



Tribes, identity, and individual freedom in Israel

BY NATAN SACHS AND BRIAN REEVES



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Introduction: Freedom of divorce

A nonreligious Israeli woman who wishes or expects to divorce finds herself in a bind. In many respects, Israel is a secular state, yet the state-sanctioned, -funded, and -appointed religious courts of this woman's community—Orthodox Jewish courts if she is Jewish, Sharia courts if she is Muslim, etc.—have full jurisdiction over her divorce. The courts, interpreting religious law in particular ways, will treat the woman and her husband very differently. In Orthodox Jewish law (*halakha*), for example, the man must actively divorce his wife, granting her a *get*.¹ If he refuses, he can leave his wife stranded (*aguna*), and unable to remarry. The male rabbis may try to pressure the husband to relent, and if he is incapacitated they may even try to free her bonds of marriage through creative jurisprudence, but the husband retains a great deal of power in the exchange—power that can be useful in divorce negotiations even if never exercised.

That religious gender bias exists is nothing special or particular to Israel. Unequal treatment of men and women in religious settings is hardly unique to Orthodox Judaism or traditional Sunni Islam.² Here, however, there is something different: the state, whose force underwrites the law, sanctions the monopolies of specific religious institutions in their respective communities. Whether the woman in question wants a religious divorce or not is immaterial; civil marriage and divorce do not exist. The official religious courts in Israel, whether Jewish, Muslim, Christian, or Druze, will also not wed or even countenance wedding couples of the same sex, although Israeli attitudes on the matter,

including those of the secular legal system, are in many respects quite liberal. The religious courts will also not wed two people who belong to different religious communities, whose personal affairs fall under the authority of different religious institutions.

This, however, is not a simple story of a retrograde system. These restrictions on personal liberties are not done in the name of conservatism; they are done, or at least originated, in the name of multicultural respect for communal values. The Ottoman Empire, which ruled the area for 400 years, accorded legal prerogatives to religious institutions in the name of communal autonomy. The Ottomans allowed each recognized community to govern its own internal affairs in several key aspects of life, including marriage and divorce, in what was known as the *millet* system. A tolerant approach for its time, it recognized communities as legal entities, allowing them to preserve independent cultural and communal lives. The British maintained this communal system when they succeeded the Ottomans in 1917, and did so in Israel in 1948.³

This multicultural approach in Israel, evident also in the realm of education, is the topic of the discussion below. We outline some of the limitations on individual rights that flow from this approach, and, in particular, from one of its main aspects: the lack of full separation of religion and state in Israel. We argue that Israel serves as a warning sign in this regard: it is a case of multiculturalism gone too far, of too little separation between religion and state, and of excessive group autonomy. What is needed,

1. Yair Ettinger, "Israeli rabbinical courts now must track men," *Haaretz*, March 21, 2011, <http://www.haaretz.com/israeli-rabbinical-courts-now-must-track-men-who-won-t-grant-gets-1.419847>.

2. Muslim Israelis, a bit less than a fifth of the Israeli public, are almost all Sunni.

3. In 1947, the pre-state's Jewish Agency Executive, led by David Ben-Gurion, sought support from the anti-Zionist *Haredi* community in order to show a united Jewish front. Ben-Gurion made a pact, known as the Status Quo Agreement, with the ultra-Orthodox Agudat Israel party ahead of the United Nations vote on the partition of Mandate Palestine later that year, which in part assured the continuation of the religious authority over marriage and divorce, as well as basic observance of *kashrut* dietary restrictions in public institutions and some deference to the Jewish Sabbath on Saturdays.

we argue, is the reverse: a push toward individual-based liberalism, including greater separation of religion and state.

Recognition of differences in society and of particular communal conceptions is surely positive in some respects. Indeed, the upside of the *millet* system is something that is held in high regard today too: Israel avoids patronizing minority religious groups; it does not tell these groups what is the appropriate way to govern their and their members' affairs. In Israel, the self-defined Jewish state, Sharia courts are not only permitted on a voluntary basis, they are part and parcel of state authority.

As evident in the case of divorce, however, the downside of this communitarian approach is severe: not only does it institutionally divide society, it empowers specific leaders in each religious group—majority and minority alike—and grants them power over their members: power to decide for any individual what is right and wrong for them, according to particular interpretations of sacred text. Israelis of all persuasions, religious or otherwise, must submit to the authority of clerics whose values might be diametrically opposed to their own. Reform, Conservative, unaffiliated, or atheist Jews (atheist and agnostic Jews are quite common in Israel; Reform and Conservative less so) must dutifully accept the power of the Orthodox men—always men—whom the secular state has appointed as interpreters of Judaism. Gay or lesbian Muslims and Jews need not bother looking for equal treatment in Sharia or Orthodox courts.

