

Mishpat echad, din echad.

One law, one standard

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This weekend we commemorate the birthday of Dr. Martin Luther King, Jr. As Jews, we take considerable pride in the strength of the bond that we shared with the Dr. King's efforts. That connection is captured by the photographs of the civil rights leader arm-in-arm with Rabbi Abraham Joshua Heschel, whose *yahrtzeit* was also observed this week.

Truly, there was very little practical that we as Jews had to gain from the enfranchisement of African Americans. And though in retrospect we would like to believe otherwise, there were plenty of Jews – including leaders – who opposed the tactics and the goals of the civil rights movement. Some considered themselves pragmatists about social change and others were simply racist. However, with the perspective of history, it is clear that the integrity of the American dream is compromised when equal protection under the law is less than equal. The exposure of a pattern of discrimination in voting rights, housing and employment opportunities was an offense to all who loved America. That spirit continues to animate our community's commitment to activism on behalf of the disenfranchised.

Civil rights are often inconvenient, particularly if making them available to others means taking a critical look at one's self. Fortunately, the notion of *cheshbon ha-nefesh*, self-evaluation, prepares us well to continue the proud legacy of Dr. King. That work needs to be done here in the United States by patriotic Americans. But it also needs to be done in the State of Israel by Israeli Jews and their brothers and sisters around the world.

The campaign to ensure civil rights to all people in Israel is a more complicated challenge. Unlike American society, which is an amalgam of religious traditions and value systems, we envision an Israeli society that reflects the Jewish ethos. Its needs are our needs. Its triumphs are our triumphs. And, of course, that means that its shortcomings are our shortcomings. Israel's need for security and its near-miraculous triumph over continuing adversity can confound the thoughtful loyalist who is confronted with Israel's shortcomings.

When it comes to civil rights, the Israeli record is far from unblemished. Watchdog groups have highlighted some of the areas in which Arabs and other non-Jewish Israelis are treated differently, that is to say, worse, than the laws and the principles of the State demand. Because of Israel's security concerns and economic challenges, civil rights have a lower priority in the minds and hearts of Jews today. And those security and economic considerations are often confused with civil rights considerations. No issue illustrates the dilemma better than the home demolition policies of the various municipalities.

When most of us hear about home demolitions, we think of the punitive actions against terrorists and those who harbor them. There are few of us who would challenge the right of the army to put a bomb-making factory in a residential basement out of business. But arcane and impenetrable requirements for building and home improvements result in another kind of home demolition.

In Israel, the city can demolish a home for zoning violations.

Lest you think I am overstating the case, let me assure you that the description is exactly how the policy was described by a current Israeli embassy spokesperson. It is a policy that applies to any structure that is constructed without proper permits and materials. In a generous sense, the policy gives cities the responsibility to prevent people from living in dangerous and substandard housing. And if the policy were applied consistently to all strata of Israeli society, it might be debated on its strategic merits.

However, the policy of home demolition for zoning violations has been used as a political tool by a series, mostly against the Arab population of Israel. The selective exercise of governmental authority against a designated minority is almost the very definition of civil rights violations.

Amir Cheshin served as advisor to Teddy Kollek during his long tenure as mayor of Jerusalem. Kollek was a member of the Labor party. Cheshin continued in that capacity for Ehud Olmert, the Likud mayor who succeeded Teddy Kollek. He cites the following statistics.

In 1999 the average Jewish population density was 1 person per room, the average Palestinian population density 1.8. To meet only existing needs an additional 21,000 units must be built. The Municipality grants 150 permits a year for Arab housing and demolishes 25-50 units a year. Between 1967-2000, 79,900 units have been built in Jerusalem for Jews, most of them with government subsidies and 44,000 of them on land expropriated in East Jerusalem. Some 18,000 homes have been built for Palestinians. Only 500 were subsidized. The Municipality deems some 7,000 illegal. Individual Palestinian families are forced to go by themselves through the permit bureaucracy while experienced Israeli contractors apply for permits for large blocs of houses at one time.

Few of us will forget the horror of the collapse of the Versailles wedding hall in Jerusalem a few years ago. In the midst of a celebration, the substandard construction gave way and lives were lost. A subsequent investigation revealed a pattern of neglect and malfeasance on the part of government inspectors and bureaucrats to the advantage of Jewish-owned construction concerns. Though they knew that the Versailles was constructed without necessary permits and inspections, it was allowed to function beyond its planned capacity. If ever a building should have been shuttered – or even demolished – it was the Versailles.

Now consider the case of Ahmed Mousa Dari in Issawiyah, an Arab neighborhood in East Jerusalem.

Ahmed Mousa Dari has not worked in over a year. His back operation left him in pain. He tires easily. Both sitting and standing he's in quite a bit of pain. He was married in 1979 and is the father of 5 children ages 21, 19, 17, 8 and 1 year old.

