The Israel Religious Action Center and the Development of Pluralism in Israel

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Contents

List of Tables

List of Figures

Abstract

This thesis discusses the promotion of pluralism by the Israel Religious Action Center (IRAC) as an alternative to the hegemony of the Orthodox establishment in Israel. The main argument is that IRAC has achieved modest success in separating the civil institutions of government from religious institutions. Alternative frameworks have been established for the recognition of non-Orthodox conversion in Israel and funding for non-Orthodox congregations for rabbinic salaries and other purposes. The success was facilitated by the development of networks with other organisations sharing similar goals based on liberal democratic values. A second factor facilitating the transition towards pluralism was changes in the social and political environment conducive to the advancement of policies pursued by IRAC. In establishing models for the delivery of religious services outside the institution of the Chief Rabbinate, IRAC has established systems which may be emulated by moderate and alternative streams of Judaism.

Declaration

This thesis contains no material which has been accepted for the award of any other degree or diploma at any university or equivalent institution and that, to the best of my knowledge and belief, this thesis contains no material previously published or written by another person, except where due reference is made in the text of this thesis.

Signature of candidate__

Acknowledgements

Section 1

Introduction and Literature Review

Chapter 1 - Introduction

A Jewish state is a homeland for the Jewish people. It's not a religious or halakhic state. A Jewish state is a sovereign state that can take the decisions about the future of Israel but takes into consideration the concerns of the world Jewry.[1]

The words above were spoken by Member of the Knesset Tzipi Livni in 2010 in her capacity as the leader of the then opposition party Kadima to the General Assembly of Jewish Federations of North America in New Orleans.[2] Although her comments were made in the context of a possible solution to the conflict with the Palestinians, she articulated the idea of Israel as a democratic state dominated by Jewish culture. Her declaration of Israel as 'a homeland for the Jewish people' implied a broad definition of the Jewish people inclusive of non-Orthodox streams and secular Jews. As a Jewish state, Israel was not governed by Orthodox religious law.

In marked contrast, Knesset member David Rotem, a representative of the right wing party Yisrael Beiteinu said; 'I am in favour of one Judaism. In my opinion, there's only one Judaism. There are no three Judaisms.'[3] He was speaking to a meeting of the Board of Governors of the Jewish Agency on Jerusalem in support of the proposed conversion bill which would grant sole authority for the conversion process to the Chief Rabbinate. His words expressed the idea of a Jewish state whose identity was determined by Jewish law, *halakhah*. The opposing statements are part of a long-standing debate over Israel as a Jewish and democratic state.

The question raised was whether Israel can be both Jewish and democratic. Central to the debate is how one defines Jewish.[4] The religious argument of some Orthodox which defines Jewish in terms of the rule of *halakhah* would say Israel can be Jewish but not democratic.

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[1] Natasha Mozgovaya, 'Livni: Two-state Solution Only Way to Keep Israel Jewish and Democratic', *Haaretz.com*, 9 November 2010, accessed 10 November 2010, http://www.haaretz.com/news/diplomacy-defense/livni-two-state-solution-only-way-to-keep-israel-jewish-and-democratic-1.323838.
[2] Knesset is the Hebrew name for the Israeli parliament.
[3] Raphael Ahren, 'Bill Granting Rabbinate Monopoly on Conversion Sparks Fiery Debate', *Haaretz.com*, 29 October 2010, accessed 11 November 2010, http://www.haaretz.com/print-edition/news/bill-granting-rabbinate-monopoly-on-conversions-sparks-fiery-debate-1.321700.
[4] Daniel J. Elazar, 'Jewish Values in the Jewish State' (Jerusalem: The Daniel Elazar On-Line Library, Jerusalem Center for Public Affairs, 1996), last accessed 10 August 2014, http://www.jcpa.org/dje/articles2/values.htm.

The other extreme argues Israel for the same reason Israel can be democratic but not Jewish.[5] Between the two ends of the argument much has been written with various ideas on whether Judaism and democracy can be reconciled and if so, how this may be done.

This investigation of the Israel Religious Action Center (IRAC), presents one aspect of this debate. Acting on behalf of the Reform Movement in Israel and on behalf of Reform Jews abroad, IRAC has endeavoured to introduce its own interpretation of Israel as a Jewish and democratic state. In this view 'Jewish' is understood in terms of religious pluralism, an acceptance of the different ways in which people identify with Judaism and associated religious beliefs. Religious pluralism is the means by which to realise the democratic values of equality and freedom.

When David Rotem stated 'there's only one Judaism', he was rejecting both Conservative Judaism and Reform Judaism. His statement not only disregarded the multi-faceted nature of Jewish identity with multiple facets of religious expression, but also Judaism as an ethnicity and nationality with implications for the Zionist objective of Israel as a homeland for the Jewish people. For IRAC, the pursuit of pluralism carried dual objectives. In the first place, it sought to gain recognition of the Reform Movement as legitimate members of the Jewish People in support of Israel, alongside other expressions of Judaism. Secondly, the mission of the organisation extended to a wider social agenda of extending equality and assistance to other sectors of the population experiencing difficulty or discrimination. In so doing it extended the support for democracy to a generalised cry for equality for all citizens. Responding to the question of Israel as a Jewish and democratic state, IRAC argued for values of tolerance, pluralism and equality; values shared by Judaism and democracy.[6]

IRAC was founded in 1987 as 'the public and legal advocacy arm of the Reform Movement in Israel'.[7] Its aim is to work towards a society in Israel that is pluralist, and to defend freedom of conscience and religion. To advance these objectives the Center uses legal action, lobbies government, drafts legislation and provides educational material and speakers on relevant issues. Social action programs to provide humanitarian assistance and social justice

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[5] Daniel J. Elazar, 'Judaism and Democracy: The Reality' (Jerusalem: The Daniel Elazar On-Line Library, Jerusalem Center for Public Affairs, 1986), last accessed 10 August 2014, http://www.jcpa.org/dje/articles2/jud-democ.htm.
[6] Interview number fourteen.
[7] Israel Religious Action Center, accessed 30 June 2010, www.irac.org.

supplement the lobbying activities. The organisation has a steering committee with representatives from institutions of the Reform Movement in Israel and the Diaspora; Israel Movement for Progressive Judaism (IMPJ), Union for Reform Judaism (URJ, North America), Association of Reform Zionists of America (ARZA), World Union for Progressive Judaism (WUPJ), Hebrew Union College (HUC), and ARZENU-the International Federation of Reform Zionists.[8]

The formation of IRAC was a response to the hostile environment in which the Reform Movement found itself when attempting to gain a foothold in country.[9] When Israel became independent in 1948, the only legally recognised form of Judaism was the Orthodox stream. Marriages by Reform and Conservative rabbis were not recognised in law, no provision was made for burial or recognition of conversion under the authority of Reform or Conservative rabbis, nor was government funding for buildings forthcoming as was the case with Orthodox synagogues and salaries for rabbis. As new congregations were founded from 1958 onwards, opponents within Orthodox circles attempted to prevent the spread of the Reform Movement.

Prior to the establishment of IRAC steps were taken by way of legal action in the High Court in an attempt to recognise life-cycle activities performed by Reform rabbis. In 1967 a petition to the High Court sought the recognition of the conversion of Helen Zeidman by Rabbi Moshe Zemer in Tel Aviv.[10] A petition in 1982 sought the authorisation of Rabbi Zemer and Rabbi Rotem of Haifa to register marriages at which they officiated.[11] IRAC presented an opportunity for a systematic and organised challenge to the Orthodox establishment.[12] Writing in 1998, sociologist Ephraim Tabory described the attack on the Orthodox political and religious leadership as unprecedented. The Orthodox monopoly was contested on

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[8] Ibid. Section titled 'The Hostile Environment' in Ephraim Tabory, *Reform Judaism in Israel: Progress and Prospects* (New York: Institute on American Jewish-Israeli Relations of the American Jewish Committee; Argov Center of Bar-Ilan University, 1998), accessed 2 October 2010, http://www.ajc.org/site/apps/nlnet/content3.aspx?c=ijITI2PHKoG&b=840313&ct=1051411. 'Reform Judaism' is the more commonly used term in Israel and the United States and therefore the term used more predominantly in this thesis. The terms 'Reform Judaism' and 'Progressive Judaism' are used interchangeably reflecting different usage in different time periods and contexts.

[9] Interview number three.

[10] S. Zalman Abramov, *Perpetual Dilemma: Jewish Religion in the Jewish State* (Rutherford, New Jersey: Fairleigh Dickinson University Press, 1976), 313-315. Moshe Zemer, *Evolving Halakhah: A Progressive Approach to Traditional Jewish Law* (Woodstock, Vermont: Jewish Lights Publishing, 1999), Ch. 8.

[11] ARZA - Association of Reform Zionists of America, 'Extending Beyond the Synagogue', in Growth and Development of Reform Judaism in Israel. Newsletter published in New York for High Holidays 1987. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.

[12] Section titled 'The Hostile Environment' in Tabory, *Reform Judaism in Israel*.

multiple fronts at the same time.[13] In the process of dismantling the Orthodox monopoly, IRAC continues to endeavour to replace it with religious pluralism.

From inception, IRAC couched religious pluralism in terms of religious freedom with the emphasis on achieving religious freedom rather than religious pluralism per se.[14] This view presented religious pluralism as a counter measure to the coercive Orthodox monopoly over the personal status of Jewish citizens. Religious pluralism was presented as a measure to correct both the religious extremism among Orthodox rabbis and religious indifference among secular Jews.[15] To enable religious pluralism to take hold meant changing the legal framework and political structures to reform the religion-state relations in place since the founding of the state. Religious pluralism may be viewed as having both descriptive and normative meanings.

> While the descriptive meaning has mainly to do with the existence of various religious groups and organisations, with different beliefs and behaviours, the normative meaning concerns encouragement and protection of religious diversity as a positive feature of a community.[16]

Fulfilment of the normative meaning of religious pluralism, to actively foster a society which encourages and protects religious diversity, requires engagement of all streams of religion in society and politics not just by one dominant group, in this case Orthodox Judaism. Religious pluralism entails the inclusion of the multiplicity of religious groups present in the society. It requires political pluralism, a legislative framework to enable equal participation of each sector in the political process and decision-making. The core message of IRAC is a demand for religious freedom. Lobbying tactics and petitions to the High Court were used, and continue to be used to change the political structures of religion-state relations to replace the Orthodox monopoly with religious pluralism.

The rights of the individual versus the rights of religious groups, in particular the ultra-Orthodox is a recurring theme of this study. The concept of the rights of the individual

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[13] Ibid.

[14] Steven Bayme and Charles Liebman, foreword to *Reform Judaism in Israel: Progress and Prospects* by Ephraim Tabory (New York: Institute on American Jewish-Israeli Relations of the American Jewish Committee; Argov Center of Bar-Ilan University, 1998), accessed 2 October 2010, http://www.ajc.org/site/apps/nlnet/content3.aspx?c=ijITI2PHKoG&b=840313&ct=1051411.

[15] Ibid.

[16] Liliana Mihut, 'Two Faces of American Pluralism: Political and Religious', *Journal for the Study of Religions and Ideologies* 11, no. 33 (2012): 47.

associated with liberal democracy was a constant principle occurring in the arguments presented by IRAC. The rights of women in particular became an issue, a constant theme in the case studies, and highlighted in relation to the religious practices of the ultra-Orthodox discussed in detail in chapter eight on gender segregation in public spaces. The concept of religious freedom as an individual right is one imported from the strength of the relationship with the Reform Movement in the United States.

The issues here are discussed in the context of debates about religious freedom in modern Western democracies in the United States, Europe, Australia and Israel, as opposed to infringements of religious freedom in countries where citizens live under oppressive regimes. In this context the definition of religious freedom used is the one specified in The United Nations Declaration of Human Rights. The definition refers to religious freedom in terms of the right of the individual to make choices about his or her engagement with religion. Article eighteen states,

> Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.[17]

Kenneth L. Marcus challenged the idea of religious freedom as pertaining to the individual as part of a conference titled Human Rights and Judaism conducted by The Israel Democracy Institute (IDI) in 2014.[18] He identified three concepts of religious freedom in an effort to demonstrate the rights of Jews as a people. A lawyer who adopted the struggle against anti-Semitism on university campuses in the United States, Marcus served as Assistant Secretary of Education for Civil Rights during the tenure of President George W. Bush.[19] In 2011 he founded the Louis D. Brandeis Center for Human Rights under Law.[20]

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[17] United Nations, 'The United Nations Declaration of Human Rights 1948', accessed 29 August 2014, http://www.un.org/en/documents/udhr/index.shtml#a1.

[18] Kenneth L. Marcus, 'Three Conceptions of Religious Freedom', ed. Hanoch Dagan, Shahar Lifshitz, and Yedidia Z. Stern, *Religion and Human Rights Discourse* (Jerusalem: The Israel Democracy Institute, 2014).

[19] Nathan Glazer, 'Speech Acts', *New Republic*, 20 December 2010, accessed 30 August 2014, http://www.newrepublic.com/book/review/speech-acts.

[20] The Louis D. Brandeis Center for Human Rights Under Law, accessed 30 August, 2014, http://brandeiscenter.com/index.php?/about/fullbio/kenneth_l_marcus.

Marcus suggested religious freedom possesses individual, institutional and peoplehood characteristics corresponding to Protestant, Catholic and Jewish religions respectively.[21] The Protestant concept understands religious freedom as an individual right and is deeply ingrained in the American approach to religious freedom. The problem, Marcus explained, is that it represents a sectarian interpretation of religion. The Catholic tradition represents the institutional interest in terms of the autonomy of the church in relation to the state. The institutional character merits protection because it intrinsically protects social relationships and individual flourishing. The peoplehood concept connects religion with ethnicity integrating all three qualities of individual, institutional and ethnic characteristics. Each distinct quality is interrelated; equality, individual rights anchored in group membership, and overlapping aspects of religion and race.[22]

Marcus concluded an equitable approach to religious freedom demands a 'pluralist religious freedom' equally responsive to individualist, institutional and peoplehood characteristics.[23] In theory, treating each form of religious freedom equally is an ideal. There are many examples where one conception of religious freedom conflicts with another. In reality and in law it is about balancing these rights and determining on a case by case basis which takes priority when the rights conflict. The case studies in this thesis delve further into the ambiguities of weighing up the different interests. In the arguments presented by IRAC the argument for the rights of the individual is prominent. At the same time the desire to be included into the Jewish religious and ethnic concept of peoplehood presents a challenge explored in the literature review in the next chapter, in chapter five devoted to pluralism and in particular in chapter nine in relation to conversion.

In earlier years, during the 1960s and into the 1970s it could be said the government failed to protect the non-Orthodox Movements, failing to act when Orthodox rabbis used threats to prevent the establishment of non-Orthodox congregations. However, as time has passed, and IRAC and the Reform Movement lobbied and campaigned for recognition of their rights, the situation changed. In some parts of the country, Reform congregations still have difficulty gaining a foothold. In other parts of the country, members of the Reform Movement can freely engage in religious life in a non-Orthodox congregation. The legal framework to

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[21] Marcus, 'Three Conceptions of Religious Freedom'.
[22] Ibid., 105.
[23] Ibid., 116.

provide recognition and equality, to facilitate choice in religious practice, is one which continues to develop. It is these efforts, recognition of non-Orthodox rabbis, life-cycle ceremonies and questions of personal status which are investigated in this thesis in the context of the overall objective of promoting a Jewish and democratic society based on religious pluralism.

The objective of this thesis is to examine the manner in which IRAC has attempted to change the political environment to foster religious pluralism in Israel. The organisation sought at times to amend the legislative framework to enable recognition of all streams of Judaism. At other times the pursuit of religious pluralism drew upon legislation already in place to facilitate pluralism. In these cases the issue was one of clarifying the manner in which the legislation was implemented. Religious pluralism is discussed as a feature of democracy where religious organisations are actively engaged in shaping the democracy. The approach adopted concentrates on the methods, structures and legislative framework required to enable power to be distributed among a number of religious organisations. The examination of IRAC and the campaigns on specific issues provides substantive material to investigate the proposed implementation of religious pluralism, obstacles and progress.

With religious pluralism as the central theme, the thesis questions seek to investigate the proposed implementation of this idea in Israel.

- What is the vision or plan of IRAC for Israel as a society embracing religious pluralism?
- How does the IRAC model fit with other recommendations to restructure religion-state relations?
- How does IRAC apply and advance religious pluralism in Israel?
- To what extent has IRAC been successful or otherwise in its objective?
- What explains the success or failure to implement the model?

Structure and Argument

The Reform Movement is not alone in lobbying for more liberal religion-state relations to better cater for diversity, particularly among the Jewish citizenry. On the basis of information and data gathered, this thesis argues the Reform Movement has shifted from marginalized outsiders to membership of a community of organisations and individuals seeking to strengthen liberal democracy to protect personal religious freedom. The conventional

paradigm of Israel as a religious versus secular society is no longer an accurate depiction of divisions related to Jewish identity. As some secular Israelis want to learn more about their Jewish heritage they are finding new ways of engaging with the religion to develop a pluralistic society with less clear boundaries between religious and not religious. Consequently, demands for more choice in religious expression have begun to come to the fore. For IRAC the changes present new opportunities to form alliances with other like-minded organisations with the support of Diaspora organisations.

As a religious based organisation IRAC was frequently a vehicle for the Reform Movement to enact the social justice principles of *tikkun olam* (literally meaning 'repair of the world' but generally understood as social justice) emphasised by the Movement. Relations with non-Jewish residents and citizens were usually dealt with by IRAC in social justice terms. The idea that 'there is more than one way to be Jewish' introduced in a campaign leading up to the High Holidays in 1999, argued Reform and Conservative Jews are Jews just as are the Orthodox and ultra-Orthodox.[24] The statement reflected the ambition to achieve equality for the non-Orthodox streams. The slogan became a rally cry to describe the meaning of religious pluralism. Various social justice programs were implemented at different times with varying success for various sectors of the population catering to the needs of non-Jewish citizens, young men who chose to leave the ultra-Orthodox community, and people in poverty for example.[25]

Since 2000, relations with the Arab population living inside the Green Line also focused on the sensitive issue of racism concentrating on racist comments and writings on the part of rabbis receiving a salary paid by the government. The conflict with the Palestinians was not directly included in the work of IRAC. The reason, the organisation argues, is that many other organisations work on issues related to Palestinians and the conflict.[26] Another reason given by Tabory was limited resources.[27] However a more sensitive reason was at play.

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[24] Ephraim Tabory, 'The Influence of Liberal Judaism on Israeli Religious Life', *Israel Studies* 5, no. 1 (2000): 200.
[25] 'Rebel with a Cause', *Reform Judaism Online*, Winter 2008, accessed 24 June 2010, http://reformjudaismmag.org/Articles/index.cfm?id=1414. Lecture by Anat Hoffman, Limmud Oz, Melbourne, 14 June 2010.
[26] Section titled 'The Hostile Environment' in Tabory, *Reform Judaism in Israel*.
[27] Ibid.

As will be discussed in chapter three, views within the Reform Movement both in Israel and the Diaspora fall across the political spectrum making the issue potentially divisive. Leaders of the Reform Movement both in the Diaspora and in Israel wished to avoid any lasting rift within the Movement, concentrating instead on matters which could unite people and increase the number of members for the Reform Movement. Relations between IRAC and Arab citizens were usually in the context of social justice. IRAC used its expertise in monitoring the allocation of government resources to assist Arab communities to receive their share of entitlements. The campaign against racism on the part of rabbis on a government salary, discussed in chapter ten, directly affected Arab citizens. Matters of religious freedom and equality for Muslims and Christians tended to be on the periphery of discussions about religious pluralism.

This study is divided into four sections. The first section contains the introduction and the literature review. The literature review in chapter two leads into the investigation by discussing studies to date on factors relevant to IRAC and the work it does beginning with the prevailing literature on the Reform Movement in Israel. The development of civil society, of which IRAC is a part, was a major feature of the decentralisation of Israeli society from the 1980s onwards providing a political and societal environment to effect change.[28] Similarly, the increased activism of the Supreme Court erring on the side of human rights favoured progress towards a more vibrant democracy. The alternative goals of pluralism and separation of religion and state build on the aforementioned changes. IRAC developed into the primary vehicle for the Reform Movement to advance its status and particular Zionist vision of Israel as a Jewish and democratic state in the context of these favourable trends.

Section two begins with discussion of the historical background and the place of IRAC and the Reform Movement in Israeli society and polity. This section continues by developing the context for pluralism as well as the evolving environment of religious-secular relations in Israel. The ultra-Orthodox sector became the target of campaigns for IRAC to advocate for reform in religion-state relations. As the ultra-Orthodox came to hold more positions of power and influence politically, the community came to be considered by secular Israelis as possessing an undue amount of influence over their personal lives while shirking their responsibilities to the nation. For IRAC the ultra-Orthodox sector replaced the Orthodox in

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[28] Nahshon Perez, 'The Privatization of Jewishness in Israel (or, on Economic Post-Zionism)', *Israel Affairs* 19, no. 2 (2013).

general as the main obstacle to equality for the Reform Movement. The increased demands presented opportunities for IRAC to ally itself with organisations similarly aggrieved in addition to the development of civil society and the liberalisation of the Supreme Court mentioned above.

The last chapter in section two begins with a discussion of the development of Israel as a pluralist society representing alternative expressions of Judaism. The second part of the chapter develops the model of religious pluralism proposed by IRAC and a comparative model by the religious Zionist organisation Ne'emanei Torah Va'Avodah. The model of pluralism provides the framework to examine the case studies in section three. The case studies detail the five issues identified by IRAC in the strategic plan approved in 2010; the rights of the Reform Movement, the introduction of civil marriage, gender segregation on public buses, conversion, and racism. The campaigns relate to each of the five issues to provide insight into the manner in which IRAC is attempting to transform religion-state relations to represent a pluralist society.

The studies elaborate on the successes and obstacles to progress. Successes related to achieving payment of government salaries to non-Orthodox rabbis, recognition of non-Orthodox conversion in civil law, and the successful campaign to prevent gender segregation in public spaces. The obstacles went beyond the ability of Orthodox leaders, particularly of the ultra-Orthodox to hinder changes to the existing arrangements. The reluctance of the judges of the High Court to become involved in matters of religion and state, and inaction by the government of the day on matters of religion and state, even favouring the ultra-Orthodox community, remain major impediments to movement towards religious pluralism. The reluctance of the judges and the lack of action by politicians also contributed to lengthy delays in cases where achievements were made.

Section four, the conclusion, refers back to the thesis questions to discuss the status of religious pluralism at the time of writing. The pursuit of pluralism, equal rights for the non-Orthodox Movements and minority groups, and the development of a Jewish state based on the values of liberal democracy are issues which are continually developing, changing and unfolding. It was necessary to determine a point in time to mark the period for which this thesis ends. The appropriate time decided on was the elections for the nineteenth Knesset in January 2013. The inclusion in the government of the newly formed centrist party Yesh Atid

with nineteen seats brought a sense of optimism for favourable government policies. This thesis provides a historical account and background to events leading to the sense of optimism.

Methodology

My interest in IRAC came from my membership of the Reform Movement in Melbourne. As a member of the Movement I was aware of the work of IRAC particularly on issues related to the advancement of the right of the Reform Movement in Israel. It was this aspect of their work which was most frequently featured in electronic newsletters and by guest speakers as of most interest to the Diaspora community. Focusing on issues to which Jews in the Diaspora could relate enabled IRAC to gain much needed financial support for their activities.

At the time I began work on my thesis I received an introduction to the Executive Director Anat Hoffman by then Senior Rabbi of Temple Beth Israel, Fred Morgan. Ms Hoffman visited Australia as a guest of Limmud Oz in June 2010. We were able to meet at that time so I could discuss my proposed thesis with her. As a result of this meeting she gave permission for me to undertake this study. In 2011, I made a field trip to IRAC in Jerusalem to conduct interviews and gather documents. A return visit was made in 2012 for one week to coincide with a conference in Israel at the time. The second visit provided an opportunity to find out about progress on campaigns for gender segregation and rabbinic salaries in particular.

A concern in engaging in the subject manner under discussion was the ability of myself as the researcher to maintain a critical distance in the course of the investigation and writing. Being a member of the Reform Movement carried the risk of bias in favour of the issues and activities at hand. However, the purpose of the thesis was not to examine the correctness or otherwise of the policies and campaigns conducted by IRAC. The objective was to describe the campaigns and activities in the light of the goals IRAC set for itself as an organisation. The investigation of the campaigns provides insight into how IRAC pursued its goals and the issues raised in the campaigns. The material was then used to analyse the proposals for decentralised forms of organising religion-state relations as an alternative to the hegemonic structures governing religious services. By taking an analytical approach, this thesis investigates questions of whether the monopoly of the Orthodox can be diminished or broken

down, what obstacles IRAC faces, and what an alternative form of decentralised religion-state relations based on religious pluralism may look like.

The primary source material used for this study includes information from interviews with people working with IRAC, documents collected from the archives of the organisation, and transcripts of decisions made by the Supreme Court on some of the critical issues presented by IRAC. Newspaper articles and survey information were also used to supplement the information and place the issues studied into the broader societal context. Information from two major surveys of Jewish religious observance was also used to provide a broader context in an effort to gain a more balanced picture of how the Reform Movement was viewed in Israeli society. The 2009 survey, *A Portrait of Israeli Jewry: Beliefs, Observances, and Values of Israeli Jews*, was the third in a series on the topic published IDI.[29] The earlier surveys were undertaken in 1991 and 1999. Permission was received to access the SPSS file for the 2009 IDI survey so data could be investigated for specific questions not addressed in the IDI report. The Central Bureau of Statistics (CBS) survey of 2009 on the theme of religiosity was part of a series of annual social surveys each year focusing on a different topic.

A total of seventeen people were interviewed during the field trip and subsequent follow up.[30] Of these, eleven interviewees were employees of IRAC, six of whom were conducted with lawyers engaged in legal aid, preparation of petitions and representation in the civil courts, preparation of policy documents, submissions to parliamentary committees and drafting of Bills for Members of the Knesset to present to the Knesset. Complementary IRAC staff interviewed were employed in organising campaign activities, for example, freedom rides on buses discussed in chapter eight, and campaigns for civil marriage discussed in chapter seven. Other activities of complementary staff interviewed were organising social welfare type activities and direct lobbying of Members of the Knesset.

Interviewees not directly employed by IRAC were leaders of the Movement, referred to during the course of this thesis, and two congregational rabbis. One of the rabbis was Rabbi Miri Gold, the subject of the petition for the payment of government salaries to non-Orthodox

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[29] Asher Arian and Ayala Keissar-Sugarmen, 'A Portrait of Israeli Jews: Beliefs, Observances, and Values of Israeli Jews, 2009' (Jerusalem: The Israel Democracy Institute, AVI CHAI-Israel Foundation, 2012).
[30] Approval for this study was received from Monash University Human Research Ethics Committee (MUHREC) on 19 July 2011, project number CF11/1091 – 2011000561.

rabbis. The other, Rabbi Galia Sadan, organised conversion classes in Tel Aviv referred to in chapter nine. Most of the interviewees were used to speaking in public on behalf of the Reform Movement and IRAC.

The topics discussed with each interviewee related to their area of expertise and experience. Questions were open-ended enabling interviewees to delve into detail on important topics. The main difficulty frequently encountered during interviews was a lack of critical commentary on the work of IRAC. As speakers accustomed to promoting IRAC and the Reform Movement in various forums, some interviewees tended to fall into discussing matters with a view to the promotion of IRAC. Information from sources outside of IRAC were therefore important to provide critical distance. Together with use of models of pluralism discussed above, documents including petitions to the High Court, newspaper articles, information from other organisations as appropriate and use of scholarly articles providing supplementary information facilitated the process of building a balanced picture of topics discussed.

Prior to embarking on the field trip, documents were collected from the IRAC website in English. These documents highlighted various cases and issues in which IRAC was active mostly providing information where successes were achieved in reaching their goals. At this point in time the Hebrew website was less developed, although one document in Hebrew relating to the campaign for government payment for rabbinic salaries was sourced from the website. Since the documents were collected priority was given in developing the Hebrew language website. Consequently material on the English language website has not been kept up to date and is no longer current. A second source of documents prior to the field trip was the email newsletter *The Pluralist*. The weekly newsletter consisted of an editorial focusing on a particular issue for the week with links to online media articles on a range of matters affecting IRAC and the Reform Movement.

The initial documents received from IRAC were donor reports submitted to the New Israel Fund (NIF) from 2003 to June 2011. The reports were submitted in English except for two half yearly reports in Hebrew for July to December 2008 and July to December 2010. For the most part the reports provided summaries of activities for the reporting period, in some cases following up on activities carried over from an earlier period of reporting. The reports

contained examples of many and varied activities carried out primarily by the legal department and Legal Aid Center, and the social welfare activities.

Examples of the work of the Legal Aid Center for Olim (LACO) demonstrated the myriad of difficulties faced by individuals in obtaining citizenship status due to complications arising from family circumstances. Reports of the work of the legal staff provided many examples where the lawyers intervened on behalf of non-Orthodox congregations and rabbis making representations on their behalf to local government and state government ministries as appropriate.[31] Other work by the legal department varied overtime as different issues arose intervening on behalf of disadvantaged groups in society often experiencing discrimination; Arabs, Bedouin, gays and lesbians, and women of all different backgrounds.

Two other major sources of documents were the computer data base in the office of IRAC and hardcopy documents housed in the S. Zalman and *Ayala* Abramov Library, Hebrew Union College - Jerusalem. Documents from the computer data base were recorded mainly in Hebrew with some in English. English documents collected were mainly reports for the IMPJ leadership and the IRAC steering committee. Documents were categorized according to subject matter and department. Included were petitions presented to the High Court, copies of decisions by the judges, accompanied sometimes by summaries of the petitions and judgements, and occasional scholarly or newspaper articles prepared for the website in Hebrew. I was required to submit a list of documents of interest to the Director of IRAC, Noa Sattath, for approval before obtaining copies. Documents considered too sensitive in nature were excluded. This occurred only in the case of one document.

Hardcopy documents from the Abramov library included annual reports in English for 1987, 1988, 1990, 1991, and 1998. There were also some copies of newsletters from constituent organisations of the Reform Movement; the WUPJ, ARZA, as well as some congregational newsletters and some newspaper articles in Hebrew and English. The material was supplemented by information form the website of Hiddush, an organisation established by the founding Executive Director of IRAC, Rabbi Uri Regev, in 2009 to promote religious freedom and equality. This information consisted of an annual report on religious freedom, newspaper articles and a submission to a government committee. The annual report was

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[31] *Olim* means new immigrants, *oleh* is the singular.

based on survey information on a smaller scale than the IDI or CBS surveys. A difficulty in gathering information from IRAC was the inconsistencies of figures in reports.

There appeared to be no systematic collection on the part of IRAC to ensure all relevant documents would be preserved either digitally or on paper. There was a tendency towards promotion of the organisation and successes achieved. Finding information on failed campaigns was difficult. For example, regular reports focused on achievements with little or no information on failures or problems faced. The material gathered emphasised the work and achievements of IRAC independent of any support or co-operation with other organisations. This view supports IRAC by facilitating much needed financial donations and non-financial support by members of Diaspora communities to pursue its campaigns.

It is the argument of this thesis that progress and achievements rested on a combination of determined high level campaigning and lobbying and the capacity of the organisation to form alliances with other organisations. As will be discussed, from around the late 1990s onwards IRAC joined networks of organisations on different issues taking active roles to different degrees. Also important was the ability of IRAC to garner support from the Jewish community in the United States, and within Israel to persuade politicians of wide-scale support among Jewry for the policy being pursued in each campaign.

Chapter 2 - Literature Review

The change in the image of the Reform Movement in Israel as a positive one may be traced to the appointment in January 2009 of Gilad Kariv, an Israeli born and trained Reform rabbi, as the Executive Director of the IMPJ.[1] His message to the biennial conference of the WUPJ in 2011 was 'American Reform Jews must stop viewing the Israeli movement as a victim'.[2] Reasons given were increasing numbers of congregations, modest as it was, increasing numbers of Israeli trained rabbis, attendance at summer camp and youth movement activities, demand for Reform weddings, and allocation of funds for land and educational activities. While the IMPJ concentrated on growing the Reform Movement in Israel, it is generally acknowledged IRAC played a central role in securing resources from state and local government.

Previously the scholarly literature focused on the failure of the Reform Movement to gain a foothold or make any impact on Israeli society. This study differs in as far as it concentrates on attempts by IRAC as the vehicle for affecting Israeli society and politics. Secondly, the study of pluralism so far has been in general terms with little attention to the specifics of how the pursuit of Jewish pluralism in particular may potentially shape Israel as a Jewish and democratic state. By examining the objective of introducing religious pluralism, this study differs from other investigations of the Reform Movement mapping out an alternative vision for the state based on liberal democratic values.

The most comprehensive study of the Reform Movement to date was undertaken by Professor Ephraim Tabory, a sociologist, teacher and researcher at Bar-Ilan University. His investigations were undertaken during the 1980s and 1990s. Since then several changes have occurred, beginning in the 1980s, but not sufficiently advanced during studies undertaken by Tabory for their impact to be fully understood. These changes which dramatically changed Israeli society in the last two decades of the twentieth century included;

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[1] Abraham Melamed, 'The Israel Movement for Progressive Judaism Welcomes its New Executive Director, Rabbi Gilad Kariv, Esq.', ProjeNews email distribution list, 18 January 2009.
[2] Sue Fishkoff, 'Reform Leaders Push New Image of Strong, Growing Israel Movement', *JTA*, 15 February 2011, last accessed 17 August 2014, http://www.jta.org/2011/02/15/life-religion/reform-leaders-push-new-image-of-strong-growing-israel-movement. 'Rabbi Optimistic About Reform Judaism's Future in Israel', *Canadian Jewish News*, 15 December 2011, accessed 17 August 2014, http://www.cjnews.com/news/israel/rabbi-optimistic-about-reform-judaisms-future-israel.

- the breakdown of the socialist communitarian ethos associated with the secular Zionism of the founding generation in favour of individualism,
- the collapse of the hegemony of the Labour Party in 1977 and consequent period of government instability,
- the immigration of approximately one million people from the former Soviet Union,
- the growth of civil society,
- and globalisation.

Against this backdrop the Israeli Supreme Court became more active in interpreting the law. From the 1990s onwards, differences between modern Orthodox and ultra-Orthodox became more pronounced; the former associated more closely with liberalism, the latter became more dogmatic in their religious beliefs and its manifestation in the public arena. In addition the image of secular Jews as non-religious and non-practising Jews dissipated, demonstrating instead a more complex connection to tradition and Judaism among the children and grandchildren of the founding generation.[3] The transformation of Israeli society provided new opportunities for IRAC to achieve its objectives contributing to the optimism expressed by leaders of the Reform Movement.

After a discussion of writings about the Reform Movement in Israel to date, the literature review in this chapter discusses the growth of civil society and the activism of the Supreme Court; the two most important changes to facilitate the work of IRAC. The rift between modern Orthodox and ultra-Orthodox led to calls for separation of state and religion in an effort to restore the status of Judaism as a religion and deliver religious freedom for all. The debate is influenced by scholarship and legal practice in the United States yet advocates for reform of religion-state relations discussed in this thesis proposed a mixed model closer to the practice in Germany.

Hand in hand with the demand for separation of religion and state came references to pluralism. References to pluralism in the debate among activists and scholars are undefined, used frequently as a descriptive term to indicate pluralism as a feature of liberal democracy with separation of religion and state. In the Israeli context the term pluralism is often applied to multiple belief systems or streams of Judaism existing side by side. Little attention is paid

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[3] Guy Ben-Porat, *Between State and Synagogue: The Secularization of Contemporary Israel* (Cambridge; New York: Cambridge University Press, 2013).

to pluralism as a complex set of relationships among groups and interactions recognising and tolerating difference.

The promotion of pluralism has been a key objective of IRAC since its inception, with inclusion of the term in the Hebrew title, The Center for Jewish Pluralism. Initially pluralism meant equality for Reform and Conservative streams of Judaism.[4] As institutions for the study of religious texts from a secular perspective and houses of prayer catering to secular needs flourished, pluralism came to be discussed in terms of a renewed dialogue between the Orthodox and the secular communities. Naamah Kelman, Dean of HUC in Jerusalem, declared the meaning of pluralism has evolved to the idea of an 'open tent' enabling a seat around the table for everyone in a non-judgemental atmosphere.[5] In reality the debate about pluralism is about Jewish pluralism with little reference to the non-Jewish residents and citizens. The mixed model of religion-state relations discussed in chapter five reveals a defined place for religion in the public in civil society active in the social and political life of the country. Pluralism therefore is anticipated as going beyond simply the recognition of different streams of Jewish identity in order to restructure the relationships between religion and state.

The Reform Movement in Israel

Early works from the 1970s provided background which assists in explaining the minority status of the Reform Movement in Israel. Norman Zucker and S. Zalman Abramov were concerned with the institutional and social structures of religion-state relationships in Israel. Norman Zucker, a professor of politics in North America since 1960, detailed the establishment of the Orthodox monopoly. In his book published in 1973, *The Coming Crisis in Israel*, he described the legislative measures in the early years of the State arguing these measures supported the religious coercion experienced by the Reform Movement.[6] Once the State of Israel was established the Orthodox were awarded authority over life-cycle events,

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[4] Naamah Kelman, 'The Pluralism of Pluralism in Israel: A Brief History', in *Peoplehood in the Age of Pluralism* (Jerusalem: The Center for Jewish Peoplehood Education, 2013), accessed 30 May 2013, http://jpeoplehood.org/.
[5] Ibid.
[6] Norman L. Zucker, *The Coming Crisis in Israel: Private Faith and Public Policy* (Cambridge, Massachusetts; London: The Massachusetts Institute of Technology, 1973).

that is, marriage, divorce and burial in what came to be known as the *status quo* agreement.[7] The authority of the Orthodox also extended to the banning of commercial activity on Shabbat, a ban on the sale of pork, and supervision of *kashrut*, the kosher food laws.

Abramov was a former member of the Knesset and the Law and Constitution Committee of the Knesset. His book, *Perpetual Dilemma* published in 1976, drew on the archives of the Knesset and the Zionist Archives in Jerusalem, as well as sources from the American Jewish Committee and the Union of American Hebrew Congregations in the United States.[8] He provided a detailed study of the historical development of the Orthodox participation in the settlement period during the nineteenth century and the early part of the twentieth century resulting in its monopoly of the religious life of Jewish citizens and residents. A constant feature of this history was the difficulties in balancing the religious demands of the Orthodox and the wishes of the secularists.

The latter part of Abramov's book provided much detail on the religious coercion experienced by the Reform Movement in Israel during the 1960s and early 1970s. For example, the Orthodox rabbinate in some cases, threatened to withhold *kashrut* certificates if a hall was hired out for Reform services. Abramov concluded that the conflicting views of the various streams of Judaism necessitated compromise or risked alienating large numbers of Jewish people.

Much was written about the Orthodox, in particular the ultra-Orthodox, in Israel but very little in relation to the Reform and the Conservative Movements. The most likely reason for the limited scholarship is the small numbers of people affiliated with the non-Orthodox Movements led to the general conclusion that their influence on society and politics was marginal. Nevertheless, Ephraim Tabory noted in his 1998 publication *Reform Judaism in Israel: Progress and Prospects*, that as an organised movement, the ideology of the Reform posed a major challenge to the authenticity of the Orthodox. Non-observance of religious practice could be explained away as misguided people caught up in modernity, whereas

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[7] For further information see Menachem Friedman, 'The Structural Foundation for Religio-Political Accomodation in Israel: Fallacy and Reality', in *Israel: The First Decade of Independence*, ed. S. Ilan Troen and Noah Lucas, *Suny Series in Israeli Studies* (Albany: State University of New York Press, 1995). Gidon Sapir, 'Religion and State in Israel: The Case for Reevaluation and Constitutional Entrenchment', *Hastings International and Comparative Law Review* 22, no. 4 (1999).
[8] Abramov, *Perpetual Dilemma*.

acceptance of the Reform threatened the power and legitimacy of the Orthodox.[9] Conversely, acceptance in Israel was important to the Reform Movement in the United States to validate their legitimacy as 'real' Jews.

The late adoption of support for Zionism placed a further hurdle for the Reform Movement to overcome in its endeavour to be accepted by Israeli Jews in general. Noted Jewish historian Michael A. Meyer documented in great detail how the Reform Movement in the early part of the twentieth century held steadfast to its belief in Judaism as a religion and not a nationality. It was not until after the Holocaust that The Reform Movement began to fully support Zionism as providing a safe haven for those who were persecuted.[10] Meyer taught for more than forty years at the Hebrew Union College in the United States, the institute for the training of Reform rabbis. A committed member of the Reform Movement, Meyer believed Zionism and Reform Judaism complemented one another.[11]

James Glazier contended that the lack of financial support before statehood was a serious barrier to the Reform Movement gaining a foothold in Palestine in the early years.[12] This was the theme of Glazier's thesis submitted in 1979 as part of the requirements for rabbinic ordination at HUC. Glazier explained the lack of financial support by the WUPJ contributed to the financial weakness of the three congregations formed during the 1930s by German immigrants. Other reasons proposed for the failure of the Reform Movement to thrive before the establishment of the state were the antipathy towards German language and culture in the wake of the Holocaust, and the numerically small number of Reform Jews in an environment dominated by Orthodox Judaism.[13]

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[9] The Significance of the Reform in Israel in Tabory, *Reform Judaism in Israel*.

[10] Michael A. Meyer, *Response to Modernity: A History of the Reform Movement in Judaism*, Studies in Jewish History (New York: Oxford University Press, 1988).

[11] David Ellenson, 'Michael A. Myer and His Vision of Reform Judaism and the Reform Rabbinate: A Lifetime of Devotion and Concern', in *Mediating Modernity: Challenges and Trends in the Jewish Encounter with the Modern World: Essays in Honor of Michael A. Meyer*, ed. Lauren B. Strauss and Michael Brenner (Detroit: Wayne State University Press, 2008).

[12] James Scott Glazier, 'The World Union for Progressive Judaism's Participation in the Development of Liberal Judaism in Palestine; 1926-1948' (Rabbinic thesis, Hebrew Union College - Jewish Insitiute of Religion, 1979).

[13] Neima Barzel, 'The Attitude of Jews of German Origin in Israel to Germany and Germans after the Holocaust, 1945–1952', *The Leo Baeck Institute Yearbook* 39, no. 1 (1994): 271-274. The Establishment of Reform Judaism in Israel in Tabory, *Reform Judaism in Israel*.

Tabory's study of the Reform Movement in Israel began with a historical overview of the development of the Movement.[14] Noteworthy was the emergence of Israeli born rabbis more willing than immigrant Reform rabbis to take an active militant path to achieving recognition; a tactic seen as consistent with how politics was practised in Israel.[15] Important to the success of the Reform Movement in Israel post statehood was the support it received from American Jewry where the majority of Jews belonged to either the Reform or the Conservative Movements.

Discrimination against the Reform Movement in Israel placed the Israeli government in the position of risking the loss of financial and lobby support on its behalf by American Jewry. At the same time the Israeli government was under pressure within from the demands of the Orthodox establishment not to take any action which may result in recognition of the non-Orthodox Movements. The conversion issue was frequently raised in the context of relations between American and Israeli Jewry as the possibility of restrictions on the immigration of converts from the non-Orthodox movements became a concern.

The only scholarly work written about IRAC was by Ephraim Tabory.[16] He wrote about the organisation as part of an overall study of the Reform Movement in Israel. He used extensive interviews with rabbis and leaders of the IMPJ and the archives available from IRAC for his 1998 study. Tabory argued that under the leadership of its founding Executive Director, Rabbi Uri Regev, the organisation focused on promoting religious pluralism. The founding of IRAC in 1987 sought to take action to assert the rights of the Reform Movement in a systematic and organised manner. The systematic and organised use of legal avenues was unprecedented in the challenge it posed for the Orthodox.[17]

Tabory noted that the organisation's lack of involvement in broader issues of human rights stemmed from a lack of resources and also the presence of other organisations dealing with these issues, for example, in the area of Palestinian rights and gay rights. The early success of

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[14] Tabory, *Reform Judaism in Israel*.
[15] Tabory discussed the hostility in detail in 'The Identity Dilemma of Non-Orthodox Religious Movements: Reform and Conservative Judaism in Israel', in *Tradition, Innovation, Conflict: Jewishness and Judaism in Contemporary Israel*, ed. Benjamin Beit-Hallahmi and Zvi Sobel, *Suny Series in Israel Studies* (Albany: State University of New York Press, 1991).
[16] Section titled 'The Hostile Environment' in Tabory, *Reform Judaism in Israel*. Tabory, 'The Influence of Liberal Judaism on Israeli Religious Life', 195.
[17] Tabory, *Reform Judaism in Israel*.

IRAC in uncovering improper allocation of government funds to Orthodox institutions made IRAC an important institution for the Reform Movement in Israel.[18] Financial support for IRAC was received in large part from foreign sources; ARZA, NIF, and donations from foundations and private individuals.

Ephraim Tabory, Asher Cohen and Bernard Susser were concerned with why the Reform Movement was not widely accepted.[19] In other words, why has the market for liberal Judaism not expanded to any significant degree among Israelis? The number of people affiliated with Reform congregations remained small. Tabory observed Israelis do not need to affiliate with a synagogue to live a Jewish life in Israel.[20] Furthermore, when Israelis married or celebrated a bar mitzvah they had no qualms in doing so according to the Orthodox rites.[21] In an article published in 2010, Cohen and Susser extended the theme arguing Israelis did not view the Reform Movement as a viable alternative to Orthodoxy.[22]

Asher Cohen and Bernard Susser, researchers and lecturers in the Department of Politics at Bar-Ilan University in Israel, concluded that Israelis saw Orthodoxy as the legitimate path to religious participation. Even when Israelis sought to be innovative in connecting to religion using practices that outwardly mimicked the Reform, they did so with an affirmation of their Orthodox affiliation.[23] Cohen and Susser conducted their research by speaking to people who had chosen alternative forms of observance but within an Orthodox framework. The authors noted 'a large number of people were interviewed' for the article but did not indicate a figure of how many.[24] This lack of information makes it difficult to extrapolate how wide-spread were the negative attitudes towards the Reform Movement. Cohen and Susser explained a common view among Israelis was the perception of the Reform as an American phenomenon, a foreign import. A different picture may emerge if participants in the Reform Movement in Israel were asked why they chose to join and how they had learned about the Movement.

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[18] Tabory, *Reform Judaism in Israel*.
[19] Asher Cohen and Bernard Susser, 'Reform Judaism in Israel: The Anatomy of Weakness', *Modern Judaism* 30, no. 1 (2010). Tabory, 'The Influence of Liberal Judaism on Israeli Religious Life'.
[20] The Significance of Reform Judaism in Israel in Tabory, *Reform Judaism in Israel*.
[21] Tabory, 'The Influence of Liberal Judaism on Israeli Religious Life', 185-186.
[22] Cohen and Susser, 'Reform Judaism in Israel'.
[23] Ibid.
[24] Ibid., 41.

Several scholars referred to the Reform Movement as being part of the secular-religious divide in Israel. Conflict between religious, in particular ultra-Orthodox groups, and secular and traditional Israelis occupied the concerns of scholars, journalists and commentators for some time. The challenge of the Reform Movement was regarded as a minor theme in the broader internal cultural conflict. These articles emerged around the year 2000, or soon after, illustrating the ramifications of non-Orthodox activism on the conversion issue in the late 1990s. The Reform Movement, along with the Conservative Movement, vehemently opposed the 1997 Conversion Bill which would have handed total control over conversions to the Orthodox rabbinate.

In 2004 Asher Cohen wrote that changes which were occurring in Israeli society in the later part of the twentieth century would in the short term lead to greater conflict between the secular and religious groups.[25] He cited the lack of success in reaching a compromise between all the streams of Judaism by the Ne'eman Committee, established in 1997 to find a solution to the conversion issue, as one sign of the impending crisis. Other trends noted by Cohen included the increased representation in the Knesset of the ultra-Orthodox parties at the expense of the more moderate National Religious Party since the 1980s, the large number of immigrants from the former Soviet Union during the 1990s, the failure to reach agreement on the observance of Shabbat in public places and the replacement of the politics of accommodation by the politics of crises.

Cohen discussed these other trends as separate from the Reform Movements activism. However what Cohen failed to appreciate was that the various interconnections between the trends. The increasing representation of the ultra-Orthodox in the Knesset delivered to them political power beyond their numbers in the population, heightening the tensions between the secular and the religious. A survey published by IDI in 2010 found 53 percent of the Jewish population agreed providing equal funding to all streams of Judaism was important.[26] While many citizens would like to see a more equal relationship between the Orthodox and the non-Orthodox, the ultra-Orthodox participation in government prevented a resolution to these tensions.

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[25] Asher Cohen, 'Changes in the Orthodox Camp and Their Influence on the Deepening Religious-Secular Schism at the Outset of the Twenty-First Century', in *Critical Issues in Israeli Society*, ed. Alan Dowty, *Praeger Series on Jewish and Israeli Studies* (Westport, Connecticut: Praeger, 2004).

[26] Asher Arian et al., *Auditing Israeli Democracy: Democratic Values in Practice*, trqans. aren Gold, The Israeli Democracy Index (Jerusalem: The Israel Democracy Institute, The Guttman Center, 2010), 157.

On the other hand Aviezer Ravitzky wrote in 2000 that the rift in society and divisive confrontation need not come to fruition if agreement could be made on rules of dialogue and decision-making while recognising differences in belief and culture.[27] Ravitzky, a Professor of Jewish Thought at the Hebrew University and at universities in the United States, was a Senior Fellow at IDI and awarded the Israel prize in 2001.[28] He discussed the Reform as one end of the extreme of the Zionist mission and the ultra-Orthodox at the other extreme.

While both groups initially rejected Zionism, both were now incorporated into the fold reflecting the multi-faceted society representing the complexities of Jewish existence in Israel. The tensions between the Reform and the ultra-Orthodox were but one minor facet of the diversification which took place as Jews from differing backgrounds immigrated to Israel during the twentieth century. Ravitzky also used the conversion controversy to illustrate his point. In his book published in 2000, Ira Sharkansky, Professor of Political Science at Hebrew University, reflected also on the conflict between the Orthodox and the non-Orthodox as part of a long history of conflict between the different branches of Judaism.[29]

In the same year, Martin Edelman, professor of political science at the University of Alabama, explained how the Reform and Conservative Movements and secular Israelis benefited from an increasingly activist Supreme Court during the 1990s. The Court came to represent the liberal-individualist precedents in American case law in its deliberations to become an advocate of individualism and pluralism.[30] The activism and role of the Supreme Court was a much debated development during the 1990s and early 2000s. Its leaning towards support for values of liberalism and pluralism as features of a healthy democracy facilitated success enjoyed by IRAC in petitions presented to the Court. Before discussing the Supreme Court, attention will now turn briefly to the growth of civil society, an equally important development as a feature of a thriving democracy and the sector of Israeli society in which IRAC operates.

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[27] Aviezer Ravitzky, 'Religious and Secular Jews in Israel: A Kulturkampf?' (Jerusalem: The Israel Democracy Institute, 2000).

[28] The Israel Democracy Institute, 'Prof. Aviezer Ravitzky', accessed 3 August 2014, http://en.idi.org.il/about-idi/idi-staff/emeritus-fellows-and-leadership/aviezer-ravitzky.

[29] Ira Sharkansky, *The Politics of Religion and the Religion of Politics: Looking at Israel* (Lanham, Maryland: Lexington Books, 2000).

[30] Martin Edelman, 'A Portion of Animosity: The Politics of the Disestablishment of Religion in Israel', *Israel Studies* 5, no. 1 (2000). Pnina Lahav, 'American Influence on Israeli Law: Freedom of Expression', in *Israel and the United States: Six Decades of Us-Israeli Relations*, ed. Robert Owen Freedman (Boulder, Colorado: Westview Press, 2012).

Civil Society

By choosing to be politically active by way of civil society, IRAC participated in a trend accelerated since the 1980s, a prominent feature of the decentralisation of the Israeli economy and polity. In a special edition of the journal *Israel Studies* devoted to the Americanisation of Israel in 2000, Michael M. Laskier argued the development of civil society emulated American social movements.[31] The rise of civil rights organisations was spurred on by Israeli lawyers who studied civil liberties in the United States and funding provided by NIF consistent with the American ideal of individualism.

Israeli scholars viewed the trend as hostility towards the existing communal social order. Yael Yishai, Emeritus Professor of Political Science at Haifa University, discussed three phases in the evolution of civil society in Israel; active inclusion; exclusion and passive exclusion.[32] During her career Yishai's research interests included civil society, voluntary associations and volunteering, and party politics. Her 1998 article, *Civil Society in Transition*, explained the first phase of active inclusion lasted from 1948 until the late 1960s. Israeli society was united by a unified vision and national objectives that enabled the State to mobilize the population. The existing institutions supported and assisted the implementation of these goals.