Israel provides some important loopholes: while it does not recognize civil marriage, it does recognize *de facto* civil unions (including for same-sex couples), with many of the same rights as marriage. It also recognizes the authority of other countries to declare a couple wed. A Reform rabbi in, say, Minneapolis can thus marry a couple in the name of the state of Minnesota, and the State of Israel will then generally grant faith and credit to Minnesota's registry. The same Reform rabbi in the state of the

Jews will have no authority at all. A practice of «Cyprus» weddings has emerged; Israelis who cannot satisfy the demands of the religious authorities for a wedding or who choose not to participate in this system will often get married abroad (the closest destination with freedom of marriage is Cyprus.)

Israel thus straddles a difficult tension: a state that largely perceives itself in liberal terms and conducts many of its affairs as a secular state, but one that has no full separation of religion and state. As Stern writes for this paper series: “Many Jews in Israel live a life of cultural duality. They have two cultural foundations: Western-liberal culture and traditional Jewish culture.”⁴ Israel is a partially Western society founded in an image of secular nationalism. It was originally devoted, in the eyes of some of its most prominent leaders, to the cultivation of a “new Israeli” that transcended old divisions of background and faith. Yet Israel simultaneously promotes the sub-identities of its many and varied communities.

4. Yedidia Stern, “Religion, State, and the Jewish Identity Crisis in Israel” (Washington, DC: Brookings Institution Center for Middle East Policy, 2017), 6

Individual autonomy and group identity

Notwithstanding its origins in Ottoman law, Israeli reality is closely related to ongoing debates about multiculturalism and liberalism around the world, including in the United States.

At the heart of liberalism lies a tension. Liberalism cherishes individual autonomy, choice, and liberty; it stems from the tradition of the Enlightenment, which champions human reason as the source of social and political judgment. Unlike most religious traditions, it views humans as capable of making their own ethical choices about their lives, of constructing their own conception of what a proper personal and social life should be.

Unlike secular conservative traditions, liberalism puts less stock in tradition for its own sake, in the slowly evolved, tested, and matured balances of society over generations. Yet liberalism does contain within it a part of the conservative impulse. Unlike other Enlightenment-born political philosophies, such as various strands of socialism, liberalism does not claim to offer a single rationally-derived plan for society, it asks society to let its people do that work for it, continuously revising and amending their choices, based on their own preferences. It sets limits to these choices—they may not excessively hinder the choices of others—but it aspires, liberals usually claim, to intellectual modesty about what choices individuals make and which preferences their choices might serve. In this regard, liberalism is a relatively “thin” political philosophy, often focused on negative liberty (freedom from oppression or constraints), with less emphasis on the positive manifestations of liberty (the ability to execute one’s choices within a specific social context).⁵

Liberalism, however, is not purely agnostic about an individual’s preferences. In the service of indi-

vidual autonomy and liberty, individuals need true freedom to explore, learn, experiment, discuss, and choose without fear. If a woman is to make a moral choice about her society, she must, as a girl, have access to education. If a member of an ethnic or national minority is to enjoy liberty, they must be accepted and treated as equal citizens, as agents of choice in their society. Liberalism, in other words, is not completely neutral. It sets real limitations on what autonomous choices are acceptable within its bounds. This, in part, separates it from more radical libertarian approaches.

What then, does liberalism do with communities within a society who cherish illiberal values and wish to express their autonomy at the expense of their own members’ liberties, or of others’? For example, what should liberalism do with members of liberal societies who, autonomously and freely, want to limit their girls’ education or restrict the agency and full citizenship of members of a minority group? These are not hypothetical questions in Israel. For instance, substantial minorities reject gender equality in principle and equal-opportunity education for boys and girls in practice. Moreover, they rely on state funding for schools that implement these values.

