

SUPREME COURT RULES RELIGIOUS CLUBS ARE ENTITLED TO USE SCHOOL FACILITIES

By Howard Rosenberg

WASHINGTON, June 4 (JTA) -- Jewish groups are distressed at the Supreme Court's decision Monday to uphold a law requiring public high schools to give religious clubs the same access to school facilities as other "non-curriculum-related" groups.

In an 8-1 ruling, the court said an Omaha, Neb., high school had to allow a Bible-study group to meet after hours on school property.

In doing so, it upheld the constitutionality of the Equal Access Act of 1984, which requires public schools that allow "one or more non-curriculum-related student groups to meet on school premises during non-instructional time" to grant the same privilege to religious groups.

Jewish groups strenuously oppose the law and have challenged it in court, contending it violates the First Amendment's ban on government endorsement of religion.

Also Monday, the court rejected a petition from Jewish and other religious groups to reconsider its April 17 decision allowing Oregon to prosecute two members of an Indian church who use peyote in religious rituals.

In that case, the court ruled that enforcing a state law that makes it a crime to possess or use the hallucinogen would not infringe upon the Indians' First Amendment right to free exercise of religion.

Jewish groups had expressed concern about the ruling, fearing it could be used as a precedent to prosecute Jews for various ritual practices that might be banned by local laws. An example would be drinking of Kiddush wine by minors not old enough to consume alcohol legally.

Peyote Case Ruling 'Disturbing'

In light of the court's refusal to rehear the case, Jewish groups such as Agudath Israel of America and the Anti-Defamation League of B'nai B'rith will now examine various state laws to see if they can be strengthened to protect religious practices.

The decision in the peyote case "turned back free-exercise jurisprudence many, many decades," commented Abba Cohen, Agudath Israel's Washington representative.

Donald Mintz, chairman of ADL's Civil Rights Committee, called the ruling "extremely disturbing."

Mark Stern, legal director of the American Jewish Congress, said both court decisions threaten religious liberty, although he would not say whether the greater threat is government interference in religious practice or government "allowing itself to aid religion."

Both cases show that on religious issues, the court is "not willing to second-guess the judgment of democratic bodies," Stern said, referring to the Oregon state legislature in the peyote case and to Congress in the case involving the Omaha high school.

The Omaha case pitted Westside Community High School against Bridget Mergens, who as a senior had tried unsuccessfully in 1985 to win official recognition from the school for a Bible-

study group she wanted to hold after classes.

A federal district court ruled that the school could refuse to grant recognition to the Bible study group, but the decision was reversed in February 1989 by the 8th U.S. Circuit Court of Appeals in St. Louis.

When the case went to the Supreme Court, AJCongress served as co-counsel, largely writing the brief filed on the high school's behalf. Friend-of-the-court briefs backing the school were submitted by the American Jewish Committee, and the ADL, which did so on behalf of the National Jewish Community Relations Advisory Council and the American Civil Liberties Union.

Could Allow School Proselytizing

Jewish groups supported the school's position that allowing the Bible class to meet would constitute a government endorsement of religion, banned by the First Amendment.

But in her majority opinion, Justice Sandra Day O'Connor wrote, "We think that high school students are mature enough and are likely to understand that a school does not endorse or support student speech that it merely permits on a non-discriminatory basis."

Justice John Paul Stevens, the sole dissenter in the case, argued that the court's decision "comes perilously close to an outright command to allow organized prayer (and perhaps other religious ceremonies) on school premises."

Jewish groups sounded similar warnings.

Robert Lifton, president of AJCongress, said the decision "will open up the nation's public high schools to proselytizing by organized student religious clubs and will ultimately result in religious divisiveness."

Burton Levinson, ADL's national chairman, said the ruling is "troubling, because it sanctions the use of public school facilities to advance religion, in violation of the First Amendment."

ISRAEL REJECTS GORBACHEV THREAT, BUT STATISTICS SHOW ISSUE IS MOOT

By David Landau and Hugh Orgel

JERUSALEM, June 4 (JTA) -- Prime Minister Yitzhak Shamir responded defiantly Monday to Soviet President Mikhail Gorbachev's threat to cut off Jewish emigration from the Soviet Union unless Israel guarantees the immigrants will not be settled in the West Bank or Gaza Strip.