The second phase was initiated by events following the Six Day War in 1967. The country experienced rapid economic growth and the influential power of the political parties was weakened. During this second phase, Yishai explained, public interest groups emerged focusing initially on different views of what to do with the newly occupied territories. Western style interest groups emerged with a particular unique Israeli style based on issues of the environment, women's issues and racial minorities. Feminists, for example, questioned the patriarchal nature of Israeli society and campaigned on abortion and equal rights. The Black Panthers, representing Sephardi Jews, challenged the idea of Israel as a melting pot of Jewish ethnic groups. The introduction of the Law of Associations came into effect in 1981 to

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[31] Michael M. Laskier, 'Israeli Activism American-Style: Civil Liberties, Environmental, and Peace Organizations as Pressure Groups for Social Change, 1970s–1990s', *Israel Studies* 5, no. 1 (2000).
[32] Yael Yishai, 'Civil Society in Transition: Interest Politics in Israel', *Annals of the American Academy of Political and Social Science* 555, no. Israel in Transition (1998). On the development of civil society see also Benjamin Gidron, 'The Evolution of Israel's Third Sector: The Role of Predominant Ideology', *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 8, no. 1 (1997). Benjamin Gidron et al., 'Through a New Lens: The Third Sector and Israeli Society', *Israel Studies* 8, no. 1 (2003).

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regulate the conduct of interest groups. Yishai was critical of this law as an instrument of exclusion by giving the State extensive control over civil society.

The third phase described by Yishai began in the early 1980s. This phase of passive exclusion developed against the back drop of continued economic growth, the privatization of the economy, electoral reform and changes in party structures. Against this backdrop the number of associations forming civil society grew dramatically from 3,000 in 1982 to 23,000 in 1995. The interest groups represented a wide variety of causes from synagogues and charities seeking to raise funds in Israel and abroad to an organisation for shopping mall owners.[33] The second feature of this third stage was the decline in the authority of the centralized institutions such as the Histadrut, the labour trade union peak body. Similarly the kibbutz movement lost its stature and as did the military.

A change in strategy made demonstrations and campaigns on a range of issues more common place. According to Yishai, governments could no longer remain indifferent to public demands. The annual survey of democracy by the IDI published in 2008 reported the development of civil society as 'anti-politics'.[34] The report explained the development of civil society as a product of disillusionment with the political system, in part because politicians were being inattentive to the public needs, and in part because of the level of corruption among politicians. This new social order provided the backdrop for an activist Supreme Court filling a vacuum left by politicians ill-equipped to respond.

The Supreme Court

The Supreme Court in Israel serves two functions. As an appellate court the Supreme Court rules on appeals to civil and criminal cases in the District Courts. In this role the Court may also rule on matters such as the legality of Knesset elections, disciplinary rulings of the Bar Association and prisoners' petitions.[35] The judges of Supreme Court also sit as the High Court of Justice where matters not falling under the jurisdiction of any other court may be

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[33] Yishai, 'Civil Society in Transition', 157-158.
[34] Asher Arian et al., *Auditing Israeli Democracy: Between State and Civil Society*, trans. Batya Stein, The Israeli Democracy Index (Jerusalem: The Israel Democracy Institute, The Guttman Center, 2008).
[35] Supreme Court of Israel, 'The Judicial Authority', accessed 25 January 2014, http://elyon1.court.gov.il/eng/system/index.html.

presented by petition. The High Court retains the power of judicial review over other branches of government and 'upholds the rule of law and strengthens human rights'.[36]

During the 1980s the Israeli Supreme Court became increasingly activist.[37] The passage of the Basic Law: Human Dignity and Liberty in 1992, and the Basic Law: Freedom of Occupation also in 1992 enhanced the powers of the Supreme Court in the role of judicial review. The elevated role of the Supreme Court was further enhanced under the leadership of Aharon Barak as Chief Justice of the Supreme Court from 1995 to 2006. The Court moved towards a more liberal democratic interpretation of the law. This change was in marked contrast to earlier rulings following a formalist approach adhering closely to the letter of the law.

The reason for the earlier more conservative approach during the first three decades following Independence, wrote Ehud Eiran in 2004, was threefold; the influence of the British legal system during the Mandate period, a strong executive branch of government, and the prevalent communitarian-Zionist ethos.[38] Ehud Eiran, Professor of Political Science at Haifa University, was formerly a researcher at the Belfer Center for Science and International Affairs, Harvard University.[39] Prior to an academic career he served in the Israeli civil service as a legal clerk in the Office of the Attorney General before serving as an assistant to the foreign policy adviser of then Prime Minister Ehud Barak.[40]

When the Labour Party lost the election in 1977 after forty years in power, the executive and legislature became weak thus creating space for the Supreme Court to take on a more decisive role when interpreting legislation.[41] The Labour Party no longer dominated the

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[36] Israel Ministry of Foreign Affairs, 'The Judiciary: The Court System', last accessed 25 August 2014, http://www.mfa.gov.il/mfa/aboutisrael/state/democracy/pages/the%20judiciary-%20the%20court%20system.aspx. On the role of the Supreme Court see also Aharon Barak, 'The Role of the Supreme Court in a Democracy', *Israel Studies* 3, no. 2 (1998).

[37] Edelman, 'A Portion of Animosity'. Ehud Eiran, 'Revolution and Counterrevolution: The Israel Supreme Court from 1983 Onward', in *Israel in the Middle East: Documents and Readings on Society, Politics, and Foreign Relations, Pre-1948 to the Present*, ed. Itamar Rabinovich and Jehuda Reinharz (Waltham, Massachussettes; Hanover: Brandeis University Press, 2008).

[38] Eiran, 'Revolution and Counterrevolution'.

[39] Bulletin of the Atomic Scientists, 'Ehud Eiran', accessed 7 August 2014, http://thebulletin.org/bio/ehud-eiran.

[40] Project YALA: Young Adult Leadership Alliance, accessed 7 August 2014, http://www.projectyala.org/who-we-are.html.

[41] Edelman, 'A Portion of Animosity', 208-209. Eiran, 'Revolution and Counterrevolution'. Reuven Y. Hazan, 'Executive-Legislative Relations in an Era of Accelerated Reform: Reshaping Government in Israel', *Legislative Studies Quarterly* 22, no. 3 (1997). Patricia J. Woods, *Judicial Power and National Politics: Courts and Gender in the Religious-Secular Conflict in Israel* (Albany, New York: Suny Press, 2008), 48-56.

political arena in the Knesset. Over the ensuing two decades social groups and movements became more polarised on issues of national security and religious law.[42] The economic crisis of the 1980s transformed Israel from a centralized economy to a neo-liberal economy, and the communitarian ethos receded in favour of individualism. As more and more cases were brought to the Supreme Court, explained Eiran, the Court took on the role of reviewing public policy.[43]

Decisions in keeping with liberal democratic values came into conflict with established norms. Significant decisions in this vein were included the admittance women to pilot training in the military, upholding the rights of gay men, and prohibiting discrimination against Arab citizens in the allocation of land. Changes to the rules of standing developed in a series of cases during the 1980s culminating in 1988 when the judges ruled any individual or organisation was able to appear before the Court in a claim against the government, or in relation to the Basic Laws without the necessity to prove personal damages.[44] The new rules made it easier for organisations like IRAC to bring cases before the Court related to human rights.[45]

The shift in the Supreme Court from an earlier formalist approach was criticized and met with protest from members of the ultra-Orthodox sector.[46] The Court was criticized as undemocratic on the grounds that the judges were appointed by the Court rather than another branch of government.[47] Critics argued for a system of election or a political mechanism of appointment similar to the United States. Gidon Sapir and Ruth Gavison argued in favour of limiting the activism of the Supreme Court.[48] The reason given was to allay fears of the Orthodox that Jewish values and needs may suffer in favour of the values of the Supreme Court. A lecturer in Law at Bar-Ilan University with an interest in matters of religion and state, Sapir also raised in 1999 the issue of the judges not being elected and therefore not representative of the majority.

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[42] Woods, *Judicial Power and National Politics*, 48.
[43] Eiran, 'Revolution and Counterrevolution'.
[44] Woods, *Judicial Power and National Politics*, 55.
[45] Ibid.
[46] Edelman, 'A Portion of Animosity'.
[47] Eiran, 'Revolution and Counterrevolution', 486. Shmuel Sandler, Robert O Freedman, and Shibley Telhami, 'The Religious-Secular Divide in Israeli Politics', *Middle East Policy* 6, no. 4 (1999): 141.
[48] Yoav Artsieli, *The Gavison-Medan Covenant: Main Points and Principles* (Jerusalem: The Israel Democracy Institute, The Avi Chai Foundation, 2004). Sapir, 'Religion and State in Israel'.

Gavison argued the independence of the Supreme Court suffered from taking a stance viewed as partisan. Ruth Gavison is a legal scholar whose work in human rights, religion and state, legal theory and processes and constitutional law is widely recognised.[49] She was a founding member of the Association for Civil Rights in Israel (ACRI) in 1972.[50] Since 1984 she has held the position of the Haim Cohn Professor of Human Rights in the faculty of law at the Hebrew University.[51] In 2005 she founded The Metzilah Center for Zionist, Jewish, Liberal and Humanist Thought to revive liberal Zionism.[52]

Gavison advocated a consensual agreement to alleviate the tensions and differences between the secular and the religious. The Gavison-Medan Covenant drafted in 2003 by herself and Rabbi Yaacov Medan was intended to serve this purpose as the basis for a long process of discussion, negotiation and consensus among representatives of the Knesset.[53] The Covenant is discussed in more detail in chapter five in relation to pluralism.

Ironically, the judges of the Supreme Court frequently refer to arguments in Jewish law when delivering their verdicts. The dual system of incorporation of *halakhah* into the Israeli legal system was referred to in 1990 by Brahyahu Lifshitz, Associate Professor of Jewish Law at Hebrew University, as incorporation by reference and direct incorporation.[54] Incorporation by reference referred to the system of establishment of rabbinical courts by Israeli law with specific responsibilities. The rabbinic courts in turn became subject to the civil court system in cases of conflict. Jewish law was used as a reference in the formulation and interpretation of civil law in the Knesset and the Israeli legal system. A reciprocal recognition of the civil law by authorities of the religious legal system never developed.[55]

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[49] Mika Levy, 'Ruth Gavison', Jewish Women's Archive, accessed 9 August 2014, http://jwa.org/encyclopedia/article/gavison-ruth.

[50] The Association of Civil Rights in Israel, accessed 8 August 2014, http://www.acri.org.il/en/.

[51] The Israel Democracy Institute, 'Prof. Ruth Gavison', accessed 9 August 2014, http://en.idi.org.il/about-idi/idi-staff/emeritus-fellows-and-leadership/ruth-gavison/.

[52] The Metzilah Center, 'About Us', accessed 9 August 2014, http://www.metzilah.org.il/847.

[53] Artsieli, *The Gavison-Medan Covenant*, 109.

[54] Brahyahu Lifshitz, 'Israeli Law and Jewish Law-Interaction and Independence', *Israel Law Review* 24, no. 3/4 (1990).

[55] Eliav Schochetman, 'Israeli Law and Jewish Law-Interaction and Independence: A Commentary', *Israel Law Review* 24, no. 3/4 (1990). Arye Rattner, Dana Yagil, and Ami Pedahzur, 'Not Bound by the Law: Legal Disobedience in Israeli Society', *Behavioral Sciences & the Law* 19, no. 2 (2001).

The purpose of direct incorporation of Jewish law into the Israeli legal system, *Mishpat Ivri*, was to integrate Jewish and civil law into the body of Israeli law.[56] The Foundations Law Act (1980) gave priority to the values of democracy when there was no precedence for determining the outcome of a case. At the same time the Foundations Law identified democratic values as traditional Jewish values. The Law states; 'Where the court, faced with a legal question requiring decision, finds no answer to it in statute law or case-law or by analogy, it shall decide it in the light of the principles of freedom, justice, equity and peace of Israel's heritage.'[57]

As with the Basic Law: Human Dignity and Freedom introduced in 1992, the wording which was meant to give clarification in reality perpetuated ambiguity by not sufficiently defining 'Israel's heritage' or the meaning of 'Jewish'. The Basic Law gave as its purpose, 'to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state.' Both laws have been used to justify the incorporation of Jewish law.[58] Likewise, the laws were also used to defend freedom and equality. The Basic Law: Human Dignity and Freedom was amended in 1994 to define human rights in terms of the Declaration of Independence granting equality regardless of religion, race or sex.[59]

The difficulties of using Jewish law in the civil legal system were discussed by Steven Friedell, Professor of Law at Rutgers University in the United States, in an article published in 2009.[60] Before the establishment of the state of Israel, Jewish law was applied in local communities in different historical and legal contexts not always applicable to the Israeli legal system. A second reservation expressed by Friedell was the possible misuse of Jewish law in ways that violate the spirit of *halakhah.* Alternatively, Jewish law may be viewed as guiding principles for Israeli law rather than binding rules. Friedell considered this approach problematic because it could lead to Jewish law being taken out of context with modern principles read back into Jewish law.

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[56] Steven F. Friedell, 'Some Observations About Jewish Law in Israel's Supreme Court', *Washington University Global Studies Law Review* 8, no. 4 (2009).
[57] Ibid., 660. Israel Law Resource Center, 'Foundations of Law 5740-1980', accessed 1 September 2013, http://www.israellawresourcecenter.org/israellaws/fulltext/foundationsoflaw.htm.
[58] Friedell, 'Some Observations About Jewish Law'.
[59] The Knesset, 'Basic Law: Human Dignity and Freedom', last accessed 9 September 2014, http://www.knesset.gov.il/laws/special/eng/basic3_eng.htm.
[60] Friedell, 'Some Observations About Jewish Law'.

Gila Stopler argued for the need for a strong activist approach by the Supreme Court in order to protect liberal values in the face of a strong Orthodox religious establishment entangled in the system of governance.[61] Gila Stopler lectures in law at the Academic Center of Law and Business in Ramat Gan, Israel.[62] Her research interests include constitutional law, women's rights, church-state relations, and human rights. She is Co-Chair of the Board of Directors of the Association for Civil Rights in Israel (ACRI). An article published by Stopler in 2012 discussed the introduction of egalitarian pluralism into Israel by the Supreme Court.[63] The emphasis on pluralism indicated the evolution of debate around religion-state relations. Stopler extended the liberal values attributed to the Supreme Court in the debate about Israel as a Jewish and democratic state to incorporate the fostering of pluralism.

Stopler distinguished between 'egalitarian pluralism' and 'hands-off pluralism'. She defined 'egalitarian pluralism' as based on the value of equality applied by the Supreme Court in areas such as budget allocations, allocation of public space and the education of children. Egalitarian pluralism demands government resources be allocated equally between religious groups as is the practice in Germany. In Germany the state takes an active role in supporting religious organisations to follow their particular lifestyles. On the other hand, 'hands-off pluralism' presupposes no government support as in the United States.

'Hands-off pluralism' allows religious groups complete freedom to manage their affairs without interference from the state. As an example Stopler cited the case of *Wisconsin v. Yoder (1972)*. In that case the Supreme Court in the United States permitted the Amish to withdraw their children from school at the age of fourteen when the law required children to remain in school until the age of sixteen. The Court agreed that complying with the compulsory age for education amounted to an undue burden on the Amish regarding their right to lead a traditional lifestyle based on their religious beliefs.[64] Stopler advocated 'egalitarian pluralism' as necessary to preserve Israel as Jewish and democratic where Jewish recognises the different ways in which people identify as such.

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[61] Gila Stopler, 'Religious Establishment, Pluralism and Equality in Israel-Can the Circle Be Squared?', *Oxford Journal of Law and Religion* 2, no. 1 (2012).
[62] Gila Stopler homepage, accessed 8 August 2014, http://www.stopler.net/. The Association of Civil Rights in Israel, accessed 8 August 2014, http://www.acri.org.il/en/.
[63] Stopler, 'Religious Establishment, Pluralism and Equality in Israel'.
[64] Ibid., 3.

34

Stopler traced the development of the pluralist approach back to a change in the Budget Law in 1992. The amendment required 'the government to allocate public funds to non-state institutions according to egalitarian criteria.[65] Several petitions to the Supreme Court by both the Conservative and Reform Movements, gay groups and religious feminists followed in order to protest discrimination in the allocation of government funding. Not mentioned in the article directly is the role of IRAC in representing the Reform Movement and the other organisations arguing for fair allocation of funding using the principles of pluralism.

Separation of Religion and State

The debate over separation of religion and state in Israel is a departure from debate about Israel as either theocratic or democratic; the extremes of Jewish and democratic.[66] The middle ground among scholarly and intellectual circles deliberates over the question of how to reconcile the dual identities of Judaism and democracy. Only by separation of the two institutions, it is argued, can freedom of religion thrive, and Judaism as a religion regain its rightful place as a respected and honoured part of Jewish tradition and identity. Such a policy would open the way for a pluralistic society where all streams of Judaism could be recognised.[67] On the other hand, Asher Arian, Senior Fellow at IDI until his death in 2010, wrote in 2005 that separation of religion and state is a modern Western idea prevalent in Christian countries, but alien to Jewish history and the Middle East.[68] In reality religion and state interact in various modes, some not democratic, and in various forms within a democratic framework.[69]

Israel adopted one form of religion-state relationship by unofficially recognising Judaism as the preferred religion. The tension caused was not only between Judaism and minority

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[65] Ibid., 10.

[66] On Israel as a theocratic state see Nachman Ben-Yehuda, *Theocratic Democracy: The Social Construction of Religious and Secular Extremism* (New York; Oxford: Oxford University Press, 2011). Zucker, *The Coming Crisis in Israel*.

[67] Zippor Amihai, 'An American Perspective', *The Jerusalem Post*, 4 June 2010, 35. This article is an with historian Professor Jonathan Sarna. See also Tzofia Hirshfield, 'Conservative Female Rabbi Slams Religious Coercion', *Ynet*, 11 June 2010, http://www.ynetnews.com/articles/0,7340,L-3903705,00.html. This second article is an interview with Rabbi Julie Schonfeld, Executive Vice-President of the Rabbinical Assembly of the Conservative Movement in the United States.

[68] Alan Arian, *Politics in Israel: The Second Republic*, 2nd ed. (Washington, D.C.: CQ Press, 2005), 352.

[69] Jonathan Fox and Shmuel Sandler, 'Separation of Religion and State in the Twenty-First Century: Comparing the Middle East and Western Democracies', *Comparative Politics* 37, no. 3 (2005). Winfried Brugger, 'On the Relationship between Structural Norms and Constitutional Rights in Church-State-Relations', in *Religion in the Public Sphere: A Comparative Analysis of German, Israeli, American and International Law*, ed. Winfried Brugger and Michael Mousa Karayanni (Berlin; New York: Springer, 2007).

religions, notably among the Palestinian-Arab Israeli citizens, but also within the Jewish population between secular and religious sectors of the population.[70] As Jewish religion forms a strong part of the identity of Israel as a Jewish and democratic state, it is unlikely that religion and state would totally separate. However, as pressure mounts from different sectors of Israeli society, the Reform Movement included, it is quite probable that the relationship between religion and state will continue to shift.

The proposal to separate religion and state raises many questions. Can Jewish religion be separated from the state as a Jewish state? Can Judaism survive as a religion if it is not tied institutionally to the state? What is the place and rights of minorities in the state if it is based on religion as the overarching identity? If separation is the solution how will minorities be recognised and protected? Inevitably the proposals for separation of religion and state imply an elevated role for civil society as a manifestation of Jewish pluralism.

Scholars tend to focus on one aspect or another of religion and state relations, the institutional arrangements, or the legal framework. The institutional arrangements refer to government funding and recognition of religious institutions for purposes of funding and eligibility of clergy to officiate in matters of marriage, divorce and burial, that is, personal status. The legal framework includes legislation covering all aspects of religious life; personal status, commercial activity, authority of rabbis to carry out duties on behalf of the state, religious holidays and use of religious symbols. Within this institutional and legal framework exists the participation of religious parties in the Knesset, the Supreme Court upholding religious freedom and human rights in light of possible or actual religious coercion, and public and political debate informed by religious values and beliefs.

The primary focus of the literature review is the institutional and legal aspects discussed by scholars and commentators within the context of the theme of this study, the development of religious and political pluralism. To achieve a pluralist society implies no favouritism between one religious belief and another. While religious beliefs may inform attitudes to pluralism, no single belief system would be permitted to dominate within the framework of pluralism in a liberal democracy.

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[70] Michael Mousa Karayanni, 'The "Other" Religion and State Conflict in Israel: On the Nature of Religious Accomodation for the Palestinian-Arab Minority', in *Religion in the Public Sphere: A Comparative Analysis of German, Israeli, American and International Law*, edited by Winfried Brugger and Michael Mousa Karayanni, 333-377. Berlin; New York: Springer, 2007.

36

From one perspective, the development of democracy demands a resolution to the external conflict between Israel and the Palestinians. In a 2011 publication Ilan Peleg and Dov Waxman argued the dominant Jewish population must resolve its relationship with the Arab citizens to promote a stable democracy and reach a peace agreement with the Palestinians.[71] Ilan Peleg is Professor of Government and Law at Lafayette College in Pennsylvania and Adjunct Professor of Israeli Society at the Reconstructionist Rabbinical College also in Pennsylvania.[72] Originally from England, Dov Waxman is a professor in the Department of Political Science at Northeastern University in Boston.[73]

Baruch Kimmerling similarly argued for separation of religion and state based on the necessity to address relations between Jewish citizens and Arab citizens of Israel. Baruch Kimmerling (1939-2007) was a sociologist specialising in politics. He wrote many articles for the newspaper *Haaretz* in addition to his scholarly publications.[74] The main themes of his work were the impact of the Israeli-Palestinian conflict on Israeli society and the role of the military in Israeli culture. Intellectually associated with the left wing of Israeli politics, Kimmerling was a harsh critic of the government of Ariel Sharon.

In 1999 Kimmerling argued the inability of Israel to separate religion from nationalism precluded the country from meeting the criteria for a liberal democracy.[75] The relegation of the jurisdiction over matters of marriage, divorce and burial to the religious courts created a parallel legal system undermining the authority of the state. Secondly, severe violations of the rights of Arab citizens undermined the principle of equality inherent in democracy. Furthermore, he argued, the definition of Israel as Jewish and democratic, where Jewish is understood in religious and national terms translated in practice to tyranny of the majority, unacceptable in modern democracy.

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[71] Ilan Peleg and Dov Waxman, *Israel's Palestinians: The Conflict Within* (Cambridge; New York: Cambridge University Press, 2011).

[72] Reconstructionist Rabbinical College, accessed 16 August 2014, http://www.rrc.edu/administration/ilan-peleg-phd.

[73] Northeastern University, Department of Political Science, Dov Waxman homepage, accessed 16 August 2014, http://www.northeastern.edu/polisci/people/full-time-faculty/dov-waxman/.

[74] Alek Epstein, 'A Land of Two Nations: Baruch Kimmerling's Intellectual Legacy', review of *Clash of Identities: Explorations in Israeli and Palestinian Societies*, by Baruch Kimmerling. *The European Legacy* 16, no. 4 (2011): 531-34.

[75] Baruch Kimmerling, 'Religion, Nationalism, and Democracy in Israel', *Constellations* 6, no. 3 (1999).

The 'Jewishness' of the state, argued Kimmerling, was based on the ethno-national-religious identity which in turn determined the individual's sense of belonging, and their enjoyment of the benefits of belonging to the ethno-nationalist group. The rights of a person in Israel, according to Kimmerling, were determined more by membership of the ethno-national-religious group than by citizenship. Kimmerling explained the Zionist project led to the establishment of the state as essentially a religious project because the secular leaders chose to expound their cause in religious terms. The leaders framed the return to the land of Israel as an appeal of support to the religious value, and emotional attachment to the land felt by a critical mass of world Jewry. In so doing they bound together in a mutually dependant manner two incompatible social systems, the national-religious and the secular-democratic. The secular democratic system needed the religious system to survive and thrive and vice versa.

Political scientist Charles Liebman (1934-2003), on the other hand, argued in 1995 that religion and state were inseparable in Israel because Jewish religion by definition plays a public role.[76] After spending time in the United States, Liebman returned to Israel in 1969 where he helped establish the Department of Political Science at Bar-Ilan University. He taught at the university for most of his academic career.[77] In the formulation of Israel as a Jewish and democratic state, Liebman defined 'Jewish' as a religious identity rather than a cultural or nationalist one. Like Kimmerling, he identified the greatest challenge to stable democracy as the attitude to Arab Israelis claiming in Israel, the Jewish religion became particularist and ethnocentric, and intolerant of the rights of non-Jews. The trend was accompanied by a theology of Jewish superiority associated with racist attitudes, a topic discussed at length in chapter ten. This was in contrast to the evolution of Judaism in the United States as moralistic and universalistic.

Liebman also addressed relations within the Jewish population calling for moderation in relations between the religious and secular communities in order to foster Israel as both Jewish and democratic. The increased authority exercised by the rabbinic leadership in Israel was made possible by the increased deference of the secular population to the religious elite,

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[76] Charles S. Liebman, 'Religion and Democracy in Israel', in *Israeli Judaism: The Sociology of Religion in Israel*, ed. Shlomo A. Deshen, Charles S. Liebman, and Moshe Shokeid (New Brunswick, New Jersey: Transaction Publishers, 1995).

[77] Steven M. Cohen, 'Charles Liebman Shed Light on Jewish Culture', *The Jewish Daily Forward*, 12 September 2003, accessed 16 August 2014, http://forward.com/articles/8108/charles-liebman-shed-light-on-jewish-culture/.

accepting the latter's particularist interpretation of Jewish tradition and religion. Liebman advocated a moderation of views on both sides in order to alleviate the tension between Jewish and democratic.

By inference, the democratic attribute was championed by the leaders of the secularist sector. Publicly at least, religious leaders needed to moderate ambitions of Israel as a state based on *halakhah* so as to accommodate the secular public. Advocates of liberalism needed to moderate their views on individualism as the central concern of the democracy. It was necessary to emphasize cultural and group interests alongside the rights of the individual to accommodate Judaism. Finally, Liebman asked how Judaism may be transformed to be more compatible with democracy. Here he hypothesised the Reform and Conservative Movements in Israel may facilitate this end.

The difficulty of Liebman's call for moderation was the lack of any institutional or procedural recommendations for facilitating the moderation of views. When Liebman suggested the Reform and Conservative may play a role to moderate religious attitudes, he failed to appreciate that such moderation will not come not simply from putting forward a different point of view in the hope that others will accept its worth. The moderation will come from implementation of institutional and structural changes associated with promoting pluralism as detailed in chapter four of this thesis. The article by Charles Liebman was written before the revival of interest in religion by secular Israelis became an observable phenomenon with the potential to impact on religion-state relations and before the disenchantment of the mainstream Orthodox sector with the excesses of the ultra-Orthodox.[78]

An early advocate of separation of religion and state was the philosopher Yeshayahu Leibowitz.[79] Yeshayahu Leibowitz (1903-1994) was a scientist, religious thinker and philosopher. He was a vehement opponent of the occupation of the territories dating back to the 1967 Six Day War. During the First Lebanon War Leibowitz became an advocate of

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[78] Chaim I. Waxman, 'Multiculturalism, Conversion and the Future of Israel as a Modern State' (Paper presenteed at The 28th Annual International Conference of the Association for Israel Studies, University of Haifa, 2012).

[79] Yeshayahu Leibowitz, 'A Call for the Separation of Religion and State', in *Judaism, Human Values, and the Jewish State*, ed. Eliezer Goldman (Cambridge, Massachusettes: Harvard University Press, 1992). 'State and Religion', *Tradition* 12, no. 3/4 (1972).

conscientious objection to serving in Lebanon and later the occupied territories.[80] He called for separation of religion and state so as to prevent religion becoming a political tool. Writing in 1959, Leibowitz described religion in Israel as limited in its functions by the government. Religion, in the view of Leibowitz, was treated as an additional government service like the postal service or the police receiving its authority and funding from the state.

Judaism, Leibowitz suggested, would be in a far better position to foster religious expression, influence public morality, and provide religious education if it were independent.[81] As an independent force in the life of the state the government would cease appointment of rabbis. Rabbinic leaders would then be leaders of communities supported by the community as religious authorities with private funding. Leibowitz pointed to the experience of Diaspora communities to argue concerns over the introduction of civil marriage or the *halakhic* status of Jews were not a problem. Claims that civil marriage would result in two nations of people who could not be able to intermarry according to Jewish law were overrated according to Leibowitz. He foresaw the complications arising in the future by immigration from the Soviet Union and the United States if only religious marriage and divorce were possible in Israel.

Leibowitz also elaborated on the coercive powers of the state as a corrupting influence. He described the state as of no intrinsic value, 'an apparatus of power and coercion'.[82] Only men are capable of achieving value. The state was simply an arena for struggles among men concerning 'values'. The purpose of democracy was to protect individuals from the power of the state. Regarding religious coercion, Leibowitz argued it was the secular government which was the perpetrator of religious coercion by enacting religious laws to serve government interests. The problem with this argument was that Leibowitz failed to explain adequately how the secular government would benefit by control of religious authorities and religious law.

Gidon Sapir in 1999 argued similarly to Charles Liebman for Judaism as an established religion. He argued the idea of the state not favouring any particular religion should not preclude the state from intervention in the interests of religion.[83] The state may intervene on

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[80] Eliezer Goldman introduction to *Judaism, Human Values, and the Jewish State*, by Yeshayahu Leibowitz, edited by Eliezer Goldman (Cambridge, Massachusetts: Harvard University Press, 1992) vii-xxxiv.
[81] Leibowitz, 'State and Religion'.
[82] Ibid.
[83] Gidon Sapir, 'Religion and State-a Fresh Theoretical Start', *Notre Dame Law Review* 78, no. 2 (1999).

condition no-one is coerced to participate in a religion not of their choosing. Preference may be given to a specific religion, but should not force individuals to be members of the state preferred religion.

Sapir elaborated on Liebman's observation of Judaism as part of public life. Religion ought to be considered as an 'encompassing culture'; a culture affecting people's activities, occupations and relationships from language to art to cooking, style of dress, music, festivals and ceremonies.[84] In this interpretation freedom of religion was understood as free choice in support of individual autonomy. The state retained responsibility to protect minority cultures and religion for minority groups to survive.

Sapir used arguments in relation to separation of religion and state in the United States to challenge this experience, presenting the preferential religion model in Israel as an acceptable one in a liberal state. By concentrating on the American experience, Sapir overlooked the difficulties of making a comparison between Israel and the United States. For one, he did not acknowledge the failure of the state to protect the rights of non-Jewish citizens as discussed by Kimmerling and Liebman. Sapir also failed to acknowledge the unidimensional character of the Israeli system which treated Judaism as a single Orthodox stream.

Other commentators sought ways sought means to reconcile the Jewish and democratic characteristics of Israel by addressing issues internal to the Jewish population. In 1999 Shimon Shetreet predicted change may come for four reasons.[85] In the first place the traditional religious sector was becoming more receptive to liberal values. Secondly, increased pressure from non-Jewish groups as well as the Reform and Conservative Movements in support of their civil rights was accompanied by increased support for pluralism. Thirdly, religious institutions came to understand the damage to religion from the integrated nature of religion and government. Finally, Israeli society in general became more open to civil rights and human rights. The proposals for pluralism discussed in this thesis reflect this new set of values.

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[84] Ibid., 629.
[85] Shimon Shetreet, 'State and Religion: Funding of Religious Institutions-the Case of Israel in Comparative Perspective', *Notre Dame Journal of Law, Ethics and Public Policy* 13, no. 2 (1999): 441.

The American separation of religion and state model is the primary influence on debate about democracy in Israel.[86] The importance of this influence stems from the size of the Jewish population in the United States accompanied by close social, cultural and political ties with Israeli Jewry. The reliance on the use of precedents from the United States presents a difficulty in as far as the particular circumstances of Israel are often overlooked in attempts to apply separation to the latter. The primary difficulty is the identity of Israel as a Jewish state, to find common ground between Judaism and democracy. Advocates of separation of religion and state, discussed in chapter five, believe there is space for Judaism in public life as part of civil society engaged with communities, contributing to the values and morals of society and receiving equal treatment from the government.

The idea of strict separation of religion and states in the United States never intended to eliminate religious principles or morality from public life.[87] According to Daniel Elazar separation was easily applied in pre-modern society when religion was used as a tool of oppression. A prolific writer, Daniel J. Elazar (1934-1999) was a political scientist specializing in federalism, political culture, Jewish political tradition, and political culture.[88] He was founder of The Jerusalem Institute for Public Affairs established in 1976. The doctrine of separation was adopted in the United States and Europe for different purposes. In the United States separation, wrote Elazar in 1999, 'was designed for the protection of plurality of religious sects rather than, as in the continental European situation, for the freeing of individuals from established church coercion'.[89]

Most Western countries are moving away from extremes of either separation or establishment to convergence in the centre.[90] Governments either provide equal support for recognised religions, or favour a particular religion as the state religion, but provide equal support to all, as in England and Germany for example. In this vein, Elazar proposed the use of a covenant, recognising the need to balance public and private life; between mutual responsibility and benefit, and a person's freedom and personal choices.[91] The public benefit comes together in

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[86] Elazar Nachalon, 'Structural Models of Religion and State in Jewish and Democratic Political Thought: Inevitable Contradiction - the Challenge for Israel', *Touro Law Review* 22, no. 3 (2006): 619.
[87] Daniel J. Elazar, 'Reexamining the Issue of Religion in the Public Square', *Jewish Political Studies Review* 11, no. 1 (1999).
[88] Jerusalem Center for Public Affairs, 'About Daniel Elazar', The Daniel Elazar On-Line Library, accessed 16 August 2014, http://www.jcpa.org/dje/aboutdje.htm.
[89] Elazar, 'Reexamining the Issue of Religion in the Public Square', 3.
[90] Ibid.
[91] Ibid. Elazar, 'Jewish Values in the Jewish State'.

the form of voluntary associations, civil society, linking the government and the private sphere. Voluntary associations move the private sphere beyond the simple interest of protecting the individual while restraining the coercive power of the government. Elazar charged civil society with the task of maximizing individual freedoms and at the same time protecting the needs of the community.[92]

Israeli lawyer Elazar Nachalon explored this possibility of finding common ground between Judaism and democracy. In an article published in 2006, Nachalon first examined liberal theory and religious attitudes in the Protestant tradition in the United States. He then explored the ideas of two important Jewish scholars, Maimonides and Rabbi Nissim Ben Reuben Gerondi (known as 'Ran').[93] Nachalon concluded liberalism can support different models ranging from establishment of a particular religion, or neutrality, to a degree of hostility towards religion.

The liberal commitment to pluralism required the state to support and accommodate religious organisations, Nachalon argued, to ensure the survival of religion, and promote pluralism without singling out any one religion or doctrine. The state interest in support for religion stems from the importance of religion in the life of the individual, not from any preference for religion or any particular religious doctrine. Nachalon continued, 'Conversely, one may argue that the absolutism of religion undermines pluralism and requires having special concerns about it.'[94]

Turning to Jewish Law Nachalon rejected Maimonides as a guide for seeking common ground between religion and democracy citing Maimonides as located on the far edge of the issue with no possibility for dialogue in pursuit of a solution. Instead, Nachalon concluded, Ran would advocate a variation of establishment or endorsement but not a separation or neutrality model. Political order could operate in an autonomous fashion but not independently from the justice of religious law. This observation, in the opinion of Nachalon, opened the possibility of examining the work of other medieval and modern Jewish scholars

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[92] Elazar, 'Reexamining the Issue of Religion in the Public Square'.
[93] Nachalon, 'Structural Models of Religion and State'.
[94] Ibid., 702.

to find common ground with democratic rule.[95] The aim of Nachalon was to integrate Jewish and democratic ideas for the purpose of preserving Jewish culture in a stable and just society incorporating modern values. Suzanne Last Stone also urged scholars to investigate *halakhah* in terms of separation of religion and state.[96] She explored the issue in relation to the doctrines of the 'king's law' and the law of the land.

The argument by Moshe Koppel to separate religion and state provided a description of promoting pluralism by strengthening the role of communities, although Koppel did not use the term pluralism as such.[97] An author of two books on the Talmud, Koppel teaches computer science at Bar-Ilan University.[98] His proposal was a religious Zionist orientation with no reference to other streams of Judaism. Koppel argued for limiting the role of government in developing and maintaining Jewish institutions because then traditional Judaism would be able to expand its influence on the public.

The power given to the state to regulate and fund religious institutions mistakenly conflated 'peoplehood with statehood and community with state'.[99] The state became the enforcer of morality, a role normally reserved for communities. Membership of each grouping would depend on different criteria. He defined community as a small, voluntary association in which members identify with the ethos of the community. Members therefore choose to submit to the authority of the community. In contrast the state is a heterogeneous entity imposing obligations on all those who fall within its geographic jurisdiction.

Susan Weiss proposed the proper place for Judaism to be in the public space of civil society.[100] Weiss is a lawyer with extensive experience working for the religious rights of Jewish women in Israel. In 2004 she established the Center for Women's Justice in

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[95] An earlier article by Gidon Sapir used halakhah to argue observant Jews could participate within secular Israeli law. See Gidon Sapir, 'Can an Orthodox Jew Participate in the Public Life of the State of Israel?', *Shofar* 20, no. 2 (2002).

[96] Suzanne Last Stone, 'Religion and State: Models of Separation from within Jewish Law', *International Journal of Constitutional Law* 6, no. 3-4 (2008).

[97] Moshe Koppel, 'Religion and State in Israel; a Modest Proposal', *Mosaic*, July 2013, accessed 25 August 2013, http://mosaicmagazine.com/essay/2013/07/a-modest-proposal/.

[98] Ibid.

[99] Ibid.

[100] Susan Weiss, 'The Place of Orthodoxy in the State of Israel', in *Conversations* (New York: The Institute for Jewish Ideas and Ideals, 2011), accesed 12 May 2012, http://www.bjpa.org/Publications/details.cfm?PublicationID=11928.

Jerusalem.[101] In the civil space in Israel Judaism may flourish, she argued in 2011, as the 'cultural capital' of all Jews contributing the morals and values of the nation. She advocated government support of Jewish religion without preference for any one stream prioritizing human rights and religious freedom. Weiss explained;

> No religion—whether the current Orthodox, or any other variation thereof, be it benevolent Orthodox, Open Orthodox, Reform, or Conservative—should be thrust on the citizen of a democratic state. Today's benevolent Orthodox is tomorrows fundamentalist. The democratic and liberal values of a modern state must allow for freedom of conscience, or reflections of Judaism that may not be the ones that we personally espouse. Only such pluralism and tolerance with [sic] keep us together.[102]

The problem of applying liberalism to a Jewish state is the fact that Judaism is very much a public faith expressed in communal settings of prayer, celebration and laws governing interpersonal relationships and public debate. IRAC advocated for reform of religion-state relations along the lines described by Weiss. The proposal by IRAC detailed in this thesis argues for Judaism to retain a valued status in society with equal treatment by government for all streams and religions. The foundation for equal treatment is pluralism. Discussion will now turn to theoretical conceptions of Israel as pluralistic.

Pluralism

The meaning of pluralism by scholars to date has been used as a generalized term where the meaning varies according to the discipline and context, over time and from country to country. In Israel reference to pluralism changed over time to reflect the transition from a centralized, communitarian society to a globalized society influenced by values of individualism and rights culture of liberalism. The different applications of the term continue to reflect on Jewish identity and religion in a Jewish state.

Sammy Smooha discussed pluralism in Israel in his book, *Israel: Pluralism and Conflict*, published in 1978, in the context of areas of conflict along major divisions among the different groups.[103] He used the conflict model of pluralism to study of intergroup relations describing Israeli society as marked by deep cleavages along religious, ethnic, economic

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[101] Center for Women's Justice, 'Susan Weiss PhD', accessed 16 August 2014, http://www.cwj.org.il/en/team/susan-weiss.
[102] Weiss, 'The Place of Orthodoxy in the State of Israel'.
[103] Sammy Smooha, *Israel: Pluralism and Conflict* (London Routledge and Kegan Paul, 1978).

characteristics and education.[104] Strong government, as was the case in Israel under the leadership of Labour enabled society to remain cohesive and stable.

A sociologist, Sammy Smooha was born in Baghdad and grew up in small village communities among Arab children. In 1951 his family made *aliyah* (immigrating to Israel). After studying at Bar-Ilan University and completing army service he arrived in the United States in 1966 to study sociology at UCLA where participated in some of the events protesting for equal rights and against the Vietnam War. He also became involved in a movement to promote critical and radical thinking in sociology. He studied with Professor Leo Kuper who, together with anthropologist M. C. Smith during the 1960s, developed the study of pluralism in deeply divided societies.[105] His encounters with Arab students and teachers at the University of Haifa during the 1970s led Smooha to conduct empirical research in Jewish-Arab relations for the next forty years.

Smooha defined the division between religious and non-religious as a division between those who accepted the authority of *halakhah* and observed it in daily life, and those who did not. The latter group included those who were secularists, traditionalists, and Conservative and Reform Jews by definition. The religious group included all variations of Orthodox groups that accepted and observed the religious laws.[106] Smooha cited delayed progress towards modernization in some areas, particularly among the religious sector as a prime cause of friction. The conflict between the religious and non-religious took place primarily in the arena of legal and political institutions around collective identity, freedom of religion and freedom from religion.'[107]

Leo Kuper identified two traditions of pluralism, the equilibrium model and the conflictual model.[108] The former was a more recent tradition associated with democracy as practiced in the United States, characterized by a commitment to common values as the basis for consensus. The common values cited by Leo Kuper were values associated with democratic

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[104] Leo Kuper, 'Plural Societies', in *The Ethnicity Reader: Nationalism, Multiculturalism and Migration*, ed. M. Guibernau and Maria Montserrat Berdún (Cambridge: Polity, 2010).
[105] Kan-Naim: Internet Newspaper for all the State, 'Israel Prize Recipients: Professor Sammy Smooha - Israel Prize in Sociology for the Year 2008', [In Hebrew] 18 February 2008, accessed 9 August 2014, http://www.kan-naim.co.il/artical.asp?id=12177.
[106] Smooha, *Israel: Pluralism and Conflict*, 73.
[107] Ibid., 26.
[108] Kuper, 'Plural Societies'.

values; 'respect for the rule of law and belief in its sanctity, moderation in political involvement, commitment to gradual change, and recognition of the dignity of other values and activities within the society'.[109]

The diverse range of groups performed a mediating role to represent the interests of individuals to government. Interest groups may be as diverse as religious, cultural, economic and political organisations, in effect, civil society.[110] Proposals for positioning Judaism in civil society mimic this structure in the narrower realm of Jewish pluralism. In this application the common purpose needs to balance shared Jewish values against the values of democracy. Another attribute of equilibrium pluralism was the moderation of extremism. Strengthening civil society as part of public democratic participation and debate also served to moderate religious extremism.

Using observations of Israel society over two decades of work as a scholar, Herbert Kelman, Emeritus Professor of Social Ethics at Harvard University, argued in 1998 that Israel was in transition from exclusivism to a pluralist democracy albeit a slow and difficult one. He argued the conditions were in place to enable such a transition even though there were many obstacles to prevent, or slow progress towards a pluralist democracy. Kelman placed his analysis in the debates about Zionism and Post-Zionism which were then at their height.[111]

The primary concern of Kelman was relations with Arab citizens and resolution of the external conflict. In discussing pluralism Kelman cited the divisions between citizens and non-citizens, Jewish and Arab citizens, Ashkenazi and Sephardi, and religious and secular sectors. A move towards a Post-Zionist society meant, in Kelman's view, an upgrading of the status of non-Jewish Israelis and reviewing the status of non-Israeli Jews vis-à-vis the State of Israel. This transition to a pluralist democracy required a systematic review of laws and practices in all areas from land use to economic development, municipal, social and educational services, and immigration laws.[112] Kelman elaborated on the impediments to the

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[109] Ibid., 232.
[110] Hans Blokland, *Pluralism, Democracy and Political Knowledge: Robert A. Dahl and His Critics on Modern Politics* (Farnham, England; Burlington, Vermont: Ashgate, 2011). Robert Alan Dahl, *Dilemmas of Pluralist Democracy: Autonomy Vs. Control* (New Haven, London: Yale University Press, 1982). William Kornhauser, *The Politics of Mass Society* (London: Routledge and Kegan Paul, 1960).
[111] Herbert C. Kelman, 'Israel in Transition from Zionism to Post-Zionism', *Annals of the American Academy of Political and Social Science* 555 (1998).
[112] Ibid., 49.

transition towards pluralism, in particular the strong position of the ultra-Orthodox parties in forming coalition governments. The influence of the ultra-Orthodox parties would need to address electoral politics to alleviate reliance on the religious parties.

Eliezer Ben-Rafael, Emeritus Professor of Political Sociology at Tel-Aviv University, coined the term 'conflictual multiculturalism' to describe Israel as a society made up of groups in conflict endeavouring to influence the social order.[113] He used the term as a substitute for pluralism. Ben-Rafael argued the different groups in society, Ashkenazi, Mizrahim, *Haredi* (ultra-Orthodox), *Hardal* (nationalist or Zionist ultra-Orthodox), traditional religious, Religious Zionists, secular, all have different perspectives by which they seek to shape the social order but were not as sharply divided as their religious convictions would suggest.

As an example, Ben-Rafael cited changes among the ultra-Orthodox. As a group they were increasingly using Hebrew instead of Yiddish, many voted for non-religious political parties, and the entry of ultra-Orthodox women into the workforce in professional and academic careers was causing a change in the status of the women. Another example cited by Ben-Rafael was the emergence of the *hardal* as a fusion between Religious Zionists and an ultra-Orthodox lifestyle. All shared a common purpose in the Jewish national movement. All identified with Judaism, felt a part of society in Israel, and felt a degree of empathy to Western values.

The idea the different groups among Israeli Jews, no longer as sharply divided as previously thought, was the basis of a detailed study of secularization by Guy Ben-Porat. [114] Professor Guy Ben-Porat is a lecturer in the Department of Public Policy and Administration at Ben-Gurion University and a Research Fellow of The Van Leer Jerusalem Institute.[115] Secularism is not the same as secularization contends Ben-Porat. Secularism is an ideology based on liberal values of equality and freedom. Secularization is a social process produced as a consequence of socio-economic change.

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[113] Eliezer Ben-Rafael, 'The Faces of Religiosity in Israel: Cleavages or Continuum?' *Israel Studies* 13, no. 3 (2008).
[114] Ben-Porat, *Between State and Synagogue*.
[115] The Van Leer Jerusalem Institute, accessed 16 August 2014, http://www.vanleer.org.il/en/people/guy-ben-porat.

Ben-Porat concluded that the institutional relationship between religion and state was challenged by forces outside formal political channels since the 1990s. The challenge came not from ideological commitment to liberalism, but practical and individual choices people made in everyday life. Ben-Porat specifically studied the de-institutionalization of marriage, civil burial options, the sale of non-kosher food, and increased shopping activity on Shabbat. He concluded religiosity among Israelis was not in decline; rather the monopoly of religion by the Orthodox was being confronted.

The two main reasons for these changes were the large-scale immigration from the Former Soviet Union, during the 1990s, economic growth and globalization. Among the immigrants was an estimated three hundred thousand non-Jews eligible for citizenship as relatives of non-Jews. Unable to practice Judaism under Soviet rule, the Jews themselves in large part were non-practicing. The immigrants brought with them demands for the non-kosher food they were used to from their previous home, and economic growth brought a consumer culture demanding more choice. Secularization did not necessarily undermine religious values and belief. Rather the challenge of consumer culture was to set in place developments leading to the erosion of restrictions placed on personal choices by the Orthodox religious establishment. Demands for recognition by non-Orthodox streams contributed to new forms of secularization.

The Reform Movement took on the role of an agent of change as a secular entrepreneur among other agents similarly motivated; atheists, new forms of secular religious identities, immigrants from the Former Soviet Union, and business owners. Ben-Porat described secularization as a non-political process operating outside of the formal political processes. Together the secular entrepreneurs participated in the thriving growth of Israeli civil society. The idea that secularism did not necessarily mean a lack of interest in Jewish heritage appeared to be supported by the findings of the IDI survey of Jewish beliefs in 2009. The survey reported that 80 percent of respondents said they believe in God.[116]

Central to the success of otherwise, in the view of Avi Sagi, is the question of tolerance. Sagi, Professor of Philosophy at Bar-Ilan University and a Senior Research Fellow at the Shalom Hartman Institute in Jerusalem, took a philosophical approach to argue Judaism and pluralism

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[116] Arian and Keissar-Sugarmen, 'A Portrait of Israeli Jews', 22.

are incompatible.[117] His argument was based on toleration as an indispensable characteristic of pluralism.[118] Toleration and pluralism, Sagi wrote, were two quite different phenomena.

Toleration entails a conviction that one's belief or value system represents absolute truth. Other value systems are rejected as deviant adherence to a mistaken belief. On the other hand, pluralism is a relativist concept attaching value to other views. Pluralists may bestow preference to their own value system, yet at the same time not negate the intrinsic value of other belief and value systems. Sagi explained pluralism as a product of modern liberal secular culture where religions may compete with each other. In Sagi's view toleration was a more amenable stance for a religious believer as it did not threaten one's internal value system. Moreover, *halakhah* at best may be tolerant but not pluralist. The language of Torah referred to the non-observant Jew in terms of a transgressor who is ignorant of the law.

Pluralism posed a greater challenge for a traditional religious person than toleration because pluralism challenged the conviction of truth within the religious belief system. Movement towards a stance of pluralism needs a religious revolution.[119] Such a revolution would require a shift from truth claims in relation to God and the world to another value system. The traditional religious person derives their religious system as commandments from God, accepted as a complete set of norms incompatible with pluralism. The analysis by Sagi did not distinguish between particularist and universalist interpretations. Menachem Kellner followed a similar line of argument to oppose the introduction of pluralism into the Israeli public space. By pluralism Kellner meant the acceptance of all streams of Judaism as equally correct and acceptable.[120] Writing in 1999, Kellner explained contemporary Orthodoxy could only think of Reform and Conservative Jews as heretics, deniers of the truth of Jewish beliefs.

An Orthodox Jew, Professor Menachem Kellner studied at the Hebrew Theological College in Skokie, Illinois and Yeshivat Merkaz Ha-Rav Kook in Jerusalem in the early 1960s. He made *aliyah* with his family in 1980 where he has since taught and researched Jewish thought

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[117] Bar-Ilan University Press, 'Author Page: Avi Sagi', accessed 16 August 2014, http://www.biupress.co.il/website_en/index.asp?action=author_page&aet_id=235.
[118] Abraham Sagi, *Jewish Religion after Theology* (Boston: Academic Studies Press, 2009), Ch 1.
[119] Ibid.
[120] Menachem Kellner, 'Can Orthodoxy Share the Public Square?' *Jewish Political Studies Review* 11(1999): 133.

at the University of Haifa.[121] As an alternative to framing the debate in terms of pluralism or heresy, Kellner advocated a method of relating to non-Orthodox Jews in terms of legitimacy. Legitimacy meant recognising the public space in Israel as composed of groupings of Jews of which Orthodoxy was one subset.

Kellner suggested thinking of Jews, Orthodox and non-Orthodox, as one community or family divided by disputes. Kellner proposed the Orthodox should acknowledge the areas of disagreement but emphasise, for the purpose of *Klal Yisrael*, the areas where all Jews can work together; areas of agreement, shared concerns, and recognition of a shared past and future. This moderate Orthodox view sought accommodation of the Reform and Conservative Movements for the higher ideal of Jewish unity. The reasoning represented movement towards a concept of inclusivity central to the Reform Jewish theology advocating religious pluralism.

Pluralism and the Reform Movement

In Reform theology, the idea of religious pluralism incorporates the concept of peoplehood, centring on the relationship between Judaism and the Jewish people. Religious pluralism embraces what appear to be contradictory elements of Jewish diversity and Jewish unity.[122] Far from being contradictory, the acknowledgement of the Jewish diversity, of Jewish religious pluralism, is interpreted as the foundation of Jewish unity.

Mark Washofsky, Professor of Jewish Law and Practice at Hebrew Union College in Cincinnati, Ohio, described religious pluralism as 'the notion that the Jewish people can and ought to have both unity and diversity; that Jews who hold widely differing theological, ideological, and halachic [sic] perspectives can nonetheless accept that those who disagree with them are also Jews, members in good standing of a united Jewish community'.[123] Jewish unity is based on a commitment to a shared destiny derived from a shared history, peoplehood, love of the Jewish people, and a belief that all Jews must work together to fulfil that destiny in an environment of mutual respect. The idea of unity incorporates both a common destiny and a shared responsibility to work towards religious fulfilment.

