



Commentary...

Middle East Peace Can't be Bought. But can Trump Change the Conversation? By Jonathan S. Tobin

If the Trump administration's forlorn hope for restarting Middle East peace negotiations wasn't already facing long odds, this week's political shenanigans in Israel further complicated matters.

Whether or not Israeli Prime Minister Benjamin Netanyahu miraculously persuades his frenemy Avigdor Lieberman to back away from his effort to derail the formation of a new government and plunge the country into a new, completely unnecessary election, it won't change Washington's plans. Trump administration officials are likely to go ahead with their planned economic summit in Bahrain in June and hope that Netanyahu can put together a government sometime this year.

But all the Saudi or Western money in the world won't entice the Palestinian Authority to attend, let alone negotiate what U.S. President Donald Trump may still hope will be the "ultimate deal." Although the peace proposal going forward is not without some risk for both Israel and the region, the economic focus of the plan that was cooked up by, among others, presidential advisor/son-in-law Jared Kushner is still a positive contribution to the long and dismal history of Middle Eastern diplomacy.

Palestinian Authority leadership has already made it clear that they won't attend the Bahrain event and won't negotiate on the basis of Trump's plan, which is emphasizing economic development rather than focusing solely on a "land for peace" exchange. Longtime U.S. State Department peace processor Aaron David Miller wasn't wrong when told The New York Times that if the United States could have "bought peace in the Middle East through economic development," it would have done so long ago.

That means it's almost certain that the president will be denied the satisfaction of brokering a deal that eluded presidents before him. Under the current circumstances, the Palestinian leadership and the political culture that sustains them simply won't allow it.

But that is not the only way to look at what Kushner is doing.

The first point is that in contrast to all of his predecessors, Trump has not approached negotiations as primarily an exercise in pressuring Israel. That dynamic has doomed every peace effort for the last quarter-century, as the Palestinians have been encouraged to watch and wait for the West to bring them Israeli concessions without having to do much of anything in return. To the contrary, the efforts of the Clinton, George W. Bush and Obama administrations did nothing to force the Palestinians to come to make the sea change in their political culture that would enable them to make peace, even if, as is unlikely, their leaders wanted to do so.

For one of the few times in his career, Palestinian Authority negotiator Saeb Erekat told the truth when he wrote in a New York Times op-ed last week that what Trump was doing was demanding the Palestinians' "surrender." But such a surrender—or rather, a realization on the part of the Palestinians that their century-old war on Zionism must be abandoned—is the necessary predicate for any hope for peace.

By flipping the script of all past efforts and downgrading the Palestinians territorial ambitions to a secondary role, and instead emphasizing plans to build the foundation for peace with economic development, Kushner has done something quite sensible.

That said, whether the Israelis can get their own act together in order to provide Trump with a partner at the table, the Palestinians aren't interested, especially since they won't get as much as they might have done had they chosen to accept offers of statehood put to them by past Israeli governments and American administrations.

Still, that shouldn't end the discussion.

It's true that the effort opens up the possibility that a failed process may, as it has in the past, encourage a new round of Palestinian violence

ISRAEL NEWS

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aimed at getting the attention and sympathy of the international community by forcing Israel into a confrontation in which it will be blamed for the inevitable loss of life.

Some Israelis also worry that the plan, which is likely to involve some concessions on the West Bank, will undermine right-wing efforts to annex parts of the territories. But they need to realize that any move that seeks to remove the ambiguity that has enabled Netanyahu to ably manage the conflict for the last decade isn't in the best interests of the Jewish state.

Kushner's plan is also a breath of fresh air after decades of American efforts to accommodate the Palestinians' unwillingness to admit that they've lost their long war against Zionism.

By focusing on economic development, the United States is offering incentives not just for peaceful cooperation, but to break down a Palestinian political structure that has up until now been solely focused on "resistance" as opposed to state-building or good governance. In its place, the Trump plan offers a template for fiscal improvement that will give the Palestinians a reason to believe that compromise is worth sacrificing their dreams of eliminating Israel, in addition to a "right of return" for descendants of the 1948 refugees who have been kept stateless so they can be used as props in the conflict.

