

Defining What's Jewish about the Jewish State:

An Introduction to Ruth Gavison's Report to the Minister of Justice

Simon Rabinovitch

To understand that Israel is a Jewish state is not the same as to understand what it means for a state to be Jewish. In Israel today, people who self-identify as Jewish form a majority of the population, Hebrew is the dominant language, and the rhythms of life — from Sabbath to state holidays — correspond with the Jewish religious calendar. Nonetheless, the state has no official religion and its laws governing, regulating, and subsidizing all religious groups are built on layers of Ottoman and British legal precedent.

In the preamble to Israel's [Declaration of Independence](#), signed on May 14, 1948, the Declaration's authors chose to describe the historical justification for Jewish self-determination and its realization in Israel's founding as a Jewish state, rather than to define the character of the new state or what it means for the state to be Jewish. The Declaration also claimed that an elected Constituent Assembly would craft a constitution in less than five months. The divisions within Jewish society in Israel that needed to be reconciled, or at least bridged, for the new state to survive instead led the political groups present at its founding to put off the divisive task of constitutionally enshrining the character of the state for the distant future, and since that time Israel's constitutional law has been enacted ad hoc in regular legislation and a series of basic laws.

In recent years a debate has emerged among Israeli lawmakers and the public about whether to attempt to settle the unfinished constitutional business of defining Israel's legal character, or if such a resolution is even possible. The Basic Law on Human Dignity and Liberty, passed in 1992, stated as its purpose "to establish in a basic law the values of the State of Israel as a Jewish and democratic state" but the law focused on individual rights and did not address what it meant for the state to be Jewish. Since 2011 several laws have been drafted and proposals made about how and whether to constitutionally anchor Israel's vision — or its status as the nation-state of the Jewish people — in a basic law.

In August 2013, with the debates about Israel's character raging, and initiatives to create a law defining Israel as the nation state of the Jews being tabled, Minister of Justice Tzipi Livni commissioned Professor Ruth Gavison, a prominent scholar of constitutional law, to address the question of how the constitutional anchoring of the state's vision as both Jewish and democratic could be accomplished. In addition to being active in organizations such as the Israeli Association

for Civil Rights in Israel, and Metzilah: The Center for Zionist, Jewish, Liberal and Humanist Thought, Gavison has written extensively about constitutional law in Israel and about its character as a Jewish and democratic state. She had also in 2003 written the [Gavison-Medan Covenant](#) with Rabbi Yaacov Medan, which argued for a new social compact to govern religion-state issues. Minister Livni expressed the challenge to Gavison in the following words:

The State of Israel defines itself as a Jewish and democratic state, but there is no suitable constitutional articulation of these two terms. Hence, we are facing substantial social and legal controversies, in which each side seeks to entrench a different worldview.

I believe the time has come for a constitutional arrangement dealing with Israel's identity, which entrenches its components in a way that combines and balances these values, the Jewish as well as the democratic.

On November 19, only days before the Knesset's governing coalition broke apart over this and other issues, Professor Gavison filed her report on the question of the "Constitutional Anchoring of Israel's Vision" to the Minister of Justice. She declined to draft a law or proposal but instead compiled a report about why the Knesset should avoid legislating a basic law on either Israel's identity or vision. Her original intention had been to fulfill the Minister of Justice's request and to submit a proposal regarding the constitutional entrenchment of the state's vision. She was planning a process that would, following public and parliamentary debate, lead to a "constitutional moment" when this issue would be clarified. Such a moment might have been present had there been a real breakthrough in the negotiations with the Palestinians. After a long consultative process with scholars and civil society figures in Israel and the Jewish Diaspora, however, Gavison concluded that the cost to civic cohesion in drafting the law and the effects on the legal system in enacting it outweigh benefits that are difficult to determine. (Her report does still make several suggestions should the Knesset deem legislation necessary.)

In the end, Professor Gavison proved reticent to have the question of the state's character determined by the Knesset. In her words: "Legislation transforms questions that had previously been moral, social or cultural into legal questions, which may be debated and decided in courts of law." Perhaps most importantly, Gavison believes that the three fundamental aspects of Israel's vision — Jewish, democratic, and respecting of human rights — are already well established in the law, and the vagueness in the meaning of these terms is an asset rather than a detriment to Israeli society. There is a danger that if the debate intensifies it will foster the sense of a binary between the state's Jewish and democratic values when they are not by definition contradictory (an opinion shared by many Jews in the Diaspora as well).

If there is a clear binary already, it is between how Israel's Jewish and non-Jewish citizens view this question. A [poll released December 9 by the Israel Democracy Institute](#) found that 73% of Israeli Jews believe there is no contradiction between Israel as both a Jewish and democratic state, but 83% of Israeli Arabs believe there is. While Jewish and non-Jewish Israelis are more integrated in Israeli society than many outside of the state perceive, it is nonetheless clear that the meaning of the state and its system of government varies almost diametrically between the two groups — and includes dramatic fissures within each group. Looming all the while in the

background, and unquestionably adding a sense of urgency to the debate, is the fact that the Palestinians still do not have a state, and the two sides are at an impasse about how, when, and whether a Palestinian state will come into being. Perhaps unsurprisingly the past and future of the conflict between Israelis and Palestinians is embedded in the current debate about how to define Israel.

The timing of recent bills on Israel's character cannot be divorced from electoral politics, but the issue predates the coalition infighting that ultimately dissolved the government and led to new elections (to be held March 17, 2015), and it is unlikely to disappear any time soon. In more than 130 years since Zionism first emerged as a political idea, and 117 years since the first World Zionist Congress, there has consistently been an enormous diversity of opinion about how to interpret the Jewish component of what would be the Jewish homeland or state. As a movement, Zionism always included individuals, streams, and parties with widely diverging ideological perspectives including, often neglected, no ideology at all: socialist and liberal; the traditional and the self-consciously heretical; utopian and practical; those who sought spiritual or religious redemption and those who simply sought a home free of anti-Semitism — each with a different perspective on Judaism and Jewish nationality. The ambiguity in the Declaration of Independence about what it means for Israel to be a Jewish state left open the possibility of multiple interpretations that proved especially useful in maintaining strong ties to the Jewish Diaspora and helped the state to absorb waves of migrants from different parts of the world — Europe, Arabic-speaking countries, Iran, Ethiopia, and the Soviet Union, to name just a few — with dramatically different religious traditions and commitments.

Naturally, the constitutional ambiguity and the diversity of Israeli society have also created differences of opinion as to the benefits of clarifying the state's vision and, if done, what aspect or aspects should be emphasized (and one can see such diversity in the draft bills that have been proposed). Furthermore, it is important to reiterate that arguments for increasing civic cohesion through such legislation look very different to one-fifth of the state's population that is not Jewish. Gavison ultimately determines that being Jewish, democratic, and respecting human rights are each and together critical to the flourishing of Israel as the place in which Jews exercise their right to self-determination. They are all contested and there are tensions within them and among them. To Gavison, for civic cohesion — for today and into the future — it is important to permit an ongoing conversation about the implementation of Israel's complex vision without seeking to entrench or legalize the meaning and the hierarchy of its components once and for all.