Speaking in Tel Aviv to the Israel Association of Industrialists, Shamir said Israel would not agree to the creation "of ghettos or pales of settlement, either for olim or for old-timers." By "pales of settlement," he meant the areas of Czarist Russia to which Jews were once restricted.

Shamir observed that the Soviet Union itself no longer "tells people where they may or may not live," and he said that Israel, as a democratic and free society, would certainly not "impose restrictions upon any category of resident."

But Simcha Dinitz, chairman of the Jewish Agency Executive, urged the Israeli government to "set aside all other considerations, including ideological considerations" in the interest of getting "as many Jews as possible" out of the Soviet Union "in the shortest possible time."

Dinitz, whose agency assists the government in bringing immigrants to Israel, pointed out that "regrettably, the key to Soviet aliyah is not in Shamir's hands, but in Gorbachev's."

The Jewish Agency's longstanding policy, he stressed, has been not to "spend a single cent" of funds raised by the United Jewish Appeal "in settling either new immigrants or veteran Israelis in the territories."

He suggested the government might do well to adopt the same approach, given the "worrying import" of Gorbachev's statement.

Under 1 Percent In Territories

Gorbachev made his unexpected threat Sunday during a joint news conference with President Bush at the White House, marking the end of their four-day summit meeting.

"As long as there are no assurances from the Israelis" that Soviet Jews will not be settled in the territories, the Kremlin may have to "postpone issuing permits for exit," Gorbachev said in response to a reporter's question.

But Dinitz said Monday that "all talk about Soviet Jewish immigrants settling in the territories is totally unfounded." He said it was "the result of Arab propaganda" whose real objective is "total opposition to any immigration to Israel and to the continued existence of Israel."

"It is regrettable that President Gorbachev has been misled by Arab propaganda," the Jewish Agency official added.

"It is clear to all that no one is directing immigrants to any particular area," Shamir emphasized Monday.

The Government Press Office stressed in an official statement that immigrants are given no special incentive to settle in the West Bank. The amount of assistance granted is determined by family size, not place of settlement, it said.

The press office also released a flood of statistics showing that the number of Soviet immigrants who have settled in the territories is minuscule, in relative terms.

According to the Central Bureau of Statistics, only 135 out of 18,200 immigrants settled in Israel's direct absorption program between April 1989 and the beginning of February 1990 went to the territories. That amounts to 0.7 percent.

Another two dozen families moved to the West Bank of their own accord, without assistance, following a period in an immigrant absorption center.

Dinitz said that of the 49,000 Soviet Jews who have arrived in Israel since April 1989, only 285, or 0.5 percent, have chosen to settle in the territories.

GORBACHEV EMIGRATION THREAT GETS CAUTIOUS RESPONSE FROM WHITE HOUSE

By David Friedman

WASHINGTON, June 4 (JTA) -- The White House declined to reveal Monday what the Bush administration would do if Soviet President Mikhail Gorbachev carried out his threat to suspend Jewish emigration, but American Jewish leaders did not hesitate to voice their concern over the Soviet leader's unprecedented announcement.

"It is not an issue at this time," White House spokesman Marlin Fitzwater said. "But certainly the president will have to review the matter" if exit permits are halted.

Fitzwater said that Bush had made clear in signing a trade agreement with Gorbachev that he

would not send the agreement to Congress for ratification until the Supreme Soviet adopted new legislation codifying the Soviet's more liberal emigration policies.

Until the law is passed, Bush also will not waive sanctions contained in the Jackson-Vanik Amendment, which bars the Soviet Union from receiving U.S. trade benefits until it reforms its emigration policy.

At the State Department on Monday, spokeswoman Margaret Tutwiler said there was "nothing said in private conversations" during the summit that "indicated in any way that the Soviets would not live up to their commitment" to allow Jews to emigrate.

After Gorbachev made his surprise threat, Secretary of State James Baker said, "We unconditionally support the concept of Soviet Jewish emigration."

Appearing Sunday on NBC-TV's "Meet the Press," Baker said U.S. support for continued emigration is a distinct issue from U.S. opposition to Jewish settlements in the administered territories. "We haven't linked the two in the way President Gorbachev was suggesting," he said.