The economic incentives on the table may—particularly if they are backed by the Arab states that are sick of the Palestinians' intransigence—have a long-term impact on the Israeli-Palestinian conflict. That doesn't mean all the nations headed to Bahrain will endorse Trump's plan. However, it does mean that they are on board with changing the manner peace is discussed in a way that will further isolate Fatah and Hamas after they refuse to negotiate.

Trump can't purchase peace, but neither will it cost him; he won't set anything back by reminding the Palestinians that their position is getting weaker the longer they refuse to deal. That's one step in a direction that both the United States and the international community have needed to take for decades. (JNS May 29)

Time to Rebuild Northern Samaria By Michael Freund

In recent weeks, a growing chorus of voices has emerged calling attention to a painful episode that took place 14 years ago in the hills and plains of northern Samaria, when four Jewish communities were pointlessly uprooted and destroyed as part of Ariel Sharon's so-called Disengagement Plan.

Sensing that the time may finally be right to correct this grievous wrong, prominent members of parliament, including Knesset Speaker Yuli Edelstein, have spoken out in favor of the passage of a bill that would undo the injustice that was wrought. Such a move is long overdue and should be a top priority for the next government.

The withdrawal from Homeshe, Sa-Nur, Ganim and Kadim is the "forgotten expulsion," one largely overshadowed by the simultaneous pullout from Gaza which occurred in the summer of 2005. Hundreds of Jews who had built their lives in the communities, some of which dated back to the late 1970s, were traumatically forced out of their homes with little or no explanation.

Indeed, why Sharon decided to bulldoze the four flourishing villages in northern Samaria, which had no connection at all to Gaza, remains largely a mystery until today. Some suggest that he did so to send a signal that his aim in destroying Gaza Jewry was not merely a feint in order to save all of Judea and Samaria.

But to fully appreciate the folly of the move, consider the following. Whereas Gaza was emptied of Jews and turned over to hostile Palestinian forces, the four Samarian towns were emptied of Jews yet remained under full Israeli control, which is still the case today.

In other words, the Jews living there were expelled not because Israel was handing the territory over to our foes, but for no apparent reason at all. This was a senseless and cruel act, driven by politics yet devoid of morality and logic.

And with benefit of hindsight, many have come to acknowledge this.

Two years ago, Maj.-Gen. (res.) Yair Naveh, who served as OC Central Command and oversaw the 2005 expulsion from northern Samaria, admitted in an interview with Israel Hayom that the pullout had been unnecessary and futile, saying, “There was no benefit there, zero. Nothing has changed there for the better.”

To further underline the point, he added, “There has been no added security or any other value associated with our departure from northern Samaria. It was a frustrating event that left us with a sense of emptiness.”

Even Yossi Beilin, one of the far-left architects of the Oslo Accords, has expressed bewilderment over the withdrawal, penning a column last week in which he said that the “decision to evacuate four settlements in northern Samaria won Israel no points in the international arena. It did, however, hurt settlers, who believe the destruction of their homes was completely unnecessary.”

While Beilin supports turning the area over to the Palestinians, he, too, finds it difficult to comprehend why the Sharon government would throw Jews off their land even as Israel retained control over it.

In January 2017, a bill was submitted to the Knesset by MK David Bitan (Likud) and then-MK Shuli Moalem-Refaeli (Bayit Yehudi) with the aim of canceling the 2005 Disengagement Plan Implementation Law, thereby allowing Jews to return to the area, but it has failed to move forward despite enjoying widespread support.

On May 16, 11 MKs, headed by Yuli Edelstein, visited Homesh and met with former residents, many of whom live in the nearby community of Shavei Shomron, from where they can still see the water tower that once served their previous homes.

Edelstein vowed that the “mission” of the incoming Knesset would be to make things right and enable Jews to return.

It is now time for Israel to complete this mission and rebuild the ruins of the four former Jewish communities that were so unjustly dismantled. Let Homesh, Sa-Nur, Ganim and Kadim rise again from the rubble!

More than 2,500 years ago, the Prophet Jeremiah (31:4) foretold, “You shall again plant vineyards upon the mountains of Samaria.” With the stroke of a pen, and a healthy dose of national pride, the government of Israel can and must do its part to help bring that vision to life. (Jerusalem Post May 30)

The European Union Proudly Presents: An ‘Ancient Village’ is Born

By Naomi Kahn

The Palestinian Authority, aided by the European Union, is taking control of a strategic area in the heart of the Etzion Bloc, between Highway 60 and Neveh Daniel.