In the wider Middle East context, these dilemmas plague politics in many countries—as well as U.S. foreign policy toward them. American policymakers have repeatedly struggled over how robust a liberal order should liberals (or the United States) promote, if at all, in the face of large segments of the population in the Middle East that profess and vote for illiberalism. In particular, during the 2011 uprisings in the Arab world, the popular election of thoroughly illiberal movements such as the Muslim Brotherhood in Egypt vexed U.S. policymakers, who debated how closely to engage with elected

5. Isaiah Berlin, “Two Concepts of Liberty,” in *Four Essays on Liberty*, Isaiah Berlin. (London: Oxford University Press, 2002).

governments that held a critical view, at best, of the American conception of liberal democracy.⁶

In the West too, liberalism and identity politics can come into conflict, albeit in very different contexts and within the confines of generally-liberal legal systems. In common American political parlance, in fact, liberalism and multiculturalism are often conflated. In recent decades, there has been a strong pull toward identity politics, and championing the equality and rights of marginalized groups or of individuals who do not conform to the perceived standards of society. So much so, some have argued, that liberalism has lost its focus, putting all of its emphasis on these identity-based causes while forsaking overarching struggles common to people across society.⁷

Individual freedoms, overarching societal norms, and community-specific norms are often at loggerheads in the United States over the issues of religion, race, and, more recently, sexuality. The tension between religious communities' autonomy and official secularism, for example, has often arrived at the courts, where an individual's spirituality challenges state authority, including in the realms of military service,⁸ public schools,⁹ and in particular, healthcare. Courts have had to intervene on complex questions of whether family-run companies can get a religious exemption from having

to give employees coverage for certain contraceptives,¹⁰ and whether parents can deny their children healthcare in the name of religious beliefs.¹¹

And yet, the American context, though politically fraught, rests on a more-or-less settled constitutional basis: religion and state are ostensibly separate, and individual-based liberalism is commonly understood to be the reigning political philosophy for Conservatives and Liberals alike. This is not the case in many—most—other countries, including Israel.

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6. For an excellent discussion of this issue from a different perspective, see our colleague Shadi Hamid's piece, "The Future of Democracy in the Middle East: Islamist and Illiberal," *The Atlantic*, May 6, 2014, <https://www.theatlantic.com/international/archive/2014/05/democracys-future-in-the-middle-east-islamist-and-illiberal/361791/>.
 7. For such a position, see, for example, Mark Lilla's *The Reckless Mind: Intellectuals in Politics* (New York: New York Review Books, 2003) and Mark Lilla, "The End of Identity Liberalism," *The New York Times*, November 18, 2016, https://www.nytimes.com/2016/11/20/opinion/sunday/the-end-of-identity-liberalism.html?_r=0.
 8. In *Sicurella v. United States*, brought before the Supreme Court in 1955, a member of the Jehova's Witnesses sought exemption from military service on the grounds that his religion forbade warfare. The Supreme Court overruled the Department of Justice and lower courts and exempted him from service. *Sicurella v. United States*, 348 U.S. 385 (1955).
 9. Another instance is the Pledge of Allegiance in public schools. The custom—at times required in some schools—of pledging allegiance to the flag has been challenged on multiple occasions. In 1940, in *Minersville School District v. Gobitis*, the Supreme Court sided with the school requirement for a pledge, despite religious objection by a plaintiff, for the sake of national cohesion, which, it ruled, was in the interest of national security. See *Minersville School District v. Gobitis* 310 U.S. 586 (1940). Three years later, the Court reversed track in *West Virginia Board of Education v. Barnette* and ruled that free speech should be "beyond the reach of majorities and officials." See *West Virginia State Board of Education v. Barnette* 319 U.S. 624 (1943).
 10. Dan Roberts and Amanda Holpuch, "Hobby Lobby ruling: firms can refuse to provide contraception coverage," *The Guardian*, June 30, 2014, <https://www.theguardian.com/law/2014/jun/30/supreme-court-employers-religious-objections-contraception>.
 11. Both members of the Christian Scientists and Jehovah's Witnesses have faced criminal charges for withholding standard medical care from their families. See David Margolick, "In Child Deaths, a Test for Christian Science," August 6, 1990, <http://www.nytimes.com/1990/08/06/us/in-child-deaths-a-test-for-christian-science.html?pagewanted=all>; "Jehovah's Witness Kid Dies After Refusing Medical Treatment," *National Public Radio*, November 30, 2007, <http://www.npr.org/templates/story/story.php?storyId=16763280>.

