Correspondence

Liberalism and the Court

To the Editors:

I would like to respond to Evelyn Gordon's review, "Liberalism's End-game" (Azure 36, Spring 2009), which deals with my book *Law and Culture in Israel at the Threshold of the Twenty-First Century.*

Her review is divided into two parts. The first deals with my interpretation of the extensive changes that occurred in the Supreme Court's rulings during the 1980s and 1990s. According to my interpretation, a certain segment of Israeli society, which I call the "liberal former hegemons," lost its status as leader in politics, culture, and civil society. As a result, this elite redirected some of its political activity to the Supreme Court, which in turn was only too happy to cooperate. This occurred, I explain, because the court, more than any other branch of government, has been identified since the establishment of the state with the introduction of liberal values into Israel's political culture. Gordon adopts this interpretation and even commends it.

In the second part of her review, Gordon discusses my proposal for how Israel should be perceived in the coming decades. I suggest that we

should think of Israel as a multicultural state whose population is composed of three large cultural groups (each, of course, divided into many subgroups): secular Jews, religious Jews, and Arabs. As such, I conclude that Israel should define itself as a "democratic and multicultural Jewish state." I also assert that the multicultural aspect of Israel creates two types of problems, the first relating to the "struggle for the center" that stems from the profound lack of consensus between these three groups on the nature of the government, the state's laws and political culture, and the definition of the state itself; and the second to "relations between the center and the periphery," i.e., between the liberal state center and the non-liberal cultural groups living in the state. To tackle these problems, I offer detailed proposals based primarily, although not exclusively, on liberal political theory and the doctrine of human rights. It is with these proposals that Gordon takes issue.

One of Gordon's main criticisms is that, contrary to my proposal, Israel cannot be both a Jewish and a multicultural state. She writes that this possibility "defies logic and common sense," because "a multicultural state is, by definition, one that gives

equal weight to all cultures and affords them equal opportunities for self-realization." A Jewish state, by contrast, "is one that enables the Jewish people to express its own culture at the national level." Therefore, Gordon claims, my proposal "eliminates Israel's Jewish identity."

As I show in my book, however, the concept of "multiculturalism" emerged in the second half of the twentieth century out of the recognition that the extensive unification and assimilation processes that nation-states underwent in the previous two centuries did not succeed in creating a completely culturally homogeneous population in any country. I also show that the concept of multiculturalism has been utilized in the past four decades "in a series of states by the institutions of the state, by the institutions of the civil society, and in the framework of political and public discourse." Therefore, I point out, "a basic premise in the literature written about th[is] concept is that it does not have one meaning and that it is used in various contexts, each of which is given a different content."

In my book, I also point to the fact that, from the 1990s onward, a series of scholars have been using the concept of "multiculturalism" to describe the situation in Israel (and that more than a few scholars claim that a "culture war" is taking place here). I

suggest applying the concept of multiculturalism to the Israeli situation in view of Israel's unique circumstances, namely that a) it is the nation-state of the Jewish people; b) the Jews living in Israel are divided along secular and religious lines; c) about a fifth of Israel's citizens are Arabs; and d) the main cultural groups living in the state are developing different visions of the basic principles by which the state should be run, as well as of its cultural identity. I argue that the main premises of "multiculturalism," including what I call "the virtues of multiculturalism," are likely to go some distance toward improving relations between the different cultural groups living in the state.

I did not argue, however, that we need necessarily think of Israel as a multicultural state at the expense of its perception as a Jewish one. As I explain in my book, "There is nothing unusual about the fact that a country perceives itself as having an identity composed of several elements. Israel's current definition as 'a Jewish and democratic state' already contains multiple elements. There is therefore no impediment to the fact that a third element—'multiculturalism'—be added to the two current components of the definition." I also added that, just as each person has many identities (national, religious, sexual, professional, etc.), "this characteristic

of multiple identities can be applied also to a state, despite the fact that over the past two hundred years, under the influence of the dominant paradigm of the nation-state, we have become accustomed to thinking of states as having one dominant national identity."