Over the past two years, the P.A. has created, out of thin air, a “historic” village—that just so happens to be located on a strategic point adjacent to the Jerusalem-Hebron highway. The name given to this new “ancient” village: Shoshkhalah.

Yishai Hemo, Judea and Samaria field coordinator for Israeli NGO Regavim, describes the methodology: “Over the course of the past two years, activists from the Arab town of Al Khader, backed by P.A. and European Union funding, occupied the ruins of two ancient shomerot (watchman’s huts)—primitive stone structures used by passing shepherds or farmers as shelter from the elements—that dot the landscape in the Jerusalem and Sataf areas. They renovated these abandoned structures and turned them into homes—and from that point, in very short order, totally new structures have been added in the surrounding area.”

The signs posted on the refurbished buildings, proudly bearing the European Union emblem, explain that the site is an ancient village—Shoshkhalah—despite the fact that aerial photos paint a completely different picture: In the past two years, more than 15 homes have been built in this “village,” each connected to solar power infrastructure and water tanks paid for by the Europeans.

Analysis of aerial photos from 1967, as well as historic maps dating back to 1880, prove that there was never any settlement of any kind at the site.

“This is another phase in the P.A.-European Union program to seize control over strategic areas,” says Hemo. “We are all too familiar with the program—from illegal construction in the Adumim Region, from land grabs and highly developed construction projects on Israel Defense Forces training grounds in the Hebron Hills and Gush Etzion, and from the extensive agricultural work that the P.A. is carrying out as a means of securing ownership rights to tens of thousands of dunams that have been illegally seized for Roots Project activity.

“The ‘ancient village’ of Shoshkhalah is just one more example of the fact that there is no such thing as a vacuum. When the State of Israel fails to

regulate and register land in Judea and Samaria, the P.A. takes advantage of the opportunity to seize this land and annex it, de facto, to its jurisdiction.”

The writer is director of the International Division of Regavim, a research-based think tank and lobbying group dedicated to preserving Israel’s resources and sovereignty.

Why are Israeli and Other Jewish Academics Legitimizing Anti-Semitism? By Dan Diker

The German parliament’s recent passage of a resolution that censured the Boycott, Divestment and Sanctions movement against Israel for being anti-Semitic sets an important precedent. It smashes the glass wall erected by the European far Left, Islamist and Palestinian activists, and political progressives in the United States who have insisted that BDS is a pro-Palestinian human rights campaign whose condemnations of Israel are defined as “legitimate criticism.”

Inconceivably, 60 Israeli academics and some Jewish intellectuals in the Diaspora publicly denounced the Bundestag’s resolution in an emotionally charged petition, rejecting what they termed, “the deceitful allegation that BDS as such is anti-Semitic.”

As someone who has written and edited four books on the BDS movement, I can attest to its demonstrably anti-Semitic character, its links to terrorist organizations and glorification of convicted terrorists, and the BDS campaign’s goal of destroying the State of Israel, as expressed by BDS campaign’s founders and fellow BDS National Committee members in Ramallah and Gaza. Far more dangerous, misguided support for and legitimization of BDS by Israelis and Jews energizes, encourages and emboldens the mainstreaming and metastasis of antisemitism in the US and Europe.

Germany can teach the world a thing or two about the anti-Semitic nature of BDS. As The New York Times reported on May 17, the Bundestag’s declaration determined that “The pattern of argument and methods of the BDS movement are anti-Semitic... The international BDS campaign known globally for its ‘Don’t Buy’ stickers [recalled] the most terrible chapter in German history” and revived memories of the Nazi motto, “Don’t buy from Jews.”

The German parliament’s moral linkage of Nazi-era boycotts, fascist extremism and modern BDS is instructive. Lawmakers passed the “BDS is Antisemitism” resolution in the shadow of a 20% spike in anti-Semitic acts in Germany in 2018, 90% of which were attacks reportedly carried out by right-wing extremists.

