

## **Israel-Vatican Relations 1993 - 1998**

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**By Rabbi David Rosen**

The historic Fundamental Agreement between the State of Israel and the Holy See, finalized at the end of 1993, involved three relationships. The immediate result of the Agreement was the normalization of relations between the Holy See and the State of Israel, which led to the exchange of ambassadors four months later. Secondly, as the Preamble of the Agreement indicates, the accord took place within the wider context of Catholic-Jewish reconciliation on which it undoubtedly had a profoundly positive impact in turn. Indeed, for many Jews especially in Israel, the diplomatic normalization served as testimony and proof of the genuineness of the transformation in theological attitudes and teaching that had taken place over the previous thirty years. The third relationship addressed by the majority of the articles in the Fundamental Agreement concerns the relationship between the Catholic Church in Israel and the State.

While Israel's goal was essentially the first of these, the Holy See's primary interest concerned the third. Indeed this difference reflects the divergent perceptions of the principle purpose of the bilateral relations, which as I will indicate below often continues to be at the root of tensions that have emerged in the relationship.

It also naturally affected the negotiations themselves and was the major internal factor (as opposed to external political factors) that delayed the pace of the negotiations, until a creative formula was produced that could satisfy the contradictory assumptions of the parties.

For the Holy See, the rights of the Catholic Church and its communities in Israel, which were the subject of the overwhelming bulk of the negotiations, concerned institutions and persons subject to two equal and independent sovereign legal systems: Church Canon law on the one hand, and the laws of the State of Israel on the other. The Vatican's negotiating team thus proposed the use of language that would reflect such parity.

The State of Israel however, like any other sovereign state, sees itself as the exclusive authority in the borders of its jurisdiction. Accordingly it saw these negotiations as a process of regularization of the rights of a particular community and its members, subject to the rights of the State – the phrase that the Israeli team sought to incorporate into the text of the agreement.

The inability to bridge this gulf of perception caused a substantial hiatus in the negotiations until the language was found that creatively allowed both sides to interpret the agreement in accordance with their different assumptions. Accordingly the Fundamental Agreement talks of the exercise of the rights of the Catholic Church “in harmony with the rights of the State” of Israel.

It was precisely this divergency in perception of the primary purpose of the Accord that also lay behind the final hurdle that delayed the signing of the Agreement. The Holy See’s primary concern to resolve outstanding questions concerning the Catholic Church’s status in Israel and to enshrine its traditional privileges as *de jure* rights recognized as such by the State meant that it was in no hurry to concede to Israel the latter’s chief goal of full diplomatic relations, for as long as the above issues had not been completely resolved.

While Israel faced little difficulty in guaranteeing or reaffirming its commitment to the freedom of religion and conscience; the protection of the status quo regarding holy sites; rights of education, media and charitable organizations, etc; the questions of regularizing the legal standing of Church personnel and institutions as well as transforming its traditional taxation and excise privileges from *de facto* into *de jure*, were not simple matters.

The Holy See would have liked to have been considered as an extra territorial entity, enjoying the same privileges granted to foreign delegations and their properties. There was no way that Israel was going to grant such status, especially not for a community overwhelmingly made up of Israeli citizens. Moreover, aside from the principle, to have done so for the Catholic community without doing so for other Christian denominations would have posed substantial difficulties for Israel. Furthermore, to provide for the latter but not to grant the same rights for the much

larger Muslim minority, or even to do so for Muslims as well but to continue to deny such to the Jewish majority in a Jewish state, is not something that could be achieved lightly, even if this were to be considered acceptable and/or necessary.

As the resolution of such matters would inevitably involve further deliberations, the State of Israel wished to go ahead with its primary objective – the establishment of full diplomatic relations, and to then subsequently resolve these outstanding issues. In the Vatican's Secretariat of State there was concern that to agree to such would be to forfeit the leverage on Israel's full compliance. Probably, there was also concern that to accede to Israel's position would precisely overemphasize the significance of the diplomatic aspect and dwarf the dimension of the Church's interests concerning its communities in Israel, to the point where the latter would be diminished if not lost altogether in the eyes of the world at large and the Arab world in particular. It should be recalled in this regard that straight after the establishment of the Bilateral Commission to negotiate an agreement between the parties, Archbishop Jean Louis Tauran, the Holy See's Secretary for Relations with States (i.e., its Minister of Foreign Affairs), set out on a tour of Arab countries to explain the purpose of these bilateral negotiations. In his talks with Arab leaders, he sought to impress upon them the value of such negotiations for the Church's interests and its communities in Israel, as well as to minimize their political significance!

