israel’s political system must be national-democratic in nature.

These founders understood that the modern State of Israel, the Third Jewish Commonwealth, proved very unique in the annals of the world; The people of Israel returned from a two thousand year exile, pioneered to build the land and, in so doing, restored their proud self-identity. Her pioneers accomplished this in collaboration with each other as they drew from Judaism’s own sources as well as universal ones. Within such a framework, the Zionist enterprise would need to reflect these values while also internalizing the existing international conditions of the time.²⁵ Thus, though the word “democratic” does not appear, the language demonstrates an unequivocal grounding in democratic principles.

Moreover, these progressive values authentically reflected the values of the constituent parties, while also allowing a necessary degree of ambiguity. The inclusion of the foreign word “democracy” would have represented a breach of this particularly Jewish authenticity. As Ben Gurion would later comment in one of his letters, the idea of “Jewish democracy,” proves unique; forged in the crucible of history, and essential given

²⁵ Schweid, *The Constitution Document*, 283-284.

the national identity of Israel and its special mission as a Jewish-Zionist state.²⁶

Nonetheless, the absence of the word proves striking and continues to remain relevant as Israel carves out its identity as the democratic nation-state of the Jews.

The Origins of Jewish Democracy

The framers of the document took advantage of significant material in formulating the vision and principles that would undergird the State. As already discussed, they looked internally and externally to arrive at the most authentic approach. First and foremost, the drafters chose the language to emphasize the *Jewish* values of the State. The word “Jewish” appears 22 times in the 19 short paragraphs of the Scroll. Since these Jewish values coincided largely with “democratic” values, they could omit the foreign word and focus on the Jewish words. Far from representing a clash of values, the two ideas of Jewish and democratic could live in harmony within the organic Zionist framework. Thus, the document states in its operative, values-based paragraph (13) that the State, “will be based on freedom, justice and peace as envisaged by the prophets of Israel.” This trifecta of principles rooted in the biblical, prophetic tradition provide the foundation for the progressive values of the State.

This also represents another example of the fluid, compromising way in which the drafters operated. They took the inherent flexibility and interpretive possibilities within the Jewish textual tradition, and utilized them to create a workable modern text. After all, depending on the audience, the principles of the “prophets of Israel” could mean very

²⁶ *ibid*, 284.

different things. For one of the secular groups, like Ben Gurion's *mapai* party, this language proved very appealing since it demonstrated the homegrown, liberal and democratic legacy of the Jews based in a thousands-year old tradition. On the other hand, for the several rabbis who affixed their signatures to the document, it showed the *religious* nature of the Declaration, rooted in the divinity and autonomy of the Hebrew Scriptures. Regardless of the individual interpretation, this method allowed for this essential coexistence of divergent perspectives, albeit one that lays the groundwork for significant future tension.

Most importantly, for the sake of the document's approval, the language coincided with David Ben Gurion's unique worldview.²⁷ He, along with the other secular drafters who preceded him, invoke the memory of the Prophets to cover liberal and universal values. In so doing, he united this Jewish document with many other non-Jewish ones based on "enlightened," Western values. He believed passionately that universal values stem from their ancestral Jewish values.²⁸ This focus on freedom, justice and peace (*herut*, *tsedek*, and *shalom*) stood as a direct legacy of the Hebrew prophets and biblical tradition. As the waters cover the sea, so too would native Jewish values inform the character of the State. Indeed, those same values would inform and influence the entire modern, Western tradition of freedom and human dignity.

²⁷ It is important to note here that the Prophets themselves were far from liberal Democrats. In their world, non Jews would have had civil rights, but would have been restricted with the status of *ger toshav*. Their idea of freedom is very different from the modern one, and it is important to not impose a modern worldview back into ancient history. For more information, see Paul Eidelberg. "Foundation of the State of Israel: An Analysis of Israel's Declaration of Independence," 396-399.

²⁸ Scott Copeland, *National Myths*, 47.

Aligning themselves with the Jewish textual tradition of emphasizing a tripecta of values, the Declaration's framers chose their words very deliberately. Just like the Ethics of the Fathers (*Pirkei Avot*) nearly 2000 years before them, which presented two distinct sets of tripartite principles, so too did the framers here present freedom, justice, and peace.²⁹ These three lofty principles frame a worldview rooted in democratic and progressive ideals, and yet stem from authentic Jewish tradition.

These values, in that order, are the value-based foundation of the Torah, that was originally given as a "constitutional" document for a nation leaving Egyptian slavery and preparing itself for freedom in its own land. The Torah interprets the meaning of "life of freedom" by establishing it on the foundations of social justice, whose existence for all of the People of Israel, as well as the stranger who resides among them, is that which will secure peace for the nation in its land...³⁰

Thus, these values reflect the history of the Jewish people and lead to the inevitable conclusion of freedom for all people. Indeed, in examining the Egyptian Exodus, the foundational narrative of Judaism, we see these principles of human hierarchy even more clearly. The freeing of the slaves in Egypt "testifies that humans are meant to be free." Moreover, God, as the ultimate mover and shaker in biblical history, rejects any human-based system of absolute authority: "All human beings are relative in the presence of God. This is the key to democracy."³¹

²⁹ Pirkei Avot 1:2 (The world stands on Torah, divine worship (avodah), and acts of loving kindness (gmilut hasadim). Pirkei Avot 1:18 (The world stands on truth, justice, and peace.)

³⁰ Eliazar Schweid as found in *Independence Tractate* (Jerusalem: Rabbis for Human Rights, 2014), 74. (Hebrew Original)

On this same page, RHR relates the three principles of freedom, justice and peace to three of the blessings in the amidah: *tikah shofar l'heruteynu*, *shofteynu*, and *sim shalom*, further showing how integral and indigenous they are to Jewish thinking.

³¹ Irving Greenberg, *The Jewish Way: Living the Holidays* (New York: Simon & Schuster, 1988), 53, 64.

This story of the Exodus, accepted by all monotheistic faiths and much of the world, represents one of Judaism's greatest gifts. Freedom for all people is God-given, and anything to the contrary of that represents a distortion of the divine will.³² Interestingly, although the drafters only allude obliquely to God with the phrase "rock of Israel" (*tsur yisrael*), God weaves himself in throughout the paragraphs. Ben Gurion may not have admitted this with his staunchly secular worldview, but so strong was his Jewish foundation, that it shines through regardless. In fact, when Sharett's earlier version arrived at his desk with the wording "grant (*ta'anik*) equal right" to all citizens, Ben Gurion changed the wording to "maintain (*tikayem*) equal rights;" because "they are deserved," not merely granted.³³

Yet another example of the Jewish authenticity of these democratic values stems from Zionism itself in its beginnings as an enlightened, freedom-seeking movement. Herzl himself, schooled in German enlightenment principles, envisioned a Jewish homeland based on universal rights and secular, humanistic values. His movement anchored itself seamlessly in old and new, while also creating something revolutionary:

The Zionist vision of Judaism stressed a combination of modern values and concepts derived from post-enlightenment Europe, such as humanism and equality, along with elements of the Jewish tradition which emphasized heroism and the freedom of pre-exilic Jewish life in the ancient Land of Israel.³⁴

This "new Jew" would assume the best of what Europe had offered (ie: enlightenment values,) while throwing off the shackles of its historically ubiquitous oppression of Jews.

³² Though this is true at its core, it is also important to keep in mind that the world of the Bible, as the world of the rabbis, was tribal in nature.

³³ From Internal protocols of "People's Administration," as found in *Rabbis for Human Rights*, 76.

³⁴ Ophir Yarden, *Sanctity of Time and Space*, 325.

In so doing, according to Herzl's vision, Zionism aimed to herald a new era of human freedom and brotherhood.

Moreover, the Zionist Congress that Herzl initiated, beginning in Basel, Switzerland in 1897, proved highly democratic in nature. Starting in 1898, women could vote and be elected, a date long before any European parliament granted women that right. The pre-state *yishuv* would take these democratic institutions and transition them seamlessly into a functioning state.³⁵ The highly factionalized nature of the *yishuv*'s People's Administration (*minhelet ha'am*) necessitated an adoption of an active democratic approach. Each constituent came from radically different worldviews, and argued for their inclusion in the Declaration. Thus, the inherent compromises essential for its passage would later manifest themselves in vibrant discussion, debate, and, ultimately, legislation.

Indeed, this point further underscores the democratic necessity of Israel's founding document. Far from a unified whole, the various Jewish factions represented strikingly different worldviews with distinct origins and founding narratives. In this sense, the same remains true in Israeli society today. The dispersed people of Israel (*nidhei yisrael*) have always come from the four quarters of Earth, as one of the blessings in Judaism's standing prayer (*amidah*) states. As some of these "exiles" go through the process of Israeli "ingathering," it leads invariably to heated disagreements and passionate debate. The crucible of Israel's demographic and geopolitical circumstances would only serve to exacerbate these differences, and increase the volume of the debate.

³⁵ Daniel Gordis, "Israel's Ballot Box is a Melting Pot:" website, March 17, 2015: <http://www.bloombergvew.com/articles/2015-03-17/israel-s-ballot-box-is-a-melting-pot>

The diversity of the 37 signatories reflected the diversity of Israel's Jewry: Among them were secular, religious, communist, progressives, labor activists, *mizrahi*, *ashkenazi*, men, and women. The political parties represented came from various streams of political thinking; social democratic worldviews, liberal democratic, and democratic-communist. The *only* way that they could agree was through compromise, in the hopes and expectation that they could expand their platform through the political process.³⁶ In fact, *only* a liberal democracy with a strong opposition party can accommodate such divergent viewpoints and worldviews. The opposition party could then fight to maintain its voice, hoping for a better outcome in the next round of elections. Furthermore, regardless of whether each party even wanted such a system, it already proved a *fait accompli*; *only* that system would allow for the inclusion of all of them. Thus, the shouting matches, boisterous debates, and often, ugly lack of decorum that has always accompanied Israeli politics, are the inevitable consequences of this vibrant, democratic system.³⁷

Appealing to Western Democracy

In addition to these unmistakable Jewish roots, the tripartite phrasing also harkens to well-known, Western motifs, especially as they relate to national declarations. For example, the motto of the French republic stands as *liberte*, *egalite*, and *fraternite*, while the American Declaration of Independence promises life, liberty and the pursuit of

³⁶ Schweid, 277.

³⁷ The British system, after which the Israeli one was modeled, also reflects this character. Moreover, in the US system, the founders viewed robust debate as essential for the proper functioning of the American republic.

happiness. As already referenced above, this latter example provided a framework upon which the initial stages of the Israeli Declaration relied. The American one helped to inform its Israeli counterpart, and its values-based language provided a model for significant sections of the Israeli document.³⁸ This natural overlap of Jewish and Western values served to inspire the founding of the Jewish State.

In fact, four of the final five paragraphs of the Israeli Declaration begin with the collective “we” (*anu*) voice, thus sounding very similar to another foundational American document, the Constitution. Rather than representing a single entity or group, it functions as if all the people suddenly merged into a single, unified voice.³⁹ With this powerful voice, purporting to speak for the entire Israeli, Jewish public, the document reveals its democratic underpinning. Of course, given the dramatic and volatile conflict raging between Jewish and Arab citizens of the State-to-be, the document, unlike its American counterpart, could not intend to speak for ALL citizens of Israel. Rather, it focuses on the collective Jewish voice, using this “we” to address the four primary (non Israeli-Jewish) target audiences of the Declaration; the United Nations, Arab inhabitants of Israel, neighboring Arab States, and the Jewish Diaspora abroad.

Legitimacy in the eyes of the United Nations stood as one of the most important desires of the drafters of the Declaration. After all, the Partition Plan of November 29th granted the country international legitimacy, something which Israel needed desperately. Moreover, the partition plan laid out a concrete, democratic structure under which both

³⁸ Yoram Shachar, *Jefferson Goes East*, 589.

³⁹ Orit Kamir, “The Scroll has Two Faces: The Zionist Declaration and the Democratic Declaration,” *Tel Aviv University Law Review* 23 (1999): 19. (Hebrew Original)

(Israel and Arab) states would operate. As Yitzhak HaLevi Herzog, the first Ashkenazi chief rabbi of Israel, stated:

I have said, and again, I repeat myself and say that the United Nations certainly will insist with all their power, that in all political, civil and judicial spheres there will be no discrimination on minority rights, and that they must have complete freedom to exercise their religion, and their people's education."⁴⁰

In writing about the State's biblical foundations, even Rabbi Herzog shows himself ever-cognizant of real world, geopolitical considerations. He further explains why UN support is so critical to Israel's well-being: "we need the UN's protection against a sea of enemies here until our own messiah comes."⁴¹

Sharett, especially, viewed UN legitimacy as paramount. When writing his draft, he included significant factors in direct conversation with the UN Partition Plan; identical language, acceptance of the borders as outlined in the UN plan, and acceptance of an economic union between the two states. Out of these considerations, Ben Gurion only maintained the piece regarding the economic union. Compared with Sharett, he exhibited more of a self-reliant attitude, less dependent on international norms and organizations. Even he, however, recognized that they must uphold certain elements of the Partition Plan: the State must be based around "a democratic regime, with equality of all citizens, individual freedom, and majority rules."⁴²

Thus, regardless of individual perceptions, all of the Declaration's framers were highly aware of the UN partition plan. Furthermore, even with open war raging between

⁴⁰ Rabbi Yitzhak HaLevi Herzog, *Constitution for Israel according to the Torah* (Jerusalem: Rav Kook Foundation, 1989), 12. (Hebrew Original)

⁴¹ Ibid, 18.

⁴² Kamir, *Two Faces*, 24.

the Jews and Arabs of Palestine, they still chose to uphold the language and maintain the close relationship to the UN's document; such was the importance of UN legitimacy and support. Rather than reject the Plan, as their Arab counterparts had, they chose to work within its confines while also establishing irrefutable facts on the ground. In so doing, the Declaration reveals itself in constant dialogue with the United Nations, mentioning it by name seven times, as well as referring to its resolutions and founding charter. No matter how the conflict would play out between Arab and Jew, the Israeli founders strove to highlight their loyalty to Western ideals.

Implications for Minority Populations

We, therefore, see that both the Jewish/Zionist orientation, as well as the Western one, necessitated a democratic system of government that granted full equality to all citizens. Yet, Israel's demographic reality has always been a complex, precarious one, owing to its significant Arab minority. After all, the vast majority of this population cannot identify with Zionism, nor does it support the principles of the State. Herein lies a major paradox within the Israeli Declaration: Israel is a Jewish State where Jews have the right to self-determination. Yet, based on the democratic principles of equality and freedom, the Arab population, if large enough, could become the majority and alter the Jewish nature of the State. In fact, had 500,000 Arabs not fled during the War of Independence, against the appeals of Jewish leaders to remain, it is difficult to see how Israel could have maintained both its Jewish and democratic nature.⁴³ This fundamental

⁴³ Paul Eidelberg. "Foundation of the State of Israel: An Analysis of Israel's Declaration of Independence," *Judaism* (Fall, 1987): 398. It is important to recognize that this represents a point of historical debate. Arabs chose to leave for a variety of reasons. Some left at the request of invading Arab countries who assured

paradox continues to play out in debates regarding Arab citizens of Israel, as well as the larger Israeli-Arab/Palestinian conflict. Moreover, it is one that exemplifies the fraught and fragile nature of Israeli politics and Israel as a whole.

In terms of these Middle Eastern Arab populations, there are three distinct ones that the Scroll references in one way or another. First and foremost, and for the purposes of this study, the Declaration addresses the internal Arab population that will be residents of the nascent state of Israel. The next group is the Arab residents of the Palestinian State to which the UN Partition Plan also granted international legitimacy. This group, whose destiny initially was linked intimately to Israel's, finds little mention in the Scroll. In fact, the only mention comes in the vital 13th paragraph, when it references the intended economic union between the two states, as envisioned by the 1947 UN plan. Some signatories, such as Dr. Vardi-Rosenblum, wanted to exclude this since it meant tacit acceptance of 2 states. However, in keeping with UN demands, Ben Gurion chose to include it.⁴⁴ This inclusion is even more notable considering the persistent and violent rejection that the various Arab leaderships fomented against Israel. Finally, the document addresses the external Arab countries, imploring them to maintain peace as all Middle Eastern parties play their roles in advancing common interests.

The Scroll's treatment of Israel's internal Arab population increased in scope as the document underwent modifications. In Berenson's early draft, the internal Arab question found itself conflated with the external Arab question; that is, relationships with

them Israel was a fleeting entity and that they would be able to return to their homes soon. Others chose to leave on their own accord, while others were forced out in the course of war. For further information, see Benny Morris, "1948" and Howard Sachar, "From the Rise of Zionism to our Time."

