
Liberalism's Endgame

**Law and Culture in Israel at
the Threshold of the
Twenty-First Century**

by Menachem Mautner

Am Oved, 2008,

591 pages, Hebrew.

Reviewed by Evelyn Gordon

At first glance, Menachem Mautner's *Law and Culture in Israel at the Threshold of the Twenty-First Century* looks like two books in one. The first is a shockingly honest critique of the Supreme Court, of a kind rarely heard from someone who shares the court's ideological agenda. The second is a far less honest proposal for imposing this agenda on Israel by decidedly undemocratic means.

Mautner, one of the leading lights of Israel's law scene, brings a great deal of expertise to bear on the subject of the court. He is a full professor at Tel Aviv University's law school, where he formerly served as dean and currently holds a chair in comparative civil law

and legal theory; he has also taught at the University of Michigan, New York University, and Harvard. He has won a slew of awards and prizes, and one of his previous books, *The Decline of Formalism and the Rise of Values in Israeli Law* (1993), is still the most frequently cited work in articles on the development of law in Israel over the last thirty years. Mautner has also been active in public affairs: He was a member of the committee, chaired by then-Supreme Court president Aharon Barak, that prepared a sweeping revision of Israel's civil code; he chaired a public commission on copyright law; and he has been mentioned in the press as a possible candidate for the high court itself.

These professional credentials obviously lend great weight to his analysis. But it is the analysis itself, and the evidence he provides to back it up, that makes this book so significant. Essentially, Mautner documents how Israel's liberal elite has responded thus far to the conclusion that democracy no longer serves its interests. And the proposal he offers for changing

Israel's self-definition as a "Jewish and democratic state" offers a disturbing preview of how this response might develop in the years to come.

When it comes to Israel's Supreme Court, Mautner pulls no punches. On the very first page, he notes that it underwent "unprecedented changes" in the 1980s and 1990s, and that "many of these changes are not found in any legal system known to us." The three most important changes, he says, were "the rise of a sweeping activism," a switch from rulings based on formalistic reasoning to rulings based on values, and a move "from a view of itself as a professional institution, whose main function is deciding disputes, to a view of itself as a political institution—namely, an institution that plays a role alongside the Knesset in the processes that determine the state's values and distribute the state's material resources." Or, as he puts it elsewhere, one "that is supposed to participate in determining the content of the law."

Then, on page two, he explains why this happened: "The key to understanding these [changes] is the great historical change that occurred in Israel in the late 1970s: the decline of the Labor movement's hegemony." The "former hegemons," as Mautner

terms them—the secular leftist elite who comprised Israel's ruling class during its first thirty years of existence—were terrified at what their loss of political power in 1977 would mean both for their own future and for the nature of the state they founded. Therefore they sought recourse in the one branch of government that remained to them: the judiciary. And the courts, which shared the former hegemons' values and fears, cooperated willingly.

Mautner thoroughly dissects the methods the court has used to expand its power: the virtual elimination of standing requirements, so that anyone can petition it about anything; a massive expansion of justiciability, so that it now routinely rules on issues it formerly considered beyond its purview; the introduction of the "reasonability" and "proportionality" tests, under which government decisions that the court deems "extremely unreasonable" or "disproportionate" are declared *ipso facto* illegal; the creation of new rights and norms, sometimes "out of nothing"; and finally, the assertion, with no authorization in law, of the right to overturn Knesset legislation.

All of these methods, he argues, were effectively ways of transferring power from the elected government to the former hegemons. Eliminating

restrictions on standing and justiciability, for instance, allowed the court to rule on issues that had previously been beyond its reach. The standards of “reasonability” and “proportionality” enabled the court to substitute its own view of what constitutes “reasonable” and “proportionate” policy for that of the government. And the switch from formalistic reasoning, meaning what the law actually says, to reasoning based on “fundamental values” of the court’s own determination allowed it to subordinate government decisions to these values. In an ingenious sleight of hand, it declared that these values constitute the “general purpose” of every law, one that trumps the “specific purpose” for which the law was passed. The upshot of all these tactics was that policy was no longer set solely by the cabinet and Knesset, but also by the court.