The Holy See proposed a compromise formula in which full diplomatic relations would be established, but representation would not be at the ambassadorial level until these issues were resolved. This was also not acceptable to Israel. It was only through indirect intervention at the highest level that the Vatican Secretariat of State reluctantly withdrew its insistence on this conditionality and agreed to go ahead and conclude the Fundamental Agreement, in which Israel gave its commitment (together with the Holy See), to "negotiate in good faith" with the "aim to reach agreement within two years" on these outstanding issues. To this end, Juridical and Fiscal Subcommittees of experts were established. However it took the State of Israel much longer to conclude an agreement with the Holy See over the juridical matter; and it has still not yet concluded negotiations on the economic issues.

The reasons for these delays were not due to any ill will, but rather the result of bureaucratic factors (see below); even though there have been those in the Vatican who have viewed such prevarications as proof of their original suspicions. I do believe, however, that it is not incorrect to say that because Israel sees these matters as so very secondary to the primary goal that it has already achieved, it does not share the Holy See's sense of importance, let alone urgency, concerning these issues.

Notwithstanding this, during the year and half following the signing of the Fundamental Agreement much progress was actually made by the juridical committee. However matters were overtaken by political upheavals in Israel. The assassination of Yitzhak Rabin led to a reshuffling of political responsibilities, including within the Israel Ministry of Foreign Affairs, which naturally affected the work of the committees. By the time new personalities had assumed the reins of leadership, Israel was in the throes of early elections which resulted in the defeat of the Labor led government and the ascent to power of Benjamin Netanyahu.

Netanyahu's newly formed coalition was immediately caught up in crisis after crisis and the new Minister of Foreign Affairs David Levi had his own priorities which did not affect the Ministry kindly. In fact, many aspects of the work of the Ministry of Foreign Affairs remained in limbo without leadership, including matters relating to Israel-Vatican relations. As opposed to the Rabin government, in which there were a Minister and Deputy Minister of Foreign Affairs – namely Shimon Peres and Yossi Beilin - who both deeply appreciated the moral and political value of promoting Vatican-Israel relations, there was no one in the Netanyahu government who saw this as a priority. It has even been suggested that the latter sought precisely to court evangelical fundamentalist Christian support at the expense of the traditional Churches – in this case the Catholic Church – who are perceived as less positively inclined towards Israel, especially as their local constituencies are Palestinian. Only as the result of much nagging both from within the Vatican, from interested Israelis (especially from amongst the Bilateral Commission itself) and also from Diaspora Jewish leaders egged on by Catholic counterparts, did the Minister of Foreign Affairs get round to signing a second agreement with the Holy See which contained the formula devised by the juridical subcommittee.

As indicated, it was a complicated task to find an appropriate designation under Israeli law for the legal status of the Catholic Church, its structure, and institutions that would be acceptable to both parties. While the Church's institutions and communities in Israel are indeed subject to the laws of the State, they nevertheless derive their internal authority and structure from Rome. The Vatican sought to have this structure and its authority recognized as such by the State of Israel - something that is arguably without parallel or precedent. However, the juridical agreement did just that and gave legal recognition to the Church's internal structure, strengthening her control of her own institutions in Israel. This is undoubtedly a historic achievement for the Catholic Church, as no ruling authority in the Holy Land - in particular non-Christian - has ever granted any Church such *de jure* recognition. In effect, this agreement concerning the Church's legal status is recognition on the part of the State of Israel of the Holy See's historic standing and inherent stake in the Holy Land.

At the same time, the agreement was a significant achievement for the State of Israel in both historic and political terms, as the Catholic Church thereby not only reaffirmed its recognition of the sovereignty of the Jewish people in its historic homeland but also registered and placed its institutions under Israel's legal authority and protection. An examination of the list of these reveals a variety of religious institutions throughout Israel, many of which are located in East Jerusalem. (No less fascinating is the fact that some of these institutions are part of larger organizations whose place of regional authority is to be found in neighboring Arab countries!). The Vatican insists that nothing in its agreements with Israel should be interpreted as taking a position on unresolved borders, let alone on the future of Jerusalem which is a matter of dispute between Israel and the Palestinians. Yet one cannot but be struck by the significance of it registering these institutions under Israeli law and sovereignty.

The very fact that the Holy See has done so raises questions about some of the other positions of the Vatican, not least of all its call for "international guarantees" concerning the future of religious rights and freedoms in Jerusalem. This alone is a change from the former position of the Holy See, which supported the internationalization of the city. However, especially after having signed the Fundamental Agreement with Israel, normalizing relations between the two and

confirming Israel's commitment to religious freedom, the protection of the holy sites, and the legal 'status quo' governing them, an obvious question occurs. What is behind the call for international guarantees? If Israel is a trustworthy partner and for that reason the Holy See entered into the bilateral accord between them, then why does it need international guarantees at all? On the other hand, if Israel is not trustworthy in the Vatican's eyes, then we may not only ask what value is the Fundamental Agreement itself, but also why should international guarantees provide any greater security whatsoever?