⁴⁴ Sharef, *Three Days*, 278.

the surrounding, hostile Arab nations. By the time it reached Sharett and Ben Gurion's hands, the question of Israel's internal Arab population warranted its own distinct sections. As time progressed, it became clear that, regardless of the scenario, Israel would be home to a very significant Arab population. Thus, the need to speak directly to these soon-to-be *Israeli* Arabs also grew.

Regardless of Israeli cynicism and *realpolitik* concerns, Israel's founders desired peace with its Arab residents and neighbors. The word "peace" (*shalom*) appears repeatedly throughout the document as it addresses the different belligerent groups. After all, no democracy can flourish without peace, and Israel is no exception. Moreover, Judaism extols and anchors peace as a sacred, foundational value of the religion. Jews pray for it three times each day during the *amidah*, and recognize that humanity, as a whole, can only flourish when all groups respect the other's right to exist. As creations of the same God, everyone deserves certain inalienable rights, rooted in democratic thought, in order to coexist with different populations. This, especially, applies to the non-Jewish citizens of the same state.

In terms of these rights, the Declaration outlines them in no uncertain terms:

it (the State) will ensure complete equality of social and political rights to all inhabitants irrespective of religion, race, or sex; it will guarantee freedom of religion, conscience, language, education, and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of United Nations.

The framers decided upon these words carefully and deliberately in order to enshrine Western-style, universal rights in Israel. In fact, "freedom of language," was a late, but important addition. Rather than assume its inclusion in the already-existing "freedom of

culture,” Ben Gurion accepted his fellow party member, Meir Ergov’s, strong opinion in favor of its separate listing. Ergov (then Garbovsky) refused to posit a scenario where Arabic would not enjoy full freedom and equal rights as Hebrew, in both the educational and judicial systems. Ben Gurion acquiesced to his demands, though he clarified that “Hebrew is the language of the State; nor does this fact minimize the rights of citizens to use their own language.”⁴⁵

Of course, in addition to the rights of the Arab minority, the Declaration also addresses the responsibilities, albeit briefly, of these minorities. Though the framers enshrined their democratic rights in this canonical document, they also clarified that they must assume some of the same responsibilities as Jewish citizens. In one of its final paragraphs of collective appeal, the Scroll states,

We appeal- in the midst of the onslaught launched against us now for months-to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the State on the basis of full and equal citizenship and representation in all of its provisional and permanent institutions.

This statement “in the midst of...” stands as a curious and understandable qualification to an otherwise obvious statement. The fact that Arab residents of mandatory Palestine had already been engaging in a prolonged and bloody terror campaign against Jewish targets did not help their cause; nor did it encourage the framers to further address that cause or accept their narrative. It is important to note that, though Jews were the majority in Israel, they represented a tiny minority in an overwhelmingly hostile region committed to her destruction. Any internal Arab violence, thus, only exacerbated this siege mentality. In

⁴⁵ Yoram Shachar, “Israel as a Two-Parent State: The Hebrew *Yishuv* and the Zionist Movement in the Declaration of Independence” *Zmanim: A Historical Quarterly* / 98 (Spring, 2007): 44-45. (Hebrew Original) See also Sharef, 278.

spite of these underlying considerations, the statements of democratic and progressive principles maintained their place within the Scroll. At least on paper, Arabs and Jews were seen as equal citizens in the new State with respect to both rights and obligations.

Given this context, calling Israel a “State belonging to all of its citizens” (*medinat kol eзраcheha*,) as the Scroll does, represents a very radical approach. How can Israel relate to its necessary, democratic guarantees when confronted with a population that rejects her existence? On the other hand, how does the Scroll’s particularistic Zionist narrative exclude the Arab population and prevent their complete integration? Most importantly, what balance can Israel arrive at in order to ensure a functioning democratic state? The Scroll guarantees individual Arab rights, and yet ignores the group’s collective rights of self determination.⁴⁶ Understandably, the Scroll presents an unapologetic Zionist narrative, one whose complicated legacy will accompany Israel for many years to come.

The implications of this prove very important. As we will examine further in detail, Israel must find a way to reconcile these competing and contradictory realities. At stake is her very ability to continue to function as a thriving democracy. As Ruth Gavison states: “A democracy will be stronger and more stable if it instills in its subjects a meaningful sense of citizenship and belonging, and if the entire citizen body is prepared to accept the necessary rules of engagement for democracy’s existence.”⁴⁷ Though the situation is highly complex and the Arab leadership is hardly free from blame, it is incumbent upon Israel to foster a sense of Arab belonging in the State. This must come

⁴⁶ In this sense, it is not too dissimilar from the principles of the French Revolution regarding the Jews. As Clermont-Tonnerre said before the French General Assembly in 1789, “the Jews should be denied everything as a nation, but granted everything as individuals.”

⁴⁷ Ruth Gavison, *Israel as a Jewish and Democratic State: Tensions and Prospects* (Jerusalem: Hakibbutz Hameuchad Publishing House, 1999), 86. (Hebrew Original)

from all segments of society, and must transcend the distrust and violence that has permeated this conflict from time immemorial. Only then can Israel thrive as the physical embodiment of the lofty and authentic Jewish principles within the Declaration.

Chapter 3

Although Israel's Arab minority represented, perhaps, the most prominent and sensitive minority stake-holder in Israel's future, it was not the only one. The other major constituent reflected in the lines of the Declaration was world Jewry located throughout the Diaspora. Israel, the new State of the Jews, had much to say to the world's Jews living outside her borders, and yet the State found itself confronting a formidable divide. Though world Jewry was still reeling from the horrific events and aftermath of the Holocaust and World War II, not all Jews were scurrying to board ships to Israel. Indeed, American Jewry as a whole scoffed at the notion of leaving their homes in *aliyah* to Israel.

As the other primary population center of world Jewry, the United States afforded its Jewish citizens considerable confidence and security. Israel, though a place of pride and identification, did not attract them as a place of emigration. The American Jewish community would, nonetheless, have to formulate a position vis-a-vis Israel, and learn how to coexist harmoniously with a State that often purported to speak for all Jews regardless of their country of residence. In so doing, Israel would find herself at the center of a perpetual battle for the authentic Jewish soul. Does Israel have the right to speak for Jews who do not live within her borders? What does the Declaration of Independence demand from world Jewry, and what will it give them in exchange? The answers to these questions reveal the highly fraught and complicated relations between these two primary orbits of Jewish life.

Israel's Jewish Foundation

As we will soon see in more detail, Ben Gurion envisioned Israel as a place focusing on the ingathering of the exiles (*kibbutz galuyot*.) Just as Jews had prayed three times a day from time immemorial, *and bring us together from the four corners of the Earth into our Land*, Israel was to finally fulfill this intended *raison d'être*.⁴⁸ Indeed, many of the world's Jews longed for this age-old realization and hurried to make it a reality. In Israel's founding years of 1948-1958, the floodgates of immigration burst open, and Israel welcomed and absorbed many of the world's Jews. Between those years, Israel's Jewish population nearly tripled from 650,000 to 1.8 million and, by 1975, 3 million Jews found their home in Israel.⁴⁹ For many communities, the *geulah* (redemption) of Israel's founding finally replaced the long-endured *golah* (exile) from the Land. Entire communities of Jews from Yemen, Iraq, and the Holocaust-ravaged countries of Poland, Hungary, Romania, and Bulgaria made *aliyah* to Israel.

Indeed, given the ire that Israel's founding aroused in the Middle East and North Africa, many of those communities had no choice but to leave and find a new home. The fact that Israel welcomed them with open arms did not change one crucial fact: Israel's founding elites envisioned Israel not only as a physical refuge for those in distress, but also as a spiritual home for all Jews. Besides a smattering of highly idealistic Zionists who chose to place their lot with Israel, the majority of Western Jewry decided to remain in their homes.

⁴⁸ This particular prayer is found immediately prior to the *shema* in morning *shacharit* services. In the *amidah* section, Jews prayed three times daily for a return to Zion.

⁴⁹ Zalman S. Abramov, *Perpetual Dilemma: Jewish Religion in the Jewish State* (New Jersey: Associated University Presses, Inc., 1976), 147.

Though classical Zionism predicted that Israel's founding would usher in a withering of the Diaspora as evidenced by the Jewish notion of *shlilat ha'gola* (negation of the Diaspora,) this did not come to fruition. Israel's oft-cited, foundational *Law of Return* would not welcome in many of its intended targets. As a result, Ben Gurion and many classical adherents of Zionism would find themselves in need of re-defining Zionism and limiting its scope. This attempt at redefinition would form the crux of a silent, unwritten contract between American Jewry and Israel.⁵⁰ It would not, however, resolve the complex and sensitive issues regarding Jewish power and self-identification for those Jews continuing to live in the Diaspora. Those issues would remain ever-relevant and pressing to the Jew in the modern world.

The central question as to whether Israel speaks on behalf of worldwide Jewry has been on display recently in the past couple of years. In early 2015, when a wave of violence and anti-Semitism flooded much of France's Jews, many of them contemplated and indeed followed through with *aliyah*. Israel's Prime Minister, Benjamin Netanyahu, encouraged this phenomenon and even called publicly for increased French *aliyah*, saying, "I come here speaking for the entire Jewish people."

Across the Atlantic, around the same time, Netanyahu addressed the United States Congress in a highly provocative and controversial move regarding the Iran Nuclear Deal. Both of these incidents aroused age-old Jewish insecurity and accusations regarding

⁵⁰ This contract became somewhat "codified" via the Blaustein/Ben Gurion debates and subsequent agreement in 1950 between the American Jewish Committee's President Jacob Blaustein and Ben Gurion. This agreement addressed the ambivalence of many American Jews toward the Jewish State's call for *aliyah*. Ben Gurion agreed to tone down the rhetoric, but resisted Blaustein's assertion that American Jewish financial support granted American Jews a say in certain policy matters. For more information, see <http://jcpa.org/article/american-jewry-and-the-state-of-israel-how-intense-the-bonds-of-peoplehood/>

dual loyalty, and upset many Diaspora Jews. The social media hashtag *#bibidoesntpeakforme* began gaining traction across the internet, and across the world. Indeed, several seminary students at HUC-JIR inserted it into their social media posts concerning Iran. Nearly 70 years after Israel's founding, decades after Ben Gurion's fateful exchange with Jacob Blaustein, the same contentious issues surface with little resolution. The delicate balance often reveals itself as fraught and unstable with grave implications for the future of world Jewry.

The Declaration's Split Identity

As we will see, the document purports to speak on behalf of all Jews everywhere in a very self-conscious and deliberate way. That said, it seems to set up a distinct dichotomy between those Jews in the Land of Israel (*Eretz Yisrael*) and those Jews living in the Diaspora. To reflect the complexity of the relationship between Zionism and Judaism, the Declaration shifts between the adjectives *Hebrew* and *Jewish* in a fluid and seamless way. To which people in which locale do those adjectives refer, and how does this provide clues as to the motivations of the drafters? Does one refer to an ethnic group while the other to a religious group? Moreover, what were and are the implications for those Jews who decide to not heed Ben Gurion's foundational call for *aliyah*?

The document opens describing the "Jewish Nation" (*am ha'yehudi*) and continues to describe the Jewish nation (*medina ha'yehudit*), offering a sweeping and compelling narrative of Jewish history. On the other hand, it switches to addressing the "Hebrew settlement" (*yishuv ha'ivri*) as well as the "Hebrew Nation." (*am ha'ivri*)

Together, these terms somehow come together into the “Israeli Nation” (*am yisrael*) of the 6th paragraph and the country’s new name, the State of Israel (*medinat yisrael*), in the climactic 11th paragraph. What is the source of this apparent confusion:?

The difference between these definitions of identity represents the fundamental tension at the center of the Zionist enterprise, linking the “Old Jew” to the “New Hebrew,” and between both of these to the “Israeli,” which in its civic context, includes non-Jewish Israelis. Behind the decisive “We” of the “We Declare” (in the 11th Paragraph,) lurks the confusion of identity itself.⁵¹

Ben Gurion’s “New Hebrew” would represent a complete change and remodeling of traditional Jewish values. It represented the embodiment of Yudka’s words in Haim Hazaz’s seminal work, *The Sermon*, describing the “revolutionary” nature of Zionism as an “uprooting” of that which came before. The new Israeli, replete with a new language, culture and society, would throw off the shackles of exile’s curse, once and for all.

The confusion remains evident regarding the various self-identifications, a fact compounded by the distinct Hebrew and English versions of the Declaration. In paragraphs 8, 11, and 17, the Hebrew original refers to the “Hebrew community” and the “Hebrew Nation,” while the official English version appears as “Jewish community” and “Jewish People.” Though Ben Gurion desired to communicate in Hebrew his desire to create a new Jew in a new, Hebrew nation, the message was broadened in its translation in order to maintain its relevancy to the worldwide Jewish community, as well as to speak to the continuity of Jewish history and identity. In a confusing move, even Ben Gurion, during his renowned, live broadcast of the Declaration on May 14th, 1948, stumbled over the adjectives himself. When reciting paragraph 17, rather than the written words of “*am*

⁵¹ *The Israeli Talmud-The Scroll of Independence-The Seventh Paragraph*, 16.

ha'ivri" (Hebrew nation,) he stated "*am ha'yehudi*" (Jewish nation.) The various adjectives and apparent schizophrenia revealed itself even at the highest echelon of the nation-building process. Even Ben Gurion, despite his profound desire to create a new *Hebrew* nation, could not throw off centuries of *Jewish* identity.

Ben Gurion's desire to revolutionize the Jewish experience pervaded all aspects of Statehood. Immediately after this public declaration, he insisted that the drafters sign according to their new Hebrew name as opposed to their old Jewish name. In Herzl Rosenblum's case, much to his surprise and later resentment, Ben Gurion demanded he sign as "Vardi," even though he rarely used that Hebraicized name. So too with Nahum Rafalkes, who found himself called to sign according to his Hebrew name, Nir, even though he, too, rarely used it.⁵² This insistence on Hebrew names represented something much deeper than superficial identifications. It marked and legitimized the Jewish People's rebirth in their ancestral, indigenous homeland.

We further see this Hebrew/Jewish tension playing out in what Yoram Shachar calls the "2 Parents" of the Declaration: the Jewish community in Eretz Yisrael (*ha'yishuv ha'ivri*) and the International Zionist Movement (*ha'tnuah ha'tsionit*.) The former represented those Jews, Zionist and not, residing in the Land of Israel, while the latter represented those Zionists located outside the Land of Israel.⁵³ The 11th paragraph,

⁵² Naor, 55, 62. In the latter case of Nahum Nir, it was at the insistence of David Remez, head of their Jewish National Council.

⁵³ Yoram Shachar, *Israel as a Two-Parent State: The Hebrew Yishuv and the Zionist Movement in the Declaration of Independence*, 32-34. Shachar describes how the various drafts dealt with these entities, focusing on Berenson's draft and Sharett's draft. Ben Gurion accepted most of the changes within Sharett's draft, except that he changed the order of the "parents." In placing the *yishuv* before the Zionist movement, he shows what he valued as more important.

the one that declares the State and her name, says that the National Council (*moetset ha'am*) represents both the *yishuv* and the Zionist Movement.

Though the Declaration makes this seem fluid and seamless, in reality, it constituted a tense arrangement, one which tried to contain the competing interests of two very different entities. As we will continue to see, though the National Council purported to speak in one voice for all Jews, the drafters suppressed and ignored the inherent tension and disputes. As a result, they continue to accompany Israel's agitated relations today with worldwide Jewry. The question as to which Jews Israel represents in the world remains pressing and fundamental, even today, many decades after Israel's founding.

Negation of the Diaspora

Strangely, the Declaration makes scarce mention of any Jewish life outside the Land of Israel. After presenting a sweeping and epic Zionist narrative, followed by many paragraphs devoted to various constituents and scenarios, external Jewish life almost seems an afterthought. The Declaration only addresses Diaspora Jewry directly in one paragraph, the penultimate one:

We appeal to the Jewish people throughout the Diaspora to rally round the Jews of *Eretz-Yisrael* in the tasks of immigration and upbuilding and to stand by them in the great struggle for the realization of the age-old dream - the redemption of Israel.⁵⁴

⁵⁴ This constitutes one of the final three paragraphs that all use the same “we appeal” (*anu kor'im*) structure: The other two “appeal” to the United Nations for continued support, and to the Arab citizens of Israel to cease the hostilities and be responsible citizens of the State. The word “appeal” seems deliberate given that the UJA (United Jewish Appeal) was the primary fundraising arm for pre-State Palestine. Thus, Ben Gurion recognized that Diaspora fundraising, in addition to *aliyah*, would play a crucial role for the State.