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Below you will find the complete official English translation, published for the first time, of Ruth Gavison's report, "Constitutional Anchoring of Israel's Vision: Recommendations to the Minister of Justice." In the coming weeks *MRB* will publish English translations of all of the draft bills on Israel's definition submitted to the Knesset between 2011 and 2014 and Prime Minister Benjamin Netanyahu's recent recommendations, along with a short explanation of their chronology. These will be followed by seven interpretive essays by leading legal scholars and historians: Israel Bartal, Nahum Karlinsky, Nir Kedar, Yehudah Mirsky, David Myers, Gideon Sapir, and Alexander

Yakobson. When the Forum is complete, the report, the documents, and the essays will be published together and freely available in an e-book.

Providing English readers the key documents at the center of this important debate, combined with sophisticated analyses from scholars with widely varying perspectives, *MRB* hopes that *Defining Israel* will become a crucial resource for anyone seeking a better understanding of why Israeli society is still struggling to determine what it means for the state to be Jewish.

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Constitutional Anchoring of Israel's Vision: Recommendations Submitted to the Minister of Justice

Ruth Gavison

Abstract

Context

This work has been written against the background of bills designed to anchor the vision of the state in a basic law. My mission was to examine the question of the constitutional anchoring of Israel as a Jewish and democratic State.

Society, state and vision

- A shared vision is critical for a society whose members are required to make sacrifices for its existence and contribute to its flourishing. The core vision of a state includes the basic values that lend a unique character to its society.
- Israel is a nation-state whose vision includes three main components: Jewishness, democracy, and human rights.
- Each of these three components is a vital feature of the vision of the state, and they all complement each other. There is a broad agreement within the Jewish public on a vague and thin conception of this vision. The component of Jewishness in the vision of the state is not easy to swallow for members of Israel's Arab minority. At the same time, the complex vision of Israel regards them as equal citizens, and as full partners in the state.
- The full vision, in its entirety, is vital for the strength and success of the state. Such strength and success of the state are in turn essential to the welfare of all of Israel's residents, irrespective of nationality or religion.
- A distinction should be made between the broad acceptance of the core of the vision, and disagreements within Israel's society over varying interpretations of the vision and its practical implications for social life.
- Israel manifests deep political, social and ideological disagreements. Most of them are not about the core vision itself. They relate to its interpretations and implications.
- The state has an interest in strengthening the broad acceptance of the core vision of the state.

Constitutional anchoring of the vision

- The vision of a state is usually articulated in the preamble of a constitution. It has declaratory, expressive and educational functions. In this way the core vision is distinguished from the constitutional arrangements that give it practical meaning. Israel does not have a full constitution. The present bills aim to establish a separate constitutional anchoring of the vision by itself. They include **vision laws** (basic laws seeking to anchor the full vision of the state); **Jewish nation-state laws** (basic laws which by name and content seek to provide constitutional anchoring for the Jewish component of the vision); and the **Declaration law** (an instance of a vision law, that would anchor the Declaration of the Establishment of the State, also called the Declaration of Independence, in its entirety).
- Questions of vision are not legal questions, and should not be decided by law or in courts. A separate anchoring of the vision would transfer the locus of discussion about disagreements on interpretations of the vision from the public and political arenas to the courts. Against the background of Israeli reality, this process will enhance uncertainty and disagreement.
- Debate and discussions concerning interpretations of the shared vision are desirable and contribute to the betterment of society. A move to anchor the vision will put the vision itself as the focus of disagreement.
- A **Jewish nation-state law** may upset the balance between components crucial for maintaining the full vision. Moreover, such a law seeks to anchor in a basic law arrangements that are not part of the core of the vision. In this way it may limit the broad agreement concerning the Jewish component in the core vision.
- The **Declaration of the Establishment of the State** (hereafter - the Declaration) does reflect the complex vision articulated by the founding fathers of Israel. This Declaration, deliberately left outside the law thus far, obtained its meaning in the historical context in which it was adopted, and enjoys broad support in Israel. It is better to leave it untouched, and not subject it to controversies that will inevitably arise as a part of a campaign to enact it as a basic law, in totally different social and political circumstances.

Main recommendations

- To act in a variety of ways — both cultural and educational as well as legal and legislative — to bolster the broad endorsement of the core vision of the state, in three circles of solidarity: the civic collective in Israel, including all citizens; the Jewish majority in Israel; and Jewish communities around the world.
- To refrain, at this stage, from additional constitutional anchoring of the core vision through legislation, in part or as a whole.
- If legislation to provide constitutional anchoring of the vision of the state is initiated, the law and the process of legislation should both reflect the magnitude of the mission. An attempt should be made to seek a law that will strengthen solidarity and not deepen rifts, so that the vision of the state will be strengthened and not weakened by the legislation; will highlight civic solidarity in Israel; will enhance Jewish solidarity in Israel and abroad;

and will manifest a fair, generous and inclusive attitude to the members of the Arab minority.

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Introduction

[In August 2013 you commissioned me](#) — with the agreement of all coalition factions — to examine the proper way “to formulate a constitutional arrangement dealing with the nature of the state...and anchor the components of its identity in a way that would integrate these values, the Jewish as well as the democratic.” The request was prompted by a number of bills seeking to anchor the vision of the state in a basic law, and the heated public debate surrounding them. I thank you for the trust you have placed in me.

To perform my task I have studied materials concerning theories of state, processes of constitutional anchoring, and the vision of the state of Israel and its constitutional history. I have met with the MPs who proposed the bills, consulted with experts in Israel and abroad, and discussed the matter with many people from different sectors of Israeli society. I participated in conferences on the subject, representing a broad range of attitudes to the question. I have received memoranda and reports from various individuals and organizations. Throughout I have enjoyed the diligent and effective support of my team and of the Ministry of Justice. I thank the many who have helped me in this task.

I chose to define my task broadly. The disagreements surrounding the proposed bills do not concern only the issue of legislation. They relate also to the vision of the state itself, its substance and its function. Israel does have a vision, and it has pursued it with considerable success. Its canonical formulation, often mentioned and invoked in many contexts, is the one contained in the Declaration of the Establishment of the State: Israel is the realization of the Zionist dream of the rebirth of the Jewish people in its homeland. The state is Jewish, democratic, and respects the basic liberties of all its residents.

Israel’s success as a state depends on two circles of solidarity. The first relates to its ability to persist and win the battle over its existence as a Jewish state, based on a strong solidarity among the Jews in Israeli society (and with world Jewry); the second is its ability to create a civic partnership among all its citizens, based on its being a free and democratic society respecting their rights. Constitutional anchoring of the vision is one way of promoting it. I wanted to examine the question of the vision itself, not just its constitutional anchoring.