The answer, I believe, is that the Vatican's call for international guarantees is not at all the result of a lack of trust in Israel, but the very contrary. As noted above, it has obtained a significant achievement in Israel's acknowledgment of its inherent status and stake in the Holy Land. It is virtually certain that it would not be able to obtain such a concession from any of the Arab countries where Islam is dominant, for while Islam provides for special regard towards Christianity and Judaism, any territory that has come at any time under Islamic control is seen as Islamic inheritance. While it is certainly possible from an Islamic perspective to reach an accommodation with a non-Islamic power, a formal legal acknowledgement that another religious community has a recognized inherent stake in what is seen as part and parcel of the Islamic world is quite another matter.

Of course, if the Holy See would have tried to negotiate with those in Israel who advocate theocracy, it would have faced the same problem. Fortunately Israel is a modern democracy and was able to negotiate freely accordingly. As a result, what the Vatican obtained from Israel it will not be able to fully obtain in a bilateral agreement from any of the other political entities that lay claim to Jerusalem. However, it might be able to obtain their commitment to some kind of international charter ("guarantees") that could be based upon the accord with Israel. By obtaining the signatures of all possible interested parties to the future of Jerusalem on the principle of religious freedom and respect for the aforementioned 'status quo', the Vatican could obtain the extra legal protection for its interests, should any part of Jerusalem come under the rule of anyone other than Israel. In effect, the call for "international guarantees" appears to reflect a shrewd policy of the Vatican "hedging its bets" for any eventuality by which Israel is not in control of areas of "strategic

interest” to the Catholic Church. However the content of the agreement between the Holy See and Israel on the legal status of Church personality may certainly be seen as a vote of confidence in Israel on the part of the Vatican, as far as its legal interests under Israeli rule are concerned.

The formula of the juridical subcommittee moreover provides a basis for a resolution of the matters before the fiscal subcommittee as well, precisely because it establishes a unique status for the Catholic Church under Israeli law that is incomparable to any other institution, organization or community.

Arguably the most crass expression of the chasm that continues to exist between the perceptions of the two parties over what the character of their bilateral relationship should now be, was revealed over the controversy regarding the appointment of the successor to Greek Catholic Archbishop of the Galilee, Maximus Saloum. The Greek Catholic (Melkhite) community, the largest Christian denomination within the green line (i.e., the borders of the State of Israel prior to June 4, 1967), is in communion with Rome. Accordingly, the Church’s appointments require Vatican authorization. Usual procedure involves the recommendation of the local church and then of the Synod, which in this case is convened by the Patriarchate of Antioch. The Vatican may or may not endorse the recommendation. However, regarding the succession of Archbishop Saloum, there was an internal struggle between two competing groups within the local church itself. The candidate of one of these groups was considered to be close to the Israeli security authorities and arguably was preferred for that reason. However, his candidature was not endorsed by the Holy See, which explained its actions on two main grounds. To begin with, it is usual for the candidate for Archbishop to already be a Bishop, which was not the case. Perhaps more significantly, the Vatican wanted an appointee who would not perpetuate the internal division within the local community and thus sought an outside appointment in the person of Bishop Boutrous Mouallem who had been serving as Melkhite Bishop in Brazil.

Persons close to Israeli Minister of Foreign Affairs, Ariel Sharon, were convinced that more sinister motives lay behind the appointment, especially as Mouallem is originally Palestinian. Accordingly, Sharon was persuaded that the reasons for

preferring Mouallem over the local candidate, whom was viewed as very friendly towards Israel, was the result of interference from the representatives of the Palestinian Authority and even radical Palestinian personages close to the Vatican who had interceded against the local candidate and on behalf of Mouallem. Against the advice of professional officials in the Ministry of Foreign Affairs, Sharon sought to prevent the appointment. Prime Minister Netanyahu's government was at one of its numerous vulnerable moments and his dependency upon Ariel Sharon was increasing. The latter had no difficulty in persuading Netanyahu in turn to react very strongly to the Vatican's decision, even to the extent of threatening to refuse the new Archbishop's entry into Israel (a strange threat in itself, as Mouallem had regularly visited his family and community in Israel in the course of recent years, without encountering any unusual problems from any Israeli security quarters).

While the Israeli government's attitude revealed poor intelligence and even poorer tactics, it also revealed the distance in perception of the nature of the bilateral relationship between Israel and the Holy See. Precisely because Israel understands the relationship in purely diplomatic terms, the appointment of the head of a Church in communion with Rome, was viewed and interpreted in a political manner – in this case incorrectly as well. Accordingly, Israel saw the decision as reflecting “bad faith” on the part of the Holy See. The latter saw precisely Israel's reaction as the act of ‘bad faith,’ not just because of what it saw as the misinterpretation of its motives, but above all because it contravened Israel's commitment to the free exercise of religious institutional life of the Church, given in the Fundamental Agreement. Moreover, the apparatus designed for bilateral issues and even normal diplomatic discretion were ignored, in what the Vatican saw as reckless disregard. The end was Israel's inevitable and foreseeable embarrassing downward descent and the enthronement of Boutros Mouallem as Greek Catholic Archbishop in accordance with the Holy See's decision. However, the episode left a bad taste for Israel-Vatican relations and above all reflected the continued disparity in attitude toward the bilateral relationship.