Through these worlds, the Declaration assumes that all Jews subscribe to this classic proposition of Zionism, that the “redemption of Israel” (*geulat yisrael*) has always been the “age-old aspiration” (*shi'ifat ha'dorot*.) It is important to note, however, that the Declaration laid out three options in which Diaspora Jews could assist Israel: *Aliyah* represented the obvious one, but also listed are “upbuilding,” and “standing by our side.”⁵⁵ Most importantly, this paragraph represents a bold and audacious statement as it imposes a monumental responsibility on all Jews worldwide. In so doing, this founding document of Israel assumes a sweepingly broad scope, and invites strong reaction from the stakeholders it has thus designated. Would they rally around the motivational cry or would they reject the seemingly presumptuous and demanding language?

The wording underwent several transformations as the document's drafts evolved and passed through the various offices. The early Shazar draft contains lofty, poetic language embodying the values of *shlilat ha'gola*. It calls on the “scatterings of Israel,” “the refugees of disasters,” and the “prisoners of hope” to unite around the *yishuv*'s Jewish redemption and to support it financially. Moreover, Berenzon's draft only mentions Diaspora Jewry insofar as it says the “curse of the exile!” and the “perpetual Jewish dependence on foreigners” as justifying reasons for supporting the State's foundation.⁵⁶ Though it recognizes the monetary success of Diaspora Jewry and desires its financial help in building Israel, it devalues any legitimacy or human value of that

⁵⁵ The official translation of the *Knesset* only has “immigration” and “upbuilding.” Instead of translating “standing by our side,” (*la'amod l'yamenu*/לעמוד לימינו) it favors a more figurative, concise translation.

⁵⁶ Shachar, *Early Drafts*, 584, 561. Apart from the Diaspora branded as the curse of exile (both *mi'arat ha'gula* and *klalat ha'gula*), it was also labeled “shame of the exile,” (*cherpat ha'gula*) in a later departmental draft. (578.)

exiled existence. In essence, the various drafts perceived Israel's founding in very monolithic terms, as the antidote to the poison of the exile.

Though the Declaration only addresses Diaspora Jewry in that one paragraph, it nonetheless speaks in their name throughout the document. The very first sentence betrays the worldview of its founders in no uncertain terms. It says, "The Land of Israel was the birthplace of the Jewish people," (*kam ha'am ha'yehudi*.) Rather than label the people as "Israeli" or "Hebrew" or any other term, it says that the *Jewish* people hail from the Land of Israel.⁵⁷

In contrast, Berenzon's earlier draft begins with the words, "By virtue of the indivisible link between the *Israeli* people (*am yisrael*) and the Land of Israel." The later change to Jewish represents a seismic shift in the ideological worldview of Ben Gurion and the other founders.⁵⁸ In their eyes, for Zionism to be true and relevant, it must speak in the name of all Jews wherever they reside.

In so doing, the Declaration further reflects the Zionist principle of *shlilat ha'gola*. It accomplishes this in various ways: In the sixth paragraph, it references the millions of Jews murdered in European lands as providing further proof as to the State of Israel's necessity. Only with a state of their own would Jews feel like equal members of society, able to "assert their right to a life of dignity, freedom, and honest toil in their national homeland." Indeed, the Zionist project was about far more than redeeming the land; it was about redeeming Jewish souls.

⁵⁷ Indeed, scholars debate the veracity of this sentence since the biblical Israelites actually came from Canaan or Abraham's birthplace of Ur. Moreover, it can be argued that the "Jewish" people only originated after the period of Egyptian slavery, during the exodus and revelation in the Sinai desert.

⁵⁸ Kamir, *The Scroll has Two Faces*, 11-12.

The Scroll's wording reflects precisely this intention. Thus, in the third paragraph, the language of "making the deserts bloom" (*hifrichu shmamot*,) wording that still exists in the English translation, reads quite differently in the Hebrew. In the final draft, contrary to the Berenzon and Sharett earlier drafts, Ben Gurion changed the wording to read "souls" (*neshamot*) instead of "deserts" (*shmamot*.) According to this reading, the pioneers came to Israel to redeem their own souls, to make those Jewish souls blossom into their full potential. Ben Gurion's "secular redemption" consisted of strengthening the land and the nation's new inhabitants as one and the same.⁵⁹ Of course, this could only happen with massive movement of Jewish population from the Diaspora to their homeland.

Ben Gurion envisioned this *aliyah* in "biblical" proportions, something that would justify the scope and depth of the Zionist enterprise. In his own words, he strove for a naturalization of Zionism on such a scale that complete success would harbor its own end. A state numbering less than a million Jews "cannot be the climax of a vigil kept unbroken through the generations and down the patient centuries; nor could it last for long." Rather, it must uphold and fulfill its true reason for existence: the ingathering of the exiles (*kibbutz galuyot*.) Immigration "in the myriads that only sovereignty allows" could satisfy the State's destiny. Otherwise, "so empty a State would be little justified, for it would not change the destiny of Jewry, or fulfill our historic covenant."⁶⁰ Again, he appropriates traditional religious language, and with messianic zeal, turns it on its head.

⁵⁹ *ibid*, 11.

⁶⁰ Ben Gurion, *Rebirth and Destiny of Israel*, 276-7.

In this context, the earlier-mentioned word confusion between Hebrew, Jewish, and Israel comes into sharper focus. Ben Gurion and many of his compatriots sought to actively transform Diaspora Jewry into Israeli Hebrews. With Israel's help, Jews would evolve into Hebrews and only then be able to live their destiny as sovereign Israelis. In order to do this, they needed the Land as much as the Land needed them.⁶¹ The Scroll's wording, with the exception of the penultimate paragraph, enshrines this problematic relationship with the Diaspora. As the Scroll lays out in beautiful prose, the survivors of the Nazi Holocaust never ceased in their attempt to reach Israel, despite all difficulties and obstacles. *Only* by establishing a secure and vibrant Jewish State could these survivors enjoy a protective shelter, a shelter they never had, a shelter that could have saved millions of Jewish lives.⁶² Only there could they live upright as proud citizens of the world, free from the yoke and the whims of their previous host country.

American Jewry, numbering in the millions, is conspicuously absent from the document. It was never, however, absent from Ben Gurion's mind, neither before Israel's founding nor after. Apart from the Blaustein discussions of the early 1950s, he also maintained conversations with various American scholars during those same years. In them, he proclaims his desire for Israel to represent "a State of profound Jewish dedication with universal human overtones." He admits that he desires all Jews to settle in the Land, and says that this is both possible and desirable. However, the Jews that may

⁶¹ This brings to mind the oft-cited Zionist maxim immortalized in Golda Meir's controversial words, it is a "Land without People for a People without a land."

⁶² The original Hebrew for "survivors of the Nazis" is שארית הפליטה, a phrase rich with biblical allusions from the Book of Isaiah. For analysis on this, see Scott Copeland, 73-74 or the analysis work that *Bina* has done on this 7th paragraph. This wording further demonstrates the deep, religious grounding that the drafters had, as well as the "secular redemption" that the State would represent.

remain in America will forever feel united with their Israeli brethren because of two immutable facts: “the State of Israel and the Book of Books.”⁶³ Even if Israel cannot fully replace the Diaspora it will become the glue that binds it together. Moreover, its Jewish dedication, infused with a Zionist reading of the Bible, will provide the spiritual nourishment that the broken Jewish spirit needs so desperately.

Ben Gurion’s Messianic Zeal

Based on this worldview, Ben Gurion infused the Scroll with significant messianic undertones. As stated in the penultimate, diaspora-centric paragraph, Israel’s redemption (*geulat yisrael*) represents the “age-old aspiration” (*shi’ifat ha’dorot*.) This would come when Jewish pioneers came, reclaimed, and built the Land. In so doing, the Declaration reverses the traditional notion of Jewish messianism. Rather than God coming and bringing the scattered back to Israel, Jews would redeem *themselves* and move to Israel. The State of Israel represents the key to this narrative of Jewish history, and only Jews themselves, by way of *aliyah* and support, could unlock it.⁶⁴

Ben Gurion, single-handedly, pushed this vision of Jewish history into the forefront of the Declaration. Rather than subscribe to the definitions of redemption used by previous drafts, he revolutionized it to obtain this meaning of “age-old dream.”

Shazar’s draft talked about the “Land of our Redemption’s hope” becoming a “trap for

⁶³ Sidney B. Hoenig, editor. “Can We Stay Jews Outside the Land: An exchange between David Ben Gurion and Simon A. Dolgin” in *Jewish Identity: Modern Responsa and Opinions* (New York: Philipp Feldheim, Inc., 1965), 352.

⁶⁴ See Babylonian Talmud *Cetubot* 110b for the traditional rabbinic interpretation against aliyah. Jews must not make collective aliyah...they must wait for God to do this. The *ribboni* (autonomous) Zionist drive, thus, clashes directly with the rabbinic tradition.

Israel's remainder." Sharett, in his later draft, expressed the desire that pioneers would "redeem Israel's land."⁶⁵ Ben Gurion would elaborate and amplify the meaning of "redemption," charging all Jews everywhere with the task of redeeming the country and themselves.

His messianism revealed itself as purely nationalistic, relying on religious undertones, on the one hand, and yet shunning them on the other. It became all-encompassing, usurping the messages of traditional messianism. When he embraced the essence of those messages, he expressed these messages in a secular idiom so as to not alienate Jews worldwide who did not subscribe to traditional messianism. Yet, his tone and his purpose were very clear:

We have crossed a distance of hundreds of generations since then, and I believe that we are standing on the threshold of the "End of Days," from the Jewish perspective, and also from the perspective of universal mankind. The great redemption that our prophets saw in their prophecies, the redemption of the nation and the people, is coming closer and arriving . . . and our generation is called upon to heed the bells of redemption. Our destiny is not to delay, but rather to accelerate this "end," an end to Jewish and human suffering.⁶⁶

Through his words, he balances beautifully the particularistic of the Jewish experience along with universalistic aspiration, hopes, and goals. A Jewish return to the land represents the correction and redemption of a historical wrong, a redemption that will help herald a new era for all humankind. By redeeming themselves and the wretched Jewish condition, Jews participate in the redemption of the entire world!

⁶⁵ Amir, *The Bible's Place in Israel's Declaration*, 4.

⁶⁶ Benjamin Oppenheimer, "*Ben Gurion and the Tanach*," as quoted from Copeland, 27. (Hebrew Original)

Ben Gurion speaks with prophetic, poetic words, both quoting the Hebrew prophets and embracing their message in nationalistic terms. By reading these words, one could sometimes think his was a religious worldview. Yet, his religion culled from traditional sources to create a new religion of Zionism, omitting the aspects he viewed as too traditionally religious. Thus, he edited out the earlier draft that contained the “Covenant between the Parts” (*Brit beyn ha'betarim*) of Genesis 12-17. He also edited the biblical patriarchs out of the Declaration's first draft, opting instead to mention only one person by name in the entire document: Theodore Herzl. Despite his decidedly secular nature, he became the new patriarch in the classical Zionist worldview of Judaism; he became the “spiritual” leader who could redeem the Jewish nation, a powerful figure around which all Jews could rally.

Moreover, though he tried hard to achieve it, Ben Gurion could not secularize religiously-infused terms such as *tsur yisrael* and *kibbutz galuyot*. He could not empty these of their religious/messianic meaning, having evolved fluidly over a 2000 year old liturgical experience in the Diaspora. His secularization of Zionism and attempt to encapsulate all Jews under a wide canopy would clash with authentic, lived Judaism throughout the world. The stage, thus, seems ripe for inevitable conflict between his adherents and those who viewed Judaism and Zionism in different terms.

The Hebrew Bible represents the linchpin around which the Zionists present their claim to the world. In so doing, they market it in a revolutionary way and divorce it from its sole religious context. Rather than embrace the name their Ashkenazi progenitors used, the Holy Book (*Sefer HaKodesh*) the Declaration refers to it as the Eternal Book of

Books (*Sefer HaSfarim Ha'nitschi*.) It thus re-aligns the book into the realm of world cultural heritage and out of the domain of mere religious literature. This appropriation of the Hebrew Bible thus accomplishes two fundamental Zionist objectives: it is a “legitimator of Jewish claims to the land of Israel and a source of Jewish humanistic and universal ideals.”⁶⁷ By usurping the Hebrew Bible’s legacy and heritage, Ben Gurion provides much-needed justification to the Zionist enterprise in the eyes of the international world. More importantly, it provides the fuel for the messianic zeal upon which he will create his model nation as a light to the nations.

He pursued this path of creating a new “civil religion,” around which the nascent state could take shape into a coherent, unified, and passionate whole.⁶⁸ He did this in the name of all Jewry worldwide as he imagined this passion would mobilize Diaspora Jews into the Zionist project. In this sphere of civil religion, he injected new life into the Hebrew calendar, insisting that it mark Israel’s Independence Day as the 5th of *Iyyar*, rather than the gregorian May 14th. Furthermore, Ben Gurion preferred the name for this day as *Yom HaKomemiyut* (day of upright standing,) to emphasize the new-found Jewish pride that the State gave to the previously-exiled Jews.⁶⁹ New Jews would finally walk upright in their redeemed, ancient land: In the words of the Declaration, they “made deserts bloom, built villages and towns, loving peace but knowing how to defend itself, bringing the blessings of progress to all the country’s inhabitant.” In short, they would

⁶⁷ Janet Aviad, “Return to Judaism: Religious Renewal in Israel,” as found in David H. Ellenson, “Liberal Judaism in Israel: Problems and Prospects,” *Journal of Reform Judaism* (Winter, 1984): 65.

⁶⁸ The term *civil religion*, originated by Jean J. Rousseau, was used in the Israeli context by Liebman and Don-Yehiva as “the ceremonials, myths, and creeds which legitimate the social order, until the population, and mobilize the society’s members in pursuit of its dominant political goals.” (Ophir Yarden, 325.)

⁶⁹ Yarden speaks of this in footnotes 17 and 69. Ben Gurion favored this term based on a reading of Leviticus 26:13, and based on his Zionist worldview of redeeming Jewish souls, in addition to the land.

bear little resemblance to the Jews that the country's Ashkenazi elite had left in their European countries of origin.

The Seeds of Conflict

It seems clear that this Zionist-centric approach to Judaism would alienate some Jews in the Diaspora and, especially, in the United States, home to a thriving and diverse Jewish community. Furthermore, the majority of the American Jewish community subscribed to a different vision of Judaism than most Zionist Israelis. Liberal, progressive Judaism had firmly anchored itself in American society, as American Jews deviated from timeless symbols of Jewish orthodoxy and practice. As already discussed, Ben Gurion appropriated and capitalized on the power of these Jewish symbols to bring authenticity and credibility to his fledgling state. Though Ben Gurion and others secularized the symbols, they nonetheless, viewed the "Orthodox" symbols as the "authentic," Jewish ones. As David Ellenson says,

The values of Israeli civil religion, which promote the political integration of diverse communities of Jews from different parts of the world into a stable, political order, are established upon the bedrock of the Jewish religious tradition, a tradition which most Israelis see as Orthodox.⁷⁰

Liberal Judaism thus finds itself marginalized from the outset, indigenous to the Zionist narrative and yet alienated from it at the same time. Indeed, this feeling and reality would only grow more pronounced as the years progressed.

When Ben Gurion agreed to the religious status quo in order to appease the few religious Jews during the Declaration's signing, he could not have imagined how those

⁷⁰ David H. Ellenson. *Liberal Judaism in Israel*, 65. Also, see Jacob Katz article which states that modern Zionism represents a secularization of traditional Jewish messianism, as already discussed.

numbers would swell in the following decades.⁷¹ Furthermore, due to the fractured nature of Israeli coalition politics, their influence would only grow, further alienating liberal American Judaism from the Zionist project. These values would continue to conflict with the self-definitions each group employs. On one hand, the State of Israel has elevated Judaism to the status of peoplehood and nationhood. Thus, the Scroll, in its first few paragraphs, shows the breadth of this peoplehood describing Judaism in “spiritual, religious, and political” terms, and also as a “people” and “culture” with its own “language,” etc.

