

Correspondence

George Steiner

TO THE EDITORS:

First and foremost, my sincere thanks to Assaf Sagiv for having read my work with such serious care ("George Steiner's Jewish Problem," *AZURE* 15, Summer 2003).

To survive, Israel must use torture and systematic humiliation of its neighbors and enemies. For two thousand years, we Jews were not in a position to torture other human beings. That was our incomparable nobility and mission. Israel has taken away this immense privilege from all living Jews, wherever they may be.

For me, any human being who tortures another abdicates from humanity.

Two quotes. From the Baal Shem Tov: "Truth is always in exile; it must wander." And from Chaim Weizmann: "Scatter us and we are the earth's fertilizer. Put us in a heap and we are dung."

These two statements express the undying genius of Judaism. Neither Mr. Sagiv nor Mr. Sharon seem to me to do so.

George Steiner
Cambridge, England

TO THE EDITORS:

I read Assaf Sagiv's subtly argued essay on George Steiner discussing, among other issues, Steiner's combination of universalism grounded in an Enlightenment ideal of rationality and his sense of pride in belonging to a people that contributed to the development of this ideal. Sagiv finds most disturbing Steiner's indictment of Jews as victims placed in the mouth of Hitler in his novel *The Portage to San Cristobal of A.H.* In my own writings I have maintained, in consonance with Sagiv, that Steiner's highlighting of the Hitler speech in this novel in which the origin of Nazi hatred is attributed to the biblical doctrine of election is astonishing. I wrote that Steiner's text is especially puzzling in light of "Steiner's own fierce criticism of the [French writer] Ferdinand Celine... [and] of racist fiction that echoes the racist prose writings of an author." Celine's extreme bigotry, Steiner argues, damages the esthetic surface of his work. A fortiori, we must ask whether Steiner has not fatally damaged his own work.

Edith Wyschogrod
New York City

The Battle of Jenin

TO THE EDITORS:

Yagil Henkin's article, "Urban Warfare and the Lessons of Jenin" (AZURE 15, Summer 2003), compares the IDF's ethical norms during the fighting in Jenin with the conduct of other armies in similar situations during the last decade. Yet the most decisive outcome in Jenin was in fact the defeat of the IDF's image as reflected in the media coverage of the battle.

The media are among the key variables in the modern battlefield, and must be taken into account by army commanders when planning and conducting warfare in urban areas. The media must be treated not as a nuisance to be mollified or neutralized, but as a weapon at the disposal of both sides. In an urban area it is impossible to eliminate their presence; thus, if they are not helping one side, they will undoubtedly help the other. Journalists are the media's delivery system: Their weapon is information, and their targets are the decision-makers and the general public far from the battlefield.

The battle in Jenin was a media failure for the IDF. As evidence of this, Yagil Henkin is forced to haggle over the battle's results long after it ended. The issue is clearly not the

IDF's moral standards—there was no lapse here, and the IDF conformed completely to international norms—but rather the IDF's failure to understand the media's importance, their true influence, and their ability to turn victory into defeat in an instant, with but scant connection to the objectives and outcome of the fighting.

As Henkin proved, the IDF did not fail the moral test. Nonetheless it must ask itself how, for all its high moral standards, and despite the fact that it did everything by the book, it found itself totally defeated in the matter of image.

Brig.-Gen. (ret.) Gideon Avidor
Yavneh

International Criminal Court

TO THE EDITORS:

I agree with your editorial, "Rome's New Empire" (AZURE 14, Winter 2003), that the Israeli government acted prudently in declining to add its signature to the Rome treaty.

While both the Jewish nation and the State of Israel have a clear and direct interest in an international court that judges war crimes, in view of the definitions used for war crimes and our experience in international forums, it behooves us to wait patiently

and see whether the court is indeed free of political considerations.

Yosef Lapid
Minister of Justice
State of Israel

Arab MKs

TO THE EDITORS:

In “Voice of Palestine: The New Ideology of Israeli Arabs” (AZURE 14, Winter 2003), Dan Schueftan describes the radicalization of the Israeli Arab public as expressed in its leadership’s uniform refusal to accept Israel as a Jewish state; its show of support for Israel’s enemies; and its “understanding” for terrorism. Schueftan then ends the essay with a pessimistic appraisal of Arab-Jewish relations in Israel.