The four (or more) tribes of Israel

In an address at the annual Herzilya Conference in 2015, President Reuven Rivlin of Israel delivered what has become known as the “four tribes speech.”¹² He posited that “secular” (non-observant) Jewish-Israelis, once the dominant group in the country, and especially in the elite, would soon no longer be a clear majority. He demonstrated this with hard data of school-age demographics, to illustrate the trend for future Israeli society. The country is rapidly moving toward a majority-minority society, comprised of four groups, or “tribes,” the president said:

1. Ultra-Orthodox Jews or *Haredim*, who observe a strict interpretation of *halakha*, as well as highly conservative social norms and varying degrees of reclusion from general Israeli society;
2. Religious or “Modern Orthodox” Jews, *dati'im*, who practice traditional observance such as keeping kosher and observing the Sabbath, but who are also far more integrated into Israeli society than *Haredim*. Unlike *Haredim*, *dati'im*, sometimes also called “Religious Zionists” or “national-religious,” also identify strongly with the state and the Zionist ideal of Jewish national self-determination. *Dati* men are conscripted into the military, unlike most *Haredi* men, and even a sizeable minority of *dati* women serve in the military;¹³
3. Secular Jews, or *hilonim*, a word commonly used in Israel to describe all Israeli Jews who observe little or no religious traditions, whether they are believers or not. This group was the old elite from where Israel’s leadership and most dominant actors have usually emerged; and
4. Arab citizens of Israel. (Non-Jewish citizens of Israel are primarily Arab—mostly Muslims but

Christians as well.) Many identify as Palestinian citizens of Israel, simultaneously balancing Palestinian, Arab, Muslim/Christian, familial or geographic, and Israeli identities.¹⁴

The president argued that the standard image of Israeli society, a hub-and-spoke image with secular (Zionist) Jews at its center, must change. A “new Israeli order” has emerged and Israelis must rethink the very structure of the social compact to bind their society together. The tribes, he said, must “move to a new concept of partnership,” and to “clarif[y] the essence of this partnership.”¹⁵

The speech attracted a great deal of fanfare, both praise and criticism. The latter focused in part on the choice of these particular divisions within Israeli society, to the exclusion of other important fault lines. As Rivlin himself acknowledged in his speech, notably missing was the longstanding divide in Jewish society between Ashkenazi Jews (Jews of European and especially Northern and Eastern European Diaspora communities) and Mizrahi Jews (“Eastern” Jews of Spanish—*Sephardic*—and North African heritage as well as Iraqi, Yemenite, Persian, and other communities in Muslim-majority countries.) This divide is eroding through widespread intermarriage and political change, but it still correlates with wealth and other privilege (to the benefit of Ashkenazi Jews). Missing as well was the difference between native-born Israelis and immigrants, particularly those who came in the 1990s from the former Soviet Union and from Ethiopia, or center-periphery and urban-rural divides common to many societies.

12. Reuven Rivlin, “President Reuven Rivlin Address to the 15th Annual Herzilya Conference,” (speech, Herzilya Conference, June 7, 2015), http://www.president.gov.il/English/ThePresident/Speeches/Pages/news_070615_01.aspx.

13. For a further discussion of the changes in this community, see the accompanying paper by Yair Ettinger, “Privatizing religion: The transformation of Israel’s Religious-Zionist community,” (Washington, DC: Brookings Institution Center for Middle East Policy, 2017), 8.

14. Here we use the generic term “Arab citizens of Israel!” without any judgment on the “proper” identity of anyone in Israel.

15. Rivlin, “President Reuven Rivlin Address to the 15th Annual Herzilya Conference.”

The categorization Rivlin chose was not arbitrary, however. Most research on Israeli society has used similar distinctions. The Israeli Democracy Institute and the Pew Research Center, for example, both recently used similar groupings,¹⁶ although they both also included another, middle group. The Pew study included a category for traditional Jews (*masorti'im*), who “occupy a broad middle ground between Orthodoxy and secularism, and they report widely varying levels of observance.”¹⁷ Traditional Jews are those who observe some religious practices and generally hold a positive view of tradition, but do not attempt to observe the full myriad of religious edicts (traditional Jewish men, would also usually not wear a *kippah*—a yarmulke—on most days, whereas national-religious and *Haredi* men would). The Israel Democracy Institute went further and broke *masorti'im* into “traditional religious” and “traditional nonreligious,” a testament to the blurry lines that characterize this large group in the center of Jewish Israeli society.

Regardless of the exact categorization, the “four tribes” formulation was most important in pointing to the direction in which Israeli society is heading. As Rivlin explained, the four categories were chosen not for sociological accuracy but because they correspond to the four official educational streams in Israel. Three are state-sponsored and supervised streams: general (secular) Hebrew education, Arabic-language education, and religious (*dati*) state-sponsored education. A fourth is a state-funded but largely independent *Haredi* (ultra-Orthodox) educational stream, whose curriculum is largely independent of state supervision. Whereas in 1992, 52 percent of first-graders entered the general (secular) education, in 2018, according to the Israeli Central Bureau of Statistics, only 38 percent would be in that stream, with another 25 percent in the Arabic-language education, 22 percent in the *Haredi* stream, and 15 percent in the national-religious

one.¹⁸ No single stream would even break 40 percent of the population.