On the other hand, American Jewry has largely shown itself content to keep Judaism in the religious realm. It has internalized both the values of the French revolution and Enlightenment. In the words of the *Haskalic* Hebrew poet, Yehuda Leib Gordon: “Be a man abroad, and a Jew in your tent.” As individuals, Americans view themselves utterly free to practice their own religion, and yet most maintain strict allegiance to the United States. Though they may support Israel from afar, they view America as a “home, not just a haven.” As they define their Judaism as one of religion, and not ethnicity, many American Jews view the Israeli model of Jewish nationality and peoplehood as foreign to their existence. This, of course, has deep-seated roots in the Jewish experience as lived for nearly 2000 years primarily outside the Land of Israel.⁷² Moreover, in this framework,

⁷¹ Ben Gurion agreed to the Orthodox “status quo” to facilitate the initial processes of state-building. At that point, the Orthodox population numbered in the thousands. Ben Gurion and the other staunch secularists likely would have behaved differently if they knew what their numbers would become. The status quo agreement concerned four primary areas: *Shabbat*, *Kashrut*, Personal status and family issues, and education. All four of these, especially personal status issues, would clash significantly with liberal Jewish sensibilities. Indeed, the first three of these constitute the anchor of Orthodox Judaism. The fourth, education, represents the key to them all. As the State gave control of these to the Orthodox rabbinate, conflict with world Jewry proved inevitable.

⁷² David Ellenson, “Envisioning Israel in the Liturgies of North American Liberal Judaism,” as found in *Envisioning Israel: The Changing Ideals and Images of North American Jewry* (Edited by Allon Gal)

any perceived loyalty to a Jewish State can prove problematic, especially one which employs symbols and values foreign to their American identities.⁷³

The power of the status quo agreement allowed the Orthodox rabbinate to establish definitively who and what constitutes a Jew and Jewish practice. In gaining control over personal life status issues such as birth, death, marriage, divorce, and conversion, they secured a monopoly over these matters. As a result, in their strict definition, informed by their ever-embattled mentality, progressive Jews or Judaism throughout the world would have no place. This represents a continual thorn in the relations between Diaspora Jewry and the Jewish State. Though the Declaration “guarantees freedom of *religion, conscience*, language, education, and culture,” it does not spell out the parameters and boundaries of synagogue and state. This was, as already explored, a conscious decision in achieving the balance and ambiguity necessary to secure passage of this document among the various secular and religious constituents.

Furthermore, the Israeli Supreme Court ruled that the Declaration does not represent law; rather it “expresses the nation’s vision and its manifesto.” Thus, when a landmark case reached its office trying to gain state recognition over a civil marriage ceremony, the verdict was obvious. The Court ruled that any law of the *Knesset* would supercede the Declaration’s “vision,” no matter how clear that vision stood.⁷⁴ The status

(Jerusalem: The Magnes Press, 1996), 119. See pp 117-118 for discussion of Shimon Rawidowicz’s essay on the “two different houses” approach to Jewish history, one which stresses the centrality of the Land (900 BCE to 586 BCE,) and the other house which stresses the reality of the Diaspora. (Ezra onward.)

⁷³ One can be completely supportive of the Jewish State inasmuch as claiming that US and Israeli values are consistent with one another. Once those values deviate or Israel expresses its sovereignty in ways foreign to the American experience, conflict and criticism will result.

⁷⁴ Naor, 248-9. Quoted from *S’kira Hodsheets* (Monthly Review,) Journal of IDF Soldiers, 4-5 May 1979. In addition to this example, this also reflects the reality of the working relationship between the *Knesset* and the Supreme Court.

quo agreement, and subsequent enshrinement of the rabbinate as the sole arbiter of Jewish status, sealed this fate. As all Israeli Jews, regardless of their observance or definition of Judaism, remained under its jurisdiction, alienation would only grow. Though progressive world Jewry has tried to fight this for decades, the overall situation has not changed.

Universalism versus Particularism

In order to open the Jewish tent as far as possible, Ben Gurion appealed to Jews in diverse, universal ways. That first paragraph explains how Jewish “spiritual, religious, and political identities were shaped...” (in the Land of Israel.) The following paragraph contends that Jews never ceased to “pray” and “hope” for a return to their Land. The climactic 13th paragraph talks about “Jewish immigration” and “the ingathering of the exiles.” All three of these examples demonstrate the extent to which the drafters used deliberate language to coexist within both the religious and secular worlds. While a religious Jew would “pray” for “ingathering of the exiles,” a secular person would “hope” for “Jewish immigration.” In drafting the document this way, Jewish particularism could be expressed in various, universalistic ways.

All of the disparate signers and their worldviews could find mutually acceptable common ground. They could read the document as staying true to their worldview, while ignoring the parts they found more problematic. More importantly, in doing this, the founders lift Judaism out of the solely religious realm and propel it to various other realms of peoplehood. Jews of all religious persuasions could find something with which

to identify. This wording represented an easy compromise among Ben Gurion, the political, secular Zionist, and the pre-State religious Jews. It also opened up the document to more fully reflect Jewish experience throughout the world. Unfortunately for Ben Gurion, as we have already discussed, this earnest attempt at secularization would fail to speak to worldwide Jews in universal terms.

The text's appeal would face even greater challenges within this prism of universalism versus particularism. Since Diaspora Jews often act out their Judaism through a socially progressive worldview, they expect the Jewish State to reflect a similar worldview. Moreover, they may unwittingly impose their Western worldview, rooted in American-style democracy, onto the rough and tumble reality of Middle Eastern chaos.

They often want Israel to encompass the best of both worlds; enlightened universalism *and* Jewish particularism. In fact, for many American Jews growing up as fully assimilated Americans, the scales tip frequently in favor of the former. Many of them do not fully identify with the Zionist vision of the State, similar to several *Israeli* populations such as the *Haredim* and Arab Israelis. Often, the vague notion of “repairing the world” (*tikkun olam*) encapsulates the thrust of their Jewish identity. In this context, they can only view certain state institutions such as the rabbinate as a “repulsive medieval institution.”⁷⁵

Interestingly, many of Ben Gurion's passionate words regarding Israel's founding should resonate strongly with these worldwide, idealistic Jews: “The redemption of Israel is inextricably linked with the redemption of all human-kind, further embodied in the

⁷⁵ Wording quoted from lecture by Danny Gordis. Inbal Hotel, Jerusalem, January 3rd, 2015.

messianic vision of our prophets without losing or decreasing its special Jewish content.”

⁷⁶ Many disenchanted and/or disenfranchised American Jews would like to see an Israel based solely on these values, fulfilling the biblical words “as a light unto the nations.” An Israel that fails to do this, in light of legitimate security concerns, can become an unwelcomed Israel in their eyes.

As successive Israeli governments have tried to forge a balance between universalism and particularism, and as they have often found themselves mired in the muck and messiness of governing, many feel this vision has fallen by the wayside. As Ellenson has observed, “Universalism informs and animates this vision of the Jewish State, a vision that is highly consonant with the American and Diaspora context that inspired it.”⁷⁷ Furthermore, as evidenced by the evolution of liberal Jewish liturgy and customs, many Americans have rejected certain ethnic tendencies of Zionism as tribalistic and “noxiously particular.”

As a result, Progressive Jews often feel like the Jewish State does not belong to them, nor does it reflect their authentic brand of Judaism. They harbor hope that with each successive election, the situation will change in their favor. Thus, the Central Conference of American Rabbis (CCAR) released this statement on March 17th, 2015 after Israel’s stormy elections for the 20th *Knesset*:

The CCAR urges those who are forming the new government to remain mindful of and committed to the well-being and equality of Israeli women and of each of Israel’s minorities, including Israel’s Jewish religious minority. We urge that any governing coalition agreement support civil

⁷⁶ David Ben Gurion. “American Judaism and the State of Israel,” excerpted from conference on Zionism in New York.” May 19th, 1951.

⁷⁷ Arnold Eisen, “Zionism, American Jewry, and the Negation of the Diaspora” in *Between Jewish Tradition and Modernity: Rethinking an Old Opposition, Essays in Honor of David Ellenson* (Detroit: Wayne State University Press, 2014), 175.

marriage rights for all Israelis, government funding for liberal congregations and rabbis on par with that of Orthodox institutions and rabbis, and a consistent commitment to welcoming all legitimate converts to Judaism who wish to make *aliyah*.

This press statement, made by the board of America's largest group of Jews, proves very telling in several ways. First and foremost, it depicts religious Jews as a minority in their own country. In line with the principles set forth in the Declaration of Independence, it demands equal rights for all Jews regardless of their beliefs or practice.⁷⁸

This reflects the same ideals of democracy discussed in the previous chapter. If Jewish authority in the Jewish State resides in the sole hands of the Orthodox elite, essential rights of freedom and equality are at stake. Any assault on that freedom can represent an assault on Israeli democracy. Since Western Jews view the value of Israeli democracy as fundamental and non-negotiable, the implications would be far-reaching if Israel were to deviate from those principles. Indeed, as we have seen in the past few years, any *perception* of deviation or retreat from these principles can result in significant critique.⁷⁹ Minority rights, whether of Arabs or Jews, must be respected and uplifted, according to the majority Diaspora narrative.

As we will continue to see, Israeli society maintains its cohesion due to a sensitive balance between particularistic and universalistic concerns. The Scroll, through its

⁷⁸ Some progress has been made. Through the work of the IRAC, the Israeli Religious Action Center, the State now pays certain salaries of liberal rabbis, like their Orthodox counterparts. Inroads have been made with female prayer at the Western Wall, and more modern forms of orthodoxy have gained some power over personal status issues like marriage and conversion. Much progress has been made since the initial Supreme Court ruling from the 1960s that gave Reform Jews the right to congregate in Israel, based on the principles in the Israeli Declaration of Independence.

⁷⁹ See Op-ed on Israel's proposed Nation-State Law by David Ellenson and Deborah Lipstadt. "You Need a Law to Affirm Israel's Identity?" *Wall Street Journal*, December 1, 2014, Wall Street Journal.

masterful formulations, has allowed for this to happen largely because it “enabled disagreements, accommodated them, and even facilitated their existence.” It has done this by embracing the “natural and historic right” of the Jewish people in their Land, while also upholding universal, humanistic values such as “freedom, justice and ... equality of social and political rights.”⁸⁰

In enabling these competing narratives, the Scroll allows for easy appropriation by various political and non-governmental groups who purport to speak in the name of authentic Israel and Judaism. On the one hand, this allows each group to feel empowered and represented within Israel’s fragile democracy. On the other, the document’s limited scope and lack of concrete legal standing, threaten to unravel Israel’s sensitive balance as a Jewish and democratic state. These two descriptors, so often cited when discussing Israeli society and politics, encompass the heart of this debate. How best can Jewish particularism continue to coexist with universalistic values of democracy in the unique experiment that is Israel? The question, of course, is not only theoretical. With the prospects of any constitution increasingly remote, the answer becomes critically important as to whether the Scroll can continue to occupy this lonely space as Israel’s only canonical document.

⁸⁰ Joshua Segev, "Who Needs a Constitution? In Defense of the Non-Decision Constitution-Making Tactic in Israel." *Albany Law Review*, Vol. 70, 2 (2007): 416.

Chapter 4

It is plainly evident that the values embedded within Israel's founding document can find themselves in tension with one another. As Israel's stakeholders, both within the country and outside the country, demand space for their voices and interests that tension only increases. Furthermore, in the absence of a constitution, the 19 short paragraphs of the Scroll are open, as we have seen, to multiple interpretations that allow for a great deal of debate and conflict within the dynamic society that is Israel. Israel has evolved to meet this challenge with the help of an activist Supreme Court and sufficient flexibility within a sensitive society.

The Quest for Jewish and Democratic

Jewish and democratic seem to exist seamlessly within the words of the Declaration, as each weaves its narrative and corresponding principles within the paragraphs. That said, they reveal themselves in distinct ways, ways that only serve to complicate the sensitive issue of Israeli and Jewish identity. The Jewish story is clear from the outset as this document defines the Jewish nature of the State in no uncertain terms. The word “*yehudi*” appears no less than 20 times throughout the document. The word “democracy” or “democratic”, on the other hand, does not appear even once, though its principles are abundantly evident in its second part. It would take Israel's *Knesset* until 1992 with Israel's first Basic Laws on Human Dignity and Liberty to solidify and define the Jewish *and* democratic nature of the State.⁸¹

⁸¹ The system of basic laws began in 1950 with the “Harari decision.” Rather than draft an immediate constitution, a series of basic laws would carry the weight of legislative power and lay the foundation for a future constitution. The basic laws of 1992, dealing with human rights and dignity, are the ones of particular relevance for this study.

These years between 1992 and 1994 became Israel's so-called "constitutional revolution" under Supreme Court President, Aharon Barak. During his tenure, the Court continued to spell out basic human rights, and received the power to insure their execution. In so doing, the basic laws entrenched and emboldened the democratic principles already laid out in the founding Scroll. For instance, the Basic Law of 1994:

Freedom of Occupation states:

The fundamental rights of persons in Israel are grounded on the recognition of the value of the individual, the sanctity of life, and the freedom of the individual, and that they will be respected in the spirit of the principles of the Declaration establishing the State of Israel.⁸²

As Barak stated regarding the Declaration of Independence, it constitutes the collective "We Believe" of the nation, in addition to a rallying cry of inspiration and aspiration.⁸³

Thus, we see the Basic Laws grounding themselves in the Scroll's wording. Most strikingly, the above basic law of *Knesset* adopts a traditionally Jewish tripartite framework in explaining the foundation of Israeli democracy and establishing a natural link between a Jewish State and democratic values.⁸⁴

These basic laws defined and set the *minimum* standards necessary for the values of the State of Israel as a Jewish and democratic State. Barak and his allies would claim that these basic laws amounted to an Israeli "Bill of Rights," and bestowed upon Israel

⁸² *Israel Among the Nations: International and Comparative Law Perspectives on Israel's 50th Anniversary*, edited by Alfred Kellerman (The Hague: Kluwer Law International, 1998), 54. For more information on Israel's basic laws, see Rubinstein, 196. Also, see the Knesset's official website for further information on Israel's basic laws. https://www.knesset.gov.il/description/eng/eng_mimshal_yesod1.htm. This work began throughout the 1980s, reaching a climax during the tenure of Dan Meridor as Minister of Justice in the late 80s. His attempt to pass another basic law detailing human rights based on the "principles in the Declaration of Independence" came to fruition in the above-mentioned Basic Law of 1994.

⁸³ Kamir, *The Scroll has Two Faces*, 47.

⁸⁴ The rabbis of the Talmud would often quote in groups of 3, a practice which many Jewish documents have followed, including the Scroll of Independence.

the status of a “constitutional democracy.” The debate over Israel’s identity began reaching a fevered pitch as other Israelis began voicing their opposition, claiming that the Jewish character of the State invariably prevented true progress on human rights legislation.⁸⁵ This debate continues to the present day with no end in sight, as consensus and compromise show themselves as ever-elusive in Israeli society.

Tensions between Jewish and Democratic

Prior to the establishment of these Basic Laws, the Scroll did enjoy a certain legal standing and authority within Israel’s judicial system. For instance, after a group was refused the right to publish a real estate advertisement exclusively in the Arabic language, they appealed to the Supreme Court. The Court justified its decision to allow publication of the advertisement only in Arabic by analyzing the Scroll’s twin and competing declarations regarding Jewish and democratic rights. It found that in this case, “the right of the Arab population to freedom of language takes precedence over the Zionist policy of encouraging and promoting the Hebrew language.”

A further example regarding progressive Judaism in Israel further demonstrates the decades-long tension between the competing Zionist and democratic principles. In a landmark decision regarding the validity of life cycle events performed by liberal rabbis, Justice Shlomo Levine of the Supreme Court maintained, “the State of Israel must absorb within it and serve us a national center for all Jews of all denominations, worldviews, and differences, in the spirit of the Declaration of Independence.” As a result, he ruled that

⁸⁵ Kamir, 42. See <http://www.jewishvirtuallibrary.org/jsource/isdf/text/shultziner.html> for detailed information on Barak’s opinions as well as overall information on Israel’s Basic Laws.

Orthodox establishment rabbis could not prevent liberal Jews from receiving marriage or other services from liberal rabbis.⁸⁶ Though hailed by liberal Judaism as a positive step in the right direction, this decision has not yet been fully implemented, and was met with the predictable outcry from the Orthodox establishment.