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[121] Tikvah, accessed 16 August 2014, http://www.princeton.edu/tikvah/forum/faculty/kellner/.
[122] Mark Washofsky, *Jewish Living: A Guide to Contemporary Reform Practice* (New York: URJ Press, 2010), 285-290.
[123] Ibid., 285.

The conventional interpretation of the responsibility of Jews for one another is that each Jew should ensure that that the Biblical commandments, *mitzvoth*, are fulfilled by another Jewish person. Fulfilment of *mitzvoth* implies a responsibility to ensure that others live a religiously observant lifestyle, an anathema to Reform Jews valuing autonomy of the individual to determine the nature and content of their religious practice. In other words, to follow the traditional instruction to ensure that other Jews observe the commandments amounts to an infringement on freedom of religion.[124]

On the other hand, Reform Judaism accepts the belief that all the people stood at Sinai to hear the word of God and accept the covenant between God and the Jewish people. Differences exist among Jews regarding the content of the Divine message and its interpretation; all are part of the religious tradition born out of the covenant. Acceptance of the covenant incorporates each individual into the collective of the Jewish people as a whole with a common religious destiny. Instead of compelling each Jew to interfere with the religious choices of the other, each Jew is obligated to work to improve conditions so that each member of the collective can, by their own choosing, fulfil the common religious purpose.[125] The two attributes of a common destiny and responsibility for *Klal Israel* being interdependent; belief in a common destiny implies responsibility for one's fellow Jew, and in turn belief in responsibility to provide an environment for religious fulfilment provides an avenue for commitment to a common destiny.

Washofsky acknowledged the difficulty posed for Orthodox Jews in accepting other streams of thought within Judaism. Religious pluralism does not anticipate though that all Jewish streams will accept all interpretations, as Kellner proposed, it means all Jews regardless of these differences are part of the collective united in a common destiny. However, limits to pluralism are necessary to define the religious community. These limits come as a part of a moral conversation that distinguishes good from evil, and right from wrong.[126]

Pluralism stands in contrast to a multicultural conception of Jewish diversity dominant in Israel. Whereas multiculturalism emphasises the differences arising from country of origin and affiliation to particular religious streams, pluralism emphasises what is in common while

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[124] Ibid., 277-279.
[125] Ibid.
[126] Ibid., 286.

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recognising the differences. The common elements were defined as a core-culture by Sammy Smooha. Core-culture exhibits common features of Hebrew language, shared nationality, shared faith and shared history. In addition to the core-culture subcultures feature different rituals, different innovations for prayers and different languages used.[127]

The notion of core-culture and subcultures were used primarily by sociologist Sammy Smooha in reference to Ashkenazi and Oriental Jews. The usage of pluralism by the Reform Movement expands the recognition of cultures to the various streams of Judaism from various countries of origin and forms of religious affiliation. The diversity is a feature of the prevailing unity which distinguishes Jewish nationality and religion as one overriding culture as opposed to a multitude of cultures.

Summary

Decentralization of the economy, political instability associated with the development of liberalism, and demographic changes created conditions suitable for civil society to flourish and space for an increasingly activist Supreme Court. The transition from a communitarian society fostered during the socialist leadership of the Labour party gave way to individualism. Individualism challenged not only the Zionist communitarian values, but also the Jewish religious conception of a community of people following the religious commandments. The resulting tensions among Jewish Israelis brought forward arguments for redefining the place of religion in relation to the state. For the Reform Movement redefining the public space meant introducing religious pluralism, with a specific theology attempting to balance membership of the Jewish people with the rights of the individual. Outside the Reform Movement the meaning of pluralism was not readily accepted among Orthodox circles. Nevertheless, pluralism has become part of the discourse in deliberating over matters of religion and state in Israel.

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[127] Smooha, *Israel: Pluralism and Conflict*, 111-112.

Section 2

IRAC and the Quest for Pluralism

Chapter 3 - The Reform Movement in Israel and the Establishment of the Israel Religious Action Center

When IRAC was formed in 1987, it was with the aim of allowing the Reform Movement to contest matters related to conversion and immigration to Israel in a systematic, organised manner. Conversion was an issue in which the Reform Movement in both Israel and the United States shared a common interest in terms of the legitimacy of the Reform Movement in the Jewish world, and official recognition by the government of Israel. Since that time IRAC quickly took on the role as the spearhead of the Reform Movement in Israel in the political arena on all matters of religion and state.

IRAC was led by an emerging generation of Israeli born activists. Each of the two executive directors who have led IRAC since its foundation left their own imprint on the organisation. The specific concern of the founding director Uri Regev was religious freedom, clearly linked to the denial of legal recognition of the Reform Movement. Regev developed an interest in matters of religious freedom and equality during an exchange program to the United States during the 1960s at the age of sixteen. During the exchange program Regev experienced the Reform Movement for the first time. He remained passionate about the pursuit of religious freedom and equality throughout his working life. This agenda was broadened into a wider context of social justice in general by the second director Anat Hoffman.

Before taking up her appointment in 2002, Anat Hoffman already demonstrated her passion for social justice with the instigation of the Telephone Hotline soon after IRAC was established. Like the Telephone Hotline, the Legal Aid Center for Olim (new immigrants) drew on the difficulties faced by members of the Reform Movement immigrating to Israel, and a twin commitment to social justice by helping other immigrants. Whereas the goal of religious freedom reflected the desire for official recognition of the Movement, the goal of social justice reflected a religious commitment to *tikkun olam*.

As a small organisation with limited resources, balancing the priorities between the two goals was at times in tension. Another sensitive matter discussed in this chapter was balancing the different views among members of the Reform Movement, all the while seeking to have the continued support of the membership both in the Diaspora and Israel. Before exploring these

points, the discussion will turn to the methodology of the surveys used in the data cited in this chapter and other parts of this thesis. The survey information draws on data from three sources; the annual survey of democracy by the Israel Institute for Democracy (IDI), the Central Bureau of Statistics (CBS), and Hiddush.

The IDI surveys are widely referred to and discussed by scholars in discussions of democracy and associated matters of religion providing a key indicator of perceptions about matters of religion and state. All the surveys use the CBS population as the basis for sample selection to achieve a representative group of respondents to the surveys. As the only in depth survey on religiosity taken by the CBS the 2009 study provided valuable information in the field. After leaving IRAC as its executive director in 2002, Uri Regev spent time as executive director and later president of the World Union for Progressive Judaism. Regev formed the organisation Hiddush in 2009 to lobby specifically on religious freedom and equality. The reasons for Regev leaving IRAC are not on the public record. Hiddush presented itself as non-denominational and received most of its funding from the Diaspora, specifically the United States. The organisation supplemented the work of IRAC. Regev himself continued to lend his legal expertise when lawyers from IRAC called for advice. He and Hoffman maintained good working relationships throughout.

Survey methodology

The Hiddush survey is of interest because although the organisation presents itself as not being associated with any religious stream, the issues with which it concerns itself parallel those of IRAC and the policies of the Reform Movement. The value of the inclusion of the 2011 Hiddush survey in this thesis is to provide an indication of support or otherwise of the claim that the majority of the Israeli public supports the position of IRAC on a range of issues. The information from its surveys is used by Hiddush in support of their arguments in the media and presentations to Knesset committees. Comparison with the IDI and CBS data provides a test of the validity of the Hiddush survey figures. Hiddush began conducting annual surveys on matters of religion and state in 2009.

Both the IDI and Hiddush surveys drew samples from the Jewish population only. The CBS survey included the Arab population as well. The sample size for the CBS survey sought 7,500 participants over the age of twenty up to the age of seventy-five years and over and was

conducted over a twelve month period between January and December 2009. By the end of the survey period the completed number of interviews came to 7,462. This represented a response rate of 79.82 percent of the original sample of 9,340 people.

The Population Registry as at April 2008 was used to construct a sample distribution representative of age, gender and population groups. The sample was designed to match the demographic representation of five population groups in Israel; Arabs living in East Jerusalem, Arabs living outside East Jerusalem, immigrants who had arrived in 1990 or later but had lived in Israel for at least six months, immigrants who had arrived in or before 1989, and Israeli born Jews. The sample was also broken down into seven categories to represent age groups in the population; 20-24, 25-34, 35-44, 45-54, 55-64, 65-74 and 75+. Interviewees were then drawn from localities with a minimum of 8,000 residents to reach a minimum of fifteen people from each locality.[1]

The IDI survey reported a sample of 2,803 Israeli Jews over the age of twenty years. The actual number of completed surveys included in the data was 2,437.[2] Potential participants were asked if they were 'a member of the Jewish people'. A negative answer meant ineligibility to participate. However, no-one was declined for an interview based on this criterion. Consequently the sample included twenty-four non-Jewish people eligible for citizenship under the Law of Return as relatives of Jews, and forty-two people who had a Jewish father but were themselves not Jewish according to *halakhah*. Interviews were conducted face-to-face over a six month period from February to July 2009 in Jewish population centres.[3] The sample was selected to reflect the composition of the Jewish population from data published by the CBS for 2007-2008 as were the Hiddush surveys.[4] Table one compares the proportion of each religious grouping represented in the surveys demonstrating the similarities in composition of each survey.

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[1] Central Bureau of Statistics, 'Annual Module on Religiosity and Family Life', accessed 2 November 2010, http://www.cbs.gov.il/.
[2] Information on completed number of surveys from the IDI 2009 survey sourced from SPSS data set.
[3] Arian and Keissar-Sugarmen, 'A Portrait of Israeli Jews', 27.
[4] Tamar Hermann, 'More Jewish Than Israeli (and Democratic)?' *Israel Studies Review* 27, no. 1 (2012): 5.
Arian and Keissar-Sugarmen, 'A Portrait of Israeli Jews', 27, 93-94.

Table 1: Composition according to religious identity

Survey	Ultra-Orthodox	Orthodox	Traditional	Secular	Total
2009 IDI Jewish Beliefs	7%	16%	34%	43%	100%
2009 CBS	8%	12%	38%	42%	100%
2011 Hiddush	9%	13%	29%	49%	100%

The 2009 CBS Social Survey showed that the composition of the Jewish population was 8 percent ultra-Orthodox, 12 percent religious-Orthodox, 13 percent traditional-religious, 25 percent traditional but not so religious, and 42 percent secular.[5] The final sample for the IDI survey on religiosity for 2009 included 7 percent ultra-Orthodox, 16 percent Orthodox, 34 percent traditional and 43 percent secular.[6] Unlike the CBS survey, the IDI did not differentiate between traditional-religious and traditional not-so-religious. The IDI survey did distinguish between secular not anti-religious, 43 percent, and secular anti-religious, 3 percent of the total sample.

The IDI sample was also selected to reflect CBS data for the geographic distribution of the Jewish population and according to ethnic origin: Europe, North America and Australia as one group, North Africa, Asia, Israel and the Former Soviet Union. The response rate for the IDI interviews was 54 percent. Reasons for lack of responses recorded included an eligible interviewee not being at home, or the person approached did not speak Hebrew or Russian (the languages in which the interviews were conducted), or the interviewer was not given permission to enter the home.[7]

The sample size for the Hiddush survey was eight hundred people.[8] No information was given in the Hiddush survey about response rate or geographic distribution of respondents. Each of the Hiddush surveys were conducted as opinion polls by telephone with only twenty-five questions as opposed to the more extensive far-reaching CBS and IDI surveys. Also the Hiddush survey did not publish the actual questions asked making it difficult to interpret the

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[5] Hermann, 'More Jewish Than Israeli (and Democratic)?', 5. Shulamit Dror Cohen, 'Religiosity in Israel - Characteristics of Different Groups', [In Hebrew] (Jerusalem: Central Bureau of Statistics, 2010).
[6] Sourced from SPSS data for the IDI 2009 survey.
[7] Arian and Keissar-Sugarmen, 'A Portrait of Israeli Jews', 27.
[8] Rafi Smith and Olga Paniel, 'Religion and State Index Report Number 3: September 2011', ed. Shahar Ilan, [In Hebrew] (Jerusalem: Hiddush, Smith Research Institute, 2011).

meaning of the published results. Attempts to source the questions were unsuccessful. Furthermore the results of surveys were published in a selective manner that best supported the objectives of Hiddush and the Reform Movement.

Reform Entry into Israel

The first Reform congregations were established in what at the time was still called Palestine during the 1930s, when German Jews sought to flee Nazi Germany. More than 60,000 people migrated from Germany between 1932 and 1939 during the period known as the Fifth *Aliyah*.[9] In all, approximately a quarter of a million Jews made their way from Europe to Palestine as the situation became increasingly inhospitable.[10] German Jews did not migrate for ideological reasons, neither religious nor nationalist, but to flee persecution. They brought with them a desire to practice the non-Orthodox Judaism which had a strong following in Germany since the nineteenth century.[11]

Three congregations were established in the cities of Jerusalem, Haifa and Tel Aviv as well as a school in Haifa.[12] For reasons discussed in the literature review in chapter two these congregations did not continue in their original form after Israel became independent. By the 1960s the Tel Aviv congregation had collapsed, the Jerusalem congregation became affiliated with the Conservative Movement, and the Haifa community was revitalized under new leadership in 1964. The most successful institution from this period was the Leo Baeck Education Center established in Haifa in 1939.[13] The school continues to cater to students from kindergarten to senior secondary school.

Only in the 1960s did the Reform Movement begin to become established in Israel. The first congregation established in this new era was Har El in Jerusalem in 1958 with more being

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[9] Abramov, *Perpetual Dilemma*, 103.
[10] Shmuel Ettinger, 'The Modern Period', in *A History of the Jewish People*, ed. Haim Hillel Ben-Sasson (Cambridge, Massachusetts: Harvard University Press, 1976), 1010.
[11] Meyer, *Response to Modernity*.
[12] Ibid., 344-345. Glazier, 'The Development of Liberal Judaism in Palestine'. The Establishment of Reform Judaism in Israel in Tabory, *Reform Judaism in Israel*.
[13] Javier Simonovich, 'Building Progressive Jewish Community in Israel: The Leo Baeck Education Center', *Journal of Jewish Communal Service* 84, no. 3/4 (2009), accessed 21 February 2012, http://www.bjpa.org/Publications/details.cfm?PublicationID=4442.

established thereafter.[14] From 1963 onwards students from the HUC rabbinic training centre in the United States undertook courses at the Jerusalem campus. Later it became mandatory for all students to complete their first year of study in Jerusalem.[15] The first Israeli born Reform rabbi, Mordechai Rotem, was ordained in February 1980.[16] Other organisations were formed to provide leadership and support to the emerging congregations. In 1964 the Council for Progressive Rabbis, MARAM, was founded.[17] The roof body the Israel Movement for Progressive Judaism (IMPJ) was incorporated in 1971.[18] In 1973 the WUPJ moved its headquarters from New York to Jerusalem.[19] The relocation was a symbolic affirmation of the importance being placed on Israel as central to the future of Jewish life.[20]

The prevalent opinion among Israelis was that the Reform, like the Conservative Movement, was an American Movement or import.[21] Sociologists Ephraim Tabory and Bernard Lazerwitz wrote in 1983 that the Reform and Conservative in Israel 'may be considered 'American' movements to the extent that most of their congregations were founded by American expatriates; many current leaders are of American origin; and there are extensive relationships with the American Reform and Conservative denominations'.[22] As late as 2010 this perception was still prominent in the study carried out by Asher Cohen and Bernard Susser cited in chapter two.[23] In reality the majority of the Israeli population identifying with the Reform Movement do not descend from American or English speaking backgrounds.

As shown in table two, the majority of respondents identifying as members of the Reform, Movement, 75 percent, were born in Israel. A small proportion, as few as 3 percent of

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[14] Abramov, *Perpetual Dilemma*, 350-351. Glazier, 'The Development of Liberal Judaism in Palestine', 79. Meyer, *Response to Modernity*, 348-349. The Establishment of Reform Judaism in Israel in Tabory, *Reform Judaism in Israel*.

[15] Abramov, *Perpetual Dilemma*, 357.

[16] Nissim Eliad, 'The Work of World Union for Progressive Judaism', *Judaism* 31, no. 4 (1982): 407. The Establishment of Reform Judaism in Israel in Tabory, *Reform Judaism in Israel*. JTA, 'Haifa Rabbi is First Ordained Reform Rabbi in Israel; 5-more to be Ordained Shortly', 20 February 1980, accessed 19 July 2014, http://www.jta.org/1980/02/20/archive/haifa-rabbi-is-first-israeli-ordained-reform-rabbi-in-israel-5-more-to-be-ordained-shortly#ixzz37s9fLYUS.

[17] MARAM is the acronym for the title in Hebrew, *Moetzet Ha-Rabbanim Ha-Mitkadim*.

[18] Tabory, *Reform Judaism in Israel*.

[19] Abramov, *Perpetual Dilemma*, 357. Glazier, 'The Development of Liberal Judaism in Palestine', 80.

[20] Richard G. Hirsch, *For the Sake of Zion: Reform Zionsim: A Personal Mission* (New York: URJ Press: World Union for Progressive Judaism, 2011), 131.

[21] Cohen and Susser, 'Reform Judaism in Israel'. The Establishment of Reform Judaism in Israel in Tabory, *Reform Judaism in Israel*. 'The Influence of Liberal Judaism on Israeli Religious Life', 183-184.

[22] Ephraim Tabory and Bernard Lazerwitz, 'Americans in the Israeli Reform and Conservative Denominations: Religiosity under an Ethnic Shield?' *Review of Religious Research* 24, no. 3 (1983): 180.

[23] Cohen and Susser, 'Reform Judaism in Israel'.

respondents, identified their place of birth as America, Australia or South Africa. The place of birth of the remaining respondents born overseas was situated on the continents of North Africa, Asia, and Europe.[24] Statistically, the small number of 92 respondents in the sample of Reform identity is not a reliable figure. It is simply indicative of affiliation with the Reform Movement in broad terms. Anecdotal evidence, however, reflects the observation of a large presence of Israeli born citizens as members of the Movement.

Each of the three leaders of the Reform Movement in Israel cited in this study were born in Israel; Uri Regev, Anat Hoffman and Gilad Kariv. Rabbis Meir Azari and Galia Sadan from the Beit Daniel synagogue in Tel Aviv, and cited in this study, were also born in Israel.[25] Rabbi Miri Gold, whose petition regarding salaries for non-Orthodox rabbis is discussed in chapter six, immigrated to Israel in 1976 where her two children were born.[26] As will be discussed in the next section, indications are of a slow but steady growth in the number of members identifying with the Reform and Conservative Movement since 1991.

Table 2: Place of birth of Reform Movement members

Population group	Reform	Total sample
Born Overseas	25%	29%
Overseas	75%	71%
Total	100%	100%
N(unweighted)	92	2334

Source: IDI Portrait of Israeli Jewry 2009

Data in relation to the birth place of the parents of Reform members indicates a generational change corresponding to the demographics of a country moving from an immigrant community to a predominantly native born community. As with the Israeli population in total, approximately 40 percent or more of Reform members indicated at least one parent was

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[24] A survey completed in 1978 by Tabory and Lazerwitz was conducted by mail to a sample of members of the Reform and Conservative Movements. The study showed 12 percent of Reform members had emigrated from the United States. In all, 19 percent of members came from an English speaking background. Tabory and Lazerwitz, 'Americans in the Israeli Reform and Conservative Denominations', 179.

[25] Interview number seven. 'Israel: Transcending Walls in Tel Aviv; Interview with Rabbi Meir Azari', *Reform Judaism Online*, Summer 2012, accessed 10 July 2012, http://reformjudaismmag.org/Articles/index.cfm?id=3032.

[26] Abigail Klein, 'Veterans: From America to Kibbutz Gezer', *The Jerusalem Post*, 21 February 2010, accessed 16 August 2010, http://www.jpost.com/Home/Article.aspx?id=92791.

born in North Africa or Asia as shown in tables three and four. Around 30 percent indicated at least one parent was born in Europe, again in similar proportion to Israelis in total.

As few as 3 percent of Reform members indicated their father was born in an English speaking country, and 4 percent indicated their mother was born in America, Australia or South Africa. These figures were slightly above that of the total sample where 2.5 percent indicated they had a father born in America, Australia or South Africa, and 2.8 percent answered that their mother was born in one of these countries. The data suggests that members of the Reform Movement in Israel have become 'mainstream' in as far as their ethnic background resembles that of the Israeli population at large.

Table 3: Place of birth of fathers of Reform members

Population group	Reform	Total sample
North Africa/Asia	44.6%	40.8%
Europe	33.7%	31.5%
America/Australia/South Africa	3.3%	2.5%
Native Born	18.4%	25.2%
Total sample	100%	100%
N(unweighted)	92	2326

Source: IDI Portrait of Israeli Jewry 2009

Table 4: Place of birth of mothers of Reform members

Population group	Reform	Total sample
North Africa/Asia	42.4%	39.3%
Europe	32.6%	29.7%
America/Australia/South Africa	4.3%	2.8%
Native Born	20.7%	28.2%
Total sample	100%	100%
N(unweighted)	92	2326

Source: IDI Portrait of Israeli Jewry 2009

Even though affiliation with the Reform Movement has grown since the 1960s, the Movement remains a small minority in Israel. It is this minority status which determines the interaction of the Movement with the rest of society. The fact that the Movement has not grown significantly was attributed by Reform leaders to the hostility engendered by the

Orthodox rabbis.[27] Secondly Israelis do not feel that they need to belong to congregation or Movement to identify as Jewish or take part in Jewish lifestyle and observance.[28] The image of the Reform Movement as an 'American import', as somehow inauthentic in the Israeli context, was also considered a hindrance.[29]

Another reason put forward for the lack of significant growth of the Reform Movement in Israel came in the form of criticism of IRAC and its supporters in the American Reform Movement. In an article published in the journal of the Central Conference of American Rabbis in 1996, Rabbi Stanley Ringler argued the achievements of IRAC had done little to change the status of the Reform Movement in Israel. Instead, IRAC perpetuated an atmosphere of negativity and confrontation maintaining a separation of the Reform Movement from Israeli communal life. Ringler argued it would be better to divert the funds used for the operation of IRAC into education and the development of congregations to deepen Jewish identity and involvement.[30]

A Persistent Minority

It was welcome news to the IMPJ and its supporters when journalist Shmuel Rosner reported that the 2009 *Portrait of Israeli Jewry* found 8 percent of Israeli Jews identified with either the Conservative or the Reform Movement; a figure rivalling the number of ultra-Orthodox at 7 percent.[31] The figure represented a steady growth in the affiliation with non-Orthodox

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[27] Abramov, *Perpetual Dilemma*, 358-374. Eliad, 'The Work of World Union for Progressive Judaism', 405-406. Tabory, 'The Identity Dilemma of Non-Orthodox Religious Movements', 140-145. Tabory, 'The Influence of Liberal Judaism on Israeli Religious Life', 184-185.

[28] Tabory, 'The Influence of Liberal Judaism on Israeli Religious Life', 186.

[29] Ibid., 183-184.

[30] Stanley Ringler, 'Reform Judaism in Israel - Why Is the Movement Marginal?' in *CCAR Journal: The Reform Jewish Quarterly* (Central Conference of American Rabbis [CCAR], Winter 1996), accessed 21 February 2012, http://www.bjpa.org/Publications/details.cfm?PublicationID=4099.

[31] Shmuel Rosner, 'Can You Believe It? Israel Has More Conservative and Reform Jews than Haredis', *Jewish Journal*, 23 February 2012, accessed 26 February 2012, http://www.jewishjournal.com/rosnersdomain/item/can_you_believe_it_israel_has_more_conservative_and_reform_jews_than_haredi/. The finding was not noted in the official report of the survey published by the Institute of Democracy. In July 2013, IDI did publish a report concentrating on Reform and Conservative Jews in Israel; Chanan Cohen and Tamar Herman, 'Reform and Conservative Jews in Israel: A Profile and Attitudes', (Jerusalem, The Israel Democracy Institute, 2013), accessed 29 July 2013, http://en.idi.org.il/reform-conservative. The report discussed data from responses to the *Israel Democracy Index 2013*. The writers indicated the number of people identifying as Reform or Conservative was too small to be conclusive. Sixty people from a sample of 854 people felt a sense of belonging to a non-Orthodox Movement. This represented 7 percent of the sample, consistent with the earlier survey in 2009. The following articles are examples of where figures from the *2009 Portrait of Israeli Jewry* were used to argue for the relevance of the Reform Movement in Israel. Amanda Borschel-Dan, 'Reform Judaism, Claims Its New US President, is Increasingly the Answer to Secular Israeli's Prayers', *The Times of Israel*, 5 July, 2012, accessed 12 July 2012,

Movements yet was at odds with the Central Bureau of Statistics survey conducted in a corresponding time period. The explanation may be in part the terminology used and the manner in which the questions were asked. Indications are that the Reform Movement in Israel is growing. The question is whether the Movement is growing in absolute terms alone, remaining a constant proportion of the Jewish population, or whether the Movement is growing as a proportion of the population.

Over time the number of Reform congregations has grown. In the early 1980s the Reform Movement in Israel was reported to have twelve congregations.[32] The WUPJ Annual Report noted twenty-five congregations in 2005, and in 2012 the IMPJ Annual Report indicated a total of thirty-seven congregations and community centres affiliated with the Movement.[33] The strategic plan of the IMPJ was to increase the number of congregations and prayer groups to sixty by the year 2025.[34] The size of congregations varied greatly with Bet Daniel in Tel Aviv the largest in the scale of its activities with an annual budget of $US3 million.[35] At the other end of the scale were congregations such as *Shirat HaYam* Carmel in Haifa, serving a handful of people. Founded by Russian speaking families the congregation formally joined the IMPJ in 2010 and 'serves dozens of young families'.[36]

The annual report of the IMPJ for 2011 noted fifty kindergartens and eight schools were affiliated with the Movement.[37] The following year the reported number of kindergartens and preschools rose to fifty-five while the number of schools affiliated with the IMPJ was seven.[38] No explanation was given as to why the number of schools declined from eight in the previous year. However it was reported that the IMPJ was providing Jewish enrichment

http://www.timesofisrael.com/reform-judaism-argues-its-new-us-president-is-the-answer-to-secular-israelis-prayers/. Gilad Kariv, 'A Time for Reform', *The Jerusalem Report*, 16 July, 2012, accessed 20 August 2012, http://www.impj.org.il.

[32] Helen Chapin Metz, ed. *Israel: A Country Study*, 3rd ed., Area Handbook Series (Washington, D.C.: Federal Research Division. Library of Congress, 1990), 97.

[33] Israel Movement for Progressive Judaism, 'Annual Report 2011-2012', June 2012, accessed 20 July 2012. http://www.impj.org.il, 42. World Union for Progressive Judaism, 'International, Regional and Committee Reports to the International Assembly', Hanover, Germany, 16 March 2006, accessed 26 July 2012 http://www.wupj.org/Publications/Reports.asp, 12.

[34] World Union for Progressive Judaism, 'International, Regional and Committee 2010 Annual Reports to the International Assembly', San Francisco, U.S.A., 8 February 2011, accessed 26 July 2012 http://www.wupj.org/Publications/Reports.asp, 11.

[35] 'Israel: Transcending Walls in Tel Aviv'.

[36] Israel Movement for Progressive Judaism, 'Annual Report 2011-2012', 28. World Union for Progressive Judaism, 'International, Regional and Committee 2010 Annual Reports to the International Assembly', 11.

[37] Israel Movement for Progressive Judaism, 'Annual Report 2010-2011', 14.

[38] Israel Movement for Progressive Judaism, 'Annual Report 2011-2012', 42

programs in the state public school system. Also in 2010 a reported one hundred rabbis were affiliated with the Reform Movement of whom seventy were ordained in Israel.[39] The number of weddings conducted by the Movement also increased since 2005 although not the number of bar and bat mitzvahs. In 2005 a reported four hundred weddings were officiated compared to eight hundred in 2010 and one thousand in 2011. In the same time period two thousand bar and bat mitzvahs were conducted in 2005, three thousand in 2010 and two thousand in 2011.[40]

For a substantive indication of the size of the Reform Movement in Israel it is necessary to examine the surveys conducted by IDI and CBS. The 2009 CBS social survey found 8.2 percent of Jews who belonged to a stream of Judaism belonged to a non-Orthodox Movement. The figure at first appears to be similar to the number reported above for the IDI survey for 2009. In effect though, the figure for the CBS survey represented 1.65 percent of the Jewish population; significantly lower than indicated by the 2009 *Portrait of Israeli Jewry*. The latter survey asked, 'How would you define yourself religiously?' The seven options provided were; *Haredi*, National-*Haredi*, National Religious, Conservative, Reform, other (specify), and 'I don't identify with any stream.'[41]

The question in the CBS survey was asked differently to the IDI survey. Firstly, those who answered Jewish in an earlier question on religion were asked, 'Do you see yourself as belonging to any stream of Judaism? For example: National-Religious, Orthodox, Conservative, Reform'. Those who answered 'yes' were then asked, 'To which stream of Judaism do you belong?'[42] From the total sample of Jewish respondents 20.9 percent said yes to the first question shown in table five. The remaining 78.7 percent who replied 'no' were not asked the second question.

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[39] Israel Movement for Progressive Judaism, 'Annual Report 2010-2011', 27.
[40] Ibid. Israel Movement for Progressive Judaism, 'Annual Report 2011-2012'. World Union for Progressive Judaism, 'International, Regional and Committee Reports', 2006, 13.
[41] Arian and Keissar-Sugarmen, 'A Portrait of Israeli Jews', 91.
[42] Central Bureau of Statistics, 'Questions Social Survey 2009: Religiosity and Family', [In Hebrew] 20-21, accessed 22 January 2011, http://www.cbs.gov.il/reader/?MIval=cw_usr_view_SHTML&ID=576.

Table 5: Do you belong to a stream of Judaism

	Sample number	Percentage
Yes	1252	20.9%
No	4780	78.7%
Other	24	0.4%
Total	6056	100.00%

Source: 2009 CBS Social Survey table generator

The method of questioning in the CBS survey was problematic. First of all the choice for streams of Judaism did not include *Haredi*-non-Zionist or *Haredi*-Zionist/National as an option. This may explain in part why as many as 10 percent of people, shown in table five, said they belonged to some other stream of Judaism. Another problem in the categories is that those who consider themselves Orthodox may also think of themselves as National-Religious or Religious-Zionist. Leaders of the Reform Movement interpreted the term religious Zionist as a generic term, to describe commitment and loyalty to both Judaism as a religion and Zionism as the national movement of the Jewish people. President of the Union for Reform Judaism Rick Jacobs also described himself as religious Zionist, part of a religious movement and also a Zionist movement.[43] Israelis tend to define themselves as religious or not religious rather than as Orthodox, or non-Orthodox, or any particular denomination of Judaism.[44] The notion of belonging to a stream of Judaism was one which began to emerge only since the late 1990s.[45]

Terminology and the ambiguity of the Hebrew language was a general problem in these types of surveys. The term *Haredi* could mean both a reference to the strict level of a person's religious observance or to a stream of Judaism. The term *masorti* which means 'traditional' is also the name used by the Conservative Movement. To avoid confusion in this latter example the surveys use the anglicised term 'Conservative' to indicate stream of Judaism. In addition the terms 'National' and 'Zionist' tend to be used interchangeably.

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[43] Zvika Klein, 'Reform Movement to *Makor Rishon*: We're Also Religious Zionists', *Makor Rishon*, 6 July 2012, accessed 18 September 2012, www.reform.org.il.

[44] Eliezer Don-Yehiya, 'Orthodox Jewry in Israel and in North America', *Israel Studies* 10, no. 1 (2005): 160.

[45] Shlomit Levy, Hanna Levinsohn, and Elihu Katz, *A Portrait of Israeli Jewry: Beliefs, Observances and Values among Israeli Jews 2000*, [In Hebrew] (Jerusalem: The Israel Democracy Institute, AVI CHAI Foundation, 2000), 50.

Table 6: Affiliation to stream of Judaism according to 2009 CBS

Stream of Judaism	Sample number	Percentage belonging to a stream	Percentage of total sample
National Religious	640	51.0%	10.6%
Orthodox	378	30.2%	6.2%
Conservative	41	3.3%	0.7%
Reform	59	4.9%	1.0%
Other stream	134	10.6%	2.2%
No stream	------	-------	78.7%
Total	1252	100.0%	N=6056, 100%

Source: 2009 CBS Social Survey table generator

Taking into account the issues of terminology, the CBS survey showed that 4.9 percent of people who identify with a stream of Judaism nominated Reform and 3.3 percent nominated the Conservative. When calculated as a percentage of the total Jewish population the non-Orthodox Movements represented only 1.7 percent of the Jewish population. The highest representation of any stream was the National Religious representing 10.6 percent of the population, a figure comparable to the 12.5 percent who identified with this stream in the 2009 IDI *Portrait of Israeli Jewry.*

The 79 percent of respondents who replied they did not belong to any stream in the CBS survey was higher than that of the 2009 IDI *Portrait of Israeli Jewry* which found 60 percent did not belong to any stream. The latter figure also represented a decrease from the 1999 *Portrait of Israeli Jewry*, shown in table six, which indicated that 70 percent of respondents did not belong to any stream. The idea of not belonging to any stream should not be confused with the concept of being secular.

The 2009 IDI *Portrait of Israeli Jewry* also found as many as 12.6 percent people identified with a stream other than one named in the survey, including the *Haredi* population. Like the 2009 CBS survey the earlier 1999 *Portrait of Israeli Jewry* asked interviewees to which stream of Judaism they belonged. In 2009 the question was changed to 'How would you define yourself religiously?' This may be another factor contributing to the different findings in each of the *Portrait of Israeli Jewry* surveys.

Table 7: Affiliation to stream of Judaism according to IDI surveys

Stream of Judaism	1999	2009
Haredi	3%	5.2%
National-*Haredi*	4%	1.6%
National Religious	17%	12.5%
Conservative	2%	3.7%
Reform	3%	3.9%
Other	------	12.6%
No stream	70%	60.3%
Total	100%	100.0%
N (unweighted)	2466	2342

Source: IDI Portrait of Israeli Jewry 2000, 2009 CBS Social Survey table generator

For the Reform Movement the difficulty for gauging accuracy of identification with religious streams was people who identify adamantly as secularists may not actually identify themselves as Reform.[46] They may attend Reform religious services or turn to a Reform rabbi when they want to marry, or celebrate a bar or bat mitzvah, but will not say they are Reform. In Israel people may say they are secular to differentiate themselves from the religious, but that does not necessarily mean they do not have any desire or sense of participation in religious ritual.[47]

More than 80 percent of people (depending on the survey) observed tradition at least to some extent. How this connection to Jewish tradition is translated into religious affiliation is a complex matter warranting further investigation. How the term secular is understood in reference to the non-religious or not strictly observant population is consistent with a conception of pluralism applied to the Jewish character of the State. The idea of a more nuanced identification with Judaism as opposed to the black and white choice of either being religious or not was explained in one IRAC report as follows.

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[46] Comments to this effect were made during my field trip in the course of my research. On one occasion the rabbi of a congregation described how many of her regular attendees to services and activities did not think of themselves as Reform but as secular.

[47] This information comes from interviews and anecdotal evidence. See also comment by Tamar Hermann in the article by Shmuel Rosner, 'Can You Believe It?'

Only recently has the secular Israeli population begun to understand and embrace the idea that they do not need to reject the whole, that their Israeli identity can include more traditional, religious aspects without having to adopt an Orthodox lifestyle.[48]

The IDI surveys indicated affiliation with the non-Orthodox Movements grew in the ten year period from 5 percent to 7.5 percent as shown in table six. The figure was comparable to the 7 percent identifying as *Haredi*, either Zionist or Nationalist and non-Zionist or non-Nationalist. The downside for the Reform Movement was that the largest share of the growth for the non-Orthodox Movements was toward the Conservative. The Conservative Movement almost doubled the numbers of respondents identifying with this stream albeit the size of the samples was small. A possible reason may be the tendency among the Israeli population to observe religious tradition them to the Conservative Movement.

The Conservative Movement presented an image of being connected to tradition, whereas the Reform promoted an image of being relevant to secular Jews.[49] Another possible reason was that the Conservative Movement have more congregations than the Reform providing some advantage in being accessible to more people. In 2012 the Conservative Movement reported fifty-two congregations compared to the thirty-seven affiliated with the Reform Movement.[50] Nevertheless, the small numbers of people identifying with the Reform Movement did not deter the organisation from actively pursuing acceptance of their status as part of the Jewish People. IRAC became the vehicle for aggressively pursuing legal recognition to enable the Movement to exert influence far beyond its numbers.

Changing Direction

The impetus for the establishment of IRAC came from the case of Susan Miller, also known by her Hebrew name Shoshana.[51] Susan Miller was converted to Judaism by a Reform rabbi

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[48] Israel Religious Action Center, 'Background Articles from Old Website', last saved 28 January, 2007. Computer data base of the Israel Religious Action Center.
[49] Amanda Borschel-Dan, 'Reform Judaism'.
[50] The Masorti Movement, 'About Us', accessed 12 September 2012, http://www.masorti.org.il/en/page.php?pageId=109.
[51] The information in relation to the Susan Miller case and consequent establishment of IRAC comes from an interview with Rabbi Uri Regev supplemented by other sources as cited.

in Colorado Springs, Colorado in 1982.[52] After her conversion she made *aliyah* in October 1985 and applied for Israeli citizenship under the Law of Return. The Law of Return was passed in 1950 to allow every Jew migrating to Israel to become a citizen on arrival. An amendment to the Law in 1970 extended the right to children, grandchildren and spouses;

> …the rights of an *oleh* under any other enactment, are also vested in a child and a grandchild of a Jew, the spouse of a Jew, the spouse of a child of a Jew and the spouse of a grandchild of a Jew, except for a person who has been a Jew and has voluntarily changed his religion.[53]

The same amendment also defined a Jew as a person either born of a Jewish mother in keeping with traditional practice, or someone converted to Judaism.[54] The intention of the amendment was to clarify the definition of a Jew.[55] However controversy continued in relation to a person's status as a Jew for the purposes of the Law. For the Reform and Conservative Movements the status of non-Orthodox converts continued as a major issue elaborated on in chapter nine. The term 'Who is a Jew?' was adopted to encapsulate the differing Zionist and *halakhic* perspectives of Jewish identity and attempts to reconcile the conflicting views. The ramifications are tied to the question of who is entitled to immigrate to Israel as a Jew, in other words 'Who is a member of the Jewish People?' Even more controversial is the question of 'Who decides who belongs to the Jewish People?'[56]

When Susan Miller was granted citizenship her request to be registered as 'Jewish' in the Population Registry was refused by the Ministry of the Interior. The Minister at the time, Rabbi Yitzhak Haim Peretz, was a member of the religious political party Shas.[57] It was suggested by the clerk that Miller could register as 'Christian' or leave the

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[52] World Union for Progressive Judaism, 'News Update', December 1986, 4. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.
[53] Law of Return (Amendment No. 2) 5730-1970, sec. 4A (a).
[54] Ibid., sec. 4B.
[55] Ruth Gavison, 'The Law of Return at Sixty Years: History, Ideology, Justification' (Jerusalem: The Metzilah Center, 2010), accessed 30 April 2013, www.metzilah.org.il. 60-69.
[56] Ibid., 61.
[57] Yitzhak Peretz was born in Morocco in 1938 having made *aliyah* in 1950. Subsequent to the period under discussion he defected from Shas in November 1988 to become a single parliamentary member for a party named Moriah until 1992. In 1992 he was a member for a brief period of United Torah Judaism from 13 to 16 July after which he resigned from the Knesset. The Knesset, last accessed 17 August 2012, http://www.knesset.gov.il/mk/eng/mk_eng.asp?mk_individual_id_t=163, http://www.knesset.gov.il/faction/eng/FactionPage_eng.asp?PG=34.

religion/nationality section of the registration blank. At a later stage it was suggested she could register as 'Jewish (Converted)'.[58]

While living in the United States Susan Miller had become acquainted with Amos Oz who, at the time, was a visiting professor at Colorado College. After her experience with the Ministry of the Interior, Miller contacted Amos Oz for assistance. He referred her to Member of the Knesset Yair Tsaban who represented the political party Mapam (The United Workers' Party).[59] Tsaban in turn sought advice from the then Attorney-General Yitzhak Zamir who advised the issue was a serious and weighty one. He advised it was possible for Susan Miller to seek redress in the Courts. The Attorney-General could have advised the government to fulfil its legal obligation to register Susan Miller as a Jew without qualification.[60]

At this point Susan Miller turned to the Reform Movement for assistance and was referred to Rabbi Uri Regev. Uri Regev was a native born Israeli who prepared for army service by gaining qualifications as a lawyer. After gaining his qualifications he practiced law in the Israeli Army Legal Core. On completion of five years of army service, Regev undertook rabbinic studies at the Hebrew Union College in Jerusalem thereby combining his interest in law and liberal Jewish identity on the one hand, and issues of Jewish identity in modern society on the other.

After Susan Miller approached him, Regev discussed the matter with the then Executive Director of ARZA, Rabbi Eric Yoffie.[61] ARZA agreed to support the case paying for the legal fees from a special fund created for the purpose.[62] Susan Miller was represented by Arnold Spaer of the law firm Spaer, Sitton and Company, the law firm used to provide legal advice for the Hebrew Union College in Jerusalem. Eric Yoffie recommended that the case

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[58] Asher Felix Landau, 'The Shoshana Miller Case "Unity of the Jewish People is Paramount",' The Jewish Agency for Israel, accessed 22 July 2012,
http://www.jewishagency.org/JewishAgency/English/Jewish+Education/Compelling+Content/Eye+on+Israel/Activities+and+Programming/Law+of+Return/21.+The+Shoshana+Miller+Case.htm.
[59] The Knesset, accessed 19 August 2012,
http://www.knesset.gov.il/mk/eng/mk_eng.asp?mk_individual_id_t=165.
[60] Interview number three.
[61] In 1996 Rabbi Yoffie became president of the Union for Reform Judaism. He retired from the position in 2012. Union for Reform Judaism, 'History', accessed 19 August 2012, http://urj.org/about/union/history/. The name ARZA is not to be confused with the Australian counterpart, Australian Reform Zionist Association, which shares the same acronym. All references to ARZA in relation to the American organisation.
[62] Also noted in World Union for Progressive Judaism, 'News Update'.

should be part of an organised effort to deal with similar cases leading to the establishment of the *Who is a Jew Action Center*.

In December 1986 the High Court ruled neither the Ministry of the Interior, nor any of its officers had the authority to add the word 'convert' to a person's registration. It was incumbent on the Ministry and its staff to register a person as a Jew regardless of which stream of Judaism performed the conversion.[63] The next month, in January 1987, Yitzhak Peretz, resigned his position as Minister of the Interior in protest rather than recognise a conversion he regarded as fraudulent.[64] Susan Miller became disillusioned with Israel as a result of her experience and returned to the United States.[65] In the meantime Yoffie and Regev reviewed the lessons that could be learnt from the Miller case.

Together Regev and Yoffie decided advocacy was a conducive and desirable avenue to expand the work of the Reform Movement in Israel beyond the traditional path of activities such as building congregations, operating a youth movement, and educational activities. The name Israel Religious Action Center was chosen in English for its recognition factor. The name Religious Action Center (RAC) was already highly recognisable and respected in connection with the advocacy centre in Washington established in 1961. The name chosen in Hebrew, Center for Jewish Pluralism, was considered more appropriate for the Israeli context.

From inception IRAC functioned as a department within the IMPJ. The close co-operation between IRAC and leaders of the Reform Movement in the United States was evident from the beginning. In addition to discussions with Rabbi Eric Yoffie, Regev consulted with Rabbi David Saperstein, the director of RAC, regarding the formation of IRAC. ARZA adopted IRAC as a key project for its activities in Israel.

Although the High Court ruled in favour of Susan Miller, immigrants who had converted in a Reform or Conservative setting before making *aliyah* continued to be denied registration by the Ministry of the Interior. After IRAC was formally established it represented a number of

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[63] Asher Felix Landau, 'The Shoshana Miller Case'.
[64] *The New York Times*, 'Israeli Interior Minister Quits to Protest Ruling', 1 January 1987, accessed 17 August 2012, http://www.nytimes.com/1987/01/01/world/israeli-interior-minister-quits-to-protest-ruling.html.
[65] Noah J. Efron, *Real Jews: Secular Versus Ultra-Orthodox and the Struggle for Jewish Identity in Israel* (New York: Basic Books, 2003), 230.

people in the High Court who had converted in Reform synagogues before immigrating to Israel. Alicia Oren converted with her son in Buenos Aires in 1984 before moving to Kibbutz Gvulot in the Negev with her husband. Nancy Watson Vered converted with her daughter in Toronto, Canada after marrying her husband Ron Vered, an Israeli citizen, in a civil ceremony in Toronto. Other cases represented by IRAC were that of Gail Moscowitch who had converted in the United States, and Julia and Murilo Pinto Varela who had converted in Brazil.[66] In 1991, Tamar Peavy from the United States had her application for registration rejected after the office of the Ministry of the Interior in Eilat sent her conversion documents to the rabbinic court in Be'er Sheva to clarify her status.[67]

The first report published by IRAC also specified the varied work of IRAC to educate Knesset members and government officials about Reform Judaism; testifying before Knesset committees, representing the views of the Reform Movement to the public with advertisements and opinion pieces in the Israeli media, initiating court action in cases of discrimination and illegal activities by government ministries, and the establishment of a Telephone Hotline for new immigrants.[68]

In the first year of operation IRAC began monitoring the allocation of government funds to Orthodox institutions uncovering improprieties on the part of some institutions. In one example it was found many religious institutions were not registered as non-profit organisations as required for eligibility to receive government. Some institutions had registered three or four different names receiving allocations under each name. In other instances reporting as required by law was not completed. In another example it was found leaders of Shas were diverting money illegally from government agencies to a non-profit organisation affiliated with the party. After making the latter case public, the matter became the subject of a Knesset investigation.[69]

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[66] Israel Religious Action Center, 'First Annual Report, 1987-1988'. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.
[67] Israel Religious Action Center, '1990-1991 Annual Report', 9. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.
[68] Ibid. Israel Religious Action Center, 'Report July 1 to December 31 1987'. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.
[69] Ibid., 7.

The Telephone Hotline

A very successful program was the Telephone Hotline initiated by Anat Hoffman.[70] Hoffman approached Regev when she returned from the United States shortly after IRAC opened. As important as action in the Supreme Court may be regarded in relation to issues such as conversion, Hoffman believed it was important to be in touch with what Israelis were feeling, matters about which they felt aggrieved. The Telephone Hotline was promoted using the slogan 'Call us when you are right' featured in advertisements.

Very quickly people speaking Russian, Arabic and Amharic as well as Hebrew phoned with complaints. Members of the *Haredi* community also called for assistance. This led to the employment of a Russian speaker, an Arabic speaker and an Ethiopian person to handle the calls. About a third of the calls related to consumer matters, another third to matters of religion and state such as being overcharged by rabbis for bar mitzvah ceremonies, funerals or weddings, and another third to complaints about the City Council of Jerusalem. On average about fifty calls a week were received.

Many complaints in the early period related to the telephone company *Bezeq* which operated as a monopoly at the time. In one example a father living in Jerusalem trying to call his daughter in Netanya was frequently diverted to a number in another city, Hadera. This happened in a half to a third of his attempted calls. It was only after intervention by Anat Hoffman that the company agreed to make the appropriate repairs.[71] Many people complained about a lack of an itemized account. An organised campaign of airing grievances and arranging conferences led to a change in policy by *Bezeq* to provide customers with itemized accounts.[72]

In response to consumer complaints Hoffman assisted people to fill out forms for the Small Claims Court. When the demand became too great she produced a Small Claims Kit, a booklet with an audio tape explaining how to use the Small Claims Court. The Kit was sold

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[70] The information about the Hotline came from an interview with Anat Hoffman supplemented by other sources as cited.
[71] Israel Religious Action Center, 'Annual Report 1989-1990', 9. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.
[72] 'Rebel with a Cause'.

for ten shekels each and sold out. Legal assistance was also provided by IRAC as necessary in relation to the complaints received.[73]

Prior to Operation Solomon to airlift Ethiopian Jews to Israel in 1991, IRAC established a phone service where Ethiopian Jews could phone relatives in Ethiopia. A ten minute call was made available for a person to phone a brother or sister, and fifteen minutes for a parent to phone a child, or a child to phone a parent. The service operated from the offices of IRAC located at the time on the first floor above the Reform congregation Kehillat Har El in Shmuel HaNagid Street. In all 63,000 calls were made by people wishing to speak to relatives left behind. In another example of cases to which IRAC was alerted by the Hotline Arab residents in Jerusalem complained of difficulty of accessing social security entitlements. Sixty cases were brought together as part of a class action and approaching the Social Security Authorities, the State Comptroller and the Knesset Labour and Welfare Committee to address the issue.[74]

After two years managing the Hotline Anat Hoffman left IRAC over a pay dispute dismayed the employees responding to calls on the Hotline were underpaid for the work performed. When Hoffman threatened to leave IRAC if the salaries were not increased the Reform Movement in Israel called her bluff and dismissed her. Hoffman was first elected to the Jerusalem City Council in 1988 as a representative of the Ratz-Shinui party.[75] Specific details of the pay dispute were not available.

She now turned her energy to concentrate on her work as a councillor for the City of Jerusalem in many ways doing the same work she did at IRAC, handling complaints by citizens. Her replacement was an Australian lawyer who had made *aliyah*, Nicole Maor. The role Maor took was quite different. She became the director of the newly created Legal Aid Department, a position she still holds. The Legal Aid Center, which was opened in 1992, was

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[73] Israel Religious Action Center, 'Annual Report 1990-1991', 6. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.
[74] Ibid, 7.
[75] This information was sourced from an author's note to an article written by Anat Hoffman for the Palestine-Israel Journal, accessed 26 April 2015, http://pij.org/authors.php?id=421. Article details; Anat Hoffman, 'Monologue of a Jerusalem Councilor [sic]', *Palestine-Israel Journal of Politics, Economics and Culture* 2, no. 2 (1995), http://pij.org/details.php?id=643.

a direct outcome of the needs of immigrants that became apparent from the calls made to the Hotline.[76]

After fourteen years serving on the Jerusalem Municipal Council, Hoffman decided it was time to make a change. As it happened, the position of executive director of IRAC became available shortly after Hoffman resigned from the Council.[77] With a reputation as a maverick council member, the selection committee was concerned as to whether Hoffman would be able to work with the representatives of Reform organisations forming the steering committee of IRAC. A member of the selection panel flippantly suggested she obtain a reference from Ehud Olmert. Hoffman and Olmert were adversaries during the period the latter served as mayor of Jerusalem from 1993. Olmert later became Prime Minister of Israel in 2003 until 2006. Olmert provided the reference and phoned some members of the selection panel advocating Hoffman as a candidate for the position of executive director of IRAC. Given the opportunity Olmert would have preferred Hoffman to be a colleague on the same side rather than to be an adversary.[78]

Legal Aid Center for Olim

The late 1980s and early 1990s witnessed dramatic changes which would impact on Israel's conversion policies and the Law of Return. The end of the Cold War enabled large-scale immigration of Jews and their families to Israel, the immigration of Ethiopian Jews, and the First Intifada which began in 1987 all played a part.[79] Problems experienced by the Russian and Ethiopian were the immediate reason leading to the establishment of the Legal Aid Center for Olim.[80] Russian *olim* experienced problems in regard to the rights of non-Jewish family members. Individuals faced problems when marriages broke down or they wished to be reunited with other family members.[81] While conversion matters occupied sixty to seventy percent of the case load of the Legal Aid Center, the remainder of the work load related to

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[76] Israel Religious Action Center, 'Semi-Annual Report, July-December 2003'. Computer data base of the Israel Religious Action Center.
[77] 'Rebel with a Cause'.
[78] Ibid.
[79] Steven Kaplan and Hagar Salamon, 'Ethiopian Jews in Israel: A Part of the People or Apart from the People?', in *Jews in Israel: Contemporary Social and Cultural Patterns*, ed. Chaim Isaac Waxman and Uzi Rebhun, *Tauber Institute for the Study of European Jewry Series* ((Hanover, New Hampshire; London: Brandeis University Press, 2004). Elazar Leshem and Moshe Sicron, 'The Soviet Immigrant Community in Israel', in *Jews in Israel: Contemporary Social and Cultural Patterns*.
[80] This section uses information from Interview number two.
[81] Israel Religious Action Center, 'Jewish Immigration from the Former Soviet Union', accessed 24 July 2012, http://www.irac.org/IssuePapers.aspx.

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family reunification where relatives were denied entry to Israel, or experienced domestic violence, or experienced difficulties with adoption or dealing with the Ministry of the Interior.

