

Israel

Zionism and the law

By Steve Adler

THE ZIONIST movement, which began at the end of the 19th century, has roots in three sources: one, Jewish tradition, which preserved the eternal hope of a return to the Land of Israel; two, European nationalist movements, which espoused nation-states, freedom, liberty and equality for all citizens; and three, extreme antisemitism. These sources guided the development of the Zionist movement, and strengthened and encouraged it, culminating 51 years later with the establishment of the Jewish and democratic State of Israel.

When Theodor Herzl envisioned a Jewish state, Jews were scattered across many countries, without rights in most places, and antisemitism was rampant. Herzl envisioned a Jewish country, which would be a light to the nations. In his book *The Jewish State*, Herzl described a utopian nation, rooted in justice and equality, a democracy with a constitution, laws, and the most advanced legal system. This vision saw beyond the current reality, a utopian future reality of an ideal society. Herzl dreamed of a Jewish democratic welfare state, which would include a limited seven-hour working-day, protection of pregnant workers, a limit to working hours, and a modern legal system.

US Supreme Court Justice Louis Brandeis, an important figure in early 20th-century America, had a central role in the American Zionist movement, ZOA. In many ZOA speeches, he defined Zionism as a democratic movement. David Ben-Gurion wrote that Israel would be Jewish, but also democratic with equality for all citizens.

Israel was founded as a Jewish and democratic nation, with justice and equality as one of its foundations. Israel's Declaration of Independence signed May 14, 1948, declared: "The State of Israel... will be based on the foundations of freedom, justice and peace in the light of the vision of the prophets of Israel; it will maintain complete social and political equality for all its citizens, irrespective of religion, race or gender; ensure freedom of religion, conscience, language, education and culture; safeguard the



Steve Adler addresses the gathering in Basel for the 125th anniversary of the First Zionist Congress.

holy places of all religions."

Israel as a Jewish and democratic state was determined by its first laws. The 1948 Government and Judicial Procedures Ordinance declared that Israel would be democratic, guarantee equality, and be governed by three branches: the government, the Knesset, and the judicial system, with an independent court system as its foundation. The 1948 Days of Rest Ordinance stipulated that Shabbat and Jewish holidays would be official days of rest. Further laws and court judgments elaborated on judicial independence.

Israel's legal system is rooted in Jewish history. Moses appointed judges. The prophet Isaiah said: "Zion will be saved by

justice" (*Isaiah 1:27*), and "The law will go out from Zion" (*Isaiah 2:3*). Sages of the Mishna and the Talmud conducted court hearings; and many Diaspora communities had tribunals.

The country's leaders emphasized the importance of law and justice, and respect of the courts and their rulings. Ben-Gurion insisted on an independent judicial system, free of political interference and emphasized the independence of judges and the judicial system. "Justice will be the supreme ruler" for the new state, said Menachem Begin on May 15, 1948. "Justice will rule over rulers. Let there be no tyranny; the office holders will serve society and not be its tyrants..."

The new legal system stabilized quickly and won the people's confidence. Prime ministers were careful to uphold and respect court rulings, even when court judgments contradicted the government's position. Ben-Gurion said there is no doubt that court judgments must be obeyed. After the High Court ruled against the government regarding a Jewish village in Samaria, Ben-Gurion said "there are judges in Jerusalem," and his government would, of course, obey the court ruling.

The World Zionist Organization, founded by Herzl in 1897 as a representative of Jewish people throughout the world, is flourishing today. It functions in matters assigned to it by the state; it has governing institutions, which meet standards of administrative and constitutional law: a constitution, an executive (president and management), a parliament (the Zionist Congress and the Zionist Executive Committee), a judiciary (the Zionist Supreme Court) and a comptroller.

Steve Adler is president of the Zionist Supreme Court. This article is based on a speech he made at the Zionist Executive Counsel session of the World Zionist Congress in Basel on August 30, 2022, dedicated to the memory of Justice Miriam Noar, the previous president of the Zionist Supreme Court who died on January 24, 2022.