This Supreme Court example contrasts with the example given in Chapter 3 when an Israeli citizen tried to get state recognition over a civil marriage ceremony. In that case, the Court ruled that the Declaration's provision on freedom of religion was not sufficient to overrule a law of *Knesset*. In *this* ruling, however, also regarding liberal Judaism, the Court relied on ideals found in the Scroll, given that no existing piece of *Knesset* legislation related to it. Moreover, since this ruling occurred before the establishment of certain Basic Laws, the Supreme Court had to rule on the democratic principles within the Scroll, principles which contradicted the "status-quo" state-sanctioned definition of Judaism. Here, again, the Jewish principles as defined by the Orthodox "status-quo" seem to conflict with certain democratic principles.

The difference here, however, is profound and fundamental to our discussion of liberal Diaspora Jewry. After all, a liberal reading of the Scroll would find no conflict between the Zionist/Jewish principles and the democratic ones. It is only when filtered through the "Orthodox" lens of the State rabbinate that the tensions and conflicts arise.

Israel's Supreme Court has frequently found itself in the position of defining the complex parameters of identity and religion in the public sphere. Throughout the years, as the Basic Laws developed, it has proven itself outspoken and unafraid, upholding the

⁸⁶ Kamir, 47. See his footnote #146 for information on the case of liberal Judaism.

Scroll's principles while also intervening in legislative decisions. Thus, after the Central Elections Committee disqualified the Socialists' List in the 6th *Knesset* for pursuing a policy that would jeopardize Israel's Jewish identity, the Court came in and lent its voice. This time, it upheld the Committee's disqualification, quoting the Scroll's mandate that a Jewish State be founded in the Land of Israel, based on the Jewish People's "natural and historic right" to self-determination.⁸⁷ The democratic principles in the Scroll, specifically freedom of speech, did not extend so far as to abrogate its Zionist underpinning.

In a similar example between the Supreme Court and the Central Elections Committee, the latter cited and championed the Zionist principles in the Scroll when it voted to bar the candidacy of Ahmad Tibi and Azmi Bishara ahead of the 2003 parliamentary elections. It decided to disqualify those Arab *Knesset* members for "seeking to destroy the Jewish character of the State and supporting the armed struggle against it." Though the attorney-general, Elyakim Rubinstein (now vice-president of the Supreme Court) supported this decision, the Supreme Court overruled this disqualification and allowed the men to run despite their controversial activities.⁸⁸ In this case, the Scroll's democratic promises, buttressed by the Basic Laws, allowed freedom of speech to supercede the Zionist narrative of the Scroll.

This political tug-of-war between the *Knesset* Committee and the Supreme Court has accompanied Israeli politics for decades and will likely continue as each group tries to define equitable rules of engagement. The rulings often transcend traditional lines of state, religion, and minority rights within a majority Jewish State. Thus, we see the case

⁸⁷ Naor, *The Friday that Changed Destiny*, 242.

⁸⁸ Dan Izenberg. "High Court Overturns disqualifications of Ahmed/Tibi" *Jerusalem Post*, January 10th, 2003.

before the 1984 11th *Knesset* when the Central Committee tried to disqualify Meir Kehane's Jewish "*Kach*" party, this time citing a flouting of the *democratic* values in the Scroll. It reasoned that "this party promotes racist, anti-democratic principles that stand in direct contradiction to the Declaration of Independence of the State of Israel." Once again, the Supreme Court came in, ruling against the Committee, claiming that Kehane had a right to run.⁸⁹

Defining the Parameters of Jewish and Democratic

Fascinatingly, it was Meir Kehane himself who helped expose the fragility and sensitivity of these terms' coexistence. He recognized the capacity for conflict between these two faces of the Scroll. Depending on how strict a definition you ascribed to each, it would negate the values of the other one. In a fiery speech on the *Knesset* floor, Kehane accused Israel of forever enshrining its schizophrenia and confusion into the country's founding document. He went on to claim that Jewish and democratic cannot coexist within the Scroll. After all, according to his argument, based on democratic principles, the Arab population could become a majority within the Land and then decide to negate the Jewish principles. Instead of allowing for such possibilities, the Scroll's Judaism would need to be further defined in nationalistic and *halachic* terms in order to demand an eternal Jewish majority. Far from the ability to coexist harmoniously within the same document, he wished to separate the two, cancelling out the democratic values while elevating and expanding the Jewish ones.⁹⁰ This extreme example would evolve into the

⁸⁹ Kamir, 38.

⁹⁰ Kamir, 39.

foundation of the contemporary debate surrounding the proposed nation-state law, a proposal that we will examine in more detail later on this chapter.

Most Jewish leaders throughout Israeli history would disagree with Kehane's analysis of the Scroll, and say that there is no inherent conflict between Jewish and democratic values. Ben Gurion and Begin, for instance, though bitter rivals at times, saw no conflict between the two. Indeed, the former helped cement this partnership in the Scroll itself by clearly linking the two, and setting up a mutually beneficial and inclusive relationship: "the State will be based on the foundations of freedom, justice, and peace as envisaged by the *Hebrew* prophets..." Thus, as already established in earlier chapters, the wording presents itself as self-consciously aware of the need to establish this natural link. Israel's High Court of Justice has ruled along these same lines, saying that Zionism and democracy can coexist naturally:

It is clear and understood that, according to the Declaration, and according to the values within the Jewish tradition, this state should be, and indeed, must be, a democratic state . . . these two things do not contradict one another: The State is a Jewish one; but the regime under which it functions is a democratically enlightened regime, one that grants rights to all of its citizens, Jews and non-Jews alike.⁹¹

It is this under this spirit that Israel's leadership and Supreme Court continue to operate, ensuring that Israel fulfill its self-imposed obligations as a Jewish and Democratic State.⁹²

This ideal arrangement can only endure, however, if certain factors continue to exist within Israeli society.

⁹¹ Dov Levin, Israeli Supreme Court Justice, as quoted in Kamir, 40. (Hebrew Original)

⁹² Though these obligations are, indeed, self-imposed, one must always take into account international perception, especially in the case of Israel where every decision is placed under an international microscope. Given the global insistence that Israel be democratic, any perception of the contrary would only increase Israel's international isolation, a phenomenon that is already occurring at an alarming rate.

Most importantly, Israel must remain a State with a clear Jewish majority. Other factors within the Scroll also help illuminate this delicate interplay. As renowned Israeli law professor Ruth Gavison analyzes the Scroll, she sees three fundamental components within it: Judaism, Democracy, and Human Rights. She maintains that these three coexist as ambiguous and amorphous concepts: Thus, “the more richness we attribute to the meaning given to each of these components, thus increases the potential for debate over each meaning, as well as the conflict between them.” Conversely, “if we instill in the 3 components a more narrow meaning, there is no difficulty reconciling between them and even each complementing the other.”⁹³ This is the sensitive state of affairs, a delicate dance, that Israel has found itself conducting ever since its founding.

If, for example, democracy becomes the overriding principle based on external definitions, anything promoting Jewish particularism would be offensive. If, on the other hand, Jewish values or law become the overriding principle, minority and Arab rights would find themselves constantly under attack. There are constituents on both sides who would like to see one of these visions grow in dominance. It is precisely Israel’s vibrant democracy and functional system of checks and balances that prevent this from happening. Thus, the State maintains an essential level of ambiguity concerning its Jewish and democratic nature.

Sensitivity and suspicion often reign supreme on all sides of the debate. The stakes are high and the level of distrust continues to reach frenzied levels between Jew

⁹³ Ruth Gavison. “Constitutional Grounding of the State’s Vision: Recommendations to the Minister of Justice.” (November, 2014): 8. (Hebrew Original.) This long article was delivered to Minister of Justice Tsipi Livni in response to the proposed Nation-State legislation, something which we will discuss in greater detail later in the chapter.

and Arab. In a fascinating study conducted by the Israel Democracy Institute, three quarters of Israeli Jews “believe that the State of Israel can be both Jewish and democratic.”⁹⁴ On the Arab side, however, two thirds of Israeli Arabs do *not* believe that such a combination is possible. This may not be surprising considering the majority of Arabs stand vehemently against Israel’s definition as a Jewish State. Nonetheless, it represents a significant challenge in achieving a dialogue between the parties aimed at peaceful coexistence.

Israel’s democracy can often find itself at the breaking point when dealing with this precarious situation of Israeli Arabs. What can Israel do with Arab Israelis who openly call for the destruction of Israel as a Jewish State, or who aid enemy states and terrorist organizations to achieve that goal? If certain constituents reject the Jewish demands within the Scroll, can they still enjoy the democratic values, using those rights to further undermine the State? How far must the State go in order to still uphold the democratic promises within it?

These are fundamental questions with which Israel grapples daily. Indeed, Israel’s Security Cabinet just issued a decision outlawing the northern branch of Israel’s Islamic movement, sparking massive protests throughout the country. One Arab MK from the Joint List, Taleb Abu Arar, declared this ban a “declaration of war” against Israel’s Arab population. In his explanation, Netanyahu justified the decision, branding the group a “separatist-racist organization, belonging to radical Islam, and dedicated to the

⁹⁴ *The Israel Democracy Index 2013: published by the Israeli Democracy Institute. Official PDF copy:* <http://en.idi.org.il/media/2726731/2013-Democracy-Index-Main-Findings.pdf>

destruction of the State of Israel.”⁹⁵ Though it remains to be seen whether this decision will stand after appeal, its implications will continue to be explosive within Israeli society.

Contemporary Usage and Appropriation of the Scroll

While it is true that the Basic Laws have anchored the importance of democratic principles, the Declaration of Independence continues to occupy a prominent spot within Israeli and Jewish discourse. As Israel’s only founding document with its iconic scroll and ancient feel, no set of Basic Laws can replace its importance or speak with the same level of authenticity or credibility. Thus, in addition to expressing the nation’s “vision and manifesto,” it also plays a surprisingly large role in public discourse within and outside of Israel. Whether governmental or non-governmental, religious or secular, right wing or left wing, many organizations appropriate the Scroll’s words to reinforce and lend authenticity to their own messaging. Given the purposeful ambiguity embedded within it, the Scroll lends itself to relatively easy application across many spectrums.

If we were to separate the Scroll into two sections, the democratic one and the Jewish one, the examples cited below would show a clear preference for the democratic and less for the Jewish. Though not a comprehensive list, it does, however, represent a clear trend within Israeli and global Diaspora society to further embrace and elevate the democratic principles within the Scroll. This proves only logical given the liberal trend in the Jewish community around the world.

⁹⁵ Herb Keinon, Ariel Ben Solomon, and Lahav Harkov. “Cabinet Outlaws northern branch of Islamic movement.” *Jerusalem Post*, November 17th, 2015.

“Rabbis for Human Rights”

The organization *Rabbis for Human Rights* (RHR) is an Israeli NGO with strong American ties founded in 1988 to advocate for human rights, specifically, in the disputed West Bank territories.⁹⁶ It has recently published a comprehensive and elaborate booklet showcasing the Scroll of Independence as part of an on-going project to educate Israel and the larger world about human rights in Israel and the disputed territories. In order to accomplish this, it has chosen to adopt the unique, iconic look and feel of a talmudic page. This distinctive format, full of various commentaries, perspectives, and texts, shows itself as part of a Jewish tradition of diversity, commentary, and acceptance. This format not only enhances the validity of the group’s opinions, it also elevates the Scroll itself to its rightful place within the Jewish textual tradition. As the most significant expression of Jewish sovereignty in centuries and as a beautiful piece of poetry and prose, *RHR* aims to assert that the Scroll deserves this place alongside other Jewish masterpieces.

Rabbis for Human Rights uses the talmudic term *Masechet* (Tractate) as the name of its work, further showing its desire to place its interpretation of the Scroll within authentic, time-honored Jewish tradition. As a religious group composed of rabbis across the Jewish denominational spectrum, it views itself armed with a prophetic and moral

⁹⁶ Recently, in January 2013, the *American Rabbis for Human Rights* separated itself from its Israeli counterpart forming the new group, “*T’ruah*.” They split based on differing policy opinions and controversial positions regarding West Bank land. Though they now function independently, the Israeli group continues to receive significant support and funding from liberal, American rabbis, European groups, and many other international donors. For more information on donors and mission, refer to the group’s website, rhr.org/il, as well as an article in the Forward describing the Israeli/American split: <http://forward.com/news/israel/169449/rabbis-for-human-rights-splits-from-israel-group-a/>

mandate. As this group does throughout all its activities, this project serves as a vehicle for the “human rights” advocacy that it views as central to Israel’s *raison d’être*. In choosing the Scroll as its tractate, the group desires to remind the Israeli government, Israelis, Jews, and other opinion-makers of the principles that it views as sacred and essential for Israel’s existence.

Throughout the “tractate,” the group attempts to forge a strong bond between Israel’s Jewish and democratic nature, showing how organic their coexistence can and should be. Much to their dismay, however, they perceive certain segments of Israeli society as trying to accomplish the opposite:

As we have shown above, the Scroll of Independence includes principles of equality and concern for human rights. To our dismay, these principles are perceived by wide segments of Israeli society as extremist principles and “anti-Jewish,” values that, if implemented, are liable to harm the interests of Israel’s Jewish majority.

Though the document gives no further detail as to who these “wide segments” are, the reader is left to his/her assumptions. As a result of these allegations, the group has taken on the role of educating Israelis and Jews and, thus, rectifying the injustices that they see in Israel concerning the Jewish and democratic values found in the Scroll: “Our central goal in this educational endeavor, thus, is to show that the values rising out of the Scroll, are Jewish values no less than they are Western or universal values.”⁹⁷ In doing this, it dedicates nearly two-thirds of the more than 100 pages to the Scroll’s 13th paragraph, while spending the earlier pages analyzing the other paragraphs through this prism of Jewish/democratic synergy and coexistence.

⁹⁷ *Rabbis for Human Rights, Tractate Independence*, 5. (Hebrew original)

“*Bina*: Center of Jewish Identity and Hebrew Culture”

Bina (Hebrew for “understanding”) is a native Israeli organization operating within a secular framework to support pluralism and a healthy civic society. Founded after Prime Minister Rabin’s assassination and murder, it “promotes a drastically different approach to Judaism - one of unity and pluralism, tolerance and compassion.” Like Rabbis for Human Rights, *Bina* uses the talmudic page as the literary form to best explore and present the themes of the Declaration of Independence and, similarly, names its work “Israeli Talmud: Tractate (*masechet*) Independence.” As part of a multi-year, interdisciplinary project, the organization aims to publish many “tractates” corresponding with each of the 19 paragraphs of the Scroll. Many of these will coincide with the renovation and reopening of Tel Aviv’s Independence Hall to serve as an advanced center for Israeli civic culture, identity, and discourse.

Much like the debate over whether America’s founding canonical documents represent static or living documents, *Bina* aims to open up the document to discussion and debate.

We hope that this new reading of the Scroll of Independence will be the start of a long and captivating journey, one that will turn the Scroll into the basis for an open conversation in Israeli society. We tried, and still are trying, to include all groups that live within Israel to take part in this dialogue: Jews and Arabs, secular and religious. We expect this reading of the Scroll to be critical as well as accommodating, loving and frustrating, but as long as there is a common basis for the discussion, Jewish culture does not fear a debate, and the basis for this debate has always been words, great words with which this Scroll and other Scrolls were crafted.⁹⁸

⁹⁸ *Bina*, *Tractate Independence*, 9.

It aims to help inspire further soul-searching within Israeli society and create a safe space for Israelis to discuss their collective future, as well as the values, purposes, and vision that will inform that future. With this in mind, and in order to lend credibility and authenticity to this lofty endeavor, they aim to open the discussion to all of Israeli society, in particular the Arab segment:

Despite the opposition of the Arab population toward the Scroll, we need to give everyone, even if they do not accept the Zionist ideology, the possibility of reading it. This truth is rooted in Arab citizenship of the State: They can decide to not accept the proposal, but they need to know that the Jewish State, according to its definition in the Scroll, is directed at them no less than it is directed to Jews in Brooklyn or a *yeshiva* in Israel, no less even than to a soldier who protects the State on their behalf.⁹⁹

These striking words represent a ground-breaking approach to the internal Arab-Israeli conflict occurring within pre-1967 Israel each and every day. They also represent a revolutionary invitation to Israeli Arabs to participate in Israeli society rather than reject it, to embrace Israel's founding principles of democracy and pluralism in spite of its Zionism.

To accomplish this, similar to *Rabbis for Human Rights*, *Bina* aims to emphasize the compatibility of Zionism and Democracy. Rather than focus on one at the expense of the other, the two can coexist and even flourish. The group “hopes to bring the public closer to values of pluralism and deep democracy that exist within Judaism and Zionism, values that also find beautiful expression within the Scroll of Independence.”¹⁰⁰ As the

⁹⁹ *ibid*, 14.