NCSJ Warns Gorbachev

In San Francisco, where Gorbachev stopped Monday en route to Moscow, Jewish "Gorbymania" was subdued. Both the Bay Area Council for Soviet Jews and the San Francisco Jewish Community Relations Council expressed their "shock and dismay" over the Gorbachev threat.

The National Conference on Soviet Jewry attempted to contact the Soviet leader before his return to the Soviet Union.

In a telegram sent Monday to the Soviet Consulate in San Francisco, Martin Wenick, the group's executive director, warned the Soviet leader that if he follows through on his threat, the National Conference would reconsider its stance in favor of a Jackson-Vanik waiver.

In New York, Natan Sharansky held a special news conference Monday to express his outrage over the Soviet leader's remark. He was in New York for two days to raise funds for Soviet Jewish resettlement in Israel.

"I think it's a shameful statement," the renowned former Soviet Jewish refusenik said. "Gorbachev has refused to take very clear actions against anti-Semitism and now he joins the chorus of voices accusing" the Israeli government of settling Soviet Jews in the West Bank and Gaza.

Sharansky called upon the Bush administration to "make clear to Gorbachev and the Soviet government that any change in the policy of letting Soviet Jews out of the country" will jeopardize the chances for a Jackson-Vanik waiver and "make it impossible to implement the trade agreement" signed at the summit.

But amid the virtual maelstrom of condemnations coming from Jewish organizations, the Conference of Presidents of Major American Jewish Organizations sounded a note of restraint.

Gorbachev's statement is "of concern to us," said Malcolm Hoenlein, the conference's executive director, "but we recognize that it was predicated on Israel placing Soviet Jewish immigrants in the territories. And Israel is simply not doing that.

"The real issue is the Arab campaign against all Jewish emigration. And none of their ruses is going to be allowed to intimidate or deter Soviet Jewish emigration," he said.

(JTA staff writer Elena Newman in New York contributed to this report.)

SHAMIR CLAIMS HE HAS A MAJORITY, WILL PRESENT GOVERNMENT NEXT WEEK

By David Landau

JERUSALEM, June 4 (JTA) -- Prime Minister-designate Yitzhak Shamir said Monday he has succeeded in forming a narrowly based Likud-led government, which he intends to present to the Knesset for approval early next week.

But Shamir's apparent hesitancy to inform President Chaim Herzog officially of his success has sustained a flurry of rumors that the prime minister and others in Likud still hope to set up another unity government with the Labor Party.

Shamir has until midnight Thursday before his presidential mandate to form a government expires. He said it "appears" he will be presenting a coalition of 61 Knesset supporters, the bare minimum needed, though he hopes his majority will turn out to be "between 61 and 65."

Shamir explained in response to questions that he has not yet gone directly to Herzog, because he still needs to complete the government and wants to "bring the president a complete thing."

Observers said he could have been referring to the details of the coalition agreement that must be worked out between Likud and its six coalition partners.

Or Shamir could have been hinting that he still has hopes for an arrangement with Labor, other observers said. They predicted there might yet be surprises before the end of the week.

Labor Party leaders have indicated they would negotiate with Shamir, but only if he is prepared to commit the new government to pursue the peace process.

Shamir has been under considerable pressure from a circle of Likud ministers to establish a narrow "national government" without further delay. But he would prefer that it not have to depend on a single-vote margin.

Accordingly, the prime minister has made strenuous efforts in recent days to win support of the ultra-Orthodox Agudat Yisrael party, which is still committed to an alliance with Labor, and with the extreme right-wing Moledet faction.

After a meeting Monday, Moledet leader Rehavam Ze'evi said he gave Shamir a verbal commitment of support from his two-member Knesset faction.

Ze'evi said Moledet could be counted on to support the Likud government, "so long as it does not do anything bad -- like going to Cairo" for a dialogue with the Palestinians "or holding elections in Judea and Samaria," as proposed by Shamir in his spring 1989 peace plan.

SHAS MINISTER ACCUSED OF CORRUPTION

By Gil Sedan

JERUSALEM, June 4 (JTA) -- A recently rising star in the Israeli political firmament may have been shot down by charges of corruption published over the weekend in the mass-circulation Yediot Achronot, Israel's largest newspaper.