German lawmakers have pinpointed a significant causal connection between BDS’s anti-Semitic and rhetorically violent demonization of the Jewish state as a tool of the political Left, and the violent, often deadly anti-Semitic assaults against Jews in Europe and the US as weapons of the extreme Right. Two mass-murder synagogue shootings on the East and West coasts of the United States in the past six months highlight the linkage.

Despite the principled censure by the German parliament, 60 Jewish academics in Israel, together with Israeli professors in European and US universities, and other Jewish academics, denounced the German parliament’s decision in an attempt to justify BDS as “a nonviolent movement which protests serious human rights violations.”

Simply stated the above-noted Israeli academics are misinformed, misguided, and ill advised.

A brief unmasking of BDS may be helpful.

The Palestinian-led global BDS movement does not criticize Israeli policy; it categorically rejects Israel’s existence as the nation-state of the Jewish people and calls for its dissolution. The BDS movement by definition contravenes both the US State Department’s 2010 definition of antisemitism and the internationally accepted International Holocaust Remembrance Alliance’s (IHRA) 2016 working definition of antisemitism, which includes, “denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.”

The BDS National Committee in Ramallah includes founder, chief spokesman and Israeli resident Omar Barghouti, who has reiterated ad nauseam his unequivocal rejection of Israel as the nation-state of the Jewish people, emphasizing that “No Palestinian, rational Palestinian, not a sell-out Palestinian, will ever accept a Jewish state in Palestine.” Leading Palestinian-American BDS “commentator” and author Ahmed Moor has reiterated that “BDS doesn’t mean anything if it doesn’t mean upending the Jewish state.”

Barghouti, Moor and fellow senior leaders directing the BDS movement regularly delegitimize Israel as an illegitimate, apartheid state.

They advocate dismantling it, pointing to the collapse of the former South African apartheid regime as historical precedent.

The connection between BDS and antisemitism is rooted in the BDS National Committee (BNC) in Ramallah, under the territorial control of the Palestinian Authority.

The BNC includes five Islamic and Palestinian terrorist organizations under the umbrella group called Palestinian National and Islamic Forces (PNIF) that sit with Barghouti and others as co-equal members of the BDS National Committee.

Participating terrorist organizations including Hamas (“The last hour will not come until the Muslims would fight against the Jews and the Muslims would kill them”), Palestinian Islamic Jihad (“Israelis are the New Nazis”), as well as the Marxist-Leninist terrorist group Popular Front for the Liberation of Palestine (PFLP), the PFLP GC, and the Palestine Liberation Front.

The BDS movement’s leading student organization, Students for Justice in Palestine, currently operating on about 250 North American university campuses, has harassed, intimidated and threatened Jewish and Israel-friendly students and faculty.

Prof. Mitchell Bard pointed out in a May 22 op-ed in the *Algemeiner* that BDS’s anti-Semitic maneuvers have included Students for Justice in Palestine-issued mock eviction notices pinned on doors of Jewish students, and publication and distribution of anti-Semitic cartoons similar to those that appeared in the Nazi tabloid *Der Stürmer*.

It is virtually impossible to comprehend that Israeli and Jewish academics are unaware of these and other incessant anti-Semitic declarations and actions of the global BDS crusade. It is similarly inconceivable that any Israeli academic is ignorant of the BDS ideological genesis at the 2001 World Conference against Racism that took place in Durban, South Africa. Orchestrated in large part by then-PLO chairman Yasser Arafat, Durban’s NGO Forum declared Israel, “an apartheid state perpetrating racist crimes against humanity including ethnic cleansing and acts of genocide.” This was a clarion call for Israel’s destruction.

Could Israeli and Jewish petitioners also have overlooked Durban’s anti-Semitic demonization of Israel and the establishment, 36 months later, of the Palestinian Academic and Cultural Boycott of Israel (PACBI), which gave birth to the global BDS movement?

The obsession by some in Israel with whitewashing BDS of its anti-Semitic roots and goals compromises the security of Israel and the safety of Diaspora Jewry. This Israeli-led protest against BDS’s anti-Semitic DNA also conveys a dangerous message of support and legitimacy for the overtly anti-Semitic Hamas and Islamic Jihad, whose operatives have supported and coordinated with BDS organizations in Europe and the US.