The students in these four streams not only differ in language or curricula, they may in fact never meet each other during their education, and perhaps not even later in life. Arab and *Haredi* students are not likely to enter into ostensibly compulsory military service at the age of 18, in which they would have the opportunity to meet *hiloni* and *dati* Jews, and few *Haredi* students enter into regular universities (many of them do not study enough mathematics or English during their schooling years, and do not obtain official high school matriculation to qualify for university studies). The four streams also promote fundamentally different conceptions of identity, values, history, and society.

In other words, the four educational streams, none of which is now a majority, produce four separate tribes. This threatens social cohesion, which the president emphasized, but also significantly hinders the ability of individuals from within these tribes to define themselves individually. Through the educational system, the social divides, and legal constraints (such as marriage and divorce), Israelis are bound to communities; they benefit from the meaning and context provided by these communities, but they are also severely constrained in their ability to determine their own values and to pursue a successful and meaningful life outside communal categories.

This image of Israeli society highlights the stark divisions within it, but it also points to how to begin to mend intrasocietal relations, and grant people more autonomy as individuals, rather than members of a tribe. The first place to start is with an old debate in Israel over an educational “common core.” In Israel, a common core refers to the “secular” subjects of mathematics and sciences,

16. “Israel’s Religiously Divided Society,” *Pew Research Center*, March 8, 2016, <http://www.pewforum.org/2016/03/08/israels-religiously-divided-society/>, 9. Tamar Hermann et al., “2016 Israeli Democracy Index,” *The Israel Democracy Institute*, 2016, <https://en.idi.org.il/publications/11985>, 14.

17. “Israel’s Religiously Divided Society,” *Pew Research Center*, March 8, 2016, <http://www.pewforum.org/2016/03/08/israels-religiously-divided-society/>, 9.

18. “An Israeli Hope: Toward a ‘new Israeli order,’” *Herzliya Conference*, 2015, http://www.herzliyaconference.org/_Uploads/dbsAttachedFiles/Tikva2015.pdf.

English, Hebrew and Arabic literature, and social studies (including civics). While a large majority of all segments of the population agree that a secular education is at least somewhat important,¹⁹ fierce disagreements emerge over the required standards and their implementation.

Not surprisingly, the political leaders of different tribes often view proposed enforcement of common core studies as an imposition of one set of values on their community's autonomy in the classroom. *Haredi* leaders in particular often protest that too much instruction in these secular studies detracts from their students' religious studies and could indoctrinate their children in secular culture.²⁰

Israeli courts have ruled in favor of a common core before. In 2000 and subsequently, the Supreme Court charged the minister of education with implementing a common core program of a minimum number of hours in all recognized "unofficial" schools (i.e., *Haredi* schools, for the most part).²¹ A similar ruling mandated that the minister withhold funding from unofficial high schools that do not institute the core curriculum.²² Politics intervened, however: the Knesset has since managed to effectively neutralize the Court's ruling and the educational division stands. This is precisely where forward-looking political leadership is needed, and where Rivlin's initiative may be of most value to his society.

The "four tribes" speech made several important contributions to Israeli public discourse. First, it placed a mirror before Israeli society, spelling out, from the mouth of Israel's first citizen, the realities and trends of Israeli demographic shifts. In recognizing and acknowledging Israel's existing multicultural society, the speech and the initiatives that followed from it—including a forum for devising

and promoting a new civic compact that reports to the president—allow for an honest discussion among Israelis over the future of their society. In its appeal to intercommunal coexistence based on respect, the president's initiative also endorsed the better aspects of multiculturalism.

Second, Rivlin's speech elevated the interests of two traditionally marginalized groups in Israel, *Haredi* Jews and Arab citizens of Israel, to equal footing with those of the two elite groups of society—the old elite of secular Jews and the new elite of the national-religious Jews. In each case, much work is needed both in how society at large deals with these marginalized groups and with how these groups deal with the rest of Israeli society. That they both were included as equal partners, on the same footing as the two elites, however, was a powerful message and a sound starting point.

19. "Israel's Religiously Divided Society," *Pew Research Center*, 138-139.

20. Asher Maoz, "Religious Education in Israel," in *The Routledge International Handbook of Religious Education*, eds. Derek Davis and Elena Miroshnikova (New York: Routledge, 2013): 171.