While Mautner provides an excellent introduction to this subject, veteran court critics will also find it well worth reading. Partly, this is for the sheer fun of watching him say things only a “former hegemon” could get away with, such as his assertion (backed by examples) that you can often predict how the court will rule by reading *Haaretz’s* editorial page, or his finding, after examining all petitions by Knesset members from 1977 to 2005, that those by rightist,

religious, and Arab MKs generally involved personal grievances, while those by leftist MKs were “almost without exception” about policy. In short, *pace* Clausewitz, leftist MKs saw litigation as a continuation of policy by other means—one that enabled them to turn defeat in the cabinet or Knesset into victory.

More substantively, Mautner provides a wealth of illuminating historical detail. One fascinating chapter explains how the court became a bastion of extreme Western liberalism. In the early 1900s, he notes, many jurists thought the state-to-be’s legal system should draw inspiration from *mishpat ivri*, or traditional rabbinic law. They did not want a theocracy, but a modified, modernized version of *mishpat ivri*, and they viewed Jewish law not as divine decree, but as a way to give the new state’s legal system the depth and tradition it would otherwise lack. To promulgate their ideas, they founded legal journals and even a law school, and submitted proposals to the committee tasked with drafting the state-to-be’s constitution in 1947.

Ultimately, Mautner argues, they failed for one simple reason: For thirty years, the British ran Palestine, and the courts used British law. To be a lawyer or judge, *that* was what you needed to know; *mishpat ivri* was worthless. Thus, almost without

exception, those who ran the new state's legal system were steeped in the Western legal tradition, not the Jewish one. Moreover, Britain's hasty departure in 1948 left the constitution committee insufficient time to finish its work. To prevent a legal vacuum, the first Knesset simply adopted the entire Mandatory legal code wholesale. Thus, not only were those interpreting the law steeped in the Western tradition, but so was the law they interpreted. As Mautner quotes then-MK Zerach Warhaftig saying in 1958, "even laws enacted here in the Knesset are interpreted in light of English law, and in that respect, we have remained an English colony."

In another fascinating chapter, Mautner details the former hegemon's apocalyptic response to the Likud's electoral victory in 1977. Ten days after the election, for instance, journalist Doron Rosenblum wrote an article for *Haaretz* in which he imagined a fearful Israeli expressing the thought that the Likud victory marked "the beginning of the end of the State of Israel—at least, the State of Israel as we knew it." Six years later, he adopted a more serious tone, writing that his generation "does not understand what happened to its homeland, which has been swept from under its feet." Literary critic Dan Miron wrote in 1985 that "from Jerusalem,

the fire of civil war is liable to erupt, toward which we are advancing step by step.... Here, in the city of the parliament and government, forces are gathering that will try to suppress or abolish Israeli democracy." In 1984, Amos Kenan published his novel *The Road to Ein Harod*, which envisioned a rightist military coup; the resulting junta hunts down leftists and executes them without trial, expels all Israeli Arabs, and brings the Middle East to the brink of nuclear destruction. That same year, Benjamin Tammuz published the novel *Jeremiah's Inn*, which depicted a late-twenty-first-century Israel as an ultra-Orthodox state that most secular Jews have long since fled, and whose secret services persecute the remnant. The former hegemon, Mautner writes, also drew repeated analogies between Israel in the 1980s and Germany, Italy, and Spain in the 1930s.

To explain this hysterical reaction, Mautner uses Heidegger's distinction between "fear" and "angst": What drove the former hegemon was not fear, a response to a concrete danger that generally passes when the danger disappears, but angst, which has no specific cause and thus cannot be allayed. He deftly analyzes the elements that contributed to this angst, from the sudden loss of status by a group that had considered itself Israel's

natural and eternal leadership to the shocked realization that Judaism, which this group had believed safely consigned to the dustbin of history, was still an important component of many Israelis' identities. By the end, one can at least understand why they responded with a judicial power grab, though this response remains no less illegitimate.

Perhaps most valuable of all, however, is Mautner's refreshing honesty: It is rare for someone who shares the court's ideological agenda to admit that its activism is essentially a naked power play by those who lost in the electoral arena. Mostly, its supporters simply assert that all the court's decisions were unavoidably mandated by law. But even those who realize that this assertion is untenable generally fall back on the "no choice" theory, of which Mautner quotes several versions: for instance, that the rule of law began collapsing in the 1980s, and the public demanded court intervention to defend it; or that the left-right stalemate of that same decade prevented successive governments from making crucial decisions, and the public demanded that the court fill the vacuum. Mautner, however, rejects such excuses. He acknowledges the court's activism for what it is.

Nevertheless, this entire section raises one obvious question.

