

by Dov S. Zakheim

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Nation building has become a highly salient issue in U.S. political and international life. We Americans are in the midst of two major nation building projects, in Iraq and Afghanistan, whose outcomes are far from certain. We continue to be involved in others: Bosnia and Kosovo, and, to a lesser extent Haiti.

Nation building is hardly a recent phenomenon, however. In the cases of both the Jewish people in the Bible, and that of the United States, "nation building" accurately describes what took place. "Hear, O Israel! Today you have become the people of the Lord your God,"¹ said Moses, together with the priests and Levites, to the Israelites in Deuteronomy. "We the people of the United States," wrote the Founding Fathers in the preamble to the Constitution. It was not just a state that these leaders—one in ancient times, the others more recently—brought into the world, but a nation as well.

The parallels between ancient Israel and modern America do not end there, though as might be expected there are significant differences as well. Moreover, the Founding Fathers, who were overwhelmingly Protestant, viewed the Bible through the lens of the King James Version rather than through the prism of the Talmud,² which continues to inform Judaism to the present day. Still, the impact of the Biblical legacy upon the early American experience is too great to be ignored. It deserves the detailed attention it has received in recent years, both in academic literature and in more popular volumes such as Bruce Feiler's *America's Prophet*

. For the Bible affected the way in which Americans thought of themselves and the way they aspired to govern themselves. It inspired Americans to revolt against the British, and it provided a model for the American commitment to freedom.

At the same time, both the Biblical Israelites and antebellum America were torn between their new sense of nationhood and their regional way of life. And in both cases, these conflicts led to civil war, with the center ultimately victorious in the American case, but not in that of ancient Israel.

EXCEPTIONALISM, COLLECTIVE MEMORY, AND MANIFEST DESTINY

The Israelites emerged from bondage by overthrowing their Egyptian overlords. Originally, however, they had not been enslaved, but rather had occupied a privileged position in Egyptian society resulting from their kinship to Joseph. Few Americans could claim that they ever held a privileged place in British society. But they did see themselves as equal to their British counterparts, and they resented their increasingly subservient position to their British overlords. And, like the Israelites, they, too, were able to overthrow those who ruled them and emerge as a free people. Just as the memory of Egypt was never far from the Israelite—and later Jewish—consciousness, Moses tells the people, " ...Remember the day when you came forth from the land of Egypt all the days of your life."³ Similarly, there was the revolution against the Crown, and the Declaration of Independence, "When in the course of human events...." has been ingrained in the American psyche.

Neither the emergence of the Israelites as a people or of Americans as a nation was a sure thing, however. Dissension among the Israelites was rampant while they were still in Egypt, during their escape to the Red Sea, and while they wandered in the desert. Moses had to contend with complaints about lack of water and meat; with longings for an Egyptian paradise that never was, with challenges to his authority by particular tribal associations—Korah and the Reubenites being the most egregious cases of rebellion.

The tribal instincts of the people never entirely left them. They retained their tribal elders, organized their travels as tribal units, and participated in rituals as tribes. Moses never truly tried to suppress these instincts, until perhaps his valedictory address in the Book of Deuteronomy. As Joshua Berman seeks to demonstrate in his paper, one aspect of Deuteronomy's attempt to create a civic community was to de-emphasize the role of the tribes. Deuteronomy, Berman argues, presents a political philosophy that goes beyond political offices, institutions and laws. Instead it focuses "upon the creation of attitudes, beliefs, habits and practices of the civic community that are the cultural bedrock for the collective exercise of power."⁴ In this sense, Deuteronomy is the aspirational element of the Bible, setting forth a series of norms for the people and their leaders to follow. That the leaders and people of the twelve tribes did not always follow those norms reflected the culture that actually prevailed during the Exodus, the migration to Canaan, and the settlement following conquest. It was the culture that existed, rather than the one that was sought, that rendered the successful creation of an Israelite state something less than inevitable.