His oldest son is studying engineering and construction at the ORT School – a Jewish institution that trains Jews and Arabs alike. His 19-year-old works to support the family. In 2001, he took his life's savings of about NIS 150,000 to build a house with two apartments for his two older sons. The land he built on was from his mother's parents. The house he's living in right now has two rooms. One he added on to house that he inherited from his own father. 80% of the 150-meter new house was finished when the orders came to destroy it on Jan 14, 2002. He's aware that the entire section of Isawiyya where his home was built lies outside the master plan for the Isawiyya and that he therefore has no chance of receiving a permit. And he's also aware that, even if there was a possibility, a building permit costs NIS 60,000. It so happens that his parents' land also lies outside the master plan. He's also aware that in 1995 Jerusalem's mayor, Ehud Olmert, promised that the residents of Issawiyah would be able to build legally.

In spite of the efforts of an attorney hired to represent Mr. Dari, his house was destroyed by bulldozers.

“I don't sign demolition orders for Jewish homes, only for Arabs,” said Jerusalem Deputy Mayor Haim Miller in 1998.

While approximately 55% building violations are detected each year in Jewish neighborhoods, 72% of the demolitions are of Palestinian homes. Most Jewish demolitions are a room or a porch, as opposed to entire Palestinian homes. In Israel, the percentage of homes slated for demolition that is actually demolished is 50-80% higher for Arab homes from year to year.

Last week, four more such homes were demolished in Issawiyah. I emphasize to you that they were not demolished for security reasons. The demolitions took place not by the army, but by the Jerusalem police for zoning violations. Five families were made homeless. And one man was arrested for trying to prevent it.

The man's name is Arik Ascherman, and he is the rabbi who directs an organization called Rabbis for Human Rights. Lots of people have lots of things to say about Rabbis for Human Rights, mostly reflecting their personal political agendas. But Rabbi Ascherman, a patriotic Israeli and principled Zionist, is accused of nothing more than trying to prevent the demolition of four homes of families accused of nothing to do with the security of Israel.

You might make the argument that the municipality was within its rights to destroy illegal homes and arrest a person committing an act of civil disobedience. And technically you would be correct.

But I urge you to hearken back to similar claims made during the tumultuous times in the United States, when laws were structured to enable white Americans to control and demean black Americans. Literacy tests for voting were applied selectively, requiring Negro men whose public schools were underfunded and understaffed to read and interpret complicated passages about the Constitution, while white people, even if illiterate, were presumed to need no such test. Housing covenants were designed to preserve the property values of neighborhoods – values that were presumed to drop if that colored element were allowed to buy in. And while the front of the bus arrived at its destination at the same time as the back of the bus, a seat in the front was presumed to save white people the few steps that “nigras” were required to take.

Those rules, those laws, were legal. They allegedly applied to everybody. But they institutionalized bigotry and prejudice and worst inclinations of a certain segment of American society. We regret them. They embarrass us. Their selective enforcement was not the work of law. It was the practice of the politics of discrimination. And we are so ashamed of what they represented that we caricature the people who supported them as ignorant fools. And we honor the man who awakened us to their corrosive effect on the American soul as a national hero.

The fear of Arabs by Israeli Jews is entrenched in much of Israeli society. It is not without cause, for many reasons. But for many other reasons – and particularly when it is institutionalized – it is without justification. The disparity between the quality of life for Israeli Arabs and Israeli Jews is profound. It is not merely the circumstances of choice; it is perpetuated by selective enforcement of discriminatory laws, expensive and procedurally complicated appeals processes, targeted prosecutions for those who dissent and, woe to us if we cannot acknowledge it, old-fashioned bigotry.

The words of this talk were chosen very carefully. Some might have preferred a stronger emphasis on the term “Palestinian.” Others might have insisted on the obligatory rehearsal of Arab crimes against Jews. Some might have asked for a more comprehensive description of what they consider the excesses of Rabbis for Human Rights. Others might have desired a more comprehensive listing of what they consider the excesses of the Israeli government.

All of those issues are irrelevant to the matter at hand. And what is the matter at hand? It was articulated when four rabbis – one Reform, one Reconstructionist, one Conservative and one Orthodox – delivered a letter of protest addressed to Prime Minister Sharon and signed by almost 350 of their colleagues to the Israeli Embassy on Monday afternoon, on the eve of the trial of Rabbi Ascherman. The charge d’affaires of the Embassy, Moshe Fox, spoke as a devoted Israeli and an informed Jew. *Din echad*, he said. In Israel, the same laws should apply equally to everybody.

The Torah articulates that notion. “You shall have one manner of law, *mishpat echad*, for the home-born and the stranger alike.” (Lev 24:22) In a society that values the rule of law, the government and those who direct it have the responsibility to do justice justly, to be equitable equitably. And when justice is not just and equity is inequitable, then people

of conscience have the responsibility to resist -- whites together with blacks, rabbis together with reverends, Jews together with Arabs.

In a democracy, civil rights are not granted by the whim of the state; otherwise, they are not rights. For a Jew, the commandment to pursue justice is not optional; otherwise, it is not a commandment. *Mishpat echad, din echad*. One law, one standard.