To complicate matters further, I also propose that, in addition to cultivating its Jewish characteristics, Israel create an "inclusive identity" common to all its citizens. By this I mean that Israel should balance its various identities as a state that is Jewish, democratic, multicultural, and also Israeli (similar to the manner in which every person must balance various competing identities during different periods of his life—for example, his professional identity, his parental identity, his spousal identity, etc.).

When Gordon claims that my proposal is designed to rid Israel of its Jewish identity, she is not just ignoring the fact that I do not want to erase the "Jewish" element from the definition of the state. She is also ignoring a pivotal suggestion that I made—namely, that the platform of the Movement to Revive Hebrew Law should be adopted—with the aim of ensuring that Israeli law relies extensively on *Jewish* law, which in turn would serve as an important platform for its continued development. "The

State of Israel," I wrote, "must serve not only as an 'overnight shelter' for the Jews, but also—and perhaps primarily—as a framework for state institutions and institutions of a civil society, which endeavor to continue the cultivation of Jewish cultures. The state institutions must, therefore, strive to develop Jewish law—the legal creation of the Jewish people—as part of the advancement of state law in its democratic-liberal format."

Gordon also presents me as proposing to adopt the doctrine of human rights and the concept of human dignity for the purpose of reshaping Israel's government, political culture, and law. In so doing, she argues, I am trying to subject the state's citizens to standards that would be determined by both Israel's Supreme Court as well as courts outside of Israel. But this portrayal is misleading. I am suggesting that the doctrine of human rights or the concept of human dignity be put into effect not in the context of "the struggle for the center," but rather in the context of "relations between the center and the periphery," i.e., as criteria for examining whether the state's institutions should intervene in the cultural practices of non-liberal groups living in Israel (for example, honor killings or widespread discrimination against women). My recommendation is that the doctrine of human rights and the concept of

human dignity be developed in the coming decades in *all* courts around the world, with the goal of examining the acceptability of problematic cultural practices and at the same time creating an ongoing dialogue among these courts. I offer the doctrine of human rights as a standard because its principles are recognized by all the world's major religions and cultures, and I do so while expressly rejecting the dominant trend in recent liberal thought whereby the political theory of liberalism is presented as the standard by which even non-liberal cultural practices should be evaluated. I reject liberalism in this context because I see it as but one particular culture among others; by contrast, the doctrine of human rights enjoys a significant degree of universality.

As for the shaping of Israel's state center, I propose that we accept as a guiding light the political liberalism of John Rawls, which calls for the creation of an "overlapping consensus" between the main cultural groups of a state. I support this approach because I believe that Israel's main religious groups *could* in fact consider themselves obligated to further the development of Israeli liberalism, despite the fact that they themselves participate in a culture whose core elements do not correspond to the principles of liberalism. In this context I distinguish between religious Zionists and Haredim. While religious Zionists are committed to important features of Western culture (such as liberal democracy) and even utilize them extensively (by studying in universities, for example, or reading literature, going to the theater and cinema, etc.), Haredim (as opposed to, for instance, the Amish) adopt the *technological* achievements of Western culture but are not prepared to place any value whatsoever on its spiritual products. I therefore contend that the political liberalism of Rawls can serve as a common framework for secular liberals and religious Zionists, but not for Haredim.

I will now briefly address several other points raised by Gordon.

1. Gordon claims that my proposal stands in contrast to the principles of democracy because "the most basic democratic right of all is the majority's right to shape the national character," and that "in Mautner's world, the sizable majority that wants Israel to be a Jewish state would be barred from actualizing this desire." Gordon's perception of democracy is both minimalistic and formalistic. She ignores the substantive elements of democracy that require the majority to show consideration for the minority and refrain from causing it harm. Moreover, she ignores the fact that about one-fifth of Israeli citizens are Arabs and that, as I noted above,

my proposal is premised on the continued existence of Israel as the nation-state of the Jewish people.