Mautner never disguises his identification with the court's extreme liberal agenda. He bluntly declares that despite a few "problematic" aspects, "in principle, the court's judicial activism is a good thing." He repeatedly drops remarks such as "clearly, the court must continue to fulfill its function as an important agent of the values of liberalism," and indeed, he deems its liberalism a vital counterweight to other government institutions, which he complains are too focused on "the national revival of the Jewish people." The specific policy prescriptions he offers later in the book, from legalizing homosexual marriage to forcing schools to spend more time teaching about other cultures, also reflect a worldview very much like the court's own. And his prescriptions for fixing the problems he points out are so modest as to leave the court's activism virtually unchanged. For instance, he recommends limiting MKs' rights to petition the court over policy, but would still allow anyone else to do so; hence all major issues would continue to end up in court. Likewise, he advises the court to cite *mishpat ivri* more often in its rulings as a gesture to religious Jews, though the rulings' content would remain unchanged. And he advises justices to try harder to live up to self-professed values such as integrity, to which he concedes "they have not fully measured up."

In short, Mautner reveals himself to be no less liberal than the justices he criticizes. Why, then, did he publish such a devastating critique?

Unlike other liberal critics of the court, such as Ruth Gavison and Amnon Rubinstein, Mautner's focus is not on the way the court has undermined democracy—meaning government by the people—by transferring major policy decisions from the people's elected representatives to a cadre of unelected justices. His main concern is identity politics and its extension, cultural politics, which he sees as the correct paradigm for understanding society. He therefore perceives a justice system that gives expression to only one of Israel's competing cultures, namely Western liberalism, as inherently problematic.

But it seems there is also a deeper reason: Unlike the court itself and many of its supporters, Mautner realizes that judicial activism is not a tenable means of imposing an extreme liberal agenda in the long run, because it will eventually provoke a backlash. He never says this explicitly, but he does cite numerous warning signs. One is that "former hegemons" are now leading the attack on judicial activism—people like Gavison, a former president of the Association for Civil Rights in Israel, and Rubinstein, a former Meretz MK and minister. Another is the sharp

decline in public faith in the courts. He cites one study which found that only 33 percent of Israeli Jews expressed faith in the court system in 2007, down from 56 percent in 2000; only 51 percent expressed faith in the Supreme Court, down from 74 percent in 2000; and only 46 percent believed that the courts treat all Israelis equally, down from 65 percent in 2000. Finally, he is concerned that the court seems to be driving religious Zionists, the former hegemons' erstwhile allies, into the arms of the Haredim. "If this trend continues," he warns, "the status of liberalism in Israel will be weakened, perhaps beyond repair. If religious Zionism joins up with the liberal former hegemons, liberalism will survive in Israel, and even grow stronger."

But if the court cannot serve as a long-term vehicle for imposing an extreme liberal agenda, an alternative is needed. And the second half of the book is Mautner's attempt to persuade Israelis to adopt his favored candidate: multiculturalism. Much of what Mautner says in this section is obviously true: Culture does play an important role in shaping people's identities and values; people do want their identities and values expressed at the communal level; and a political system that cannot satisfy these aspirations is ultimately unsustainable. This provides the element of truth

that every bluff must contain to be believable.

Mautner's big bluff, the climax to which he builds, is that instead of defining itself as a "Jewish and democratic state"—a definition so widely supported that, as he notes, it has become the basis for every proposed constitution—Israel should define itself as a "Jewish, democratic, multicultural state." That, of course, is a contradiction in terms. A multicultural state is, by definition, one that gives equal weight to all cultures and affords them equal opportunities for self-realization. A Jewish state is one that enables the Jewish people to express its own culture at the national level. There is no way any state can be both.

Mautner is surely aware of this problem, but he tries hard to obfuscate it. For instance, he declares that since international law permits nation-states, and most Israelis want Israel to be a Jewish state, "there is complete justification for Israel's defining itself as a 'Jewish state.'" That naturally leads the reader to assume his proposal in fact preserves Israel as a Jewish state.

Similarly, after asserting that Israel's self-definition must reflect the existence of its Arab minority as well, he declares: "Israel can do this by defining itself as a 'Jewish, democratic,

multicultural state' or, alternatively, as a 'Jewish and democratic state with an Arab national minority.'" This leads the reader to think the two are equivalent, when they are not. The latter, whatever its merits, is logically possible; Israel *can* simultaneously be both a Jewish state and one with an Arab national minority. The former, however, is logically impossible: If the state is multicultural, it is by definition not Jewish. And it is no accident that the second formulation quickly disappears. For it is the first—the one that eliminates Israel's Jewish identity—that is Mautner's goal.