Problems were faced by immigrants from various nationalities but the large numbers of immigrants from the Former Soviet Union attracted attention from the Orthodox community due to the large numbers of non-Jewish family members receiving citizenship. The Intifada restricted the availability of Palestinian labour in the construction and agricultural industries. Eventually the government permitted foreign workers to enter to replace the Palestinian workers. Some foreign workers attempted to gain citizenship either by marrying an Israeli citizen or converting. The number of illegal foreign workers also increased as people overstayed their visas.[82] As discussed in chapter nine, there was no immigration policy to regulate this eventuality.

Ethiopian immigrants experienced problems in providing documentation and proof of age. Many arrived from areas where there was no registration or documentation of personal information. Registration in Israel was based on verbal information provided by the family. Birthdays were customarily remembered by an elderly relative in relation to historical events without the use of a Gregorian calendar.[83] The Legal Aid Center assisted many to navigate the bureaucracy in Israel having gained expertise in proof of age matters. In one case, for example, in a family with four children, the eldest child who was fifteen was called to the army because the age was actually recorded as eighteen. The youngest child received notices to attend school at only four years of age.[84] The Legal Aid Office also assisted with procedures to enable spouses and children of Ethiopian immigrants to make *aliyah*.[85]

Past reports noted The Legal Aid Center for Olim assisted more than 50,000 immigrants between 1992 and 2003.[86] Two other reports indicated the Department successfully assisted

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[82] David V. Bartram, 'Foreign Workers in Israel: History and Theory', *International Migration Review* 32, no. 2 (1998).
[83] Israel Religious Action Center, 'Immigration from Ethiopia', Issue Papers, accessed 24 July 2012, http://www.irac.org/IssuePapers.aspx.
[84] Israel Religious Action Center, 'IRAC Semi-Annual [Report] January to June 2003'. Computer data base of the Israel Religious Action Center.
[85] Israel Religious Action Center, 'Immigration from Ethiopia'.
[86] Israel Religious Action Center, 'Semi-Annual Report July-December 2003'. Israel Religious Action Center, 'Semi-Annual Report January to June 2004'. Computer data base of the Israel Religious Action Center. Israel

more than 60,000 new immigrants between 1992 and 2004 or 2005.[87] Until 2005 the Legal Aid Center operated offices in Jerusalem, Tel Aviv, Haifa and Be'er Sheva. From 1 May 2004, legal aid services in Jerusalem were discontinued to save on expenses. Clients were then referred to the Tel Aviv office.[88] The available data shown in table eight shows the greatest demand for the legal services of the Legal Aid Centre was experienced by the Haifa office between 2003 and 2005 Haifa.

Russian and Ahmaric speakers were employed as field workers to work with Russian and Ethiopian immigrants. The field workers travelled to neighbourhoods, absorption centres and *ulpanim* (Hebrew language classes) to inform immigrants about the legal aid service and attend to matters within their area of expertise. Where legal representation was required for difficult cases the field workers acted as translators.[89]

Table 8: Legal Aid for Olim Case Load

Year	Jerusalem	Tel Aviv	Haifa	Be'er Sheva	Total
January-June 2003	405	394	1870	740	3409
July-December 2003	257	280	1785	605	2927
January-June 2004	274	336	1289	583	2482
July-December 2004	------	396	1413	714	2523
January-June 2005	------	597	655	601	1853
July-December 2005	------	648	1167	621	2436

Source: IRAC Semi-Annual Report January to June 2003, IRAC Semi-Annual Report July-December 2003, IRAC Semi-Annual Report January to June 2004, IRAC Legal Aid Centers for Olim Report on Activities, July–December 2004, IRAC Activity Report: January-June 2005. IRAC Activity Report: July-December 2005

Religious Action Center, 'Semi-Annual Report July to December 2004'. Computer data base of the Israel Religious Action Center.

[87] Israel Religious Action Center, 'Legal Aid Centers for Olim Report on Activities July – December 2004'. Computer data base of the Israel Religious Action Center. Israel Religious Action Center, 'Activity Report: July – December 2005'. Computer data base of the Israel Religious Action Center.

[88] Israel Religious Action Center, 'Semi-Annual Report January to June 2004'. Also information from Interview number two.

[89] Israel Religious Action Center, 'Legal Aid for Olim Report on Activities July – December 2004'. Computer data base of the Israel Religious Action Center.

In 2007 the Legal Aid Center reported having assisted approximately 6,000 *olim*.[90] Since then the legal aid offices in Haifa and Be'er Sheva closed and the number of staff reduced for financial reasons, necessitating a refocusing of IRAC's strategy discussed below.[91] The legal aid office always provided its service on a pro-bono basis. As a legal aid office the Center was not permitted by law to charge for its services. Like IRAC in general, it relied on donations largely from overseas to be able to operate. In 2011 the Legal Aid Center introduced a 500 shekel service fee for photocopying and other administrative charges. The Israeli Bar Association criticized the move as unethical for a non-profit legal aid service to charge any fees whatsoever.

Revising Strategy

In 2010 the Steering Committee of IRAC approved a new strategic plan.[92] The IMPJ and IRAC, like many non-profit organisations in the United States, suffered financial difficulties in 2008 as the ramifications of Global Financial Crisis unfolded.[93] In particular, the decline in the exchange rate diminished the value of donations made from the United States. Efforts by leaders of the Reform Movement in the United States to raise donations assisted in overcoming this setback.

For IRAC, the economic downturn was directly responsible for major changes to eradicate its deficit and repay its debt to the IMPJ. The repayment of the debt was accomplished at the end of 2010.[94] The changes meant significant reductions in the total number of staff, relocation of its offices to the headquarters of the Reform Movement in Jerusalem to improve efficiency, the launching of a strategic plan to clarify objectives, and expanding activities in the public arena. As part of the strategic plan the Social Action activities of IRAC were to be relocated to the IMPJ but did not take place as scheduled for 2011.

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[90] Israel Religious Action Center, 'Legal Aid Center for Olim Report 2008'. Computer data base of the Israel Religious Action Center.

[91] Interview number twelve.

[92] This section uses information from Interview numbers five and twelve.

[93] Israel Movement for Progressive Judaism, Newsletter, 10 August 2008. Computer data base of the Israel Religious Action Center. Israel Movement for Progressive Judaism, Newsletter, 7 September 2008. Computer data base of the Israel Religious Action Center. Israel Movement for Progressive Judaism Newsletter, 15 January 2009. Computer data base of the Israel Religious Action Center.

[94] Israel Religious Action Center, 'Progress Report (Intermediate)', Report for New Israel Fund, December 2010. Computer data base of the Israel Religious Action Center. Israel Movement for Progressive Judaism, Newsletter, 7 September 2008.

After lengthy consultation and discussion it was decided IRAC would focus its attention on five core issues considered consistent with its mission to advance pluralism. The five core issues which form the case studies examined in this thesis were;

1. Fair allocation of government resources and recognition of non-Orthodox Movements.
2. Introduction of civil marriage and matters related to divorce.
3. Conversion and legal aid for *olim*.
4. Protection of the public sphere from domination by *Haredi* policies and beliefs.
5. Religious extremism and racism.

Previously IRAC took on any issue viewed as an affront to the values of the organisation or considered an injustice.[95] Resources were spread widely from issues of religion and state to social welfare issues such as the rights of single mothers. Since adoption of the strategic plan approximately seventy percent of the activities of IRAC continued to be directed into these five areas. The other 30 percent of activities still contributed to the mission of the organisation but did not necessarily relate to the core issues. Other cases were taken on as simply the right thing to do consistent with Jewish values, and where no other organisation existed for the matter to be referred. The expertise developed by the Legal Aid Center in assisting immigrants, for example, enabled the Center to provide legal assistance not available elsewhere in Israel.

The revising of strategy also witnessed a change in the name of IRAC in Hebrew. At its foundation the name *Hamerkaz Hapluralism Hayehudi: l'Shiyon Erech Hadam, Tzedek Chevrati, v'Sovlanot Datit*, was selected, translated into English as the Center for Jewish Pluralism: For Human Equality, Social Justice and Religious Tolerance. The name was chosen as best representing the activities and objectives of the organisation. The addition of the subtitle reflected the principles and values IRAC sought to promote as part of its mandate for its activities.[96] The arguments in favour of the name change asserted Israelis did not understand what was meant by pluralism even though IRAC had been promoting this value since 1987. Secondly, it was thought, the name did not properly reflect what the organisation did.[97]

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[95] Information in this section is from Interview number twelve.
[96] From interview with Rabbi Uri Regev.
[97] Interview number twelve.

Opposing opinions argued the name Center for Jewish Pluralism had served the organisation well.[98] The new name adopted in Hebrew was *Hamerkaz Reformi l'Dat v'Medina*, the Reform Center for Religion and State, thought to better reflect the activities of IRAC while also reflecting the new strategy of focusing on real change in the religion-state relationship. The name abandoned the term pluralism in favour of the term Reform, identifying IRAC more closely with its parent body, the Reform Movement. This identification was consistent with the popular perception among the Israeli public of IRAC as being synonymous with the Reform Movement.

Three part-time staff members were employed to supplement the legal staff; a community organiser, a youth advocacy co-ordinator, and a communications officer to concentrate on developing a new Hebrew website, a new Hebrew newsletter and a presence on social media.[99] The purpose of the change was to engage more with the Israeli public in order to foster support at a grass roots level.[100] The strategy was particularly successful in supporting the petition to the High Court in relation to gender segregation on public buses discussed in chapter eight; the major focus of the field work since its inception.

Other attempts to connect with the Israeli public were through the congregations and partnerships with other organisations sharing the goals of IRAC. At times the organisation worked as part of a coalition as in the Coalition Against Racism discussed in chapter nine. On other issues IRAC worked in partnership with other organisations on specific cases.[101] In 2010 a list of twenty-seven partner organisations was published on the IRAC website. The list, reproduced in appendix one, was described as a partial list of organisations IRAC partnered with at the time of publication or prior to that time.[102] The list included organisations representing a diverse range of interests including ethnic minorities, migrant workers, gay rights, people with disabilities, and a secular *yeshiva* for the study of religious texts.

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[98] From interview with Uri Regev. Israel Religious Action Center, 'Choosing a New Name', memo. Computer data base of the Israel Religious Action Center.
[99] Israel Religious Action Center, 'Progress Report (Intermediate)'. Computer data base of the Israel Religious Action Center.
[100] Interview number five.
[101] Interview number twelve.
[102] Israel Religious Action Center, 'IRAC partners', accessed 2 July 2010, http://www.irac.org/PublicPolicy.aspx?SubheadingID=40

Another attempt to connect with the Israeli public was though the congregations. Potentially the congregations provided a source of support to promote IRAC's field work. In reality though, members of Reform Congregations in Israel preferred positive social action activities to becoming involved in political activism. For instance, after discussions about racism with Kehillat Kol Haneshama in Jerusalem, members of the congregation decided to organise a jobs' fair to assist population groups including Arabs, Ethiopians and members of the LGBT community experiencing discrimination in employment.

The aims of the Social Action Programs of IRAC were to provide humanitarian aid to needy populations, as well as to empower individuals. The second objective was to raise public awareness and offer members and friends of the Reform Movement opportunities to engage in activities to improve the situation.[103] Provision of food, clothing and other supplies were used as an entry point to provide other programs. An example was educating women who were victims of violence about their rights, self-defence skills as well as parenting skills.

Another program based on packing and distributing supplies to poor families and Holocaust survivors was used as an avenue to bring together Arab and Jewish youth. A Shabbat meal and celebration was provided for *Haredim* who chose to leave the ultra-Orthodox lifestyle and found themselves without family or communal support. From this foundation assistance was given to pursue an education, apply for a job and assist with adapting to a different lifestyle to the one where they grew up.[104] The Social Action program did not fit directly within the strategic plan, however it created positive interactions with Israelis outside the Reform Movement.

Ideology and Philosophy

The motivation behind IRAC was driven by a sense of mission spanning a commitment to the values enunciated in the Declaration of Independence, to a spiritual obligation to assist fellow human beings. The ideological foundation blended together a response to the religion-state tensions unique to Israel and the social justice priorities characterising the American branch of Reform Judaism. The emphasis on each attribute shifted over time with change in leadership, and a rationalisation of resources.

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[103] Interview number nine.
[104] Ibid.

At a practical level the mission of IRAC when established was two-fold; one reflecting a universal commitment to social justice, the other to represent the interests of the Reform Movement in Israel.[105] The objective was to advance the values of human equality, social justice and religious tolerance. This meant representing individuals from secular, Conservative, Reform and Orthodox backgrounds as well as a wide range of issues; economic justice, minority rights and gender issues for example.

As a public advocacy group for a liberal religious movement the aspiration was to reflect the teachings of the Bible and the teachings of the rabbis that emphasised the values of social justice in the expression *tikkun olam*. As Rabbi Regev observed, these values which are part of Judaism were not promoted by the religious parties in the Knesset so there was a necessity for the Reform, using IRAC as the vehicle, to promote the teachings promulgated by the prophets. These values of liberty, justice and peace which the Reform Movement emphasised corresponded to the affirmation of religious freedom in the Declaration of Independence.

The relevant paragraph endowed the principle of religious freedom, declared in the United Nations of Human Rights quoted in the introduction, with a distinctly Jewish perspective connecting the religious teaching with a universal principle.

> It will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.[106]

As the public arm of the Reform Movement, IRAC had a clear mission to advance the Movement as an organisation. As such it also brought prominence and exposure of the Reform Movement which otherwise would not have been possible. IRAC continues to rank in importance alongside synagogues, rabbis and education programs in exposure of the Reform Movement to Israelis as an agent of change in a non-sectarian manner focused on the public good. As explained by Rabbi Regev in the following extract from a newspaper interview;

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[105] The following discussion is taken from an interview with Rabbi Uri Regev.
[106] Provisional Government of Israel, 'The Declaration of the Establishment of the State of Israel', 14 May 1948, Tel Aviv, accessed 28 May 2012, http://www.knesset.gov.il/docs/eng/megilat_eng.htm.

> Public activity is one of the four pillars on which the movement stands. . . .
> The other three are the congregations, the rabbinical and cantorial training
> programs and the educational system, which consists mainly of kindergartens.
> I agree with the argument that the Reform movement cannot exist without the
> congregations, kindergartens and synagogues. However, Reform Judaism that
> only has congregations, kindergartens and synagogues would be derelict in its
> responsibility to take part in shaping Israel's future. You can sit in temple and
> give a sermon, but the people who are already in the synagogue are the last
> ones who need those sermons. The real challenge is in finding a way to reach
> the wider public.[107]

Anat Hoffman emphasised her conviction that the synagogue itself must be a centre of social
justice.[108] Like Uri Regev her introduction to Reform Judaism came while spending time in
the United States as a student where she was exposed to the idea that there is more than one
way to be Jewish.[109] Since her appointment in 2002 the organisation broadened its social
justice agenda to engage more extensively in social action programs.[110] Although she
described herself as not a religious person her passion to help others evoked a spiritual quest
that is the essence of Jewish faith.

Hoffman saw religion as a practical tool to make society healthier, and every individual
healthier. Religion provides a moral compass directing each person to the needs of another
human being. Hoffman drew inspiration from the teaching of the nineteenth century Rabbi
Israel Salanter who instructed that tending to the physical needs of others is a spiritual
obligation; 'Spiritual life is superior to physical life. But the physical life of another is an
obligation of my spiritual life.'[111] According to Hoffman, a synagogue can be a synagogue
without a rabbi, or a Torah scroll or a building, but without an open door to those with special
needs it is not a Reform synagogue.

The message of putting into practice the care for those in need is not unique to Reform
Judaism. It is a practice carried out by Islamic groups, the ultra-Orthodox Shas party and
Christian organisations. Yet this is a message that Hoffman believed the Reform Movement
could bring to Israelis, unlike the Orthodox establishment which reduced religion to a list of

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[107] Aryeh Dayan, 'Reform Reformer', *Haaretz.com*, 24 January 2012, accessed 13 January 2010,
http://www.haaretz.com/print-edition/features/reform-reformer-1.54839.
[108] The information documented here is sourced from an interview with Anat Hoffman unless otherwise cited.
[109] 'Rebel with a Cause'. From interview with Uri Regev.
[110] Association of Reform Zionists of America, '*Yahadut Mitkademet*', 31 August 2009, accessed 19 August
2010, http://www.arza.org/Articles/index.cfm?id=2089. 'Rebel with a Cause'.
[111] E. Alan Morinis, *Everyday Holiness: The Jewish Spiritual Path of Mussar* (Boston: Trumpeter, 2007), 205.

prohibitions in deference to strict observance of rituals. Her desire, like her fellow leaders of the Reform Movement, was to introduce religious values which equate to moral values. To return to the prophets as the source of moral values that the obliges each person to do what is right by the weak populations in the community; justice for the poor, justice for friends, for widows, justice for people with special needs and justice for lesbians and homosexuals.

The institutional separation of religion and state necessary to foster pluralism would enable Israelis to freely explore different modes of Judaism. Hoffman's interest, practiced by IRAC, was to expose Israelis to identification with, and discussions of religion, not measured by whether an individual believes in God or does not believe in God, observes Shabbat or does not observe Shabbat, observes *kashrut* or does not observe *kashrut*, but based on ethical actions.

Another leader of the Reform Movement sharing the conviction that Israel needed the Reform Movement was Rabbi Richard Hirsch. More than any other single person Rabbi Richard Hirsch was responsible for convincing the leadership of the American Reform Movement that it was imperative to be engaged in developing the Reform Movement in Israel. He served as the founding director of RAC in Washington from 1962 until 1973 when he became the Executive Director of the World Union for Progressive Judaism (WUPJ).[112]

Like Anat Hoffman and Uri Regev, he believed Judaism is about more than synagogues and ritual. Pursuit of social justice, to which he has dedicated much of his life, he believed is a responsibility that Jews have to the entire world and humanity.[113] During his tenure at WUPJ, which lasted until 1999, he took on the task of building the institutions of the Reform Movement in Israel. This included moving the headquarters of WUPJ to Jerusalem, establishing the IMPJ, building the Beit Shmuel Center and Hostel in Jerusalem which also provides cultural and educational programs, and Beit Daniel congregation.[114] In his memoirs he described how supporting the rights of the Reform Movement in Israel was necessary for Israel to flourish as a democracy.

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[112] Richard G. Hirsch, *From the Hill to the Mount* (Jerusalem; New York: Gefen Publishing House, 2000), 9.
[113] Information sourced from an interview with Richard Hirsch.
[114] Hirsch, *From the Hill to the Mount*. See also Hirsch, *For the Sake of Zion*.

He recalled the public demonstration in 1999 which drew the participation of 50,000 people to counter protests by the ultra-Orthodox against the Supreme Court. The ultra-Orthodox were protesting the decision by the Court that suitably qualified members of non-Orthodox Movements should be permitted to be representatives on religious councils.[115] Hirsch described how prominent Israeli authors Amos Oz, A.B. Yehoshua, David Grossman and other public figures signed a manifesto in support of the Reform and Conservative Movements and urged people to become affiliated with these Movements.

> When they (Israelis) support rights for liberal Judaism, Israelis are not doing us any favours. *They* need liberal Judaism. Just as the struggle on behalf of Soviet Jewry accelerated the attainment of democratic rights for all peoples in the USSR, just as the struggle for racial equality in America advanced the pursuit of democratic rights for all citizens, so support of liberal Judaism is essential for the well-being of Israel society. To guarantee rights for all streams of Judaism is to guarantee the preservation of Israeli democracy for the entire society, just as to deprive liberal Judaism of fundamental rights will inevitably weaken the democratic institutions of Israeli society. Liberal Judaism is an idea whose time has come. But not only for liberal Jews, for all society. [116]

At the same time, Hirsch believed, Reform Judaism needed Israel to ensure its future. The test of Reform Judaism as a universal movement depended on the ability of liberal Judaism to thrive in a Jewish environment.[117] Demographically also, the future lay in Israel. It was predicted by the middle of the twenty-first century 57 percent of the Jewish population of the world will live in Israel, while the population in North America and other countries in the Diaspora will diminish.[118] Moreover in Israel, Jewish identity was predicated on peoplehood, not on religious experiences or religious identity as in North America. As a people, the defining characteristics were land culture, language and fate. So for reasons of authenticity as a Jewish Movement, and Israel as the centre of Jewish life, the necessity is to grow the Movement in Israel with Israeli rabbis to meet the needs of its members and affiliates.[119]

Reform Jews in the Diaspora may not appreciate the centrality and importance of Israel, nevertheless Hirsch argued, Israel is important to Reform Judaism if liberal Judaism is to live

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[115] Edelman, 'A Portion of Animosity', 211-213.
[116] Hirsch, *From the Hill to the Mount*, 94.
[117] Information sourced from an interview with Richard Hirsch. See also *For the Sake of Zion*, 23.
[118] Sergio DellaPergola, *Jewish Demographic Policies* (Jerusalem: The Jerusalem People Policy Institute, 2011). 38.
[119] Information sourced from an interview with Richard Hirsch.

up to its belief in an ethical *halakhah* espousing egalitarianism and relevance.[120] The very persistent opposition to the liberal Movements displayed by the Orthodox parties served to make the Reform and Conservative Movements well known among Israelis facilitating their growth and influence. Attempts by members of the Orthodox establishment to condemn the Reform Movement, and vociferously oppose the Movement on the issue of conversion in particular, brought the Reform Movement to the attention of the Israeli public.[121] However, the growth of the Reform Movement, as discussed above, has remained quite modest.

Dissent from Within

From its inception the decision was made for IRAC not to take a stand on the conflict with the Palestinians. The explanation provided in the first annual report was that the centre does not affiliate with any political party and so has not endorsed any political proposal for resolution of the conflict.[122] Instead, IRAC focused on violations to the value and dignity of human life, in particular exposing racist and extremist statements by Orthodox leaders. In reality practical considerations took a key role in the decision not to take a stand on the external conflict. Although the Reform Movement has a public image of being on the Left in the political sense, the reality is that members of the Movement, in Israel and abroad, take a wide range of positions on the territories and the peace process.[123] It was thought it would not be legitimate to take a political position on an issue where the membership was divided.

Connected to this decision was the decision for the Reform Movement not to form a political party. Given the difference of opinions among members not on only on the territories, but also economic policies and other state issues, it was decided there was no one Reform view that could be represented on such matters as a political party.[124] A second consideration was the chances of success in being elected to the Knesset. The electoral system is one which enables many parties to vie for seats in the Knesset.

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[120] Hirsch, *For the Sake of Zion*, Ch. 2. Zemer, *Evolving Halakhah*.
[121] Hirsch, *For the Sake of Zion*, 24-25.
[122] Israel Religious Action Center, 'First Annual Report, 1987-1988', 6.
[123] From interview with Rabbi Uri Regev. For an indication on the different opinions see 'Israelis by Israelis, Part II: My Fellow Arab Citizens', *Reform Judaism Online*, Summer 2010, accessed 25 January 2010, http://reformjudaismmag.org/Articles/index.cfm?id=1585.
[124] From interview with Rabbi Uri Regev.

As many as thirty parties competed for votes in 2009. Many do not make the threshold of the minimum number of votes required to gain a seat.[125] Even if the Reform Movement managed to gain two seats, the question arose of whether the elected members would be able to gain sufficient influence to convey its message. In the past, members of the Reform Movement were active in various political parties but mainly as members of Left-wing parties like Labour or *Meretz*. It was agreed the Movement would be better represented by people whose memberships overlapped between the Reform Movement and respective political parties.

In addition, Rabbi Regev believed the religious parties, the ultra-Orthodox parties, were a corrupting and alienating influence in terms of how Israelis came to perceive Judaism. Their extortionist methods to achieve their goals, discrimination on the basis of gender, race and ethnicity did tremendous harm to the ability of people to be able to maintain and relate positively to Jewish heritage and religion. It is far better, thought Regev, for the Reform Movement to continue as a non-government organisation (NGO) in a non-partisan manner than to be directly engaged in a direct and volatile mix of religion and politics.

A statement by the IMPJ on the disengagement from Gaza in 2005 reiterated this non-partisan stand while calling on people to desist from activities that could undermine democracy. The statement referred to issues which exacerbated tensions in the weeks and months preceding the disengagement; 'obedience to the law versus civil disobedience, the validity of democratic decisions, the concept of a referendum, rabbinical and Halakhic authority versus Government authority'.[126] The assertion that *halakhic* or rabbinic authority was superior to the rule of law was singled out as dangerous to Israeli society. The IMPJ rejected the claim that Jewish tradition takes a stand on political positions arguing this is contrary to Jewish heritage. The statement also called on law enforcement authorities to not turn a blind eye to manifestations of political violence and threats to elected representatives and officials.

At the time, opponents of the disengagement distributed orange ribbons for people to demonstrate their protest. Supporters of the disengagement distributed blue ribbons to display

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[125] The qualifying threshold was 1 percent of all votes until 1988. The threshold for elections between 1992 and 2003 was 1.5 percent, and 2 percent from 2006 onwards. In 2014 the threshold was raised to 3.25 percent.
[126] Israel Movement for Progressive Judaism, 'The IMPJ and the Political Reality in Israel in the Run-up to the Disengagement Plan', Israel Religious Action Center Special e-Newsletter, 31 July 2005. Computer data base of the Israel Religious Action Center.

their opinions.[127] The Social Action Department of IRAC organised the distribution of 4,000 white ribbons in the cities of Eilat, Jerusalem, Tel Aviv, Modi'in, Netanya and Carmiel with the Biblical quote 'Love Your Neighbour As Yourself' written in Hebrew.[128] The number was far less than the hundreds of thousands of orange and blue ribbons distributed, yet in keeping with the commitment to democratic rule and the conception of justice presented by Jewish heritage, without taking a position for or against the disengagement.

The divisions among members of the Reform Movement on political matters need to be taken seriously. The Reform Movement was not immune from the debates in the United States within the Jewish community of what it means to be pro-Israel. These divisions among members of Reform communities on attitudes to Israel, and the many issues such as those discussed in this thesis, can make it difficult to pursue discussion without undermining other activities of the synagogue in pastoral care, communal worship and Jewish education.[129] In particular divisions over the best way to support Israel with the rise of J-Street advocating a two-state solution in competition with the American Israel Public Affairs Committee (AIPAC) deeply divided Reform congregations.[130]

On the one hand IRAC needed to promote and inform congregations in the United States about issues of conversion, the treatment of non-Orthodox Movements, racism and other issues in order to gain support financially and for lobbying activities. On the other hand Reform Jews, like liberal Jews in general, were challenged in how to maintain support and commitment for Israel in general on a wider political platform where many feared the demonization of Israel in a hostile world emanating from anti-Semitism and the existential threat to Israel. In this view criticism or exposure of Israel's problems were regarded as undermining necessary support for Israel.

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[127] Associated Press, 'Thousands Protest Israel's Gaza Withdrawal', *NBC News*, 27 June 2005, accessed 10 September 2012, http://www.msnbc.msn.com/id/8379455/ns/world_news-mideast_n_africa/t/thousands-protest-israels-gaza-withdrawal/#.UE2d8VGwYmw.

[128] Israel Religious Action Center, 'Activity Report: July – December 2005'.

[129] Noam Sheizaf, 'Our Brothers, Ourselves', *Haaretz.com*, 1 April, 2011, accessed 9 September, 2012, http://www.haaretz.com/weekend/magazine/our-brothers-ourselves-1.353502.

[130] Peter Beinart, 'The Failure of the American Jewish Establishment', *The New York Review of Books* (10 June 2010), last accessed 4 October 2012, http://www.nybooks.com/articles/archives/2010/jun/10/failure-american-jewish-establishment/?pagination=false. Jonathan Marcus, 'Discordant Voices: The U.S. Jewish Community and Israel During the 1980s', *International Affairs* 66, no. 3 (1990). Theodore Sasson, 'Mass Mobilization to Direct Engagement: American Jews' Changing Relationship to Israel', *Israel Studies* 15, no. 2 (2010). Okira Seliktar, 'The Changing Identity of American Jews, Israel and the Peace Process', in *Israel, the Diaspora, and Jewish Identity*, ed. Danny Ben-Moshe and Zohar Segev (Brighton, England; Portland, Oregon: Sussex Academic Press, 2007). Jack Wertheimer, 'The Disaffections of American Jews', *Commentary* 105, no. 5 (1998).

Managing controversy within the Reform Movement was not a new phenomenon. The establishment of RAC in Washington came after two years of lobbying, and talking to congregations around the country, to gain the necessary agreement to pass the motion at the Biennial Conference of the Union of American Hebrew Congregations in 1961. Opponents argued religion should not be mixed with politics. Some congregations withdrew from the Union in protest.[131] The proposal for the Reform Movement to join the World Zionist Organization was also controversial on the grounds that as a political movement it would have a corrupting influence on the Reform Movement.[132]

The nomination in 2011 of Rabbi Rick Jacobs to the position of president of the Union for Reform Judaism drew criticism on the grounds his record of participation in J-Street and the New Israel Fund would lead to alienation of conservative pro-Israel supporters were his nomination to be successful.[133] Like his predecessor, Eric Yoffie, Jacobs proclaimed support for a two-state solution while expressing concern for Israel's security.[134] Eric Yoffie's speech to the J-Street conference in 2009 drew criticism from the audience when he affirmed support for the war on Gaza in 2008, and agreed with the criticisms of the ensuing Goldstone report.[135]

At a congregational level in the United States, criticism of Israeli policies could be met with harsh criticism of the rabbinic leadership, or heated arguments among congregants. On the other hand, not speaking out against Israeli policies that were an anathema to liberal

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[131] Hirsch, *From the Hill to the Mount*, 36-39. Material from interview with Richard Hirsch was also used in this section.

[132] Ibid., 64-65.

[133] Kaplan, Dana Eva, 'Reform's Distracting War Over Politics'*, The Jewish Daily Forward*, 13 May 2011, accessed 30 September 2012, http://www.bjpa.org/Publications/details.cfm?PublicationID=13645. Stewart Ain, 'New Reform Head Walking Pro-Israel Tightrope', *The Jewish Week*, 5 April 2011, accessed 8 April 2011, http://www.thejewishweek.com/news/new_york/new_reform_head_walking_pro_israel_tightrope.

[134] Richard Jacobs, 'My Heart is in the East: My Zionist Commitments', Address to Religious Action Center on the occasion of the fiftieth anniversary celebration, *Union for Reform Judaism,* 2 May 2011, accessed 30 September 2012, http://urj.org/about/union/leadership/rabbijacobs/?syspage=article&item_id=65240&printable=1. The URJ officially adopted a resolution in support of a two-state solution at its biennial conference in Boston in 2001. Union for Reform Judaism, 'God, Torah and Israel: A Legacy of Jewish Life and Leadership; Rabbi Eric Yoffie President of the Union for Reform Judaism 1996-2012', *Union for Reform Judaism*, 2011, 31, accessed 30 September 2012, http://urj.org/about/union/leadership/yoffie/yoffie-tribute/?syspage=document&item_id=84820. Eric Yoffie, 'Rabbi Yoffie's Remarks to J Street Convention October 2009', *Union for Reform Judaism*, 26 October 2009, accessed 17 September 2012, http://urj.org/about/union/leadership/yoffie/?syspage=article&item_id=26660.

[135] Allison Hoffman, 'J Street Day 1: Boos for Reform Leader', *Tablet*, 26 October, 2009, accessed 30 September 2012, http://www.tabletmag.com/scroll/19224/j-street-day-1-boos-for-reform-leader#.

sensibilities could be interpreted as agreement with those policies.[136] Aware of the discord among congregations abroad as a Movement, the Reform in Israel, and therefore IRAC, did not take a position on the conflict with the Palestinians even as the organisation remained at the forefront of activism on a range of domestic issues.

Not taking any official position on the conflict belies the image of the Reform as in essence sympathizing with liberal left wing political positions. Associations with prominent figures including Martin Luther King, Amos Oz, A.B Yehoshua, David Grossman and more recently the New Israel Fund, an important donor for IRAC, and J-Street in conjunction with the types of campaigns in which IRAC participates, promoted this perception to the public in general.[137] It also placed the Reform in Israel at odds with its Diaspora counterparts where the principle of a two-state solution is the official position. Support for initiatives promoting a peace agreement has been the policy advocated since 1987. In that year the Union of American Hebrew Congregations, as well as the American Jewish Committee and the American Jewish Congress, adopted statements affirming support for a proposal by then Israeli Foreign Minister Shimon Peres for an international peace conference and an end to Israeli rule in the West Bank and Gaza.[138]

Summary

The values of religious freedom, social justice and a firm conviction of the necessity to participate in the shaping of Israeli democracy were the values which the leaders of the Reform Movement sought to promote with IRAC as the vehicle for achieving their objectives. The perception of the Reform Movement as a minority in Israel led to the perception by Israelis of the Movement as a group marginal to the politics and issues affecting Israeli society. However, as will be investigated in depth in the case studies, IRAC shifted the role of the Reform Movement in Israel to one of significant influence on the legal framework and values defining the Jewish character of the state.

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[136] Noam Sheizaf, 'Our Brothers, Ourselves'.

[137] Hirsch, *From the Hill to the Mount*. Stewart Ain, 'New Reform Head Walking Pro-Israel Tightrope', *The Jewish Week*, 5 April 2011, accessed 8 April 2011, http://www.thejewishweek.com/news/new_york/new_reform_head_walking_pro_israel_tightrope. Chemi Shalev, 'New NIF head Brian Lurie: "The Occupation is a Cancer That is Eating Us",' *Haaretz.com*, 2 August 2012, accessed 6 September 2012, http://www.haaretz.com/weekend/magazine/new-nif-head-brian-lurie-the-occupation-is-a-cancer-that-is-eating-us-1.455599.

[138] Marcus, 'Discordant Voices', 547-548.

The greatest obstacle to the advancement of the alternative vision of Israel as a pluralist democracy was perceived to be the ultra-Orthodox. The division between the Reform and the ultra-Orthodox was the difference between two conceptions of Jewish identity; the universalist, individualist, pluralist and inclusive position advocated by IRAC, compared to the particularist, community based, homogenous and exclusionary nature of the ultra-Orthodox community. The next chapter discusses the ultra-Orthodox community in particular.

As the ultra-Orthodox demands grew the relative positions of the two communities shifted. The ultra-Orthodox leadership shifted from an offensive stance in an earlier period in an attempt to exclude the development of the Reform Movement, to a defensive position in order to maintain a lifestyle which became more insular, drawing increased resentment from secular Israelis.

Chapter 4 - The Orthodox Heritage

The struggles between the Reform Movement in Israel and the religious Orthodox sector were usually presented as a struggle between two extremes; the ultra-Orthodox community depicted as threatening the secular Zionist fabric of Israeli society, and on the other extreme the Reform Movement as providing a minimalist form of religious observance. Much of the public rhetoric of the Reform leaders was framed along the secular-religious hostilities that characterized discussions about religion and state. The conflict between the ultra-Orthodox and the rest of the Jewish population in fact stemmed back to the splintering of Judaism into streams during the nineteenth century. This long-standing struggle was transplanted to a new environment under Jewish sovereignty in Israel.

In the new state, the development of legislation governing religion, and the dominance of the Orthodox religious leadership determined the acceptance or otherwise of the non-Orthodox movements. The label of *status quo* referring to the initial agreement and legislation gave the impression of an unchanging legislative and political order. In reality the legislative and political proved not to be immutable. At times legislation was passed which was more in favour of religious interests, in particular the increasingly powerful ultra-Orthodox sector, and at other times less so, depending on the political climate at the time. It is within this framework IRAC sought to change the religion-state relations discussed in this chapter; in popular vernacular, to break the Orthodox monopoly.

The position of IRAC and the IMPJ aligned with the secular end of the spectrum of the secular-religious divide. During the social protests in the summer of 2011 these tensions became epitomized in the slogan 'sharing the burden equally' or 'sharing the burden'.[1] The phrase referred to a call for ultra-Orthodox men to take on their share of the burden and personal risks of serving in the armed forces, or alternatively taking on national service in civic activities. It also extended to sharing the economic burden by taking on their share of employment so as to contribute to the economic prosperity of the country rather than relying on government welfare at the expense of tax payers in the rest of the population. The policies

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[1] Nehemia Shtrasler, 'Where Is Che Guevara When You Need Him? The Social Protest Movement in Israel between Civil Awakening and Political Changes', ed. Werner Puschra and Sara Burke, *The Future We the People Need: Voices from New Social Movements in North Africa, Middle East, Europe & North America* (New York: Friedrich Ebert Stiftung, 2013), accessed 25 February 2013, http://library.fes.de/pdf-files/iez/global/09610-20130215.pdf. 45.

of IRAC on key features of ultra-Orthodox society related to these concerns were described in a submission to the Trajtenberg Committee.[2] The Trajtenberg Committee was established in August 2011 to provide recommendations for socioeconomic reform to deal with the problems highlighted in the 2011 social protests.[3]

The submission by IRAC discussed education, employment and housing policies. The paper argued the fact that core curriculum subjects were not taught in non-government ultra-Orthodox secondary schools for boys, *yeshivot*, impeded their opportunity to be integrated into the labour market.[4] The *yeshivot* catered to boys aged between fourteen and eighteen, corresponding to grades nine to twelve. Core curriculum subjects comprised English, mathematics, science and civics. The submission maintained the high rate of unemployment among ultra-Orthodox men was the result of deliberate government policy, in part the lack of any secular education, and in part the dependency on government allowances to *yeshiva* students well into adulthood.

As will be discussed later in this chapter, this argument reflected the conclusions of scholars in the field. The lack of participation in the labour market laid a disproportionate share of the economic burden and payment of the taxes on the rest of the population. Furthermore, IRAC argued government housing subsidies unfairly favoured large families with four or more children living in areas with large numbers of ultra-Orthodox families. Not discussed in the IRAC submission to the Trajtenberg Committee was the call for ultra-Orthodox men to participate in military service.

The struggle pursued by IRAC against the Orthodox monopoly from its inception began out of the self-interest of the Reform Movement in their endeavour for state recognition. As the hostility towards the Orthodox monopoly grew, IRAC carved out a pivotal position for itself to represent a popular cause. During the late 1980s and 1990s, IRAC regularly exposed corruption in the provision of religious services. In the school year of 2003-2004, IRAC adopted the cause of education in ultra-Orthodox schools as an extension of its campaign for

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[2] Israel Religious Action Center, 'Position of the Reform Movement in Israel on the Topic of the Social Protests Presented to the Trajtenberg Committee – Committee for Social and Economic Change', [In Hebrew] 24 August, 2011. Computer data base of the Israel Religious Action Center.

[3] Rafi Smith and Olga Paniel, 'Israel Religion and State Index Fall 2010', ed. Shahar Ilan (Jerusalem: Hiddush, Smith Research Institute, 2010), 7.

[4] Israel Religious Action Center, 'Position of the Reform Movement in Israel on the Topic of the Social Protests.'

equitable funding for schools providing pluralistic education.[5] The self-interest of the Reform Movement broadened into an interest shared with other organisations seeking equal treatment, whether it was in education, military service, housing or employment. Both Uri Regev and Anat Hoffman articulated the widespread sentiments of hostility towards the lack of participation in military service and the workforce.

Origins of ultra-Orthodox Judaism

Far from being a monolithic group, the ultra-Orthodox community in Israel was very diverse and constantly changing, posing difficulties for researchers to gather conclusive information.[6] Groups were fragmented along lines of ethnicity, community of origin, religious belief, and attitudes to Zionism. At times the boundaries between ultra-Orthodox and Orthodox were indistinct.[7] Notwithstanding their diversity, the ultra-Orthodox and the Orthodox shared an adherence to *halakhah*, and for many years, a rejection of official recognition of the non-Orthodox movements.

Along ethnic lines there existed major differences between Sephardi and Ashkenazi Orthodox. The Sephardi Jews from Middle East and North African countries were represented by an ultra-Orthodox rabbinate and political party in the form of Shas. The support base of Shas identified themselves as traditional Jews. They may have attended a service at the synagogue on Shabbat morning, and then driven to a soccer match or the beach in the afternoon. When they took part in marriage or other religious ceremonies they expected it to be conducted in a traditional orthodox manner to which they were accustomed.[8]

Shas supported Zionism with learning of Torah as a central component essential to the life of the nation. The Sephardi rabbinate believed in reaching out to the community to bring

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[5] Israel Religious Action Center, 'Activity Report: July – December 2005'.
[6] Ehud Spiegel, ' "Talmud Torah Is Equivalent to All"-the Ultra-Orthodox (Haredi) Education System for Boys in Jerusalem' (Jerusalem: The Jerusalem Institute for Israel Studies, 2011), xiii.
[7] Daniel J. Elazar, 'Religion in Israel: A Consensus for Jewish Tradition' (Jerusalem: The Daniel Elazar On-Line Library, Jerusalem Center for Public Affairs, 1996), accessed 27 April 2012, http://www.jcpa.org/dje/articles2/relinisr-consensus.htm.
[8] Ben-Rafael, 'The Faces of Religiosity in Israel', 96-98. Leon Nissim, 'The Secular Origins of Mizrahi Traditionalism', *Israel Studies* 13, no. 3 (2008). Zion Zohar, 'Oriental Jewry Confronts Modernity: The Case of Rabbi Ovadiah Yosef', *Modern Judaism* 24, no. 2 (2004): 142-143.

individuals closer to Torah in order to encourage fulfilment of the divine commandments.[9] Like their Ashkenazi counterparts, the spiritual leader of Shas, Rabbi Ovadiah Yosef rejected the non-Orthodox movements as legitimate representations of Judaism.[10] Rabbi Yosef led Shas from 1983 until his death in 2013 and was Sephardi Chief Rabbi from 1973 to 1983. When Sephardi rabbis spoke out against the Reform and Conservative Movements, they followed the lead of Ashkenazi rabbis of East European background due to the dominating influence of the latter.[11] The Sephardim served in the army, but also approved of exemptions in army service for *yeshiva* students.[12]

Historically, the Ashkenazi ultra-Orthodox rabbis were the primary antagonists in the rivalry between the secular and religious populations, shunning any intrusion of modernity.[13] The Ashkenazi ultra-Orthodox, originating from Europe, differed between the Hassidic and the Lithuanian, also known as *mitnagdim* (against the Hassid), each with their own array of sub-groups ranging from firmly anti-Zionist to Zionist.[14] The various groups also differed on attitudes to modernity, between commitment to all the Jewish people and seclusion from other less observant Jews.[15]

As with the Sephardi community, members of each sect followed with loyalty to their rabbinic leader.[16] Unlike the Sephardi community the members of these groups did follow devoutly the commandments of the faith. The same phenomenon of the Enlightenment which produced the Reform Movement, also produced the radical stream of Judaism which came to be identified as Orthodox and ultra-Orthodox.[17] These two characteristics endured as recurring themes to explain and justify the attitude of the ultra-Orthodox to the modern

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[9] Sultan Tepe, *Beyond Sacred and Secular: Politics of Religion in Israel and Turkey* (Stanford, California: Stanford University Press, 2008). Aaron Willis, 'Redefining Religious Zionism: Shas' Ethno-Politics', *Israel Studies Bulletin* 8, no. 1 (1992).
[10] Zohar, 'Oriental Jewry Confronts Modernity', 124.
[11] Nissim, 'The Secular Origins of Mizrahi Traditionalism', 31. Yehouda A. Shenhav, *The Arab Jews* (Stanford, California: Stanford University Press, 2006).
[12] Willis, 'Redefining Religious Zionism'.
[13] Ben-Rafael, 'The Faces of Religiosity in Israel', 93.
[14] Elazar, 'Religion in Israel'. Aviezer Ravitzky, *Messianism, Zionism, and Jewish Religious Radicalism*, trans. Michael Swirsky and Jonathan Chipman (Chicago: University of Chicago Press, 1996). Alan Mittleman, *The Politics of Torah: The Jewish Political Tradition and the Founding of Agudat Israel* (Albany: State University of New York Press, 1996). Nurit Stadler, 'Is Profane Work an Obstacle to Salvation? The Case of Ultra Orthodox (Haredi) Jews in Contemporary Israel', *Sociology of Religion* 63, no. 4 (2002): 456, n452.
[15] Ravitzky, *Messianism, Zionism, and Jewish Religious Radicalism*, 146.
[16] Ibid.
[17] Efron, *Real Jews*, Ch.1. Moshe Samet, 'The Beginnings of Orthodoxy', *Modern Judaism* 8, no. 3 (1988). Samuel C. Heilman and Menachem Friedman, 'The Haredim in Israel: Who Are They and What Do They Want?' (American Jewish Committee), 1996), 1-4.

secular world; an adherence to a superior authority whose message and instructions was transmitted through the sacred texts.[18] Another distinguishing feature of the ultra-Orthodox was the development of the *yeshiva* as central to study of Torah and the focus of communal life.[19]

During the course of the twentieth century the nature and influence of the ultra-Orthodox was characterized by shifts within the ultra-Orthodox sector. In the pre-state period Agudat Israel dominated representation of these interests. During the 1930s, the Ashkenazi based Agudah party began to negotiate and work with the secular Zionist leaders. In strong opposition, a small group of anti-Zionist traditionalists broke away from Agudah to form their own faction Neturei Karta.[20] It was Neturei Karta who instigated the practice of violent protest to desecrations of Jewish law, for example, in a protest against vehicles being driven through the ultra-Orthodox neighbourhood of Mea Shearim during Shabbat in 1950; a proposed community centre with activities for boys and girls together in 1954; and in 1958 swimming pools planned for use by both sexes. Violent protests of this nature continued from time to time on various issues with other ultra-Orthodox factions joining the protests.

The 1984 election posed a major upset to the dominance of the Ashkenazi religious parties when the newly formed Shas party won four seats in the Knesset. Part of the success of Shas came from disaffected voters of Agudat Israel, whose representation dropped from four seats in the previous Knesset to two. The disaffected voters comprised non-Hassidic Ashkenazi ultra-Orthodox as well as religious Sephardim who felt discriminated against by the Ashkenazi religious parties.[21] In 1999 Shas won an unprecedented seventeen seats asserting the party as a major rival for the religious vote.[22] Not only did the representation of ultra-Orthodox Knesset members increase over time, but so did the representation of religious

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[18] Yohai Hakak, 'Egalitarian Fundamentalism: Preventing Defection in the Israeli Haredi Community', *Journal of Contemporary Religion* 26, no. 2 (2011). Heilman and Friedman, 'The Haredim in Israel', 18. Nurit Stadler, et al., 'Fundamentalism's Encounters with Citizenship: The Haredim in Israel', *Citizenship Studies* 12, no. 3 (2008): 216-217. Dana Yagil and Arye Rattner, 'Between Commandments and Laws: Religiosity, Political Ideology, and Legal Obedience in Israel', *Crime, Law and Social Change* 38, no. 2 (2002): 186.
[19] Heilman and Friedman, 'The Haredim in Israel', 3. Samet, 'The Beginnings of Orthodoxy', 250-251. Stadler, 'Is Profane Work an Obstacle to Salvation?'.
[20] Efron, *Real Jews*, 36-41. Abramov, *Perpetual Dilemma*, 230-236.
[21] David Newman, 'Voting Patterns and the Religious Parties in Israel', *Contemporary Jewry* 10, no. 2 (1989): 67-69.
[22] Zohar, 'Oriental Jewry Confronts Modernity', 120.

representatives in general, including the religious Zionist National Religious Party and a handful of religious Knesset members in non-religious based parties.[23]

The Inherited and Adapted Religious-Political Arrangements

The place of religion in Israeli governance and law emerged early in the history of the modern state by the adoption of laws from the British Mandate, the negotiations between the religious and secular sectors of the Jewish settlement that became known as the *status quo*, and the influence of the political-religious parties. The institutions of the Chief Rabbinate and the religious courts were carried over from the period of Ottoman rule in Palestine as part of the millet system and continued during the British Mandate.[24] Under this system Muslims, Druze and recognised denominations of Christianity continued responsibility for matters relating to marriage and divorce for their respective communities.

On May 15, 1948, when Israel became independent, the new country adopted the system. The laws were then modified and adapted in the succeeding years.[25] Legally, Judaism did not receive preferential treatment. It was not an established religion in the usual understanding of a constitutional mechanism declaring it to be the state religion.[26] This may in part explain why the debate over what it means to be a Jewish state continued. Yet Judaism as a religion was highly regulated; far more so than the Muslim or Christian population, and often received disproportionately greater funding for religious services.[27]

The unofficial *status quo* of 1947 between the religious and secular sectors of society preserved the legal status of religion as it was during the pre-state period.[28] A narrow definition of the *status quo* referred to the agreement as being in the form of a letter sent by

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[23] Asher Cohen, 'The Religious Parties in the 2006 Election', *Israel Affairs* 13, no. 2 (2007). Rebecca Kook et al., 'In the Name of G-D and Our Rabbi: The Politics of the Ultra-Orthodox in Israel', *Israel Affairs* 5, no. 1 (1998).
[24] Amnon Rubinstein, 'Law and Religion in Israel', *Israel Law Review* 2, no. 3 (1967). M. Chigier, 'The Rabbinical Courts in the State of Israel', *Israel Law Review* 2, no. 2 (1967).
[25] Amnon Rubinstein, 'Law and Religion in Israel', 384-387. Abramov, *Perpetual Dilemma*, 176.
[26] Rubinstein, 'Law and Religion in Israel', 414.
[27] Michael Mousa Karayanni, 'The Separate Nature of the Religious Accomodations for the Palestinian-Arab Minority in Israel', *Northwestern Journal of International Human Rights* 5, no. 1 (2006).
[28] Asher Cohen and Bernard Susser, *Israel and the Politics of Jewish Identity: The Secular-Religious Impasse* (Baltimore, Maryland: Johns Hopkins University Press, 2000), 18. Daphne Barak-Erez, 'Law and Religion under the Status Quo Model: Between Past Compromises and Constant Change', *Cardozo Law Review* 30, no. 6 (2009): 2495. Friedman, 'The Structural Foundation for Religio-Political Accomodation in Israel'. Karayanni, 'The Separate Nature of the Religious Accomodations', 44.

David Ben-Gurion, on behalf of the Jewish Agency, to Agudat Yisrael.[29] The contents of the letter served to maintain the Jewish character of the State in four areas; Shabbat observance, kashrut, marital affairs and autonomy in education.[30] The agreement did not recognise the plurality of Jewish observance although it did seek to guarantee freedom of religion for non-Jewish citizens. A broader definition viewed the letter as a defining document given substance by subsequent legislation. The *status quo* letter provided the structure guiding new legislation.[31]

Another interpretation described the letter as responsible for inconsistencies because the letter itself was vague, making it difficult to interpret. An example of such inconsistency was the continued operation of buses on Shabbat in Haifa after independence, but when an underground train service opened in 1959 it did not operate on Shabbat due to pressure from the religious sector. Furthermore, the *status quo* letter was used by religious parties to argue in defence of religious interests and even to expand these interests.[32]

On the one hand the *status quo* was regarded as entrenched in Israeli society shaping consensus between the religious and secular sectors.[33] Change was possible within the guidelines of the *status quo* in an incremental, cumulative manner adhering to the principles of the *status quo*.[34] The *status quo* prevented the non-religious parties, representing the majority in the Knesset, from exerting their will over the religious community. The agreement delineated the 'red lines' which could not be crossed, otherwise the system of accommodation would break down leading to instability.[35]

On the other hand, it was argued the *status quo* was always changing and no longer represented a workable compromise between the religious and secular sectors of society.[36] In order to change the religion-state relationship to be more pluralistic and inclusive of non-

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[29] Karayanni, 'The Separate Nature of the Religious Accomodations', 44-45 n. 22.

[30] Friedman, 'The Structural Foundation for Religio-Political Accomodation in Israel', 63, 78-79.

[31] Arian, *Politics in Israel*, 349. Barak-Erez, 'Status Quo & Change', 2496-2497. Rubinstein, 'Law and Religion in Israel', 393. Chief Rabbinate of Israel Law, 5740-1980, Israel Law Resource Center, accessed 31 August, 2011, http://www.israellawresourcecenter.org/israellaws/fulltext/chiefrabbinateisrael.htm.

[32] 'State and Religion in Israel', *Journal of Contemporary History* 2, no. 4 (1967): 113-114.

[33] Gal Levy, 'Secularism, Religion and the Status Quo', in *Religion and the State: A Comparative Sociology*, ed. J. M. Barbalet, Adam Possamai, and Bryan S. Turner (London; New York: Anthem Press, 2011), 98-99.

[34] Cohen and Susser, *Israel and the Politics of Jewish Identity*, 19. Charles Liebman and Eliezer Don-Yehiya, *Religion and Politics in Israel* (Bloomington: Indiana University Press, 1984), 31-40.

[35] Cohen and Susser, *Israel and the Politics of Jewish Identity*, 18-20.

[36] Barak-Erez, 'Status Quo and Change'.

Orthodox Movements the laws needed to be changed, modified or replaced, to limit the monopoly of the Orthodox in matters of personal status.[37] Instigating change to the laws was made all the more difficult by the influence of religious parties in the Knesset.