2. Gordon claims that what bothers me is not the lack of consensus between Jews and Arabs, but rather the lack of consensus between secular and religious Jews: "To Mautner, Israeli Arabs are no threat, but Israeli Jews are." Yet Gordon ignores the following remarks in my book about Israeli Arabs:

> The combination of a large demographic presence; exclusion from political decisions; severe discrimination in allocation of state resources; a segregated civil society; the belief of the Arab group that the establishment of the state and its continued existence is based on the use of violence against them; the ongoing state of war between the State of Israel and the Palestinian people in the territories—is an explosive mixture: More than a few writers have pointed out the fact that a combination of just some of these elements in the relations between a majority and a minority may ultimately lead to a violent struggle…. Presumably it is only a question of time until their demands [those of Arab citizens] to change the definition of the state's identity and their status in that state will echo through the public discourse. [This was written before the Arab "vision documents"—see below.] Clearly, such claims will encounter stiff opposition from the Jewish group in Israel. At best, the struggle between the Jewish group and the Arab group

will be conducted peacefully. But it is quite possible that the struggle will be violent and its results inconceivable.

3. Gordon writes that if my approach is accepted, "subcultures (mainly religious ones) disfavored by the former hegemons would actually have *less* autonomy at the sub-state level than they do today." However, I state explicitly that for the purpose of evaluating problematic cultural practices of non-liberal groups, the state should apply not the political theory of liberalism identified with the "former hegemons," but rather the doctrine of human rights, the principles of which can be found in all the world's major religions and cultures, including Judaism. Moreover, I hold that the doctrine of human rights and the concept of human dignity should also be applied to the evaluation of the cultural practices of liberal groups, including those of Israel's former hegemons.

4. Gordon writes that my position regarding appointment to the courts is that "only those who accept Mautner's values may serve on the [Supreme] Court." In fact, my position is far more nuanced. Because the courts, in contrast to elected parliaments, are bound by "tradition," a prerequisite of a person's appointment to the bench is that he or she accept the basic principles of the state's judicial tradition. Since religious Zionists accept the

liberal tradition of Israeli law, one should welcome the fact that many of them serve as judges. Since Haredim do *not* accept this tradition, however, they cannot be appointed to the bench. Rather, I argue for their right to take political action in the Knesset.

5. Gordon claims that in reading my book, one gets the impression that "the vast majority of religious Jews were not every bit as law-abiding as their secular counterparts." That is not the case. On the one hand, I do, indeed, cite certain voices in the religious Zionist public that, in the twelve years between the Oslo accords and the disengagement, called on soldiers to disobey orders on the grounds that the evacuation of facilities and settlements in the territories was contrary to the dictates of *halacha*. On the other hand, I wrote that we should avoid generalizations with regard to members of the Jewish religious group and keep in mind that significant portions of the religious Zionist public support the preservation of Israel's liberal democratic system of government.

6. Gordon portrays me as someone who believes that "homosexuals are a distinct subculture just like Muslims, Christians, and Jews." However, I state expressly that religious and national groups are "basic cultural groups" that regulate many aspects of the lives of the people who

belong to them, and therefore their positions must be taken into account when shaping the state's political and judicial center, while homosexuals, lesbians, and young people, etc., are merely "cultural groups," and as such, their participation in the shaping of this center is not mandatory.

7. Gordon complains that "Mautner's apocalyptic description of the danger posed to Israeli society by religious Jews sprawls over four pages. But he devotes exactly one paragraph to the Jewish-Arab conflict, focusing on the Arab riots of October 2000." The reason for that is simple. The rabbis' statements against obeying the government's instructions, which are reviewed in the book, occurred over a period of twelve years, while the events of October 2000 went on for only ten days.

8. Gordon contends that my book ignores the "vision documents" of Israel's Arabs, which were published about two years ago. The reason for that is technical: The documents were published after the book was submitted to the publisher and already in the advanced stages of editing. I hope to deal with the documents in a future book.

9. Gordon claims that "remarkably," I ignore a fact that I myself mentioned: That despite Canada's enormous investment in multiculturalism over more than forty years,

the Québécois minority's separatist tendencies have only increased. However, I explain explicitly that the multicultural dialogue that has been taking place in Canada in recent decades is concerned primarily with the absorption of immigrants, while the problem of Quebec is perceived as belonging to a different discourse, i.e., the binational one.