While Schueftan’s analysis is timely, he ignores the important political and legal aspects of the issue. Last year the Knesset voted to revoke the immunity of MK Azmi Bishara (Balad). It also voted in favor of an amendment to Clause 7a of the Basic Law: The Knesset. According to this amendment:

A list of candidates will be disqualified from taking part in elections to the Knesset, and no person will be permitted to be a candidate for

election, if the aims or actions of the list or the actions of the person, whichever is applicable, explicitly or implicitly include: Supporting an armed struggle by a hostile country or terrorist organization against the State of Israel.

The amendment also contains two other important changes. The first change makes it possible to disqualify individual candidates, and not just political parties. The second change derives from the new wording of Clause 7a. Prior to the amendment, the grounds for disqualification were:

- (i) Denying that the State of Israel is the state of the Jewish people;
- (ii) Denying the democratic nature of the state;
- (iii) Incitement to racism.

After the amendment’s passage, the grounds for disqualification became:

- (i) Denying that the State of Israel is a Jewish and democratic state;
- (ii) Incitement to racism;
- (iii) Support for armed struggle by a hostile country or terrorist organization against the State of Israel.

To my mind, the new provisions in Clause 7a are a terrible mistake. In political and cultural terms, they represent nothing less than the silencing of minority opinion, and therefore an implicit acknowledgment that the political system has failed. It is a

mistake to respond to political events by reducing the scope of legitimate political debate. Every change in the rules of the political game must be viewed in a broader context, and not just in response to particular events. Perhaps it was right to strip Bishara of his parliamentary immunity and to make it possible to prosecute him, since in this case the existing criminal law is being used as a yardstick, ad hoc, of the legitimacy of a given action, and so does not represent a change in the rules of the game as a whole. In passing this amendment, however, the Knesset has introduced a measure of political uncertainty into the system, since it is unclear which candidates or parties may be seen as implicitly showing “support for an armed struggle by a... terrorist organization against the State of Israel”—and political uncertainty is the first step toward silencing unpopular opinions.

Moreover, by combining the first two clauses of the original law into one—“Denying that the State of Israel is a Jewish and democratic state”—the Knesset has stripped the law of its original intent. The phrase “Jewish and democratic state” has already become a cliché whose meaning is far from precise, whereas the original wording, which declared that, “the State of Israel is the state of the Jewish people” and referred to “the

democratic nature of the state” separately, possessed a clear conceptual and cultural meaning. This change was obviously not considered carefully, and I believe it will significantly restrict the ability of the courts to disqualify a list or candidates under the law.

Yair Eldan
Jerusalem

DAN SCHUEFTAN RESPONDS:

Yair Eldan raises an important question concerning the legal means provided by the Knesset for dealing with the radical statements made by some of its Arab members, and in particular their statements showing “understanding” for terrorism. While the information in my essay can certainly serve as part of the factual basis required for any serious discussion of the topic, it is not clear why Eldan thinks that I “ignore” the political significance of the changes in the law. While the essay does have some bearing on the debate that seems to interest him, it addresses a different issue: The radicalization of most of the Arab MKs, their attempts to undermine the Jewish character of the state, and their open identification with most of the means employed by Israel’s enemies to delegitimize and undermine it. This would seem to be worth exposing, whether or not one agrees with

Eldan's feelings about which means are the most appropriate for dealing with the problem.

I suggest that political means are preferable to the legal ones that Eldan favors. I do not share his opinion that we are better off when "the existing criminal law is being used as a yardstick, ad hoc, of the legitimacy of a given action." The long-term damage that such an approach is liable to cause may be immeasurably greater than its value in the short term. This is for two reasons, one a matter of principle, the other of practice.

In principle, Israel really does not need any further support for its already excessive tendency towards legalization, in which the power to make crucial decisions about the limits of political legitimacy is transferred from the public sphere, which is best equipped to handle it, to the judicial and criminal sphere. The judicial system necessarily distorts the terms of the debate beyond recognition, since it was designed for the purpose of deciding questions of a totally different nature. Is it not enough that Israel's Supreme Court has made itself available to the public to such an extent that almost every government decision, from the most trivial to the weightiest, ends up being brought before it? Is it not enough that the balance among the branches of government in Israel's democratic system has

been completely twisted? This is the result of the weakness of the legislative and executive branches, and of the Supreme Court's willingness to take advantage of that weakness to impose the values of a dedicated and professional, but nonetheless unelected, elite far beyond what is called for in its role as interpreter of the law. Should we now lay this question, as well, at the doorstep of the courts?

