

Unnecessary Law, Deliberate Provocation

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Haaretz Op-Ed, July 10 2002

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Last Sunday's cabinet decision to support a suggestion made by Haim Druckman MK (National Religious Party) to amend the Israel Lands Law, marked a black day in the history of Israel. Druckman's amendment would allow land allocations to be earmarked for the Jewish Agency that would be used to set up exclusively Jewish settlements. If accepted by the Knesset, this law will bring Israel closer than it has ever been to an apartheid state.

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It would turn Israel into a state in which elected representatives openly promulgate laws that reflect a racist ideology and are designed to repress and discriminate against one-sixth of the population. Ze'ev Jabotinsky, a paragon of classical liberalism, and Menachem Begin, a true defender of democracy, are spinning in their graves.

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Dan Meridor, their ideological heir who fought like a lion to convince Ariel Sharon's government to oppose the move, was defeated. And the Labor Party, as usual of late, ducked for cover, hoping this wave will pass over it and allow its leaders to remain in their comfortable chairs at the cabinet table.

In March 2000, the High Court of Justice issued a verdict defending the right in principle of the Ka'adan family from Baqa el Gharbiyyah to buy a plot of land and build a house in Katzir, a new settlement in the north of the country. Handed down after five years of hesitation and soul-searching by five judges, with Justice Aharon Barak presiding, the ruling, while in favor of the petitioners, was not definitive.

Rather than issuing the respondents with explicit orders, the court made recommendations. The Katzir cooperative association, the Israel Lands Administration and the Jewish Agency, were merely requested to be open-minded and "re-consider" the Ka'adan's request to settle in Katzir. The court was self-consciously reserved, stating that it was "looking to the future", rather than seeking its verdict to become a precedent that could start a retrospective re-evaluation of past decisions taken by the settlement authorities.

The judges were also careful to define their verdict as a defense

of specific individuals against discrimination, not as a ruling on national scale. They even allowed Israel's land allocation authorities future escape hatches, mentioning security considerations as admissible pretexts for preferential and discriminatory land distribution.

But two aspects in the verdict stand out as beacons of hope and justice. One is its adamant rejection of the administrative trickery, the Isra-bluffs, which for so many years were using the Jewish Agency, the Israel Land Administration and cooperative associations as camouflage for discrimination. The other was its crystal clear defense of the principle of equality.

"Equality," the justices ruled in their verdict, "a fundamental value of the State of Israel, obliges every single one of its authorities and their actions." Even the Israel Land Authority, the verdict says, which "operates as the trustee of the state in allocating land to the public, is obliged by this principle. Whether grounded in religious or national differences, discriminatory policies in housing or in other areas are forbidden by the principle of equality."

Barak and his colleagues identify a two tiered set of meaning to equality. One is the moral value, which is self-evident. The second is the importance of equality for social stability. "The need to maintain equality," says the verdict, "is vital for a society and the consensus on which it is built ... there is nothing more destructive to a society than the feeling of its sons and daughters that they are being treated with discrimination ... Discrimination leads to a sense of repression and frustration, which leads directly to jealousy, and with jealousy reason is lost."

One possibility is that Ariel Sharon's government, blindly following the foolish advice of Druckman and his accomplice, Education Minister Limor Livnat, was indeed infected by a zealotry that made it lose its reason. It may indeed be the case that the decision to push a law that tackles access to land - the most sensitive issue for the Arab population in Israel - at this juncture, merely reflects the callous indifference of an irresponsible government.

But there is another possibility that is even more worrisome. It could be - that like the prosecution of MK Azmi Bishara for the contents of his speeches, and like the attempt to disqualify certain Arab political parties from contesting the next elections, this amendment is cynically designed to increase the level of resentment among Arab citizens, to throw them into ever deeper distrust of the state, and thus remove them from the theater of legitimate politics.

The coming election, after all, will be a paradise for right wing parties if the Arab citizens approach it in an atmosphere of despair, particularly if many of them eventually decide to shun the ballot boxes and instead take to the streets.