The creation of the United States was not a sure thing either. About a fifth of the Colonists, and possibly half of all New Yorkers, were Loyalist supporters of the Crown, Tories. Many escaped to Canada, some returned to Britain or the British West Indies. Families were divided; fathers stopped talking to sons. Perhaps the most famous example of this kind was Benjamin Franklin's break with his illegitimate son William, the Tory governor of New Jersey. Still, Americans were able to achieve the unity that Deuteronomy sought and that the twelve tribes temporarily realized under the leadership of Joshua as they entered and conquered the land of Canaan. Similarly, there emerged a United States from thirteen disparate colonies.

The parallels do not end there. Both the Israelites and the Americans were possessed by a sense of manifest destiny, a destiny that both believed had been ordained by Heaven. Moses had conveyed the Lord's command to "go up and inherit"⁵ Canaan, and to rid the land, to the extent possible, of its indigenous inhabitants. The early American settlers, and the generations that followed them, did much the same thing, constantly pushing westward, and in so doing, both dislocating and decimating the land's original inhabitants, all the while considering themselves as agents of civilization.

The Israelites developed a form of governance that provided a rough model that the Americans, millennia later, would perfect. Ancient Israel stressed the importance of the rule of law. Even the king—a king like Ahab, who had killed Naboth and seized his property—submitted to Elijah's reprimand because he knew he had violated the Law.

Power was not balanced in the sense of the American constitution, but it was surely divided. The king was but one center of power in the Israelite structure. The prophets wore the "crown" of the Torah; the priests wore the "crown" of sacrament. The tribal elders remained influential as well; the Book of Kings described how they made and unmade rulers of both Israelite states. Moreover, the ancient Israelites were among the first nations to adopt the principle, if not always the practice, that underlay the notion of equality as expressed in the Declaration of Independence. Specifically, as Michael Zuckert writes: "that all are equal in the sense that no one has a natural or divine right to rule another."⁶ Even the Davidic kings were strictly regulated in terms of what they could, or could not, impose on their subjects, "For they are my servants,"

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said the Lord in Leviticus, and therefore no one else's.

When Solomon broke the social contract between king and people, conscripting labor to support his grandiose construction schemes, and violating Biblical strictures against taking too many

(and idolatrous) wives, we are told by the Book of Kings⁸ that it was a prophet, Ahiya the Shilonite, who informed the rebellious administrator Jeroboam, son of Nevat, that he would rule over ten of Israel's tribes. Sure enough, the people who had grown restive under Solomon's rule rebelled early in his son Rehoboam's reign, and Jeroboam became ruler of a new northern Israelite kingdom.

The Founding Fathers, in Arthur Schlesinger's words "exceptionally able and intelligent men, wiser on the whole than their posterity,"⁹ took the Biblical injunction against royal excess one step further, by entirely eliminating kings and nobility from the American system of governance. Instead, they created a republic, which allowed for the expression of the people's will without their direct rule. Moreover, they built in a series of checks and balances that, as Zuckert notes, recognized men as they are, not as they ought to be. In a sense, the Israelites had anticipated them in this regard as well: their system granted a special role to the prophets, who recognized that even the greatest of kings could be seriously flawed and acted as a brake against their most egregious excesses.

TRIBAL DIFFERENCES: IN ANCIENT ISRAEL, IN AMERICA

One of the major leitmotifs in ancient Israel's history is the tension between those who sought to establish a unified Israeli polity and the leaders of the Tribes, who were focal points for regional resistance to centralized authority. Similarly, from its earliest days, through the signing of the Articles of Confederation, and for nearly 90 years after the Constitution was ratified, the fledgling American republic was bedeviled by regional rivalries and the States' demands for loosening any restraints on their freedom of action. In both cases, violence was never far from the surface, and tensions erupted into bloody civil war.

The tension between the Tribes and Moses extended as far back as the alignment of the Reubenites Dathan and Abiram (and, at least initially, On, the son of Peles) with Korah's rebels. The tribe of Reuben, though descending from Jacob's first-born son, had not inherited the leadership of the Tribes, much less of the united polity. Leadership had instead devolved to Moses and Aaron; Aaron's wife was a scion of the leading family of Judah. Tribal rivalries were not limited to those two, however. With the passing of Joshua, of the Tribe of Ephraim, all twelve seemed to go their own way, only loosely held together by the bond of a common religion, collective memory and sense of exceptionalism.