A number of examples support the view that the *status quo* in religious state relations was modified and broken down. One example cited in support of this view was the trend towards the use of private transportation and taxis on Shabbat even though a ban on public transport remained. Pressure to open business and entertainment venues on Shabbat was another example of modification of the *status quo*.[38] The increased number of exemptions from army service for y*eshiva* students may be considered as breaking the spirit of the agreement.[39] A major contributing factor to the breakdown of the *status quo* was the increased activism of the Supreme Court, discussed in the literature review in chapter two, along with the introduction of the Basic Law: Human Dignity and Liberty, and Basic Law: Freedom of Occupation in 1992.[40]

According to Kimmy Caplan of Bar-Ilan University, *Haredim* in Israel have been undergoing a process of 'Israelization' since the mid-1970s.[41] He was referring to members of the mainstream Ashkenazi Lithuanian and Hassidic communities, not to extremist groups who were exempted from this process. Israelization referred to a convergence of *Haredim* with the Zionist icons of the State of Israel and non-religious identities; a process of integration, not assimilation. As evidence of this change Caplan identified the common use of Hebrew instead of Yiddish, the growing number of ultra-Orthodox women entering the workforce in non-*Haredi* environments, and increasing numbers of ultra-Orthodox people visiting iconic institutions of Zionism including Yad Vashem (The Holocaust Memorial), the Museum of the Diaspora, open days at army bases, as well as shopping malls in non-*Haredi* areas, and the National Library in Jerusalem.

Furthermore, the participation of the ultra-Orthodox in organised events such as demonstrations against the Supreme Court or against proposed cuts to child allowances

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[37] Interview number twelve.
[38] Barak-Erez, 'Status Quo and Change', 2500-2501. Liebman and Don-Yehiya, *Religion and Politics in Israel*, 38-40.
[39] Barak-Erez, 'Status Quo and Change'.
[40] Ibid.
[41] Kimmy Caplan, 'Haredi Identities: Expressions and Developments' (Conference paper presented at The Contemporary Peoplehood of Jews: Myth or Reality?, The Hebrew University of Jerusalem, 2007).

represented an acknowledgement of citizenship, with the right to influence government policies and, in part, an acceptance of the rules of society. For the most part this change was not being instigated by the elite, but against the will of the ultra-Orthodox leadership. Caplan went so far as to draw an analogy with the process of self-examination and internal debate the Reform Movement underwent during the 1940s and 1950s to accept Zionism.

Economic Characteristics and Pressures

Economic considerations provided momentum to the secular protests and resentment of ultra-Orthodox non-participation in their share of military service and employment. Projections of increased proportions of ultra-Orthodox citizens in the population in the future, coupled with the low participation of ultra-Orthodox men in the workforce, raised concerns about the sustainability of the economy in the future.[42] Also of concern for economic decision-makers regarding future prosperity and growth was the low participation rate of Arab citizens in the labour force, and the aging of the total population.

In connection to the ultra-Orthodox population the high levels of poverty also became a reason to foster increased participation of ultra-Orthodox men in the workforce.[43] The ultra-Orthodox community itself was increasingly finding it difficult to sustain its lifestyle financially. The real value of government allowances for families and funding for yeshivas decreased over time, and donations from the Diaspora to ultra-Orthodox institutions did not kept pace with the growth in the number of *yeshivot* and the number of students. The number of jobs available in religious services was insufficient to employ the increased numbers of yeshiva students demanding such employment to supplement or provide incomes. In addition, parents became less able to provide financial assistance to young couples and their growing families.[44] These concerns were accentuated by the rapid growth of the ultra-Orthodox community.

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[42] 'Bank of Israel Annual Report – 2011' (Jerusalem: Bank of Israel, 2012), accessed 21 January 2013, http://www.boi.org.il/en/NewsAndPublications/RegularPublications/Pages/eng_doch11e.aspx. Caplan, 'Haredi Identities', v-vi. Dan Ben-David, 'The Start-up Nation's Threat from Within', in *State of the Nation Report: Society, Economy and Policy in Israel 2011-2012*, ed. Dan Ben-David (Jerusalem: Taub Center for Social Policy Studies in Israel, 2012), accessed 22 January 2013, http://taubcenter.org.il/, 41-50.
[43] Bezalel Cohen, 'Economic Hardship and Gainful Employment in Haredi Society in Israel: An Insider's Perspecctive', (Jerusalem: The Floersheimer Institute for Policy Studies, 2006).
[44] Ibid., 20-26. Eli Berman, 'Sect, Subsidy, and Sacrifice: An Economist's View of Ultra-Orthodox Jews', *The Quarterly Journal of Economics* 115, no. 3 (2000): 942-943.

It was estimated that in 1990 the ultra-Orthodox population represented 2.5 percent of the total population compared to 7 percent in 2008.[45] CBS produced estimates of the growth of the ultra-Orthodox population for the first time in 2012.[46] The report gave high, medium and low projections of population growth until 2059, with different scenarios of possible population growth for ultra-Orthodox, Arabs, and the Jewish population excluding the ultra-Orthodox. The projections were based on assumptions based on information available at the time of the research regarding health, fertility rates, rates of mortality, economic and other factors which may affect population growth.

In the base year 2009, the Jewish population excluding the ultra-Orthodox constituted 70 percent of the population, the ultra-Orthodox 10 percent, and the Arab population 20 percent. By 2059 it was estimated Jews excluding the ultra-Orthodox will form between 37 percent and 64 percent of the total Israeli population. The ultra-Orthodox will form between 16 and 40 percent of the population, and the Arab population between 15 and 34 percent of the population.[47]

The principal factor influencing the rate of growth of the ultra-Orthodox sector was the relatively high fertility rate. In 2009 the rate was 6.4 children per woman compared to 2.4 children for non-ultra-Orthodox Jews and 3.6 for the Arab population. While the fertility rate varied over time, it was anticipated the rate for ultra-Orthodox women would continue to remain higher than for other sectors of the population.[48] The fertility rate actually fell since 2001 from a rate of approximately 9 children per ultra-Orthodox woman.[49] A contributing factor to this trend was the lowering of government child allowances in 2003 discussed below.[50] The decrease in child allowances also may have instigated an observable increase in the number of ultra-Orthodox men and women entering the labour market.[51]

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[45] Uzi Rebhun and Gilad Malach, *Demographic Trends in Israel*, ed. Ruth Gavison, trans. Naftali Greenwood (Jerusalem: The Metzilah Center, 2009), 46.
[46] Ari Paltiel et al., 'Long Range Population Projections for Israel: 2009-2059' (Jerusalem: Demography and Census Department, Central Bureau of Statistics, 2012).
[47] Ibid., 82.
[48] Ibid., 80.
[49] Rebhun and Malach, *Demographic Trends in Israel*, 34.
[50] Esther Toledano et al., 'The Effect of Child Allowances on Fertility' (National Insurance Institute, Research and Planning Administration: Jerusalem, 2009), 1, accessed 20 February 2013, www.btl.gov.il.
[51] Rebhun and Malach, *Demographic Trends in Israel*, 34.

As their numbers increased, the rate of employment among ultra-Orthodox men declined between 1980 and 2009 for men in the primary working age of between 35 and 54 years.[52] As shown in table nine, in 1980 the employment rate was approximately 62 percent before rising to 70 percent in 1982. Since 1982, the employment rate among ultra-Orthodox men continued to fall. In the decade following 1998, the rate of employment remained relatively stable at around 40 percent declining to 35 percent in 2008, then increasing to 45 percent in 2010. In comparison, the employment rate of non-ultra-Orthodox Jewish men in the same age group declined from 90 percent in 1980 to 84 percent in 2010.[53]

Table 9: Employment Rate of Ultra-Orthodox Men

Year	1980	1982	1986	1990	1994	1998	2002	2006	2008	2010
Rate	62%	70%	55%	48%	49%	40%	38%	40%	35%	45%

Source: Taub Center State of the Nation Report 2011-2012

Conservatively speaking it was too soon to predict whether the increase in employment since 2008 would continue.[54] The Bank of Israel interpreted the rapid increase as a genuine change in the labour market, yet far short of the 63 percent employment target for 2020 set by the government. The Bank of Israel report for the 2011 financial year distinguished between employment of ultra-Orthodox men in the business sector and employment in public service, including employment in administration, education and religious services. The report noted employment in the business sector was relatively low compared to the non-ultra-Orthodox Jewish population. According to the report, employment in the business sector needed to increase significantly in order for employment rates to improve.[55]

Gaining a true picture of employment patterns in ultra-Orthodox households was problematic.[56] Labour force surveys identified ultra-Orthodox households as a household

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[52] Ayal Kimhi, 'Labour Market Trends: Employment Rate and Wage Disparities', in *State of the Nation Report: Society, Economy and Policy in Israel 2011-2012*, ed. Dan Ben-David (Jerusalem: Taub Center for Social Policy Studies in Israel, 2012), accessed 22 January 2013, http://taubcenter.org.il/, 125-126.
[53] Ibid.
[54] Ibid., 125. 'Bank of Israel Annual Report – 2011'*, 233.
[55] 'Bank of Israel Annual Report – 2011', 231-233.
[56] Ibid., 231. Dan Ben-David, 'Israel's Labour Market: Today, in the Past and in Comparison with the West', in *State of the Nation Report: Society, Economy and Policy in Israel 2009*, ed. Dan Ben-David (Jerusalem: Taub Center for Social Policy Studies in Israel, 2010), accessed 15 February 2013, http://taubcenter.org.il/, 235.

with 'an individual whose last place of study was a higher level yeshiva'.[57] The definition excluded households with men who studied at another institution after leaving a higher level *yeshiva* with a view to entering the workforce. The Bank of Israel analysis therefore included two definitions for ultra-Orthodox households, one as previously described, and a second definition for households which included a 'continuing' *yeshiva* student. In 2011 employment rates based on the second definition were lower than for the first definition, 38 percent for 'continuing' *yeshiva* students compared to 45 percent for 'last place of study'. Using the definition of 'continuing' *yeshiva* students, a similarly rapid increase in employment occurred rising from 31 percent in 2009. For this reason the Bank of Israel concluded the increase in employment indicated a genuine change in the labour market.

In the decade between 2001 and 2011 the employment rate of ultra-Orthodox women increased from 47.8 percent to 61.2 percent. In the same period the employment rate of Arab women and women in general also increased.[58] The greater participation of ultra-Orthodox women in the workforce may be part of a wider phenomenon in Israel and in OECD countries of increased participation of women in the workforce.[59] On the other hand the necessity to earn an income due to decreased government allowances, and the increased non-employment of ultra-Orthodox men could not be discounted as contributing factors.

The low levels of employment among Haredi men reflected not only high rates of unemployment, but high rates of non-employment. An oft cited reason for non-employment was the cultural argument.[60] Comparison to overseas countries discounted this argument as an explanation for the large increase of non-employment. In England the employment rate of ultra-Orthodox men of working age in 2006 was 67 percent, compared to 40 percent in Israel. In the same year the employment rate for ultra-Orthodox women was 47 percent in England compared to 54 percent in Israel.[61] Outside of Israel ultra-Orthodox men tended to move into the workforce during their twenties after some years in higher *yeshiva* studies. The men

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[57] 'Bank of Israel Annual Report – 2011', 231.
[58] Ibid., 230.
[59] O. Thévenon, 'Drivers of Female Labour Force Participation in the OECD', *OECD Social, Employment and Migration Working Papers*, no. 145 (OECD Publishing, 2013), accessed 23 September 2014, http://dx.doi.org/10.1787/5k46cvrgnms6-en.
[60] Ben-David, 'Israel's Labour Market'. David Bartram, 'Cultural Dimensions of Workfare and Welfare', *Journal of Comparative Policy Analysis: Research and Practice* 7, no. 3 (2005): 239.
[61] Ben-David, 'Israel's Labour Market', 234.

found ways to combine employment and religious studies with a small number continuing in a *yeshiva* on a long term basis.[62]

Exemption from service in the Israel Defence Forces (IDF) was cited as an added reason for the increase in non-employment rates of ultra-Orthodox men. A counter argument discounted this reasoning since the conditions for military service exemption also existed in 1980 when non-employment rates were less than one-third.[63] It was argued exemption from military duty was an insufficient explanation of the high rate of non-employment, in part, because the men continued to study in *yeshivot* long after the deferment arrangements expired at age 41, or at age 35 for men with five children or more.[64] The many years occupied by Torah study would in all likelihood have made it all the more difficult to adapt to the labour market.

Another explanation put forward was the increases in government benefits to ultra-Orthodox families.[65] In the periods between 1979 to 1982 and 1993 to 1996 the amount of government benefits as a percentage of monthly family income more than doubled from 32 percent to 70 percent. The benefits comprised mainly child allowances and stipends for *yeshiva* students. Child allowance increased from 24 percent to 32 percent of family income, and other government benefits from 8 percent to 39 percent of family income between 1979 to 1982 and 1993 to 1996. Income earned from employment was for the most part earned by the wife.[66] Income support was composed of a variety of benefits apart from payments of yeshiva stipends and scholarships and child support. Added income support included housing subsidies, tax benefits and transport subsidies.[67]

The most dramatic change in government benefits since 1980 was the increase in child allowances. Until 2003, child benefits increased per child in relation to the number of

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[62] Berman, 'Sect, Subsidy, and Sacrifice', 908. Amiram Gonen, *From Yeshiva to Work: The American Experience and Lessons for Israel*, (Jerusalem: Floersheimer Institute for Policy Studies, 2001), accessed 26 February 2013, http://www.fips.org.il/Site/p_publications/item_en.asp?doc=stu&iss=rel&iid=569. Amiram Gonen , *Between Torah Learning and Wage Earning: The London Experience and Lessons for Israel*, (Jerusalem: Floersheimer Institute for Policy Studies, 2006), accessed 1 March 2013, http://www.fips.org.il/Site/p_publications/item_en.asp?doc=&iss=&iid=733.
[63] Ben-David, 'Israel's Labour Market', 234-235.
[64] Berman, 'Sect, Subsidy, and Sacrifice'.
[65] Ben-David, 'Israel's Labour Market', 908. Berman, 'Sect, Subsidy, and Sacrifice'. Paul Rivlin, *The Israeli Economy from the Foundation of the State through the 21st Century* (Cambridge; New York: Cambridge University Press, 2011), 170-171.
[66] Berman, 'Sect, Subsidy, and Sacrifice', 915-916.
[67] Ben-David, 'Israel's Labour Market', 239. 'Basket of Benefits for a Yeshiva Student 28 Years of Age with 3 Children – Between 4100 and 4800 Shekalim per Month', [In Hebrew] *Hiddush*, 13 January 2013, accessed 17 January 2013, http://hiddush.org.il.

children per family. In 1980, a family received NIS 153 per month for the second child and NIS 384 for the sixth or later child in 2008 price equivalent. While the rate for the second child remained relatively constant, the rate for the sixth child increased until it peaked at NIS 987 in 2001 (in 2008 prices) greatly benefiting typically large ultra-Orthodox families.[68] In 2001 prices the child allowance for the sixth child was NIS 856.[69] The large increase was made possible by the passage of the Large Family Bill, also known as the Halpert Law. The law was named after Shmuel Halpert, a Knesset member representing United Torah Judaism, who introduced the bill. The passage of the Bill was widely condemned. It exhibited the worst excesses of the ultra-Orthodox members of the Knesset in terms of attaining benefits for their communities.

The Halpert Law came at a time when economic policy, since 1985, was to reduce government debt and liberalize the economy. The country was also experiencing a severe recession from 2001 to 2003 coinciding with the second intifada. Cutting social service expenditure was a component of the policy to reduce debt, particularly since increases in such spending in earlier years had not led to anticipated improvements to the services provided.[70] Criticism of the Halpert Law pointed to the observation that the high levels of child allowances benefited mainly ultra-Orthodox families enabling the men to refrain from entering the workforce. Repealing or amending the Law would also facilitate the reduction of government debt.[71]

Child allowances were decreased dramatically in 2002 to 2003.[72] Whereas allowances for children born before June 2003 decreased gradually, children born on or after 1 June 2003

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[68] Ibid., 237-238. 'The Start-up Nation's Threat from Within', 41.
[69] Rivlin, *The Israeli Economy*, 175. Shahar Ilan, 'State Saves NIS 19 Billion Due to Cut in Child Allowances Since 2002', *Haaretz.com*, 10 August 2008, accessed 20 February 2013, http://www.haaretz.com/print-edition/news/state-saves-nis-19-billion-due-to-cut-in-child-allowances-since-2002-1.251452.
[70] Rivlin, *The Israeli Economy*, 78-84, 228.
[71] Ilan, 'State Saves NIS 19 Billion'. Zvi Lavi, 'Labor to Oppose Budget Unless Large Families Bill Repealed', *Globes*, 6 August 2001, accessed 24 February 2013, http://archive.globes.co.il/searchgl/Labor%20to%20oppose%20budget%20unless%20Large%20Families%20Bill_h_hd_0L3GmDJaqN3KnCJSnEIveT6ri.html. Zvi Lavi, 'Finance Committee Approves Budget', *Globes*, 5 February 2002, 24 February 2013, http://archive.globes.co.il/searchgl/Finance%20Committee%20approves%20budget%D7%A0Former%20Minister_h_hd_0L3GqE3WvN3KsC30sCIveT6ri.html. Eliezer Rauchberger and M. Chevroni, 'Rabbi Halpert's Large Family Law Bill Approved, *Dei'ah Vedibur*, 8 November 2000, accessed 24 February 2013, http://www.chareidi.org/archives5761/lechlecha/LCHalargefam.htm. Pinchas Landau, 'The Future of Israeli Hareidism [sic]', *Ideals*, 10 June 2011, accessed 24 February 2013, http://www.jewishideas.org/articles/future-israeli-hareidism.
[72] Esther Toledano et al., 'The Effect of Child Allowances on Fertility'. Ilan, 'State Saves NIS 19 Billion'.

received an amount closer to that of the first born child regardless of birth order.[73] The total amount of income support for an ultra-Orthodox family in 2013, amounted to between NIS 4,000-5,000 per month.[74] This income support was similar to, or slightly above, the minimum wage which was raised to NIS 4,100 in 2011 and then NIS 4,300 in 2012.[75]

Usually low wages would be expected to be a motivator to seek work and improve the circumstances of oneself and one's family. However the high value placed on study of Torah was augmented by a belief that living a simple, thrifty lifestyle was important and desirable in order to enable time to study Torah as a path to achieving happiness and contentment. Rather than seeking employment, receiving assistance from charitable organisations was regarded as an acceptable manner in which to support one's family.[76]

In the first decade of the twenty-first century evidence emerged that some members of the Haredi community were rejecting the idea of poverty as a virtue, and wished to participate in the labour market and military forces.[77] A younger generation of men, dissatisfied with the *yeshiva* lifestyle with its seclusion from the rest of society, began reinterpreting the religious texts to support a change permitting participation in the labour force and in the armed services. It was possible this change in attitude contributed to the more recent increases in labour force participation rates. As with employment participation rates, whether this trend in study will take on a momentum and further influence current and future generations of ultra-Orthodox and their relationship to society remains to be seen.

At the same time the government was concerned to curtail debt, it also set an objective to reduce poverty by improving rates of participation in the workforce for ultra-Orthodox men and Arab women. Arab citizens and ultra-Orthodox persons accounted for 45 percent and 17 percent respectively of the total number of people in poverty in 2007-2008.[78] In the 2008 budget, NIS 15 million was allocated to training ultra-Orthodox men as engineers and technicians in addition to allocations made for other disadvantaged groups.

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[73] Toledano et al., 'The Effect of Child Allowances on Fertility', 6.
[74] 'Basket of Benefits for a Yeshiva Student'. Ben-David, 'Israel's Labour Market', 239.
[75] 'Bank of Israel Annual Report – 2011', 246.
[76] Cohen, 'Economic Hardship', 45-46.
[77] Nurit Stadler, *Yeshiva Fundamentalism: Piety, Gender, and Resistance in the Ultra-Orthodox World* (New York; London: New York University Press, 2009).
[78] Rivlin, *The Israeli Economy*, 224-225.

Programs began to be developed as early as 1996 to facilitate the training and entry of ultra-Orthodox men into the labour force.[79] These programs developed despite strong opposition by conservative elements in the ultra-Orthodox community resistant to any change.[80] Assistance was also extended for childcare to encourage women to enter the workforce. Negative income tax credits were introduced to encourage low income earners and women with large families to take up employment. Beginning in 2008 low income earners received NIS 400 to increase their remuneration thereby making employment a more attractive proposition.[81]

The Military Burden

The legacy of exemption from military service for ultra-Orthodox men began in 1948. At that time Prime Minister David Ben-Gurion agreed to exempt 400 *yeshiva* students from military duty. The reason given was that this was essential to preserve and revive ultra-Orthodoxy after the great losses during the Holocaust.[82] In 1968 a ministerial committee raised the number of new deferrals for men reaching the age of conscription to 800 per year. The turning point in lifting the number of draft exemptions came in 1977. In that year Prime Minister Menachem Begin made offers to Agudah to enlist their participation in a coalition government led by his Likud party.

Among other concessions, Begin promised greater funding for independent ultra-Orthodox schools, and removed the upper limit of 800 new draft deferrals per year. Furthermore, Begin offered to extend eligibility for deferral of military service to students in hybrid, vocational schools and *hozrim be-teshuvah*, formerly secular Jews embracing a religious lifestyle.[83] During the period of the first term of the Likud government, the number of new deferrals increased to 1,400 per year.[84]

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[79] Cohen, 'Economic Hardship', 71-73. Jacob Lupu, New Directions in Haredi Society Vocational Training and Academic Studies, (Jerusalem: Floersheimer Institute for Policy Studies, 2005), accessed 5 March 2013, http://www.fips.org.il/Site/p_publications/item_en.asp?doc=&iss=&iid=650.
[80] Cohen, 'Economic Hardship', 10. Lupu, *New Directions in Haredi*, 16.
[81] Rivlin, *The Israeli Economy*, 228-230.
[82] Efron, *Real Jews*, 64-66. Gonen, *From Yeshiva to Work*, 7. Shahar Ilan, *Draft Deferment for Yeshiva Students: A Policy Proposal* (Jerusalem: Floersheimer Institute for Policy Studies, 1999), accessed 10 February 2013, http://www.fips.org.il/Site/p_publications/item_en.asp?doc=&iss=&iid=504, 9.
[83] Efron, *Real Jews*, 65-66.
[84] Ilan, *Draft Deferment for Yeshiva Students*, 9.

110

Deferrals from military service became cumulative being renewed each year until a full exemption was received at age 41, or 35 in the case of fathers of families with at least five children. Alternatively, a shortened form of army service of three months was undertaken.[85] The total number of deferrals recorded therefore included not only the number of men who forewent three years of compulsory military service, but also the obligations for reserve duty to the age of 40.[86] An inquiry into military service of ultra-Orthodox men by the Office of the State Comptroller in 2011 reported that in 2003 the number of deferrals granted for reason of *Torah Omanuto*, Torah as his craft, was 39,000. By 2010 the number reached 63,000.[87] In 2011 the number of deferrals for *yeshiva* students decreased to 54,000 due to changes in procedures adopted by the government in January of that year.[88]

While the number of deferrals for purpose of religious study increased over time, the overall rate of recruitment of Jewish men turning 18 declined. The rate of recruitment in 1980 was 87.7 percent, in 1990 the rate was 82.9 percent, in 2000 the rate was 78.5 percent and in 2010 the rate of recruitment was 74.8 percent.[89] Other reasons provided for non-recruitment were medical, including mental health, living overseas, or having a criminal record. As a proportion, the number of deferrals of 18 year old men deferring military service for the reason of Torah study increased over time. In 2005, 36 percent of all deferrals for Jewish men reaching the age of draft were for the reason of religious study compared to 52 percent in 2010.[90] In addition, a smaller group of ultra-Orthodox men gained deferral for physical or psychological reasons, or lack of suitability for service.[91]

The IDF also experienced a decline in the number of women recruited, the number of conscripts actually completing a full-term, and the number of men called to reserve duty, generating debate about the role of the IDF as 'The People's Army'. The trend moved towards a greater rate of military duty among Religious Zionists than secularists.[92] The long

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[85] Berman, 'Sect, Subsidy, and Sacrifice'. Heilman and Friedman, 'The Haredim in Israel', 19; Ilan, *Draft Deferment for Yeshiva Students*, 9.
[86] Efron, *Real Jews*, 66.
[87] The State Comptroller, 'Haredim Service in the IDF', in *Annual Report Number 62 for Year 2011 and Fiscal Year 2010* (Jerusalem: The State Comptroller and Ombudsman Israel, 2012), 1639.
[88] Ibid., 1637.
[89] Ibid., 1638.
[90] Ibid., 1639.
[91] Shahar Ilan, 'The Supreme Court that Wasn't', *Hiddush*, 12 May 2011, accessed 2 April 2013, http://hiddush.org/article-2150-0-The_Supreme_Court_session_that_wasnt.aspx.
[92] Eitan Adres et al., 'The Individual's Level of Globalism and Citizen Commitment to the State: The Tendency to Evade Military Service in Israel', *Armed Forces & Society* 38, no. 1 (2012). Stuart A. Cohen, 'The Israel

held conception of the IDF as an institution forging national identity and cohesiveness was one which was being eroded.[93] Nevertheless, secular Israelis were frustrated by the evasion of military service by ultra-Orthodox men. Torah study was not considered a valid excuse by secular Israelis to avoid the difficulties of military duty leading to the appointment of the Tal Commission in 1998 discussed below.[94]

The ultra-Orthodox rabbis defended the continued replacement of military service with Torah study as essential to the survival of the Jewish people.[95] For thousands of years uninterrupted study protected the Jewish people in the Diaspora they argued. In modern day Israel full-time study protected the country and the soul of the Jewish people just as the IDF protected the country physically. A second reason for continued deferrals was to maintain isolation from the rest of society to prevent erosion of their way of life. The IDF was reputed to have standards of religious observance far below the expectations of ultra-Orthodox men, for example, interaction between men and women and standards of *kashrut*. Young ultra-Orthodox men felt unprepared for military service as they were not raised with an expectation or value of army service to prepare them for combat service.

The deferment of military service by *yeshiva* students was challenged in the High Court several times, the first being in 1970.[96] The petitioners argued the extensive scale of deferments prolonged the length of reserve duty. The burden of such service would be greatly alleviated if *yeshiva* students completed the obligatory three years of full-time service. The petitioners also argued granting deferral of service by the Minister of Defence was unreasonable and required legislation by the Knesset. Until 1998 the deferrals for *yeshiva*

Defense Forces (IDF): From a "People's Army" to a "Professional Military"--Causes and Implications', *Armed Forces and Society* 21, no. 2 (1995). Stuart A. Cohen, 'Tensions between Military Service and Jewish Orthodoxy in Israel: Implications Imagined and Real', *Israel Studies* 12, no. 1 (2007). Dan Soen, 'All Able-Bodies, to Arms! – Attitudes of Israeli High School Students toward Conscription and Combat Service', *American Journal of Social Issues and Humaities* 2, no. 3 (2012). Hakman, 'The People's Army' (Jerusalem, The Jewish People Policy Institute, 2012), accessed 5 September 2012, http://jppi.org.il/news/114/58/The-People-s-Army/.

[93] Gabriel Ben-Dor and Ami Pedahzur, 'Civil-Military Relations in Israel at the Outset of the Twenty-First Century', in *Jews in Israel: Contemporary Social and Cultural Patterns*, ed. Chaim Isaac Waxman and Uzi Rebhun, *Tauber Institute for the Study of European Jewry Series* (Hanover, New Hampshire; London: Brandeis University Press, 2004).

[94] Ibid.

[95] Etta Bick, 'The Tal Law: A Missed Opportunity for "Bridging Social Capital" in Israel', *Journal of Church and State* 52, no. 2 (2010): 304-305. Lupu, *New Directions in Haredi Society*. Hannah Katsman, 'Why My Haredi Friends and I Won't Go to the Army', *A Mother in Israel Blog,* 11 July 2012, accessed 17 March 2013, http://www.amotherinisrael.com/haredi-army-exemption-reasons/.

[96] Bick, 'The Tal Law', 303, n319. HCJ 910/86 Major (Res.) Yehuda Ressler v. The Minister of Defence, 1.

students were made at the discretion of the Minister for Defence who had the power to grant such deferrals on the basis of criteria such as education, national economy, family and religious factors.[97]

The earlier petitions were all rejected by the judges on the grounds the petitioners failed to demonstrate that the Ministers' decisions were unreasonable. In 1998 the High Court handed down a verdict advising the increasing numbers of deferrals for *yeshiva* students was unreasonable and violated the principle of equality. The situation, the judges advised, was disruptive to the fabric of Israeli society. Furthermore, some *yeshiva* students were unable to adjust to full-time study. These students were in an untenable situation of being unsuited to study and unable to work, otherwise they would be in breach of the conditions for deferral.[98] There was a sense *yeshiva* students used the system of deferral to avoid military duty while not necessarily engaging in Torah study at all, adding to the sense of unfairness among the Israeli public.[99]

The deciding factor revising the decision by the judges was the issue of 'quantity becomes quality'. The judges recognised religious reasons for the Minister of Defence to grant deferrals. However, there was a limit above which the number of deferrals exceeded what was reasonable. The number of deferrals had reached a level exceeding the powers of the Minister of Defence, therefore legislation by the Knesset was required to deal with the matter.[100] In response, the government established a commission to provide recommendations. The commission was chaired by retired Supreme Court Justice Tzvi Tal known hence forward as the Tal Commission.

The full name of the Commission was The Commission for the Formulation of an Optimum Arrangement for the Induction of Yeshiva Students.[101] The mandate for the Commission was to make recommendations to enable the continuation of draft deferment for full-time *yeshiva* students. The commission was also asked to examine frameworks for ultra-Orthodox men not

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[97] HCJ 910/86 Major (Res.) Yehuda Ressler v. The Minister of Defence, 3.
[98] HC 3267/97 Rubinstein v. The Minister of Defence. HC 715/98 Ressler v. The Minister of Defence. The ruling for both the aforementioned petitions was delivered in the same verdict. Bick, 'The Tal Law', 308-309.
[99] Ilan, *Draft Deferment for Yeshiva Students*. 14.
[100] HC 3267/97 Rubinstein v. The Minister of Defence.
[101] Bick, 'The Tal Law', 308-309. Efron, *Real Jews*, 67-68. Gonen, *From Yeshiva to Work*, 11.

suited to *yeshiva* study to serve in the army. Thirdly, the commission examined pathways into the labour market for those who did not want to continue to study in a *yeshiva*.[102]

The recommendations of the Tal Commission became the basis of the Tal Law passed by the Knesset in July 2002. Following the recommendations, enlistment into the IDF of ultra-Orthodox men was made voluntary, since compulsory enlistment would be impossible to enforce. No quotas were established for the number of deferrals to be granted. Ultra-Orthodox men were permitted to continue to defer service from the compulsory enlistment age of 18 to the age of 23. After five years of full-time *yeshiva* study they would have a 'decision' year. They were given the choice of continuing full-time studies, or enlisting in the IDF, or in civil service, that is, voluntary service also known as national service. During the year of decision, the students were able to engage in vocational training or work without affecting their deferral status. If after the decision year they chose civil service they were allowed to take on part-time employment at the same time. The 'decision' year was designed to facilitate entry into the labour market.[103]

Two programs were initiated to accommodate the religious needs of ultra-Orthodox men with military service.[104] In 1999 the Nahal Haredi Battalion was founded also known as 'Netach Yehuda'. Netach is an acronym for Zionist Haredi youth.[105] The Nahal Battalion was designed for men aged 18 to 25 years not studying in a *yeshiva* and therefore not claiming the status *Torah Omanuto*. The Shahar program began in 2007, designed for married men aged 22 to 27 years who had completed four years of *yeshiva* study. In addition, a small number of ultra-Orthodox men entered the IDF outside these two designated programs.

As with the Tal Law, the programs were criticized for drafting only a small number of potential candidates.[106] In 2010 a total of 1,000 men were drafted compared to a total number of deferrals of 63,000. In 2011 a total of 1,280 men were drafted compared to a total number of deferrals of 54,000. In the five years between 2007 and 2011 a combined total of 3,300

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[102] Ilan, *Draft Deferment for Yeshiva Students*. 8.
[103] Bick, 'The Tal Law', 309-312. Gonen, *From Yeshiva to Work*, 11. HC 6298/07 Ressler et al. v. The Knesset et al., in *Israel Yearbook on Human Rights*, ed. Yoram Dinstein and Fania Domb (Leiden, Boston: Faculty of Law of Tel Aviv University, Martines Nijhoff Publishers, 2012), 288-289.
[104] Bick, 'The Tal Law', 315-317. Comptroller, 'Haredim Service in the IDF'.
[105] Efron, *Real Jews*, 77.
[106] Bick, 'The Tal Law', 317. HC 6298/07 Ressler et al. v. The Knesset et al.

men had taken part in the Nahal Haredi and Shahar programs.[107] Another program often associated with the ultra-Orthodox was the *hesder yeshiva* program for combining Torah study and military service. This program established in the 1950s in reality served the national religious or religious Zionist population. Like the ultra-Orthodox, they were concerned about taking part in military service while maintaining their religious lifestyle. Some religious Zionists chose to serve in the Nahal Haredi Battalion to minimize any possibility of eroding their religious observance.[108]

The Tal Law was challenged soon after its implementation and again after it was extended. The law was introduced as a Temporary Provision for five years. In 2007 the Knesset extended the law for another five years to August 2012. In February 2012, the judges of the High Court declared the Tal Law was unconstitutional, as it failed the principle of equality enshrined in the Basic Law: Human Freedom and Dignity. The Law had not, nor could, achieve a more equal sharing of military service. Moreover, by the age of 23 most *yeshiva* students were most likely to be married with children. The IDF faced added costs in recruiting these men in order to pay family and dependent compensation. In such cases the IDF was more likely to encourage civil service to avoid complications in enlistment.[109] The Tal Law could not be reviewed when it was due to expire later that year.

Recruitment to civil or national service remained similarly low. According to data presented to the High Court, 1,122 ultra-Orthodox men were participating in civil service in January 2012.[110] The drafting of ultra-Orthodox men into the IDF remained controversial. The purpose of civil service was to benefit Israeli society generally, yet among ultra-Orthodox men civil service tended to be undertaken within the ultra-Orthodox community albeit assisting those in need.[111] A proposal by the government after the cancellation of the Tal Law to draft more ultra-Orthodox men into civil service was opposed by Yesh Atid. As a matter of principle, the party argued, the ultra-Orthodox should share in the burden of risk to their lives

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[107] HC 6298/07 Ressler et al. v. The Knesset et al.
[108] Cohen, 'Tensions between Military Service and Jewish Orthodoxy'.
[109] HC 6298/07 Ressler et al. v. The Knesset et al. Ruth Levush, 'Israel: Supreme Court Decision Invalidating the Law on Haredi Military Draft Postponement', *The Law Library of Congress*, 26 June 2012, accessed 1 August 2012, http://www.loc.gov/law/help/haredi-military-draft.php#t3.
[110] HC 6298/07 Ressler et al. v. The Knesset et al. Levush, 'Supreme Court Decision Invalidating the Law on Haredi Military Draft', 292.
[111] Bick, 'The Tal Law', 317-320.

as part of military service.[112] Hiddush vice-president Ilan Shahar criticised the proposal as not national service at all because the service was to be completed primarily within ultra-Orthodox communities.[113]

The ultra-Orthodox community responded to such criticism by arguing Haredi founded and operated organisations such as Zaka and Yad Sarah serviced all of the Israeli population. ZAKA was formerly established in 1995 to institutionalize and expand the volunteer work of a group of *yeshiva* students. They were responding to attacks of terrorism by recovering the remains of victims so as to ensure a proper Jewish burial. Since then the organisation diversified its activities to provide medical assistance and support for victims of terrorist attacks and their families.[114] Yad Sarah was incorporated in 1976 as an organisation lending medical equipment to those in need. The organisation expanded to provide a range of services for the elderly and others in need.[115]

Integration of religious soldiers into the IDF challenged the institution to provide frameworks by which secular and religious personnel could serve in a cohesive manner.[116] As pressure for recruitment of ultra-Orthodox men into the military service gained momentum, so did the confrontation between the values of equality of women and the preservation of religious values.[117] The confrontation between the two affected religious Zionist soldiers as well as the ultra-Orthodox. Demands for segregation between men and women, and refusal to take orders or instructions from female officers and instructors threatened to jeopardize the advances made in gender equality.[118] The ultra-Orthodox community in particular assigned traditional

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[112] Yonah Jeremy Bob, 'Yesh Atid Petitions High Court on Haredi Exemption', *The Jerusalem Post,* 10 December 2012, accessed 12 December 2012, http://www.jpost.com/DiplomacyAndPolitics/Article.aspx?id=295294.

[113] 'Extending Civil Service – An Obscene Necessity', [In Hebrew] *Hiddush*, 10 December 2012, accessed 12 December 2012, http://hiddush.org.il.

[114] Stadler et al., 'Fundamentalism's Encounters with Citizenship'. Stadler, *Yeshiva Fundamentalism*, Ch. 7. Suzanne Last Stone, 'Assimilation, Segregation, Accommodation: Haredim in the Jewish State', *Shalom Hartman Institute*, 6 March 2012, accessed 26 March 2013. ZAKA, accessed 1 April 2013, http://www.zaka.us/.

[115] Stadler et al., 'Fundamentalism's Encounters with Citizenship'. Yad Sarah, accessed 1 April 2013, http://www.yadsarah.org.

[116] Stuart A. Cohen, 'From Integration to Segregation: The Role of Religion in the IDF', *Armed Forces and Society* 25, no. 3 (1999). Yohai Hakak, 'From the Army of G-D to the Israeli Armed Forces: An Interaction between Two Cultural Models', in *Gender, Religion and Change in the Middle East: Two Hundred Years of History*, ed. Inger Marie Okkenhaug and Ingvild Flaskerud (Oxford; New York: Berg, 2005).

[117] Yagil Levy, 'The Clash between Feminism and Religion in the Israeli Military: A Multilayered Analysis', *Social Politics* 17, no. 2 (2010). Ruth Carmi and Ricky Shapira-Rosenberg, 'Excluded, for God's Sake: Gender Segregation and the Exclusion of Women in Public Space in Israel', (Jerusalem: Israel Religious Action Center, 2012). Cohen, 'Tensions between Military Service and Jewish Orthodoxy', 117-118.

[118] Levy, 'The Clash between Feminism and Religion'.

homemaker roles to women.[119] Exemption from military service for women for religious reasons was accepted very early as a legitimate reason for non-conscription.

Turning the Tide

IRAC was well placed to participate in efforts to curtail the excesses of the ultra-Orthodox. The fate of the Reform Movement was tied to the status of the Orthodox communities. As discussed in the literature review, the Reform Movement was portrayed as victims of the antagonism of conservative rabbinic leaders before the establishment of IRAC. The portrait of the struggle against religious coercion continued under the leadership of Uri Regev. As IRAC began efforts to assist immigrants converted in Reform synagogues in the Diaspora to gain citizenship, referred to in chapter three, the organisation was also proactive in uncovering the misuse of government funds to Orthodox institutions. The continued work to confront corruption readily extended to other spheres of ultra-Orthodox activities in relation to vigorously protesting lack of military services and campaigning to introduce core curriculum discussed below.

Some of the misuse of government funds related to educational activities. Other activities investigated by IRAC ranged from the misappropriation of government funds for personal interest to irregularities in the provision of *kashrut* supervision.[120] In 2003 IRAC presented evidence to the Attorney General regarding the misappropriation of funds by Rabbi Yehoshua Polak, a member of the Jerusalem Religious Council and Deputy Mayor at the time. As a result, a criminal investigation of Rabbi Polak was opened by the police. Four years later the criminal investigation ended and the case was returned to the Attorney General where the case stalled in the bureaucracy.[121] It was an example of the difficulty in prosecuting rabbis discussed in detail in chapter ten.

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[119] S. Almog and L. Perry-Hazan, 'The Ability to Claim and the Opportunity to Imagine: Rights Consciousness and the Education of Ultra-Orthodox Girls', *Journal of Law and Education* 40, no. 2 (2011). Kimmy Caplan, 'The Internal Popular Discourse of Israeli Haredi Women', *Archives de sciences sociales des religions* 48, no. 123 (2003). Tamar El-Or, 'The Length of the Slits and the Spread of Luxury: Reconstructing the Subordination of Ultra-Orthodox Jewish Women through the Patriarchy of Men Scholars', *Sex Roles* 29, no. 9-10 (1993). Hanna Herzog, 'Imagined Communities: State, Religion and Gender in Jewish Settlements', in *Gendering Religion and Politics: Untangling Modernities*, ed. Hanna Herzog and Ann Braude (New York, Basingstoke: Palgrave Macmillan, 2009).
[120] Israel Religious Action Center, 'Anti-Corruption', memo. Computer data base of the Israel Religious Action Center.
[121] Israel Religious Action Center, 'Fighting Corruption and Monitoring Fund Allocation', memo. Computer data base of the Israel Religious Action Center.

A study completed by IRAC in 2006 found several irregularities in the conduct of *kashrut* supervision;

- A lack of uniform and fair procedures in the granting of *kashrut* certificates.
- Procedures not carried out for issuing and revocation of certificates.
- Lack of formal training for *kashrut* supervisors.
- Conflict of interest between the appointment of supervisors and the operation of their own businesses.
- Licence fees set and collected arbitrarily.
- Collection of fees not approved in law, particularly during Passover.
- Selective enforcement of supervision in ultra-Orthodox neighbourhoods.
- Granting a monopoly of supply of meat for Mehadrin Kashrut outlets by the Jerusalem Religious Council.[122]

The Knesset was not prepared to instigate legislation to address the above matters. Instead, IRAC decided to tackle individual cases of misconduct with local authorities. In so doing IRAC in effect cast a mirror on the very authorities who in the past had used the threat of withdrawal of *kashrut* certificates as a weapon to prevent the use of public premises by non-Orthodox synagogues. Attention to matters of corruption of this nature by IRAC diminished when adopting the new strategy discussed in chapter three.

In terms of the larger objectives, strengthening legislation and its enforcement remained a part of the Religion-State platform.[123] Addressing the enforcement of core curriculum was considered by the IRAC team as far more urgent in terms of addressing the underlying problems emanating from the ultra-Orthodox community. It had the potential to introduce fundamental change yet the matter received minimal attention from other activist organisations.

Cancellation of the Tal Law allowing for a minimal number of deferrals was a policy of IRAC documented in the State-Religion Relations publication.[124] The policy stated all citizens should be obliged to complete either military or civil service. It sought to ensure the ability of each soldier or participant in civil service to maintain their religious lifestyle during

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[122] Ibid. The term *Mehadrin* was used to define the method as 'extra' *Kosher* as in especially strict.

[123] Israel Religious Action Center, 'State-Religion Relations in Israel: Fundamental Principles and Platform for a New Reality' (Jerusalem: The Israel Movement for Progressive Judaism and The Israel Religious Action Center, 2011).

[124] Israel Religious Action Center, 'State-Religion Relations in Israel: Fundamental Principles and Platform for a New Reality', [In Hebrew] (Jerusalem: The Israel Movement for Progressive Judaism and The Israel Religious Action Center, 2011).

their service period. In reality the leaders of the Reform Movement grappled with the complexities of implementation of such a policy. The Movement repeatedly called for ultra-Orthodox men to be drafted into military service on the same basis as the rest of the population. However, the policy conflicted with the equally important issues of the status of women in public spaces and institutions discussed in chapter eight.

In the 2012 Hiddush Israel Religion and State Index, conducted after the cancellation of the Tal Law, respondents were asked about drafting *yeshiva* students with or without sanctions for refusing to serve.[125] The survey asked about the justification provided for postponement of military service, as the study of Torah safeguarding Israel's security. The survey paid scant attention to civil service as a viable alternative to military service and asked no questions about the vexed question of the status of women in the IDF.

In the past, Rabbi Gilad Kariv vehemently spoke out against an agreement between Chabad and the IDF to enable ultra-Orthodox men to carry out civil service to the community instead of undertaking military service. Kariv charged that it was scandalous for blatantly religious activity to be substituted for military service.[126] Rabbi Uri Regev spoke in highly critical terms of any prospect of an extension to the Tal Law.[127] Particularly outspoken on the need to enlist ultra-Orthodox men into the IDF was Shahar Ilan vice-president of Hiddush tasked with responsibility for research and information, and formerly a journalist for the daily newspaper *Haaretz*.

The only public comment in regard to possible policy formulation to deal with the conflicting values was by Anat Hoffman. In her view, ultra-Orthodox men should undertake community service in the neighbourhoods in the areas of health and education so female soldiers would not be further marginalized.[128] She gave several reasons in support of her reservations about compulsory military service for ultra-Orthodox men.

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[125] Rafi Smith and Olga Paniel, '2012 Israel Religion and State Index', ed. Shahar Ilan (Jerusalem: Hiddush, 2012), 11-13.
[126] Matthew Wagner, 'Reform Movement Call Tal Law Deal "Outrageous",' *The Jerusalem Post*, 14 September 2008, accessed 3 December 2012, http://www.jpost.com/Israel//Article.aspx?id=114370.
[127] 'Rabbi Regev Says: Torpedo Netanyahu's Extension to the Tal Law', *Hiddush*, 17 January 2012, accessed 2 December 2012, http://hiddush.org/article-2321-0-Rabbi_Regev_says_Torpedo_Netanyahu%E2%80%99s_extension_to_the_Tal_Law.aspx.
[128] Adam Dickter, 'Could a Haredi Draft Help Israel's Economy?' *The Jewish Week*, 22 May 2012, accessed 2 December 2012, http://www.thejewishweek.com/news/new_york/could_haredi_draft_help_israels_economy.

Firstly, a soldier was raised from a very young age for the task. The very few ultra-Orthodox men who had the physical and mental ability to be a combat soldier should do so. The greatest portion of positions in the army were in non-combat roles, basic health and human services, but these positions must be offered to men and women alike. Technology, frequently touted as a suitable area of employment, was inappropriate because ultra-Orthodox men did not have the skills to work with new technologies. Furthermore, a gun should not be given to anyone who had not studied civics, and did not understand government and how it functions. Lastly, she did not want to not change the army to one where women's roles were restricted or hidden from view.[129]

Core curriculum

The campaign to introduce core curriculum highlighted the question of how best to bring change within the ultra-Orthodox community. Should change be brought by coercion, introducing laws with appropriate penalties for not complying with, or breaking the law, or should change be introduced through dialogue and negotiation with the ultra-Orthodox community and leadership? The campaign by IRAC followed the former approach. Petitions to the High Court sought to enforce the introduction of core curriculum.

Earlier negotiations between the Ministry of Education and representatives of ultra-Orthodox schools brought moderate success in introducing core curriculum into primary schools and secondary schools for girls, whereas negotiations the introduction of core curriculum into secondary schools for boys was met with delays and procrastination. This may be explained by the fact core curriculum in primary schools and secondary schools for girls was less threatening to the ultra-Orthodox way of life. Core curriculum in secondary schools for boys threatened a fundamental principle. In the case of education for girls core curriculum was actually an asset for providing women with a pathway to professional employment to support their families.[130] Core curriculum for boys threatened the commitment to full-time religious studies expected of adult men.

Michele Chabin, 'Israelis Rally for More Equitable Draft', *The Jewish Week*, 11 July 2012, accessed 17 July 2012, http://www.thejewishweek.com/news/israel-news/israelis-rally-more-equitable-draft.
[129] IBA TV News, 'Close Up', 13 February 2013, http://www.iba.org.il/world/.
[130] Asher Maoz, 'Religious Education in Israel', *University of Detroit Mercy Law Review* 83, no. 5 (2006): 717-718.

Proponents of gradual negotiated change pointed to the steadfast belief on the part of the ultra-Orthodox leaders that any outside interference in the education of their children would cause irreparable damage to the way of life of the community and its future.[131] Several factors contributed to the difficulty in introducing secular studies: the extensive cultural gap between the culture of the ultra-Orthodox and Western culture; the decentralized nature of the ultra-Orthodox education system making it difficult for changes in one school to flow on to other schools in the sector; the strong connection between directors of ultra-Orthodox educational institutions and political representatives of the ultra-Orthodox community; and internal procedures in the ultra-Orthodox system which made co-operation with others difficult. Dialogue and negotiation, complex as it may be, could alleviate the sense of vulnerability and persecution felt among members of the ultra-Orthodox population in the midst of pressure from the outside to make changes.[132] On the other hand, it was the very determined resistance to any modification that led to the argument that only coercive measures would be successful.

IRAC became engaged in the legal struggle to implement the teaching of core curriculum in ultra-Orthodox secondary schools in 2007.[133] Reasons for the petition were twofold. One was the failure to implement core curriculum into ultra-Orthodox secondary schools as directed by an earlier petition in 2004. The second purpose was to ensure the appointment of a sufficient number of inspectors to make regular checks of the implementation of the core curriculum.[134] The earlier petition was first presented to the High Court in 2002 by The Organisation of High School Teachers with the Ministry of Education as defendant. The High School Teachers argued it was illegal and discriminatory for the Ministry to fund ultra-Orthodox schools when they did not teach any core curriculum, only religious studies. The Court agreed to a request by the Ministry of Education for a three year period to allow for gradual introduction of core curriculum taking into account cultural sensitivity. The implementation of the core curriculum was therefore to take effect at the beginning of the 2007-2008 school year.[135] After the three year period, no core curriculum was introduced into

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[131] Spiegel, ' "Talmud Torah Is Equivalent to All".'
[132] Ibid.
[133] Interview number one.
[134] HCJ 4805/07 The Center for Jewish Pluralism v. The Ministry of Education, 7. Gila Stopler, 'The Right to an Exclusively Religious Education – the Ultra-Orthodox Community in Israel in Comparative Perspective', *forthcoming in Georgia Journal of International and Comparative Law* (2014), accessed 17 July 2013, http://works.bepress.com/gila_stopler/12
[135] Ibid.

the *yeshivot*. The new petition presented by IRAC was joined by a petition by the High School Teachers also protesting the lack of any progress on the issue.

Several months before the beginning of the school year in September 2007, IRAC requested clarification of preparations for implementation of the core curriculum by the scheduled date.[136] In May 2007 the Ministry replied preparation of a core curriculum, suited to the needs of the ultra-Orthodox, was in an advanced stage. However, no resources were allocated for the introduction of core curriculum into primary schools, no plans were made for resources to be allocated for that purpose in secondary schools, nor were any allocations made to ensure appropriate inspection.[137] It became clear the Ministry of Education had no intention of complying with the Court order of 2004.

The teaching of religious studies in Israeli schools was not in dispute. All schools, public and private, taught Bible studies as part of Jewish history and culture. Public schools were divided between secular and religious streams. These schools were funded and operated by the state under the auspices of municipal councils. Ultra-Orthodox schools tended to fall outside the public system into the category of recognised non-official schools, privately operated but with provision for government funding.[138] Under this latter category fell two major school networks; the Independent Education Network composed of schools with Ashkenazi populations, and The Fountain of Religious Education catering to the Sephardi population.

By law government funding for recognised non-official schools was conditional on teaching core curriculum alongside religious studies. The schools were also subject to regulations regarding class size, teacher qualifications and salaries, equipment and sanitation. There was also a category of non-recognised, non-official 'exempt' schools. The schools received a licence to operate on condition of meeting certain requirements as noted above, but were automatically eligible for government funding. Recognised non-official schools were

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[136] HCJ 4805/07 The Center for Jewish Pluralism v. The Ministry of Education. Israel Religious Action Center, 'Core Activities Narrative Report January - June 2010'. Computer data base of the Israel Religious Action Center.

[137] HCJ 4805/07 The Center for Jewish Pluralism v. The Ministry of Education, 11.

[138] Hanan A. Alexander, Halleli Pinson, and Yossi Yonah, *Citizenship, Education, and Social Conflict: Israeli Political Education in Global Perspective* (New York: Routledge, 2011). Maoz, 'Religious Education in Israel'. Masua Sagiv, 'Controlling the Education of Children in a Liberal Multicultural State - Religious Education in Israel: A Case Study', *Children's Legal Rights Journal* 31, no. 4 (2011).

mandated to teach 75 percent of the core curriculum. Non-recognised exempt schools were expected to teach 55 percent of the core curriculum. Schools in the latter category usually belonged to extreme ultra-Orthodox sects such as Eda Haredit and Naturei Karta. Schools for Arabs, Druze and Christians provided state approved curriculum adapted to their populations.

