

Introductory Remarks

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This volume offers a threefold intellectual juncture. It counterpoises the political traditions of republicanism and liberalism, tracing tension-fields old and new. It solicits early modern political thought to meet with present-day political concerns. It also brings together Israeli political and legal culture with its European and American counterparts, pointing to their common origins and comparing their current topographies and concerns.

A major assumption in this book is that Israeli politics and law are derivatives of early modern European thought in ways that are both familiar and challenging to other descendants of the same tradition. The frequent stretching of the concept of Zionism to an analytical catch-all for all matters Israeli has obfuscated the country's basic political and legal structures that were aimed to steer clear of ideology. Alongside the heated rhetoric of nineteenth-century nationalism (some would say colonialism), Israel's founders deployed the cool scaffolding of a modern republic. Insofar as it imbibed major political legacies of modern Europe, many of Israel's current predicaments are more akin to those of other political societies than many scholars have previously surmised.

Modern Israel hails from a founding generation that was largely secular, an offspring of the Enlightenment (particularly the German Enlightenment), and steeped in European intellectual history. Many founders of Israel were educated in the high schools and universities of Eastern, Central and Western Europe. Most of them had strong European identities, often tragically destroyed before or during World War II. Whether socialist, liberal, or "revisionist"-nationalist, their European political compass was deeply relevant to the Jewish national awakening and state building. Zionism itself was a European movement first and foremost, deeply embedded in the broad education of its founders. Theodore Herzl and Ze'ev Jabotinsky were erudite liberals. David Ben Gurion proudly considered himself a self-taught democrat.

Consequently, the young state's main institutions were those of a

liberal democracy; often flawed and gnawed by harsh circumstances, but a liberal democracy nonetheless. Its right-of-center ideologues were historically rooted in the age of nationalism, while its predominant left-of-center creed evolved from modified and mitigated Marxism, channeled into social democracy. The “center” itself, from Herzl onward, hailed from a bourgeois central-European liberalism strongly committed to the rule of law and deeply anchored in the Enlightenment. Most of Israel’s governmental institutions, and almost all its juridical foundations, belong to the latter tradition.

Over the years, some thinkers and policy-makers have proposed to integrate “Jewish” elements into the largely secular framework of the state. For example, there have been attempts to make biblical laws relevant to the country’s essentially modern legal system. Most of these attempts have worked well within the democratic framework, while others may seem nationalistic and even atavistic. One consequence is that Israel’s public sphere today is often mired in the “Jewish or democratic?” debate, with Moses and John Stuart Mill playing tug-of-war over the country’s political and moral identity. Israel’s intellectual legacy, however, is far more complex and multifaceted than that.

Moses and Mill do not represent disparate and competing traditions. If one takes a closer look, some important Jewish legacies would disclose affinity to a broader European genome: the philosophy of Maimonides owes a great debt to Aristotle, and the modernizing project of Mendelssohn was part and parcel of the German Enlightenment. Converse impacts were at work, too: some crucial aspects of European political thought, specifically the ideas of liberty and justice associated with early modern natural law and maturing in the works of Hugo Grotius and John Locke, bear the fingerprints of those who looked at the ancient Hebraic republic for concepts of the good polity. Thus, “Jewish” ethics and politics drew sustenance from the same origins that fed European intellectual history, and vice versa.

Common legacies—the quests for liberty, civic equality and social justice—have enabled a strong and intimate dialogue between Israelis and Europeans in the immediate aftermath of the Holocaust and the founding of the State of Israel, from the 1950s to the 1970s. Israel was seen, not least through its own eyes, as a young European democracy rising from the ashes of the darkest European dictatorship. However, these intertwining traditions have lost some of their weight within Is-

raeli society during the recent decades. Some Israelis find Europe and its political culture alien and menacing. Some critics, both in Israel and beyond, now tend to see Israel as a combination of religious fundamentalism and several despised aspects of the European legacy: chauvinism, expansionism and imperialism.