This paper is a concise statement of my recommendations. I start with the question of the vision of the state. I then look at some difficulties involved in an attempt to anchor it in a basic law. I have added some observations in case the Knesset decides to proceed with legislation nevertheless. I conclude with a few general recommendations, based on an analysis of the arguments presented by the advocates of the bills. At a later stage I will submit a longer report (in Hebrew), in which some of these points, as well as a description of my work, will be developed at greater length.

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The Vision of the State of Israel

According to the founding fathers of the state, and in most formulations that followed it, the vision of Israel is clear, and includes three distinct components:

- Jewish character;
- Democratic character;
- Protection of human rights.

In an expanded formulation: Israel is a **democratic** state, in the sense that sovereignty in it is vested in all its citizens, irrespective of religion or national origin, on the basis of liberty and equality; it protects the **human rights** of all its residents; and it is the political framework that allows **Jews** to realize their **right to self-determination** and to political, cultural and religious independence, based on their being a stable and strong majority in the country. The basic commitment to these three components of the vision, each one and all three of them together, integrated and complementing each other, is **the core of the vision of the state**.

In praise of minimalism and vagueness

The power of this vision lies in its vagueness. There are very few arrangements that the vision requires, and very few that are negated by it. This is because each of the components is vague, and its meaning is deeply contested; and because the relationships among these components, and the implications each of them may have with regard to the implementation of the others, are many and varied. At the same time, the vision offers a compass that can serve most of Israeli society.

The Declaration chose not to render the vision of the state in terms of a legally binding formulation, and did not provide detailed interpretations. It presupposed that the three components of the vision complemented one another.

In contrast to this presupposition, there is a tendency in contemporary public and political discourse in Israel to present the vision of the state as trapped between two contradictory poles: a “particularistic” tribal pole, which is the essence of the “Jewishness” of the state; as against a “universalistic” or humanistic pole, that is the main pillar of democracy and human rights. The enactment of the expression “a Jewish and democratic state” in the 1992 basic laws, and the public debates that followed it, contributed much to this picture of the state moving between two competing poles. This tendency was strengthened by the undeniable fact that while Israel is the only Jewish state in the world, democracy and human rights are ideals shared by many other states.

This impression of a contradiction between two poles is misleading. There are at least three distinct components in the vision: Jewish distinctness, democracy and human rights. They derive their basic legitimacy from different sources. And within each of them, as well as among them, there are many tensions.

The Jewish character of the state is indeed a particular matter related to Jews and Judaism, however we may define these terms. The core of this component in the vision of the state is the ability of Jews to exercise in their homeland a state-level right of self-determination. This self-determination permits them to decide what form Judaism will take in Israel. This component of the vision concerns the Jewish collective, whose members are Jews, and which is defined by Judaism — in its cultural, religious and historical dimensions.

Democracy is the principle that sovereignty of the state is vested in all its citizens, irrespective of religion, nationality or gender, on the basis of liberty and equality. The core idea is that it is a government of the people, by the people and for the people. The constituency of this component of the vision is the civic collective, the *demos*. The arrangements of the state are determined by 'We, the People,' in which all citizens have one, equal vote.

Human rights are derived from the basic principle that all persons are entitled to human dignity, since all were created in the image of God (this formulation reflects the religious basis of some human rights theories. A non-religious account may say that all persons, *qua* persons, are entitled to human dignity). Human rights thus reflect the duty imposed on states, societies and all individuals to treat individuals respectfully. The constituency of human rights is not ethnic national or even state-civic, but humanity as a whole (when human rights are protected by the law of the state, they are not only human rights but legal rights as well).

The meaning of the vision of the state, based on the three components — Jewish character, democracy and human rights — is the freedom of Israeli society to determine the detailed arrangements governing its affairs, substantive as well as institutional, subject to the *bona-fide* aspiration that the arrangements meet the demands imposed by these three ideals. When the meaning given to these components of the vision is indeed thin, they can be reconciled and they in fact reinforce each other. Jews are a stable majority in Israel, and as a rule they see the state as their national home. The Jewish character of the state thus also reflects its being a democracy. The denial of the Jewish character of the state would also frustrate a basic preference of the majority. Such denial would be justified only if the preference itself were illegitimate. This essay — along with the law of nations, liberal political theory and the Declaration of the Establishment of the State — rejects this view. Thus in Israel, democracy supports the Jewish character of the state. Human rights are justified by universal moral principles. They are a constraint on what states and societies may do to individuals and to groups. However, they cannot sustain and inspire a whole culture and a way of life. All great cultures address the rights of men *qua* men (Beloved is man for he was created in God's image) as well as other considerations, including particular interests and social concerns of the nation in question. The practical power of human rights is greatest when they are based on the combination of sources external to the state and its particular culture, but supported also by insights and imperatives coming from that culture. This is true for the state of Israel, and for the cultures constituting the sectors of Israeli society.

Jewish character, democracy and human rights are all very vague and contested. The richer the meaning given to any of these components, the more it is likely that there will be a disagreement about whether a specific arrangement meets the demands of the vision, and the greater the likelihood of tension and even contradiction between the components of the vision. Thus, if a

Jewish state means a Jewish theocracy, it may not accept the sovereignty of the *demos*, or the rights of individuals and groups to freedom of religion and freedom from religion. A Jewish state seen as a rigid ethnocracy may indeed legitimate discrimination against all non-Jews. It thus may not protect the rights of individuals and minorities to equality, liberty and culture. A civic, neutral democracy may not facilitate the promotion of the rights of Jews to self-determination (and the rights of minorities to culture), and might lead to an underestimation of the importance of non-civic identities to individuals and groups (minorities and majorities alike). An expansive interpretation of the human rights discourse, combined with a broadly-interpreted power of the courts to invalidate legislation allegedly violating such rights, might weaken the power of individuals and groups living in the country to determine the arrangements and practices prevailing in it.

The challenge of civic cohesion

The tendency to contrast Jewish character and democracy has a special meaning for the Arab minority in Israel. Its members find it easy to promote ideals of democracy and human rights (even though some groups within this minority may be reluctant to endorse some interpretations of human rights and democracy, for religious or cultural reasons, just as these are rejected by some groups of Jews). It is unlikely that Arabs will find it equally easy, however, to identify with the Jewishness of the state.

The disagreement between Jews and Arabs thus concerns not only the interpretation and the practical implications of the vision, but the vision of the state itself. Arabs are a minority within Israel, but they belong to the majority in a region in which Jews are a minute minority (the Middle East). Between the two groups there is an unresolved conflict, including a struggle concerning the existence of the state itself. Since 1967, the disagreement also involves the political future of the territories captured by Israel in the Six-Day War, and the legitimacy of Jewish settlement in them. Among the political leaders of the Arabs in Israel there are those who emphasize identification with the Palestinians, including the goals of those denying Israel's right to exist, more than civic cohesion within Israel. Some of Israel's Jewish leaders, for their part, emphasize the national antagonism more than the civic partnership. Such positions reinforce each other.

