Gideon SAPIR, Daniel STATMAN, *State and Religion in Israel*

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- 1 Jewish thought often supports liberalism, but how should this alliance be understood when the state of Israel is not committed to the separation principle? The Jewish state assumes protection for religious groups, including different Jewish denominations, Muslims, Christians, members of the Druze faith, but also for secular people. In a society where so many conflicts arise on religious grounds and where boundaries between religion and state are so blurry, someone needs to assume the responsibility and decide concerning different consequences of religious behaviors in the public space. Hence, political power places itself in front of a paradox. If the state assumes control over internal matters of religious groups, it is not a secular state anymore. If the state abstains from regulating religious groups, it empowers the religion of the majority to dominate the public space, thereby creating a disadvantage for other religious or secular minorities.
- 2 The book, first published in Hebrew in 2014 by the University of Haifa Press and Yediot Ahronoth Books, argues that a liberal democratic state is compatible with support for religion: both by considering religious frameworks in legislative issues and by offering financial support to religious communities. By examining in details the consequences of state support for religious visions, as expressing a certain cultural identity, the book paradoxically reveals the advantages of the separation principle. The model defended by the authors is built in direct opposition to the principle of laicity. However, historical, political and religious contexts in the Middle East and the special story of the

creation of the state of Israel need to be taken into account when discussing the separation principle, and especially the possibility of its implementation in a unique context like the state of Israel.

- 3 The aim of the book is to provide a fair equalitarian model of state interference on religious affairs. Of course, one can argue that there is no such thing like a fair interference in this field (I will not enter this discussion, since arguments for this thesis are very well known). Though, one should also take into account that the arguments proposed by the authors offer paths to remediate several problems emerging from the current situation within the state of Israel. Hence, the book provides a philosophical-legal framework for reforming current injustices experienced by secular Jews, as well as by Muslim, Christian, or members of the Druze faith. In this sense, the authors provide tools to accommodate the needs of the different religious minorities and, to a certain extent, to compensate for the advantages offered by the current system to different observant Jewish communities. Steps forward compared to the current situation are the arguments concerning the acceptance of civil marriage as an alternative to religious marriage, the recommendation not to except *yeshiva* students from the army, or the arguments for allowing public transportation on the Sabbath.
- 4 The book is divided in two parts. Whereas the first theoretical part discusses fundamental principles and values, like protection for faith-based communities but also freedom from religion, the second is practically concerned with the defense of both freedom of religion and freedom from religion.
- 5 Part one mingles arguments coming from the legal realm with arguments from the philosophical realm. This intermingling of sectors seems to lead to a situation where arguments fail to provide enough support for the conclusions. For instance, sentences like “relaying on religious considerations as a basis for restricting liberty is not necessarily wrong” (p. 137) might be true, but one cannot ask for public policies based on a religious vision on this base. By analogy, being a vegan is not morally wrong, but no state would shape state policies helping vegan restaurants and shops, funding them by the public finance, while highly taxing non-vegans based on the vegan’s moral assumption. Even by ignoring the special nature of religious considerations, it is simply not enough to imagine that something “is not morally wrong”, when one searches for arguments shaping public policies. Although the authors are correct to assume that the secular framework is not the only possible one, and one that can be overcome by creative effort, they do not offer enough convincing arguments for this shift of paradigm.
- 6 However, the second practical part deserves attention because it puts a lot of effort in describing the exact nature of the problem giving birth to conflict between different religious communities, or between observant and non-observant Jews. It emphasizes as well the state’s effort to fulfill specific religious needs without discriminating against other needs. Moreover, it suggests useful paths to resolve the tensions arising thereof. The protection of religious identity, up to the right to shape the public sphere of the neighborhood, based on values and ways of life with very special requests, like prohibition of public transportation on Sabbath, or the state providing *kashrut* certificates, may entail several tensions and difficulties that I will develop in the following lines.
- 7 Chapters 11, 13 and 14 elaborate tensions concerning legislation: e.g. when the Supreme Court of Israel distinguishes between hardcore Halakha requirements and the

preference for practices like the wearing of a kippa all day long, or, on the contrary, abstaining of wearing the kippa in a rabbinical court for secular people. Accordingly, it seems that this secular court cannot be distinguished in any way from a religious court. Apparently, the Supreme Court also has the monopoly of the correct interpretation of the Halakha – a situation that should trouble both secular and religious persons.

- 8 Tensions concerning education are examined in the chapters 10 and 12. The interest of a certain state is to promote a certain set of values and ideals by the public education system while encouraging students to identify with the state (p. 188). Thus, it seems reasonable to make school funding conditional on teaching these values. Doing so would imply not offering funding for Ultra-Orthodox schools who only teach Thora. However, by doing so, the Ultra-Orthodox communities would become even less involved in Israeli society and their rejection of the state would increase even more. By observing these underlying dynamics, it can be assumed that once the state provides any positive law on religious issues, no endpoint where legislation on religious aspects would need to stop could be determined. Egalitarian measures and religious needs would always ask for a continually revised legislation to fill the gaps of the antecedent laws.
- 9 Chapter 15 examines tensions concerning minorities. If Jewish communities are protected by state laws and policies, minorities should also be protected to at least the same degree. This entails that the “Jewish state” should also enacts laws on issues linked to Muslim and Christian education, religious courts and so on, which seems paradoxically. On the other hand, the autonomy of these minorities might appear as a form of respect, but can also be seen as a refusal to regard non-Jewish people as equal citizens, for whose way of life the state would need to provide protection.
- 10 Putting into light these tensions emphasizes the complex situation in Israel, but also seems to reveal the contradictions of the non-separation model which grants official protection and funding for all religious communities. The authors acknowledge these tensions, but they do not consider them to be good reasons to challenge the non-separation principle.
- 11 Funding for different religious bodies is possible in some European countries, but none of these countries is regulating religious practices and behaviors. And even though the policies of the USA is influenced by religious lobbyism, no public funding is offered to religious institutions. The Israeli model desires to provide both regulation for the facilitation of common life and funding for religious communities. It is of course the state’s duty to mediate in different conflicts and provide a legal framework for solving possible conflicts, including religious conflicts, but would not be easier if the state would just abstain for recognizing religion and embrace the model of *laïcité*?