Marshall Breger

^{CC} For you are crossing the Jordan to come to the land which the Lord your God is giving you; you must settle the land and live there." (Deuteronomy 11:31) This is, of course, where it starts. Without it, the nineteenth-century need to find a "solution" (Herzl's word, not Hitler's) to the Jewish problem would likely not have found expression in the arid plot of land astride the Syrian-African fault. Nor would those Jewish nationalists stirred by *Risorgimento* in the age of the European nation-state have chosen Palestine as the site for a Jewish national home. (And indeed we know from the Sixth Zionist Congress what a near thing it was.) If not for the Jewish masses of Eastern Europe moved by the Old Testament text, our homeland may well be Uganda.

When we ask, then, the question of what is the Jewish state today, we must begin with the biblical injunction. And in so doing, we must begin with the biblical promise as well. For the significance of settling the land is not merely moral, political and historical; it is also eschatological. As the modern Orthodox prayer book puts it, the creation of the state signifies the "beginning of the dawn of our redemption."

But it is, I think, fallacious to expect this state—Jewish in its conception—to be a theocracy. Certainly Theodor Herzl and the early Zionists never imagined the Hebrew Commonwealth to be ordered on a halachic basis. Thus, it is not surprising that the efforts of those who urged "Jewish Law for a Jewish State" ultimately failed.

But this said, the Jewish state must be more than a collection of persons, most of whom happen to be Jews. This is the fatal flaw of those in the Israeli Left who have urged that the words of "Hatikva" be changed to encompass Arab aspirations, or who faulted the late Prime Minister Rabin for saying *kadish* upon visiting the concentration camps of Europe, suggesting that it was a parochial Jewish prayer, unsuitable for an official "state" visit. Even though not a conventionally religious man, Ahad Ha'am, as an example, understood that Palestine must serve as a spiritual and cultural center for the Jewish people, and not merely a place of refuge.

It is for this reason that the Knesset in 1980 ordained that any lacunae in Israeli law be interpreted with reference to the principles of "Jewish tradition"—a more flexible reed than Jewish law. Such flexibility is appropriate for a Jewish state.

The state of the Jews cannot be a state based, in the Lockean sense, on possessive individualism. It is as much nation as state. Even in its secular expression, the state of the Jews will of necessity reflect Isaiah Berlin's incisive term for the Jewish people—"a community of fate." This notion was well expressed by Justice Moshe Silberg, writing in the "Brother Daniel" case, which explored whether a Jew who converted to Christianity could claim Israeli citizenship under the Law of Return. In discussing the common bond among Jews, Silberg pointed out that "whether he is religious, non-religious or anti-religious, the Jew living in Israel is bound, willingly or unwillingly, by an umbilical cord to historical Judaism from which he draws his language and its idiom, whose festivals are his own to celebrate, and whose great thinkers and spiritual heroes … nourish his national pride." There is no way that a "people that dwells alone" can be post-Zionist.

In contrast, the non-ideological Israeli society is one which wants to normalize or privatize all of social life: To disaggregate the collective into the atoms of its individualistic existence. Its paradigm is the Tel Aviv architect who told *The New York Times* last May that "hedonism is basically a very good drive to embellish your life." The North Tel Avivian, we are told, "carefully cultivates a new Israeli esthetic along the Mediterranean."

Now we all know that "normalization" was a specific goal of Herzl and the early Zionists. They wrote of building a society where Jews could own land, where a Jewish proletariat would live cheek by jowl with a Jewish professional class. It was Israel's national poet, Haim Nahman Bialik, who is reported to have said, "Thank God, we are a normal people—we have thieves in our midst."

There is a sense in which any version of a Jewish state—secular, socialist, religious—will be an ideological society, one organized to promote some overarching goal. The goal, of course, will differ radically from one to the next, but the "community of fate" that encompasses the Jewish people could not envision a state that is based merely on liberal individualism. Thus, whatever its faults, what was extraordinary about the collectivist Hashomer Hatza'ir experience was the effort to create a moral society, a secular version, one might say, of the religious Jews' effort at *imitatio dei*. The same can be said of the aspirations of Vladimir Jabotinsky, who sought to refine the human personality to reflect ideals reminiscent of those of knighthood and chivalry. And of A.D. Gordon, who wished to transform the Jewish proletariat and create a new personality type through the dignity of labor.

Israel has many choices in the next fifty years. Its citizens can evolve as Israelis, creating a new Mediterranean civilization based on some mix of Jewish tradition and individual hedonism. They can flee from Jewishness as did the Canaanite poets of the 1940s, who sought to identify with the earliest inhabitants of the land, insisting that "a Hebrew cannot be a Jew and a Jew cannot be a Hebrew." Or they can continue in the Zionist project of creating a Jewish state.

If the Zionist project to date has been to normalize the Jewish people and to provide Israel its rightful place among the nations, I do not believe that normalization can be the Zionist project for the future. Rather, if there is any eschatological meaning to the State of Israel in the next fifty years, it is to be found in the effort to create a society that justifies our inheritance in the challenge of exploring the meaning of a Jewish state.

And what of the non-Jew living in Israel—what is the fate of the *ger*, the stranger? We must remember that Zionism in its historical development had little to do with religion. It had to do with power—that the Jews should

have the power to live in their land and, in so doing, control their own lives in their land. It is this that separated Zionists from Jews of the *galut* (those who live, technically, in exile).

This is true, yet it is fallacious to say that power alone is the defining characteristic of a Jewish state. Such power must be reflected and mediated through Jewish values.

Residing in glass houses myself, I am reluctant to throw stones, but it is hard to understand a state based on Jewish values—let alone Tora law allowing the sharp disparities in government funding between the Arab and Jewish sectors. To his great credit, former Defense Minister Moshe Arens understood this (as did his mentor Jabotinsky), and when he was minister of Arab affairs, Arens worked to alleviate these gross disparities. As Arens recently pointed out in a *Ha'aretz* interview, "legal equality is not the ultimate aim. There also must be equalities of opportunities, and a sense of equality." (Like Supreme Court President Aharon Barak, Arens was shocked that it took the Supreme Court to convince the Ministry of Education to provide electricity to Bedouin schoolhouses in the Negev.)

If we are to continue to build a Jewish state in the next millennium, we must understand that part of what we mean by a Jewish state is to strive toward an ethical society. We must show ourselves worthy of the biblical promise. Thus, we must end here as at the beginning—with the words of the Rock of Israel: "Justice, justice shall you pursue, that you may live and inherit the land which the Lord your God has given you." (Deuteronomy 16:20)

Marshall Breger is professor of law at the Columbus School of Law of the Catholic University of America. He was a special assistant to President Reagan and is a senior fellow at the Heritage Foundation, Washington, D.C.