

## **Aharon Barak – the prophet who kept society faithful to itself**

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If Aharon Barak knew I was writing about him as 'a Jewish thinker', he would probably be turning in his life. As a strictly secular Jew and the Chief Justice of Israel (1995-2006), he made a lot of enemies amongst the Orthodox community after a series of judgments restricting religious courts' powers.

And yet, for all his secularism, he is such a Jewish thinker. His Judaism leaps off every page of his many books, and shines through each of his judicial decisions.

So what was his shtick?

Firstly, a deep commitment to human beings. Although, as a judge, Barak was rightly guided by the law rather than by his gut, he clearly wrestled with the human consequences of each of his rulings – and bared his heart in each of them, producing some of the most contemplative and considered judgments from any court anywhere in the world.

Overturning a national security policy as a violation of human rights: "Our task is difficult. We are members of Israeli society. Although we are sometimes in an ivory tower, that tower is in the heart of Jerusalem, which is not infrequently hit by ruthless terror. We are aware that in the short term, our decision will not make it easier to defend our country. But we are judges. We act according to our best conscience and understanding. We are convinced that at the end of the day, a struggle according to the law will strengthen Israel's power, and her spirit."

Secondly, a deep commitment to Jewish values. Barak took Israel's status as 'a Jewish and democratic state' not just as a tagline but as his most fundamental mission statement. A case about racial discrimination? Let's see how the Torah says a Jewish state should react: "One of Judaism's established foundations is the idea that man was created in image of God. Thus begins the Torah of Israel, and from this Jewish law derives basic principles as to the value of human equality."

He also saw himself as something of a prophet, making it his task to call out the Jewish people's wrongs and telling people things they didn't want to hear. "When a society is not faithful to itself, the judge must not give expression to the mood of the hour. They must stand firm and express the basic values of the society in which they live."

But thirdly, Barak was deeply imbued by Jewish method – and, I would go further, Progressive Jewish method.

His most famous work is a book called *Purposive Interpretation*, all about how one should interpret a written law. He wasn't writing for a Jewish audience, but for judges and law professors.

Nevertheless, what he produced is a quite remarkable theory of the utmost significance to Progressive Jews: we should, he said, interpret laws not

according to what writer would have wanted, nor according to what a reasonable writer familiar with the modern world would say. Instead, we should strike a balance to come up with a reading that works for us nowadays while remaining faithful to tradition.

What could be a better approach for us when sifting through the Torah for inspiring Jewish rules to guide our modern lives, connecting us to our ancestors without tying us to the mistakes of bygone ages?

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