His description of how a multicultural Israel should be run leaves this in no doubt. Citizens of a multicultural state, he writes, "must not expect to realize their key normative views (their 'comprehensive theories') at the state level, but at the sub-state level." Each of Israel's various sub-cultures should be allowed to run their own schools and even their own municipalities, but they would not be allowed to impose their views on the state as a whole. Clearly, this contradicts the essence of a Jewish state, which is one the Jewish people can shape according to its own understanding of what is good and right. You do not need a Jewish state merely to enable Jews to run their

own schools and municipalities; they can do that in America.

Indeed, Mautner's Israel would not even be Jewish at the purely symbolic level: It would have to "add an Arab stanza to the national anthem," "give expression to the existence of its Arab citizens in the national flag and the state seal," and "raise the legal and practical status of the Arabic language." Ultimately, it would have to "define itself first and foremost as... a state of its citizens," and only secondarily as a nation-state.

Yet not only would Mautner's Israel not be Jewish; in very fundamental respects, it would also not be democratic. After all, the most basic democratic right of all is the majority's right to shape the national character. But in Mautner's world, the sizable majority that wants Israel to be a Jewish state would be barred from actualizing this desire.

That, however, is only the beginning. A multicultural state, Mautner argues, should adopt the system of government John Rawls advocated in *Political Liberalism*: liberal democracy. And since most Israelis think Israel should be a democracy, that may sound unexceptional. But since Mautner defines "liberal democracy" as identical to the former hegemon's policy program, he has a problem:

"What is supposed to be considered an overall framework for cooperation among the cultural groups comprising society is in essence the worldview of one of these particularistic groups."

To solve this problem, Mautner continues, what is needed is a "universal" standard "whose 'distance' from the values of the cultural groups inhabiting the state is more or less similar," and can thus be used to judge them all, including liberal democracy itself. The standards he proposes are "human rights" and "respect for humanity." These are values, he argues, found in some form or other in all the world's great religions and philosophies; to judge a culture by these standards is thus to judge it by its own ideals.

That is obviously true at some level of abstraction, but different religions and philosophies often disagree strenuously about what these standards mean in practice. Mautner acknowledges this, but insists it does not matter: Agreement at the highest level of abstraction is enough, because the practical level "is constantly developing, as international and national tribunals apply the abstract level to the concrete cases they hear.... As this level grows thicker and richer, the international community will have available a larger collection of normative rulings that decide the question

of the acceptability of particularistic cultural practices,” born of “an ongoing dialogue within the international community in which legal doctrine dealing with the evaluation of problematic cultural practices will be developed.”

And who will be party to this multicultural dialogue? Israeli courts, which will evaluate their own country’s practices; other nations’ courts, whose rulings will be studied and perhaps adopted by Israel’s courts; and various international institutions, which will study and discuss all these rulings and perhaps even codify them. In short, how the abstract concepts of “respect for humanity” and “human rights” are applied in reality will be determined entirely by courts—not just Israel’s own, but also those of other countries.

As Mautner himself admits, both Israel’s Supreme Court and those of many other countries espouse liberal worldviews that they are increasingly aggressive about imposing on society. Thus, if local and international courts, rather than elected governments, determine which particular cultural practices are acceptable, any practices not consonant with the extreme liberal agenda will eventually be banned, while practices consonant with this agenda will be permitted by judicial fiat, whether or not the elected government approves.

Mautner makes little effort to conceal this. When detailing the specific policies a multicultural Israel should adopt, he declares that Israel must, for instance, allow homosexual marriage, since homosexuals are a distinct subculture just like Muslims, Christians, and Jews. Schools must teach about every major Israeli subculture—meaning secular schools must teach Muslim, Christian, and Haredi culture; Haredi schools must teach Muslim, Christian, and secular culture; and so forth—since this is necessary to raise good multicultural citizens. Religious courts should have female judges, regardless of whether Jewish or Muslim religious tradition approves, and Haredi political parties should be denied state funding if they do not elect female Knesset members.

In short, for all Mautner’s talk about allowing each culture to realize its “key normative views” at the sub-state level, subcultures (mainly religious ones) disfavored by the former hegemon would actually have *less* autonomy at the sub-state level than they do today. But even more importantly, the majority would effectively be denied the right to legislate on one of the most fundamental issues of all: where society draws the line between the permissible and the forbidden. It could not, for instance, forbid homosexual marriage or permit male-only

Haredi political parties, since this, according to Mautner, would violate “human rights” and “respect for humanity.” Yet if elected governments cannot decide issues such as these, what is left? Deciding whether to sweep the streets?