In practice delineation between the various categories of schools was porous. Among the state schools there was a network of Tali schools and classes, a Hebrew acronym meaning 'reinforcement of Jewish Studies'. The program was founded in 1976 by the Conservative Movement to bring Jewish studies to the secular population. In the 1980s, the Reform Movement joined the Tali network and in the early 1990s the Ministry of Education officially adopted the program enabling government funding for the Tali programs.[139] The Chabad Lubavitch network operated schools in a separate stream within the state religious stream. As such the Lubavitch accepted the Zionist aspect of education in public schools, taught core curriculum, and received full government funding.[140] Beginning in the 1980s some ultra-Orthodox schools reached out to provide religious education to immigrants and returnees to Judaism. In expanding their target population, these schools also introduced core curriculum. In the process, religious state schools witnessed a decline in their share of students due to movement into ultra-Orthodox schools.[141]

The government yielded to the demands of the ultra-Orthodox institutions to allow complete autonomy to provide religious education while neglecting secular educational requirements.[142] Following a petition filed in the High Court in 1999 protesting the failure of the Ministry of Education to enforce a core curriculum, the Ministry took steps to make funding for primary schools in the ultra-Orthodox sector conditional on adoption of the core curriculum. When it came to the petition presented by IRAC, the State argued there was no need for the petition as core curriculum was being implemented in primary schools.

From the beginning of the 2007 school year the government planned to provide funding to primary schools according to the extent of the implementation of core curriculum. The Minister of Education at the time, Yuli Tamir, was unable to say how effective the

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[139] Maoz, 'Religious Education in Israel', 695-697.
[140] Ibid., 692.
[141] Eliav Taub, 'The Opening of the Haredi Educational System to the Secular and Its Transformation from a Peripheral Factor to a Central Factor in Israeli Society', *Jewish Political Studies Review* 21, no. 3/4 (2009). Maoz, 'Religious Education in Israel', 689-690.
[142] Maoz, 'Religious Education in Israel', 714-716.

implementation of core curriculum into ultra-Orthodox primary schools was for lack of a sufficient number of inspectors. From a total of 503 recognised, non-official primary schools, 411 taught core curriculum subjects.[143] Secondary schools for girls generally taught core curriculum.

The Ministry of Education did advise the Court it was unable to implement core curriculum in ultra-Orthodox secondary schools for boys because the schools refused to do so.[144] The Ministry requested a further extension to the beginning of the 2008-2009 school year to implement core curriculum in these schools. The Ministry argued continual dialogue was the best method of achieving this objective, as was the case in primary schools and girls' secondary schools. In this manner it would be possible to recognise the right of the ultra-Orthodox sector to preserve its way of life and the importance of religious studies.

Affirming the lack of intent on the part of the Ministry of Education to enforce core curriculum was the late notice the Ministry gave the schools regarding its implementation. The schools did not receive notification of their obligation until the 18 September, 2007, after the school year had begun. The latest date such notice should have been transmitted to the schools was 31 May 2007.[145] The Minister of Justice proposed an 'exemption model' to be reviewed after a period of two years. The proposal allowed government funding at the rate of 55 percent of state schools even if no core curriculum was taught. In addition, a 'second chance' program would enable students who did not receive a basic education in school, to do so at the expense of the state up to the age of thirty. The state argued the gradual approach was similar to that used for encouraging Talmud students to enter army service.[146]

The ultra-Orthodox schools rejected the 'exemption model' as damaging to their educational institutions. The model represented a reduction in funding from the level of 75 percent they had been receiving. The change would also affect other forms of funding from other government departments, for example from the Ministry of Welfare. Members of the Knesset representing the religious parties also pointed out that notice of introduction should have been delivered by 31 May prior to the start of the school year. The failure to do so meant funding should continue as it had previously. The Minister of Education acknowledged the recognised

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[143] HCJ 4805/07 The Center for Jewish Pluralism v. The Ministry of Education, 14.
[144] Ibid.
[145] Ibid, 18-19.
[146] Ibid.

non-official schools were not accepting the 'exemption model' even though it was devised in consultation. Still, the Minister did request an extension to enable negotiations to continue.

IRAC rejected the 'exemption model' as a violation of the obligation of the State to provide students with a basic education and therefore a violation of the principle of equality in keeping with the Basic Law: Human Dignity and Liberty. The 'exemption model' was unreasonable, constituting a radical change in policy by the Ministry of Education, particularly in view of the length of time since the judgment was handed down in 2004 in the case brought by the High School teachers.[147]

The failure to implement core curriculum was discriminatory IRAC argued, firstly because the private schools received preferential treatment by receiving funding without enforcement of requirements as in public schools. Secondly, the pupils in the private schools were adversely affected by not being taught subjects necessary for their integration into society as adults. The accompanying High School Teachers' petition, expressed similar sentiments adding the violation detracted from the budgetary pool available to complying schools. As the hearings proceeded well into the 2007-2008 school year, IRAC agreed to a one year deferment providing there was a pre-set time frame with updates to the Court on progress of preparations and implementation.

Justice Procaccia described the objective of core curriculum as both creating a basis on which to build harmony between the various sectors of society, and to give each individual the opportunity to develop their personality and independence. He wrote, 'The objective of the core curriculum is to develop shared basic knowledge, skills and life values in the pupils that will enable each one of them to function in their independent lives in pluralistic Israeli society.'[148] The Israeli education system achieved these aims by means of a basic curriculum of studies accompanied by funding on condition this curriculum was implemented.

Procaccia stated the Ministry of Education had contradicted the spirit and letter of the judgment in the earlier petition of the High School Teachers. He agreed with the arguments of equality and the need to implement core curriculum as a condition of government funding to schools. Exemptions permitted by law were for exceptional circumstances not applicable

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[147] Ibid.
[148] Ibid, 24.

to schools categorised as recognised non-official schools. Weighed against this was the right of parents to choose an education for their children in keeping with their world-view. In the tension between these two rights, Judge Procaccia determined that the state had the authority and obligation to intervene to protect the rights and welfare of the child. In the case of education this applied to the responsibility of the state to ensure each child was properly prepared for a life as a participating adult in society.[149]

Given the delays, the Court was prepared to allow an extension until the beginning of the 2008 school year. However, before the Court was able to deliver its decision legislation was introduced to the Knesset by the religious parties to continue funding to *yeshivot* without compulsion to introduce core curriculum.[150] The Unique Cultural Educational Institutions Act (2008) formalized a practice which contravened the law for the previous sixty years, thus enabling funding to continue at the rate of 60 percent of state high schools.[151] The Court refrained from delivering a verdict since the legal framework became unclear, but he Court did publish its reasoning in consideration of the issues raised. The Court directed the Ministry of Education to pay NIS 20,000 each to IRAC and the Organisation of High School Teachers for the cost of legal fees incurred.[152]

In 2010 IRAC pursued the lack of inspectors to ensure the implementation of core curriculum in ultra-Orthodox primary schools with a new petition to the High Court.[153] IRAC reported two supervisors were appointed to oversee 800 recognised non-official primary schools catering to 200,000 students.[154] The Ministry of Education responded to this point, noted in the 2007 petition, claiming there were three to four supervisors assigned to 500 schools servicing 145,000 students with plans to increase the number of supervisors from the beginning of the 2007-2008 school year.[155] When IRAC presented the second petition in 2010, the Ministry announced ten additional supervisors had been employed in 2011. This number was still insufficient, according to IRAC, to properly ensure core curriculum was

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[149] Ibid.
[150] Sagiv, 'Controlling the Education of Children', 62-63. Stopler, 'The Right to an Exclusively Religious Education'.
[151] Rivlin, *The Israeli Economy*, 178.
[152] HCJ 4805/07 The Center for Jewish Pluralism v. The Ministry of Education, 56.
[153] Interview number one.
[154] HCJ 4805/07 The Center for Jewish Pluralism v. The Ministry of Education, 12. Israel Religious Action Center, 'Highlights of Activity January-June 2011'. Computer data base of the Israel Religious Action Center.
[155] HCJ 4805/07 The Center for Jewish Pluralism v. The Ministry of Education, 14.

being implemented appropriately.[156] When in 2011 IRAC reported to the Court there was insufficient progress on the matter, the Court replied it could not force the ultra-Orthodox schools to adopt core curriculum; there needed to be an agreement negotiated.

When the Ministry of Education published advertisements for additional school supervisors, the advertisements advised applicants were required to have a tertiary education degree.[157] The ultra-Orthodox legal clinic of Ono Academic College filed a legal petition asserting *yeshiva* studies should be accepted as a first degree for applicants to the position of schools supervisors for core curriculum. Ono Academic College in Kiryat Ono, on the outskirts of Tel Aviv, was a private college academic college founded in 1995.[158] Since the early 2000s the college offered a stream of studies for entry into professional occupations, including law, tailored to the needs of students from the ultra-Orthodox community. IRAC applied to testify in the case as a friend of the court, arguing the petition was another attempt by the ultra-Orthodox community to avoid implementation of the core curriculum.[159]

In addition to an effective supervision system the standardized student achievement tests, METZAV, potentially provided an indication of the implementation of core curriculum. During the course of the 2007 petition representatives of the Independent Education Network and the Center of Fountain of Religious Education in Israel testified that in the schools where core curriculum was taught students participated in the METZAV.[160] The Ministry was committed to administering the METZAV in secondary schools as core curriculum was implemented.[161] However, contrary to the claims of the ultra-Orthodox education networks there was little evidence the standardized tests were being applied in the secondary schools of these networks.[162] In response to the petition by IRAC to improve supervision, the High

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[156] Israel Religious Action Center, 'IRAC January-June 2011 Core Activity Narrative Report'. Computer data base of the Israel Religious Action Center.
[157] Ibid.
[158] Lior Dattel and Nati Tucker, 'A Quiet Revolution', *Haaretz.com*, 31 December 2010, accessed 3 August 2013, http://www.haaretz.com/weekend/week-s-end/a-quiet-revolution-1.334478. Ono Academic College, 'Changing the Face of Israeli Society', accessed 3 August 2013, http://www.ono.ac.il/9453-2/ono-academic-college-changing-the-face-of-israeli-society/?lang=en.
[159] Israel Religious Action Center, 'IRAC January-June 2011 Core Activity Narrative Report'.
[160] HCJ 4805/07 The Center for Jewish Pluralism v. The Ministry of Education, 18.
[161] Ibid., 15.
[162] Israel Religious Action Center, 'IRAC January-June 2011 Core Activity Narrative Report'. 'High Court of Justice Ruling Brings Standardized Testing to Ultra-Orthodox', *Hiddush*, 21 February 2013, accessed 1 August 2013, http://hiddush.org/article-2430-0-High_Court_of_Justice_brings_standardized_testing_to_ultraOrthodox_schools.aspx.

Court ruled in February 2013 the METZAV had to be administered in ultra-Orthodox schools.[163]

At the same time, IRAC filed its petition in 2010, professor of law and former Minister of Education Amnon Rubinstein presented a petition to the High Court arguing the Unique Cultural Institutions Law was unconstitutional.[164] The petition included four graduates of ultra-Orthodox schools arguing that curtailing the opportunities to earn a living and be equal members of society and the workforce was damaging to the students' dignity, autonomy and freedom. In terms of the public interest, the damage caused by producing a class of poor people outweighed the damage to the ultra-Orthodox community of losing some of its members to a secular way of life.

The respondents, the Ministry of Education and ultra-Orthodox secondary schools argued the law was constitutional and consistent with the Basic Law: Human Dignity and Freedom. It was argued interference would be disruptive to the delicate negotiations taking place between the ultra-Orthodox community and Israeli society, potentially resulting in a *kulturkampf*. In addition, religious education provided students with valuable learning skills, respect for family and Jewish history, tradition and community responsibility, and intellectual curiosity. If parents did want their children to learn core curriculum, alternative schools for ultra-Orthodox youth provided this option.[165] The respondents were supported in their argument by the example of ultra-Orthodox students attending Ono Academic College. These students claimed it was possible to combine Torah studies with academic studies without a formal secondary school education.[166]

Summary

The discussion in this chapter depicted a far more complex picture of life in the Orthodox community than one of ideological resistance to Zionism and secularisation. What became clear was that promotion of pluralism required the integration of ultra-Orthodox men, extending to them all the benefits and responsibilities of citizenship in return for participation in the workforce and service to the nation. Pluralism was not simply about acceptance of the

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[163] 'High Court of Justice Brings Standardized Testing'.
[164] Sagiv, 'Controlling the Education of Children', 63.
[165] Ibid., 64.
[166] Ibid., 65.

non-Orthodox Movements by extending equal rights. An equal playing field demanded reform to the Orthodox communities as much as to the non-Orthodox. As IRAC continued its efforts to expose the misappropriation of funding and make the ultra-Orthodox community accountable, the tide turned. Whereas previously the ultra-Orthodox were in the ascendancy this position began to erode. As the community grew, the increasing demand for government funds and lack of participation in the military and the workforce eroded public empathy. The interests of the secular population and IRAC merged in the desire to integrate the ultra-Orthodox into society.

130

Chapter 5 - Pluralism: The Introduction of an Idea

The contribution of IRAC to the development of pluralism was very much of a practical nature. The activists in the organisation understood, and were committed to the principles represented by religious pluralism with accompanying values of equality, religious freedom, and the rights of the individual. IRAC concentrated its efforts on the introduction of legislation, court precedents, and operating procedures to make religious pluralism a reality. The theoretical and ideological debates took place in other arenas, led by other interested parties.

Debates around religious pluralism focused on the question of the separation of religion and state. Separation of the two identities was considered the pathway to break the monopoly of an extremist section of the Orthodox over religious affairs, ensure the rights and freedoms of the individual, and preserve the dignity and status of Judaism as a religion. The term separation of religion and state brought to the mind of commentators in the media the strict separation model practiced in the United States. However, the strict separation model was not one advocated by IRAC.

The central place of Jewish religion in Jewish identity required an accommodation of religious practice and the contribution of Judaism to the national identity. Separation of the institutions of religion from the state was the terminology employed by IRAC. A similar model advocated by Ne'emanei Torah Va'Avodah called 'the communal model' clearly borrowed from the German system. Both the IRAC and the communal model maintained government funding for religious institutions, a key difference to the American model, while strengthening the freedom of the individual to make choices about religious observance. IRAC championed the idea of religious pluralism. In a state where religion and politics continued to be bound together, the introduction of pluralism combined two elements; religious pluralism with its advocacy of religious freedom and tolerance, and political pluralism providing the legislative and governmental framework to implement pluralism across the board.

This chapter will begin by discussing the theoretical underpinnings of pluralism in Israel. The theoretical considerations provide the framework for the activities discussed in the section

three of case studies detailing the steps taken by IRAC in efforts to introduce pluralism. The first part of the discussion consists of the definition and development of Jewish pluralism. The second part of the theoretical discussion examines attempts to reform and introduce alternative models of religion-state relations in Israel. The third part of the chapter will discuss evidence of support or otherwise for pluralism in Israel. The Reform Movement always maintained the existence of widespread agreement with its policies among the secular population, implying support for the policies of the Movement. Examination of the data will discuss this claim.

Jewish Pluralism

In his book *The Sacred Canopy,* sociologist Peter Berger remarked 'even in a tradition as foreign to the spirit of pluralism as the Jewish one, the logic of the market imposes itself at the point where the 'social engineering' of subcultural defensiveness becomes too difficult'.[1] Berger was referring to the response of religious institutions to a secularizing, modernizing world. The institutions could choose to either accommodate or resist.

The accommodation response required the religious institution to determine how far to go to become more relevant to a public where religion had become a matter of choice among a range of secular and religious options in a pluralist society. Religious institutions sought to maintain a plausible structure appropriate for their 'clientele'. Historically, the Reform Movement was criticised for its accommodation to a secularizing world.

The resistance response sought to strengthen the defences of the institution. As long as the religious institution could maintain a state-wide monopoly, it was likely to succeed at defending its structure.[2] The control of religious institutions by conservative Orthodox rabbis in Israel displayed a classic representation of a monopoly resistant to change, reacting to pressures to adopt pluralism by defending the *status quo*, and looking for ways to make the existing system stronger.

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[1] Peter L. Berger, *The Sacred Canopy: Elements of a Sociological Theory of Religion*, 1st ed. (Garden City, New York: Doubleday, 1967), 170.
[2] Ibid.

Jewish pluralism was initially used by IRAC to refer to equal funding and recognition for non-Orthodox Movements. Later the term was adopted by other organisations to refer to diverse forms of Jewish identity and religious expression. A market style attitude to pluralism developed to recognise the choices people were making. In the face of opposition towards the intrusion of the rabbinic establishment into their private lives, feeling little attachment to Orthodox Judaism, a discernible stream of alternative religious practice developed.

The revival of interest in Judaism was one factor giving rise to opportunities for IRAC, to work co-operatively with other organisations to lobby for change. With support from the NIF, IRAC was connected to a network of organisations dedicated to structural reform in democratic political processes and institutions to facilitate the development of pluralism. Common to all the organisations was the commitment to values of human rights and individual freedom associated with democracy. Religious freedom was one such freedom of particular concern to the networks championing religious pluralism. While maintaining a primary interest in the recognition of the Reform Movement, an equal interest expanded into areas simultaneously advancing the standing of the non-Orthodox Movements and a corresponding interest in curtailing the authority of the rabbinic establishment.

The terms 'Jewish Renaissance' and 'Jewish Renewal' were used alternately by scholars to discuss the revival of interest in Judaism. Jewish Renaissance was the label used by Yair Sheleg, a journalist and research fellow at IDI, to refer to a revival of interest in Jewish study, worship and tradition by members of the secular population.[3] Interest in the renaissance came from a cross section of society; the education system and the defence forces, immigrants from the Former Soviet Union, and Sephardi Jews.

The renewed interest took many forms, from new age style spirituality to interest in Chassidism, and egalitarian movements such as Women of the Wall and Shira Hadasha, an Orthodox congregation in Jerusalem inclusive of women.[4] Secular Jews embarked on a quest

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[3] Yair Sheleg, 'The Jewish Renaissance in Israeli Society: The Emergence of a New Jew' (Jerusalem: The Israel Democracy Institute, 2010), accessed 25 August 2013, www.idi.org.il.
[4] Yaakov Ariel, 'Paradigm Shift: New Religious Movements and Quests for Meaning and Community in Contemporary Israel', *Nova Religio* 13, no. 4 (2010). Marianna Ruah-Midbar, 'Current Jewish Spiritualities in Israel: A New Age', *Modern Judaism* 32, no. 1 (2012).

for meaning and reconnection to Jewish tradition and religion.[5] Sociologists Rachel Werczberger and Na'ama Azulay described The Jewish Renewal Movement as referring specifically to the revival of interest in Jewish learning and new forms of ritual among secular Israelis.[6] Jewish Renaissance may be understood as a broader term than Jewish Renewal. According to Sheleg's definition, the Renaissance was about innovations within religious groups towards more cultural and spiritual expressions of Judaism rather than *halakhic* expressions.

The Jewish Renaissance simultaneously challenged the hegemony of the *halakhah* underpinning Orthodoxy and sought renewed dialogue between the Orthodox and the secular. The revival of interest in Jewish tradition among secular Jews saw the establishment of countless houses of study, *batei midrash*, and renewed styles of prayer services.[7] The *batei midrash* were described as pluralistic. The terminology distinguished the new style houses of study from the traditional male oriented *yeshiva* system. The new houses of study catered to both men and women, and people from a diverse range of Jewish identities and backgrounds.

Some *batei midrash* were oriented towards the secular, others were projects of combined secular and religious participants.[8] Rachel Werczberger and Na'ama Azulay observed a variety of other activities as part of the study house experience, 'including lifecycle ceremonies and holiday rituals, social justice projects based on Jewish values, ordination of *secular rabbis*, secular *Batei Tefilah* [houses of prayer], and cultural, experiential events for the general public'.[9] Study of religious texts also found expression as a source of inspiration and creativity in the arts, in theatre and music, as well as social action and environmental advocacy and alternative medicine.[10]

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[5] Adina Newberg, 'New Prayers, Here and Now: Reconnecting to Israel through Engaging in Prayer, Poetry, and Song', *Israel Studies Forum* 23, no. 2 (2008). Motti Zeira, 'Recreating Jewish Community', *Sh'ma: A Journal of Jewish Responsibility* 36, no. 631 (2006), 23 August 2013, http://shma.com/.
[6] Rachel Werczberger and Na'ama Azulay, 'The Jewish Renewal Movement in Israeli Secular Society', *Contemporary Jewry* 31, no. 2 (2011).
[7] Regev Ben-David, 'The Renaissance of Pluralistic Judaism in Israel', in *The Future of Religion and State in Israel*, ed. Yair Rosenberg (Jerusalem: The Tikvah Fund: A Four-Part Symposium, 2013). Kelman, 'The Pluralism of Pluralism in Israel'. Newberg, 'New Prayers, Here and Now'.
[8] Ben-David, 'The Renaissance of Pluralistic Judaism in Israel', 33.
[9] Werczberger and Azulay, 'The Jewish Renewal Movement', 108.
[10] Basmat Hazan Arnoff, 'Individual Voices and Collective History', *Sh'ma: A Journal of Jewish Responsibility* 36, no. 631 (2006), 23 August 2013, http://shma.com/. Sheleg, 'The Jewish Renaissance in Israeli Society'.

Most scholars defined the Jewish Renaissance as rendering obsolete the sharp distinctions between the religious and secular communities. Adina Newberg described the movement as a fusion of secular and religious identity.

> It is neither '*hiloni*' [secular] – detached from the Jewish past, living in a new country and culture disconnected from its roots – nor '*dati*' [religious} – living a life that follows the guide of halakhah. This new identity rejects the earlier model created by the founders of the secular State of Israel and reshapes it by incorporating attachment to Zionism, Israeli contemporary culture, pluralistic values, and connections to Jewish sources. This redefining renders the old distinction between secular and religious irrelevant.[11]

The secular interest in prayer and study was not part of any stream of Judaism; Orthodox, Conservative or Reform.[12] One reason may be the desire for uniquely Israeli religious rituals and interpretations of tradition.[13] Another reason was the lack of familiarity or outright rejection of denominations in Israel.[14] On the other hand, Werczberger and Azulay argued the secular organisations did co-operate in joint projects with liberal streams of Judaism, including modern Orthodox as well as Conservative and Reform.[15] From humble beginnings the revival of interest in Jewish learning developed, in the words of Werczberger and Azulay, into a new social movement.[16] By the turn of the twenty-first century the Jewish Renewal Movement developed to the point of readiness to form a network of organisations prepared to lobby politically and influence public debate, a Secular-Pluralistic faction.[17]

The network of organisations made increasing inroads into influencing government policy and debate in the Knesset culminating in the election of Ruth Calderon in 2013. PANIM was an umbrella organisation founded in 1998 to promote pluralism in Judaism. Its affiliates included organisations from the liberal streams of Judaism as well as the newer secular organisations. As members of PANIM, the organisations continued to lobby jointly on issues of civil marriage, conversion and funding for religious education.

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[11] Adina Newberg, 'New Identities and Connections', ibid.: 10.
[12] Newberg, 'New Prayers, Here and Now', 87. Werczberger and Azulay, 'The Jewish Renewal Movement', 124.
[13] Newberg, 'New Prayers, Here and Now', 87.
[14] Ben-David, 'The Renaissance of Pluralistic Judaism in Israel', 33. Sheleg, 'The Jewish Renaissance in Israeli Society'.
[15] Werczberger and Azulay, 'The Jewish Renewal Movement'.
[16] Ibid.
[17] Israel Movement for Progressive Judaism, Newsletter, 10 August 2008.

In 2008, Torah Va'Avodah worked co-operatively with the Reform and Conservative Movements under the auspices of PANIM in an effort to provide pathways to conversion outside the institution of the Chief Rabbinate. Working as part of a Knesset caucus of parliamentarians supporting such a venture, the objective was to form alliances to establish secular and religious Zionist conversion courts.[18] In 2007 a forum of members of the Knesset, the 'MK Forum to Promote Secular Pluralistic Judaism' was established on the initiative of then Member of the Knesset Yossi Beilin to promote secular Judaism.[19]

The renaissance came to public attention when newly elected member of the Knesset Ruth Calderon delivered her maiden speech in February 2013.[20] Calderon received a proudly secular Zionist upbringing along with some traditional religious experiences, and no education in religious texts.[21] As an adult she felt something missing in her life, so she embarked on a journey of studying Torah and Talmud. Her quest led her to the Shalom Hartman Institute in Jerusalem, a pluralistic *beit midrash* providing traditional religious education to secular and religious adults alike, from all streams of Judaism. Calderon then branched out to establish the first secular *beit midrash*, Elul in Jerusalem in 1989, where men and women could study together. Later, in 1996, she established Alma in Tel Aviv.[22]

Her maiden speech in the Knesset went 'viral' on the internet in Hebrew and English.[23] Audiences were surprised a secular woman was able to eloquently engage in a study of the religious texts to deliver a message to her colleagues, in the Knesset. The message appealed for tolerance, understanding, patience and dignity by members of the Knesset.[24] Criticisms of

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[18] Shahar Ilan, 'Courts to Perform Secular Conversions Which Bypass Rabbinate', *Haaretz.com*, 16 November 2008, accessed 30 May 2013, http://www.haaretz.com/print-edition/news/courts-to-perform-secular-conversions-which-bypass-rabbinate-1.257275. Israel Movement for Progressive Judaism, Newsletter, 10 August 2008.

[19] Werczberger and Azulay, 'The Jewish Renewal Movement', 121. Shahar Ilan, 'Yossi Beilin's Knesset Caucus for Secular Judaism to Launch Tomorrow', *Haaretz.com*, 12 February 2007, accessed 27 August 2013, http://www.haaretz.com/print-edition/news/yossi-beilin-s-knesset-caucus-for-secular-judaism-to-launch-tomorrow-1.212738.

[20] Ben-David, 'The Renaissance of Pluralistic Judaism in Israel', 32.

[21] Inaugural speech to the Knesset Ruth Calderon, 'The Heritage of All Israel', trans. Elli Fischer, *The Jewish Week*, 14 February 2013, accessed 27 February 2013, http://www.thejewishweek.com/editorial-opinion/opinion/heritage-all-israel.

[22] Alma, last accessed 27 August 2013, http://alma.org.il/content.asp?lang=en&pageid=31. Elul, last accessed 27 August 2013, http://www.elul.org.il/content.asp?lang=en&pageid=11. Shalom Hartman Institute, last accessed 27 August 2013, http://www.hartman.org.il/About_Us_View.asp?Cat_Id=187&Cat_Type=About.

[23] Ben-David, 'The Renaissance of Pluralistic Judaism in Israel', 32.

[24] Aaron Kalman, 'Resonant Response to Maiden Speech by Yesh Atid's Secular, Female Talmud Scholar', *The Times of Israel*, 15 February 2013, accessed 27 August 2013, http://www.timesofisrael.com/resonant-response-to-maiden-speech-by-yesh-atids-secular-female-talmud-scholar/.

Calderon's speech reflected the steadfast positions of people identifying with the cross section of existing secular and religious identities. Secular Zionists, whose identity was based on culture, complained of her depiction of secularism as hollow and superficial. Some religious people claimed she misused the texts for a non-religious purpose. Those on the political left rejected her plea for dialogue with the religious right with little understanding of the connection between the latter's religious position and their disregard for the rights of Palestinians, or the political implications for matters of religion and state.[25]

Esteban Gottfried and Regev Ben-David attributed the impetus for the trend towards a Jewish Renaissance to the moral questioning in the aftermath of the assassination of the former Prime Minister Yitzhak Rabin in 1995. Gottfried described the motivation as a desire to reclaim Judaism from the religious zealots. Ben-David explained the desire to promote dialogue between secular and religious after the assassination as the reason for the establishment of new institutions of learning. However, Ben-David noted new secular institutions of Jewish learning were established already in the late 1980s.

Yaacov Ariel and Adina Newberg traced the Jewish revival back to the 1970s, and as early as The Six Day War in 1967.[26] Secular Zionism, explained Newberg, provided a narrow, simplistic ideology disconnecting their adherents from Judaism. Werczberger and Azulay also noted The Six Day War was a watershed moment. The assassination of Yitzhak Rabin, in their observation, accelerated a process which was set in motion much earlier.[27] These explanations were oriented to local events in Israel. Equally important was the transformation of a country opening up to a globalized world.

In her study of prayer communities, Adina Newberg observed similarities in the *Havurah* (a group led style of service), the adoption of meditation, and singing and dancing styles of the neo-Hasidic tradition, the Jewish Renewal Movement and the Conservative *Bnei Jeshurun* in New York. The influence, Newberg noted, was not a formalized one, but a result of casual

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[25] Ruth Gavison, 'Tying the Threads', in *The Future of Religion and State in Israel* (Jerusalem: The Tikvah Fund: A Four-Part Symposium, 2013), accessed 19 May 2013, http://forum.tikvahfund.org/the-future-of-religion-and-state-in-israel-a-four-part-symposium/, 41-42.
[26] Ariel, 'Paradigm Shift', 4-7. Adina Newberg, 'Hitchabrut or Connecting: Liberal Houses of Study in Israel as Political and Spiritual Expression', *Israel Studies Forum* 20, no. 2 (2005).
[27] Werczberger and Azulay, 'The Jewish Renewal Movement'.

connections originating from exchanges when Israelis visited the United States and the availability of printed material on the internet.[28]

The American influence on religious ritual in Israel developed during a new period of close political, economic and social relationships between America and Israel, and the globalization of communications and journalism.[29] The idea of emigration from Israel was no longer held as an object of derision for an act regarded as abandoning the Zionist dream. Travel abroad became more common place among Israelis.

Civil Society and the New Israel Fund

An important source of funding for the network of pluralist organisations was NIF. NIF supported a broad coalition of organisations to promote civil society challenging the centralised form of governance dominant since before the state was established. NIF was established in the United States in 1979 by American couple Jonathan Cohen and Eleanor Friedman to address social problems in Israel.[30] Initially the organisation focused on improving relations between Arabs and Jews, and Sephardi and Ashkenazi Jews, as well as women's issues. In 2012 the organisation reported it had donated a total $US250 million in grants to more than eight hundred and fifty organisations since its inception. Areas of interest clustered around democracy and human rights, social and economic justice, religious pluralism, and the environment.[31] As well as the United States, NIF has branches in the United Kingdom, Canada, Switzerland and Australia.

Grantees sharing the goal of promoting liberal democracy and human rights were encouraged to network for mutual benefit, including IRAC and other institutions of the Reform Movement.[32] Even without the intervention of NIF, the professional networks of lawyers

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[28] Newberg, 'New Prayers, Here and Now', 87-89.

[29] Tom Segev, *Elvis in Jerusalem: Post-Zionism and the Americanization of Israel*, (New York: Metropolitan Books, 2002).

[30] Tsippi Shmilovitz, 'Heading the Fund', trans. by New Israel Fund, *Yediot Achronot*, 29 June 2012, accessed 10 October 2013, http://www.nif.org/component/content/article/15-general/1383-heading-the-fund. Joseph Puder, 'The New Israel Fund: A Fund for Israel's Enemies' (New York: Americans for a Safe Israel, 1990), 11 October 2013, http://afsi.org/pamphlets/NewIsraelFund_Puder%5B1%5D.pdf.

[31] New Israel Fund, '2012 Grantees', accessed 10 October 2013, http://www.nif.org/component/content/article/14-general/1542-2012-grantees-listing.

[32] Woods, *Judicial Power and National Politics*, 146.

working for IRAC developed formal and informal coalitions with like-minded organisations and professional colleagues.[33]

NIF also supported the non-government organisation Shatil in Israel. Shatil trained activists in a range of skills needed for non-profit organisations to succeed, for example, financial management, media relations, and technology.[34] Many organisations mentioned in this thesis received grants from NIF at one time or another. IRAC received annual grants subject to reporting and meeting set criteria. A special grant was also received by IRAC for monitoring gender segregation on buses. Torah Va'Avodah and PANIM were listed as grantees in 2012.[35] Other organisations listed as beneficiaries referred to in this thesis were the Masorti Movement, as the Conservative Movement in Israel is known, the IMPJ, the Center for Women's Justice (CWJ), the Israel Women's Network, Kolech, an organisation representing Orthodox women, and New Family.[36] Grants from NIF were one of several sources of funding for each organisation.

The association of NIF with left-wing politics made the organisation vulnerable to criticism. Over time NIF was criticized for supporting organisations representing the civil and human rights of Arab citizens and Israeli organisations monitoring human rights activities in the West Bank. It was alleged these beneficiaries were acting against the security interests of Israel implicating NIF by association.[37] The controversy reflected the difficulty of separating out domestic issues from the national interest of maintaining the security of the state, and humanitarian principles and egalitarianism from the national interest related to the conflict with the Palestinians.[38] Causes championed by beneficiaries of NIF were unpopular in wider society in Israel, even when supported by networks of participants in social movements and the High Court of Justice.[39]

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[33] Ibid.

[34] Shatil, accessed 11 October 2013, http://english.shatil.org.il/.

[35] New Israel Fund, '2012 Grantees'.

[36] New Israel Fund, 'Lesbian Widow to Receive Government Pension', 21 July 2009, accessed 10 October 2013, http://www.nif.org/component/content/article/13-stories/400-lesbian-widow-to-receive-government-pension. New Israel Fund, 'Kolech Launches Hotline on Gender Segregation', 15 December 2009, accessed 24 April 2011, http://www.nif.org/issue-areas/stories/kolech-launches-hotline-on.html.

[37] NGO Monitor, 'New Israel Fund', 2 September 2012, accessed 11 October 2013, http://www.ngo-monitor.org/article/new_israel_fund. Puder, 'The New Israel Fund'.

[38] Asher Cohen and Jonathan Rynhold, 'Social Covenants: The Solution to the Crisis of Religion and State in Israel?' *Journal of Church and State* 47, no. 4 (2005): 739-740.

[39] Woods, *Judicial Power and National Politics*.

Covenants and Constitutions

The deterioration of relationships between the religious and secular sectors led to several attempts to reach agreements by way of covenants.[40] The agreements attempted to bridge the differences between the secular and religious populations. The aim was to resolve contentious issues by negotiation, culminating with a statement or document of agreed principles. For the most part the agreements attempted to reform the existing system by reaffirming values of Jewish unity, affirming Israel as Jewish and democratic, emphasising either the cultural and historic identity or the religious Jewish identity depending on who were the initiators and participants in the covenant.

In essence, each agreement articulated the positions of each party according to their allegiance to Jewish and Israeli identity. The Reform Movement was represented in negotiations for one of these covenants, *The Kinneret Declaration,* by Rabbi Uri Regev.[41] This declaration relied on cultural and historic ties to Israel. The agreements relying on religious identity either limited participation by IRAC or the Reform Movement, or disregarded the status of the non-Orthodox. An unsuccessful alternative to the covenants promoted by IRAC during the 1990s was a Bill of Rights.

Prior to the 1980s, the religious and secular Knesset members managed to reach agreement. However, as Israelis became more polarized along religious and political lines compromise became more elusive.[42] Political scientists Asher Cohen and Jonathan Rynhold ascribed the deterioration in relations to changes in the political landscape.[43] For one, the activism of the Supreme Court discussed, in chapter two, was viewed as interference in the religious sector leaving the latter cautious of any compromise that may have required oversight by the Court. Secondly, the ultra-Orthodox religious parties, especially the Shas party, gained more representation in the Knesset giving the party greater opportunities to influence policies as coalition partners. At the same time secular Israelis were becoming more attached to liberalism.

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[40] Cohen and Rynhold, 'Social Covenants'.
[41] David Hazony, 'Miracle on the Sea of Galilee', *Azure* 13 (2002).
[42] Cohen and Rynhold, 'Social Covenants'. Cohen and Susser, *Israel and the Politics of Jewish Identity*.
[43] Cohen and Rynhold, 'Social Covenants'.

The intention of the covenants was to reach agreement supported by a substantial portion of the Israeli public, forcing the politicians to adopt the proposals. None of the proposals was adopted for the same reasons which led to the covenants being drafted. Differences between hawkish and dovish responses to the occupation of the West Bank prevented moderates on each side from participating in negotiations. Nor did the covenants galvanise the public support needed for success.[44]

A primary goal in the proposed covenants was to strengthen and preserve Israel as a Jewish and democratic state.[45] An early attempt at a social covenant in 1986 focused on observance of Shabbat, suggesting manufacturing and commercial activities remain closed, but sport, cultural and entertainment activities be permitted. The participants in the discussion were professor of law Ruth Gavison and Yoel Bin-Nun, a rabbi belonging to the settler movement. Other initiatives in this vein sought to also address matters of personal status as well.

The Religious Kibbutz Movement focused on Shabbat observance, issues of personal status and non-Orthodox Judaism. The Kibbutz proposal was a statement of principles aimed at fostering spiritual and cultural activities. It called for a solution for people unable to marry according to *halakhah* and an appropriate way for members of non-Orthodox movements to be included among the Jewish people. The *Meimad* covenant made similar proposals to that of the Religious Kibbutz Movement based on the promotion of Jewish education and culture. It proposed an option of registration as a couple for people unable to marry religiously. *Meimad* also affirmed the implementation of the civil burial law passed in 1996 to establish civil cemeteries. It was presented by former Knesset members Yossi Beilin for Labour and Alex Lubotzky of the short lived minor party The Third Way.[46]

Other covenants attempted to bridge the gap between maintaining Jewish unity and peace with the Palestinians. In 1997 the *Shalom B'Yisrael* covenant was signed by then Prime Minister Benjamin Netanyahu and leader of the Labour Party Ehud Barak. It was a statement of principles with reference to the unity of the Jewish people and condemnation of violence

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[44] Ibid.
[45] Ibid., 734-737.
[46] Ibid. Alex Lubotzky, 'A New Covenant on Religion and State' (Jerusalem, Meimad, 1998), cited on the website of Edah, accessed 21 October 2013, http://www.edah.org/index.cfm. Knesset, accessed 21 October 2013, http://www.knesset.gov.il/faction/eng/FactionPage_eng.asp?PG=7.

and incitement.[47] In 2001 The *Kinneret Declaration* was published as an attempt towards drafting a constitution by negotiation.[48] The sixty participants and signatories to the declaration represented a cross-section of Israeli society.[49]

The declaration affirmed Israel as the home of the Jewish people; Jewish by reference to history, culture and values, and democratic by virtue of the Declaration of Independence. The declaration continued with a statement to uphold the rights of the Arab minority, and to pursue peace with its Palestinian neighbours. The message being delivered was that being Jewish and being democratic was reconcilable. Secondly, the collective voice of disparate members of the Jewish community could speak in a unified manner on shared, common values.[50]

The most comprehensive covenant formed was the Gavison-Medan covenant.[51] The Gavison-Medan Covenant sought to reach agreement on contentious issues through dialogue. The authors of the Covenant were Professor Ruth Gavison and Rabbi Yaacov Medan, rabbi and teacher at Har Etzion religious seminary and Yaacov Herzog College, both located south of Jerusalem.[52] The authors sought to bring a liberal framework supporting equality, human dignity and liberty to the Covenant with a desire to minimize the impact on *halakhah*.

The negotiations were based on the premise that *halakhic* law could not be imposed on those who did not feel bound by it. Essentially the Covenant maintained the existing connections between religious and government institutions with some modifications while providing recommendations on all the contentious religion-state issues. The recommendations of the Covenant sought to minimize interference by the High Court, relying instead on a representative body of interested parties to negotiate differences.[53]

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[47] Ibid., 735.
[48] Ibid., 734-737. Hazony, 'Miracle on the Sea of Galilee'. Amal Jamal, 'The Political Ethos of Palestinian Citizens of Israel: Critical Reading in the Future Vision Documents', *Israel Studies Forum* 23, no. 2 (2008): 5. 'The Kinneret Declaration', The Department for Jewish Zionist Education, *The Jewish Agency for Israel*, last accessed 25 April 2009, webpage no longer accessible.
[49] Cohen and Rynhold, 'Social Covenants', 735.
[50] 'The Kinneret Declaration'.
[51] Artsieli, *The Gavison-Medan Covenant*.
[52] Ibid., 4.
[53] Ibid. Cohen and Rynhold, 'Social Covenants', 737.

Attempts to draft comprehensive constitutions were made by a Knesset Committee and the IDI. Like the Gavison-Medan Covenant the draft constitutions recommended curtailing the activism of the Supreme Court.[54] In 2003 the Knesset Constitution, Law and Justice Committee initiated a project named Constitution by Broad Consensus Project.[55] The draft constitution was committed to the defence of religious freedom and conscience. Otherwise the document was silent on religion and state apart from discussion of the previously legislated establishment of religious tribunals as part of the Court system.

The proposal by IDI sought to address the fundamentals of governance and protection of human rights.[56] Recommendations on observance of Shabbat, marriage and divorce, conversion and provision of *kashrut* in state institutions would retain the practices already in existence. Commercial activity on Shabbat was banned except for cultural and entertainment activities. Marriage and divorce remained within religious law with allowance for a spousal registry for civil marriage to distinguish such unions as non-*halakhic*.[57] No reference was made to the status of Reform or Orthodox streams. Organisations representing Arab citizens rejected these documents as insufficiently responding to their needs, and so drafted their own proposals for a constitution.[58]

Each of the agreements was established in such a way as to maximise a successful outcome. The ultra-Orthodox community were not participants in any of the attempts.[59] The Gavison-Medan Covenant limited participation, by the authors' own admission, failing to include proper representation from significant sectors, including both the ultra-Orthodox and non-Orthodox communities, those identified as part of the traditional public and new

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[54] Cohen and Rynhold, 'Social Covenants', 737.

[55] The Constitution, Law, and Justice Committee of the Knesset, 'About the Constitution Drafting Project', accessed 2 June 2012, http://huka.gov.il/wiki/index.php/About_the_Constitution_Drafting_Project. Constitution for Israel, 'Proposal for a Constitution', (Jerusalem, The Sixteenth Knesset Constitution, Law and Justice Committee, 2004), accessed 22 March 2008, http://www.cfisrael.org.

[56] Meir Shamgar, *Constitution by Consensus*, (Jerusalem: The Israel Democracy Institute, 2007).

[57] Yedidia Z. Stern, 'From a Shabbat of Work to a Shabbat of Rest', (Jerusalem: The Israel Democracy Institute, 2008), accessed 22 October, http://en.idi.org.il/analysis/articles/from-a-shabbat-of-work-to-a-shabbat-of-rest. Shahar Lifshitz, 'Policy Paper No 68 – The Spousal Registry', (Jerusalem, The Israel Democracy Institute, 2006), accessed 26 February 2011, http://www.idi.org.il/sites/english/PublicationsCatalog/Pages/PP_68/PP_68.aspx.

[58] Jamal, 'The Political Ethos of Palestinian Citizens of Israel', 5-6. 'The Haifa Declaration', (Haifa: Mada al-Carmel, 2007). 'The Democratic Constitution', (Haifa: Adalah The Legal Center for Arab Minority Rights in Israel, 2007). 'The Future Vision of the Palestinian Arabs in Israel', (Nazareth: The National Committee for the Heads of the Arab Local Authorities in Israel, 2006).

[59] Cohen and Rynhold, 'Social Covenants', 740-741.

immigrants.[60] Agreements like the Kinneret Declaration spoke in general terms of agreed principles.

Where sensitive matters of religion and state were approached, the tendency was to enshrine in law existing practices, for example, recognition of couples cohabiting outside a religious marriage. The contentious term 'civil marriage' was avoided, replaced instead by references to couple unions, or registration of couples. None of the agreements or proposed constitutions addressed in any detail the changing demography and consequent changes in the demand for new approaches, or the deep divisions among the Jewish population. More radical proposals, discussed below were put forward by Torah Va'Avodah and IRAC.

A Law for Religious Freedom

In 1989 IRAC campaigned unsuccessfully in support of the passage of a Bill of Rights. If enacted, the Bill would have endorsed the right of non-Orthodox institutions to receive government funding. The Bill was drafted by then Justice Minister Dan Meridor from Likud. Although the Bill passed a preliminary reading with support from the two major parties, Labour and Likud, the bill did not pass the committee stage of review. The Orthodox parties feared a Bill of Rights 'would erode the Jewish character of the State'. Likud agreed to set aside the legislation.[61] The Bill would have made illegal any discrimination on the basis religious faith, as well as nationality, sex, or country of origin. In addition, the Bill of Rights proposed protection of property, privacy, and freedom of assembly. The proposed Bill also provided for judicial review by a panel of seven Supreme Court judges who could strike down legislation which violated the principles of the Bill of Rights.

Subsequently, in 1992, the Knesset passed two laws to protect fundamental human rights; Basic Law: Human Dignity and Liberty and Basic Law: Freedom of Occupation.[62] The former law protected the sanctity of life, human dignity, freedom and a person's property and privacy. The latter protected the right of citizens to be engaged in an occupation, profession or trade. Neither law made any specific mention of religious freedom or freedom of conscience. As the religious parties objected to some of the provisions in the initial draft,

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[60] Artsieli, *The Gavison-Medan Covenant*, 17.
[61] Israel Religious Action Center, 'Annual Report 1989-1990'.
[62] The Knesset, 'The Existing Basic Laws: Summary', last accessed 12 July 2012, http://www.knesset.gov.il/description/eng/eng_mimshal_yesod2.htm.

only those sections were brought into effect where agreement could be reached.[63] Nevertheless, the Basic Law: Human Dignity and Liberty figured prominently in petitions presented before the High Court by IRAC.

In 1998, a group of parliamentarians proposed a new bill to ensure religious freedom; the Basic Law: Freedom of Religion and Conscience. The members of the Knesset who planned to introduce the bill in October of that year were Hagai Meiron, Ori Orr and Sofa Landver from the Labour party, Amnon Rubenstein of Meretz, Avraham Poraz of Shinui, Michael Nudelman of Yisrael b'Aliyah and Eliezer Sandberg from Tsomet.[64] IRAC initiated the drafting of the bill, and then worked with other grass roots organisations to lobby for its passage.[65]

The Bill proposed separation of religion and state, the introduction of civil marriage, to eliminate the compulsion for a couple to obtain a religious divorce from the rabbinate, and to grant equality to the non-Orthodox movements.[66] The Bill was introduced as a private member's Bill by Naomi Chazan, representative for Meretz, in December 2000. The Basic Law passed a preliminary reading by a vote of 37 to 34. However the Bill failed to proceed through the committee stage since the Knesset Constitution, Law and Justice Committee tasked to consider the bill, was dominated by Orthodox and ultra-Orthodox and Likud members opposed to the legislation.[67]

Reforming the Religious Institutions

Following the failure of reaching any agreement or Bill of Rights, attention turned to reforming the institution of the Chief Rabbinate. In preparation for the forthcoming election for the Chief Rabbis in 2013, three proposals were published in the previous year. The

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[63] Cohen and Rynhold, 'Social Covenants', 739.

[64] Gideon Alon, 'MKs Launch Law on Religious Freedom', *Haaretz*, 17 June 1998, reprinted in Israel Religious Action Center, 'Selected Issues on Religion and State - 1998', Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem. Article from 'Information Bulletin Number 3', [In Hebrew]. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.

[65] Israel Religious Action Center, 'Background Articles from Old Website'.

[66] Editorial, 'A Civil Option', *Haaretz*, 17 June 1998, reprinted in Israel Religious Action Center, 'Selected Issues on Religion and State - 1998'. MERCAZ USA, The Zionist Organization of the Conservative Movement, Newsletter Spring 2001, accessed 16 July 2012, http://www.mercazusa.org/newsltr/spring01/news-from-israel.html.

[67] MERCAZ USA Newsletter. Ontario Consultants on Religious Tolerance, 'Religious Intolerance in Israel', last update 7 September 2007, accessed 17 June 2010, http://www.religioustolerance.org/rt_israelc.htm.

organisations preparing the proposals were Tzohar, Torah Va'Avodah and IRAC. The Tzohar proposal was another attempt to reform the system from within by attempting to make the institution more welcoming and responsive to people. The models proposed by Torah Va'Avodah and IRAC represented radical change by proposing to dismantle the existing state-religion relations in favour of non-governmental administration of religious institutions.

Both the Torah Va'Avodah and IRAC models borrowed from the German religious-state system with a neutral role for government, and equal treatment for all religious institutions. Torah Va'Avodah proposed a communal model transferring control of religious affairs to local communities. Tzohar and Torah Va'Avodah both described themselves as religious Zionist, yet their attitudes were very different attesting to the diverse range of views within the Orthodox sector. Tzohar rejected moves towards recognition of the non-Orthodox Movements. The Torah Va'Avodah model provided for Reform and Conservative choices to be recognised by the government. The IRAC model resembled the latter with more emphasis on federations to represent each stream and less detail on the method of implementation.

Tzohar, an organisation of conservative religious Zionist rabbis, was founded in 1995 after the assassination of former Prime Minister Yitzhak Rabin.[68] By extending a welcoming approach to dealing with the public, the rabbis reasoned, people were more likely to use the services of Orthodox rabbis. Their first major initiative aimed to address the dissatisfaction with the rabbinate among non-observant couples wanting to marry. Weddings were conducted by state approved rabbis not employed by the state. Since 1997, Tzohar provided services for Yom Kippur in community centres as an alternative to state sponsored neighbourhood synagogues. More emphasis was placed on explanations and singing as part of the services. This initiative was criticised as sealing the divide between the secular and the religious communities.[69] The proposal by Tzohar sought to adapt these principles and methods to the office of the Chief Rabbinate and the conduct of its duties.[70]

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[68] Adam S. Ferziger, 'Religion for the Secular', *Journal of Modern Jewish Studies* 7, no. 1 (2008).
[69] Ibid.
[70] Yaakov Ariel and David Stav, ' "Program Elul" of the Organisation Tzohar to Strengthen the Link of the Chief Rabbinate to the General Public in the Way of Rav Kook', [In Hebrew] (Jerusalem: Tzohar, 2012), accessed 19 September 2012, http://www.tzohar.org.il/wp-content/uploads/2012/05/Tzohar_Elul.pdf.

Torah Va'Avodah Communal Model

Torah Va'Avodah is an organisation composed of lay people, established in 1978 'to challenge the growing extremism and *Haredi* influence in Orthodox Jewry'.[71] The organisation describes itself as apolitical. Its mission is 'to promote the values of tolerance, equality, and justice in religious society'.[72] The main activities are described as education and activism in matters of religion and state including conversion, *agunot*, and the rabbinate. *Agunot* are women unable to receive a *halakhic* divorce from their husband either because he has gone missing and his death cannot be proved, or the husband refuses to grant a divorce.

In 2012 Torah Va'Avodah published a position paper for restructuring religion-state relations to make Judaism part of civil society by transferring governance and financial authority from the state, to religious organisations at a communal level. The plan was aptly named the 'communal model'.[73] Like the German model, it was proposed the government would maintain an active role in promotion of Judaism, in all its forms, providing equal treatment for all religions.

The German model is underpinned by the principles of state neutrality and equality. As in the United States state neutrality in Germany means not identifying with any religion and non-intervention. However, the neutral role of government in Germany does not preclude financing religious institutions. Funding formulas operate on the basis of equality, treating each religion and each denomination equally with equal entitlements.[74] In Germany there is no established or dominant state church: an important difference to Israel where religion greatly influences public life.[75]

The German model provides for religious groups as private associations or organisations. Agreements between the government and specific religious communities details

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[71] Torah Va'Avodah, 'About Us', accessed 9 October 2013, http://toravoda.org.il/en/node/79.
[72] Ibid.
[73] Torah Va'Avodah, 'Vision for Democractization of Religious Services in Israel: The Communal Model', [In Hebrew] accessed 19 September 2012, http://toravoda.org.il/node/3694. Hadar Lipshits, 'A More Jewish and Democratic State for Israel', *Institute for Jewish Ideas and Ideals*, 10 October 2012, last accessed 8 October, 2013, http://www.jewishideas.org/articles/more-jewish-and-democratic-state-israel.
[74] Brugger, 'Structural Norms and Constitutional Rights in Church-State-Relations', 38-46. Gerhard Robbers, 'Religious Freedom in Germany', *Brigham Young University Law Review* 2001, no. 2 (2001).
[75] Brugger, 'Structural Norms and Constitutional Rights in Church-State-Relations', 38-46. Robbers, 'Religious Freedom in Germany', 649.

arrangements taking into account specific needs of different religious communities. Each religious community is guaranteed a high degree of self-determination. In return each faith is required to commit to upholding the rule of law, human dignity, human rights and democracy.[76] The enforcement of a church tax to fund religious institutions is also regarded as a feature of state neutrality. Religious institutions can either apply and collect the tax themselves or delegate collection of the tax to the state.

