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### **Jewish Lawyers who Immigrated from Germany and Austria to Israel**

The Holocaust, the greatest tragedy of the 20th Century, destroyed the outstanding cultural elite of Europe.

Looking at German and Austrian Jewry at the end of the 19th century and the beginning of the 20th century, with people like Martin Buber, Sigmund Freud, Kurt Eisner, Max Liebermann, Albert Einstein, Fritz Haber, Gustav Mahler, Stefan Zweig, Arnold Zweig, Franz Werfel, Edmund Huserl and Kurt Weill, we see that this group was the essence of ‘Modernism’ in all aspects of culture - science, law, engineering, banking, art, theatre, music and journalism.

If it had not come to an abrupt and such a horrific end, we would have remained the flag bearers of the Weimar culture until this very day.

In this presentation I shall describe the building of a Jewish society in Israel through the emigration of Jewish lawyers from Germany to Palestine.

The Zionist movement brought to Palestine scholars such as Arthur Rupin (1876-1943), who had studied law in Berlin and came to Palestine in 1907 and was the founder of the Jewish settlements in Palestine, or Menachem Dunkelblum (1890-1950), who came to Palestine in 1911, was a prominent attorney and on the establishment of the State in 1948 was appointed one of the first five justices of the Supreme Court of Israel. Moshe Smoira (1888-1955) and Felix Rosenblueth (1887-1978) were also among the founders of the Israeli legal system.

However, most of those who established the rule of law in Israel were quite assimilated and enjoyed the Weimar Republic era. Their religion was worshipping 'Bildung' (High Culture). Less than 2,000 Jews had immigrated to Palestine by 1933. Then came the Holocaust and Germany became the dark place, the world that had fallen to stones. Those who fled to Palestine were 50,000 Jews in 1933, 30,000 in 1934 and 20,000 in 1935. When the State of Israel was established it had 120,000 "yokes" (as the immigrants from Austria and Germany were called).

The magnificent cultural elite arrived in Palestine dedicated to building a democracy in which the essence would be the everlasting improving civilization that derived from the ideas of Lessing, Kant and Hegel.

Let me start by telling the story of Felix Rosenblueth.

He was born in Messingwerk, a small town which had a copper mine and was ruled by Gustav Hirsch, a prominent leader of the Halberstadt Jewish community.

Felix was born to a religious family, yet his father made it a point to open all the doors of a broad education to his children. They celebrated Kaiser Wilhelm's birthday on the 27th of January in a very festive religious service and a ball in the synagogue.

The family library contained all the German classics, such as Lessing, Goethe, Schiller, Kleist and even Heine, who was both a convert to Christianity and a rebel against the Reich.

Felix studied law in Freiburg from 1905 onwards, together with Hans Cohn, Julius Cohn, Martin Goldschmitt, Harry Dresdner, Richard Lichtheim, Hermann Graetz and Kurt Blumenfeld.

They all joined the “Bund Juedischer Korporationen” and participated in the Zionist Congress in Basel on that year.

In 1914 Kurt Blumenfeld and Felix established the KJV (“Kartell Juedischer Verbindungen”, an amalgamation of the two Jewish student’s organizations in Germany. As leaders of a Zionist Organization they, together with the leaders of the World Zionist Organization, enhanced the program for Palestine to become the land for the future Homeland (Heimat).

On the 2nd of August 1914 Felix joined the army and served as an officer in World War I. He was wounded and honourably discharged at the end of the war.

After the assassination of Walter Rathenau in June 1922, Felix came to Palestine, studied Hebrew as well as the English legal system in order to obtain a lawyer’s license in Jerusalem.

He passed the Law Council’s “foreign lawyers” examinations in February 1932. He then joined the office of Moshe Smoira who had already established himself as a lawyer in Jerusalem.

In Palestine Felix became a leader of a political party, "Aliyah Chadasha"(New Immigration) and was soon very active in politics. He moved to Tel Aviv to head the office of Smoira, Krohngold & Co.

On the 12th of June 1947 Felix approached Ben Gurion and encouraged him to declare independence as soon as possible.

As soon as the United Nations General Assembly decided on 29th November 1947 that the Jewish people had the right to establish their own state, he urged that a state should be declared. On May 15th 1948 he was among those who signed the Declaration of Independence. He became Minister of Justice.

A year later he Hebraized his name to Pinchas Rosen.

At that time, he already was surrounded by advisors all of whom came from Germany or Austria. The most prominent were Herman Chaim Cohn from Luebeck, Rudolf Hinzheimer (Uri Yadin) from Karlsruhe, Jitzchak Silbiger from Vienna and Siegfried Moses from Lautenburg.

His close friend, Moshe Smoira, was appointed President of the Supreme Court.

From this collaboration many material laws as well as rules of procedure and evidence were steered in the direction of BGB principles

Thus, the principles of "Rechtswissenschaft" (legal science), "Rechtsstaat" (rule of law) and human rights were imported from the Weimar system to Israel.