Most problematically, misinformed Israelis and Jews supporting BDS as a legitimate movement are used as tools of legitimization for demonizing the Jewish state. The global BDS campaign’s de-legitimization of Israel has led to a spike in anti-Semitic attacks against Jews in Europe and the United States. Informed people of good will must continue to expose and collapse the bogus moral umbrella under which the anti-Semitic and terrorist-linked BDS crusade hides, advocating “Freedom, equality and justice” as BDS has fraudulently promoted since 2007. (Jerusalem Post May 29)

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Haven’t we Resolved the ‘Zionism is Racism’ Debate?

By Lee Bender and Jerome R. Verlin

Didn’t we finally defeat the notion that Zionism is racism in 1991, when the United Nations finally revoked that resolution?

The recent murderous attacks on Jews in synagogues in Pittsburgh and Poway, Calif., are ultimately not dissimilar from attacks on Zionism itself, the belief that the Jewish people have a right to self-determination in their ancient homeland. Both in fact are acts of hatred and racism. As Dr. Martin Luther King Jr. famously said, “If you’re talking anti-Zionism, you’re talking anti-Semitism.”

Let’s get something straight: The objective of anti-Zionist attacks is to deny the right of the only Jewish state on the planet to exist, as opposed to all the other nations in the world. The U.S. State Department defines anti-Semitism as a form of racism directed at Israel using the three “D”s from Natan Sharansky: delegitimization, demonization and double standards. This comes in many shapes and sizes.

Here are a half-dozen of the toxic terms:

Jews are not a “people,” but rather a religion.

Wrong. Members of a religion don’t feel bonds of common ancestry and tribal relation with fellow members of that religion of their own and earlier generations. We Jews are descended from our forefathers’

generations that came forth out of Egypt, established our presence in our homeland of Israel and maintained our presence there throughout the centuries. The Bible refers to us as a nation. We share that common bond with Jewish communities in the Diaspora, including Yemenite and Ethiopian Jews whom Israel brought home, a relation not felt, for example, between Christians on different continents.

Israel’s claims to the Land of Israel are based only on the Bible.

Wrong. Our claims begin in the Bible, as Israeli Ambassador to the United Nations Danny Danon recently eloquently expressed to members of the world body. But three millennia of a continuous homeland-claiming physical presence—supported by every synagogue in the world built with its holy ark facing where the Jerusalem Temple stood, Jews praying towards Jerusalem, and Jews reciting at the ending of every Passover “Next Year in Jerusalem”—furnish a historical endorsement of our homeland claim’s biblical origins. The Balfour Declaration, embodied in the San Remo Treaty and League of Nations Palestine Mandate, accepted by the United Nations, endorse our homeland claim in international jurisprudence.

Israel is a colonial enterprise.

Wrong. The modern-day State of Israel—brought into independence by an army of homeland Jews that took on, first, the British Empire, and then neighboring Arab nations that invaded, vowing to destroy it—is the antithesis of a “colonial enterprise.” Speaking the same language, practicing the same religion and customs practiced by that same small people in that same small place three millennia earlier, indigenous Israel is as far from “a colonial enterprise” as any place on the planet. Even the Koran recognizes Israel as the land of the Jews. More than half of Israelis are Mizrahi Jews, i.e. Jews from the Middle East.

Israel is an apartheid state.

Wrong. Arab citizens of Israel are represented through representatives they vote for and elect in Israel’s Knesset. They attend Israel’s universities, and work, shop, eat and swim in the sea alongside Jewish Israelis. They attain high governmental, commercial and institutional enterprise office, and have the civil rights as any Israeli citizen. The Palestinian Arabs who are victims of “apartheid” are those confined to “refugee camps” by their fellow Arab “hosts,” who exclude them from employment and other life of those countries.

Israel stole Palestinian land.

Wrong. Palestinian Arabs have never in history ruled any part of the land of Israel—not “east” Jerusalem, not Judea-Samaria (aka “the West Bank”), not anywhere. Jewish sovereignty has persisted since the biblical kingdoms of Judah and Israel, and since Maccabean Judaea, interrupted only by the Roman destruction of Judaea and other foreign empire invaders until the establishment of modern-day Israel, the land’s next native state. The Jewish homeland has never been “Palestinian” land. In fact, Palestinian Arabs aren’t even considered “The Palestinians” during the time of the British Mandate in the first half of the 20th century. Everyone living there—Christian, Muslim and Jew—were called “Palestinian,” and it was mostly Jews who used that name of themselves: the Palestine Post, Palestine Symphony, Palestine Electric Co. The Arabs considered themselves South Syrians then, not “Palestinian,” which generally referred to the Jews.