10. And finally, Gordon writes that people like me find themselves "at a distinct disadvantage. Being a tiny minority, they have no chance of getting their way through democratic means. For three decades, they have tried instead to impose their will by judicial fiat, but Mautner realizes that this experiment is approaching a dead end. A new tactic is therefore needed, and this book is Mautner's effort to supply one: the stealthy imposition of a court-enforced extreme liberal agenda under the innocuous guise of 'multiculturalism.'" These words leave me no choice but to declare explicitly that I am not a tactician, nor am I, for that matter, in the service of any group at all (which will also become obvious to anyone who reads my book). I am not seeking to enforce a "stealthy imposition of a court-enforced extreme liberal agenda under the innocuous guise of 'multiculturalism.'" I am an academic jurist who wishes to ponder Israel's critical problems and propose solutions for

them by utilizing knowledge of the disciplines of law and political theory. The fact that a profound and sophisticated author like Gordon refuses to accept my words at face value, and ascribes to me positions and intentions that are not mine, only serves to indicate both the severity of the problems with which I am contending and the relevance of my proposals.

Menachem Mautner
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Evelyn Gordon responds:

My thanks to Menachem Mautner for taking the trouble to respond to my article in such detail. I will try to address the main points he raises.

Mautner is of course correct that Israel's diverse population includes many different cultures, with secular Jews, religious Jews, and Arabs being the principal three. I also agree that, in practice, lawmakers and courts must take this reality into account. However, there is a difference between accommodating cultural differences and formally enshrining them as part of the state's self-definition.

The former does not contradict Israel's existence as a Jewish state (however the country's Jewish majority chooses to define that term). It requires Israel to give competing cultures a great deal of space, but not to the extent that they threaten its

Jewish character. Hence, Israel currently bans Arab parties that deny its right to exist as a Jewish state (or that advocate terrorism) but otherwise allows Arab schools, newspapers, and political parties to operate freely.

In contrast, formally defining the state as "Jewish, democratic, multicultural" puts "multicultural" on a par with "Jewish." This, *pace* Mautner, is indeed a logical impossibility: No state can simultaneously allow the Jewish people to express its culture at a national level, as "Jewish" implies, while also affording all cultures equal opportunities for self-realization, as "multicultural" implies. And indeed, as I showed in my article, there is precious little about Mautner's Israel that would be Jewish in practice; he would not even allow it to have a "Jewish" flag and a "Jewish" national anthem.

Incidentally, this truth about multiculturalism is not unique to Israel: European countries that have experimented with multiculturalism are also increasingly discovering that it threatens the majority culture. This has provoked a backlash in several countries, expressed in significantly tougher immigration laws (since, as Mautner noted, multiculturalism in Europe has primarily been a response to immigration). To cite just a few examples: In France, the courts denied citizenship to a French citizen's French-speaking wife last year because her "radical"

practice of Islam was incompatible with French values. In Holland, the Dutch Labour Party issued a position paper last December proposing an end to the famous Dutch "tolerance," charging that the government has ignored Dutchmen's feelings of "loss and estrangement" in the face of immigrants with different languages, laws, and customs. Germany enacted new rules in 2007 that bar spouses of foreign residents from immigrating unless they can prove knowledge of German—but, to make it crystal clear that this was about culture rather than language, exempted citizens of Western countries such as the United States and Canada. Denmark has enacted the toughest immigration law in Europe: Aside from imposing stringent age, income, and housing requirements, the law bars foreign spouses of Danes from immigrating unless the couple can prove a greater connection to Denmark than to any other country.

Contrary to Mautner's claim, however, I did not ignore the fact that he recommends leaving "Jewish" as part of the state's definition; I acknowledged this repeatedly. I merely pointed out that in practice, a state cannot be both "Jewish" and "multicultural."

As for his suggestion that Israeli law "rely extensively on Jewish law... [and] serve as an important platform for its

continued development," I would welcome this proposal if it meant requiring our courts to seriously engage with Jewish legal sources. However, as I showed in my article, Mautner repeatedly insists that he wants the courts to remain a bastion of Western liberalism. Hence, like "Jewish and multicultural," what we have here is an oxymoron: The courts cannot remain a bastion of Western liberalism if they are going to engage seriously with the Jewish legal tradition, since serious engagement would require a synthesis of the two. In his book, however, Mautner comes down clearly on the side of preserving the courts' liberalism, and his letter reiterates that he wants the courts to engage with Jewish law strictly "as part of the advancement of state law in its democratic-liberal format." Thus the implication is that by reviving Jewish law, he means no more than encouraging the courts to include quotes from rabbinic sources in verdicts already reached on the basis of Western liberal values—something in which I see little worth.