It should be noted, that the Israeli legal system comprises some elements of Ottoman law, many of the laws that were adopted by the British High

Commissioner, and the remainder is Knesset (Parliament) legislation that has been enacted for the last 56 years.

Felix remained Minister of Justice until 1961 and retired from the Knesset in 1968.

Moritz (Moshe) Smoira (1888-1955), the first President of the Israel Supreme Court, was born in Koenigsberg, studied law in Berlin and was active in promoting Zionist ideas. During his studies he taught Hebrew. When he married in 1914, his wife, Esther Horowitz, convinced him that they should live in Palestine. However he had to postpone this as he was drafted into the army and then he completed his doctorate. In 1921 he packed the 134 volumes of the Weimar Goethe edition and became the legal advisor to the workers union in Palestine. He did not like litigation very much and took Chaim Krongold as a partner. When the law classes started in 1926 he lectured on company law. When Felix Rosenblueth arrived, he took him on for the firm's Tel Aviv Branch.

In all these years he refused to become a judge, because he felt antagonistic to the British rule in Palestine.

As President of the Supreme Court from 1948 until 1955, he was able to glorify the Weimar Regime ("one of the most democratic constitutions"). Together with the other justices of the Supreme Court, most of them immigrants from Germany and Austria, he was able to control the newly established administration to conduct itself in accordance with democratic rules.

On vacations he would take two friends with him and while walking, each of them read aloud roles from Goethe's Faust.

The most impressive pillar among the jurists who came from Germany was Chaim Herman Cohn (1911-2003). The head of the maternal side of the family was Shlomo Karlebach, the Chief Rabbi of Luebeck as well as member of the local council in that city. The grandfather on the paternal side was Rabbi Joseph Cohn from Breslau who, in spite of being very orthodox, joined the Zionist Society. Herman spent most of his childhood and adolescence in Hamburg where he studied at the Realschule Talmud Torah. There he absorbed German culture not less than Judaism. His parents even allowed him to read Heine. At the age of 18, Herman fell in love and believed that that on marrying he will fulfil the religious commandment that prescribes “eighteen for marriage”.

His parents, who almost fainted, demanded that he should first study at a yeshiva (talmudic college) and proposed Jerusalem. He liked the idea and was determined to become a rabbi in Germany as soon as he completed his studies. Two years later he went to Frankfurt and studied law. Prof. Arthur Baumgarten was his tutor there for his doctorate dissertation on the methodology of the Talmudic Law. However, before the oral examination, immediately after 30th January 1933, both the Catholic Professor and the Jewish student left Germany. The teacher went to Basel and his pupil immigrated to Jerusalem. Herman Cohn never returned to Germany thereafter.

In 1933, after passing the examinations, he embarked on a career as a lawyer in Jerusalem.

In one case he appeared against Felix Rosenblueth in Tel Aviv in a trial that concerned a person who had deposited money in Germany with the Haavara organization and did not come to Palestine in spite of the clear wording of its articles of association. The District Court in Tel Aviv ruled in favour of that person (represented by Chaim Cohn). Felix was so impressed by his adversary, who argued for the freedom of the individual,

that already at that time (1936) he asked him to join a committee at the Jewish Agency, with Uri Yadin and others, to prepare a constitution and transitional laws for the day that the British would leave and the State of Israel's independence would be declared.

As soon as Felix became Minister of Justice, he asked Cohn to be Director of Legislation. A month later he was already State Attorney and Director General of the Ministry of Justice. In 1950 he was appointed Attorney General. In that position he was dominant in establishing equality before the law.

When a Knesset member committed a foreign currency misdemeanour, Cohn insisted on bringing him to trial even after a decision of the government headed by Ben Gurion that immunity prevented indicting such a person. The government had the authority to dismiss him, but the motion was rejected with an overwhelming majority of the ministers. Even Moshe Dayan was put to trial by Chaim Cohn while a minister for stealing antiquities.

In 1960 he was appointed to the Supreme Court. His twenty years in court yielded impressive opinions in judgments (mainly when they were dissenting ones).

The 'Human Rights Charter', which is the product of many judgments in those years, is the outcome of Cohn's work.

In the years from 1980, when he retired from the bench, until his last day, Chaim Cohn spoke out as the conscience of the Israeli people.

Alongside these personalities we had 'yokes' in the Supreme Court such as Menachem Elon, Gabriel Bach, Alfred Witkon, Moshe Landau and Meir

Shamgar. In the government we had Georg Josephtal and Fritz Naftali. In the Knesset we had Yeshayahu Foerder and Moshe Una. The first State Comptroller was Siegfried Moses and the first Civil Service Commissioner was Dagobert Arian.

As a child, I personally was able to find the eloquent lawyers from Germany as farmers in the village where I was born, at the gas station, at the shoe factory, and all of them impressed me with their descriptions of how one can improve civilisation in Israel.

I am so glad that the “Anwalt ohne Recht” exhibition has given me the opportunity to pay tribute to this wonderful generation.