

# Sh'ma

*a journal of Jewish responsibility*

18/354, MAY 13, 1988

## The supreme court and our community

Leo Pfeffer

There is now before the Supreme Court a case brought against the Secretary of Health and Human Services by the American Civil Liberties Union in behalf of several taxpayers and the American Jewish Congress. It involves the constitutionality of a 1981 law officially entitled the Adolescent Family Life Act but sometimes called for short the Virginity Act of 1981.

The stated purpose of the Act is to prevent teenage pregnancy by promoting self-discipline so as to refrain from engaging in sexual relations. To achieve this, the Act provides for appropriation of funds to finance efforts by religious and charitable organizations to persuade teenagers that abstinence is good and non-abstinence is bad. On the not-unreasonable assumption that the religious organizations will invoke the teachings of their respective faiths as a means to meet this goal, the plaintiffs brought a suit based upon the First Amendment's ban on the use of governmental funds to finance religious instruction.

Supporting the suit by submitting *amicus curiae* (friend-of-the-court) briefs are a large number of secular, liberal Protestant and Jewish organizations. The Jewish organizations were the American Jewish Committee and the Anti-Defamation League. (The American Jewish Congress, being a party to the suit, naturally filed no *amicus curiae* brief.) In addition to these, I submitted an *amicus curiae* brief as counsel to the New York Committee for Public Education and Religious Liberty (PEARL). The Jewish constituents of PEARL who approved the filing of my brief were the Association of Reform Rabbis of New York City and Vicinity; B'nai B'rith; Jewish War Veterans, New York Department; New York Federation of Reform Synagogues;

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LEO PFEFFER teaches Constitutional Law at Long Island University and for many years was Special Counsel to the American Jewish Congress.

New York Jewish Labor Committee; Union of American Hebrew Congregations, New York State Council; and United Synagogue of America, New York Metropolitan Region.

## Where the Difference of Opinion Begins

The *amicus* briefs on the opposing side were, quite understandably, those representing fundamentalist Protestant and Catholic organizations, and not quite so understandably the National Jewish Commission on Law and Public Affairs (COLPA, representing these Orthodox organizations: Agudath Israel of America; National Council of Young Israel; Rabbinical Alliance of America; Rabbinical Council of America; Torah Umesorah, the National Society for Hebrew Day Schools; Union of Orthodox Jewish Congregations of America; and Union of Orthodox Rabbis of the United States and Canada. What makes this not so understandable is the fact, noted in the COLPA brief, that no Orthodox Jewish organization has chosen to become involved in the administration of the Act, and therefore none gains any benefit by it.

My own guess—and though only a guess, is supported by the reality that the brief consists of only six printed pages that add nothing to the case—this *yotzee tsu sein* (“commitment meeting”) intervention was made at the request of the Catholic Church so that the Virginity Act would not seem to be a controversy between Christians and Jews. Be that as it may, the record is clear that COLPA has consistently joined the Catholic church as co-defendants (with the particular federal or state agency involved) in suits challenging statutes that would provide funds to church-related educational institutions; and it has not been able to persuade any non-Orthodox Jewish religious (and certainly any non-religious) institution to join in defense of these statutes.

I have often quoted Jeremiah Black, a noted American jurist who, a century ago, said: “The manifest object of the men who framed the institutions of this country, was to have a State without religion and a Church without politics—that is to say, they meant that one should never be used as an engine for the purposes of the other. For that reason they built a wall of complete and perfect partition between the two.”

## Why Separation is a Valuable Ideal

Black was not alone in expressing this often so-called “absolutist” doctrine. He was echoing what was said by Jefferson, Madison and many others who framed the Constitution and the First Amendment. It was Madison who drafted the First Amendment that forbids laws respecting an estab-

lishment of religion, and it was Jefferson who said that its purpose was to build "a wall of separation between church and state."

One need not be a profound constitutional scholar to recognize that realistically absolute separation of church and state is impossible. But what does that prove? Perpetual life is impossible, but that does not mean that we should abolish the professions of physicians and pharmacists. If we believe that it is good to live, we do all we can to keep people alive. By the same token, if we think that church-state separation is good, we do all we can to keep that alive.

