

MIDDLE EAST | MEMO FROM ISRAEL

Anger and Compassion for Arab Justice Who Stays Silent During Zionist Hymn

By ETHAN BRONNER MARCH 4, 2012

JERUSALEM — It was supposed to be a passing of the torch, yet another solemn state ceremony at the president's residence in Jerusalem. But the retirement last week of Israel's chief justice and the swearing in of her successor turned into a kind of Rorschach inkblot test about the nature of Israeli democracy.

What happened was this: after the departing chief justice, Dorit Beinisch, issued her final rulings at the court and made her farewell speech — her eyes tearing as she recalled the deaths of grandparents in the Holocaust — she, her colleagues and others gathered at the president's house for more speeches,

rising at the end to sing the national anthem.

As the television cameras panned, they showed Salim Joubran, the only Arab among the court's 15 justices, standing but not singing. It did not take long for a controversy to ensue.

“He spat in the face of the state of Israel,” asserted David Rotem, a member of Parliament with the nationalist Yisrael Beiteinu Party, speaking of Justice Joubran's actions. Those who object to the Zionist hymn, he said, “can find a state with a more appropriate anthem and move there.”

Reached by telephone, Mr. Rotem added that Justice Joubran “should do the decent thing and step down.”

Michael Ben-Ari, a Parliament member from the far right National Union Party, introduced a bill last week to limit the Supreme Court to those who have performed military or national service, which would exclude a vast majority of Arabs. He called it the “Joubran bill.”

For those familiar with the lyrics to Israel's anthem, “Hatikva,” (in English, “The Hope”), it comes as little surprise that a Christian Arab like Justice Joubran might not embrace its focus on the 2,000-year-old “yearning of the Jewish soul” to be “a free nation in our land, the land of Zion and Jerusalem.”

And just as those on the right took the opportunity to lament what in their view is the disloyalty of Israeli Arabs like Justice Joubran, the left seized the moment to urge a rethinking of the lyrics to make them more inclusive.

“The time has come for Israel to consider changing the words of its anthem so that all Israelis can identify with them,” the newspaper Haaretz said in its Friday editorial.

It added, “The lyrics of Israel's anthem were written in 1878 by Naphtali Herz Imber as an expression of the national sentiments of the Jewish people, and the Jewish people only. No Arab citizen who had any self-respect, political awareness or national consciousness could sing these words without committing the sins of hypocrisy and falsehood.”

Most others, however, including colleagues of Justice Joubran, who has made no public comment on his actions, said they saw no reason to change the

anthem or to criticize Arabs who prefer to remain silent during it.

“Arab citizens should not be required to sing words that do not speak to their hearts and which do not reflect their roots,” Justice Elyakim Rubinstein said at an academic conference in Jerusalem on Wednesday. Justice Rubinstein, a conservative, said that those Arab citizens who sang “Hatikva” should be welcomed, but that the decision was a personal one.

Internationally, the criticism of Israel focuses on its treatment of the four million Palestinians who live in the West Bank and Gaza. They are not Israeli citizens, but their territory and lives remain under Israeli control and strictures. But there are also 1.5 million Palestinians who are Israeli citizens, about 20 percent of the country’s population, and Justice Joubran is a member of that group.

Israel’s Declaration of Independence promises the state will ensure “complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture.”

While Israeli Arabs have gained markedly in wealth and education in recent years, few would argue that Israel has fully lived up to its promise. By all measures, Arabs in Israel are less well-off with far fewer opportunities than Jews.

On the other hand, as some of the commentary last week noted, the Joubran controversy is about an Arab from Haifa who sits on the highest court of the Jewish state and participates in its most important rulings, including the recent jailing of the country’s former president, Moshe Katsav.

Justice Joubran is the first Arab in the country’s six decades to hold the post permanently (there was a temporary appointment of an Arab a dozen years ago) and for critics like Gideon Levy, a leftist columnist at Haaretz, he is a fig leaf.

As Mr. Levy put it: “Among all the speeches (yada, yada, yada) at the new Supreme Court president’s inauguration ceremony, it was Joubran’s silence that taught us an important lesson: that Israeli democracy is paper-thin and fragile. All it needs to ruin it is one judge who refuses to join the choir.”

Most Israeli Jews, however, seemed to feel comfortable with Justice Joubbran's approach — standing respectfully but staying mute. In conversations around dinner tables, they told themselves that Israel is an unusual place, that some circles can perhaps never be squared.

Noah Klieger, a Holocaust survivor and commentator at the newspaper *Yediot Aharonot*, wrote, for example, that anyone in Britain, “regardless of whether he is Muslim, Buddhist, Christian or Jewish can utter the words ‘God Save the Queen’ without a problem, because these words are suitable for everyone.

“Justice Salim Joubbran, a Christian Maronite, is an Israeli in every way,” he continued. “He is a man who pursued an honest path, using hard work and talent, all the way to his country's Supreme Court. However, he cannot and should not have to sing our national anthem, ‘Hatikva.’ ”

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