Mautner also takes issue with my claim that his doctrines of "human rights" and "human dignity" are ways of subordinating Israelis to court-imposed liberal values. Since, as he says in his book and repeats in his letter, he believes these terms should be interpreted according to doctrines that will "be developed in the coming decades in all courts around the world," and since he himself acknowledges in his book that courts both in Israel and abroad are bastions of Western liberalism, I fail to see how this proposal could *not* result in Israelis' being subordinated to court-imposed liberal values. Yes, "human rights" and "respect for humanity" are concepts found in every culture, but their interpretation in practice varies widely. Mautner's proposal would choose one particular interpretation—the Western liberal one favored by the courts—and impose it on every subculture in Israel.

Moreover, while Mautner claims that he intended this proposal to relate only to "relations between the center and the periphery"—i.e., to judging the particularistic cultural practices of "non-liberal" groups—and not to "the struggle for the center," it is hard to see how this limitation would work. If courts have the right to accept or reject a given practice on the grounds that it violates human rights, they will inevitably rule on the majority's practices as well; to do otherwise would be gross discrimination. And majority practice is clearly crucial to determining the shape of the center. Some examples: Could Israel impose restrictions on immigration by Palestinians married to Israelis, either to prevent terror (the reason given in existing law, passed by

a sizable majority) or, perhaps, to maintain its Jewish majority? Immigration surely affects the nature of the center, yet the Supreme Court was a single vote away from overturning the law in 2006 on the grounds that it violated "human rights." Or what about banning homosexual marriage? The question of where society draws the line between the permitted and the forbidden is vital to defining a country's "center." But according to Mautner (as his book says explicitly), such a drawing of a line would not be possible: It would violate human rights.

With regard to democracy, Mautner is correct that I prefer the "minimalist" and "formalist" version of democracy to the "maximalist" one, meaning that I view democracy primarily as a set of procedures for how decisions are made rather than as a set of values that dictate the outcomes legislatures must reach on key issues. But far from ignoring the existence of Israel's cultural minorities, this choice is necessitated, in my view, precisely *because* of Israel's multicultural nature: In a society whose members disagree on so many basic issues, acceptable compromises are more likely to be reached through the give-and-take of the legislative process than they would be if many outcomes were predetermined by the Western liberal values that comprise

"maximalist" democracy, and which, as Mautner himself acknowledges, significant groups within Israel do not share.

Moreover, while Mautner is right that any democracy must include some "substantive elements," these elements are not, as he implies, self-evident and universally agreed upon; there is a raging battle among democratic theorists as to what they comprise. "Minimalist" democrats tend to limit them to political rights (freedom of expression, the right to vote and run for office, etc.) that are essential for democratic procedures to function properly; Mautner, like other "maximalist" democrats, has a far more sweeping view of what these rights comprise.

Either way, however, I fail to see how he can claim that I "ignore" the majority's obligation "to show consideration for the minority and refrain from causing it harm" (an obligation "minimalist" democrats also acknowledge) by asserting the basic right of Israel's Jewish majority to fashion Israel's national space. After all, in this very same paragraph, Mautner claims that he, too, favors allowing Israel to continue to exist as a Jewish state. So is he, too, "ignoring" the Arab minority's rights?

The answer, of course, is that we have different definitions of both which minority rights require

protection and what a Jewish state means. I believe that what require protection are mainly the political rights that Israeli Arabs enjoy today, which are completely compatible with a Jewish state. He appears to have a much broader view, one that also requires full scope for Arab cultural self-realization—which, as noted above, is indeed incompatible with a Jewish state, except when said state is defined, as it is by Mautner, in such a way that very little is Jewish about it.

Mautner is correct that his book does mention the potential danger of Jewish-Arab conflict. However, I stand by my assertion that a comparison of the space he devotes to this issue and the space he devotes to the religious-secular divide makes it clear where his real concern lies. Nor do I accept his claim that in the specific section titled "On the Brink of Civil War," he was justified in allotting far more space to religious-secular clashes than to Jewish-Arab clashes because rabbis had by then been calling for disobeying orders for twelve years, while the October 2000 riots were a one-time event.