Anti-separationists can point to some victories. The Supreme Court has ruled that it was constitutional to accord real estate tax exemption in respect to properties, such as churches and synagogues, that are used for religious purposes. Nor was it unconstitutional for government to finance the cost of transporting pupils to parochial schools, or to provide textbooks for use in these schools or to finance the cost of maintaining a nativity scene in celebrating the Christmas holiday.

But there are limitations upon these and many other similar benefits sought to be granted to religious institutions. It is impermissible, the Court has ruled, to finance the operation or upkeep of parochial schools, or pay the pupils' tuition fees. While transportation from home to parochial schools and back home could be financed by government, the same is not true in respect to the cost of transporting pupils to museums, parks and similar public places as part of the education process. Similarly, the school textbooks which could be loaned for parochial schools use must be the same as those that could constitutionally be used in the public schools and may not be religiously oriented books published for parochial school use.

### The Recent Legal History

Since the 1948 *McColum* case the Court has outlawed religious instruction and practices, including prayer recitation in the public schools. It has held unconstitutional laws that required the posting of the Ten Commandments on the walls of public schools, or that banned the teaching of evolution in such schools.

In the non-educational field one of the Court's most controversial decisions was *Roe v Wade* in which it held unconstitutional laws that forbade abortion. Others, not quite so controversial, held that a person could not be denied unemployment insurance benefits for refusing to work on the Sabbath, or to work in a factory that manufactures armaments, or one who, for reason of conscience, will not sit on

a jury.

What was most surprising about these decisions is that most of them were those of a Court the majority of whom were appointees of Republican presidents. The author of the *Roe v Wade* opinion was Justice Blackmun, an appointee of Nixon, as was Chief Justice Burger, the author of *Lemon v Kurtzman*, the major aid to parochial school decision. Justice Brennan, who is one of the two most liberal members of the Court (The other is Justice Marshall) was appointed by Republican President Eisenhower, as was Earl Warren, Burger's immediate predecessor as Chief Justice.

When Reagan became president he made it quite clear that his appointees would not only be steadfast conservatives in general, but those who could be relied upon to vote the right way in cases involving church-state relations or religious freedom. Burger's resignation enabled Reagan to appoint a Chief Justice, who, even more than Burger, was

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committed to undoing much of what the Court had accomplished since it ruled in the *McCollum* case that religious instruction in public school was unconstitutional.

### **The Reagan Court Appointees' Record**

Ideal for this purpose was one who already was on the bench, Justice Rehnquist. Rehnquist had dissented in the abortion case, in another which held that a state could not exclude the mother of an illegitimate child from a state's program of assistance to the poor and, of course, with practically all cases in which the majority ruled invalid laws granting aid to religious schools. (the *Lemon* case is an exception, which is why I use the word "practically"—but then, it was Burger who wrote the Court's opinion in that case.) Although there was considerable opposition to Rehnquist's promotion, Reagan prevailed.

The first new Court member was Justice O'Connor who, on the whole, was loyal to Reagan's church-state (and free exercise of religion) provisions, yet on a few occasions strayed from it. Thus, for example, she joined in the Court's majority opinion in the evolution decision, something which, you can be sure, did not please either Reagan or the strong fundamentalist wing which so loyally supported him. Reagan was more fortunate in respect to his next appointee, Antonin Scalia. He filed a strong dissenting opinion in the evolution case (with which, of course, Rehnquist—though nobody else—concurred) and in other cases voted just as Reagan would want him to do.

Up to this point, Reagan was batting 100%. Alas, this is not what happened in respect to the next proposed appointee, Robert Bork, and the substitute for him, Douglas Ginsburg. In respect to the former, the fact that as many as five Republican Senators refused to vote as Reagan asked them to, constituted the adding of insult to unavoidable injury (unavoidable, since there were in the Senate more Democrats than the majority necessary for rejection). In a sense, the nomination of Ginsburg was even more embarrassing to Reagan. The reason for this is that the First Lady had undertaken a well-publicized crusade against drugs and it was disclosed that Ginsburg had, at least on occasions, smoked marijuana. Ginsburg solved the problem by voluntarily asking the President to withdraw his name from consideration for appointment.