The Tribes' independence manifested itself in their economic organization, their military organization, and, ultimately, in their religious practices. The southern tribes—notably Judah and Benjamin—who dwelled in the hills of the Judean desert, developed an economy that was dominated by livestock production. Saul, the Benjamite who was the first king of Israel, made a

name for himself as a breeder of donkeys. David, of the tribe of Judah, was a shepherd.

In contrast, the northern tribes relied more heavily on agriculture, while the tribes on the coast engaged in trade. Because the southern tribes were landlocked, they had less exposure to the outside world, and were religiously more conservative than their northern brethren. This conservatism tended to be reinforced by the fact that Solomon's Temple, the focal point for the Israelite cult, straddled the boundary between Judah and Benjamin and thus exerted more influence on those tribes than on others.

One does not have to agree with Biblical scholar Alberto Soggin—that the North and the South (which later became the kingdoms of Israel and Judah respectively), "were always two distinct ethnic, political and probably also religious entities"¹⁰—to recognize the regional differences that prevailed between them. Though all of the Tribes had their own militias, it was in the North during the era of the Judges that some of them banded together to fight a common enemy. In contrast, the southern tribes did no such thing. As their willingness to betray Samson to the Philistines demonstrated, the leaders of Judah were quite prepared to betray the interests of their northern brethren to the enemy. Finally, eleven of the Tribes fought a bitter civil war with the Tribe of Benjamin, virtually decimating the latter, until cooler heads at last prevailed and an attempt was made at reconciliation.

It was only when all the tribes felt a common threat, primarily from those selfsame Philistines, that they joined together and petitioned the prophet Samuel to anoint them a king. Samuel, perhaps recognizing the fissiparous nature of the Israelites, agreed to do so only with the utmost reluctance. When Saul demonstrated that he was a weak ruler, subject to the whims of the people, Samuel stripped him of power. It made little sense to retain a king who seemed without political skills to unite the nation. Indeed, Saul quickly found himself facing a rebellion led by David, who himself, upon acceding to the throne, found his own authority under constant challenge.

Among Saul's shortcomings was his inability to create a unified military. His army fractured with David's rebellion; the latter had his own generals and military organization. When David assumed absolute control over all of the Israelite territories, he absorbed the tribal militias into the military structure he had created under Joab. This structure survived through Solomon's reign, though Joab himself supported Solomon's elder brother Adonijah's claim to the throne (and paid for it with his life). Solomon also created a trading fleet, though it is unclear whether he also possessed a navy to protect it. By the time of his passing, Solomon's military was a veteran force, with a special fighting unit termed "Kreti U'Pleti," founded under David, at its vanguard.

The Tribes accepted David, but increasingly chafed under his son Solomon's rule. As indicated earlier, Solomon's increasingly oppressive economic policies, higher taxes as well as conscription, led to an attempted coup by one of his administrators, Jeroboam, and brought long-standing tribal resentment into the open. That those policies had resulted in the creation of an expanded Israel, a veritable empire, and in the generation of considerable wealth, made little difference to the northern tribes.

Once Solomon had left the scene, and the dim-witted Rehoboam succeeded him, secession was not far behind.

The Northern Tribes, and the kingdom they constituted, did not fully reject their ancestral religion, or their ethnic identity. Their Temples in Dan and Beit-El were meant to rival the Temple of Jerusalem, but not the Deity to which the latter was dedicated. On more than one occasion, although the two states came to the brink of war, they did pull back. Perhaps it was the memory of the war with Benjamin which served as a deterrent to mutual annihilation, or perhaps it was recognizing that, in the end, they had more in common with one another—history, religion, culture, law—than with anyone else.