First, Arab violence against the state has also been going on for years: There have been numerous cases in which, for instance, police have been stoned or otherwise attacked while trying to carry out demolition orders or arrests in Arab towns (and

indeed, police now consider many Arab towns no-go zones). The October 2000 riots were merely the worst outbreak to date.

Second, just as rabbis have been urging disobedience for years, Arab leaders, including Knesset members, have been urging outright violence for years. To give just a few examples: MK Abdulmalik Dehamshe told the Or Commission in January 2002 that Israeli Arabs convicted of murdering Jews were "prisoners of conscience," because murder, even of noncombatants, is "something so noble and so right" if committed to further the Palestinian cause. MK Hashem Mahameed told the same panel in November 2001 that throwing rocks at Jews is a legitimate form of democratic protest. MK Mohammed Barakeh gave a speech in November 2000 in which he urged Israeli Arabs to participate in Palestinian violence against Israel; MK Azmi Bishara subsequently told the Or Commission in December 2001 that Israeli Arab leaders would have shirked their duty had they urged Israeli Arabs *not* to attack Jews during the October 2000 riots.

And while I obviously accept Mautner's reason for not including the Arab "vision documents" in his book, those, too, were merely the culmination of a long process of Arab attempts to undermine Israel's existence as a Jewish state. In 2001, for instance,

three Hadash MKs submitted a bill that defined Israel as a "democratic and multicultural state" rather than a Jewish and democratic one, causing two different Knesset legal advisers to bar it from the floor on the grounds that it denied Israel's existence as "the state of the Jewish people."

Finally, Mautner charges that I misread his motives in writing the book: He is not trying to impose "a court-enforced extreme liberal agenda under the innocuous guise of 'multiculturalism'"; he is simply trying to propose workable solutions to Israel's real problems. Clearly, I cannot see into Mautner's heart, so I accept his word on this. But regardless of his intentions, the *effect* of his proposals, as I demonstrated in my article, would indeed be the imposition of a court-enforced extreme liberal agenda. Hence, if this is not his intent, I can only regret that he has formulated proposals so at odds with what he actually sought to achieve.

On Death and Dying

To the Editors:

Jacques Schlanger's "A Eulogy for My Death" (Azure 36, Spring 2009) is a courageous and passionate meditation on death. While I agree with his main ideas, perhaps some comments would be useful.

Like Schlanger, most of us think of dying as a bad thing, assuming that dying means perishing utterly. Why is this? Likely, because the life we were to enjoy should we continue living would have both good features and bad, but, we assume, the good would outweigh the bad—in other words, life would be, on the whole, good. As such, anything that precludes our enjoyment of this good is bad. (Schlanger says that death is the measure of life, but with that I cannot agree. Rather, I would argue that life is the measure of death, in that death is bad for us to the extent that the life it precludes is good.)

Hence, dying is an evil precisely when, and to the extent that, continuing with one's life would be good for us. But by the same token, it would seem that dying is *good* if the days or years remaining to us would be spent enduring great agony, terror, or humiliation. If such were the case, death would spare us from an existence that would be, on the whole, bad. Simply put, death is *contrary* to our interests when a continued existence would be good for us, and *in* our interests when that continued existence would be bad.

This reasoning suggests that, for many of us, there will come a time when it is prudent to end our lives, assuming that we have at our disposal a

quick and relatively painless way to do so. This is a hard, cold truth for those of us who love life, such as Schlanger. Yet even for these people, suicide is sometimes a logical choice. There is no paradox here: We would rather live than die, but only on condition that further life would be good. If the life that remains to us will not be worthwhile, it may very well be in our interests to hasten our death. Thus, while it is odd to praise (or "eulogize") death, as Schlanger does, it is entirely reasonable to accept that dying can, in fact, be beneficial. Each of us would be wise to consider what it would be like to suffer physical deterioration, debilitating illness, dementia, and the many other indignities that usually accompany advanced age, and subsequently decide whether, at some point, it might not be preferable to avoid them by bringing on our own death.