21. *[MK Yosef Paritzky] v. Minister of Education [and Culture Yitzhak Levy]*, HCJ 2751/99 (2000), <http://elyon1.court.gov.il/files/99/510/027/a02/99027510.a02.pdf>. *The Center for Jewish Pluralism v. Ministry of Education*, HCJ 4805/07 (2008), http://elyon1.court.gov.il/files_eng/07/050/048/r28/07048050.r28.htm.

22. *Secondary School Teachers Organization v. Minister of Education*, HCJ 10296/02 (2005), <https://www.psak-din.co.il/Court/%D7%A4%D7%A1%D7%A7-%D7%93%D7%99%D7%9F-%D7%91%D7%AA%D7%99%D7%A7-%D7%91%D7%92%22%D7%A5-10296-02#.WMA2KstVhHw>.

Institutionalizing difference

The president's approach is not without risks, however. Recognizing the reality of Israeli society also carries with it the risk of reinforcing this reality. By framing Israeli society as a tribal amalgam, and even more so by calling for a structured conversation among these tribes, the president was simultaneously acknowledging fact and granting it new power. The diagnosis and data he presented were clear, but the prescription is far from obvious. To what degree should differences in society be accommodated and to what degree should they be combated?

If these differences were further institutionalized in the name of a new compact among them, that institutionalization could boost the power of the leaders of each tribe to the detriment of individuals' autonomy. Any legal recognition, in particular, that involuntarily compartmentalizes individuals into communities ultimately diminishes their voices as individuals. Among many *Haredi* communities, some notions of individual rights such as freedom of speech or religion (to say nothing of issues like gender equality) are prohibited by religious authorities.

These concerns are particularly acute, given the Israeli political system. Israeli politics in recent decades are themselves structured, in part, along community lines. Israel has a parliamentary system with a proportional representation electoral process, and a relatively low qualifying threshold to enter the Knesset (recently set at 3.25 percent, and previously even lower than that).²³ As a result, often more than a dozen different parties earn seats in the Knesset, which is, as intended, highly representative of the fractious populace.

Israel has a wide variety of small- and medium-sized political parties: on the ideological fringes of larger ones and in the center, as well as parties claiming to represent particular segments of the Jewish population (e.g., Russian-speakers, Mizrahi Jews), Arab citizen interests (e.g., Arab nationalists, Islamists), and religious interests. Due to this fragmentation, no single party, so far, has ever won more than half the seats in parliament, and no party is likely to do so in the near future.²⁴ Coalitions are therefore necessary in order to form and sustain a government, and the parochial interests of different factions play an overt and central role in coalition negotiations. Kingmakers often emerge in Israeli politics—smaller parties that can crown the next prime minister by joining a coalition, or by strategically declining to do so, thereby giving the next largest party a chance to court it and form a majority coalition of its own.

In this setting, where community identities and parochial interests are highly politicized and rewarded, the challenge is to prevent the further fragmentation of Israel's electoral politics. One should aim to privilege overarching interests of individuals from all sectors of society, rather than further entrench parochialism. National politics need not be about what divides citizens; it can also be about what they can agree on and accomplish together, often crossing community lines. This is not an easy task, of course, but it should give pause to any initiatives that might institutionalize communitarian interests rather than overcome them.

Both the benefits and risks of community representation were especially apparent in the elections of 2015, when the threshold for parliamentary repre-

23. Jonathan Lis, "Israel raises electoral threshold to 3.25 percent," *Haaretz*, March 12, 2014, <http://www.haaretz.com/israel-news/1.579289>; "The Electoral System in Israel," *The Knesset*, https://www.knesset.gov.il/description/eng/eng_mimshal_beh.htm.

24. The creation of the Israel Labor party in 1969, from a merger of several other parties, briefly created a majority governing faction in the Knesset, but that majority was quickly lost in elections later that year.

sentation was raised to the current rate. Four different parties that relied mostly on votes of Arab citizens of Israel faced a risk of not passing the threshold, and decided to form the “Joint List,” a broad representation of most of the Arab population of Israel.

This joining of forces was no small feat. The Joint List comprises dramatically different parties within it: from *Hadash*, which includes the communist party of Israel, has Jewish as well as Arab members, and espouses a progressive social outlook and a left-leaning economic one; to the Islamic movement, with diametrically opposing social views; to the Arab nationalist *Balad*, which opposes most cooperation with Jewish parties and advocates for Arab citizens to be officially recognized as a Palestinian national minority.