The picture becomes even more complex since the Jewish-Arab tension exists independently of the question as to whether the Jewish character of the state is a matter of nationalism, culture, religion or a combination thereof. There are internal debates within the Arab minority in Israel concerning issues of identity, the relationships between religion and national identity, and the role of individuals in the communities to which they belong. However, these debates are often played down due to the high visibility and significance of the national conflict. For our present purpose, it is important to stress that the claim of a Jewish character of the state is usually not countered by claims to neutrality or to "a state of all its citizens," in the sense of privatizing all non-civic identities (as in France). Rather, it is countered by claims of different, possibly incompatible, identities and meanings (religious, national or a combination thereof). Many of the leaders of the Arab minority in Israel do not advocate a neutral, civic state; they aspire to reconstitute Israel as a bi-national or a multicultural state. What is common to the visions that

one can identify within the Arab minority — a bi-national state, a civic neutral state, or a part of an Arab-Islamist state — is that all of them deny Israel as the nation state of Jews. (To be clear: even if members of the Arab minority in Israel were to desire a civic neutral state, Jews might still insist that Israel should be the nation-state of Jews).

This ideological and identity-based conflict plays out against the background of a complex social reality. The large majority of Arab citizens of Israel are well-integrated into life in Israel, and do not take part in hostile activities against the state. They exhibit varied and complex attitudes towards their Israeli citizenship. There is an extensive and expansive Jewish-Arab activity within Israeli civil society to enhance civic cohesion. The extent and sophistication of these attitudes and activities are often played down due to the context of the conflict and the tendency of the discourse in Israel towards polarized presentations of reality. These facts also obscure the presence in Israel of many individuals and groups who are neither Jews nor Arabs, who are full members of the state. In fact, Israeli society exhibits impressive and important elements and achievements of pluralism, integration and partnership.

The challenge of civic cohesion implies the need to strengthen the political framework of the state that facilitates significant partnership of all citizens in building the state and the nation, without distinction of national origin or religion, and to strengthen the feeling of membership and inclusion of all — despite the fact that the country is not fully and exclusively civic and neutral. This is a central and essential challenge. The strengthening of civic cohesion is a clear implication of the component of democracy in the vision of the state, based on an equal and inclusive citizenship. It is also required by the very task of the state to serve the people living in it, and to promote their welfare.

The challenge of Jewish solidarity

In the internal Jewish debate about ‘Jewish’ vs. ‘democratic’ in the vision of the state, the two are often represented as being at odds with each other. On the one side stands a humanist-secular-liberal conception (either national-Hebraic or neutral and post-nationalist), committed to individuals and their rights (democracy), while on the other side stands a *halachic* Jewish conception (Jewish state). There are those who claim that Israel as a ‘Jewish state’ is tantamount to a Jewish theocracy, incompatible in principle with democracy. According to this view, there is a necessary contradiction between the Jewish and the democratic nature of the state. Accordingly, Israel must give up either the Jewishness of the state (according to a purist secularist conception) or its democratic nature (according to a purist religious conception) of its vision.

The binary presentation of ‘Jewish’ vs. ‘democratic’ in the internal Jewish debate is also misleading. It does not do justice to the deep and persistent debate among Jews about the nature of the state of Israel, the essence of Judaism, and the way in which the state should reflect its Jewish character. This presentation tends to foment hostility, distrust and animosity among those who are allegedly the carriers of conflicting Jewish visions for the state: Observant Jews and non-observant ones; nationalists v. cosmopolitan humanists.

The majority of the Jewish population of Israel, including the majority of the orthodox leadership, does not see the Jewish character of the state as a move towards theocracy. In the 1948 Declaration it was made clear that the Jewish character of the state consisted in the exercise of the right of national self-determination of the Jewish people. In fact, the Jews, in both Israel and outside it, exhibit a great variety of approaches to religion, to the essence of Judaism and its continuing importance, and to the relation between Judaism as a religion, civilization or nation and democracy on the one hand and human rights on the other. Similarly, they hold a variety of opinions on the question of how the Jewish character of Israel should be reflected in its public sphere. The pluralism in these matters cuts across group identities: There are observant Jews who advocate the privatization of religion in Israel, and there are secular Jews who struggle for maintaining a cultural Jewish presence in Israel's public sphere.

Debates concerning the Jewish component in the vision of the state are inevitably tied both to the debate about the legitimacy of Israel as a nation-state as against civic and neutralist visions, or post-national and post-Zionist ones, as well as to the political debate concerning the future of the settlements and the conflict with the Palestinians. Against this background it is important to note that, while it is mainly secularists who hold civic-neutral and post-national attitudes, a large majority of Jews, in Israel and abroad, including most of those who are not observant, regard Israel as the place where Jews exercise national self-determination. On the matter of the future of the occupied territories, the picture is more complex. There are secularists who support the vision of a Greater Land of Israel, and there are Orthodox Jews who support the vision of two states for two nations. What is important for our purposes is that the advocates of both these political visions often justify their positions by the wish to maintain Israel as a state which is Jewish, democratic, and supportive of the human rights of all. All of this suggests that a discourse emphasizing the apparent contradiction between the components of the complex vision blurs the fact that the great majority of Jews in Israel, and thus a majority of Israeli citizens (as well as a majority of Jews around the world), endorses the complex vision of all three components and wants to combine them. Consequently, **as far as the Jewish majority is concerned, the debate is not about the possibility – conceptual or practical – of justifying and combining the three components, but rather about questions relating to their practical interpretation:** what is the relative weight of each of the components in comparison with the other two components? Should arrangements pertaining to the implementation of the components of the visions be regulated, in whole or in part, by the state itself? If so, in what form? Who should be making decisions on such matters? In what sort of process should such decisions be made?

The challenge of maintaining Jewish solidarity, in Israel and abroad, requires a sense of all-Jewish kinship aimed at defending the right of Jews to protect their lives, welfare and identity, and an agreement that the existence of Israel as a Jewish state is a central form of that right. The deep intra-Jewish debate over the meaning of the vision of the state and its implications should be conducted in ways that do not tend to undermine – intentionally or indirectly – Israel's ability to maintain itself as a state in which Jews exercise their right to freedom and independence.

The centrality of a thin, integrated vision and its institutional implications

Like every complex vision, that of the founding fathers of Israel has its internal tensions. However, only this complex vision can meet the needs and concerns of the heterogenic society living in the country. Israel is a democracy committed to the human rights of all its citizens, and it should remain so. Democracies, however, do not have to be civic, secular or neutral; and human rights cannot determine all aspects of social life. Arrangements seeking and facilitating the implementation of the right of Jews to national self-determination can be part of a vision in which the other components are a robust and lively democracy and respect for the rights of all individuals and groups living in it. Moreover, a state established and maintained to permit the national rebirth of the Jews, which has been since its inception in a struggle with its neighbors concerning its existence and identity; which has a large Arab minority which does not share its vision; and which is related to important Jewish communities outside its borders — cannot be civic or neutral. A civic and neutral democracy is neither required nor is it suitable to the reality of Israeli society.