Of course, what is in our interests need not be morally permissible. Schlanger says that he would prefer to kill himself, or have himself be killed by his loved ones, if he ends up in the twilight existence of the severely demented. He also says that he would be willing to help his wife to die should she end up this way. But he does not say much about the moral questions involved. Clearly, he thinks that in certain circumstances, suicide, assisted suicide, and euthanasia are morally defensible. I might here

venture to explain why: Presumably, there are two central reasons why it is morally objectionable to kill people. First, it is against their interests. Second, it is against their will, and hence violates their autonomy. Killings that cause great suffering or are not wanted are serious wrongs indeed. Suicide and euthanasia, however, often are not objectionable on either ground. When continuing to live would be bad for us, suicide becomes a rational choice, one fully consistent with our autonomy. The same can be said for euthanasia. Indeed, the best death surely would be one only a willing physician could deliver: quick and painless. Except, perhaps, for a death that comes during sleep, I can imagine no better a death for myself or a loved one than this.

Of course, planning to hasten one's death is not the same as making peace with it. It makes sense to do the former only because (and when) the alternative is worse. But I am not at all convinced that we should attempt to reconcile ourselves with death, as Schlanger thinks we should. There are philosophers who claim that death, no matter when it comes, is nothing to us. If this attitude is what Schlanger means by making peace with death, I prefer war. But perhaps Schlanger means something else; perhaps he wants to be able to think about his death without anxiety or

fear. *This* kind of making peace with death is indeed desirable. There is, after all, much associated with death that can be extremely painful, and it certainly seems wise to avoid this pain if we can (another reason for suicide or euthanasia). But again, even a painless death can be bad for us. Personally, I do not fear the prospect of a painless death, but I abhor any death at all that precludes my living well.

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To the Editors:

Jacques Schlanger's essay stands in a venerable tradition of philosophizing about death. Such contemplation has long served as a spur toward its enactment, a source of material for its reflections, and a corrective to its pretensions. Yet about death, it must be said, such contemplation usually tells us very little. Death resists our attempts to understand it, and certainly to master it. Death overwhelms us. Its inevitability cannot be evaded, and yet the time and exact manner of its coming are things that, for most of us and for most of our lives, we can neither know nor anticipate. Death is and remains a mystery. It is that which is closest to us, and yet also that about which we know the least. Moreover, the very idea of our own death, of that which bounds and defines our lives, is itself something of which we cannot form an adequate idea. To think of one's own death is already to engage in an impossible act, since in the attempt to contemplate such an event, to look upon "our" death, we nevertheless assume, in the very act of contemplation, our own continued existence. To attempt to think of one's own death is therefore not to look upon *our* death at all, but rather to imagine another's death, and then suppose that it might be our own.

The strangeness of eulogizing one's own death, then, is partly on account of the fact that this act can be done only from a distance, by standing at a remove from it—so that, in a certain sense, it is not one's own death that is eulogized at all (just as, in the same sense, one's own death cannot be an event in one's own life). As a result, when one approaches death in this way, the impenetrability that attends upon the thought of one's own death is in part dispensed with, since, in being grasped as an event, death is made akin to other events. It is not, at least in the case of our own death, *outside* of every event, and as such utterly exceptional. Yet while one might therefore take issue with the starting point of Schlanger's essay, this is not to diminish its significance. What Schlanger offers us does indeed stand

in the tradition of the reflection on death that returns us to a renewed understanding of life. It returns us to a sense of what is most important in our lives, which is not mere life as such, but instead the richness of a life lived in relation to others and to a larger world. In this respect, the acknowledgment of death, and so of the fragile and finite character of life, is one of the keys to the proper grasp of that life, of its nature and worth.

Yet Schlanger's "eulogy" is also part of a more specific consideration of the manner of our dying, and especially the suffering that often attends upon it. Here he raises difficult questions concerning issues of suicide and euthanasia. Is the argument for either as a humane and reasonable response to the suffering of dying predicated on the idea that we can stand back from our death, even gain some measure of control over it? Furthermore, might not the attempt to gain a degree of mastery over death—over what is surely the most properly unmasterable of all things—be seen as itself a consequence of our contemporary preoccupation with autonomy and individual choice? This preoccupation seems evident both in the desire to curtail life as a means of preempting the suffering of dying (or the decay that comes with old age), as well as in the desperate clinging to or prolongation of life that often occurs in the face of incurable

and terminal illness—even though, in doing so, we often diminish the quality of the life so gained.