For Arab citizens, the joining of forces consolidated their collective agency, affording them greater political clout and visibility and a firmer position to advocate for collective rights. In a country that defines itself as a Jewish state, non-Jews necessarily find themselves categorized along national or religious lines.²⁵

On the other hand, lumping all “Arab” parties together exacerbates many Jewish-Israelis’ perception of them as a monolithic “other,” and risks magnifying social divisions along the most complex social divide in Israel. It makes it easier for those who wish to exploit this division to paint the Arab population at large with the colors of its most extreme members.

Moreover, the joining of forces blurs key religious and political differences among them, robbing some voters of their ability to favor one or another radically different point of view at the ballot. An Arab citizen who wishes to vote as such, cannot now express any preference between communist and Islamist points of view; ideologies that could not be further apart. Many Christian Arabs, for ex-

ample, now find themselves sending Islamist representatives to the Knesset.

To be clear, the voters of the Joint List, a majority of the Arab voters in Israel, consistently express satisfaction with the political union. The political clout they lacked before was enough of a driver to overcome the ideological differences and risks associated with the move. The sense that the Arab minority must be empowered as a group clearly resonates within that minority and the leaders of the union are intent on continuing with it. Nonetheless, the process of identifying and institutionalizing the Arab tribe in Israel is not without costs.

25. While Israel has no official constitution, Israel’s Jewish self-definition was enshrined in the non-binding but highly revered Declaration of Independence and its Basic Law of 1985 (article 7A(1)).

Secularism and religiosity

A second risk of the tribal formulation is that one of the four tribes, the *hiloni* (secular) one, serves two distinct and very different purposes simultaneously. First, it is a loosely defined demographic group—secular Jewish Israelis, including atheists, Jews of liberal denominations, *masorti'im*, and others. Second, it serves as a kind of placeholder for the notion of separation of religion and state. The danger is that the separation of religion and state is perceived as yet another parochial interest.

In truth the secular tribe is not a tribe at all, but a residual collection of Israelis belonging to ethnic, religious, and cultural groups that are not ultra-Orthodox, national-religious, or Arab. Indeed, many *masorti* children, who are far from atheist, attend secular schools. The common but misleading categorization of the members of this group as those interested in the separation of religion and state casts the secular-liberal principles of government as merely a particularistic value system of the non-observant Jewish elite. It is then easy to view the call for separation of religion and state as merely an attempt to preserve the fading dominance of this elite and to disseminate an unreligious way of life.

This is not secularism, however. Secularism need not be the rejection of religion, but the belief in a separation of organized religion and political power. Secularism comes in many forms, with varying interpretations of what constitutes religious intrusion into the political arena. Some versions, such as in France, take a more confrontational approach to religion, including by banning the wearing of religious coverings (e.g., a hijab) in public schools. Other forms, such as the American model, largely define secularism merely through negative rights,

including freedom of religion. In this form, secularism actually owes much of its initial thrust to devout Protestants, who sought protection for their sometimes heterodox beliefs from state oppression.²⁶

Secularism, in other words, need not be anti-religious or even nonreligious; it can be an a-religious set of principles for the public space. It protects the public square from all shades of religious and anti-religious intrusion, as well as protecting religion from the encroachment of the state. Indeed, secularism is often vital for the free practice of religion itself. Nowhere is this more apparent than within the Jewish religious communities themselves, both in Israel and abroad.

The Modern Orthodox community is undergoing profound transformations, some of them directly linked to the authority of the (state-sanctioned) Chief Rabbinate and that of Orthodox rabbis more generally. As Yair Ettinger writes,²⁷ the *dati* community itself is bifurcating, with some turning toward more ultra-Orthodox practice and other, more liberal *dati'im* now “privatizing” their own religion, away from the old establishments of this community: “The well-established *yeshivot* (religious colleges), which used to set the national-religious camp’s ideology, have weakened, and beneath them have sprung a host of innovative communal institutions, including independent synagogues and younger rabbis.”²⁸ Increasingly, for example, religious women are opting for service in the military (rather than a “national service,” which some rabbis prefer).²⁹

These new forms of practice within the religious community bring in liberal ideas of gender equal-

26. The term was familiarized by George Holyoake, in mid-19th century Britain Greg Urban, “The Circulation of Secularism,” *International Journal of Politics, Culture, and Society* 21 (2008): 17-37.

27. Ettinger, “Privatizing religion: The transformation of Israel’s Religious-Zionist community.”

28. *Ibid.*, 6.