To conclude: **The vision of Israel must remain complex: Jewish character, democracy and human rights. The Jewish majority in Israel cannot and should not give up the component of the Jewish character in the vision of the state. More importantly: Keeping this component and recognizing it as an essential part of the vision of the state is critical to the viability of the state, and to its ability to provide security, welfare and protection of the rights of all its citizens and residents.** In our time and region it is clearer than ever that functioning, effective and vital states are essential to protect the rights of all those living in them to life and to flourishing. All those living in the country have a stake in keeping Israel functional and strong.

Israel must insist on the protection of the core of all components of its vision — Jewish character, democracy and human rights — and put this commitment at the center of its shared political framework. But it is not thereby committed to any specific interpretation of the implications of this core vision with respect to the practical aspects of social and political reality. Here are a few important guideline principles concerning the debate on the interpretation of the vision and its practical implications:

- Not every determination in interpretive debates on practical arrangements related to components of the vision is a violation of the core of the vision.
- Not all debates about the interpretations of the components of the vision have to be resolved. When a formal resolution is not required, it is better to avoid it. Rich social and cultural practices, invoking a shared political culture, are better than resolutions. The state should permit them and encourage them.
- At times, decisions involving value judgments of different groups, or institutional arrangements and competences, must be made. In such cases, the state cannot avoid a resolution, which may be controversial. Usually, such arrangements are neither required by any of the components of the vision, nor are they inconsistent with them. The power of the vision — integrating all the components — lies in its vagueness.

- Social arrangements reflect resolutions seen as suitable to a particular time and place. It is advisable to permit adaptation of such resolutions to changing circumstances. It follows that low visibility and flexible arrangements are preferable to more entrenched arrangements enjoying higher visibility. Decentralized arrangements, resting on social agreements, are preferable to those based primarily on coercion and legal enforcement.
- Special care and restraint should be taken with resolutions involving a high symbolic and declaratory import, in both content and in the explanatory statements. Minimalism in both may help to maintain the delicate fabric of Israeli society (and enhance relations between Israel and others).
- When decisions concerning the implications of components of the vision must be made, the institutional question — who decides, and in what kinds of processes — becomes critical. When questions of identity, meaning of life, and conceptions of the good are involved, it is better that decisions and deliberations are undertaken through public and social debate rather than in legal discourse and by courts and lawyers. If a legal resolution is required, it is better made by the legislature, in processes of negotiations and compromise, and not by courts in a discourse of rights.
- When a complex vision is being interpreted, it is critical to give a minimalistic, vague reading to **all** components of the vision. The interpretation of the vision and the relationship among its components are not legal questions. Social, cultural and community processes of implementation are essential both to endorsing the vision and distinguishing between its core and its practical implications. Society should determine the relative level of richness and thickness of the components dynamically. Social, ideological and political forces working within a shared framework of checks and balances will guarantee that the balance among them will be maintained.
- It is nonetheless important to publicly support the core of the vision, and to enforce it when necessary. An independent and strong court, interpreting the law without bowing to the preferences of government, is an essential ingredient in upholding the vision of the state. An ongoing dialogue should take place among interpreters of the vision, so that none of these institutions and agencies will be granted a monopoly or a 'last word' in making such determinations.
- There is a built-in tension between a broad human rights discourse coupled with an expansive power of judicial review and the ideal of democracy. Protection of human rights is critical to protecting individuals from the state or the majority. Undue expansion of rights may take the decision concerning arrangements suitable for society out of the hands of society itself, and relegate it to an unelected judicial agency. Such a result is of special concern if the court's value judgments are very different from those regarded as central by the majority of the public's elected representatives. The relationship between legislatures and courts in a democracy is a basic constitutional question, including institutional determinations of powers, appointments and procedures. Answers given to these questions may depend in turn on the social and professional ethos concerning the right way to act. In this matter, too, a minimalistic conception is desirable: Democracy is consistent with an entrenched constitution, including a bill of rights and a judicial power to invalidate Knesset laws, but it does not require any of these things. The protection of human rights may be aided by a bill of rights and judicial review, but it can be achieved without them.

A Constitutional Anchoring of the Vision?

Upon the foundation of the state, the founding fathers drafted a powerfully evocative vision, one that reflected a firm Israeli endorsement of the right of Jews to political and cultural independence, combined with a no lesser commitment to democracy and to the basic liberties “in the spirit of the prophets of Israel.” They decided not to give their Declaration legal force, and later decided to refrain from enacting a full constitution at that stage. In the early years of statehood, the Supreme Court decided not to grant the Declaration a legally binding force.

“two basic laws dealing with human rights, (as amended in 1994, hereafter - the 1992 laws) mention “the values of Israel as a Jewish and democratic state,” and invoke “the principles in the Declaration of the Establishment of the State.” They have been described as a ‘constitutional revolution.’ In 1995 the Supreme Court in a seminal judgment ruled that the new basic laws grant the court the power to invalidate laws inconsistent with them. Moreover, it was held that the passage of the 1992 laws radically changed the status of ‘old’ basic laws, so that all of them now became super-laws, overriding regular laws even if they are not entrenched.

Since then the courts have had the power to review and invalidate not only the government’s policies (as they always did), but statutes of the Knesset itself. In addition, prolonged trends of the relaxation of the requirements of standing, and the limits on the doctrine of non-justiciability, as well as expansion of the grounds for review (adding the grounds of reasonableness and proportionality; all these trends together were dubbed ‘judicial activism’), resulted in a significant broadening of the scope of judicial review over decisions of the government and the Knesset. In addition, many judges used an expansive human rights discourse, and derived human rights from the vague ‘right to human dignity.’ Laws were reviewed, and some were invalidated, on this basis.

The ‘constitutional revolution’ triggered attempts to complete the constitutional process by either enacting a full constitution or by completing the enactment of basic laws. A number of draft constitutions were presented, reflecting different ideological and constitutional attitudes, most of them endorsing the basic vision of the state.

The bills that have triggered this essay are, in part, the result of the failure of these attempts to complete the constitutional drive. The draft ‘Jewish nation-state laws’ (those stressing the Jewish character of the state) and the Declaration law (proposing anchoring of the Declaration, incorporating the full vision, including democracy and basic liberties as well) are meant to strengthen the endorsement, within Israel and with a view to the entire world, of the vision of the state, including its Jewish character. The supporters of these laws argue that the legislation will reflect a united stand of the Jewish population behind the integrated vision of the state. It will emphasize Jewish solidarity, and will be a response to the campaign to de-legitimize the state. These are all important goals. In addition, the advocates of the ‘Jewish nation-state laws’ argue that they are important as a response to the fact that the ‘constitutional revolution’ strengthened

the components of democracy and human rights in the vision, thus contributing to the weakening and marginalizing of the component of the Jewish character of the state.