There can be no doubt that suffering, and death with it, is for the most part an evil, while the diminution of suffering and the avoidance of death is for the most part a good. Yet there are also evils that are incurred in the avoidance of suffering through death and in the prolongation of life in the face of death that are themselves worthy of notice. Those evils may affect not only the one who lives or dies, but also those with whom that life is and has been lived, and the community of which that life is a part. In this respect, our thinking about death cannot consider only death—that is, not just our own death, or the manner of our own dying—but must also be sensitive to the manner of living that it enables. Our thinking about death must take into account the sorts of lives that it manifests and fosters—of both the one who dies, and those who remain as witnesses.

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Folman's Waltz

<small>To the Editors:</small>

I agree with many aspects of Ilan Avisar's review of Ari Folman's film

Waltz with Bashir ("Dancing Solo in the Lebanese Mud," AZURE 36, Spring 2009). Avisar is right, for example, to argue that Israeli cinema is, across the board, political in nature, and particularly so in the case of Israeli war films. Folman's documentary is merely another example of this phenomenon.

However, any analysis of *Waltz with Bashir* must differentiate between the two distinct parts of the film: The one that deals primarily with the *absence* of knowledge, and comprises hallucinations, nightmares, and repressed memories of the Sabra and Shatila massacre; and the one concerned with *obtaining* knowledge, specifically through a series of interviews with other people present when the massacres took place. Avisar, for the purpose of analyzing Folman's depiction of the national-political context for the events in question, treats the film as a unified whole. I think he is wrong to do so.

Like many "artists as wartime witnesses" before him, Folman seeks to present his subjective view of the events as against the "official," collective narrative. Yet even a cursory viewing of the film makes clear that no conclusions about that collective narrative can be drawn from the efforts of a traumatized individual to come to terms with his trauma.

Indeed, the protagonist's shell-shocked, phlegmatic state gives the entire first part of the film an air of unreality. Combined with a clearly apocalyptic aesthetic, the nightmares, hallucinations, and repressed memories presented here make any attempt at distinguishing between fact and fiction futile. We must relate to this part of the film as we would to the testimony of one who did not actually experience war, but nonetheless dreamed that he did (much like the protagonist of Charlie Chaplin's 1917 film *Shoulder Arms*).

The second part of the film—the testimonial part—is more problematic, as it purports to fill in the missing details of time, place, and event, and so provide an accurate picture of them. Clearly, Folman struggled with two competing instincts: the need for self-flagellation—by which he may curry favor with his European financiers and audience—and the need to be true to his experiences and feelings. Not surprisingly, the result is awkward and contrived: Scenes and characters look as though the animation has been thrust upon them.

And yet, an accurate picture of events *does* emerge. Avisar justifiably compares the allegorical images of Palestinian banishment and murder to the actions of the Nazis against

the Jews; however, he disregards the fact that the murderers were in fact Christian Phalangists, and the victims Palestinian Muslims. The remote observers were the Jewish Israelis.

This scene, moreover, corresponds according to Folman to another massacre that occurred in the region, this one of Muslims killing Christians: the Armenian massacre by the Ottomans that began in 1915. Then, too, the world sat back and did nothing.

Israel—that is, Israeli soldiers, who are considered Westerners and foreigners in the Middle East today—symbolizes, in Folman's view, the nations of the world that remained silent, just as we did, when the massacres in Rwanda, the Congo, and Darfur all occurred. As such, they too are partners in the crime of inaction, and they too bear responsibility for the tragedy.

Thus Folman, in his elusive way, and under cover of nightmares and hallucinations, constructs a political manifesto reminiscent of an indictment of guilt—although one directed less toward himself than toward the entire enlightened world. By separating the film into two parts, Folman distinguishes between what *was* and what *shouldn't have been*, to everyone's satisfaction. Presumably, this is one of the reasons the film was so well-received internationally. As for Israel, Folman's opinions, as antiwar as they are, were ultimately directed toward our national common denominator—the desire for peace—with which no one would dare disagree.

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