¹⁰⁰ *ibid*, 9.

group rightly points out, Israel's supreme challenge will always be how to achieve this complex balance.

The Reform Movement

The Reform Movement of Judaism enters the Israeli political fray frequently as it attempts to advocate for a just and fair society. Most recently, after Benjamin Netanyahu's controversial public remarks regarding Arab Israelis and the peace process preceding his election victory in March 2015, the Movement broadcasted several public announcements:

We urge the Prime Minister, that when he forms a new governing coalition, it be one that reflects openness and pluralistic values for all of Israel's citizens, a coalition that will not reflect discrimination of one religious denomination over another, a coalition that will reflect the democratic and pluralistic values expressly stated in Israel's Declaration of Independence.¹⁰¹

This statement clearly demonstrates the importance that the progressive-leaning Diaspora places on two of the three declarations that Ruth Gavison highlights within the Scroll: human rights and democracy. The Reform movement self-consciously places *itself* as a minority within Israel, demanding equal religious rights for the Movement itself in addition to *democratic* rights for all of Israel's citizens.

In order to gain a stronger foothold within the Israeli political process, the Zionist organization of the Reform Movement, *ARZA*, lobbied intensively prior to the 2015

¹⁰¹ Official ARZA email, March 19th, 2015 after Netanyahu's victory, and signed by all major Reform organizations: URJ, CCAR, ARZA, WRJ, ACC, WUPJ. Immediately prior to his victory, Netanyahu made comments that Israeli Arabs were going to the polls in "droves," a remark taken as a prejudiced fear tactic to mobilize the Israeli right. In addition, he made comments against a possible 2 State solution, both of which angered the Obama administration, as well as many American Jewish leaders.

World Zionist Congress Elections. In its official flyer, prior to quoting the entire 13th paragraph of the Scroll, the operative paragraph dealing with the State's democratic foundations, it says:

As the Zionist organization of the Reform movement-the largest Jewish movement in the US-We aim to create an Israel that is both Jewish and democratic, a free society committed to equality of religion, gender, race, and ethnicity, as outlined in Israel's Declaration of Independence.

It quotes this immediately prior to laying out its three bedrock goals within Israeli society: Women's Rights & Gender Equality, Religious Equality, and Two States: One Path to Peace. Again, the focus is clear on upholding and promoting Israel's democratic values based on a pluralistic society.

For its part, the professional arm of the Reform Movement, the CCAR, recently cited the Declaration of Independence when speaking of Israeli President Reuven Rivlin's remarks about ending Israeli discrimination toward its Arab citizens. CCAR President, Richard Block, stated, "Rivlin spoke eloquently of the danger of elevating the Jewish character of Israel over its democratic character, a fundamental contradiction of the equal status of those two principles in Israel's Declaration of Independence."¹⁰² These remarks are fascinating and telling in several ways. First and foremost, they define Israel's democratic character as equal with Israel's Jewish character, basing this position on Israel's founding Scroll.

As we have already discussed, however, the Scroll itself seems to contradict this assertion. Not only does the Scroll never use the word "democracy," it focuses a significantly larger portion of its content on Israel's Jewish narrative. In fact, with the

¹⁰² *CCAR News* Volume 62:3. (Jan/Feb 2015): 3.

exception of the crucial 13th paragraph, there is scant mention of democratic principles within the Scroll. The question remains, however, as to whether or not this fact is indeed relevant. The Reform Movement, like many organizations across the Jewish and non-Jewish spectrum, chooses to highlight and tout the Scroll's "democracy" above all else. Indeed, in terms of the Judaism/Zionism expressed within the Declaration, the Reform movement rarely cites it except insofar as it buttresses democratic and pluralistic values. In doing so, it has largely followed the example of Israel's own Supreme Court ever since Aharon Barak's "constitutional revolution" of the 1990s.

Of course, it is important to note that the Reform Movement cares deeply about Israel's Jewish character, as well as the Zionist narrative so beautifully written within the Declaration. The Movement's focus on the democratic principles does not actually come at the expense of its Jewish ones. Rather, it reflects the fact that Israel's government largely does not recognize Reform Judaism as an authentic expression of Judaism. As a result, it can be no wonder that the Movement needs to bolster its own Jewish voice by calling Israel to account on behalf of pluralistic and democratic principles. Only then can Reform Judaism's voice be truly reflected within the Jewish reading of Israel's founding Scroll.

The challenge facing Israel is great: How can she live up to all of the lofty ideals within the Declaration given its sensitive geopolitical reality and factious political system? Dr. Aaron Panken, President of the Reform Rabbinical School, Hebrew Union College-Jewish Institute of Religion had this to say in early August, 2015 after a spate of *Jewish* terrorist attacks:

Israel was founded to be a homeland for all Jews. Its 1948 Declaration of Independence defines it as a state that “will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex,” one that “will guarantee freedom of religion, conscience, language, education and culture.” The government of the Jewish state must always walk a fine line in preserving both its Jewishness and the fundamental freedoms that inhere in any democracy. Granted, this is not simple, especially in a polarized political system where small parties in coalitions can exert undue influence.¹⁰³

Panken pinpoints the challenge facing Israel, melding together the Zionist and democratic declarations of the Scroll, from an authentically Reform Jewish standpoint.

At times, the Declaration seems to be ubiquitous within the Reform Movement.

At Dr. Panken’s seminary, where this author is a student, we recently received a new opportunity from the *New Israel Fund* (NIF) for a rabbinical internship. Its description reads:

2015-2016 is the inaugural year of the Elissa Froman Social Justice Fellowship, a program intended to provide HUC rabbinical students with in-depth knowledge of social justice issues in Israel and with experience engaging the American Jewish community in this aspect of Israeli life as a way to strengthen ties with Israelis working to realize the country’s founding ideals as expressed by the founders of the State in Israel’s Declaration of Independence.

Though it did not explicitly state so, the description alludes clearly to the Declaration’s 13th paragraph through its appeal for “social justice.” By specifically engaging the American Jewish community and its budding rabbinical leaders, the NIF aims to encourage Diaspora Jews to affect pluralistic change within Israel.

¹⁰³ Jerusalem Post. August 3rd, 2015.

Moving to the “Nation-State Law”

As one can see plainly, progressive groups are the ones that have primarily appropriated the content and consensus of the Scroll to further their agendas. As a result of this, the clear focus is on the democratic principles within the Scroll, and less on the Jewish/Zionist narrative. As Israel nears its eighth decade of existence, the Israeli public debate has shifted and evolved in different ways. A Jewish and Zionist narrative that could unite the nation in the heady days of 1948 or 1967 does not have the same staying power in the divided Israel of today. On the other hand, the democratic narrative has found its voice increasing in Israeli society at the expense of its Zionist compatriot within the Scroll.

The wide consensus surrounding the Zionist/National/Secular conversation about the Zionist Declaration has cracked, and the central Israeli discourse has splintered. One segment adopted Jewish approaches, traditional, religious, and *halachic*, stronger than those of the Zionist Declaration. Another segment distanced itself from the values of the Zionist Declaration and grew closer to the values of the Democratic Declaration. Though many, indeed, remained loyal to the Zionist values of the State, the Zionist/Secular discourse of the Zionist Declaration has lost its power to unite.¹⁰⁴

As the intractability of the Arab/Israeli conflict remains unchanged, and deep Israeli divisions over the status of the 1967-captured territories intensify, the Zionist narrative no longer unites the State or the Diaspora. Moreover, as Israel’s internal Jewish identity has become more tribalistic and divided, no single Jewish or Zionist narrative can fit the disparate needs of the Israeli and Jewish people. This helps account for the embracing of

¹⁰⁴ Kamir, *Two Faces*, 41. (Hebrew Original)

the Scroll on the part of progressives, as well as the seeming silence on the part of more conservative Jewish-centric groups.

The one notable exception to this statement, and the one that has occupied a significant portion of Israel's public discourse over the past year and a half, is the so-called "Nation-State Bill." One of Benjamin Netanyahu's signature initiatives in his third premiership (2013-2015,) after causing much controversy, it has largely subsided into the background now in his fourth rotation as other, more pressing matters occupy his attention. Intended as another basic law of Israel, and to further the country's growing canon of constitutional-like rulings, it meant to spell out and elucidate the Jewish contours of the State first mentioned in the 1948 Declaration. Article 2 of the law's proposal, authored by *Knesset* Members Ayelet Shaked (*Jewish Home* Party) and Yariv Levin (*Likud* Party,) states:

This basic law has, as its goal, to define the identity of the State of Israel as the Nation-State of the Jewish People, in order to anchor, within the basic law framework, those values within the spirit of the principles laid out in the Declaration of the State of Israel.¹⁰⁵

In its official explanation, the authors describe how, "despite widespread public agreement as to Israel's Jewish identity, the characteristics of Israel as the nation-state of the Jewish People have never been anchored in the Basic Laws of the State."

While framing it in this way, the proposal also states explicitly that Israel will be a democracy, and proceeds to quote the democratic principles laid out within the Scroll in detail. Thus, despite the widespread opposition to the Law, opposition that we will

¹⁰⁵ Ayalet Shaked and Yariv Levin (Members of the 19th *Knesset*.) *Basic Law Proposal: Nation-State of the Jewish People*. (Hebrew Original)

address in more detail below, the wording does address both the Zionist and democratic principles of the founding Scroll. In fact, many of its supporters contend that controversy is strange and unintended since it merely summarizes the key points of the Scroll.

In analyzing the need for this law to then-Minister of Justice, Tsipi Livni, Ruth Gavison contextualizes it as an attempt to gain some balance back from Barak's "constitutional revolution." That "revolution," in giving more weight to democratic ideals, detracted from the founding *Jewish* vision of the State. Moreover, the rising delegitimization and international demonization of Israel, helped provide the impetus for this law's proposal.¹⁰⁶ If these seemingly innocent objectives were, indeed, the impetus for the Law, it has since become so mired in controversy from within and outside of Israel so as to make it highly political and partisan. As with any other attempt to legislate Israeli and/or Jewish identity, the complexity and passion surrounding it will likely dictate its fate.

Shimon Peres, former President of Israel, claimed this Nation-State Bill represented an attempt to "enslave the Scroll." On the other hand, Dr. Einat Wilf, former *Knesset* member and passionate proponent of the Law, says this Law simply says to Israeli Arabs the same thing that French Deputy Clermont-Tonnerre said to the Jews at the outset of the French Revolution: "to the Jews as individuals, everything, to the Jews as a nation, nothing."¹⁰⁷ Be that as it may, this brings us back to the initial spark for this paper as mentioned in the opening remarks. As David Ellenson and Deborah Lipstadt wrote in a Wall Street Journal Op-Ed, in quoting Israel's founding Scroll, "the proposed

¹⁰⁶ Gavison, *Constitutional Grounding*, 13.

¹⁰⁷ Statement from Wilf's October 29th lecture at HUC-JIR's New York campus.

legislation betrays the most fundamental principles enshrined in the Israeli Declaration of Independence.”

In their further analysis, they maintain that it would certainly “inflamm[e]” Israel’s Arab citizens and provide “fodder” for Israel’s many critics:

The proposed bill provides no additional security for the State of Israel. It wouldn’t help the country stand up to Hamas or any of the other nations or groups devoted to Israel’s destruction. On the contrary, the law may place Israel in ever-greater danger. It fosters the impression that Israel has moved away from its firm commitment to democracy and sends a message that the full-fledged rights of all its citizens—the 20% of its citizens who are not Jews—are diminished in the eyes of the law.¹⁰⁸

This compelling and astute analysis grounds itself on the principle that perception is more important than reality, especially in the tinderbox of the Middle East. It coincides with Ruth Gavison’s recommendation against the Nation-State Law to Tsipi Livni, saying that legislating this law dangerously shows that, rather than complementing one another, the components of Israel’s founding vision compete with one another.¹⁰⁹ Regardless of where one stands on this controversy, it is impossible to ignore the sage words behind this. If the government further pursues this law, regardless of the intention, the *perception* will be clear, unequivocal, and dangerous: Israel is moving away from democracy by enshrining second class citizenship to its Arab citizens.

Meanwhile, it appears that, despite the months-long silence regarding this bill, it is alive and well. On his official *Facebook* page, Netanyahu posted the below message

¹⁰⁸ David Ellenson and Deborah Lipstadt. “You Need a Law to Affirm Israel’s Identity?” *Wall Street Journal*, December 1, 2014.

¹⁰⁹ Gavison, *Constitutional Grounding*, 15.

following his government's recent decision regarding the country's northern branch of the Islamic movement:

I hear the voices rising against our decision to outlaw the northern branch of the Islamic movement. This will not change our decision one millimeter. We are committed to this decision, just like we are committed to passing the Nation-State Law that will resolve Israel's identity as a Jewish and Democratic State in a clear way, as the Nation-State of the Jewish People. We are now beginning to advance the legislation of the Nation-State Law.¹¹⁰

Of course, given his fragile coalition, significant doubt remains as to whether he will be able to pass such a bill. Regardless of his success or failure, the perception of this law mirrors the contours of Israeli society, as well as the divisions that have endured for generations. In the next and final chapter, we will analyze whether or not this detente can continue, and look at future implications for Israel, liberal Jewry, and the Reform rabbinate.

¹¹⁰ Official *Facebook* Post of Benjamin Netanyahu: November 29th, 2015. Though he translates some of his posts into English, this post appeared in the Hebrew. (Author's translation)

Chapter 5

Minority Relations Moving Forward

As all of these examples demonstrate, the Scroll continues to play a vibrant role in Israeli and Jewish diaspora dialogue. This will, undoubtedly, remain the case until the promises and the demands of the Document come to fruition in Israeli society. The minority stakeholders, especially, will continue this fraught conversation demanding their rightful place in Israel's future. In particular, as it relates to this paper, Israel's Arab minority and the Jewish Diaspora will continue this dialogue in the hopes of better inclusion and representation.

Arab Israelis now constitute roughly 20% of Israeli society, or 1.7 million people. Given this size and, despite the obvious differences and tense history that separate them from the Jewish majority, they must feel themselves included as part of the Israeli collective if Israel is to succeed in the future as a democratic state. The framers of the Declaration had this in mind when they first wrote this document, and these concerns remain ever relevant and pressing today after nearly 70 years of complicated coexistence. Indeed, as Yoram Shachar contends, Moshe Sharett took this into account when he changed the Declaration's wording from "*Jewish* nation" to "*Hebrew* nation."¹¹¹ Since Jewish denotes a religion and/or a people and seems to exclude the Muslim Arab population, Hebrew appears more inclusive as its more limited definition only refers to a language. Arabs could and should feel themselves a part of this collective entity. Thus, the document outlines their responsibilities to the State, while also describing their democratic rights.

¹¹¹ Yoram Shachar. *Israel as a 2-Parent State*, 42.

The stakes remain high as world leaders and non-governmental groups demand that Israel safeguard Arab rights. Recently, when defending the Iranian deal in an interview with Jeffrey Goldberg, Obama took Netanyahu to task for those controversial statements cited in the previous chapter. Obama quoted Netanyahu as saying:

a Palestinian state would not happen under his watch, or [when] there [was] discussion in which it appeared that Arab-Israeli citizens were somehow portrayed as an invading force that might vote, and that this should be guarded against—this is contrary to the very language of the Israeli Declaration of Independence, which explicitly states that all people regardless of race or religion are full participants in the democracy. When something like that happens, that has foreign-policy consequences...¹¹²

After all, many pundits attribute the last-minute surge of Netanyahu's Likud party to these provocative words. According to Obama's interpretation, one which most liberal Jews would agree with, Netanyahu must refrain from alienating Arab Israelis with such statements about their choice to exercise their democratic right to vote. Otherwise, in a not-so-veiled threat, Obama justifies potential policy consequences.

Arab Israelis, for their part, also have a role to play in this ongoing conversation. The Declaration does not just grant blanket rights. It also outlines responsibilities through a comprehensive and mutual dialogue necessitating the participation of both sides. In order for Israeli society to truly reflect the principles embodied in the Declaration, a mutual relationship of give and take must flourish. Arab Israelis must strive for social integration even as they demand better representation and rights from the government. As the Declaration says, they must take their part (*litot helkam*) in the building of the State lest they remain an isolated, disaffected minority. One of the Jewish majority's greatest

¹¹² Jeffrey Goldberg, "Look...it's my name on this. Obama defends the Iran Nuclear Deal" *The Atlantic* May 21st, 2015.

fears is that Arab Israelis could constitute a 5th column in future Arab/Israeli conflicts. For the sake of Israel's future and the future of all her residents, both sides must work to insure this never occurs. Israeli Jews must treat Arabs as bonafide Israelis, just as Arabs must respect the State, contribute to her well-being, and obey her laws and institutions. In an era when most Israeli Arabs have come to refer to themselves as Palestinians, this issue becomes that much more difficult to solve.