The drama accompanying the ratification of America's constitution reflected many of the same underlying themes that had undermined Israelite unity. The backgrounds, economies, and religious preferences of the northern states were quite different from those of their southern counterparts. New England's inhabitants were often religious refugees from Britain, dissenters of various shades who resented the primacy of the established Church. They were merchants, traders and smallholders. They increasingly found slavery to be irrelevant to their economic objectives and objectionable to their religious beliefs. In contrast, the southern states, and particularly Virginia, were led by men whose social standing was not inferior to that of the English middle classes (and did include some aristocrats), whose economies revolved around plantations manned by slaves, and whose religion was more attuned to the Church of England, or at least its more latitudinarian variants.

But all the states asserted their individual identities, as well. In the North, New York stood apart from its New England neighbors, both by virtue of its size, and its mixed Dutch-British heritage. Pennsylvania's heritage was Quaker. In the south, Georgia's population, initially comprising debtors and others from Britain's economically downtrodden, was notably different from that of Virginia. Maryland was Catholic.

Every state had its own militia. Until the Revolutionary War these militias had never fought as a

unified group, and even during the war itself, their commitment to George Washington's command was at best inconsistent.

The centrifugal tendencies of the States led to the formulation of the Articles of Confederation, which allotted few powers to the central government, and was, "in effect, parliamentary government without a prime minister."¹¹ The States regulated their own trade, imposed tariffs against foreign nations and one another, continued to have their own militias, and, in the case of eleven of them, their own navies as well. It was only in the face of foreign pressures and Indian incursions that the States—like the ancient Tribes of Israel millennia before—recognized that the form of government they had chosen was inadequate to their needs.

FOUNDING THE AMERICAN NATION

While many supporters of American independence, and indeed the authors of the Declaration, drew upon the Bible for their inspiration, the framers of the Constitution dealt with less ethereal, more practical concerns. At the same time, much as Deuteronomy had done for the Israelites, the Founding Fathers provided for the future realization of civic norms that would strengthen the American polity. As Gary Jacobsohn argues, text alone does not fashion human behavior or a sense of identity. Rather, he says, "the fundamental dynamics of identity are...the expression of a developmental process endemic to the phenomenon of constitutionalism."¹² There is an aspirational element to the constitution, he asserts, and gives the example of the Ninth Amendment, which is "a symbol of the framers' commitment to progressive realization of their founding principles."

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The nation that the Constitution brought into being had a more powerful executive, a functioning legislature with control over expenditures, and a Supreme Court of uncertain standing. The Court's role did not become fully etched until John Marshall became Chief Justice. Subsequently, it became a powerful check on the excesses of the other two branches, though it was not itself always a force for progress.

Despite its many virtues, the Constitution did not resolve a number of potential areas of conflict. One was the balance between presidential and legislative power, especially in the domain of national security. Two centuries of American political life have not yet fully resolved this issue.

Another critical but unresolved tension was the rivalry between the States and the Federal Government. The States continued to quarrel with the Federal Government over foreign

economic policy, notably tariffs, which the manufacturing north supported and the south opposed. They maintained—as they still do—their own militias. The southern states challenged any attempt by the Federal Government to rein in the practice of slavery, which was irrelevant to the economies in the north. The Western states resented Federal interference, and tended to be more libertarian than either the South or the North. As de Tocqueville put it, "the new States of the West already have inhabitants, but society has no existence among them."¹⁴ How far States' rights extended became a central issue that dominated and divided antebellum America, even in the West, along north-south lines.

Ultimately, the dispute between the States and the Federal Government led to the Civil War. Even then, the matter was not fully resolved. American regionalism had a different face, and spawned different issues, from those which dominated the Israelite polity so many centuries earlier. Yet its impact was no less deleterious to America in the eighteenth and nineteenth centuries (and arguably through the twentieth) than it was to ancient Israelite society.