On his third try, Reagan finally won: Anthony Kennedy was approved. But it may well be that Reagan will find that (as with O'Connor, or perhaps even more so) his third choice may turn out to be less conservative than Reagan would like him to be. Thus, for example, the Reagan Court may not over-

rule *Roe v Wade*, much as he may want it to (particularly in view of the fact that Canada reached the same conclusion as did *Roe v Wade*.)

### **Another Kind of Judicial Conduct**

Or take the rather bizarre, almost quixotic venture of Brevard Hand, Federal District Court judge in Alabama. In innumerable cases the Supreme Court had ruled that, by reason of the Fourteenth Amendment's Due Process Clause, all the prohibitions of the First Amendment were applicable to the States. This meant (and the Supreme Court had more than once so held) that by reason of the Establishment Clause, articulated public school prayer was impermissible. Not so, said Hand (in the 1984 case of *Wallace v Jaffree*), the Supreme Court was wrong; the Establishment Clause did not apply to the States and as far as the Federal Courts were involved, the States could require public school prayers. (In fairness, it should be noted that Presidential adviser Edwin Meese, later Attorney General, had expressed the same idea as it related to the Establishment Clause, but he quickly withdrew it.) Pretty quickly, the Supreme Court with no dissents, held that it was Hand and not the Court that was in error, and the statute was indeed unconstitutional.

In an effort to take what it could get, or thought it could get, the Alabama legislature enacted a statute authorizing a daily period of silence in public schools "for meditation or voluntary prayer." The pro-prayer people did a little better here, but not enough. By a vote of 6-3, the Court held that this too was unconstitutional. O'Connor was one of the six, even though Reagan's Justice Department argued in court that the law was constitutional.

What does all this mean? It means, I think, three things: 1) that the Establishment Clause is still a vital part of our Constitution; 2) that modification and some compromises will continue to be a part of our constitutional law, and more so than they were before Reagan made his appointments; 3) that it is wise for the Jewish community to remain steadfast in its efforts to retain the Establishment (as well as the Free Exercise) Clause as free of compromise as is possible. □

### **It's our constitution too!**

*Dennis Rapps*

Although it is for the reader to decide whether Leo

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DENNIS RAPPS, an attorney, directs the work of COLPA and teaches Law at the Cardoza School of Law.

Pfeffer's conclusions flow from his presentation, I have no problem in endorsing those conclusions. It is fairly obvious that the Establishment Clause of the First Amendment to our Constitution is vital to, and a proper centerpiece of, our community's vigilance with respect to protecting religious freedom. It is also axiomatic that it will be necessary to acknowledge certain apparent deviations, the clearest illustration of which is the *creche* on public property.

But it is also crucial to realize that Dr. Pfeffer's position draws attention away from and does not account for the remarkable development in recent years, at the initiative in large part of Orthodox Jewish organizations, of a whole body of law, both judicial and statutory, relating to the accommodation of religious practices. American courts and legislatures have increasingly recognized that certain practices arising out of the requirements of religious law may conflict with society's normal practices and that, consistent with the guarantees of freedom of religion, these requirements are entitled to reasonable accommodation.

The examples of such accommodation are numerous; they suggest that it is overly simplistic to begin and conclude all inquiry with the wooden application of a "wall of separation" standard which regards any consideration of religious involvement, not as possibly inherent in religious liberty, but rather as "modifications" and "compromises" grudgingly accepted.

For example, various court decisions, laws and administrative regulations, generally require on religious grounds: an employer to allow an employee the right to take off on a particular day of the week; a medical examiner to forego an autopsy; a cemetery to permit a burial on legal holidays; a hospital to permit a circumcision by a non-physician; a prison to vary its menu; zoning authorities to grant variances; the military to vary its uniform requirements; unemployment insurance boards to grant benefits to one refusing to work on a particular day of the week; the date of civil service tests to be varied; college and professional examination schedules to be adjusted; modifications in Sunday blue laws; special provision for Jewish ritual slaughtering practices; and variations in standard definitions of death. Is Dr. Pfeffer correct that these are properly viewed as aberrations? I think not. They are, indeed, what the guarantee of freedom of religion embodied in the First Amendment is all about.