The ongoing controversy between Muslim and Christian interests in Nazareth has also caused Israeli-Vatican tension, primarily as a result of insensitivity on the part of certain Israeli officials for the delicate position of the Holy See in this episode. The

controversy concerns the preparation of a plaza next to the Church of the Annunciation, which according to the claim of certain Muslim elements (led by the Islamic Movement in Israel) encroaches on Muslim religious trust ('wakf') land, where they are determined that a mosque be built (or rebuilt, according to their claims).

The local Christian communities are not only concerned about making adequate preparations for the millions of Christian pilgrims who it is anticipated will visit Israel in the year 2000, but are also fearful that a compromise on their part over this controversy will only encourage a process of Islamicist attrition against them. Accordingly, the Holy See was enlisted by its community to impress upon Israel the deleterious consequences of capitulating to Islamicist interests. Officials were informed that these consequences could involve the closure of churches and the cancellation of celebrations planned for the new Millennium. With amazing indiscretion, those Israeli officials revealed the content of these confidences to the press, which in turn elicited a rather convoluted semi-denial from the Vatican's spokesperson. Naturally this episode hardly enhanced Vatican confidence in Israel's reliability and responsibility, which has also not been improved by what is perceived as a general inadequacy in preparing for the "Jubilee" year.

In contrast, the Catholic Church and other Christian communities were encouraged by the successful Parliamentary and Government opposition, to attempts to extend the provisions of what is known as the Missionary Law (In fact this 1977 law does not prohibit proselytizing, but only the offer of material incentive for the purpose of changing one's religious affiliation). The proposals, first put by M.K.s Gafni and Zvili and then subsequently reintroduced by M.K. Pinhassi, would have made it an offense not only to disseminate but even possess materials for the purpose of proselytization.

In response to concern expressed by various Christian (including Catholic) and Jewish quarters regarding the implications and consequences of such regulation for the freedom of religious speech in Israel, Prime Minister Netanyahu personally gave verbal and written assurances that his government would oppose and prevent such legislation.

Other positive developments since the Fundamental Agreement may be seen in the first comprehensive translations into Hebrew and wide dissemination, of the major Catholic documents dealing with Jews, Judaism and Israel since 'Nostra Aetate'. There has also been a definite improvement in Jewish-Israeli attitudes, including within the Rabbinate, towards contacts with the Catholic world in particular and the Christian world in general. This is evidenced in the increasing number of leading Israeli rabbis meeting with Christian leaders and theologians. However, as attitudes towards Christianity are still substantially conditioned by the tragic Jewish experience of the past, this process still has a very long way to go. While Pope John Paul II's overtures towards the Jewish community, e.g., his visit to the synagogue in Rome in 1986; his condemnation of anti-Semitism as a sin against God and man; the numerous audiences he has given to Jewish personages and organizations; and in particular his personal support for the normalization of relations between the Holy See and Israel, have all contributed to a more positive attitude towards the Vatican; a number of controversies have diminished from this affect. These have included the question of Christian symbols at Auschwitz and other sites of the Shoah that Jews find offensive, the beatification of Edith Stein (and to a lesser degree Cardinal Stepinac), and the question of Pope Pius XII's role during the period of the Shoah and his own proposed beatification. Moreover, the Vatican's institutional reticence regarding transparency and making archival material accessible, as well as continuing "revelations" regarding the use of Vatican channels for Nazi criminals and their plunder, have similarly acted to reinforce historic negative images. Nevertheless the balance in my opinion is definitely favorable and reflected in increasing academic interest in Christianity.

One of the most important ways in which this change will be advanced is through the bilateral cooperation between the Holy See and the State of Israel that the Fundamental Agreement envisaged. While there has been a little of this on a cultural level, there could and should be much more collaboration on cultural, educational and interreligious levels. Not least of all in this regard is the impressive commitment in the Fundamental Agreement of the Holy See to join with the State of Israel in the actual combat of anti-Semitism as well as other bigotry throughout the world. Israel has done little or nothing to promote the implementation of this clause and the moral undertakings in the Fundamental Agreement. It is to be hoped that we will soon see

new impetus in this regard from both parties to the accord, so that they may be greater than the sum of their different parts, and promote “mutual understanding among nations, tolerance and respect for human life and dignity.”

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