Creating a republic along the lines that Hamilton and Madison argued for in their Federalist papers, especially No. 10, was not the only great innovation that Americans bequeathed to the world. In addition, the Bill of Rights, affording men the ability to speak, meet, bear arms and worship freely, opened unheard of vistas that were matched only by the almost contemporaneous French Declaration of the Rights of Man. Unlike the French Declaration, which Napoleon undermined within two decades of its promulgation, the Bill of Rights was never seriously challenged. As scholar David Novak asserts, the nature of American (and he would add Canadian) law, and the position of the Jew in American and Canadian society, both render it unnecessary, though commendable, for a Jew "to bring his or her civil case to a Jewish religious court, or answer the summons ...of a Jewish religious court ...even if that case involves a fellow Jew."¹⁵ This is actually a rather extreme position, especially as Jewish law—for example, commercial law as discussed by Rabbis J. David Bleich and Aaron Levine—can be quite different from the common law upon which much of American law is based. Most rabbis, or at least Orthodox ones, would strongly advocate settling commercial and civil disputes in a Jewish court even if they accept the dictum of Mar Samuel in the Talmud that "the law of the kingdom is the law."¹⁶ They would advocate for resorting to Jewish courts even where, as Rabbi Michael Broyde and Steven Weiner argue, Jewish and common law have achieved some convergence, for example, with respect to modern commercial practices such as advance purchase orders and "just in time" inventory management.

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Nevertheless, for all that, Novak's point is of significance, for it demonstrates just how far the American system and, to be fair to him, the Canadian one have incorporated the principles of justice that originate in the Bible.

America's founding fathers were religious men, though, as in Jefferson's case, religious in their

own way. Even if they were not devout Christians, they were influenced by Christian, and more particularly Protestant values, which in turn drew heavily on those propounded in the Hebrew Bible. To this day, the United States is widely recognized as one of the most religious societies in the Western world, heavily influenced by the Judeo-Christian ethic that has been transmitted through the generations since the founding of the Nation. The Israelite experience and that of the United States naturally differed in many ways. That there were similarities at all is of note; that those similarities were not accidental is remarkable. It reflects the reality that ultimately, each in its own way, both the Israelites and the early Americans were motivated by the belief that they had a unique and special destiny as "one nation under God."

Notes

1. Deuteronomy 27:9.
2. See Jeremy Rabkin, "Economic Freedom and National Authority: Some Judean-American Comparisons," Paper presented to a conference on "Founding a Nation, Constituting a People: American and Judaic Perspectives," DePaul University College of Law, Center for Judaic Law and Judaic Studies, May 2010, page 15. Rabkin does see parallels, though not causation.
3. Ibid. 16:3.
4. Joshua Berman, "Culture Matters: Deuteronomy, Culture and Collective Governance," Paper presented to a conference on "Founding a Nation," p. 3.
5. Deuteronomy, 1:21.
6. Michael Zuckert, "The American Founders and the Fundamentals of Governance," Paper presented to a conference on "Founding a Nation," p. 2.
7. Leviticus, 25:55.
8. Kings, 11:29-38.
9. Arthur M. Schlesinger, Jr. *The Imperial Presidency* (Boston: Houghton Mifflin, 1973), p. 2.
10. J. Alberto Soggin, *Israel in the Biblical Period: Institutions, Festivals, Ceremonies, Rituals* trans. John Bowden (Edinburgh and New York: T&T Clark, 2001), p. 9.
11. Schlesinger, *Imperial Presidency*, p. 2.
12. Gary Jeffrey Jacobsohn, "Rights and American Constitutional Identity," Paper presented to a conference on "Founding a Nation," p.2.
13. Ibid, p. 20.
14. Alexis de Tocqueville, *Democracy in America* trans. Gerald E. Bevan (London and New York: Penguin, 2003) Part I: Chapter 3, p. 65.
15. David Novak, "In What Sort of Polity Can a Jew Live in Good Faith?," Paper presented to a conference on "Founding a Nation," p. 17.
16. BT Gittin 88a.
17. Michael J. Broyde and Steven S. Weiner, "Understanding Rights in Context: Freedom of Contract or Freedom from Contract? A Comparison of Various Jewish and American Traditions," Paper presented to a conference on "Founding a Nation," p. 15.

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