#### **Surely we Should Not Wall out Religion**

Nor should we think that Dr. Pfeffer's position is simply one of neutrality. Consider the pariah-like

status that he would accord religious institutions. At the outset of his discussion of the Adolescent Family Life Act (which he informs us is called the Virginity Act of 1981) he states: "On the not-unreasonable assumption that the religious organizations will invoke the teachings of their respective faiths as a means to meet this goal (i.e. that of the Act), the plaintiffs brought a suit based upon the First Amendment's ban on the use of governmental funds to finance religious instruction."

It is Dr. Pfeffer's thesis that religious institutions are, *ipso facto*, to be excluded from the program. What happened to the long history of involvement in these types of issues by religious institutions, which, by the way, pre-dated the government's? What about the benefits to be derived from their experiences? And if the aim of the lawsuit is simply to thwart "the use of governmental funds to finance religious instruction," why is the effectiveness of appropriate safeguards not the issue? When it is borne in mind that the growth of governmental subsidization of charitable and social service activity is, perhaps, the single most conspicuous development in government in recent years, the prospect for the eclipsing of religious institutions is there for all to see.

#### **The Plight of All-day Religious Schools**

Consider also, in this connection, the plight of our nation's parochial schools. According to Dr. Pfeffer, as religious institutions they are cut off from public funding. Yet they are subject to the same inflationary spiral as all other segments in our society—an inflationary spiral, it might be added, that is fed substantially by the very subsidies from which the parochial schools are barred. Yet these schools still have an obligation to furnish their students with at least the minimum requirements of a secular education. Happily, they are largely able, albeit with great difficulty, to provide the standard elements of a secular education.

But what about the peripheral services, such as, remedial programs for the underachievers or special services for the physically and mentally handicapped? Yes! These are the programs — which can often mean all the difference in the world to a student's success or failure in future life—that are adversely impacted the most from the lack of funds. We can perorate about great and hallowed constitutional principles, but the bottom line is that the students most in need are suffering.

It is no answer to suggest that these students can receive the services they need by attending the public schools. Why should they be required to sacrifice their religious training in order to receive the benefits that should be available to them as so-

ciety's children? We should not forget that our society's educational commitment is to *all* children, not just to those who happen to receive their education in public schools. While society may have opted to establish a public school system, that does not mean that those schools are to be the exclusive vehicles for the fulfilling of that commitment. Yet this is where Dr. Pfeffer's view would take us.

### **The Grounds for Orthodox Legal Advocacy**

There is another troubling aspect to Dr. Pfeffer's thesis. Not only does he refuse to accord legitimacy to the broad position on religious accommodation espoused on the church-state question by the various Orthodox organizations regularly represented by COLPA, (The National Jewish Commission on Law & Public Affairs), he also questions their ability to advance a principled position. In the process he employs seriously flawed logic and factual inaccuracies.

Dr. Pfeffer chides COLPA for submitting a brief on behalf of various Orthodox Jewish groups in the Adolescent Family Life Act case now before the United States Supreme Court. He notes that the American Civil Liberties Union brought the lawsuit challenging certain provisions of the Act on behalf of the American Jewish Congress and several taxpayers, and, that "supporting the suit by submitting *amicus curiae* (friend of the court) briefs are a large number of secular, liberal Protestant and Jewish organizations." He identifies the Jewish organizations as the American Jewish Committee and the Anti-Defamation League and then lists no fewer than seven Jewish organizations as joining a brief he filed in the case.

Dr. Pfeffer goes on to say: "The *amicus* briefs on the opposing side were, quite understandably, those representing fundamentalist Protestant and Catholic organizations, and not quite so understandably the National Jewish Commission on Law and Public Affairs, COLPA, representing these Orthodox organizations: Agudath Israel of America; National Council of Young Israel; Rabbinical Alliance of America; Torah Umesorah, the National Society for Hebrew Day Schools; Union of Orthodox Jewish Congregations of America; and Union of Orthodox Rabbis of the United States and Canada. What makes this not so understandable is the fact, noted in the COLPA brief, that no Orthodox Jewish organization has chosen to become involved in the administration of the Act, and therefore none gains benefit by it."

