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Judge's Silent Protest of Israeli Racism

Salim Joubran's Refusal to Sing Anthem Reflects Deep Rift

By Leonard Fein

The scandal took place at the home of Israel's president, where members of the nation's leading legal and political echelon had gathered to pay tribute to the retiring president of the Supreme Court and to welcome her successor to that august office.

Among those present were the other justices of the Court, including Justice Salim Joubran, the first Israeli Arab to be counted among its 15 members.

Everything went well, felt genuine and not merely ceremonial. Everything, that is, until it came time to sing Israel's national anthem, Hatikvah. Everyone rose, of course, and all but one sang. Justice Joubran remained utterly silent. He did not scowl, he did not grimace, he did not frown. Nonetheless, his silence was noticed, and led Knesset member David Rotem of the Yisrael Beiteinu party as well as MK Tzipi Hotovely of Likud to call for his removal from the court. (Others came to his defense.)

Justice Joubran has not commented on the reason for his silence, but we may easily infer that reason by considering the lyrics of Hatikvah: "As long as Jewish spirit/ Yearns deep in the heart/ With eyes turned East/ Looking towards Zion/ Our hope is not yet lost/ The hope of two millennia/ To be a free people in our land/ The land of Zion and Jerusalem."



It may well be that it was those lyrics, essentially inaccessible to the 20 percent of Israel's citizens who are not Jewish (as well as Jews from Iraq, Yemen and the Soviet Union, who in fact looked Westward to Zion) that inhibited the Knesset from formally adopting Hatikvah as the nation's anthem for its first 56 years, until 2004. But whatever the reason, the lyrics are plainly exclusionary. They serve thereby as another and particularly poignant example of the ongoing tension between being a Jewish state and a democratic state.

There are, alas, endless other examples, ranging from overt discrimination in such matters as allocations to Arab cities and townships for public services to rising attitudinal bigotry.

Bigotry?

A 2010 survey reports that 44 percent of Israeli Jews supported a letter issued by leading Israeli rabbis forbidding the sale or rental of properties to non-Jews. A report by the Israeli Democracy Institute in the same year finds that a majority of respondents (55%) think that greater resources should be allocated to Jewish communities than to Arab ones. In its 2011 study, the IDI found that only 51 percent of the Jewish public supports full equality of rights between Jews and Arabs; when those results are broken down by age cohort, we learn that younger Israelis are still less likely to believe that Arabs should have fully equal rights. A third of Israel's Jewish population does not consider Arab citizens of Israel to be Israelis; a large majority — 84 percent — say they would be “very troubled” by the election of an Arab prime minister.

Over three-quarters of the Jewish public are ready to exclude Palestinian Israelis from participating in critical decisions on peace and security, which are, after all, highly relevant to their future as well. Might that be because there could easily be a fundamental conflict of interest between the majority and the minority on this issue? No such luck: When asked whether decisions crucial to the state regarding governance, economy and society should be made by a Jewish majority, 70 percent are in agreement.

The sad truth is that the overwhelming majority of Israel's Jews have never interacted with an Israeli Arab except with Arabs in service roles — busboys, gardeners, construction workers and so forth. An increasingly restive Palestinian minority, an increasingly exclusivist Jewish majority — all this very much less dramatic than the Iran conundrum, or than the relationship between the fervently Orthodox and the rest of the Jews. It turns out that Justice

Joubran's silence during the singing of Hatikvah is mirrored in the silence of the Jews regarding their relationship as well as their government's relationship to their non-Jewish fellow citizens.

When, many years ago, I had occasion to ask every member of Israel's governing cabinet whether he (they were all men at the time) could imagine an Arab government minister, they all hastened to say, "of course." But then they quickly added "not prime minister, not foreign minister, not minister of defense, not minister of the interior or of the treasury or education or police or religious affairs," in fact no ministry other than the equivalent of what used to be here in the U.S. postmaster general.

All this leads me to be confident that Justice Joubran's silence was a form of protest. He was, we might say, engaging in the verbal equivalent of a hunger strike. Better yet, he was exercising his right to free expression.

Keep the melody, change the words. Democratic and Jewish is not a simple thing — unless, of course, you simply ignore it when it is inconvenient to think about or if it gives you a headache when you try.