Critics of the laws argue that, if one of them is enacted, it will make democracy and human rights secondary to the Jewish character of the state; that they are designed to alienate the Arab minority and legitimate discrimination against it; and that they will strengthen religious and theocratic forces in the state. The critics argue that the other two components of the vision — democracy and human rights — are the ones that have been eroded and need additional support. Some critics of ‘Jewish nation-state laws’ extend their objections to proposals of ‘vision laws’ (laws to anchor the full vision of the state, including all three components) as well, with no adequate explanation. Most Jews, in Israel and abroad, accept the characterization of the state as Jewish and democratic, and are willing to fight for it, but not all of them support the enactment of such a declaration, without what they see as an adequate response to their concerns regarding issues such as the status of the Arab minority, the future of the occupied territories, state and religion matters, and the relations between Israel and the Diaspora.

Political, social and cultural processes, as well as the 1992 laws, have indeed raised challenges to the vision of the state, including the erosion in the endorsement of the component of Jewish character in it. Nonetheless, a constitutional anchoring of the vision is not necessarily an effective way to deal with these challenges. As we have seen from developments until now, the legislative process itself — especially if legislators seek a quick and decisive process built on power balances, rather than a meaningful social process of deliberation and debate among all sectors of the Israeli population and with Jewish communities abroad — will be polarizing and conflictual. It will increase adversity and will not encourage cohesion and solidarity. Even if the legislation is passed, its contribution to strengthening the vision, especially of the Jewish component in it, is questionable, whereas the dangers it entails are many and evident.

Arguments against constitutional anchoring of the vision of the state

There are two types of proposed bills before the Knesset. Some of the reasons adduced here apply to all proposals of constitutional anchoring (vision basic laws), while others specifically concern laws stressing the Jewish identity of the state (Jewish nation-state laws).

Vision questions are not legal questions

Legislation transforms questions that had previously been moral, social or cultural into legal questions, which may be debated and decided in courts of law. Law is an important social institution, allowing society to resolve disputes according to laws and norms. At the same time, legalization may direct matters in which it is preferable to seek a dynamic and ongoing social, political and cultural regulation, without a once-and-for-all clear determination, into the legal and the judicial systems. The danger is especially great for those ‘big’ subjects of social and cultural debates which are eminently unsuitable for a legal determination. The problem is twofold: First, legislation invites a resolution and not the continuation of a conversation. Second, legislation invites judicial determination, based on the interpretation of the law and a human rights

discourse, instead of dynamic resolutions based on ongoing negotiations among social, cultural and political forces.

Constitutional anchoring of vision sharpens disagreements that are better avoided

Societies in which there are many deep rifts on a number of subjects, and in which various groups seek to pull their vision in contradictory directions, need a space of flexibility that will permit the discussion and regulation of practical issues in ways that will not force individuals and groups to separate themselves from the larger society. Problem-solving often permits converging on identifying the practical challenge and finding acceptable ways of dealing with it. Thus, we do not have to decide whether Judaism is a religion or a nation, or whether Jewish religion is the rules of the *Shulchan Aruch*, to decide about an adequate arrangement on matters of marriage and divorce or the character of the Sabbath in Israel. Similarly, we do not need a constitutional anchoring of the status of Hebrew and Arabic in Israel in order to continue to seek and maintain a reality in which there is respect for both languages, with Hebrew retaining the dominant position. In many cases, a decent reality is better than a new basic law.

Enacting a vision may require a resolution of issues that soft and vague principles of vision leave open

The proposed legislation is all on a high level of generality. At the same time, it includes resolutions of matters that at the moment are not regulated at the level of a basic law. All such resolutions are extremely controversial. The Jewish nation-state laws all emphasize that Israel is the nation-state of the Jewish people. Some interpret the emphasis on Jewish self-determination as a willingness to give up the demand that society and the public sphere in Israel will have cultural Jewish characteristics, religious or national. In the past, this was a reason invoked by religious parties to object to such proposals. (In the meetings we held in preparation for writing these recommendations we did hear such criticism from both ultra-orthodox and national-ultra-orthodox. Indeed, some of the leaders of National orthodoxy think that the erosion in support for Jewish self-determination justifies its endorsement even if this may lead to some weakening of the legal recognition of religious and traditional elements in the public sphere). Similarly, the advocates of the Jewish nation-state laws and the vision laws both claim that they wish to revive the vision of the Declaration. However, the very fact of a new proposed basic law, and the emphasis on the Jewish component (as done in the Jewish nation-state laws) are perceived — whether or not this is their intention — as coming to weaken the commitment to human rights and democracy, and especially as being to the detriment of the Arab minority. Thus, the arrangements proposed with regard to the status of Arabic in Israel generated enormous controversy, despite the fact that they did not seek to change the existing reality.

The same applies to the relations of Israel and Diaspora Jewish communities. [The JPPI study](#) revealed that commitment to Israel as ‘Jewish and democratic’ is broad and deep in recognized Jewish communities, uniting people with all attitudes to matters of state and religion and relations with the Palestinians. This agreement is weakened, and requires more thought and deliberation, when specific arrangements are discussed.

Thus it seems that the legislative process itself may sharpen disagreements and weaken agreement on the core vision. It is reasonable to assume that these disagreements will not be confined to the social and political systems within Israel. They will provoke debate and responses both in Jewish communities abroad and in the international community.

Enacting a vision law deepens the perception that the components of the vision contradict each other

Some of the goals of endorsing a vision are to influence public discourse, to emphasize the distinction between the vision and its interpretation, and to broaden support for the vision itself while deliberating freely and democratically about the disagreements concerning its interpretation. The impact of the legislation of a vision law, and especially a Jewish nation-state law, will be the exact opposite. The process of debating the law, and the law itself, no matter what the specific formulation chosen, will be perceived as seeking to change the existing situation, and thus as a threat by those fearing that change may harm them. In other words, the process of legislation, and the law itself, will lead to a structured conflict situation, further sharpening the perception that the components of the vision contradict rather than complement each other. This perception was heightened by the inclusion of the expression 'Jewish and democratic' in the 1992 basic laws, and by the way in which they were interpreted. This expression also contributed to blurring the distinction between democracy and human rights as components of the vision, and downplayed their complex relations. We should not repeat the same mistake again.

Constitutional anchoring during times of ordinary politics and deep disagreements will not serve its function

The purpose of constitutional anchoring is to strengthen the distinction between the shared framework, which enjoys broad support, and specific arrangements, which may be fiercely contested. This is why it is common to enact entrenched constitutions when the political system is willing and able to act on the distinction, and transcend divisive disagreements in order to strengthen the shared vision.