Similarly, the Declaration's insistence on mutual dialogue and compromise also applies directly to Diaspora Jewry. As mentioned previously, throughout its paragraphs, it depicts the epic history of Jewish peoplehood. It goes on to promise the granting of "religious freedom," while also requesting the continued support of the Jewish Diaspora in building the State. Though Diaspora Jewry has largely provided such support, the granting of full "religious freedom" to pluralistic expressions of Judaism remains a distant dream for all of worldwide Jewry. In its ever-hardening stance, the State's rigid rabbinate views even many American *Orthodox* conversions as illegitimate, giving a common grievance to all Diaspora Jews regardless of their denomination. The Declaration's interplay of rights and responsibilities can only work if both sides play by these rules. Otherwise, as former ambassador to the US and current Knesset member, Michael Oren, says, the State will find itself in grave danger of losing Jewish support from the Diaspora.

Israel herself must recognize the vision of Zionism that the Declaration sets forth. It is a vision that shows the fundamental Jewish evolution from *rabbanut* to *ribonut* (from the rabbinate to sovereignty.) For many centuries, the rabbis represented the gatekeepers

and guardians of the Jewish people, as a small and embattled minority population.

Ribonut, where Jews are the masters of their own destiny, should mark the end of the power of the *rabbanut*. No longer should the rabbis act as decision makers. The sovereign State of Israel has a parliament, Prime Minister, and Supreme Court, all of which fulfill the necessary responsibilities of governance and security. It was a short-sighted and potentially damaging decision of Ben Gurion to prevent this natural and essential evolution. Moreover, it is one that contradicts the arc of Jewish history so poetically laid out in Israel's founding document.

Can the Scroll Remain Alone?

With so much pressure brought to bear on this one, relatively short document, the question invariably surfaces as to whether it can remain alone as Israel's sole canonical document. The Declaration promised a constitution by the end of Israel's first year, a date quickly passed and eclipsed by dozens of passing years. A series of Basic Laws, amorphous bullet points that wander through Israeli public discourse, are all that have followed to provide clarification and context. Easily-toppled coalitions, frail governments, and stormy *Knesset* proceedings fill in the remaining air-space, and yet due to their volatile, fleeting nature, cannot provide any type of coherent staying power. How much longer can the Declaration stand alone if the principles expressed in it are to find genuine realization in the political and civic life of the State?

In order to answer the question, a brief examination of Israel's founding years proves necessary. Ironically, it was the master framer of the Scroll of Independence,

David Ben Gurion, who insured that Israel would not write its own constitution. In essence, he viewed a constitution as a modern invention unfitting a nation as new and dynamic as Israel. Though a passionate and fervent believer in laws and democracy, he thought a constitution would hamper Israel's nascent democracy rather than encourage it.

Real life is complex and heterogeneous, the legislator cannot foresee all the possible cases....law and democracy are the inseparable sureties of Israel's well-being. The circumstances which demanded and defended a constitution in America and France do not obtain here. On the contrary, if we wish to bring up the people to respect the law, it must be by teaching it to respect every law, and not only that favored one we call a constitution..The mere existence of a constitution will not add to respect and affection for the law, but the reverse.¹¹³

No matter the interpretative and living nature inherent in any country's constitution, he viewed his state in *revolutionary* terms. For Ben Gurion, Israel represented the most dynamic country in the world, a country braced for rapid growth and change that no locked and static constitution could accommodate.

He rightly envisioned Israel's rapid growth and Jewish immigration, factors that further distanced the reality of a constitution. He preferred something more akin to the flexible, British parliamentary system, a system with which he had more familiarity, rather than the American constitution-based republic. Thus, in many ways, he precluded the Declaration's provision regarding a constitution, and partnered with the Orthodox Jewish groups in order to achieve this. In the course of nine sittings, between February and June of 1950, all views on the subject found a forum. Eventually, however, the Prime Minister's utopianism persuaded and held sway, and opinion grew against a

¹¹³ Ben Gurion, *Rebirth and Destiny*, 372, 375.

constitution.¹¹⁴

The primary voice of opposition to Ben Gurion came from his political nemesis, Menachem Begin. He wanted to stymie what he perceived as Ben Gurion's insatiable quest for power. Moreover, he wished to strengthen his own credentials as a politician committed to the people's will, one who protected the weakest elements of society. He viewed a constitution as the very embodiment of a government's primary responsibility to its constituents: "To elect a founding assembly whose chief function--in any country on earth--is to provide the people with a constitution and issue legislative guarantees of civil liberties and national liberty...For the nation will then be free." Years later, in 1962, he would use this same principle to defend full, Arab minority rights, and claim their complete consonance with Israel's founding and future vision.¹¹⁵ Though his stance regarding a constitution did not gain significant traction, his passionate voice of civic and social justice would leave its stamp on early Israeli society.

The reality reveals itself clearly in today's Israel: the country is farther away than ever from fulfilling its early promise of a constitution. If it was indeed miraculous that the parties agreed to the wording compromises in the Declaration's drafting, it would take veritable divine intervention to see such compromise in the bitterly divided Israel of today! For better or worse, the Scroll will remain alone as Israel's only foundational document. In fact, it seems this is required if crucial balance and peace is to be

¹¹⁴ See Abramov, *Perpetual Dilemma*, 138-142. In terms of the Orthodox, their vehement opposition stemmed from significantly different reasons. Whereas Ben Gurion felt that a Constitution did not suit Israel's dynamic nature, the Orthodox groups would not sign off on a secular, non halachic framework. Ben Gurion, though he allied with them in opposition, took them to task and challenged them for their impractical desire for an Israeli theocracy.

¹¹⁵ Daniel Gordis, *Menachem Begin: The Battle for Israel's Soul* (New York: Schocken Books, 2014), 114-115.

maintained in Israeli society. Ambiguity and broad definitions may need to reign over narrow allegiances and definitions. In other words,

Not every interpretative debate touching upon the vision's three components (Jewish, democratic, human rights) needs to have a conclusive decision toward one side or the other. In fact, when there is no definitive need for this, it is better to avoid deciding.¹¹⁶

As stated before, *both* scrolls, both the Zionist/particularistic one and the democratic/universal one must coexist as one. It is this complicated, yet necessary balance which Israel must always take into consideration.

The State must resist forces coming from both sides, forces that passionately try to uphold one vision at the expense of the other. On one side, there is an ever-increasing segment of the public, adhering to strict Jewish tradition, and striving for Jewish law (*halacha*) to play a larger role in the public sphere. Much of this segment views democracy as a foreign, Greek import to Israeli culture. The opposing side, also passionate and organized, wants to see a complete separation of synagogue and state, and view increasing Jewish extremism with alarm: "They see the Jewish identity of the State as a barrier and condemn any manifestation of Jewish identity in State institutions."¹¹⁷ Depending through which lens one reads the Scroll, both perceptions find a legitimate and passionate voice in its paragraphs. As we have seen, the Scroll lays out a coherent vision of Israel as a Jewish State with democratic values. The problem arises when one vision is emphasized too greatly at the expense of the other's legitimate voice.

¹¹⁶ Ruth Gavison, *Constitutional Grounding*, 11.

¹¹⁷ Official email update from *Bina*. November 29th, 2015.

This debate over Israeli pluralism represents, of course, only one of the country's existential threats. The others stem from Israeli/Arab relations which take various forms: the ~1.7MM Arabs living within Israel, the external Arab countries, most of which do not recognize Israel and, finally, the ~4MM Arabs living in the Palestinian territories of the West Bank and Gaza. The Declaration addresses directly only the first two of these populations in the consecutive 16th and 17th paragraphs.¹¹⁸ Both of the paragraphs remain largely unfulfilled as Israel still struggles to integrate its Arab minority, and much of the Arab world still rejects the existence of a Jewish State.

Thus, Israel will continue to trudge along; on one hand, burdened by the Scroll's ambiguity and, on the other, liberated by it:

Israel's situation will remain as it was with its founding. Its economic and military achievements enable her to hold strong, to continue to develop and strengthen herself. All of this is enabled by the dictated unity and necessary ambiguity of the Declaration of Independence.¹¹⁹

Given the nature of geopolitical events and Middle Eastern upheaval outside of her control, Israel must maintain constant vigilance, avoiding unnecessary controversy and provocation to the extent possible. Indeed, the Arab world's current state of chaos, though it also presents obvious dangers to Israel, may provide her a respite from Arab entanglements for a time.

As it has since her founding, uncertainty and tension will continue to surround Israel well into the future. The goal must be to achieve some type of elusive equilibrium, one that accommodates the different strata of Israeli society. Unfortunately, Israeli

¹¹⁸ 1948 Israel could not have foreseen the events that would later lead to the Palestinian territories. It is important to note that, had the Arab countries accepted the UN Partition Plan, a state of Palestine would have arisen then and the current, ambiguous nature of the territories would never have developed.

¹¹⁹ Eliazar Schweid, *The Constitutional Document*, 287.

society has grown ever polarized, as individuals and groups feel themselves embattled and dig in their proverbial heels. The well-attested Jewish phenomenon of baseless hatred (*sinat chinam*,) too often, replaces the Jewish principle of an argument for the sake of heaven (*machloket l'shem shamayim*.)

Rampant individualism has all too often replaced any sense of collective civic responsibility as public discourse degenerates constantly into mudslinging and venom. Jews around the world must internalize the timeless words of the ancient rabbis, “both this and that are the words of the living God.” (*elu v'elu divrei elohim chayim*.) Tolerance is the only way forward, the only way to honor both the Judaism and the universalism enshrined in Israel’s founding words. The Scroll, through its beautiful and idealistic words of promise can, perhaps, help unify a broken collective.

David Ben Gurion foresaw this very need at Israel’s inception. He viewed the Declaration of Independence as the paramount work in Jewish creativity and sovereignty in the two thousand years preceding it, a work capable of unifying rather than dividing. For him, it represented nothing short of a creative masterpiece, a poetic rendering of his dreams of Israeli *mamlachtiut*; its lines encapsulated perfectly the Jewish struggle for freedom combined with the unique gifts of the Jewish nation. Fascinatingly, it seems Ben Gurion was most enthralled by the 13th paragraph, the one dealing with democratic principles and the one most often quoted by non-governmental groups. In his recollections, he quotes the paragraph in its entirety, claiming its unique significance for Israel’s development. He then stops and poses a question for reflection:

Is this statement legally valid in the formal sense? I do not know. But I do know that, morally, it has greater force than any other document we are now empowered to ignite. Of course, we could put one together more

high-sounding, but could we easily reproduce the resplendent, the incomparably historic occasion whereon it was approved and signed by every party in this House, from the Communists to *Agudath Israel*? So sure and cementing a unity is seldom experienced-let us prize it, for, whether valid in legal form or not, the utterance of that wonderful day, when the State came to life again, must always own superior moral force than was said at other 'looser times. There has been nothing like it in our lives for two thousand years.¹²⁰

With these words, he reflects his own emphasis upon a Jewish nation, albeit one infused with secular, *democratic* values. Moreover, he reveals the Declaration's unique beauty and enshrines its permanent relevance. The fact that such disparate parties managed to reach such a historic compromise mirrors the very miracle of Israel's modern rebirth.

Personal Resonance

Daniel Ophir, Director of the Israel Bible Museum for many years, would often recount conversations with Ben Gurion in which he would expound on how the Jewish Nation had two homes; the Land of Israel as the physical home, and the Bible as the spiritual home.¹²¹ The Israeli Hall of Independence, located in the home of Tel Aviv's first mayor, Meir Dizengoff, was established to concretize this vision of Ben Gurion. In his lofty perception, the modern words of the Scroll brought to life the biblical imperatives of Zionism, social justice, and the importance of Jewish territory. Just as the Bible heralded the Jewish Nation's founding as a people with a collective consciousness, so too did the Scroll usher in yet another Jewish commonwealth. These two documents embody the Jewish collective spirit and its *raison d'être*. Like many others before me, I believe it is essential that all Jews, whether Israeli or Diaspora, become more familiar

¹²⁰ Ben Gurion, *Rebirth and Destiny*, 378.

¹²¹ Naor, *The Friday that Changed Destiny*, 201.

with their sage words. A nation ignorant of its past has no future. Nowhere is this truer than the unforgiving Middle East, where Israel's enemies will uproot her roots if those roots are not driven deep in both the Land and the psyche of the Israeli people.

Thankfully, this work has already begun. The Israeli government, with *Bina's* help, has approved a massive renovation of the Hall of Independence over the coming years. At its centerpiece, Israel would take the actual Scroll off the dusty shelves of the State archives, and into the Hall for public exhibition. Too much of the Jewish collective stands ignorant of its words, and this needs to change. In the words of *Bina*, "the scroll is screaming out and no one is answering it." Though many Jewish organizations like to quote snippets from its paragraphs, its beauty and importance lie in its integrity as a unified whole. The Jewish particular must coexist with the universal, the Zionist ideals along with the democratic ones. Only through this lens can it be understood and applied to the contemporary Jewish experience.

I learned this valuable lesson myself as a soldier in the Israeli Defense Forces. Throughout my training, the army's educational corps would instruct soldiers on the IDF's code of ethics and rules of engagement. At all times, we had to carry a copy of these principles on a laminated, folded pamphlet fitting neatly into our pocket *pinkasim*, our obligatory notepads. It declares the four sources upon which the spirit of the IDF draws, three of which are of direct interest to this paper:

1. "The tradition of the State of Israel, its democratic principles, laws, and institutions."
2. "The tradition of the Jewish People throughout their history."
3. "Universal moral values based on the value and dignity of human life."

In addition, one of the basic values outlined in this code is human dignity: “The IDF and its soldiers are obligated to protect human dignity. Every human being is of value regardless of his or her origin, religion, nationality, gender, status, or position.” It was not enough to just carry these in our pockets; we had to learn them, discuss what they meant, and implement them throughout our service.

I find it so inspiring and telling that Israel’s army, the very entity charged with defending the country against destruction, has these as her principles. Though “tenacity” and “drive to victory” also stand as the values of the IDF, they could not stand alone. In fact, throughout my service, I was fascinated and surprised to see them taking a secondary position to those of protecting human life and dignity. Judging by my experience and the experience of countless others, *this* is the enviable ideal to which Israel aspires. It is an ideal that combines the Jewish particular with the universal, the Jewish heritage with its democratic principles. It acts upon the inspirational words found in Israel’s founding document, making them come alive even as Israel faces excruciatingly difficult challenges to her existence and security. It is this personal experience that drives my conviction in Israel’s beauty and righteousness.

That said, especially as it relates to a topic as polarizing and sensitive as Israel, I have to exercise caution and restraint. Though I may want to, I cannot only espouse Israel’s virtue and paint her in a perfect light. After all, if I overlook and pardon the flaws of which so many Jews and non-Jews speak, I risk losing my own valuable credibility. In the case of the Jewish movement I will soon help lead, I must maintain a moral voice grounded in our own Movement’s principles as well as Israel’s own. For instance, as we

have already seen in this paper, Israel does *not* live up to its own standards regarding Jewish pluralism and tolerance. The Declaration of Independence states clearly that the State ensures complete equality for all of her citizens regardless of religion. Somehow this principle did not make it into Israel's Basic Law of 1992 and, though some progress has been made, it still remains a distant reality.¹²² Specifically for my Reform movement, it remains our yet unfulfilled task.

Yes, I do recognize this as a problem and, I do think it must change. However, in the interest of protecting Israel's image, I often overlook this or act as an apologist for her. With so many forces constantly criticizing the Jewish State, I do not want to add fuel to the fire. Yet, I realize that I must strike a balance. Though progressive, religious freedom in Israel may not be one of my most pressing concerns, it will be for many of my congregants. Many people find Israel's position on this issue deeply offensive, and a direct insult to their form of Jewish expression. Sadly for Israel, they are right in taking offense. As a Reform rabbi, I must always take this account, careful to cultivate a relevant and credible voice in Israel's unfolding evolution. Most importantly, this voice should draw upon the Reform Movement's championing of the biblical prophetic voice, just as Ben Gurion did when writing Israel's founding scroll.