Yet the stamp of Europe, most specifically of Germany, on the Israeli constitutional structures covers far more ground than one may imagine. “Western” and “Jewish” elements are woven together: liberal discourse can underpin ultra-Orthodox sectarianism, and social democracy sometimes enlists biblical quotations to struggle against free market ideology. Significantly, the legal and moral justifications of civil equality for Israel’s Arab minority, as well as the Palestinian bid for independence, are rooted in European political traditions. So was the historical Jewish demand for a sovereign state.

One purpose of a theoretical conversation involving Israel, Europe and the United States is to examine how much Israeli society still owes to its early modern legacies. European societies today may wish to do the same. Israel is a touchstone—at times extreme, but often revealing—for the current relationship between European legacies and European realities. On the other hand, early modern republicanism displays some Hebraic fingerprints, and the early liberalism of the Enlightenment engaged with Jews as a test case for civil rights and minority emancipation. On the other hand, Europe’s present-day engagement with its new migrant minorities and with its recent religious differentials bears some similarities to Israel’s complex relation with its own native Arab citizenry, as well as with the Palestinians residing in the Israeli-occupied territories. On certain points, notably the impressive influx of Israeli-Palestinians into the universities and the professions, Israel may be able to teach its European counterparts a useful lesson. On other points, notably the upholding of civil and human rights under occupation, Israel is requested to heed critical European voices.

Both Israelis and Europeans, however, may do well to become more attuned to the pre-nationalistic legacy of early European modernity, where ideas of liberty, civic commitment and political justice were played out in contexts relatively immune to the vicissitudes of ethnic strife. This is why early modern political thought, while not “Jewish” in any outright sense, is so interesting in our context. The tension field of republicanism and liberalism may well prove relevant to European and

Israeli current affairs in ways similar to its ongoing American relevance. Open issues of political deliberation today—cultural cohesion, migration, minority and collective rights, individual autonomy, sovereignty, universal jurisdiction, humanitarian concerns in peace and war—are all at stake. On a deeper level, citizenship, nationhood, freedom and maybe even rationality, are all part of the early modern resonance in current public affairs. Republican and liberal ways of thinking about the political and the social realm do not necessarily provide solutions for current problems; but they remain helpful analytical tools for understanding tensions in modern societies that are rooted in early modern options.

In this sense, republicanism and liberalism are not understood as two distinct and clear-cut ideologies, but as political languages and sets of ideas and values, conveying notable differences but also sharing significant similarities. It would be anachronistic to claim authors such as John Locke, Charles de Montesquieu, Thomas Jefferson or even Adam Smith for one camp in a hypothetical exclusivist struggle between republicanism and liberalism. The ongoing debates about these concepts—to which some of the authors of this volume have made important contributions in the last decades—have not produced general agreement on their definition. The spectrum of interpretations is also manifest in the articles gathered in this book. The liberal-republican quandary acquires new dimensions when dealing with different political cultures. As this collection of essays readily demonstrates, variegated national, cultural and scholarly backgrounds yield differing interpretations of the terms. In an ideal typical sense, it is nevertheless helpful to characterize the editors' own understanding of the two major concepts, from the perspective of early modern history of political thought.

Republicanism is understood as an essentially pre-modern way of thinking about power, liberty and participation, although it has had a lasting effect on modern political thought and political practice, too. In early modern societies, the individual rights of a citizen were not crucial for political order. Most men, not to speak of the women, were subjects, not citizens. If they had rights, those were collective rights of a social estate, a town, a monastery, or a university. It was not yet the sovereign state that generally guaranteed its citizens equal individual rights. Belonging to a circumscribed social or economic entity procured particular rights. Such rights were a privilege, and they demanded conformity—in religious faith, in political opinions, in manners and in values. Besides

conformity, there were other prerequisites for citizenship that were barely questioned by anybody: a citizen had to be male, he had to be economically self-standing and contribute to the common weal by paying taxes and serving in the militia, he should sacrifice his own interests and even his blood for the sake of the common weal. Thus, the internal role of the citizen was closely linked to the external survival of the body politic in the dangerous world of sovereign states that developed in early modern Europe—a struggle for survival conceived in military terms by authors in the Machiavellian tradition, but increasingly seen as a commercial, and more generally economic, competition for prosperity and power.