This is not usually the case in Israel, and it is clearly not the case now. What we have in Israel now is only "ordinary politics." The Knesset is deeply divided over matters of security and peace, state and religion, and social policy. A specific challenge to the vision of the state is the debate, in Israel and abroad, concerning the future of the territories occupied in 1967, and concerning the impact of alternative attitudes to it on the ability of the state to maintain the core of its vision. True, these disagreements are all within the vision and not about it. However, their ideological intensity and their political visibility is a reason to be extremely cautious about constitutional anchoring of the vision of the state. In conditions of deep controversy, the process of legislating a vision law, and especially of the Jewish nation-state law variety, may lead the country to campaign for and against the legislation; and this may be perceived, and may in fact be, campaigning for and against the vision itself. The legislative process may lead, by its nature, to partisanship concerning the vision. It may weaken both civic cohesion and Jewish solidarity, instead of strengthening them.

A vision basic law will not affect those denying the legitimacy of the Jewish state

Supporters of the law are not naïve enough to aspire to directly change the views of those denying the legitimacy of the Jewish state. They want to bolster the position of those who support it, by expressing a firm and united endorsement of the vision. Indeed, such a firm stand is an important message to the deniers of the legitimacy of the state; it is a response to the need to strengthen Jewish solidarity. However, a deeply contested legislation may not express inner strength. It may rather exhibit its opposite. It may well increase divisiveness, and give ammunition to claims made against the legitimacy of the Jewish state by its enemies, this time invoking statements made by Jews struggling against the legislation.

The vision of the state already has a semi-constitutional status

It is simply not accurate that the vision of the state — including the explicit and central affirmation of its being the state in which the Jewish people exercises its right to national self-determination — does not enjoy a special and unique status among the values of the state. True, this core vision is not stated formally and is not expressly anchored in a constitutional enactment. Yet since the establishment of the state it filled, and it still fills, a critical role in education, nation-building, legislation and policy-making. In this sense, the 1992 laws were not a revolution.

A nation-state basic law will not ‘repair’ the impact of the ‘constitutional revolution’

A central justification for the need to enact a Jewish nation-state basic law stresses the urgent need to “undo” the imbalance in the vision created by the ‘constitutional revolution.’ The argument is that since the 1992 laws the old balance among components of the vision has been changed, and democracy and human rights have received greater weight. The supporters of legislation want the law to influence decision-makers, especially jurists and judges, to return to the tendency of giving equal weight to the component of the Jewish state.

The advocates of the Jewish nation-state law are right in stating that there have been significant changes in the discourse about the vision of the state, based in part on the impact of the inclusion of the expression ‘Jewish and democratic’ in the 1992 laws. This expression indeed strengthened the claim that the two components could not be made compatible. However, the truly serious impact of the 1992 laws is not at the level of public discourse and the endorsement of the vision, but in the power given the courts to review and invalidate Knesset legislation, and in the expansion of the human rights discourse and the grounds for judicial review. These broadened powers permitted and facilitated the transfer of decisions, that up to 1992 were within the almost exclusive power of the political system, to the judicial system.

Claims against this tendency should be seriously heard and debated. However, the proposed Jewish nation-state basic laws do not deal with this issue in any way. They do not seek to change the legal situation concerning the powers of the courts, the status of the attorney general, or the representation of the state in litigation. There is no reason to expect that the law that may be enacted will limit lawyers and courts more than the present legislation. It may in fact have the opposite effect: It is a well-established principle that courts have the power to interpret laws of

the Knesset and be their authoritative interpreters. Once the vision of the state becomes a full-fledged law, the power of the courts to interpret this law according to their inclinations and perceptions will in fact increase.

A vision law will not help deal with the educational, cultural, and academic realities

A state and a society cannot remain indifferent to significant voices which deny the legitimacy of their vision, or a part thereof. Indeed, the broad variety of groups and cultures in Israel does generate a very wide spectrum of attitudes toward the vision of the state, including some that challenge it and deny some of its components. One should not disregard or belittle the fact that claims denying the legitimacy of the right of Jews to self-determination in their homeland are becoming more pervasive and vocal.

It is therefore essential to develop a political culture in which these matters are discussed in an informed way and without sloganeering. It is of great importance to equip members of society, especially the younger ones, with the information and resources necessary to deal with claims denying components of the vision of the state. Against the background of a broad consensus, a basic law could indeed be an anchor to such educational activity. In the absence of such a consensus, however, the enactment of a basic law could lead to the opposite result. Under such circumstances, it is preferable to deal with the challenges in a more focused way. The 1953 Public Education Law, for instance, includes a special section declaring its goals, which articulates a reasonable balance among the components of the vision. It is important to deepen ways of implementing these goals. Similarly, in the system of higher education both the schools themselves and the reviewing agencies have powers which can implement a needed balance between the strict guarantees of academic freedom and the need to make sure that tendencies to invoke that freedom in order to de-legitimize the state and its vision are checked. A basic law concerning vision cannot in itself provide a response to problems which are primarily ones of education and the transmitting of values in a society troubled, and which will continue to be troubled, by deep disagreements. More important, such education must in any case take place primarily within cultural and social communities. It cannot rest exclusively on the law or the force of the state.

A basic law concerning vision and completing the constitution

Some of the advocates of the Jewish nation-state basic law law claim that its enactment would “remove” the obstacles that have hitherto prevented completion of the constitutional project in Israel. Some of its critics argue that its passage would make such completion redundant. Both arguments are not strong. Israel has not enacted a full constitution because of the absence of a political will to do this, based on the disagreements concerning both the details of the vision, the basic rules-of-the-game for the state and society, the formulation of a bill of rights, and concerning the very need for, and the desirability of, an entrenched constitution. It is hard to believe that a basic law concerning vision, leaving most of these questions open, will significantly affect the completion of the constitutional project. Israeli society does not have at the moment enough agreement concerning a shared political framework within which these basic arrangements can be debated and agreed upon. Most parties prefer a relatively flexible and

volatile reality, within which they can make gains through “ordinary politics.” This is the reality that makes it hard to agree on both the completion of the constitution and on a credible process of enacting a basic law anchoring the vision of the state.

Recommendations concerning constitutional anchoring of the vision of the state

A complete constitution, and possibly even an agreed-upon shared vision, may indeed help in effecting the distinction between the shared framework and political disagreements. The absence of these things does indeed hinder the ability to work together on the framework while conducting political struggles within it. In Israel such ability is very much present in situations of crisis, and it is understandable and right that people seek ways to make it available more regularly. However, the goal is not always within reach. When the political, social and cultural reality is not amenable to the achievement of this goal, the decision whether to move on and legislate or act in other ways is complex. My assessment is that it is better to leave the fabric of social life in its ambiguities, and not force debates and disagreements concerning drafts and declarations. Such declarations rarely solve concrete problems, and they often generate hostility and distrust.