Incredibly, Dr. Pfeffer apparently sees no need to explain the involvement of all of the non-Orthodox Jewish organizations in the case, none of whom

that I am aware, "has chosen to become involved in the administration of the Act, and therefore none gains any benefit by it." Are Orthodox groups only expected to express themselves when their narrow self-interest is involved?

### **Innuendo, a Legal Fallacy, a Jewish Sin**

In further seeking to denigrate the Orthodox effort to state its views to the Supreme Court on the issues in the case, Dr. Pfeffer offers this rationale for COLPA's filing of the brief: "My own guess—and though only a guess, is supported by the reality that the brief consists of only six printed pages that add nothing to the case—this *yotzee tsu sein* intervention was made at the request of the Catholic Church so that the Virginity Act would not seem to be a controversy between Christians and Jews." He then says that COLPA has, in the past, joined the Catholic Church as co-defendants, as well as government agencies, in litigation involving certain aid to education statutes and that COLPA "has not been able to persuade any non-Orthodox Jewish religious (and certainly any non-religious) institution to join in defense of these statutes."

First, COLPA has not "joined the Catholic Church" as a co-defendant in any litigation. To be sure, COLPA attorneys, on a number of occasions have represented individuals and organizations in litigation. This representation, in all cases, was wholly independent of any involvement, direct or indirect, of the Catholic Church or any of its affiliated or associated institutions.

Second, Dr. Pfeffer is just dead wrong as to why COLPA filed its brief. Had he taken the trouble to inquire he would have learned that COLPA was not solicited by the Catholic Church to file a brief. Moreover, there was no reason to file a brief if it was simply to show that the litigation was not a fight between Jews and Christians since, as Dr. Pfeffer himself points out, there were "Christian" briefs on both sides of the issue. Dr. Pfeffer is also factually wrong on another point. The Board of Jewish Education of New York, the educational arm of the Federation of Jewish Philanthropies of New York, joined in briefs submitted to the United States Supreme Court by COLPA in two aid to education cases—along with the Orthodox groups represented in the COLPA brief submitted in the Adolescent Family Life Act litigation.

As to Dr. Pfeffer's petty comment about COLPA's brief—"the brief consists of only six printed pages that add nothing to the case"—I leave it to the reader of the brief whether he is correct in his assessment. However, I would also offer to Dr. Pfeffer the advice I give to my law school stu-

dents—I don't grade papers by counting pages, but by evaluating their contents. (And, by the way, the brief consisted of eleven printed pages, not six.)

In sum, the real problem with Dr. Pfeffer's remarks is not the flawed logic or the misinformation. It is that they reflect an inability to accept that there has been and continues to be dynamic, positive—and principled—development in the area of religious freedom despite him and the approach to the First Amendment he has long advocated. It is a development that is being sponsored by an organized segment of the Jewish community with which he has little relationship and to which he accords no legitimacy in public affairs. And finally, it is a development that is being championed by COLPA which, because it has given Orthodoxy independent and effective access to the legal and legislative arenas, he cannot forgive, nor allow to be taken seriously. □

### **Your tzedakah + our deficit = shiddach!**

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WE ARE GRATEFUL to the many thoughtful people whose interesting comments on the Palestinian riots we could not publish, but which, eventually, will be available with other Sh'ma papers at the American Jewish Archives, Cincinnati, Ohio: Robert Alpert, David Aronson, Wayne Beyer, Jay Richard Blum, Terry Bookman, Walter Brecher, Daniel Breslauer, Hanna Cassel, Gary M. Charles-tein, Samuel Chiel, Esther Cohen, David Cooper, Earl L. Dachslager, Carol D. Eiseman, Ira Eisenstein, Larry Engelhart, David M. Feldman, Albert A. Feldmann, Patrice Fischer, Simon Friedeman, Jacob Friedes, Zalman Gaibel, Lee M. Gavens, Bernard L. Ginsburg, Daniel Gordis, Jean Gordon, Theodore H. Gordon, Leona S. Green, Howard R. Greenstein, Jerome W. Grollman, Ronald Gruen, Peter H. Grumbacher, Ira Samuel Grussgott, Debra Hachen, Elihu E. Harris, John Paul Hurst, Robert Hyfler, Leroy Izen, Neil Kominsky, Tracy Klirs, Abram Kanof, Yaakov Kornreich, Louis Kaplan, Sheldon Kronfeld, Louis J. Kessler, Gilbert Kollin, Paul E. Kerson, Jan Katzew, Martin Lobel, Herbert Levi, George Levy, James Manning, Harry Merliss, Morton J. Merowitz, Judea B. Miller, Norman