Jews are not “The Palestinians.” The Arabs are.

Wrong. Palestinian Arabs aren’t “The Palestinians.” The 1947 U.N. Partition Plan referred to the “two Palestinian peoples.” The PLO (Palestine Liberation Organization) was not even created until 1964. The region was named by the Romans after the Philistines, the sworn enemies of Israel, to disassociate what had been Jewish from Jews.

All efforts to delegitimize Israel—whether from the right or left, by academia and on college campuses, from the BDS movement, at the United Nations or European Union, by the Arab League, Islamofascists or in the media—are indeed red flag signs of anti-Semitism.

Much is based on envy and jealousy of the success of the Jewish people and their tiny state in the direct face of this persistent onslaught. In the course of a short 71 years from winning independence, Jews have created a state that is nothing short of miraculous: a high-tech juggernaut that is at the forefront of breakthroughs in medicine, agriculture, computer technology and security, to name just a few fields; an open thriving, robust democracy that shares with the world its discoveries and innovations; a first responder of humanitarianism around the globe that respects the civil rights of all its citizens, and where Arabs have more rights than in any state in the Arab world. (JNS May 29)

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Israel's Coming Constitutional Crisis By Victor Rosenthal

Can there be a constitutional crisis without a constitution? Apparently Israel is headed towards one, as Israeli Prime Minister Benjamin Netanyahu and his Likud Party confront Israel's Supreme Court.

The court says Netanyahu wants to render it powerless, destroying the independent judiciary that is a requirement for democratic governance. Netanyahu says that the court has arrogated too much power to itself, so much so that the Knesset and the government, which in fact are the democratically elected voice of the citizens, are the ones that have been neutered.

Both sides appeal to the concept of democracy, but both sides understand that the conflict is about power.

What brought this issue, which has been simmering for years, to a boil now is that the prime minister would like to pass a law granting him immunity from prosecution on corruption charges as long as he is in office. And he also wants the Knesset to be able to override a Supreme Court decision to overturn a law it has passed.

It is very unfortunate that the issue of checks and balances among the branches of government has to be tied up with the question of immunity for the prime minister, since naturally anything anyone says about it will be attributed to the most obvious political motives. But the balance of powers question does need to be addressed.

Let me just insert a bit about immunity here: I'm for it. The past few years have seen Netanyahu's time increasingly taken up by several police investigations, countless sessions of questioning, and daily media frenzies based on leaks from the police and prosecutor's office. There is absolutely no doubt that his ability to do the job he was elected to do has been severely impacted. Not only that, but his political position has been undermined by the flood of unproven allegations leaked to the hostile media. No matter how you feel about Netanyahu, this is both dangerous for the nation and personally unfair to Netanyahu.

There are good solutions to this in other democracies. In France the president has immunity from questioning by prosecution for the period of his term; statutes of limitations are suspended during it. He can be prosecuted immediately upon leaving office, and he can be removed from office by impeachment by a special court that is convened by both houses of the French parliament. In America, although there isn't a constitutional provision for it, the majority legal opinion is that a president must be impeached by the House and convicted by the Senate before he can be prosecuted.

Israel does not have a constitution as such. The very first Knesset was supposed to adopt one six months after the establishment of the state. It did not, because various factions were unable to agree on many issues, and because David Ben-Gurion felt the enterprise would be too divisive. Instead, Israel has 14 Basic Laws, which deal with important subjects and which will supposedly (don't hold your breath) one day be expanded and put together into a constitution.

Most (but not all) of these Basic Laws can be changed by a vote of the majority of the Knesset members present (assuming a quorum). Some are detailed and some vague, some subjects are not covered at all, and the empty spaces have to be filled by legislation or by legal interpretation. This provides fertile ground for a very activist court. Israel's Supreme Court has defined its own role over the years, especially since the 1980s, and an exceedingly broad role it is.