The aim of the Torah Va'Avodah communal model was to reverse the alienation from Jewish identity felt by many Israelis. The proposal transferred control for financial management and management of religious services to communities. Communities generally referred to a community of synagogue members of any stream: Orthodox, Reform, Conservative, Ashkenazi or Sephardi or even secular.[77] Each community would be recognised as eligible for funding by meeting the criteria for a minimum number of members, possibly fifty to a hundred. The model aimed to promote competition, not privatisation of religion. To implement the communal model Torah Va'Avodah strove for agreement on 'a basic principle of intensifying the Jewish identity of the State of Israel out of free choice and not coercion'.[78]

The government role would change to one of regulator, as opposed to a provider or administrator of religious services. Each community would select and employ its own rabbi and define the role and duties of the rabbi. In turn the rabbi would be accountable to the community. The proposal provided for a voluntary religious service levy collected by the government as in some countries in Europe. The levy was designed as a progressive tax similar to existing levies in Israel for health services, but at a lower rate.[79]

The communal model allowed for funds to be distributed to communities according to the number of members. People would be given a choice as to which community they wanted to belong, rather than rely on the services of government appointed neighbourhood rabbis. After a period of transition the number of state employed rabbis would diminish to very few, with most rabbis employed directly by communities. Communities would be able to form voluntary associations. The larger community associations would then be eligible for permits to grant marriage licences, issue conversion certificates, issue *kashrut* certificates, and

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[76] Robbers, 'Religious Freedom in Germany', 649-651.
[77] Torah Va'Avodah, 'A Communal Model'.
[78] Lipshits, 'A More Jewish and Democratic State for Israel'.
[79] Torah Va'Avodah, 'A Communal Model'.

148

arrange burials.[80] A role was also envisaged for municipal councils to provide financial and management support when required, similar to the arrangement for the school system.[81]

Eventually religious councils, and even the Ministry of Religious Affairs, would be eliminated as the tasks performed by these institutions passed to community synagogues and voluntary associations.[82] Payment to communities according to the size of their membership would, it was argued, motivate communities to expand their activities to bring in new members. If people were not satisfied by a community, they could move to another one, 'voting with their feet' one could say. Communities were expected to be transparent to their membership, so as to prevent corruption or wasteful use of resources.

By freeing the provision of religious services from the coercive element of the state, Jewish identity would be strengthened with people becoming more willing, in a more favourable environment, to join or participate in religious communities. Provision is also made for the introduction of civil marriage.

In relation to people who did not register for a community, the model placed responsibility on the state to ensure synagogues met the needs of all citizens, whether it be for a *bnei mitzvah*, wedding, or other service.[83] It was not explained how the state would ensure all needs were met, or how services to non-members may be funded. The proposal also made no reference to donations to communities, or whether donations would be regulated. A weakness of the plan was the lack of any comprehensive approach or set of principles to providing services to non-Jewish religions, namely Muslim, Druze and Christians. The proposal simply stated discussions would need to be held with each faith regarding the management of relevant services.[84]

The IRAC Religion-State Proposal

In petitioning the High Court for non-Orthodox rabbis to be granted government salaries, IRAC established a model for payment discussed in chapter six essentially implementing the

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[80] Lipshits, 'A More Jewish and Democratic State for Israel'. Torah Va'Avodah, 'A Communal Model'.
[81] Torah Va'Avodah, 'A Communal Model'.
[82] Ibid.
[83] Ibid.
[84] Ibid.

proposals of the communal model. The proposed State-Religion Relations in Israel principles and platform written by IRAC shared many elements with the communal model. The orientation of the IRAC proposal was to draw on the principles of classic Zionism supported by the Reform Movement. By contrast, the communal model concentrated on the reputation and acceptability of Jewish religion consistent with the organisation's Religious Zionist orientation. The State-Religion Relations platform was launched in July 2011 to coincide with the one hundred and seventh anniversary of the death of Theodor Herzl.[85] Using the vision of Theodor Herzl aligned IRAC with the secular Zionists with whom the organisation claimed a natural affinity.

The State-Religion Relations document emphasised Herzl's vision of separating religious institutions from the legal system in order to prevent the former interfering in matters of state. The institutional separation continues to be a key feature of IRAC policy. The principles drew on Theodor Herzl's vision for a Jewish State depicted in his book *The Jewish State* where Herzl anticipated the rabbis as having a unique role yet remaining subordinate to the secular government.

The Reform Movement advocated a cultural connection to define the Jewish character of the state, yet recognising both religious and national aspirations. The Jewish character of the State would be maintained through the Hebrew language, state symbols being Jewish symbols, Jewish content in the education system, and determination of official holidays along with Shabbat as the official day of rest as advocated by secular Zionists. Like other proposals discussed above, the State-Religion Relations platform called for the limitation of commercial activity on Shabbat with provision made for cultural, sport and entertainment activities.

Both the community model and the IRAC proposal were concerned with participation in religious life. For IRAC this was expressed in the language of rights: the right of every person to marry; the right of rabbis to officiate at marriages for their denomination with authority granted by the state; the right of every Jew to immigrate to Israel; the right of every person to practice their faith; the right to burial according to lifestyle and religious choice;

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[85] The discussion of the IRAC religion-state proposal is based on the publication 'State-Religion Relations in Israel'.

and the right of workers in connection with regulations for observance of Shabbat.[86] The use of the term rights displayed the democratic oriented, political activist basis of IRAC. The community model based its recommendations in the language of obligations and responsibilities consistent with a religious way of life guided by Torah and its teachings.[87] The Torah Va'Avodah model introduced its platform on the basis of the obligation to teach a livelihood to one's son, and the obligation to participate in the life of the nation and the study of Torah being available to all citizens.[88]

Whereas the Torah Va'Avodah proposal concentrated on processes by which to support differing streams and religious institutions, the IRAC model stressed the rights which would be achieved by adoption of the proposed model. The difference reflected two different approaches and philosophies to viewing and discussing religion-state relations in Israel. The State-Religion Relations platform built on Western style human rights concepts and values. The communal model built on the idea of the Torah as belonging to all Jews. The communal model also referred to the pluralistic nature of Israeli society and the Jewish people, demonstrating how the term pluralism cultivated by IRAC entered general discourse around religion-state relations. The Torah Va'Avodah model spoke of how participatory democracy and social pluralism would lead to a more Jewish Israeli society where Jewish tradition could flourish.[89] Both models declared Jewish and democratic as two compatible characteristics for Israel.

The rights based approach of the State-Religion Relations platform elaborated on democracy as a set of principles to work towards. The emphasis therefore, in keeping with the long term objectives of IRAC, was on the values of freedom of religion, freedom from religion, and freedom of conscience. The proposal brought together all the different aspects of religious freedom which the Reform Movement had campaigned on since the Movement made its commitment to Israel after the founding of the state. The role of the state, as elaborated in the Declaration of Independence, was to ensure the quality of social and political rights and the safeguarding of holy sites. State-Religion Relations document declared it was incumbent on

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[86] Lawrence A. Friedman, *The Human Rights Culture: A Study in History and Context* (New Orleans, Louisiana: Quid Pro Books, 2011). Aryeh Neier, *The International Human Rights Movement: A History* (Princeton, New Jersey: Princeton University Press, 2012).
[87] Jonathan Sacks, *To Heal a Fractured World: The Ethics of Responsibility* (London: Continuum, 2005).
[88] Torah Va'Avodah, 'A Communal Model'.
[89] Ibid.,

the state to recognise the diversity of Jewish beliefs and lifestyles, and to realise the rights of Jewish and non-Jewish citizens alike.

The tone was one of holding the government to account to fulfil the ideals expressed in the Declaration of Independence. In this vein, the platform pointed to 'the distaste for the acts and omissions of the orthodox rabbinical establishment' as the main cause of the estrangement and sense of alienation of many Israelis from Judaism and Jewish traditions and heritage.[90] The IRAC proposal promoted a neutral role for government similar to the German and community models. The proposal declared, 'the state authorities will not be identified with a particular religious denomination and will not give priority, status or special authority of any kind whatsoever to its institutions'.[91]

The State-Religion Relations document was designed to be brief as to provide a comprehensive overview of the main points of the platform. The proposal lacked detail and little information of how the proposals will be achieved or implemented. IRAC and the IMPJ were mindful that progress towards such a change would be gradual, given the political climate described in the previous chapter. Emphasis was therefore placed on 'the principle of separating of religion and state' while pursuing its implementation in the effort to promote religious freedom and freedom of conscience.[92]

Separation of religious institutions was referred to as separation of establishments, or alternatively, religious establishments. The use of the terms in English of 'establishment' and 'separating of religion and state' were unfortunate as the terms alluded to the separation of religion and state implemented in the United States, although duplicating the model from the United States was not the intention.[93]

The distinctive feature of the State-Religion Relations proposal was the use of umbrella organisations to establish a system of federations representing the different denominations and religions. In this way, religious institutions would operate independently from government institutions. Each denomination and stream would receive funding by the

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[90] Israel Religious Action Center, 'State-Religion Relations in Israel'.
[91] Ibid.
[92] Ibid.
[93] Interview numbers three and twelve.

government through the federations. The decentralization of Orthodoxy may lead to a multiplicity of Orthodox organisations representing different streams of Orthodoxy.

Whereas the Reform and Conservative Movements already had representative umbrella organisations in Israel, the Orthodox streams would need to create such institutions where such organisations did not exist. The office of the Chief Rabbinate would be terminated as a government institution. Instead, the Chief Rabbi would represent only those organisations which chose to abide by its authority on religious law.[94] Affiliation to the federations would be voluntary. The IRAC model declared the principles of separation of institutions and equal treatment would be extended to non-Jewish religions represented in the state. The emphasis was on the functioning and operations of religious institutions, whereas the community model stressed the choice of individuals as the measure of demand for religious services and source of scrutiny.

The recommendations of the IRAC platform enumerated concerns investigated in the following section on case studies; recognition of non-Orthodox rabbis, introduction of civil marriage, and conversion. It also included recommendations on activities which occupied IRAC at various times since its inception. On matters of personal status, in addition to the introduction of civil marriage, the state would recognise rabbis of all religious denominations as eligible to register marriages. To address the religious complications arising when a marriage breaks down, marriage would be dissolved in the streams and religious courts where the marriage took place.

In regard to burial, the State-Religion Relations platform called for acceleration in the provision of secular and non-Orthodox cemeteries alongside the established cemeteries managed by the Orthodox burial societies, the Chevra Kadisha. The proposal retained accountability for burial services with the state by calling for an increase in the supervision of the operations of burial services. On the question of conversion, the IRAC model proposed abandoning the official status of any conversion system. This proposal would forsake distinctions between national and private conversions discussed in chapter nine.

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[94] Israel Religious Action Center, 'State-Religion Relations in Israel', 9.

As the role of the Chief Rabbi would be downgraded, the positions of neighbourhood rabbis, and municipal rabbis would be abolished, replaced by the appointment of rabbis within the federation system. Religious councils would be also abolished. In their place municipal councils would establish religious service departments to provide services such as the establishment of an *eruv* (boundary) for Shabbat, provision of land for synagogues, and supervision ritual bath houses, (*mikvehs*). In the State-Religion Relations platform it was proposed *kashrut* services would be provided to public and government institutions by a tender process. Private organisations eligible to submit a tender would be listed on a public registry.

The State-Religion Relations platform also included proposals for integrating the ultra-Orthodox into Israeli society. In relation to service in the IDF, it was proposed exemptions would be provided to a limited number of students to pursue studies in *yeshivot*. Every citizen would be obligated to undertake either military or national service with consideration to religious lifestyle, community and family situation. The proposal called for the cancellation of the Tal Law. In relation to education, funding for the ultra-Orthodox would be limited to criteria matching other schools, and only where core curriculum was implemented, and entry to the schools was on a non-discriminatory basis. Integrating the ultra-Orthodox into the workforce with active promotion of this objective by the state was also noted.

In part, some steps towards the Religion-State Relations model have already come into effect. Successive decisions of the Supreme Court since 1986 on the issue of non-Orthodox conversion established the principal of recognition for the purposes of the Law of Return as Jewish without reference to the Chief Rabbinate. Recognition of non-Orthodox conversions is now by reference to the umbrella bodies of the Reform and Conservative Movements, each responsible for the eligibility of rabbis in their streams to conduct conversions. The Tal Law allowing exemptions from military duty for ultra-Orthodox men was cancelled in 2012. The agreement to pay salaries to non-Orthodox rabbis in rural areas, discussed in chapter six, implemented a model for funding based on equal criteria according to community demand.

Support for the Policies of IRAC

Leaders of the Reform Movement were convinced the majority of Israelis supported their principles and the issues in which IRAC was active. The question was how to effect change,

154

how to harness the support of the majority for the shared objectives, to connect people to engage their support.[95] The surveys demonstrated support was more likely to come from the secular population than the religious. The most widely used surveys were by IDI and CBS. The IDI survey on religious beliefs was the third in a series allowing comparison over time to earlier surveys in 1991 and 2009. The CBS social survey of religiosity in 2009 was an extensive one. Topics selected for discussion in this thesis were those identified as of most concern to IRAC and the Reform Movement. Details of responses are recorded in table ten. Table eleven provides a summary of attitudes in agreement to the questions to indicate affinity with IRAC policies. A breakdown of responses according to religiosity is displayed in table twelve.

Overall, as shown in table twelve, respondents describing themselves as secular were more likely than more religious respondents to support policies moving towards recognition of the Reform and Conservative Movements, more likely to consider tensions between the religious and secular as not good, and more likely to approve the introduction of civil marriage. The strong support for a measure of government funding indicated a separation of religion and state would not be introduced along a strict separation model as in the United States, but a model closer to the IRAC and Torah Va'Avodah models. Fifty-six percent of respondents supported separation of religion and state, with 73 percent supporting either public funding or a mix of public and private funding for religious institutions. Support for a mixture of public and private funding was relatively consistent across sectors of religious identity; 45.8 percent of *Haredim*, 56.2 percent of religious, 54.9 percent of traditional, and 49 percent of secular respondents.[96]

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[95] Interview numbers three and five.
[96] Central Bureau of Statistics, 'Social Survey 2009'.

Table 10: Attitudes to religion and state 2009 IDI survey and 2009 CBS survey
IDI survey N (unweighted) = 2437, CBS survey N (unweighted) = 6056

In your opinion, how good are the relations between the religious and the non-religious (Q63)	Very good	Good or quite good	Not So Good	Not Good at all		
	4.2%	42.2%	44.6%	8.0%		
In our opinion, should civil marriage (not through the rabbinate) be introduced in Israel? (Q27)	Yes, absolutely	Yes	Perhaps yes	Perhaps not	No	Absolutely not
	24.1%	19.6%	12.4%	4.7%	17.7%	21.4%
If civil marriage were available in Israel, do you believe that you or a member of your family would choose this option? (Q28)	Yes, absolutely	Yes	Perhaps yes	Perhaps not	No	Absolutely not
	14.0%	10.6%	13.0%	3.4%	22.4%	35.8%
Do you consider a person converted by a non-Orthodox rabbi to be Jewish? (Q13)	Jewish	Not Jewish				
	45.3%	52.3%				
The Conservative and the Reform Movements should have equal status in Israel with the Orthodox. (Q34)	Totally agree	Agree	Disagree	Totally disagree		
	27.9%	30.6%	23.8%	15.7%		
In the State of Israel there should be a separation of State and religion. (2009 CBS survey)	Agree strongly	Agree	Don't agree very much	Don't agree at all	Don't know	
	29.4%	27.5%	12.3%	27.1%	3.7%	
Should religious institutions be financed by public or private funds? (2009 CBS survey)	Public	Private	Both public and private	Don't know		
	24.0%	21.2%	51.8%	3.0%		

156

Table 11: Summary of attitudes to religion and state 2009 IDI survey and 2009 CBS survey
IDI survey N (unweighted) = 2437, CBS survey N (unweighted) = 6056

	Good	Not Good
In your opinion, how good are the relations between the religious and the non-religious (Q63)	46.4%	52.6%
	Yes	No
In our opinion, should civil marriage (not through the rabbinate) be introduced in Israel? (Q27)	56.1%	43.8%
	Yes	No
If civil marriage were available in Israel, do you believe that you or a member of your family would choose this option? (Q28)	37.6%	61.6%
	Jewish	Not Jewish
Do you consider a person converted by a non-Orthodox rabbi to be Jewish? (Q13)	45.3%	52.3%
	Agree	Disagree
The Conservative and the Reform Movements should have equal status in Israel with the Orthodox. (Q34)	58.5%	39.5%
	Agree	Disagree
In the State of Israel there should be a separation of State and religion. (CBS Survey).	56.5%	39.9%
	Public	Private or both
Should religious institutions be financed by public or private funds? (CBS Survey).	24.0%	73.0%

In relation to attitudes regarding the level of tension between the secular and religious sectors, just over half of those interviewed in the 2009 *Portrait of Israeli Jewry*, 53 percent, considered relations as not good. Approximately half of the respondents identifying themselves as religious or traditional thought relations were good, whereas 39 percent of secular respondents agreed relations were good. The responses may have indicated a greater desire for change among the secular population feeling their needs were not being met in the existing arrangements.

A similar question in the CBS survey found secular respondents living in Jerusalem in particular, assessed religious-secular relations as not good, 86 percent compared to 71 percent living in Haifa and 68 percent living in Tel Aviv.[97] Differences between religious and secular

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[97] Shulamit Dror Cohen, 'Social Survey 2009: Religiosity and Tradition among the Jewish Population Aged 20 and Over' (Jerusalem: Central Bureau of Statistics, 2010).

sectors of Israeli Jewry appeared to be less about ideological differences and more about how to navigate, accommodate and compromise different lifestyles and beliefs in relation to Jewish tradition. In other words, the differences were about how to construct a pluralistic society encompassing Jewish tradition and belief.

Table 12: Attitudes to religion and state by religiosity 2009 IDI survey and 2009 CBS survey

IDI survey N (unweighted) = 2437	Haredi N=162	Religious N=392	Traditional N=822	Secular N=1058
In your opinion, how good are the relations between the religious and the non-religious, good. (Q63)	47.5%	56.6%	50.9%	39.0%
In our opinion, should civil marriage (not through the rabbinate) be introduced in Israel? Yes. (Q27)	7.4%	18.9%	44.8%	86.0%
If civil marriage were available in Israel, do you believe that you or a member of your family would choose this option? Yes. (Q28)	3.1%	6.1%	20.9%	67.7%
Do you consider a person converted by a non-Orthodox rabbi, Jewish. (Q13)	4.9%	15.3%	36.7%	69.3%
The Conservative and the Reform Movements should have equal status in Israel with the Orthodox, agree (Q34)	6.2%	24.7%	55.1%	81.8%
CBS survey N (unweighted) = 6056	494	N=716	N=2282	N=2546
In the State of Israel there should be a separation of State and religion, agree.	14.0%	23.4%	53.3%	77.3%
Should religious institutions be financed by public or private funds? Public and private or private.	48.2%	59.4%	71.0%	83.8%

Information from the survey by Hiddush in 2011 is discussed below to further investigate the claim of support for Reform policies by the majority of the Israeli population.[98] The questions were asked in a different manner than the other two surveys reflecting the interests of the Reform Movement. The survey was targeted towards providing political parties with

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[98] Smith and Paniel, 'Religion and State Index Report Number 3'.

information on support or otherwise on topical issues. Questions were asked specifically in relation to the ultra-Orthodox community not asked in the IDI or CBS surveys. The status of the ultra-Orthodox men was linked to the social protests of the summer of 2011 just two months before the Hiddush survey was conducted in August. In an appearance before the Trajtenberg Committee, the vice-president of Hiddush, Shahar Ilan warned 'without integrating ultra-Orthodox men into the Israeli workforce, there is no possibility of economic equality and true social justice'.[99]

On the question of religious-secular relations, the Hiddush survey approached the question by asking respondents to rank the severity of divisions among the Jewish population as shown in table thirteen. The divisions listed were; rich and poor, immigrants and native-born, *Haredi* and secular, right and left wing, and Sephardi and Ashkenazi. The use of the phrase '*Haredi*' rather than 'religious' targeted a particular sector of the religious population viewed as the source of the tensions. The report of the findings combined first and second rankings. Only in the case of secular-*Haredi* relations was the ranking detailed making comparison limited. Thirty-seven percent of respondents ranked the issue in first place and 27 percent ranked it as second. The combined first and second ranking placed secular-*Haredi* relations as the most acute division among Israeli Jews.

Table 13: What is the most acute or second most acute division in Jewish Israeli Society?

Issue	Ashkenazi and Sephardi Jews	Right and Left Wing	Secular and ultra-Orthodox	Recent Immigrants and long term residents	Rich and Poor
Most acute or second most acute	14%	51%	64%	9%	30%

Source: Hiddush, Israel Religion and State Index, 2011.

The information from Hiddush was presented in a manner which best reflected the concerns of the Reform Movement. The report of the survey concluded secular Jews identified with the

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[99] Ibid., 2. Shahar Ilan, 'Making True Economic Reform: Getting to Work', *Hiddush*, 1 September 2011, accessed 10 October 2011, http://www.hiddush.org/.

policies of the Reform Movement towards the ultra-Orthodox. More specific questions were presented as evidence of this symmetry as shown in table fourteen. The survey reported 87 percent of respondents were in agreement with national and military service for ultra-Orthodox men, 79 percent in support of reduced funding to the ultra-Orthodox community, and 62 percent agreed to denying funding to schools not teaching core curriculum.

Table 14: Israel Religion and State Index Hiddush 2011

Issue	In Favour N=800 (unweighted)
Recognition of all forms of marriage including Reform, Conservative and civil.	62%
The state should recognise all forms of conversion including secular conversion.	61%
Yeshiva students must be required to do either national or military service.	87%
Reduce government funding for *yeshivas* and large families to encourage ultra-Orthodox men to go to work.	79%
Deny funding to schools refusing to teach core curriculum.	62%
Separation of religion and state.	56%

Source: Hiddush, Israel Religion and State Index, 2011

Examination of civil marriage was also broader in scope. The IDI and CBS surveys asked about the introduction of civil marriage in a generalised manner. The Hiddush survey differed in that it included Reform and Conservative marriages as well as civil marriage. Sixty-two percent of respondents agreed the government should recognise all forms of marriage, non-Orthodox and secular as well as the available Orthodox options. The question reflected the long-term objective of the Reform Movement for state recognition of non-Orthodox marriages. The possible introduction of civil marriage presented an avenue for eventual recognition of Reform marriages. As discussed in chapter seven, the proposal put forward by IRAC to recognise civil marriage carried with it a requirement to recognise in law marriages officiated by non-Orthodox rabbis. The interests of IRAC and the Reform Movement went beyond the general concern in Israeli society for the best way to deal with couples not eligible for an Orthodox Jewish wedding. The emphasis on civil marriage by IRAC also allowed the

organisation to tap into sentiments sympathetic to civil marriage per se, rather than recognition or validation of Reform marriages directly.

Specific questions on conversion and recognition of the non-Orthodox Movements gave a more valid indication of their acceptance or otherwise. Secular respondents displayed a greater acceptance of civil marriage as opposed to the acceptance of non-Orthodox converts as Jewish. As shown in table twelve, 86 percent of secular respondents agreed to the introduction of civil marriage, compared to 69.3 percent in agreement with the acceptance of non-Jewish converts.

The Hiddush survey asked the question differently by asking if the state should recognise all forms of conversion, secular, Reform and Conservative. Secular conversion referred to a process of Jewish study followed by a welcome ceremony of a non-religious nature.[100] The Hiddush survey reported 61 percent of people agreed the state should recognise non-Orthodox conversions as well as secular conversion. The question of recognition of conversion by non-Orthodox rabbis asked in the IDI survey indicated 45.3 percent of all respondents considered non-Orthodox converts as Jewish. The Hiddush survey also found 43 percent of secular Jews supported the introduction of secular conversion.[101] Support for civil alternatives did not always correlate with support for the Reform Movement.

The Hiddush survey did not address the question of recognition of the Reform Movement, instead focusing on issues to draw a correlation. The IDI survey on religious beliefs did ask respondents whether the Reform and Conservative Movements should be granted equal status to the Orthodox. Fifty-nine percent of people agreed. Secular Jews displayed high levels of support for recognition of the non-Orthodox movements, 81.8 percent. The figures indicated a level of affinity with IRAC in terms of dismantling the Orthodox monopoly in favour of a pluralist system giving equal weight to all expressions of Judaism. The manner in which people wanted to express their Judaism differed, indicating support for secular and non-Orthodox alternatives. This diversity testified to the pluralistic nature of Jewish population in Israel discussed above, as opposed to the unitary approach on which religion-state relations were organised.

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[100] Ibid., 24.
[101] Ibid., 18.

Summary

Rabbi Meir Azari of Beit Daniel synagogue in Tel Aviv criticised campaigns for legislative change which relied on an anti-ultra-Orthodox position.[102] Azari was speaking in relation to unsuccessful campaigns in the 1990s and early 2000s to introduce civil marriage laws. He argued this position was unsustainable in the long term. It was far better, in his opinion, to develop alternative policies to allow for funding and legislation. The observation possibly gave one explanation as to why the support for reform was not transferred into legislative change.

The State-Religion Platform went part way to address the issue of providing alternatives. Yet it was not as comprehensive as the alternative communal model by Torah Va'Avodah in terms of recommendations for implementation and models for funding. The primary concern of the latter was to rejuvenate support and interest in Orthodox Judaism, just as the primary concern of IRAC was to gain equal status for the Reform Movement.

Supporters of liberal policies became more organised in terms of coalitions of like-minded groups pursuing shared goals. IRAC participated in networks developed through organisations like NIF and PANIM thereby extending their reach beyond the Reform Movement itself. These coalitions adopted the term pluralism to distinguish themselves from traditional forms of Jewish identity in Israel based on a view of orthodoxy as an authentic form of Jewish identity. An idea which was introduced to the lexicon in Israel through campaigns by IRAC and the Reform Movement became more generalised to describe the diversity and the changing nature of Jewish identity and interaction with religion. It challenged the idea of Jewish unity as confined to a religious Orthodox interpretation, seeking to protect boundaries to ensure the continuation of Jews as defined *halakhically*.

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[102] Ben-Porat, *Between State and Synagogue*, 81.

Section 3

Case Studies

Chapter 6 - Rights for the Reform Movement

Each case study in section two corresponds to the priorities IRAC identified in its revised strategy discussed in chapter three. Each chapter draws out different themes and issues in the attempt to deinstitutionalise the delivery of religious services to advance pluralism and equality. This chapter focuses specifically on government funding affecting religious services, specifically buildings and land, rabbinic salaries, and representation on religious councils. With the religious parties dominating the Knesset, IRAC turned its attention to the Supreme Court as a means to apply pressure on the government. The investigation of the pursuit for equal funding and the right to representation on religious councils exposes recurring themes also observed in the other case studies discussed in this thesis.

Reluctant to become involved in matters of religion and state, the Court continually referred the issue back to the Knesset urging the parties to negotiate an agreement. In turn government representatives procrastinated, instead of negotiating in good faith for a solution. Conservative Orthodox rabbis resisted any attempts at compromise or in way approve possible recognition of the Reform Movement. IRAC remained determined in the face of the obstacles, refusing to allow matters to disappear. The determination led to modest success, and in the process impinged on the all-encompassing authority of the Chief Rabbinate. Usually, IRAC achieved results via petitions to the Supreme Court sitting as the High Court of Justice (see chapter two). The term High Court is therefore used in the case studies as the correct authority hearing the petitions.

Funding as Equality

Instances of coercion against the Reform Movement were recorded since the Movement formally began establishing itself in Israel. An insubstantial presence of the non-Orthodox Movements in the period leading up to independence left the Reform and Conservative streams out of negotiations on matters of religion and state. Later attempts to gain a fair share of government resources were met with resistance by the Orthodox rabbinate. The resistance varied from acts of intimidation to vandalism and derogatory comments. The Reform Movement interpreted the aggression as religious coercion. These deliberate attempts to

prevent the non-Orthodox Movement being established in Israel were fought vigorously by the Reform Movement from the beginning.

In an interview in 2010 for the magazine *Reform Judaism*, Rabbi Stacey Blank explained, 'To be a Reform Jew in Israel is to feel discriminated against, an experience I was spared growing up in the U.S.'[1] Rabbi Blank immigrated to Israel in 2005 where she served as a rabbi for a congregation in Ramat HaSharon near Tel Aviv. The congregation fought a fifteen year battle in the Supreme Court to build a synagogue. Although the city was 90 percent secular, the mayor refused invitations to visit the synagogue, yet celebrated *Simchat Torah* in the main square with the Chabad community.

In the same article Rabbi David Forman, founding chair of Rabbis for Human Rights, offered an alternative view.[2] He argued that dwelling on the poor record of Israel in relation to the rights of the non-Orthodox left American Reform Jews disillusioned with Israel. It would be better to tell the positive stories where the government did provide funds for Reform organisations. Reform Kibbutzim Yahel and Lotan in Southern Israel, founded in 1977 and 1983 respectively, and the Har-Halutz community in Northern Israel formed in 1983, received government funds for their establishment and maintenance.[3] The Leo Baeck Education Center in Haifa received funding from the Ministry of Education, and its sports centre was built in part with funds from the national lottery. Also HUC received subsidies from the Ministry of Religious Affairs.

The funding referred to by David Forman demonstrated the ad hoc manner in which funding to the Reform Movement was allocated. Which state government agency was responsible for the funding, attitudes of the municipal council and local community, and when necessary, court action all affected the difficulty or otherwise of receiving funding. Like all private schools, the Leo Baeck Education Center received 75 percent of the amount received by government schools. The public Conservative schools received the full funding allocation for state schools.[4]

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[1] 'Israel by Israelis, Part 1: My Homeland, My Self', *Reform Judaism Online*, Spring 2010, accessed 23 August 2010, http://wwwreformjudaismmag.org/Articles/indes.cfm?id=1555.
[2] Ibid.
[3] Ibid. Sue Fishkoff, 'Reform Kibbutz Living', *Reform Judaism in Israel,* Winter 1992. Pamphlet, 'Har Halutz Community Village', 1987.
[4] Interview number four.

In 1995 the government provided funding to HUC in Jerusalem as a consequence of a petition presented by IRAC to the High Court in 1994. A second petition was presented in 1997 to reinstate funding after the government ceased payment. Although the funding was provided through the Ministry of Religious Affairs the payment came from a supplementary fund for 'additional religious institutions' rather than funds allocated for Torah and religious education. In effect, this meant the Reform and Conservative Movements were not officially recognised as part of the Jewish religion, but as some other religion like Christianity, Muslim or Druze.[5] In other cases IRAC assisted institutions in the Reform Movement to receive entitlements for tax exemption and education funding.

Several activities in which IRAC engaged regarding funding were referred to as RAMP, Resource Allocation Monitoring Project.[6] The project aimed to both establish equitable criteria for the allocation of government resources, and monitor organisations receiving government resources to ensure funds were used as intended. RAMP was used to generate an equitable allocation of resources for the non-Orthodox Movements and also other organisations considered pluralistic.[7] The monitoring work expanded to the Arab sector under the rubric Civil Equality RAMP. This latter project developed two aspects, monitoring and facilitating the fair allocation of government resources to the Arab sector, and advocating against racism and racist incitement discussed in chapter ten.[8]

RAMP included a wide range of activities forming the major part of the discussion in this chapter; allocation of land and buildings in a transparent manner, securing allocation of resources to non-Orthodox communities, monitoring and acting on illegal allocations to the ultra-Orthodox community, and distribution of resources for Jewish education programs. Setting appropriate criteria to deliver equity was a prominent feature in negotiations around these issues. After 2005 the term RAMP was abandoned in reference to the variety of cases relating to the allocation of government resources, particularly in relation to resources for the Reform Movement. However Civil Equality RAMP continued as a reference to activities on behalf of the Arab sector.

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[5] Section titled 'The Hostile Environment' in Tabory, *Reform Judaism in Israel*.
[6] Israel Religious Action Center, 'Activity Report: July – December 2005'.
[7] Interview numbers twelve and fifteen.
[8] Israel Religious Action Center, 'Activity Report: July – December 2005'. Israel Religious Action Center, 'Semi-Annual Report January to June 2004'.

On several occasions IRAC assisted Reform congregations to ensure they received tax exemptions to which they were entitled. Religious organisations conducting religious or educational activities were exempt by law from municipal property taxes. However IRAC reported frequently Reform organisations needed to assert their eligibility to ensure synagogues and kindergartens received the exemption.[9] In 2005, IRAC succeeded in attaining the return of NIS 80,000 collected illegally by the Mevasseret municipality from the kindergarten operated by the Congregation Mevasseret.[10]

Financial assistance to HUC remained a contentious issue. The state government revoked the tax exempt status of HUC in 2004 except for the synagogue and library attached to the college.[11] Previously the institution received a 66 percent reduction in property tax for the entire property. In 2005 the Jerusalem council began imposing the full tax rate. IRAC petitioned the court in 2006 arguing the college was a religious and educational institution with a seminary. Two years later the court ruled in favour of IRAC. The state appealed the decision.[12] The appeal was postponed on a number of occasions with any definitive solution remaining elusive.[13]

Apart from the Leo Baeck Education Center and kindergartens dedicated to an education based on Reform Judaism, educational activities took place as enrichment programs and cultural education. In 2005 the Department of Torah Culture in the Ministry of Education refused financial support for a summer camp operated by the Reform Movement. After IRAC served a petition to the Court, the Ministry of Education reversed its decision in December of 2005, and decided to retroactively provide funding for the summer camp.[14] Frequently the Ministry advised the Reform Movement did not meet the criteria to be eligible for funding of programs when in practice the Movement did meet the criteria. IRAC was then engaged to

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[9] Israel Religious Action Center, 'Legal Department Report on Activities, July-December 2004'. Computer data base of the Israel Religious Action Center.
[10] Israel Religious Action Center, 'Activity Report: July – December 2005'.
[11] Ibid.
[12] Israel Religious Action Center, '2009 Final Narrative Report'. Computer data base of the Israel Religious Action Center.
[13] Israel Religious Action Center, 'January–June 2010 Legal & Public Policy Report–Highlights of Activity'. Computer data base of the Israel Religious Action Center. Israel Religious Action Center, 'IRAC Legal Department's Successes and their Financial Implications on the IMPJ', 4 September 2011. Computer data base of the Israel Religious Action Center.
[14] Israel Religious Action Center, 'Activity Report: July – December 2005'.

ensure the Reform organisations receive the financial assistance to which they were entitled.[15]

The expertise in lobbying for funding in education was utilized on a broader basis to support programs for pluralist based education programs promoted by PANIM. Working with PANIM in 2005, IRAC challenged the Ministry of Education in regard to the implementation of the Shenhar Commission recommendations.[16] The Shenhar Commission was established in 1991 to examine the teaching of Jewish tradition and values in secular schools.[17] The Commission delivered its report in 1994 recommending an increase in the provision of Jewish education in secular schools. The report also recommended encouraging non-Orthodox education programs and the development of joint secular-religious schools. During the 2003-2004 school year the Ministry of Education began distributing funds for Jewish Education to middle schools and high schools.

Funding was meant to be available to all schools though most was paid to national-religious and ultra-Orthodox schools. The reason was the criteria for funding were designed specifically for religious schools. Very few secular public schools benefited.[18] The Ministry did not reply to correspondence IRAC sent regarding the matter. IRAC then presented a petition to the court arguing for the criteria to be revised. The criteria were unreasonable, it was argued, because they negated the recommendations of the Shenhar Commission, recommendations the Ministry of Education had adopted as official policy. Consequently the Ministry made payments to ten secular schools to redress the balance. In this case it was necessary for IRAC and its partner organisation PANIM to hold the government to account to implement policies rather than make changes.

The foregoing discussion demonstrates funding affects an array of circumstances other than the more apparent cases. The following discussion on funding for buildings reveals support of the local municipality can assist a Reform congregation, whereas hostility on the part of

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[15] Interview number four.

[16] Israel Religious Action Center, 'Recognising Pluralistic Institutions-eric', memo. Computer data base of the Israel Religious Action Center.

[17] Zvi Zameret, 'Fifty Years of Education in the State of Israel', in *Israel at Fifty*, 14 July 1998, Israel Ministry of Foreign Affairs, accessed 12 November 2012, http://www.mfa.gov.il/MFA/History/Modern%20History/Israel%20at%2050/Fifty%20Years%20of%20Education%20in%20the%20State%20of%20Israel.

[18] Israel Religious Action Center, 'Recognising Pluralistic Institutions-eric'.

municipal councils and residents can obstruct applications for government support. Municipal councils were instrumental in their powers to allocate land for religious purposes at no cost to the congregation, budget allocations and determining the character of religious services in the area.[19]

The religious character of the neighbourhood also affected the friendliness or hostility towards the Reform Movement reflecting the survey information in the previous chapter. Largely secular neighbourhoods were more likely to be supportive of the establishment of Reform synagogues while more religious neighbourhoods demonstrated more hostility. Aware of the importance of local municipal councils, IRAC conducted a course in 2008 to teach leaders of Reform and Conservative congregations skills to develop and maintain successful working relationships with their municipal council.[20]

Funding for Buildings

The first Reform congregation established after independence in 1958 was Har-El in Jerusalem. The congregation was able to purchase a building for its activities. Other congregations needed to rent premises.[21] When Kehillat HaSharon, located north of Tel Aviv in Kfar Shmaryahu, rented a hall in a local hotel for High Holiday services in 1962, the local religious council threatened to withdraw the *kashrut* certificate. The congregation then applied to rent a hall from the Maccabi Sport gymnasium owned by the municipal council. Rosh Hashanah and Yom Kippur services were held in the sports centre, but pressure from the local rabbinate forced the mayor to withdraw use of the hall for Sukkot. An injunction by the High Court was issued at the last moment leaving no time for the hall to be prepared for the Sukkot celebrations. The Court ruled the municipal council could not discriminate against one religious group in favour of another. The service was held in the car park with lighting from car headlights. A record number of people attended after widespread reporting of the High Court proceedings.[22]

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[19] ARZA Report, 'A Congregation Gains a Foothold in Ran'anana', VXI, no. 2, Spring 1998, 5. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem. Israel Religious Action Center Report Addendum, 'Anti-Corruption Campaign & Navigating the Municipalities January – June 2008'. Computer data base of the Israel Religious Action Center.
[20] Ibid.
[21] Abramov, *Perpetual Dilemma*, 351-354.
[22] Ibid., 177-176, 365. Mendel Kohansky, 'Reform Judaism Meets in Israel', *Midstream* 14, no. 9 (1968): 56.

In Ramat Gan the congregation held its services in the home of a municipal employee. The local religious council and the mayor applied pressure for the employee to cease offering his home. The mayor and the religious councillors were widely condemned in the secular press. Public pressure was such that Cabinet issued a directive advising municipal officials cannot interfere in personal matters of civil servants and public officials. Services resumed in private homes until a public venue was leased.[23]

In Tel Aviv the controversy reached international proportions. In late 1965 the newly formed congregation sought to lease premises, first from the Zionist Organisation of America House, and then the Farmers' Union. Both organisations declined the request for fear their *kashrut* licence may be withdrawn. An approach was then made to B'nai B'rith whose building had been purchased largely with donations from the United States. Permission was granted by the clerk in charge of renting the facilities, but when the matter was brought to the attention of the leaders of B'nai B'rith pressure was brought to cancel the lease. Public pressure again forced the International Council of B'nai B'rith to direct the Tel Aviv unit to lease the hall to the Reform congregation.[24]

In response to public disapproval of Orthodox interference in the affairs of the non-Orthodox movements, and pressure from leaders of the non-Orthodox movements in the United States, the Ministry of Religious Affairs declared financial assistance can be provided for buildings and religious items. Accordingly, the Jerusalem congregation received a one-off payment of five hundred Israeli pounds, and the Haifa congregation received a Torah scroll.[25] The pressure of public opinion assuaged the coercion exercised to prevent non-Orthodox congregations but not sufficiently to jeopardize the Orthodox monopoly.

Discrimination did continue under various guises. A request to bury an American Jewish couple in Israel in accordance with Reform rituals was denied by the Minister for Religious Affairs. The request by Rabbi Tuvia Ben Horin to serve in the Army Chaplaincy was turned down even though he had studied at the Hebrew University, was ordained at HUC, had served as an officer in the Tank Corps, and led the congregation in Ramat Gan for several

[23] Abramov, *Perpetual Dilemma*, 365-366.
[24] Ibid., 366-367. Kohansky, 'Reform Judaism Meets in Israel', 57.
[25] Abramov, *Perpetual Dilemma*, 367-368.

years.[26] On another occasion, the congregation Kedem in Tel Aviv arranged to hold a strictly *kosher Seder* for Passover for residents of the Immigrants' Absorption Center in Jaffa. The Jewish Agency instructed the Absorption Center to cancel the service for fear of a confrontation with the rabbinate. An Orthodox rabbi was sent to conduct the Seder which was poorly attended as most of the immigrants accepted an invitation to participate in a Seder in Kedem's own hall.[27]

The 1980s witnessed some municipal councils supporting non-Orthodox congregations. In Jerusalem in 1986, the Reform congregation Kol HaNeshama received the support of Mayor Teddy Kollek. The assistance came after Orthodox Rabbi Eliyahu Abergail attempted to carry away the Torah scrolls during Simchat Torah. He and a few followers entered the community centre where the service was being held, asking to dance with the scrolls. They were prevented from removing the scrolls by a circle of dancers.[28] The incident gained international coverage in the media. Consequently Mayor Kollek provided the congregation land, and a building in need of renovation.

Philanthropic donations enabled Kol HaNeshama to construct a new building.[29] Thereafter the formation of IRAC facilitated organised efforts to campaign for allocation of land and buildings for non-Orthodox congregations. The IRAC 1989-1990 annual report also carried a news item reporting the city of Ramat Gan had provided a grant of 10,000 shekels to the Emet Va'anave congregation for youth activities and adult education. Rabbi Eric Yoffie welcomed the grant as a 'breakthrough for the Reform movement [sic]'.[30] He contributed the success largely to the efforts of IRAC.

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[26] Ibid., 369-370.
[27] Ibid., 373-374.
[28] ARZA, 'Religious Pluralism and Reform Rights: Update', June 1987. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem. ARZA, 'Short Takes', Fall 1987. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem. Randi Jo Land, 'Interior Ministry's OK Needed Baka's Reform Congregation Wins Bid to Grow', *The Jerusalem Post*, 28 July 1989, accessed 29 December 2010, http://www.jpost.com. Calev Ben-David, 'The Family Business', *The Jerusalem Post Magazine*, 12 March 1999, Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.
[29] Ben-David, 'The Family Business'.
[30] Ibid.

In 1990, attempts to evict the congregation of Kehillat Ramat Aviv from its premises in the north of Tel Aviv met with organised protest from IRAC.[31] The congregation was provided the use of a building by Mayor Lahat in 1984 with a written promise of a permanent home. IRAC organised a public protest in Israel and the United States, and also arranged a restraining order to prevent the eviction.[32] Monitoring the distribution of government funds by IRAC raised the profile of the Reform Movement resulting in the allocation of funds to some institutions and programs.[33] In another incident in 1998 the congregation in the municipality of Ra'anana received land allocation from the municipality after pressure was applied from IRAC and the North American Reform Movement. Previously the congregation had applied for several years without success.[34]

A major development occurred in 2005 when then Minister of Housing Isaac Herzog approved portable buildings for five non-Orthodox congregations; a Reform and a Conservative congregation in Modi'in, the Conservative congregation Maalot Tivon in Tivon south east of Haifa, and Reform Congregations Sulam Yaakov in Zicharon Yaakov and Tsur Hadassah near Jerusalem.[35] Whilst this development was widely celebrated in the Reform Movement as the first time the state government provided buildings for non-Orthodox congregations, it was an opportunity which came during a favourable political environment as a one-off case of funding as in previous grants. It did not ensure any further buildings would be provided by state or local government.

The approval for the buildings came during a window of time when the Ministry of Religious Affairs was disbanded between 2003 and 2008. Jurisdiction for synagogue buildings was transferred to the Ministry of Housing and Construction. Minister Isaac Herzog, a member of the Labour party, was amenable to the demands of the Reform Movement.[36] A summary of major events related to funding for buildings and salaries for non-Orthodox rabbis, discussed later in this chapter, is listed in table fifteen. The table shows the sequence of events to

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[31] Israel Religious Action Center, '1989-1990 Annual Report'. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.
[32] Ibid.
[33] Israel Religious Action Center, 'Annual Report 1990-1991'.
[34] ARZA Report, 'A Congregation Gains a Foothold in Ran'anana'.
[35] Interview number four. Israel Religious Action Center, 'IRAC Wins First Ever Government Allocated (Prefabricated) Synagogue Buildings for Reform and Conservative Congregations', accessed 16 August 2010, http://www.irac.org/LegalWork.aspx.
[36] Interview number four.

demonstrate how funding was received for buildings during a time of diminished influence on the part of the religious parties.

Table 15: Summary of Key Events

28 February, 2003	Shinui became part of the government.
October, 2003	Ministry of Religious Affairs disbanded with duties distributed among different government departments. National Authority for Religious Services became a department of the Office of the Prime Minister.
11 November, 2004	National Religious Party leaves the coalition government.
4 December, 2004	Shinui no longer part of the coalition government.
August, 2005	Israel withdraws from the Gaza Strip.
September, 2005	Miri Gold petition presented to the High Court
End of 2005	Building approvals signed by Minister for Housing and Construction Isaac Herzog. Herzog was minister from 10 January, 2005 to 23 November, 2005.
4 May, 2006	Shas re-enters the government coalition. Its previous tenure in government ended 3 June, 2002.
December 2007 to 2009	Prefabricated buildings delivered to five Reform and Conservative congregations.
14 January, 2008	Ministry of Religious Affairs reformed.
May 2012	The Attorney-General announces the state will pay salaries to Reform and Conservative rabbis in regional areas.

Source: Yair Ettinger, 'Reform Movement Celebrates First State-Funded Synagogue'. Israel Religious Action Center. Knesset. Sofer, Roni. 'Ministry of Religious Affairs Re-established'. United States Department of State, '2008 Report on International Religious Freedom – Israel'.

The state government had provided funds for buildings for Orthodox synagogues since 1995.[37] With land available, but no funds forthcoming for a building, the Reform congregation Yozma in the town of Modi'in became the lead test case to challenge this funding arrangement. Modi'in was a relatively new city founded in 1993 between Jerusalem and Tel Aviv. In 1997 Rabbi Kinneret Shiryon, assisted by a group of volunteers, established the Reform congregation called Yozma, Hebrew for initiative.[38] Three years later in 2000 the municipality of Modi'in allocated over an acre of land to Yozma.

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[37] Israel Religious Action Center, 'IRAC Wins First Ever Government Allocated (Prefabricated) Synagogue Buildings'.
[38] Nathan Jeffay, 'Government Aid for Liberal Shuls Breaks Orthodox Israeli Monopoly', *The Jewish Daily Forward*, 29 August 2008, accessed 16 January 2011, http://www.forward.com/articles/14021/. Yozma, accessed 17 January 2011, http://www.yozma.org.il/eng/index.htm.

While the Modi'in municipal council also assisted some Orthodox communities with buildings, it rejected requests by Yozma for similar assistance.[39] In 2002, IRAC presented a petition on behalf of Yozma asserting the two Chief Rabbis of the town were influencing the decisions of the mayor.[40] In June 2003 The Supreme Court ruled municipalities had to comply with policies for the public allocation of land, policies which were developed after an earlier legal petition by IRAC.

The Court instructed the municipality of Modi'in to investigate the needs of the public and available resources in light of the request by Yozma.[41] A letter was also sent to the Ministry of Housing inquiring what criteria were being applied for allocation of buildings. The Ministry agreed established procedures should apply, but refused to apply them.[42] At the time the minister was Effie Eitam, a member of the National Religious Party.[43]

The criteria for the allocation of public land were also the subject of a petition presented by IRAC regarding the allocation of public land to a *kollel*, a *yeshiva* for post-secondary school men, in Rehovot in a secular neighbourhood. The petition was presented to the Supreme Court in November 2004. IRAC noted the same piece of land was allocated to the *kollel* five years earlier, and annulled by the Supreme Court when the secular residents protested.[44] In 2005 the Court again ruled against the allocation, and established guidelines for the allocation of land to non-profit organisations.

The guidelines included examining the needs of the local community, the purpose of the request for land and alternatives, publication of the reasons for the allocation of the land, and

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[39] Israel Religious Action Center, 'IRAC Semi-Annual (Report) January to June 2003'. Computer data base of the Israel Religious Action Center.

[40] Shlomo Shamir and Moshe Reinfeld, 'Modi'in Reform Group Seeks State Funding', *Haaretz.com*, 5 March 2002, accessed 13 January 2010, http://www.haaretz.com/print-edition/news/modi-in-reform-group-seeks-state-funding-1.51321.

[41] Israel Religious Action Center, 'IRAC Semi-Annual (Report) January to June 2003'.

[42] Israel Religious Action Center, 'Semi-Annual Report January to June 2004'. Israel Religious Action Center, 'Recognising Pluralistic Institutions: Funding for Synagogues', memo. Computer data base of the Israel Religious Action Center.

[43] Knesset, 'All Ministers in the Ministry of Housing and Construction', accessed 19 December 2013, http://www.knesset.gov.il/govt/eng/GovtByMinistry_eng.asp?ministry=9.

[44] Israel Religious Action Center, 'Activity Report: January – June 2005'. Computer data base of the Israel Religious Action Center. Dan Izenberg, 'Rehovot Barred from Ratifying Land for Yeshiva', *The Jerusalem Post*, 6 April, 2005.

opportunity for residents to have their views heard.[45] The greater scrutiny which assisted IRAC to monitor allocations of public resources to ultra-Orthodox communities, also made it difficult subsequently for IRAC to argue for allocations to non-Orthodox communities in each municipality. The public process also extended opportunities for residents to argue against allocation of land to Reform and Conservative congregations.[46]

After the decision of the Court in 2003, the Modi'in council began to adjust their criteria, however progress came to a standstill in 2004. IRAC became aware the council was preparing to allocate buildings for two Orthodox synagogues in the city. A request was made to the mayor of Modi'in Moshe Spector, and the Attorney–General, to freeze the funding until a decision was made regarding Yozma. When the mayor refused the request, IRAC returned to the Supreme Court.[47] Spector was elected as mayor in December 2003. He was committed to attracting new immigrants to the fast growing city.[48] At a meeting of representatives of Metro-West New Jersey Federation visiting Modi'in March 2005, Spector was confronted by members of Yozma and their supporters demanding municipal funding.[49] The representatives of Metro-West were visiting Modi'in in support of Yozma.

Spector defended the lack of funding by indicating the council had not yet discussed Yozma's request. He also stated buildings had to take into consideration the ratio of the needs of citizens to the number of places of prayer. Twenty percent of the population of the city was Orthodox he said, while the membership of Yozma amounted to 150 families. Yozma agreed it had 150 families as regular participants in services, however 500 families were affiliated by their participation in educational and cultural programs. The council of Modi'in also replied to IRAC arguing the concentration of Orthodox synagogues in neighbourhoods gave them priority for funding, in contrast to the Yozma congregation which was dispersed throughout the city.

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[45] Izenberg, 'Rehovot Barred from Ratifying Land for Yeshiva'. Rebecca Cariati, 'Meet the Staff: Sharon Tal, IRAC Legal Department Director', *Religious Action Center*, October 2005, accessed 22 December 2013, http://rac.org/advocacy/specialresources/archive/irac/enewsletters/october_monthly_2005/sharon/.
[46] Interview number four.
[47] Israel Religious Action Center, 'Legal Department Report on Activities July – December 2004'. Computer data base of the Israel Religious Action Center. Israel Religious Action Center, 'Recognising Pluralistic Institutions: Funding for Synagogues'.
[48] Daniella Hellerstein and Caryn Meltz, 'One Year Later: An Interview with Moshe Spector, Mayor of Moddi'in', *ModiInfo*, 2, no.1, December 2004, accessed 19 December 2013, www.modiinfo.com.
[49] Hilary Leila Krieger, 'Reform Demand Funds from Modi'in', *The Jerusalem Post*, 17 March 2005, ProjeNews email newsletter.

When Isaac Herzog became Minister of Housing and Construction in 2005, the department presented a new set of criteria for allocation of portable buildings to include Reform and Conservative synagogues.[50] In another positive development in May 2005, the municipality of Modi'in agreed to a request by the High Court to suspend the distribution of building funds until a judgement was handed down, or a compromise reached.[51] During negotiations with Herzog, IRAC also agreed to suspend the legal proceedings.[52] In June 2006, the municipality of Modi'in agreed to permit two state funded buildings, one for the Reform Movement and the other for the Conservative Movement.[53]

Obstacles to further progress developed at the state level with the formation of a new coalition government which included Kadima and Shas. Shortly after Herzog signed permission for portable buildings for non-Orthodox congregations the responsibility for buildings was moved from the Ministry of Housing to the Department of Religious Services. New criteria were issued excluding approvals for non-Orthodox Movements.[54] IRAC again returned to the Supreme Court in December 2006 arguing for affirmative action to address past discrimination against non-Orthodox congregations. The judges hesitated to hand down a definitive decision, instead recommending to the IRAC lawyers to take legal action against each municipality separately.[55] IRAC followed this advice to engage with each municipality separately.