Moskowitz, Louis E. Newman, Neil S. Newman, Penny J. Novack, Meyer Papermaster, Marty Pasternak, Norman Patz, Deborah R. Prinz, James B. Rosenberg, Menachem Roth, Arnold Samlan, Arnold Schlossberg, Sh'ma Study Group/Victoria, B.C., Nathan Silver, Stanley Simrin, H.D. Uriel Smith, Martin H. Sokol, Sanford Solender, Abraham B. Solow, Michael Strassfeld, I. Harry Summer, Martin Tanenbaum, Merle Thorpe, Jr., Jodi Lee Van Laven, Zvi I. Weiss, Mark L. Winer, Ira S. Youdovin.

### **The lessons of the palestinian riots, 3**

(With this selection of abridged responses to our request for reader reactions, we conclude this discussion.)

#### **Politics, the Art of the Possible**

Anyone—regardless of race, creed, color, age or sex—who throws stones, is simply an incompetent assassin learning the trade; a stone cripples just as a bullet or a club can do, and often more permanently. So I've got little sympathy with any rioters and a lot of anger for those who send the kids into the streets because they have no desire to make peace with us on any terms we can live with. In terms of actual damage to us, it's much less physically than previous border skirmishes have caused. In terms of public opinion overseas, it's obviously harmful.

What's worse, of course, from my point of view, is that I do think the Arabs in Judea and Samaria have the right to political representation. And their relative lack of that is due to their terror of the PLO's assassination of anyone who stands up against them, and the PLO's unwillingness or, by now, I suspect, inability to offer their own people or us any deal we could live and survive with, other than some Lebanon civil war deal. They're politically bankrupt or paralyzed too. Terror eats itself alive as well as cannibalizing the courage of the supposedly free world also.

Part of the current media campaign against us derives from news media having their own foreign policies for which they are not held accountable by anyone as long as they hide it among the action-violence which is their trade's subject matter for reporting. This is a relatively new thing, subversion of a foreign country by foreign reporting. No wonder South Africa threw them out. I'm beginning to think we ought to, too. So it's getting less and less clear what more we have to lose by getting tougher with the rioters, and more and more clear what we have to lose by relaxing and going to peace conferences with people whose words are

only as good as the next TV camera makes them.

Dick Sherwin  
Herzliyah, "B," Israel

### **Killing the Palestinians**

At a Talmud class the other night, we were learning about blessings. One of the men—kidding, of course—asked about "the *brucha* you say for killing an Arab." The next day a friend mentioned a conversation with someone who spoke of the rights of the Palestinians. "The Palestinians don't *have* any rights," she told me irritably. *She* wasn't kidding. Then an elderly relative said with a half laugh, "They should just kill them *all*." *She may* have been kidding, but a friend who said the same words wasn't.

Anecdotes are even easier to lie with than statistics. Still, the anecdotal evidence suggests that the "moral corruption" of the Occupation has come home to roost. We are One, as Federation, for purposes of fund-raising, likes to remind us. For what other purposes, and with what more sinister consequences, are we also One?

Israel has come to believe it can forever rule with pride of arms over an increasingly militant ethnic minority.

It can't. So, except for those who consider genocide acceptable, there is no completely satisfactory solution to the "Palestinian problem." It is sickening indeed to contemplate a gloating Yassir Arafat at the head of a Palestinian state, but that may be the price we have to pay for our own survival.

David Margolis  
Los Angeles, Ca.