Hence the republican insistence on individual virtue within a particular political community, discussed as the subject matter of moral philosophy recommending self-abandonment and disinterestedness. This set of beliefs derived sustenance not only from Aristotle, the Roman republicans and the Stoa, but also from Christian and (as we are increasingly aware) Hebraic sources.

In contrast to republican ideals, the natural law tradition leading to liberalism shifted its focus from the community to the individual, often understood in abstract and universal terms, and focused on individual rights. This opposition can be labeled, with Benjamin Constant, as *liberté des anciens* against *liberté des modernes* or, with Isaiah Berlin, as the positive liberty to exercise political participation versus the negative liberty from governmental coercion. For the republican, liberty is a virtuously achieved, but constantly endangered privilege and a duty with the aim to establish justice and concord in a predominantly agrarian world. For the liberal, it is the pre-politically founded and institutionally protected right to individual pursuit of happiness within the limits of law, guaranteeing property and eventually producing public wealth as an unintended side-effect of self-serving interest (“private vices”) within an economy based on the division of labor. During the eighteenth century, these natural law based liberal beginnings flourished into a full-fledged philosophy. The Enlightenment developed ideas of universal rights and values, political representation instead of direct democracy, separation of powers and institutional checks and balances enabling and even legitimizing the co-existence of differing individual interests, culminating in the modern notion of political parties. This cluster of theoretical innovations formed a crucial juncture. The new,

liberal republic of self-interested individuals began to part ways with the former republican ideal of a commonwealth of selfless citizens. At the same time, new ideas of the nation colored the collective sphere in cultural, linguistic and historical shades very different from the earlier republican citizenry, which seldom if ever depended on ethnic singularities as a major construct of identity.

The essays in this volume offer new ways of pondering these problems. The contributors—historians, philosophers, political scientists and legal scholars—were invited to reflect whether the political concepts and debates of the era preceding the nation state, and in particular the thought of the Enlightenment, might prove conducive to our understanding of the problems of our era, when nation states are undermined and their staying power is questioned. While common to all modern democracies, these newly sharpened questions are uniquely relevant to those European countries that are incorporating large minorities of recent migrants into their societies and cultures. At the same time, they are relevant for a European Union that, as a whole, has reduced all nations to minorities within a supra-national political and economic infrastructure. For such a meta-national body, not only do uniform laws and rules need to be established; but it also requires a shared identity that legitimizes redistributions and produces acts of solidarity, an identity that inevitably has its fundamentals in history. The United States can serve as a model in some aspects; not because they have resolved these questions, but because they have to face them as well and do so within their own traditions. And other nations outside the European Union, such as Switzerland, are not immune to such challenges even if their citizens continue to believe in the exceptionalism of a chosen people. In general, such a self-perception may have survived better—for different reasons—in the relatively recent nation-states of Israel and the United States than among the European nations whose pasts, not only in the Nazi era, are laden with failure and atrocities.

Early modern political thought is fascinating in its own right. The major political issues of the early twenty-first century do not always yield easily to historical analysis. While this volume aims to juxtapose past and present, we do not propose to do this hastily. The coming chapters offer several novel attempts at a historical *cum* current affairs discussion of the shared and mutually tense republican and liberal legacies in Europe, Israel and the United States. Although the articles have been put

in a roughly chronological order, they often refer to each other—in ways both affirmative and contradictory—in spite of the temporal gaps that might separate them. The chronological order should not be understood as a historical narrative of a single—republican and/or liberal—path towards, for example, liberty or modernity. The trajectory outlined here is just one of many ways to interpret challenges and responses in different states and within a converging world.

