

Captain Boycott Rides Again

Uri Avnery

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IT HAS ALWAYS BEEN a secret ambition of mine to have a bagatz ruling bearing my name.

Bagatz is the Hebrew acronym for “High Court of Justice”, the Israeli equivalent of a constitutional court. It plays a very important role in Israeli public life.

Having a ground-breaking Supreme Court decision named after you confers a kind of immortality. Long after you are gone, lawyers quote your case and refer to the judgement.

Take *Roe v. Wade*, for example. Whenever abortion is debated in the US, *Roe v. Wade* (1973) comes up, though few remember who Jane Roe and Henry Wade actually were. Now there is “Uri Avnery and Others v. the Knesset and the State of Israel”, which came up this week before the Israeli Supreme Court. It concerns the anti-boycott law enacted by the Knesset.

A few hours after the law was passed, Gush Shalom and I personally submitted to the court our application to annul it. We had prepared our legal arguments well in advance. That’s why it bears my name. The applicants rather disrespectfully called “Others” are about a dozen human rights organizations, both Jewish and Arab, who joined us.

After this ego-trip, let’s get to the point.

THE COURT session was rather unusual. Instead of the three justices who normally deal with such applications, this time nine judges—almost the full complement of the court—were seated at the table. Almost a dozen lawyers argued for the two sides. Among them was our own Gabi Lasky, who opened the case for the applicants.

The judges were no passive listeners fighting boredom, as they usually are. All nine judges intervened constantly, asking questions, interjecting provocative remarks. They were clearly very interested.

The law does not outlaw boycotts as such. The original Captain Charles Boycott would not have been involved.

Boycott was an agent of an absentee landlord in Ireland who evicted tenants unable to pay their rent during the Irish famine of 1880. Instead of resorting to violence against him, Irish leaders called on their people to ostracize him. He was “boycotted”—no one spoke with him, worked for him, traded with him or even delivered his mail. Pro-British volunteers were brought in to work for

him, protected by a thousand British soldiers. But soon “boycotting” became widespread and entered the English language.

By now, of course, a boycott means a lot more than ostracizing an individual. It is a major instrument of protest, intended to hurt the object both morally and economically, much like an industrial strike.

In Israel, a number of boycotts are going on all the time. The rabbis call on pious Jews to boycott shops which sell non-kosher food or hotels which serve hot meals on the holy Sabbath. Consumers upset by the cost of food boycotted cottage cheese, an act that grew into the mass social protest in the summer of 2011. No one was indignant.

Until it reached the settlements.

IN 1997 Gush Shalom, the movement to which I belong, declared the first boycott of the settlements. We called upon Israelis to abstain from buying goods produced by settlers in the occupied Palestinian territories.

This caused hardly a stir. When we called a press conference, not a single Israeli journalist attended—something I have never experienced before or since.

To facilitate the action, we published a list of the enterprises located in the settlements. Much to our surprise, tens of thousands of consumers asked for the list. That’s how the ball started rolling.

We did not call for a boycott of Israel. Quite the contrary, our main aim was to emphasize the difference between Israel proper and the settlements. One of our stickers said: “*I Buy Only Products of Israel—Not the Products of the Settlements!*”

While the government did everything possible to erase the Green Line, we aimed at restoring it in the consciousness of the Israeli public.

We also aimed at hurting the settlements economically. The government was working full-time to attract people to the settlements by offering private villas to young couple who could not afford an apartment in Israel proper, and lure local and foreign investors with huge subsidies and tax reductions. The boycott was intended to counteract these inducements.

We were also attracted by the very nature of a boycott: it is democratic and non-violent. Anyone can implement it quietly in their private life, without having to identify

himself or herself.

THE GOVERNMENT decided that the best way to minimize the damage was to ignore us. But when our initiative started to find followers abroad, they became alarmed. Especially when the EU decided to implement the provisions of its trade agreement with Israel. This confers large benefits on Israeli exports, but excludes the settlements which are manifestly illegal under international law.

The Knesset reacted furiously and devoted a whole day to the matter.¹

Abroad, too, the boycott was initially aimed at the settlements. But, drawing on the experience of the anti-apartheid struggle, it soon turned into a general boycott of Israel. I do not support this. To my mind, it is counter-productive, since it pushes the general population into the arms of the settlers, under the tired old slogan: “*All the world is against us*”.

The growing dimensions of the various boycotts could no longer be ignored. The Israeli Right decided to act—and it did so in a very clever way.

It exploited the call to boycott Israel in order to outlaw the call to boycott the settlements, which was the part which really upset it. That is the essence of the law enacted two years ago.

THE LAW does not punish individual boycotters. It punishes everyone who publicly calls for a boycott.

And what punishment! No prison terms, which would have turned us into martyrs. The law says that any individual who feels that they have been hurt by the boycott call can sue the boycott-callers for unlimited damages, without having to prove any damage at all. So can hundreds of others. This way the initiators of a boycott can be condemned to pay millions of shekels.

Not just any boycott. No pork or cottage cheese is involved. Only boycotts aimed against institutions or people connected with the State of Israel or—here come the three fateful Hebrew words: “a territory ruled by Israel”.

Clearly, the whole legal edifice was constructed for

these three words. The law does not protect Israel. It protects the settlements. That is its sole purpose.

The dozens of questions rained down on our lawyers concerned mainly this point.

Would we be satisfied with striking out these three words? Good question. Of course we would. But we could not say so, because our main argument was that the law restricts freedom of speech. That applies to the law as a whole.

Would we have opposed a law directed against the Arab Boycott maintained against Israel during its early years? The circumstances were completely different.

Do we oppose the freedom of speech of rabbis who prohibit the leasing of apartments to Arab citizens? That is not a boycott, but crass discrimination.

After hours of debate, the court adjourned. Judgement will be given at some undefined date. Probably there will be a majority and several minority decisions.

Will the court dare to strike out a law of the Knesset? That would demand real courage. I would not be surprised if the majority decide to leave the law as it is, but strike out the words concerning the settlements.

Otherwise, it will be another step towards turning Israel into a state of the settlers, by the settlers and for the settlers.

There are examples for this in history. The eminent British historian Arnold Toynbee—a favorite of mine—once composed a list of countries which were taken over by the inhabitants of their border regions, who as a rule are hardier and more fanatical than the spoiled inhabitants of the center. For example, the Prussians, then the inhabitants of a remote border region, took over half of Germany, and then the rest. Savoy, a borderland, created modern Italy.

WHATEVER THE outcome, the decision in the case of “Uri Avnery and Others v. the State of Israel” will be quoted for a long time.

Some satisfaction, at least.

¹ If I may be allowed another ego-trip: I decided to attend the session. As a former member, I was seated with Rachel in the gallery of honored guests. When a rightist speaker noticed us, he turned around and, in a flagrant breach of parliamentary etiquette, pointed at us and snarled: “*There is the Royal Couple of the Left!*”