### **It is Time to Take Sides...Fully**

The powerful are privileged to look back and recall their moral failures. For Jews, that time has yet to arrive. Let us work and pray for a day when Jews, too, will have such a moral luxury, looking back at a few instances of excess during the struggle for life itself. But now is not the time for such hand-wringing. In 5748, let us acknowledge that the utopian, unrealistic experiment is over; Buber—religiously inspired as he was—was wrong. The Arabs themselves have blown the whistle. The game is over. Let us join together in recognizing the stark unpalatable truth. As Kahane says, "They Must Go." Better they than we.

Douglas Weber  
Elyria, Oh.

### **The History we have Forgotten**

It seems so obvious that one wonders why the Israelis fail to see the similarities. A new generation does not see that they are behaving toward the Palestinians exactly the same way that the British behaved toward the young Zionists not so long ago.

This war is not like any the Israelis have ever fought. You'd think that they'd realize that a war fought on the Six o'clock News can't be won with bullets and tear gas. Unless they come up with a better solution, history will indeed repeat itself.

Miles E. Kuttler  
No. Miami Beach, Fl.

### **What are We Doing by What we Are Doing?**

Does the input of a myriad of opinions among American Jews aid in reconciliation of the Israeli situation or does it contribute to the political fall-out? Does the rehashing of this strife on television, in newspapers and in *Sh'ma* create innovative solutions or does it heighten diverse opinions among Jews, causing further alienation of one Jew to another?

Lorraine Buchsbaum  
North Hills, N.Y.

### **The Human Cost is also a Real Cost**

"What price, survival?" What is the cost to both the ethical sensitivity of the Jewish faith, and to the totality of Jewish historical existence, of an Israeli soldier's bullet fatally piercing the flesh of an Arab youngster casting a stone? How do we measure the impact on the Jewish soul of a Jewish hand wielding a club with bone-crushing force? Does such a use of power bring any measure of glory to all those slain throughout Jewish history?

Alvin M. Sugarman  
Atlanta, Ga.

### **What we Continue to Owe Israel**

If we are rightly concerned how the Palestinian riots and Israeli counter measures affect the non-Jewish public's attitude to us, let us not forget how much greater our concern and our fear of anti-Semitic reaction would be if there were no state of Israel. Engaged in the struggle for survival, actions of the state of Israel will inevitably bring negative reactions from some. In the balance, the positive contributions of Israel are far more significant.

Furthermore, we who do not live there must bear some of the responsibility for what has gone wrong. What appears to some of us, some of the time, as defensive over-reaction of Israel, is moti-

vated by it being a small nation surrounded by a vast majority of Arab countries. Had I and another million or two Jews chosen to live and work there, to take part personally in the building and defense of the country, we could have made a world of difference both in Israel's self confidence and in the acceptance of and respect for Israel by the Arab world.

Michael M. Szenes  
Schenectady, N. Y.

### **The People Want to Rule**

People want to have their own country and be ruled by their own people. I am sure they will be ruled worse than Israelis rule them when they finally get to rule themselves, but Israel cannot remain true to Jewish ethics and be a country that mistreats a large number of its citizens.

Adelyn Raich  
Hampton, Va.

### **The Wolf in Lamb's Clothing**

Our dilemma was once posed by the Kotzker Reb-

be: "How can one fight Satan when he's disguised as an *Aron Kodesh*?" How does one battle the PLO when it is posing as the underdog?

Had the Jews of the camps attacked the Nazis, even killing 88 of them, would that have spelled "an erosion of Jewish values?" But no Jewish ideals eroded when we chanted *Ani Ma'amin*. Only Jews eroded.

The most painful aspect of this trauma is the parade of our intellectuals in a public exhibition of self-flagellation (reminiscent of *Portnoy's Complaint*). Israeli authors, poets and columnists produced books, plays and films that would sound so much better in German. They, indeed, were featured in Germany and Austria and on Arab TV to gladden the hearts of many a foe. This criticism does not apply to the "idealists"—the Jewish and Arab long range planners who work for cooperation and coexistence. At this moment, however, survival is the order of the day.

Matthew Mosenkis  
Brooklyn, NY