And it gets worse. A multicultural state, Mautner proclaims, must guarantee basic social rights, since otherwise, weaker cultures may suffer economic discrimination, and that would undermine their support for the state’s liberal democratic superstructure. He conceals the significance of this by breezily asserting that it would be “relatively easy” for Israel’s various subcultures to agree on rights such as “a minimal existence, health, education, housing, etc.” After all, something everyone agrees on is hardly cause for concern.

In truth, as Mautner surely knows, agreeing on these issues would be anything but easy. The Knesset has tried to do so no fewer than fifteen times over the last sixty years, and every time, the proposed Basic Law: Social Rights has been defeated, for one simple reason: The minute you legislate “social rights,” you transfer authority for broad swathes of domestic policy from the government to the courts. A government decision to exclude certain treatments from the national health insurance plan, for instance, could be overturned on the

grounds that it deprives citizens who need those treatments of their basic right to health. A decision to transfer funds from public housing to defense could be overruled as depriving needy citizens of their right to housing. Clearly, courts could and would authorize many such decisions. But the ultimate decision-making power would rest with the judiciary, not the elected government.

Having transferred such broad powers to the courts, Mautner would even deny certain subcultures a seat on them. Israel’s Supreme Court, for instance, should have religious Zionist justices, because the religious Zionist public accepts “important values of liberalism and Western culture.” But it should not allow Haredi justices, because “they reject liberalism and every other Western value.” In short, only those who accept Mautner’s values may serve on the court that will be Israel’s supreme arbiter of policy.

Though he admits that international law permits nation-states, Mautner disapproves of this, because it “does not reflect the normative conclusions required by the insights of identity politics.” Why a system that has functioned reasonably successfully for centuries should be replaced by multiculturalism, which has been around for only a few decades and, by Mautner’s

own admission, has a decidedly mixed record, is never convincingly explained. What is clear, however, is his motivation: that same angst that he ascribes to the former hegemons. To Mautner, the real culture war in Israel is not the Jewish-Arab one, but the one between the groups that Shimon Peres famously defined as “the Jews” and “the Israelis.”

He is quite explicit about this. Multiculturalism, he writes, presents two types of problems: relations between “the center” and “the periphery,” and the struggle for power over “the state’s central institutions and the nature of [its] political system, law, and culture.” And while Israel undoubtedly suffers from ongoing tension between the center and the periphery, Mautner maintains that

the principal problems Israel’s multiculturalism creates are not of this type, but problems stemming from the fact that key cultural groups are divided in their views of how to shape the state’s central institutions (problems of the second type). A problem of this type could arise between the Jewish collective and the Arab collective, should Arab citizens try actively in the future to change the state’s definition from a “Jewish state” to a “binational state” or a “state of all its citizens.” But as I showed in the previous chapters, the principal problem in this context exists within the

Jewish collective—between the secular Jewish collective (the liberal former hegemons), which seeks to preserve Israel’s character as a liberal democracy with a cultural and economic connection to the West, and parts of the religious Jewish collective, which seek to impose Jewish religious law and the values of traditional Jewish civilization on Israel.

He then offers a thumbnail sketch of this clash as he sees it, under the rather hysterical heading “On the Brink of Civil War.” He begins by asserting that some religious Jews “see themselves as bound solely by halacha, or primarily by halacha,” whereas secular Jews “see themselves as bound by the state’s system of government and law”—as if the vast majority of religious Jews were not every bit as law-abiding as their secular counterparts. He dwells on rabbis who urged soldiers to disobey orders during the disengagement, without ever mentioning the many rabbis—including the heads of every pre-army religious academy in Israel—who publicly opposed disobeying orders. He ignores the fact that the sixty-three soldiers who actually disobeyed orders were but a tiny fraction of the approximately 20,000 deployed in the disengagement. He describes the anti-disengagement rally in Kfar Maimon, which most Israelis recall as a model peaceful demonstration, as if

only the presence of 20,000 policemen prevented violence: "For many hours, it seemed as if the encircled [demonstrators] would use force," but eventually, they "retreated" and the "confrontation" ended peacefully. And he neglects to mention that the only people who *did* publicly urge civil war were not religious Jews, but "former hegemons," such as Labor MK Ephraim Sneh, who noted approvingly that "a cruel and destructive civil war formed the democratic character of the United States" and urged Israel's government not to fear a similar conflict, or Meretz MK Avshalom Vilan, who said that if settlers resisted the disengagement, "We will be compelled to open fire.... It will be necessary to pull the trigger, slowly, responsibly, cool-headedly, and intelligently."