Interior Minister Arye Deri of the ultra-Orthodox Shas party has hired a top lawyer, former Jerusalem District Attorney Michael Kirsch, and announced he would sue the tabloid for libel.

But Yediot editor Moshe Vardi said the newspaper stood by its allegations of bribery, corruption and misuse of ministerial funds.

The allegations include offering the Jerusa-

lem Religious Council \$1 million to appoint Deri's brother Yehuda rabbi of the Ramot neighborhood of Jerusalem, and a son of former Sephardic Chief Rabbi Ovadia Yosef rabbi of the Har Nof neighborhood. Yosef backed Deri's swift rise in Shas.

Deri is also alleged to have offered ministerial funds to the town of Or Akiva if it would waive part of the \$500,000 tax owed by carpet manufacturer Avraham Shapiro.

AUSTRALIAN LEADER'S MEETING WITH PLO MAN STIRS UP TEMPEST

By Jeremy Jones

SYDNEY, Australia, June 4 (JTA) -- Opposition leaders have accused the government of engendering "confusion" over Australia's policy toward the Palestine Liberation Organization.

A political storm blew up last week when Governor General Bill Hayden met with the PLO's representative in Australia, Ali Kazak.

The governor general, who represents Queen Elizabeth II, is the nominal head of state.

"This is the highest level of reception the PLO can be given in this county," Sen. Robert Hill, the opposition shadow foreign minister, told Parliament.

The official reception raised questions about Australia's relationship with the PLO, said Hill, given that Australia does not recognize the "state" of Palestine proclaimed in November 1988 by the Palestine National Council, the PLO's parliament in exile.

Defense Minister Robert Ray confirmed that the government knew of the meeting but did not consider that it signified any shift in policy.

In fact, Ray told the Senate, the meeting was consistent with the government's policy on contacts with the PLO.

Government sources confirmed that Hayden's meeting with Kazak was arranged after Hayden hosted 150 representatives of the Australian Zionist Federation the week before.

The two meetings were considered to be equal by the Governor General's Office.

But the opposition leader, Dr. John Hewson, called on the prime minister to "involve himself personally, to end the confusion and speculation over Australia's perceived policy shifts on the standing of the PLO."

Australia upgraded its contacts with the PLO after its chairman, Yasir Arafat, renounced terrorism at a Geneva news conference in December 1988. Australia said it would revise its position if the PLO reverted to terrorist activity.

The aborted terrorist attack on Israeli beaches last week followed the governor general's meeting with the PLO representative.

Defense Minister Ray has said that the government "will need to consider the implications" of the raid, carried out by the Palestine Liberation Front, a PLO constituent.

Australian Jewry is deeply disturbed by the meeting. Opposition Sen. Peter Baume, the only Jewish member of either of the two houses of the Australian Parliament, said he was "very distressed" that Kazak was given any status.

Leslie Caplan, president of the Executive Council of Australian Jewry, said he was "surprised and disappointed" by the meeting.

"At a time when Yasir Arafat is calling for the murder of immigrants in transit to Israel, and in light of the terrorist raid on Israel's coastline at the time of the meeting, it was not the time to encourage the PLO," Caplan said.

NEWS ANALYSIS:**TERRORIST ATTACK MAY HAVE PUSHED U.S., PLO INTO INTRACTABLE POSITIONS**

By Gil Sedan

JERUSALEM, June 4 (JTA) -- The United States and the Palestine Liberation Organization may have been propelled by events into a situation both would have preferred to avoid.

The 16-month-old U.S.-PLO dialogue hangs by a thread in the aftermath of the aborted attack by heavily armed seaborne terrorists on two crowded Israeli beaches May 30.

Should the dialogue be broken off, the stalled peace process would be no closer to resuming, and extremists in the PLO could be seen as victorious.

The only casualties of the beach attack were suffered by the Palestinian invaders. But the potential for carnage among innocent Israeli civilians was immense, which contributed to the shocking nature of the event.

The United States needed to make an appropriate response. Inasmuch as its dialogue with the PLO was conditioned on Yasir Arafat's widely publicized November 1988 renunciation of terrorism, the United States hoped the PLO leader would deliver an unambiguous condemnation of the beach assault.