29. *Ibid.*, 8.

ity (to an extent, some may argue) and alternative rabbinical authority.³⁰ Even the political leadership most associated with the *dati* camp is moving away from overt rabbinical authority. The Jewish Home, the successor to the flagship National Religious Party, is now led by Naftali Bennett, who has made clear his (respectful) rejection of obedience to rabbis on political matters. For other religious politicians from the political center, the authority of the state rabbinate is being called into question even on ostensibly religious issues. As Ettinger notes: “One prominent speaker in [the liberal religious] camp is Knesset Member Elazar Stern, an Orthodox Jew in the centrist Yesh Atid party who stated recently in the Knesset that he held ‘contempt for the Chief Rabbi,’ Rav Yizthak Yosef, for his harsh views and actions in a halakhic dispute in which he is involved.”³¹

Limiting state power over religious affairs can be, in short, in the interest not only of seculars but of the religious as well. Separation of religion and state is therefore not the parochial interest of the nonbelievers any more than it is that of believers. The best way to manage divergent religious views within a complex state is precisely that—to separate, or at least strive to separate, religion from state power.

For religious women, the interest in limited state power over religion is even clearer. *Haredi* religious interpretation, for example, forbids public displays of the images of women. *Haredi* newspapers will go to great lengths to obscure the image of a female politician or diplomat, if it cannot be avoided outright. Tensions subsequently arise, especially in cities with large *Haredi* minorities, including most notably Jerusalem. There, one can readily see advertisements on buses and billboards with vandalized female portraits.

The battle against this and many other new forms of excluding women from the public sphere has of-

ten been led not by secular Jews, but by religious (*dati*) women. One notable example is Rachel Azaria, now a member of the Knesset from a centrist party, who led a fight in Jerusalem, where she previously served as a councilwoman, against these measures.³²

Separating religion and state would necessarily go against the broader practice of multicultural respect for different religious communities, in their autonomy over their community’s religious affairs. Yet the benefit to individual freedom—religious freedom and other forms—easily outweighs this price.

30. While female rabbis in Modern Orthodox Judaism are still too rare to represent a significant movement, liberal streams of the religious community allow a woman to become a *Maharat*, or female Jewish leader, which serves in name and functions as a clergy leader. For more on the matter, visit “Yeshivat Maharat,” <http://www.yeshivatmaharat.org/>.

31. Ettinger, “Privatizing religion: The transformation of Israel’s Religious-Zionist community,” 7-8.

32. Lauren Mellinger, “The new politics of religion and gender in Israel,” *Markaz* (blog), *The Brookings Institution*, June 18, 2015, <https://www.brookings.edu/events/the-new-politics-of-religion-and-gender-in-israel/>; Tim Franks, “Jerusalem Diary: Monday 10 Nov,” *BBC News*, November 10, 2008, http://news.bbc.co.uk/2/hi/middle_east/7719493.stm

Conclusion

Israeli society has many challenges, but quite a few of them spring from a common source: a lack of emphasis on individual autonomy. This is clear in many of the country's major social polemics: marriage and divorce, religious conversion, women's place in the public square, national service, Sabbath laws, and various *de facto* (and *de jure*) discrepancies in treatment between Jews and Arabs. Indeed, as Stern warns, religion-and-state tensions have even extended into Israel's broader security debate, as many national-religious Jews now openly challenge the government's legitimacy in conceding land in any future peace settlement.³³

Rectifying Israel's shortcomings in personal liberties would also work to offset the current system's overemphasis on groups, which at present encourages prioritizing one's own communal solidarity over either national or individual-based interests. This includes the religious sphere, where community-based autonomy necessarily means the entanglement of religion and state, and therefore religion and politics.

Moving forward from the image Rivlin set before the Israeli public should start just where Rivlin began: in the segmented education system that produces the four tribes.

While full integration of the educational streams is unrealistic and not necessarily desirable in the current context, three issues are crucial: creating genuine equality among Israel's educational streams in terms of the resources and future opportunities accorded to their students, Jewish or Arab, secular, religious or *Haredi*; engendering a common base for understanding society among them; and most of all, instilling an ethic of indi-

vidual autonomy. All three require budgetary as well as curriculum-based changes, and political courage to get them done.

The push to recognize differences and grant respect to groups within society is surely a positive one. It can go too far, however, and its context is crucial. In many countries around the world, including Israel, it is the reverse that is now most needed.

Changing a society's structure is clearly no small task, especially in a segmented society like Israel's. Progress would have to be gradual, and consensus slowly built. Basic respect for different communities would have to be safeguarded even while commonality is fostered. Yet with a national conversation already under way, the goals should be clear: upholding individual autonomy, emphasizing commonality rather than difference, and moving toward the extraction of politics from religion and of religion from politics.

33. Stern, "Religion, State, and the Jewish Identity Crisis in Israel," 20.

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