Mautner's apocalyptic description of the danger posed to Israeli society by religious Jews sprawls over four pages. But he devotes exactly one paragraph to the Jewish-Arab conflict, focusing on the Arab riots of October 2000. Unlike Kfar Maimon, these "demonstrations, gatherings, and disturbances," as he euphemistically terms them, really *were* violent: Much of northern Israel was virtually shut down for days; Jewish cars were stoned on the roads; Jewish property was destroyed; policemen

were attacked; one Jew was killed. Mautner mentions this latter item, but you would never guess the rest from his description. Indeed, the only violence he describes is Jewish, and more than half the paragraph is devoted to it: Alongside the Arabs killed and wounded by police, there was "a series of demonstrations, riots, and assaults on Arabs, vandalizing of Arab holy places, and vandalizing of Arab property in various parts of the country."

Nor does he mention that Israeli Arabs increasingly *are* trying "to change the state's definition." Indeed, he insists that the Jewish-Arab conflict is "primarily dormant." Yet in 2007, four different Israeli Arab groups issued detailed programs for turning Israel from a Jewish state into a binational one: the Higher Arab Monitoring Committee's "Future Vision," the Mossawa Center's "Ten Points," Adalah's "Democratic Constitution," and the "Haifa Declaration," drafted by fifty Arab intellectuals and political activists. And on the Jewish side, Yisrael Beiteinu made the Israeli Arab problem its flagship issue in the recent elections, and as a result won an astounding fifteen mandates, thereby becoming the country's third-largest party.

Indeed, the Jewish-Arab conflict interests Mautner so little that he

knowingly proposes a solution liable to exacerbate it—though, aware that this will not go over well with most Israelis, he obscures its consequences. He admits, for example, that multiculturalism can “raise expectations and sharpen sensitivities” among minorities. He even admits that of those countries that have experimented with multiculturalism, Canada offers the closest parallel to Israel: Both have one dominant culture and a national minority with separatist tendencies. But the only conclusion he draws from this parallel is that just as Canada’s majority “objected vehemently” to certain government efforts to impose multiculturalism, Israel’s majority probably would as well. Remarkably, he says nothing about the statistics he himself cited a hundred pages earlier, which indicate that despite Canada’s enormous investment in multiculturalism over four decades, the Quebecois minority’s separatist tendencies have merely increased. In 1980, for instance, a referendum on whether Quebec should secede from Canada lost by a resounding 60-40 majority. By 1995, a similar referendum was barely defeated, 50.6 percent to 49.4 percent. And in 2005, after the separatist Parti Quebecois won the provincial elections, polls showed that if a vote were held again, secession would probably pass.

All of the above add up to one bottom line: To Mautner, Israeli Arabs are no threat, but Israeli Jews are. And there is a simple reason for this, a point he returns to time and again: The early secular Zionists defined themselves in opposition to Judaism; they wanted to create a new, “Hebrew” culture, even calling themselves “Hebrews” rather than Jews. But from the 1950s onward, “more and more Israelis began to define themselves first and foremost as Jews, and not as Hebrews or Israelis. The connection between Jews living in Israel and the cultural corpus produced in the diaspora grew much stronger; the connection between Jews in Israel and Jews in Jewish communities outside of Israel also strengthened.” In other words, even most of the former hegemony have gone over to the enemy: They, too, define themselves as Jews and “seek familiarity with” Jewish culture. And while they might disagree fiercely with religious Jews about what exactly this means, they too want Israel to be a Jewish state.

That puts people like Mautner, who want a de-Judaized Israel, at a distinct disadvantage. Being a tiny minority, they have no chance of getting their way through democratic means. For three decades, they have tried instead to impose their will by judicial fiat, but Mautner realizes that

this experiment is approaching a dead end. A new tactic is therefore needed, and this book is Mautner's effort to supply one: the stealthy imposition of a court-enforced extreme liberal agenda under the innocuous guise of "multiculturalism."

And that is precisely why this book should be required reading. Consider it a warning.

Evelyn Gordon is a journalist and commentator on public affairs.