John G. A. Pocock begins with the European distinction between autonomous sacred and secular authorities, rooted in imperial Rome and leading to the early modern sovereign state that became the framework for both republican and liberal concepts of liberty, each similarly opposing the Church and the ecclesiastic claims for truth. Hence, historical narratives played a decisive role as alternatives for seeking out the fundamentals of political thought. To a lesser extent than classical Rome, but recently of increasing interest to scholars, the Hebrew republic served early modern thinkers as a constitutional model for self-rule, distributive justice and civil legalism, a this-worldly institution existing in history, but ennobled by divine establishment (Fania Oz-Salzberger). A better-known matrix for analyzing the incorporation of citizens and the role of the political *demos* was the Athenian *polis*, discussed here by Christine Zabel. Moving on to the republican reassessments of the Enlightenment era, Urte Weeber presents the major republics of the eighteenth century, Venice, the Netherlands, and Switzerland, all of which stimulated debate on the best constitution, but, confronting the rise of commercial society, were increasingly disparaged as stagnated relics of the past. The future belonged to the new kind of republic that arose in the United States of America, where – alongside Rome – biblical republicanism and its Hebraic models again inspired the settlers erecting a “second Israel” (Eran Shalev).

While republican thinkers argued from historical precedence, liberal thought originated in a philosophy of nature. For Thomas Hobbes, this was a voluntary choice aimed at subordinating the rights of individuals, which he radically redefined, to the sovereign state that alone could guarantee them. Gordon Schochet explains also how Locke mitigated this interpretation of natural law and paved the way for inalienable rights to become the anchor of the American and French revolutions. From Hugo Grotius onwards, the natural law tradition was equally important to international law. Marco Geuna discusses critically how the concepts of

just war and of human rights, which originated in early modern Europe, were reformulated and used to legitimize armed interventions in the asymmetric new wars of the last twenty years.

Further critical reflections on early modern legacies in present-day contexts are offered in the later chapters, which examine relevant tension-fields in three political cultures. Sam Fleischacker revisits Adam Smith to explain the danger awaiting states that leave poor relief to religious groups: support for the poor should be seen as a matter of justice among fellow citizens, not as charity invoking humility and veneration towards the morally superior donor. Raef Zreik explains the ambiguity of the civic discourse in Israel, which cannot be seen only as the triumphant liberal paradigm of equal rights. The political redefinition of citizenship and Israeli identity enabled an ethnocentric exclusion of the Palestinians in Israel who, while enjoying basic civil rights, are forbidden or unable to participate in seemingly abstract civic duties such as military service.

A different outcome of the ascending importance of legal procedure, this time in international relations, is the rise of extraterritorial and universal jurisdiction, considered by Amnon Reichman as acceptable if limited to exceptional cases of adjudication. On this turf, liberal and universalist juridical ideals may clash with traditional rule-of-law sovereignty. Israel has played varied roles, all of considerable importance, in this global development. It was also a party—however minor—to the claims put forward by Jewish organizations and in class actions against Swiss banks withholding assets of Holocaust victims. Thomas Maissen explains the litigation and the public debate surrounding these cases as a debate on collective memory, a confrontation between the Swiss glorification of their republican past and others' experiences, especially of the Holocaust, that have become the core element of supra-national human rights discourse. Such is also the argument in Diana Pinto's concluding essay, where she distinguishes between disparate lessons learnt from the War and the genocide. "Never again" has different meanings in Europe and in Israel, and this dissonance may shed light on numerous misunderstandings and tensions between these two partners.

The historical and geographical scopes of this volume of essays, as well as its range of contributing academic disciplines, make it a unique, and rather ambitious, attempt at expanding the horizons of our current-affairs debates. While eschewing any pretense to completeness or

congruence, contributions to this volume are inter-conversing on many levels. Its editors and other authors all share a sense of intellectual urgency: if any of the major social, political and economic issues of our day are to be addressed responsibly, the broadening of comparative scopes across space and time is of utter necessity. We consider this book to be a proposed beginning, rather than a tidy conclusion, of such an opening of vistas from our non-distant past to our immediate future.

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