In most legal systems, access to the courts is reserved for those with "standing"—a stake, financial or otherwise, in the outcome. But in Israel, anyone can petition the highest court in the land, at any time, for any reason. So you have European-funded NGOs petitioning the court on behalf of Palestinian residents of the territories!

In most systems, there are limitations on what is "justiciable"—that is, appropriate for the courts to decide. Some matters are considered essentially political, and some, like issues related to security, require special expertise. But in Israel, the definition of "justiciable" has expanded to include almost anything the government does.

There's more. As Evelyn Gordon writes, "Whereas once the court would consider only whether a government action accorded with the letter of the law, the court began routinely overturning decisions which it considered 'extremely unreasonable,' on the grounds that extreme

unreasonability is ipso facto illegal. In the words of [former Court President Meir] Shamgar, 'unreasonability that extends to the heart of the issue makes the decision of a government authority illegal.'"

This combination gives the court virtually dictatorial powers in every realm of government action. The court can review any law passed by the Knesset and any administrative decision of any government official, including decisions made by military or security personnel. It is the first and last court to consider such laws and decisions; there is no higher court to appeal to. And it can throw out a law or decision not only because it's unconstitutional, but because they find it "unreasonable."

Israel's Supreme Court is probably the most powerful such organ in any democratic country. The U.S. Supreme Court has never been this "activist" in anyone's wildest dreams. The Israeli Supreme Court sees itself as sort of a Platonic philosopher king, completely objective and not dirtied by the muddy waters of politics.

All judges in Israel, including Supreme Court justices, are chosen by a nine-member judicial selection committee, which meets in secret. Three of its members are Supreme Court justices and two are representatives of the Israel Bar Association. These five often vote as a bloc, which means that the left-leaning legal establishment controls the selection of judges. These philosopher princes were recently embarrassed when an influential member of the committee and head of the IBA was caught trading judicial appointments and promotions for sex.

A right-wing government and a left-leaning court would be expected to be in conflict. But the balance of power has moved too far in the direction of the court in recent times, paralyzing the executive and legislative branches.

The court almost prevented the signing of an agreement to sell natural gas internationally, and has prevented the repatriation of illegal migrants that have made life hell for residents of southern Tel Aviv. It has ordered the demolition of whole Jewish communities in the territories because of NGO petitions that (sometimes unknown) Palestinians have claims on some of their land. It is almost certain to move to overthrow the newly passed Nation-State Law.

The court is the main reason for complaints that Israelis vote for the right but get policies of the left. It is not accidental that the expansion of the court's powers came at about the same time that the historic monopoly of the Labor Party was smashed by Menachem Begin.

The political opposition and the court itself view—or pretend to view—the situation today as nothing less than an attempt to overthrow democracy and the rule of law, and install Netanyahu as a fascist dictator. The Times of Israel reports:

"Judges on the Supreme Court have warned they could take 'extreme steps' in order to block legislative proposals that could severely curtail the court's powers and shield Prime Minister Benjamin Netanyahu from prosecution, Israeli television reported Friday.

" 'It seems as if the prime minister and the candidates for the role of justice minister want to shatter and destroy the legal system,' Channel 13 news quoted unnamed Supreme Court justices saying during private talks. 'The immunity bill alongside the override clause is unbelievable. We won't hesitate to take harsh and extreme steps because history will judge us,' they were said to add."

What these steps might be remains unspecified. But it's clear that we will be in uncharted territory with no clear directions to get back if an open conflict between the government and the court erupts.

An immunity bill, along with some sensible restrictions on the court's power—a return to requiring that petitioners have "standing" in a case, a retreat from the idea that everything is justiciable and that anything the justices find unreasonable is also illegal, would be a good start. A change in the way judges are selected to make it fairer and more transparent is probably necessary.

None of these things destroys democracy or introduces fascism. Indeed, by restoring eroded checks and balances, they would make the country more democratic. But the Supreme Court is the last bastion of real power for the left in Israeli society, and they are going to fight to keep it, regardless of collateral damage. (JNS May 27)

The writer was born in Brooklyn, N.Y., lived on a kibbutz through the 1980s and returned home to Israel in 2014.