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# Israel's Highest Law Is Still National Security

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**O**N the surface, there seems to be little similarity between the two notorious affairs involving the Israeli security-intelligence establishment — the Shin Beth case here and the Pollard case in Washington. But in fact both affairs reflect some very basic Israeli attitudes toward decision-making, the conflict between maintaining security and the law and how the establishment takes care of its own.

Both affairs began when Yitzhak Shamir was Prime Minister. In the case of Israel's domestic security service, the Shin Beth, its chief, Avraham Shalom, has stated that all his actions — he has been accused of ordering the murder of two captured Palestinian bus hijackers in April 1984 and a subsequent cover-up — were taken with the approval of the political leadership at the time. Specifically, Mr. Shalom has been quoted as saying the authorization came from Mr. Shamir.

Mr. Shamir, who is now Foreign Minister,

denies this. The Israeli espionage ring in Washington was conducted with the help of Navy analyst Jonathan Jay Pollard, but Mr. Shamir says he had no knowledge of the spy operation. This appeared to raise serious questions about his Government's control over its defense establishment.

While both cases began on Mr. Shamir's watch, they were exposed later — after Shimon Peres became Prime Minister. Critics charge that Mr. Peres did not deal decisively with either affair when it first arose, and as a result they festered and became more complicated. When Mr. Shalom's top deputy, Reuven Hazak, went to Mr. Peres in October and told him that the head of the Shin Beth had engaged in serious misdeeds, Mr. Peres decided that Mr. Shalom was innocent and chose not to dismiss him or his aides. Instead, Mr. Peres allowed Mr. Shalom to fire his accuser, Mr. Hazak. Nor did the Prime Minister ever inform the attorney general that some very serious crimes may have been committed by Mr. Shalom and some of his aides. The attorney general found out three months later on his own and set in motion a legal process that was could only be stopped by the President, Chaim Herzog, who did stop it by granting what some Israeli lawyers believe to be a highly questionable pardon to Mr. Shalom. Last week, Israel's Supreme Court ordered the Government to explain why the Shin Beth should not be investigated.

When the Pollard affair was exposed in November, Mr. Peres and his colleagues said they investigated what happened and informed the Americans that it was a "rogue" operation. However, according to government sources, it appears that the Israeli leaders did not investigate the affair fully and were themselves surprised to find that the head of the allegedly rogue operation, Rafael Eitan, had not told them of several key details, particularly the extent of involvement of an air force officer, Col. Aviem Sella. The Justice Department said in Washington last week that it might indict him. By not getting to the bottom of the affair from the start, Israel seems to have embarrassed itself with Washington and left some doubts about its original explanations.

Another similarity between the two scandals is how the men responsible were punished for their misdeeds: Mr. Eitan by being made chairman of one of Israel's largest state-owned concerns, Israel Chemicals, and Mr. Shalom by being given a presidential pardon. In both cases the political establishment justified the silky treatment by saying that the two men had served the state's security for so long that they could hardly be punished. Both Mr. Eitan and Mr. Shalom were part of the Israeli defense establishment, which has essentially been running the country for the last 30 years. Said one Israeli writer: "The elite tribes gathered together to protect its own. Personal accountability gave way to personal loyalties."

The manner in which the two men were treated also reflected the fact that Israel in many ways is still a very informal, young, frontier democracy where there is a tendency to cut corners in the rush to get things done. This can be a real asset in state-building. But the common Israeli expression, "al tidag, yehiyeh beseder" — don't worry, it will be okay — also has tended to become an all-purpose justification for bending all kinds of rules, and this, say officials, has encouraged sloppiness and occasional accumulations of power without checks and balances.

"Building institutions that operate by strict rules, like in America, takes time," said Israeli political theorist Shlomo Avineri. "Jews have not exercised power for 2,000 years. In fact, they survived for all that time by learning how to escape the effect of the power of others. Now they are beginning to set the rules of the game through a process of trial and error."

Finally, in both affairs, the apparent mistakes of decision-makers were justified on security grounds, as was their insistence in both cases that the public had no right to know all the facts. When law and security clash, argued Mr. Shamir, security must carry the day. Israeli civil liberties groups agree that Israel has very legitimate security problems. But, they add, if the leadership justifies every action on security grounds — even mistaken ones — it will undermine the values of the society it is trying to protect and invite future abuses of power.