The radicalism that negates the Jewish state and shows "understanding" for terrorism, as expressed in the statements of the Arab MKs, is not relegated to fringe elements. Rather, it has come to characterize the mainstream Arab political leadership in Israel, a leadership that has continued to win the confidence of a sixth of Israel's voting population. This is clearly not a matter for the criminal justice system, but for the political system, and it should therefore be dealt with through those political means that were designed for the express purpose of setting the limits of legitimate public debate.

If Israel is to be a healthy democracy, the public must exercise its judgment on questions of this sort, particularly by withdrawing its support for parties and candidates that cooperate with subversive elements in the Knesset, especially if the public becomes convinced that these elements

are in fact undermining Israeli democracy, supporting Israel's enemies, and showing "understanding" for terror. If other parties would categorically refuse to join coalitions or voting blocs with MKs who support these positions, that would send an unambiguous message. If a majority of MKs were to leave the plenum every time one of these people arose to speak, as they used to do in the days of Meir Kahane, that would certainly define the limits of legitimacy far better than any ruling the courts might make. Voters can also make clear to their representatives that this is how they ought to act. Finally, if other public institutions were to refuse to have any dealings with those MKs who reject the basic values of the society, this would also drive home the point in a forceful manner.

The second reason for avoiding the legalistic approach is a practical one. A public trial, such as that of Azmi Bishara, effectively becomes the staging ground for a global smear campaign against Israel, and is inevitably depicted as a witch-hunt by the media in Europe and the Arab world. Why should Israel lend a hand to Bishara's traveling circus, in which a demagogue who has learned the pluralist lexicon plays the role of victim? With all due respect to the laws passed by the Knesset—and in certain exceptional circumstances it indeed may

be worth falling back on them—to give up on the public debate and transfer its deliberations to the judicial branch is good for the likes of Bishara and bad for democracy.

Yehiel Jacob Weinberg

TO THE EDITORS:

In "The Legacy of Yehiel Jacob Weinberg" (AZURE 12, Winter 2002), Jeffrey R. Woolf criticizes the conclusions of Weinberg's biographer, Marc B. Shapiro, that Rabbi Weinberg aligned himself with the modern worldview at the expense of the old world of tradition. Although Woolf accepts the argument that Weinberg experienced a conflict between the two worlds, he suggests that the latter never fully resolved the dilemma.

Yet Woolf, who attacks Shapiro's lack of sensitivity to the Orthodox viewpoint in the modern world, is far too quick to find fault. Weinberg did not, in fact, choose to ignore modernity, but rather to face up to it, for better or worse, by examining it through the lens of Jewish law. In doing so, he did not abandon the path of his forebears in the Lithuanian yeshiva tradition. Weinberg's judgments did not spring from any internal conflict, but from a coherent and unequivocal halachic stance—one

that sees in change a challenge, not an existential threat, to tradition.

In his early years, Weinberg thought the duty of all Tora scholars was to understand the language and culture around them, so that they could apply the traditional instruments of the Tora and halacha to new situations. For instance, he thought that the halacha should recognize the new status of women in society and adjust to it, and therefore he allowed the celebration of the bat mitzva. Similarly, he tried to adapt the halacha to the new technological reality, which explains his lenient attitude towards autopsies, for example. However, Weinberg's recognition of modernity is no break with halachic tradition. On the contrary, he rejected the approach of the Reform movement precisely because he felt that it was stepping off the path of tradition.

One of the outstanding features of Weinberg's halachic approach is the

way he understood the idea of halachic authority. He saw in the world of halachic rulings a kind of virtual Sanhedrin, with himself as one of its many members. He never imbued himself with the power of a sole judge, and never sought to impose his own authority on others. He gave much weight to the majority opinion on any ruling, and offered his own opinion as simply an alternate view, but not necessarily an exclusive one.

In sum, Rabbi Yehiel Jacob Weinberg was both a wise and practical interpreter of our tradition, who has no small number of important halachic innovations to his credit. But to view this as a rejection of Orthodoxy is completely mistaken. Weinberg's achievement both reflects and expresses a deep faith in the traditional worldview of the Lithuanian yeshiva.

Yosef Yitzhak Lifshitz
Jerusalem

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