I need to develop my own authentic, prophetic voice, one that brings together the poetry and the promise embedded in those canonical words. My job as rabbi is, first and foremost, one of a teacher, a role that the Judaism and Zionism of the 21st century needs desperately. Though some choose to, rabbis cannot distance themselves or disengage

¹²² Rubinstein, *The Declaration of Independence*, 204.

from Israel. It stands as our authentic and unique role to educate people about the holistic beauty of Judaism and Zionism. We must dispel the damaging myth that something incompatible exists between Zionism and democratic values. Contrary to what many people believe, the dignity of all human beings is a fundamental religious value, one that Judaism has helped pioneer from time immemorial. Moreover, the State of Israel, even with all of her imperfections, has championed this union ever since her founding words took form.

On the other hand, I must teach the reality of the situation, no matter how unpleasant it may be. I cannot allow myself to be seduced by the postmodern philosophy of excessive hopefulness and relativism, assuming that all people just want peace and freedom. Israel is not Iowa, and the Middle East is not Europe! In Israel's neighborhood, ungrounded assumptions have real world consequences, and Israel's margin for error is very small. Yes, Judaism always prays for peace and, yes, rabbis must preach hope, but we must never have blinders on to reality. I believe that Israel's existence depends on and demands our sobriety. If the rabbinical voice shirks the responsibility, and does not find a way to balance all of these tensions, who will pick up the pieces?

Israel occupies a precarious and sensitive place within the community of nations. Surrounded by enemies who attempt to destroy her through conventional and guerrilla tactics, she clings to her existence tenaciously. She represents the intense paradox of representing the Jewish people and their universal, ubiquitous prayers for peace...and yet, she must engage in the ugly act of war on a daily basis. As an aspiring rabbi, *I* must embody this paradox, praying for and preaching peace, yet recognizing the brutal and

unsolvable reality of the Middle East. I must somehow bridge the liberal American Jewish community, and their natural aversion to war and aggression, with the Israeli reality of intensely real security concerns. Most crucially, the values of love and understanding must act as the ones guiding these discussions.

Moving Forward

I want my rabbinate to focus on one thing in particular; to teach and remind American Jews that Jews represent a people, not just a religion. As such, I want to instill a sense of Jewish pride for all that we have accomplished despite the unimaginable hardships. Just 70 years ago, only a few years before the Scroll promised a different future, 6 million Jews were slaughtered, helpless, in the *Shoah* as the world watched. Israel's existence, so poetically and beautifully presented in the Declaration, has given Jews new-found pride, pride to walk tall and take their rightful place in the community of nations, knowing Israel will never allow such a fate to befall us again. The State of Israel represents one of the modern world's greatest miracles. We cannot underestimate the empowering impact she has had on ALL Jews, regardless of where we reside or what we believe. Jews will no longer be slaughtered with no consequence.

In terms of the intractable conflict in which Israel finds herself, I, unfortunately, do not have much hope for peace or resolution. As her enemies have proven unable to beat her on the battlefield or through acts of terror, they have moved to the international arena of propaganda and anti-Semitism. The global campaign of boycott, divestment, and sanctions (BDS) and other organizations attempt to smear her name and delegitimize her

existence. The very institution which the Scroll refers to repeatedly, the United Nations, to justify her founding and insure her future, has been used consistently as a weapon against her. This constitutes an existential threat to Israel, no less real than the nuclear bombs the ayatollahs aspire to in Iran.

Unfortunately, even disregarding all external security concerns, Israel also runs the very real risk of imploding from within. The balance so painstakingly wrought in the Declaration of Independence, could still prove itself an impossible illusion. Israel's political system is dysfunctional at best, and broken at worst. Many of her leaders are corrupt, and the country is in dire need of new political blood and ideas. The settlement enterprise threatens to tear apart the fabric of society, exposing deep rifts that could lead again to intra-Jewish bloodshed. As Israel has moved away from its socialist origins, the collective *anu/we*, so inspiringly used in the Scroll, has been replaced by the uncompromising *ani/I* of modern Israel.

The ramifications of these questions are vast for Israeli society, the Jewish world, and the larger world. The stakes could not be higher. For my part, I must admit that I do not profess objectivity. As the expression goes, I have a horse in the game. Israel's existence and success is fundamental to my identity as a Jew, an American, and an Israeli. Come to think of it, however, perhaps this is fitting. After all, the future of Israel will not be won on the battlefields in conventional warfare; If it were that easy, as Israel has demonstrated many times in the past, she could defend herself successfully. Rather, it will be won in the hearts and minds of people everywhere. In order to do this, historical facts and documents prove essential in gauging Israel's success and defending her rights.

In this context, I hope that this analysis of Israel's founding document helps to dispel some of the fog and encourage productive dialogue.

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Appendix 1: Israeli Declaration of Independence (Official English Version)

The Land of Israel was the birthplace of the Jewish people. Here their spiritual, religious and political identity was shaped. Here they first attained to statehood, created cultural values of national and universal significance and gave to the world the eternal Book of Books.

After being forcibly exiled from their land, the people kept faith with it throughout their Dispersion and never ceased to pray and hope for their return to it and for the restoration in it of their political freedom.

Impelled by this historic and traditional attachment, Jews strove in every successive generation to re-establish themselves in their ancient homeland. In recent decades they returned in their masses. Pioneers, defiant returnees, and defenders, they made deserts bloom, revived the Hebrew language, built villages and towns, and created a thriving community controlling its own economy and culture, loving peace but knowing how to defend itself, bringing the blessings of progress to all the country's inhabitants, and aspiring towards independent nationhood.

In the year 5657 (1897), at the summons of the spiritual father of the Jewish State, Theodore Herzl, the First Zionist Congress convened and proclaimed the right of the Jewish people to national rebirth in its own country.

This right was recognized in the Balfour Declaration of the 2nd November, 1917, and re-affirmed in the Mandate of the League of Nations which, in particular, gave international sanction to the historic connection between the Jewish people and Eretz-Israel and to the right of the Jewish people to rebuild its National Home.

The catastrophe which recently befell the Jewish people - the massacre of millions of Jews in Europe - was another clear demonstration of the urgency of solving the problem of its homelessness by re-establishing in Eretz-Israel the Jewish State, which would open the gates of the homeland wide to every Jew and confer upon the Jewish people the status of a fully privileged member of the community of nations.

Survivors of the Nazi holocaust in Europe, as well as Jews from other parts of the world, continued to migrate to Eretz-Israel, undaunted by difficulties, restrictions and dangers, and never ceased to assert their right to a life of dignity, freedom and honest toil in their national homeland.

In the Second World War, the Jewish community of this country contributed its full share to the struggle of the freedom- and peace-loving nations against the forces of Nazi wickedness and, by the blood of its soldiers and its war effort, gained the right to be reckoned among the peoples who founded the United Nations.

On the 29th November, 1947, the United Nations General Assembly passed a resolution calling for the establishment of a Jewish State in Eretz-Israel; the General Assembly required the inhabitants of Eretz-Israel to take such steps as were necessary on their part for the implementation of that resolution. This recognition by the United Nations of the right of the Jewish people to establish their State is irrevocable.

This right is the natural right of the Jewish people to be masters of their own fate, like all other nations, in their own sovereign State.

Accordingly we, members of the People's Council, representatives of the Jewish Community of Eretz-Israel and of the Zionist Movement, are here assembled on the day of the termination of the British Mandate over Eretz-Israel and, by virtue of our natural and historic right and on the strength of the resolution of the United Nations General Assembly, hereby declare the establishment of a Jewish state in Eretz-Israel, to be known as the State of Israel.

We declare that, with effect from the moment of the termination of the Mandate being tonight, the eve of Sabbath, the 6th Iyar, 5708 (15th May, 1948), until the establishment of the elected, regular authorities of the State in accordance with the Constitution which shall be adopted by the Elected Constituent Assembly not later than the 1st October 1948, the People's Council shall act as a Provisional Council of State, and its executive organ, the People's Administration, shall be the Provisional Government of the Jewish State, to be called "Israel."

The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.

The State of Israel is prepared to cooperate with the agencies and representatives of the United Nations in implementing the resolution of the General Assembly of the 29th November, 1947, and will take steps to bring about the economic union of the whole of Eretz-Israel.

We appeal to the United Nations to assist the Jewish people in the building-up of its State and to receive the State of Israel into the community of nations.

We appeal - in the very midst of the onslaught launched against us now for months - to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.

We extend our hand to all neighbouring states and their peoples in an offer of peace and good neighbourliness, and appeal to them to establish bonds of cooperation and mutual help with the sovereign Jewish people settled in its own land. The State of Israel is prepared to do its share in a common effort for the advancement of the entire Middle East.

We appeal to the Jewish people throughout the Diaspora to rally round the Jews of Eretz-Israel in the tasks of immigration and upbuilding and to stand by them in the great struggle for the realization of the age-old dream - the redemption of Israel.

Placing our trust in the Almighty, we affix our signatures to this proclamation at this session of the provisional Council of State, on the soil of the Homeland, in the city of Tel-Aviv, on this Sabbath eve, the 5th day of Iyar, 5708 (14th May, 1948).

David Ben-Gurion

Daniel Auster Mordekhai Bentov Yitzchak Ben Zvi Eliyahu Berligne Fritz Bernstein
Rabbi Wolf Gold Meir Grabovsky Yitzchak Gruenbaum Dr. Abraham Granovsky
Eliyahu Dobkin Meir Wilner-Kovner Zerach Wahrhaftig Herzl Vardi Rachel Cohen
Rabbi Kalman Kahana Saadia Kobashi Rabbi Yitzchak Meir Levin Meir David
Loewenstein Zvi Luria Golda Myerson Nachum Nir Zvi Segal Rabbi Yehuda Leib
Hacohen Fishman David Zvi Pinkas Aharon Zisling Moshe Kolodny Eliezer Kaplan
Abraham Katznelson Felix Rosenblueth David Remez Berl Repetur Mordekhai Shattner
Ben Zion Sternberg Bekhor Shitreet Moshe Shapira Moshe Shertok

Appendix 2: Israeli Declaration of Independence (Original Hebrew Version)

בארץ-ישראל קם העם היהודי, בה עוצבה דמותו הרוחנית, הדתית והמדינית, בה חי חיי קוממיות ממלכתית, בה יצר נכסי תרבות לאומיים וכלל-אנושיים והוריש לעולם כולו את ספר הספרים הנצחי.

לאחר שהוגלה העם מארצו בכוח הזרוע שמר לה אמונים בכל ארצות פזוריו, ולא חדל מתפילה ומתקוה לשוב לארצו ולחדש בתוכה את חירותו המדינית.

מתוך קשר היסטורי ומסורתי זה חתרו היהודים בכל דור לשוב ולהאחז במולדתם העתיקה; ובדורות האחרונים שבו לארצם בהמונים, וחלוצים, מעפילים ומגינים הפריחו נשמות, החיו שפתם העברית, בנו כפרים וערים, והקימו ישוב גדל והולך השליט על משקו ותרבותו, שוחר שלום ומגן על עצמו, מביא ברכת הקידמה לכל תושבי הארץ ונושא נפשו לעצמאות ממלכתית.

בשנת תרנ"ז (1897) נתכנס הקונגרס הציוני לקול קריאתו של הוגה חזון המדינה היהודית. תיאודור הרצל והכריז על זכות העם היהודי לתקומה לאומית בארצו.

זכות זו הוכרה בהצהרת בלפור מיום ב' בנובמבר 1917 ואושרה במנדט מטעם חבר הלאומים, אשר נתן במיוחד תוקף בין-לאומי לקשר ההיסטורי שבין העם היהודי לבין ארץ-ישראל ולזכות העם היהודי להקים מחדש את ביתו הלאומי.

השוואה שנתחוללה על עם ישראל בזמן האחרון, בה הוכרעו לטבח מיליונים יהודים באירופה, הוכיחה מחדש בעליל את ההכרח בפתרון בעית העם היהודי מחוסר המולדת והעצמאות על-ידי חידוש המדינה היהודית בארץ-ישראל, אשר תפתח לרווחה את שערי המולדת לכל יהודי ותעניק לעם היהודי מעמד של אומה שוות-זכויות בתוך משפחת העמים.

שארית הפליטה שניצלה מהטבח הנאצי האיום באירופה ויהודי ארצות אחרות לא חדלו להעפיל לארץ-ישראל, על אף כל קושי, מניעה וסכנה, ולא פסקו לתבוע את זכותם לחיי כבוד, חירות ועמל-ישרים במולדת עמם.

במלחמת העולם השניה תרם הישוב העברי בארץ את מלוא-חלקו למאבק האומות השוחרות חירות ושלום נגד כוחות הרשע הנאצי, ובדם חייליו ובמאמצו המלחמתי קנה לו את הזכות להמנות עם העמים מייסדי ברית האומות המאוחדות.

ב-29 בנובמבר 1947 קיבלה עצרת האומות המאוחדות החלטה המחייבת הקמת מדינה יהודית בארץ-ישראל; העצרת תבעה מאת תושבי ארץ-ישראל לאחוז בעצמם בכל הצעדים הנדרשים מצדם הם לביצוע ההחלטה. הכרה זו של האומות המאוחדות בזכות העם היהודי להקים את מדינתו אינה ניתנת להפקעה.

זוהי זכותו הטבעית של העם היהודי להיות ככל עם ועם עומד ברשות עצמו במדינתו הריבונית.

לפיכך נתכנסנו, אנו חברי מועצת העם, נציגי הישוב העברי והתנועה הציונית, ביום סיום המנדט הבריטי על ארץ-ישראל, ובתוקף זכותנו הטבעית וההיסטורית ועל יסוד החלטת עצרת האומות המאוחדות אנו מכריזים בזאת על הקמת מדינה יהודית בארץ ישראל, היא מדינת ישראל.

אנו קובעים שהחל מרגע סיום המנדט, הלילה, אור ליום שבת ו' אייר תש"ח, 15 במאי 1948, ועד להקמת השלטונות הנבחרים והסדירים של המדינה בהתאם לחוקה שתיקבע על-ידי האספה המכוננת הנבחרת לא יאוחר מ-1 באוקטובר 1948 - תפעל מועצת העם כמועצת מדינה זמנית, ומוסד הביצוע שלה, מנהלת-העם, יהווה את הממשלה הזמנית של המדינה היהודית, אשר תיקרא בשם ישראל.

מדינת ישראל תהא פתוחה לעליה יהודית ולקיבוץ גלויות; תשקוד על פיתוח הארץ לטובת כל תושביה; תהא מושתתת על יסודות החירות, הצדק והשלום לאור חזונו של נביאי ישראל; תקיים שוויון זכויות חברתי ומדיני גמור לכל אזרחיה בלי הבדל דת, גזע ומין; תבטיח חופש דת, מצפון, לשון, חינוך ותרבות; תשמור על המקומות הקדושים של כל הדתות; ותהיה נאמנה לעקרונותיה של מגילת האומות המאוחדות.

מדינת ישראל תהא מוכנה לשתף פעולה עם המוסדות והנציגים של האומות המאוחדות בהגשמת החלטת העצרת מיום 29 בנובמבר 1947 ותפעל להקמת האחדות הכלכלית של ארץ-ישראל בשלמותה.

אנו קוראים לאומות המאוחדות לתת יד לעם היהודי בבנין מדינתו ולקבל את מדינת ישראל לתוך משפחת העמים.

אנו קוראים - גם בתוך התקפת-הדמים הנערכת עלינו זה חדשים - לבני העם הערבי תושבי מדינת ישראל לשמור על שלום וליטול חלקם בבנין המדינה על יסוד אזרחות מלאה ושווה ועל יסוד נציגות מתאימה בכל מוסדותיה, הזמניים והקבועים.

אנו מושיטים יד שלום ושכנות טובה לכל המדינות השכנות ועמיהן, וקוראים להם לשיתוף פעולה ועזרה הדדית עם העם העברי העצמאי בארצו. מדינת ישראל מוכנה לתרום חלקה במאמץ משותף לקידמת המזרח התיכון כולו.

אנו קוראים אל העם היהודי בכל התפוצות להתלכד סביב הישוב בעליה ובבנין ולעמוד לימינו במערכה הגדולה על הגשמת שאיפת הדורות לגאולת ישראל.

מתוך בטחון בצור ישראל הננו חותמים בחתימת ידינו לעדות על הכרזה זו, במושב מועצת המדינה הזמנית, על אדמת המולדת, בעיר תל-אביב, היום הזה, ערב שבת, ה' אייר תש"ח, 14 במאי 1948.

דוד בן-גוריון

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