Against this background, strengthening the vision of the state, including the emphasis on the importance and centrality of its Jewish character, will be better achieved through other varied and focused activities.

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Recommendations if Legislation is Undertaken

I have explained above why I do not support the constitutional anchoring of the vision of the state in general, and especially the enactment of a Jewish nation-state basic law, which proposes a separate anchoring of the Jewish component in the vision.

Let me clarify: there is no principled reason not to anchor in a constitution the vision of a state. Many states anchor their visions in their constitutions, even when these include particular national, cultural or social components. The EU endorsed some such constitutions. There are always tensions between components of the visions of states, and such tensions also exist within each of these components. An agreement on a shared vision never means an agreement to all specific arrangements. However, when states chose to anchor their vision, they did so by means of a declaratory preamble to a full constitution, as a part of explicit and deliberate constitutional politics, when the legislation enjoyed broad and cross-partisan support, and after all relevant sectors of the relevant society were invited to participate in the process of deliberation and drafting. Moreover, these vision statements always include strong particular commitments alongside civic, democratic and universal commitments. This is not the case in Israel today, and this is not true of many of the proposals pending in the Knesset.

If it is decided to seek a separate constitutional anchoring of the vision of the state, it is important to do this in ways that might help it achieve its declared goals:

- Discussions of the proposals should be conducted in a broad framework, as would befit an attempt to enact constitutional provisions. These should not be limited to the coalition or even to the Knesset factions. It should be agreed that an attempt will be made to reach a formulation that most of the sectors could accept, and that would generate a broad — even if not full — agreement. The issues should also be raised with the leadership of Jewish communities abroad. The process should be designed to garner the highest legitimacy it can have. There should be no strict deadline, indicating that this is a law of great constitutional significance.
- The vision should include the principles that Israel is the state where Jews exercise their right to political self-determination in their homeland; that it is a democracy in which sovereignty is granted to all the citizens of the state without distinction of religion or ethnic origin on the basis of freedom and equality; and that it is committed to respect the human rights of all its citizens.
- It is preferable that the formulations be ‘softer’ than is usual in regular laws. This is quite common in preambles (and is also the case in the Declaration of the Establishment of the State). The law itself should clarify that its provisions do not have an independent legal power to generate rights or duties.
- The legislation should **not** be a part of the basic laws dealing with human rights, as if they expand on the expression “the values of Israel as a Jewish and democratic state.”

Similarly, it should not have a limitation clause. The law is not a part of the bill of rights, and it should not include the specific characteristics of such a bill of rights.

- The law should be enacted by means of a special procedure, and be passed at least with the majority required to change it. (This requirement does not at present apply to the legislation of basic laws, but a law anchoring the vision of the state is of prime importance, and it should not be vulnerable to claims challenging its legitimacy).

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Strengthening the Vision in the Absence of a Basic Law

Whether or not the vision of the state is constitutionally anchored, the state should seek to make it known and endorsed by the general population. A robust society, enjoying a healthy measure of civic patriotism and communal partnership, is an important ingredient in the success of a state. Identifying suitable ways to strengthen the vision in different social and institutional contexts is no easy matter. The reality in many realms is not optimal. Discussions concerning matters related to the components of the vision become charged, and it is hard to undertake them with judgment and restraint. In addition, a systemic and long-term engagement with these questions is often delayed because attention is directed at urgent crises. After some thought, I have decided not to present here my own ideas about how to strengthen the vision in our society. The right way of doing this is a subject that deserves ongoing thought and implementation in many relevant places. Some general ideas were included above.

The solidarity required for the success of the state of Israel consists of three separate circles: The civic circle, including all citizens; the Israeli Jewish circle; and the circle of all Jews in the world — ‘the Jewish people.’ All citizens and only citizens take part in the elections to the Knesset. They are the ‘civic nation’ or the *demos* of the state. Each of them has one equal vote. At the same time, the Zionist Jewish public is the backbone of the state and society. If this group does not act effectively, the state will not be the nation-state of Jews. At the same time, Israel defines itself as the nation-state of the Jewish people; it relies on the Jewish communities abroad, and its activities affect their fate and life. This is why a measure of solidarity within all these circles is needed for the state to flourish. This insight is needed to inspire and legitimate action in all three circles (rather than deal exclusively with any one of them). It also highlights the importance of making sure that whatever actions are taken be sensitive to the need to balance civic and communal solidarity with the plurality of identities and views.

Commitment to society, and to the state that facilitates it, must be grounded in a deep cultural foundation. For Jews, solidarity also means promoting the recognition of the importance and value of the culture to which they belong — alongside other moral and professional commitments. Yet it is also important that all cultural groups in Israel will have a measure of commitment to the state. The structuring of a meaningful shared citizenship requires also the recognition that besides their civic partnership all citizens may have important non-civic affiliations, and that these, too, deserve to be recognized and developed.

Seeking civic and Jewish solidarity, against the background of deep disagreements among the circles of solidarity and within them, is a matter of a social, ideological and cultural quest. The law has an important task in the guiding and enforcement of the limits of freedom of expression and action, but the challenge is not legal, and the law in itself cannot deliver results.

The vision of the state is transmitted primarily through education, discourse and socialization, but it must also rely on convergence between rhetoric, social action and social reality. This

convergence should be exhibited in education, employment, housing and actions to promote all civic dimensions of life in the state. These social and political activities, too, should be sensitive to the tension between seeking civic solidarity and the wish to maintain distinct and separate communities. They may include various combinations of inclusive civic activities and intra-communities activities. This is true not only for the relations between Jews and Arabs, but also for all sub-groups with unique cultural characteristics.

The educational system in Israel provides a special challenge to efforts to increase solidarity, in both the civic and the Israeli-Jewish circle, due to the separation between institutions and 'streams' in education. Insisting on teaching the vision of the state, including all its various components, in all parts of the educational system, is of special importance: in some of these parts, the educational messages taught to students stand in tension, or even contradiction, with important (different) components of the vision of the state. In each of these sectors a special effort should be made to strengthen those components of the vision that the schools tend to neglect and challenge. All educational institutions in Israel should act to teach their students the vision of the state and its political and moral justification; and that they should develop civic, national and cultural identities in the light of this vision. It is important to remember that education is more effective when it is a part of a rich and cohesive social and cultural system. The state should therefore enlist the help of the religious and cultural leaders of the various groups living in Israel. It is important that these leaders be seen as part of the effort to teach the vision, rather than as its enemies.

The vision of Israel has been the key to its achievements and its success from its inception to this very day. This is a vision which is still relevant and moving. The founding fathers claimed that debates about a constitution would distract them from dealing with urgent practical matters and would generate a war of culture. Their insight is still valid today. Declarations and basic laws are not a good way to deal with disagreements. We should promote the vision of the state in other ways, which will help it continue to flourish.