But Arafat's statement on the attack, carried out by the Palestine Liberation Front, a PLO constituent, had a halfhearted ring in Washington. He refused, moreover, to oust PLF leader Mohammed (Abul) Abbas from the 15-member PLO Executive Committee.

Arafat resorted to the technicality that Abbas, notorious for masterminding the Achille Lauro hijack five years ago, was "democratically" elected to the PLO's executive body by the 400-member Palestine National Council and could only be removed by the so-called parliament in exile.

That response left the United States with little room to maneuver.

U.S. Says It's Not Satisfied

In Washington, U.S. Secretary of State James Baker said at a news briefing last Friday night that he was not satisfied by PLO explanations of the attack.

"We are not going to be satisfied until we know everything that we need to know," Baker said without elaborating.

The first fallout from the beach attack was the U.S. veto on May 31 of a U.N. Security Council resolution to send a fact-finding delegation to the West Bank and Gaza Strip.

Analysts here and in Washington predicted the United States would go further. But the U.S. State Department's position at the moment is that it is still investigating the circumstances of the terrorist attack.

Israel has opposed the U.S.-PLO dialogue from its inception and claims Arafat's renunciation of terrorism was a fraud. The government here continues to urge the United States to end the PLO dialogue, and the clamor has been taken up by virtually every American Jewish leader and organization.

Particularly significant were comments made by Menachem Rosensaft, president of the Labor Zionist Alliance, one of five American Jews who met Arafat in Stockholm in December 1988 to help draft his statement renouncing terrorism.

Rosensaft said last week that the PLO chief had broken his pledge.

"As one who had a small part in starting this dialogue, I see this as violating his statement that the PLO has renounced terrorism, and I believe the United States should reassess its dialogue with the PLO," he was quoted as saying.

On the PLO side, Arafat's deputy, Salah Khalaf, also known as Abu Iyyad, declared over the weekend that the PLO would shed no tears if the United States did break off the dialogue.

Arafat reacted to the American veto of the Security Council resolution by warning that violence in the region would only increase.

Both Sides Seeking Way Out?

In Jerusalem, Palestinian leaders reacted to the veto by ending a nearly two-week hunger strike and deciding to boycott the American diplomatic representatives.

But despite the angry sparring, both sides may be seeking a way out of a dilemma.

From the American viewpoint, a chief benefit of the PLO dialogue was the knowledge that terrorist activities would be suspended as a condition for continuing the talks. Indeed, terrorist activities have diminished considerably in the past two years.

For the PLO, the effect of the dialogue was to endow it with the international legitimacy it needed. Indeed, the dialogue led the United States to try to persuade Israel to conduct its own preliminary dialogue with the Palestinians in Cairo.

Although both parties would have liked to continue the talks, they now find themselves clinging to positions that could lead to their suspension.

The United States insists that it cannot continue the dialogue if the Palestinians resume military operations against Israel.

The PLO leadership, on the other hand, is not strong enough politically or in practical terms to enforce a cease-fire on its most militant elements and their leaders.

Arafat seems unable or unwilling to accept the American demand to oust Abul Abbas. But by rejecting it, he risks much.

Suspension of the dialogue with the United States would mean a political victory for the more radical groups under the PLO umbrella, weakening the Arafat camp and his relatively moderate supporters.

Little Gain From Baghdad Summit

Arafat, in fact, has little reason to be satisfied with recent political developments. The peace process is stalemated. His main political achievement, a working relationship with the United States, is coming apart, and even the intifada seems to be leading nowhere.

Moreover, in the eyes of the Palestinians, the continued flow of Jewish immigrants to Israel seems to upset whatever gains their uprising has achieved.

The threat posed by the recent upsurge of Jewish immigration was a chief item on the agenda of last week's Arab summit meeting in Baghdad, convened at Arafat's initiative.

The resolutions adopted at the summit played to Arafat's fear that Israel is planning to dispossess Palestinians in the territories by settling Soviet Jews there.

But as was the case in the past, the Baghdad summit was unable to translate its concerns into action. Arafat walked away with little more than yet another resolution pledging Arab support for the Palestinians.