Negotiations with the municipality of Modi'in came to a successful conclusion in December 2007 when the first of the five prefabricated building was delivered to the congregation. An official opening was held in May 2008.[56] The building for Yozma came at a cost of NIS 500,000 (over \$AUD142,300). The municipality of Modi'in assisted with funds for landscaping.[57] The convergence of interests between the objective of growing the city by attracting new immigrants, and actively supporting the Reform congregation in Yozma

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[50] Interview number four. Israel Religious Action Center, 'Recognising Pluralistic Institutions: Funding for Synagogues'.

[51] Jeffay, 'Government Aid for Liberal Shuls Breaks Orthodox Israeli Monopoly'.

[52] Yair Ettinger, 'Reform Movement Celebrates First State-Funded Synagogue', *Haaretz.com*, 9 May 2008, accessed 13 January 2011, http://www.haaretz.com/print-edition/news/reform-movement-celebrates-first-state-funded-synagogue-1.245513.

[53] Jeffay, 'Government Aid for Liberal Shuls Breaks Orthodox Israeli Monopoly'.

[54] Ettinger, 'Reform Movement Celebrates First State-Funded Synagogue'. Israel Religious Action Center, 'IRAC Wins First Ever Government Allocated (Prefabricated) Synagogue Buildings for Reform and Conservative Congregations'.

[55] Israel Religious Action Center, 'Recognising Pluralistic Institutions: Funding for Synagogues'.

[56] Yozma, 'Building Yozma', accessed 16 January 2010, http://www.yozma.org.il/eng/4building.htm.

[57] Ettinger, 'Reform Movement Celebrates First State-Funded Synagogue'.

appears to have contributed to a change in attitude on the part of Mayor Spector. Modi'in became targeted by the Jewish Agency as a destination for immigrants from the American Reform community. ARZA, together with the Jewish Agency for Israel, stepped up initiatives to encourage *aliyah* beginning in 2003.[58]

In 2007 an immigration representative, *shlichat aliyah*, arrived in New York for the purpose of promoting *aliyah* among Reform Jews in North America. In the meantime the IMPJ established an absorption committee, Klita. The committee organised representatives from Israeli congregations to welcome the Reform immigrants. Incentives were provided including free membership with the welcoming congregation for one year, scholarships for children, and host families for Shabbat and holidays. In addition, the WUPJ provided assistance to young adults of eighteen to thirty-five years of age to integrate into Israeli society.

The city of Modi'in treated the recruitment of Reform immigrants as an opportunity.[59] In conjunction with the Jewish Agency and the Ministry of Absorption a campaign was launched in 2007 with a package of generous incentives; additional rent subsidies and Hebrew language classes beyond that already offered by the state government, benefits for children in education, grants to start up new businesses, and an adviser to assist with settling in by meeting the immigrants at the airport and accompanying the immigrants to real-estate offices and registration of children at school. Rabbi Kinneret Shiryon and Moshe Spector, travelled to the United States meeting with hundreds of people in New York, Chicago and Washington to launch the Modi'in campaign. Spector also met with president of the URJ Rabbi Eric Yoffie.[60] All these efforts were successful in increasing the number of Reform Jews making *aliyah*.

Other congregations for which portable buildings were approved received the buildings in 2008 and early 2009.[61] Funds still needed to be raised privately to prepare the interior and exterior of the buildings for use. In the case of Maalot Tivon, founded in 1973, the congregation was able to move out of the public bomb shelter it had occupied for the

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[58] Gabrielle Kaplan-Mayer, 'Trendspotting: Opting for Israel', *Reform Judaism Online*, Spring 2008, accessed 15 January 2011, http://reformjudaismmag.org/Articles/index.cfm?id=1314.
[59] Ibid.
[60] Ettinger, 'Reform Movement Celebrates First State-Funded Synagogue'.
[61] Israel Religious Action Center, 'IRAC Wins First Ever Government Allocated (Prefabricated) Synagogue Buildings for Reform and Conservative Congregations'.

previous nine years into a prefabricated building.[62] For congregations Yozma and Tsur Hadassah the new buildings were an improvement. However, both congregations needed to raise funds to improve and extend their facilities and space for education programs to cater for their young and growing congregations.[63] A prefabricated building was also received later by Kehillat Birkat Shalom located on Kibbutz Gezer in 2010.[64] IRAC continued working at the municipal level to assist Reform congregations to receive allocations of land and buildings with varying success.

In June 2011, IRAC began assisting the congregation Rosh HaAyin to obtain an allocation of land.[65] Seven years of effort to receive land for the Mayanot Conservative congregation in Jerusalem was still unresolved in 2011. A request to the Ministry of Religious Services for funding for the Reform synagogue in Carmiel was rejected in 2010. The request was filed by the Municipality of Carmiel. A successful outcome occurred in allocation of land for the congregation in Herzliya after IRAC intervened in a case stalled in the court for two years.

Local residents in Herzliya petitioned the Court to reject the allocation of land by the municipality to the Conservative congregation. IRAC urged the Court to make a decision. The verdict rejected the petition of the residents. The case went to appeal in the Supreme Court in 2011. In Netanya IRAC was able to receive the use of vacant land for a Reform synagogue after four years of legal action. The case was heard in the district court where the defendant was the Municipality of Netanya. The Mayor was rejecting the application by the Reform congregation for fear of losing the support of the Orthodox residents of the city.[66]

Bar-Ilan University sociologist Ephraim Tabory explained the building assistance to Yozma and four other congregations as a moral victory, 'This claims moral ground for these movements, and moral ground is important for them. It is not just a matter of money, but a symbol of legitimacy for non-Orthodox Judaism.'[67] The response of the Orthodox

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[62] Uri Themal, 'Progress for Progressives', ProjeNews email newsletter, 10 June 2008.
[63] Yozma, 'Building Yozma'. World Union for Progressive Judaism newsletter, 'Another IMPJ Congregation Receives Government Supplied Building', Issue #355, 7 April 2009, accessed 23 December 2013, http://wupj.org/Publications/Newsletter.asp?ContentID=227#ANOTHER.
[64] 'IRAC Wins First Ever Government Allocated (Prefabricated) Synagogue Buildings for Reform and Conservative Congregations'. Interview number four.
[65] Israel Religious Action Center, 'Highlights of Activity January-June 2011'.
[66] Interview number four. Israel Religious Action Center, '1 Down, 100 to Go', The Pluralist email distribution list, 25 July 2011. Israel Religious Action Center, '2009 Final Narrative Report'.
[67] Jeffay, 'Government Aid for Liberal Shuls Breaks Orthodox Israeli Monopoly'.

establishment to the building subsidies was muted. Although strongly opposed to any assistance to the Reform movement, they became well aware that comments offensive to the Reform Movement would bring sharp criticism from the secular public.

On the other hand, insufficient criticism would draw criticism from among their Orthodox supporters.[68] Avraham Ravitz, a Knesset representative for the ultra-Orthodox party United Torah Judaism expressed disapproval of actions to force the state to recognise the Reform Movement in Israel. He was quoted as saying, 'As a democrat I would say everyone has his right to whatever they wish. But on the other side I don't think people should peel away what is holy to me.'[69] The comments highlighted the question of competing group rights. The implication in the comments of Ravitz was that the Reform were infringing on his rights in a democratic state to fulfil his vision of a Jewish state. Likewise, the Reform Movement argued their rights to practice their interpretation of Judaism on an equal basis was restricted.

Overall, the amount of government funding for religious purposes was a relatively small proportion of government expenditure. In 2009 the government budget expenditure for Jewish religious services and institutions was in the order of NIS 1.5 billion (approximately $US390 million). Of this the largest share went to religious education, NIS 1.1 billion (approximately $US385 million).[70] In comparison, the total government expenditure for 2009 was just over NIS 330 billion, with education receiving NIS 54.1 billion and health NIS 35 billion.[71]

Although the Ministry of Religious Affairs allocated a large portion of its budget to the ultra-Orthodox, funding for religious institutions generally was also provided by other Ministries for specific purposes including the Ministries of Education, Internal Affairs, and Labour and Welfare. The Ministry of Religious Affairs allocated funding to the ultra-Orthodox in areas of education and social service, youth movements and *yeshivot*.[72] A smaller portion of the

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[68] Ibid.
[69] Beth Marlowe, 'Israeli Reform Jews Celebrate First Non-Orthodox Synagogue Built with Government Funding', *Taiwan News*, 6 May 2008, accessed 15 January 2011, http://www.taiwannews.com.tw/etn/news_content.php?id=651449&lang=eng_new.
[70] U.S. Department of State, Bureau of Democracy, Human Rights, and Labour, 'Israel and the Occupied Territories', *International Religious Freedom Report 2010*, accessed 21 November 2010, http://www.state.gov/g/drl/rls/irf/2010/148825.htm.
[71] Central Bureau of Statistics, 'General Government Expenditure by Unit and Function', accessed 25 January 2011, http://www.cbs.gov.il/reader.
[72] Shetreet, 'State and Religion', 442-443.

budget of the Ministry budget was designated for Orthodox synagogues, the Chief Rabbinate, religious courts and development of cemeteries serviced by Orthodox rabbis. In 2009 the government budget allocated a total of NIS 634.9m to the budget for the Ministry of Religious Affairs; NIS 455m for religious councils, NIS 88m for synagogues and NIS 21.4m for conversion through the Conversion Authority. An additional NIS 70.5m was allocated for religious services in general.[73]

Religious Councils

The experience of the Reform Movement as members of religious councils demonstrated the difficulties of implementing decisions of the Supreme Court. The first record of the election of a non-Orthodox representative to a religious council was in 1989 when Rabbi Richard Samuel was elected to the council in Haifa.[74] It was not until 1998 that a non-Orthodox representative actually took a place on a religious council and was able to attend meetings. In practice, the Orthodox members of the council found ways to prevent the Reform members taking their place. For example, meetings were either not convened, or the Reform members were not advised of the location of the meeting.

In other cases, the Ministry of Religious Affairs did not provide the required endorsement before the next council elections were due.[75] IRAC took on many cases in the 1990s related to religious councils. With little progress in overcoming the obstacles, IRAC stopped actively pursuing the matter. Members of the Reform Movement later approached IRAC for assistance for Reform candidates to take a place on religious councils.[76] Frequently it was women who sought candidature to represent the Reform Movement.[77]

Religious councils, and religious committees in smaller areas, administer and distribute funds for religious services at the local level. Their responsibilities include constructing and maintaining synagogues, maintaining the ritual baths, issuing *kashrut* certificates,

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[73] Matthew Wagner, 'UTJ Primed to Join Coalition', *The Jerusalem Post*, 30 March 2009, accessed 5 February 2011, http://www.jpost.com/Israel/Article.aspx?id=137651.
[74] Israel Religious Action Center, 'Annual Report 1989-1990'.
[75] Interview number four. Renee Ghert-Zand, 'Female Rabbi Joins the Ultimate Men's Club', *The Sisterhood, The Jewish Daily Forward*, 28 May 2012, accessed 27 November 2013, http://blogs.forward.com/sisterhood-blog/156679/female-rabbi-joins-the-ultimate-mens-club/#ixzz1zORKEjzY.
[76] Interview number four.
[77] Israel Religious Action Center, 'IRAC Women's Issues', memo. Computer data base of the Israel Religious Action Center.

organisation of Jewish cultural programs, and registering marriages and divorce.[78] Forty-five percent of the members of the religious council are appointed by the Minister for Religious Affairs, 45 percent by the local government council, and 10 percent by the local rabbinate. Appointments were expected to reflect the ethnic and political composition of the area. Members of the rabbinic council were also required to be personally religious. Funding was provided through a combination of fees for service, financing from the Ministry of Religious Affairs, and local government councils.[79]

Initially religious councils were regarded by IRAC as a fundamental issue in the distribution of government funds for religious institutions. As long as the government provided funds for religious purposes, it was reasoned, the Reform and Conservative Movements were entitled to their fair share.[80] Given the role of religious councils in distribution of funds, non-Orthodox representation potentially gave an opportunity to be included in discussions and decision-making regarding the religious character of municipalities. Although it was the policy of IRAC for religious councils to be abolished, it was important to participate in the existing system for deciding the allocation of funds. In support, representatives of non-religious political parties argued religious services were provided also to the non-religious population and therefore were entitled to representation on religious councils.[81]

The initial challenge to religious councils as Orthodox exclusively male institutions came in the landmark case before the High Court of Leah Shakdiel. In 1987 Leah Shakdiel, an observant Jew, was selected by the local council as a member of the religious council for the municipality of Yeruhan. She was a teacher of Jewish studies and a representative on the municipal council for the National Religious Party.[82] The Minister for Religious Affairs, a member of the National Religious Party, refused to confirm the appointment because she was a woman. Likewise, the Chief Rabbinate opposed a woman taking a position on the council.

The following year the High Court ruled there was no reason under both secular law and *halakhah* to deny Shakdiel a position on the religious council. Preventing her from taking up the position would violate the legal requirement of equality for women. Justice Menachem

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[78] Israel Religious Action Center, 'Selected Issues on Religion and State – 1998'.
[79] Arian, *Politics in Israel*, 361-362. Zucker, *The Coming Crisis in Israel*, 79, 237-238. Sapir, 'Religion and State in Israel', 621-622.
[80] Israel Religious Action Center, 'Background Articles from Old Website'.
[81] Section titled 'The Hostile Environment' in Tabory, *Reform Judaism in Israel*.
[82] HCJ 153/87 Leah Shakdiel v. Minister for Religious Affairs.

Elon reviewed the *halakhic* literature concluding the majority of rabbinic authorities agreed women could participate and hold public office. The religious councils did not engage in interpretation of religious law, in which case Shakdiel would not have requested to be a representative. The role of religious council was administrative.[83] Nevertheless, it took a further three years before Shakdiel took her place on the religious council.[84] Subsequent appointments of women to religious councils were contested until female representatives became accepted.[85]

When Rabbi Samuel was elected to the religious council, demonstrations in protest were organised in Haifa and Jerusalem. The Shas representative on the Haifa Council resigned his position. Orthodox members of the Knesset called for a special session to express their disapproval.[86] IRAC prepared for the election of Rabbi Samuel almost a year in advance, arranging for the Meretz and Shinui parties to nominate Reform and Conservative candidates. Rabbi Bernard Och from the Conservative Movement was also elected. In the end Rabbi Samuel was declared ineligible to sit on the Haifa council because he lived outside of the area. The rule was enforced by the Orthodox parties when it had not been enforced previously.

Also in 1989, nominations for the religious council in Jerusalem from Anat Hoffman as a representative of the Reform Movement, and Rabbi Ehud Bandel for the Conservative Movement, were rejected.[87] The nominations were again made by the municipal council representatives for both the Meretz and Shinui parties. The rejection became the subject of a petition to the Supreme Court filed by the political parties, the candidates and the non-Orthodox Movements. The Association for Civil Rights in Israel (ACRI) provided legal representation.[88] In January 1994, the Supreme Court ruled Reform and Conservative candidates could not be barred from taking up positions on religious councils.[89] The Court held members of religious councils should have religious feelings, but they did not need to be observant in the Orthodox sense.

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[83] Ibid. Susan Sered, 'Women and Religious Change in Israel: Rebellion or Revolution', *Sociology of Religion* 58, no. 1 (1997): 5-6.
[84] Arian, *Politics in Israel*, 362. Section titled 'The Hostile Environment' in Tabory, *Reform Judaism in Israel*.
[85] Sered, 'Women and Religious Change in Israel', 5.
[86] Israel Religious Action Center, 'Annual Report 1989-1990'.
[87] Bill Hutman, 'Court Deciding If Non-Orthodox Can Sit on Religious Councils', *The Jerusalem Post*, 4 September 1991, cited in Israel Religious Action Center, 'Annual Report 1990-1991'.
[88] Ibid. Section titled 'The Hostile Environment' in Tabory, *Reform Judaism in Israel*.
[89] Edelman, 'A Portion of Animosity', 211.

Dr Joyce Brenner sought appointment to the religious council in the city of Netanya in 1994. She was nominated by Meretz. Brenner became the lead petitioner in another case before the High Court ruling in favour of the appointment of non-Orthodox candidates to religious councils. When the Ministry of Religious Affairs refused her appointment, Meretz and the Reform Movement took the matter to the High Court.[90] In 1997 the judges of the High Court ordered the Ministry of Religious Affairs to sign the documents to approve the appointment. The Minister at the time, Eliyahu Suissa of the Shas party, refused. Prime Minister Benjamin Netanyahu stepped in to sign the documents in order to avert a crisis.[91]

The Netanya council did not meet for a further eight months so as to avoid meeting with Dr Brenner present. A smaller administrative panel was formed to continue the work of the council during that time.[92] The full Netanya religious council began meeting in March 1998.[93] Dr Brenner reported the first meeting was a screaming match with abusive comments made towards her. After the initial meeting behaviour became polite, but the other members of the committee sat at the other end of table away from Dr Brenner. Dr Brenner believed most of the work of the council took place outside of the meetings.[94]

Orthodox rabbis on religious councils continued to ignore the orders of the High Court regarding non-Orthodox representatives. In 1995 Bruria Barish, at the time the President of the Beit Daniel congregation, was elected to the Tel Aviv religious council. Barish was co-founder of Beit Daniel and president of the IMPJ from 1986-1991. Three other women were also voted as members of the religious council by the Tel Aviv municipal council.[95] The Minister for Religious Affairs refused to confirm the appointment of Barish.[96] She reported that when she entered the room for meetings the Orthodox male members of the council left the room. IRAC presented petitions to the Supreme Court on behalf of Barish until in the year

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[90] HCJ 3551/97 Brenner v. the Ministerial Committee for Religious Services for Jews, [In Hebrew]. Shmuel Dekalo, 'Precedent-Setting Ruling: High Court Orders Netanya Religious Council to Appoint Reform Representative', *Globes*, 6 August 1997, accessed 2 December 2013, http://www.globes.co.il/serveen/globes/docview.asp?did=368142.
[91] Tabory, *Reform Judaism in Israel*.
[92] Israel Religious Action Center, 'Selected Issues on Religion and State - 1998'. Shetreet, 'State and Religion', 440. Deborah Sontag, 'Battle Looms in Israel Over "Mixed" Religious Councils', *The New York Times,* 2 December 1998, accessed 19 December 2010, http://www.nytimes.com/1998/12/02/world/battle-looms-in-israel-over-mixed-religious-councils.htm.
[93] Israel Religious Action Center, 'Selected Issues on Religion and State - 1998'.
[94] Deborah Sontag, 'Battle Looms in Israel'.
[95] Newsletter, 'Beit Daniel Highlights', Summer 1995. Arlene Fine, 'Reform Movement Is Making Aliyah: Bruria Barish Is an Israeli Trail-Blazer on a Compelling Mission', *Cleveland Jewish News*, 22 September 2000, accesssed 1 December 2013, http://www.highbeam.com/doc/1P1-79147972.html.
[96] Tabory, *Reform Judaism in Israel*.

2000 the Supreme Court ordered the Tel Aviv religious council to meet. Barish reported the Orthodox men still left the room.[97]

Following the precedents of Shakdiel and Brenner, the High Court ordered the Ministry of Religious Affairs to endorse the appointment of Reform, Conservative, secular candidates and women to religious councils in Tel Aviv, Jerusalem, Haifa, Kiryat Tivon, Petach Tikvah, and Arad in November 1998.[98] At the instigation of the Orthodox parties the Knesset passed a bill in 1999 requiring members of religious councils to take a pledge to comply with the decisions of the Chief Rabbinate and the local rabbinate. The intention was to prevent non-Orthodox Jews from taking up positions.[99] The Reform and Conservative Movements agreed to take the pledge. The decisions of the High Court regarding non-Orthodox representatives serving on religious councils also contributed to the hostility of the ultra-Orthodox community towards the Supreme Court.[100]

In 2007 IRAC again took up the case of Reform and Conservative candidates on religious councils.[101] These candidates were nominated with the support of the local municipal councils but were again blocked by the refusal of the Ministry of Religious Affairs to endorse the candidates.[102] IRAC assisted candidates in Tel Aviv, Kfar Saba, Kiryat Ono and Mevasseret Zion near Jerusalem. A petition was filed in 2011 on behalf of Rabbi Alona Lisitsa, a female rabbi for the Reform Movement, nominated by the local municipal council of Mevasseret Zion. Before the nomination of Rabbi Lisitsa, the male Reform member of the religious council was hampered in his efforts because he would arrive at meetings to find no-one present.[103] Taking note of her predecessor's experience Lisitsa approached IRAC when she was nominated for the council. As with earlier outcomes, the Ministry of Religious Affairs approved her appointment after it was ordered to do so by the High Court.

As with the case of funds for buildings, support by the municipal council was a critical factor for facilitating the appointment of non-Orthodox representatives to religious councils.

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[97] Arlene Fine, 'Reform Movement is Making Aliyah'.
[98] Ibid. Israel Religious Action Center, 'Selected Issues on Religion and State - 1998'.
[99] Sapir, 'Religion and State in Israel', 621, n628. Shimon Shetreet, *Between Three Branches of Government: The Balance of Rights in Matters of Religion in Israel* (Jerusalem: The Floersheimer Institute for Policy Studies, 2001), 99.
[100] Edelman, 'A Portion of Animosity'. Efron, *Real Jews,* 212-216.
[101] Israel Religious Action Center, 'IRAC Women's Issues'.
[102] Israel Religious Action Center, 'Highlights of Activity January-June 2011'.
[103] Ghert-Zand, 'Female Rabbi Joins the Ultimate Men's Club'.

Regardless of the election result it was necessary for IRAC to petition the High Court to uphold the right of Reform and Conservative representatives to participate. Rulings by the High Court making it obligatory for accepting Reform and Conservative candidates on religious councils made minimal impact to their integration. Court rulings could not change the culture and beliefs of the conservative male Orthodox representatives. By contrast, the campaign to pay salaries to non-Orthodox rabbis resulted in circumventing the system.

Salaries for Non-Orthodox rabbis - Rabbi Miri Gold

The case of Rabbi Miri Gold attracted much attention in the Diaspora. This was in large part due to the amount of effort IRAC made in enlisting the support of Reform communities to lobby the Israeli government for a successful outcome to the petition before the High Court. IRAC approached Miri Gold to be the lead petitioner for the case presented to the High Court in September 2005.[104] Gold was rabbi to the Reform community Kehillat Birkat Shalom located on Kibbutz Gezer in the centre of Israel. The Gezer district is situated in the central region of Israel between Tel Aviv and Jerusalem with a population of 22,000 residents. The twenty-five settlements in the rural area comprised six kibbutzim, fifteen *moshavim* (co-operative settlements), and four community settlements.[105]

After seven years before the High Court, the government finally agreed in 2012 to fund a salary for Rabbi Gold and another fourteen Reform and Conservative rabbis in regional areas. The reasons for the delay in proceedings were twofold. Reluctant to adjudicate on matters of religion and state because of the contentious nature of such matters, the judges preferred to direct the parties to negotiate.[106] The government was unable to reach an agreement because their coalition partners in the Shas party would not agree to fund non-Orthodox rabbis through the Ministry of Religious Affairs.[107]

Not all Orthodox rabbis receive funding from the government. Rabbis in receipt of a state salary are funded on a regional or city basis.[108] A city with more than two thousand residents

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[104] Israel Religious Action Center, 'Seeking Equal Government Funding for Liberal Rabbis: The Case of Miri Gold,' accessed 16 August 2010, http://www.irac.org/LegalWork.aspx.
[105] Gezer Municipality, [in Hebrew] accessed 30 August 2010, http://www.gezer-region.muni.il/. Community settlements are small towns organised on a co-operative basis.
[106] Interview number four.
[107] Ibid.
[108] Ibid.

is entitled to one Ashkenazi and one Sephardi municipal rabbi.[109] Within each city, rabbis are appointed to serve neighbourhoods. In regional council areas, rabbis are appointed to each kibbutz and *moshav* within the region. Often the state appointed rabbi came as a political appointment unrepresentative of the community in which they served.[110]

Residents could avail themselves of the services of the state appointed rabbi, or choose to go to a privately funded rabbi. The main financial support for Kehillat Birkat Shalom was sourced from American Jews, membership fees and the IMPJ. Sixteen Orthodox rabbis in the Gezer Municipality received state government funding.[111] The Gezer Regional Council assisted the Kehillat Birkat Shalom by contributing funds to the renovation of the synagogue and maintenance of the building.

The lack of state government funding made members of the Reform Movement feel as though they were not given a choice in rabbinical services. For Rabbi Gold and the IRAC lawyers representing her, the issue was important as a matter of principle. The principle at stake was the freedom of Israeli citizens to choose the religious authority they wished to consult. All taxpayers contributed to the salaries of rabbis and therefore should have the right to choose the rabbi that suited their preferences.[112] It was as if members of the Reform Movement paid for religious services twice. They paid through their taxes for the Orthodox rabbis in whose services they had no interest, and then through membership fees for the Reform rabbi of their choice.[113] In some communities, lack of government funding made it difficult for Reform rabbis to provide services at all.[114] It also made it difficult for the IMPJ to recruit rabbinic staff.[115]

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[109] Yair Ettinger and Jonathan Lis, 'New Bill Would Allow Only One Municipal Rabbi per City', *Haaretz.com*, 26 November 2013, accessed 4 December 2013, http://www.haaretz.com/news/national/.premium-1.560137.
[110] Interview number four.
[111] HCJ 8944/05 Kehillat Birkat Shalom v. The Office of the Prime Minister, Department of Religious Services, [In Hebrew]. Israel Religious Action Center, 'Seeking Equal Government Funding for Liberal Rabbis'. Shahar Ilan, 'The Next Controversy: Who is a Rabbi?' *Haaretz.com*, 1 September 2005, accessed 18 August 2010, http://www.haaretz.com/print-edition/news/the-next-controversy-who-is-a-rabbi-1.168698.
[112] Ibid. Rebecca Cariati, 'Battling in the Courts and Planting the Grassroots', *Religious Action Center*, July 2006, accessed 18 August 2010,
http://rac.org/advocacy/specialresources/archive/irac/enewsletters/miri_gold_profile/. Ilan, 'The Next Controversy?'
[113] Ibid.
[114] Zfaz, 'Conversations with Progressive Rabbis in Israel'.
[115] Israel Religious Action Center, 'National Positions of Rabbis', [in Hebrew] accessed 19 August 2010, http://www.irac.org.il/misc/.asp?ld=249.

Rabbi Gold was approached by IRAC after the secretary of Kibbutz Gezer listed her as their rabbi on the Gezer Regional Council website as a form of protest. His purpose was to make a point about their choice of rabbi.[116] The case tackled both the entitlement of non-Orthodox rabbis to receive a salary from the State on a par with Orthodox rabbis, and the application of such an entitlement to a female rabbi.[117] There were a number of advantages for the selection of Rabbi Gold as the plaintiff.

Presenting the case in the first instance with a regional rather than a city rabbi simplified the case. By law, for a city rabbi to receive a salary, a certificate of approval had to be issued by the Chief Rabbinate who only issued certificates to Orthodox rabbis.[118] In contrast, approval for the payment of the salary for a community rabbi was a matter of procedure and therefore easier for the High Court to circumvent the usual processes. In addition, city rabbis were required to sign *kashrut* certificates. Reform rabbis usually did not engage in *kashrut* certification. As a community rabbi the duties of the position were not defined in writing as with their city counterparts. This made it more difficult to counter Rabbi Gold's application by arguing that the rabbi would be required to perform duties that a woman could not perform. An added advantage was that all the members of Kibbutz Gezer used the services of Rabbi Gold.[119]

Miri Gold immigrated to Israel in 1977. She was part of a seed group, *garin*, young adults who had spent a number of years in Berkley, California preparing for *aliya*. Most of the members of the group grew up in Conservative or Reform households. Their goal was to build a liberal Jewish community blended with an Israeli Judaism in a kibbutz environment.[120] Shortly after arrival, the kibbutz acquired a Torah and the services of Rabbi Levi Weiman-Kelman. Rabbi Weiman-Kelman left after four years in the mid-1980s to become a founding member and rabbi for the Progressive congregation Kehillat Kol HaNeshama in Jerusalem.[121] During his residency at Kibbutz Gezer, Rabbi Weiman-Kelman officiated at Gold's adult bat-mitzvah.

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[116] Cariati, 'Battling in the Courts'.

[117] Ilan, 'The Next Controversy'

[118] Ibid. See also Rebecca Cariati, 'Who is a Rabbi?' *Religious Action Center*, September 2005, accessed 23 August 2010, http://rac.org/advocacy/specialresources/archive/irac/enewsletters/september_monthly_2005/orly.

[119] Ilan, 'The Next Controversy'.

[120] Klein, 'Veterans'.

[121] Guy Leshem, 'Reform Rabbi Sues Israel for State Salary in Latest Bid to End Orthodox Monopoly', *The Jewish Daily Forward*, 23 September 2005, accessed 23 August 2010, http://www.forward.com/articles/2803/. 'Israel by Israelis, Part 1: My Homeland, My Self'.

Gold was determined to continue along the path begun by Weiman-Kelman in keeping with the religious ideals of the immigrants. She learned to lead services, provided *b'nei mitzvah* lessons and organised study groups. With the encouragement and support of the kibbutz, Gold enrolled in the Hebrew Union College in Jerusalem in 1993. After her ordination in 1999 she oversaw all aspects of the religious life of the kibbutz. The kibbutz synagogue, Kehillat Birkat Shalom, serviced a congregation which comprised both kibbutz members and members from the Gezer region. Approximately seventy people attended Shabbat services regularly. Holiday services were sometimes attended by as many as four hundred participants with half of the attendees from the kibbutz and half from the surrounding region.[122] In 1997 Kehillat Birkat Shalom formally affiliated with the IMPJ.

In one of her interviews with the media Rabbi Gold explained how most Israelis were not comfortable with the synagogue; 'Most Israelis who come to us have no prior knowledge of or firsthand experience in "synagogue". They're simply not comfortable with it.'[123] Israelis were searching for something but they did not know what that something was. Rabbi Gold emphasised it was important to provide facilities to welcome Israelis who felt alienated from their Judaism.

Many couples choosing a Reform or Conservative wedding chose a male rabbi so as not to present family and friends with a double challenge of both a non-Orthodox and a female rabbi.[124] The presence of female rabbis acted as a deterrent to people joining Reform congregations even if they were sympathetic to Progressive Judaism. On the other hand, secular Israelis who were fearful and contemptuous of religion were often also sceptical of Progressive rabbis, male or female.[125]

As well as listing Miri Gold on the website of the Gezer Regional Council, the secretary of the kibbutz, Marcus Ben Elias wrote to the Director of Religious Services at the time, Meir Speigler, in September 2004 requesting for Rabbi Gold to be appointed as the rabbi of the

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[122] Klein, 'Veterans'. Leshem, 'Reform Rabbi Sues Israel for State Salary'.
[123] Cariati, 'Battling in the Courts'.
[124] Ilan, 'The Next Controversy'.
[125] Chelsea Zfaz, 'Conversations with Progressive Rabbis in Israel', *Israel Religious Action Center Blog*, 12 May 2010, accessed 7 September 2010, http://www.irac.org/blog/post/Rabbi-Kinneret-Shiryon.aspx.

settlement.[126] In support of his request Elias argued Miri Gold suited the character of the kibbutz. Kibbutz Gezer was a secular kibbutz with a large Reform congregation.[127]

The secretary was referred to the mayor of the Gezer Municipal Council to consider the appointment. The mayor, Peter Weiss in turn wrote to Meir Speigler in April 2005.[128] Weiss stated many residents in the municipality used the services of Rabbi Gold and she was a natural candidate for the position of community rabbi. The matter was then referred to a government committee to determine the standards for rabbinic appointment. Ten months after the first letter to the Department of Religious Affairs there was still no answer to the request, nor a date set for the committee to meet.[129]

The defendants in the petition were the office of the Prime Minister where the department of religious services was located at the time.[130] The petition argued on the principles of equality, non-discrimination against women and non-Orthodox Movements, commitment to pluralism, and the violation of freedom of religion and conscience. Among other precedents IRAC drew on the verdict in the case of Leah Shakdiel regarding religious councils where Justice Aharon Barak stated the eligibility of a person rests on their personal qualities. The fact the person is a man or woman should not preclude the person's suitability.[131] The Court ordered the parties to negotiate and report back by the end of 2006 with a summary of recommendations. The committee for negotiations included representatives of IRAC and Rabbi Avi Deutsch for the Conservative Movement.[132]

IRAC argued for rabbis to be paid on the basis of demand for their services. It was asserted there should be a minimum demand for the services of any particular rabbi before being eligible for government payment for any salaries. This method of payment should apply

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[126] HCJ 8944/05 Kehillat Birkat Shalom v. The Office of the Prime Minister.
[127] Interview number four.
[128] HCJ 8944/05 Kehillat Birkat Shalom v. The Office of the Prime Minister. Ilan, 'The Next Controversy'. World Union for Progressive Judaism newsletter, 'Israeli Congregational Rabbi Seeks Further Support For State Recognition', Issue #336, 20 November 2008, accessed 23 August 2010, http://www.wupj.org/Publications/Newsletter.asp?ContentID=190. Cariati, 'Who is a Rabbi?'
[129] HCJ 8944/05 Kehillat Birkat Shalom v. The Office of the Prime Minister.
[130] Cariati, 'Who is a Rabbi?' In October 2003 the Ministry of Religious Affairs was disbanded as a cost saving measure. The duties were dispersed among government departments and a department of religious services was formed as part of the Prime Minister's Office. Early in 2008 the government decided to re-establish the Ministry of Religious Affairs. Roni Sofer, 'Ministry of Religious Affairs Re-established,' *Ynet*, 6 January 2008, accessed 12 September 2010, http://www.ynetnews.com/articles/0,7340,L-3490901,00.html.
[131] HCJ 8944/05 Kehillat Birkat Shalom v. The Office of the Prime Minister.
[132] Israel Religious Action Center, 'National Positions of Rabbis'. Israel Religious Action Center, '2009 Final Narrative Report'.

regardless of whether the rabbi was Orthodox or non-Orthodox. The principle proposed rabbis should be paid by the state not simply because it was required by law to do so, but because payments of salaries should reflect the needs of the congregation.[133] The petition also suggested an agreement could be made whereby a Reform or Conservative rabbi and an Orthodox rabbi could both be employed each on a half-time basis.[134]

In addition, the petition requested the Office of the Prime Minister amend the method of certification so non-Orthodox rabbis could receive certification through the Reform or the Conservative Movements as an alternative to the Chief Rabbinate. Certification through the Chief Rabbinate was totally inappropriate as non-Orthodox rabbis were never going to meet the standards of the Chief Rabbis.[135] Using the proposed method of certification Rabbi Gold could become eligible for an official appointment in her position in Kehilat Birkat Shalom.[136] The demands provided a practical implementation for employment of rabbis in a pluralist framework described in chapter five.

The Orthodox leadership responded to the submission of the petition in a manner reflecting their conception of Israel as a religiously Orthodox Jewish state. In the opinion of Jonathan Rosenblum, an ultra-Orthodox spokesperson, a ruling in favour of the Reform movement would ruin the 'Jewish identity of the State of Israel'. He commented democracies were not all alike. 'Democracy in the United States is one thing, and it is another in the Jewish State.'[137] Rabbi Zweibel from Agudat Israel of America criticized the timing of the presentation of the petition to the Supreme Court coming a few weeks after the withdrawal from Gaza. The unilateral withdrawal from Gaza by the Israeli government was a cause of intense divisiveness between secular and religious Israelis at the time. In Zweibel's opinion another divisive issue would lead to even greater tension at a time when the country was already under much internal pressure. Neither argument engaged with the actual issues raised by the petition. Meir Speigler commented simply, 'The Chief Rabbinate is opposed across the board to the appointment of Reform rabbis.'[138]

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[133] Israel Religious Action Center, 'National Positions of Rabbis'.
[134] Ibid.
[135] HCJ 8944/05 Kehilat Birkat Shalom v. The Office of the Prime Minister.
[136] Cariati, 'Who is a Rabbi?'
[137] Leshem, 'Reform Rabbi Sues Israel for State Salary'.
[138] Ibid.

On the 17 June 2009 the case of Rabbi Miri Gold appeared before the High Court for the third time. The lawyers representing the government were previously granted extensions in June 2006 and June 2008.[139] In the interim, IRAC and the IMPJ organised a petition in support of Miri Gold. The 15,000 signatories to the petition were mostly Jews living in the United States, Britain and Australia.[140] The legal team anticipated the Court would once again grant the government an extension to provide a solution. At the hearing, the judges expressed frustration at the government not presenting a viable solution.[141] The government argued it would be 'too symbolic' to provide funds for non-Orthodox rabbis directly.[142]

The state's attorney proposed providing general funding which the non-Orthodox communities could then distribute as they wished. The lawyers for IRAC rejected this offer arguing the matter was not about symbolism, but about the right to receive religious and rabbinic funding. Furthermore, general financial support to the peak bodies could be revoked or changed, as opposed to funding which was given on an equal basis with legal recognition. IRAC was insistent on two points: one was the use of the title rabbi for non-Orthodox clergy, and the second was the requirement for a clear mechanism by which to fund salaries so the matter would not be left to the discretion of any particular ministry.[143] The Court granted a further extension of four months during which negotiations were to take place between IRAC and the government to define the parameters for future funding.

The principles to serve as a basis for a negotiated solution were explained in a ruling the previous month. In May 2009 the Court ruled in favour of the non-Orthodox Movements in relation to equal funding for conversion classes.[144] Judge Dorit Beinisch addressed the issue of private versus public religion as a matter of equality and individual freedom to choose. In reference to conversion, the government argued against support of non-Orthodox conversions

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[139] Ameinu, 'Four Questions for Rabbi Miri Gold of Congregation Birkat Shalom on Kibbutz Gezer'. 22 July 2009, accessed 18 August 2010, http://www.ameinu.net/perspectives/israel.php?articleid=450.

[140] Raphael Ahren, 'New Reform Push for Rabbinic Funding', *Haaretz.com*, 5 December 2008, accessed 2 September 2010, http://www.haaretz.com/new-reform-push-for-rabbinic-funding-1.258906.

[141] Israel Religious Action Center, 'Miri Gold Update, Pride Parade, Settlements, etc. – June 21, 2009.' The Pluralist email distribution list.

[142] Israel Religious Action Center, 'Miri Gold Update, Pride Parade, Settlements'. Ameinu, 'Four Questions for Rabbi Miri Gold'. Israel Religious Action Center, 'Update from Wednesday, June 17, 2009 High Court of Justice Hearing', accessed 1 September 2010, http://www.irac.org/LegalWork.aspx?SubheadingID=85.

[143] Interview number four.

[144] Israel Religious Action Center, 'High Court 11585/05 The Movement for Progressive Judaism v. The Department for Immigration and Absorption Verdict Summary'.

on the basis the Reform and Conservative Movements were private organisations, whereas the Orthodox were public institutions. Judge Beinisch explained;

> The State's commitment to pluralism cannot be a passive one. Rather it requires that in areas where the State has decided to provide funding for one stream, it must do so for others as well, for example, in the case of religious streams. While the government is not required to provide funding for private organisations, once it has decided to fund private Orthodox conversion programs; under the principle of pluralism, it must provide support for conversion programs for other streams of Judaism as well. When it failed to do so, it acted in contradiction to its obligation to support a diversity of opinions and beliefs in accordance with the basic principles of the democratic state.[145]

Having previously provided financial support to private Orthodox conversion programs, the government now had an obligation to treat the non-Orthodox private conversion courses in the same manner. Judge Beinisch described pluralism as an essential and central part of democracy.[146] The diversity of culture, religion and tradition was one which enriched the society. Fundamental to the principle of pluralism was the freedom to choose, to be able to live by one's own faith. In its obligation to the principle of pluralism the state had a duty, to support financially each stream of Judaism. In her reasoning, Judge Beinisch referred to previous cases involving the Conservative Movement and PANIM where the principles of pluralism were also elaborated. Having made its position clear, the judges urged the parties to negotiate on the matter of rabbinic salaries.[147]

The government disputed the use of the term rabbi recommending instead the term *Rosh Kehillah*, head of a congregation. The latter term was unacceptable because of its inaccuracy and implications.[148] The term *Rosh Kehillah* was a generic one used in Reform congregations for lay leaders and volunteers such as the president. The State Attorney insisted it was necessary for the title rabbi to specify 'rabbi of a non-Orthodox community' so as not to mislead anyone to think the rabbi was authorised the Chief Rabbinate. The state offered to pay the Reform and Conservative Movements at the level of 90 percent of the salaries of

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[145] Ibid.
[146] HCJ 11585/05 The Movement for Progressive Judaism v. The Department for Immigration and Absorption, [In Hebrew].
[147] Interview number four.
[148] Ibid..

Orthodox rabbis.[149] An added benefit of the use of the term 'rabbi' was that it would ensure payment on parity with Orthodox rabbis.

The issues of terminology and rate of pay were raised in a hearing before the Supreme Court on 9 May, 2012. The negotiations as they stood at the time were presented to the Court. Judge Elyakim Rubinstein was very firm in instructing the State Attorney that the defendants be called rabbis, showing appropriate respect for their position and duties. He also instructed the Attorney General Yehuda Weinstein to delete the clause limiting funding to 90 percent. The government was given fourteen days to discuss and come to an agreement.[150] If no agreement was concluded, the Court would proceed with the petition and deliver a ruling. The indications were any ruling would most likely would favour the petitioners.

After two weeks, the Attorney-General agreed to the terms in keeping with the instructions of Court. Before the Supreme Court had an opportunity to confirm the agreement between IRAC and the government, the Attorney-General made an announcement in the media on 29 May 2012. The announcement which caught IRAC by surprise appeared to have been a political manoeuvre. The day before the announcement the Attorney-General was widely criticised in the media after announcing the state would not be prosecuting the authors of the racist publication *The King's Torah* discussed in chapter ten.[151] Reluctant to take a definitive stand on such a sensitive matter of religion and state the Court successfully goaded the parties, in particular the state, to come to an agreement. Following the announcement, the Court ratified the agreement and cancelled the petition.[152]

Another contentious issue was the method of payment. During negotiations, the government offered to pay the salaries from the budget of the Ministry of Culture instead of the Ministry of Religious Services so as avoid conflict with the ultra-Orthodox leadership.[153] After lengthy negotiations the Ministry of Culture withdrew its consent considering the matter too complex to administer. Being a small ministry the lack of human resources was a problem.[154] In the final outcome the Ministry of Culture agreed to administer the payment of salaries to non-

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[149] Ibid. HCJ 8944/05 Kehillat Birkat Shalom v. The Office of the Prime Minister, verdict 9 May 2012.
[150] Ibid.
[151] Interview number four.
[152] HCJ 8944/05 Kehillat Birkat Shalom v. The Office of the Prime Minister, verdict 9 May 2012.
[153] Israel Religious Action Center, 'Highlights of Activities January-June 2011'. Computer data base of the Israel Religious Action Center.
[154] Interview number four.

Orthodox rabbis after the allocation of one staff member by the government for that purpose. The actual source of funds was the budget of the Ministry of Religious Affairs.

The Reform Movement was jubilant while several commentators were critical of the agreement. Religious party Knesset members Nissim Ze'ev (Shas) and Uri Ariel (National Union) claimed the decision was injurious to the values of Israel as a Jewish State.[155] The journalist Anshel Pfeffer claimed the Reform Movement had sold out. No rabbis, Reform, Orthodox or otherwise, should be paid a state salary he argued. Instead there should be complete separation of religion and state like in the United States[156]

Most commentaries were more moderate. An editorial in *The Jerusalem Post* wrote it would be better to have separation of religion and state with no government funding for religious activities, but as long taxpayers' money was used for this purpose all rabbis from all streams should receive funding. In response to the threat by the Religious Services Minister Ya'acov Margi to resign, rather than pay non-Orthodox rabbis from the Ministry of Religious Affairs, the editorial recommended the way to resolve the predicament would be to abolish the Ministry altogether.[157]

National-religious Rabbi Benny Lau advised all funding should be paid directly to congregations whether Ashkenazi or Sephardi, Orthodox or non-Orthodox, Muslim or Christian. He added religious services should be taken out of the hands of the Ministry of Religious Affairs and religious councils and placed in the hands of communities.[158] Torah Va'Avodah wrote to the Minister of Culture and Sport requesting to extend the mode of payment for non-Orthodox rabbis to Orthodox and secular communities also.[159] IRAC was approached by liberal Orthodox rabbis wanting to learn about the Miri Gold case.[160] The model was one which they wanted to adopt for the appointment of rabbis for their congregations.

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[155] Jeremy Sharon, 'State to Pay Non-Orthodox Rabbis', *The Jerusalem Post*, 29 May 2012, last accessed 11 December 2013, http://www.jpost.com/National-News/State-to-pay-non-Orthodox-rabbis.
[156] Anshel Pfeffer, 'Selling Their Souls', *Haaretz.com*, 1 June 2012, accessed 2 December 2012, http://www.haaretz.com/weekend/jerusalem-babylon/selling-their-souls-1.433779.
[157] Editorial, 'Recognising Rabbis', *The Jerusalem Post*, 2 June 2012, accessed 4 June 2012.
[158] Sharon, 'State to Pay Non-Orthodox Rabbis'.
[159] Jeremy Sharon, 'Harsh Words on State Validation of Non-Orthodox', *The Jerusalem Post*, 30 May 2012, accessed 4 June 2012, http://www.jpost.com/JewishWorld/JewishFeatures/Article.aspx?id=272056.
[160] Interview number four.

Once agreement was reached the process of application began. A list of fifteen Reform and Conservative congregations was submitted in May 2011 after the government asked for a list of non-Orthodox congregations in regional areas.[161] The state stipulated it would increase the available funds if there were more congregations. Each congregation had to apply individually, demonstrating they met certain criteria relating to the size of the congregation, the number of hours the rabbi was employed, and the activities undertaken by the rabbi. Where the congregation constituted between 50 and 250 members the congregation was to be eligible for a half post for a rabbi, over 250 members meant eligibility for a full post.

It was necessary for the rabbi to demonstrate he or she worked the designated number of hours. Also it had to be shown the rabbi undertook certain activities in keeping with their position. The range of activities listed in the petition by Miri Gold as part of her rabbinical duties were; leading services, educational activities for children and preparation for *b'nei mitzvah*, officiating in life cycle events and working with the bereaved, new immigrants, prisoners undergoing rehabilitation, and youth at risk.[162] The stringent criteria provided for a greater level of accountability than Orthodox rabbis employed by the state.

The government began paying the salaries for non-Orthodox rabbis at the end of December 2013.[163] A total of NIS 300,000 ($US86,455) for the salaries of four Reform rabbis was paid for the year 2013.[164] The recipients included Rabbi Miri Gold, Rabbi Stacey Blank from Tsur Hadassah congregation, Rabbi Benjie Gruber from Kibbutz Yahel in the South, and Rabbi Gadi Raviv from the Har-Halutz community in the north.[165] IRAC noted the average monthly salary of a rabbi in a regional council as NIS 6,000 ($US1,700) in a 2011 report to donors.[166] A salary was also paid for one rabbi in the Conservative Movement.[167]

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[161] Ibid.

[162] HCJ 8944/05 Kehillat Birkat Shalom v. The Office of the Prime Minister.

[163] Israel Religious Action Center, 'Pluralism on the Menu', The Pluralist email distribution list, 30 December 2013.

[164] Yair Ettinger, 'For the First Time in History, Israel Paying Salary to Reform Rabbis', *Haaretz.com*, 1 January 2014, accessed 6 January, http://www.haaretz.com/news/national/.premium-1.566438. Jeremy Sharon, 'Reform Rabbis Start Receiving State-Paid Salaries', *The Jerusalem Post*, 1 January 2014, accessed 6 January 2014, http://www.jpost.com/Jewish-World/Jewish-News/Israeli-government-pays-salaries-of-4-Reform-rabbis-336788.

[165] Ibid. Message from Rabbi Gilad Kariv, *IMPJ Journal*, 2 January 2014, accessed 6 January 2014, http://www.impj.org.il/Eng/About/NewsItem.asp?ContentID=1812.

[166] Israel Religious Action Center, 'IRAC Legal Department's Successes'.

[167] Michele Chabin, 'Activists Welcome Israeli Government Decision to Fund Some Non-Orthodox Rabbis', *The Washington Post*, 2 January 2014, accessed 6 January 2014, http://www.washingtonpost.com/national/religion/activists-welcome-israeli-government-decision-to-fund-some-non-orthodox-rabbis/2014/01/02/a64832ce-73da-11e3-bc6b-712d770c3715_story.html.

Already in 2007 IRAC extended its campaign for equal funding with a separate action in support of city based rabbis. An unsuccessful application was made to the office of religious affairs in the Department of the Prime Minister on behalf of Kehillat Har-El in Jerusalem, and Kehillat Eshel Avraham, a Conservative synagogue in Be'er Sheva.[168] IRAC emphasised both congregations provided services to people who chose not to use the services of the many registered Orthodox rabbis in their neighbourhoods.

Letters were written to the committee in the re-formed Ministry of Religious Services reviewing the employment of neighbourhood rabbis. The Ministry was seeking greater accountability following a report by the State Comptroller in 2010. Investigations by the State Comptroller revealed problems with rabbis taking extended holidays abroad, taking second jobs without council approval, duties not specified or documented, and working beyond retirement age.[169] The government advised IRAC the committee was responsible for deciding the matter of payment for non-Orthodox rabbis. However, the committee was not addressing the issue of non-Orthodox rabbis and was also in a stalemate because the Chief Rabbinate was opposed to any reporting on the part of rabbis.[170]

Attention then turned to Jerusalem where IRAC sought to challenge the method of appointment of neighbourhood rabbis by certification from Orthodox Rabbinic Courts.[171] Discussions with representatives of the Ministry of Religious Affairs were inconclusive.[172] A petition on behalf of city rabbis was filed in January 2012. The petition requested two positions in Jerusalem, one for a Reform rabbi and one for a Conservative rabbi.[173] A difficulty faced by this petition was the fact neighbourhood rabbis in cities were employed by the religious council making it difficult to circumvent Orthodox objections to employ non-Orthodox rabbis.

The religious council of Jerusalem, listed as a respondent in the petition, replied it was not possible to employ non-Orthodox rabbis as they would be unable to provide services in

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[168] Israel Religious Action Center, 'National Positions of Rabbis'. Israel Religious Action Center, 'January–June 2010 Legal & Public Policy Report'.
[169] State Comptroller Report, 'Rabbis Employed by Religious Councils', [In Hebrew] 2010, accessed 19 October 201, http://www.mevaker.gov.il/serve/homepage.asp.
[170] Interview number four.
[171] Israel Religious Action Center, 'January–June 2010 Legal & Public Policy Report'.
[172] Israel Religious Action Center, 'Highlights of Activity January-June 2011'.
[173] Interview number four.

supervision of *kashrut, mikvaot* and *eruvim*. The petition was due to be heard in 2013. At that time, the state asked for the petition to be postponed as the newly elected government was planning to abolish the system of neighbourhood rabbis. The Minister for religious services Naftali Bennett announced a plan to fund salaries for rabbis chosen by communities on the basis of demand. The plan was to make funding available to Orthodox and non-Orthodox congregations alike.[174]

Summary

Common to each of the three categories in this chapter, government funding, representation on religious councils, and recognition of Reform rabbis, was the support for the Reform rabbis by the local council. Pressure from the local community and a desire to attract immigrants from the United States persuaded Mayor Spitzer to reverse his initial objections to support the requests of the congregation Yozma. Reform candidates were nominated as representatives on religious councils by municipal council members. Rabbi Miri Gold received support from the mayor of Gezer Peter Weiss. The Ministry of Religious Affairs played an obstructive role in the distribution of funds to the Reform Movement. The abandonment of the Ministry of Religious Affairs between 2003 and 2008 provided an opportunity to advance and succeed in the lobbying campaign for buildings for non-Orthodox congregations. When the government agreed to pay salaries to non-Orthodox rabbis it was necessary to circumvent both the Ministry of Religious Affairs and the Chief Rabbinate to establish procedures to make the payments possible.

The agreement in the case of Miri Gold was important for several reasons. For the first time the government agreed for the state to pay salaries for Reform and Conservative rabbis. Potentially the agreement created a precedent for the future for recognising marriages officiated by non-Orthodox rabbis. Most importantly the agreement, adopting the proposals of IRAC, established a model for payment of salaries based on the models of pluralism discussed in the previous chapter. The salaries for the non-Orthodox communities were paid according to the needs and demands of the congregations and the local community. Unlike the Orthodox rabbis employed by the State, the non-Orthodox rabbis were to be employed by

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[174] Yair Ettinger, 'Israel's Religious Services Ministry to allow Non-Orthodox, State-Funded Community Rabbis', Haaretz, 30 May 2013, accessed 23 June 2013, http://www.haaretz.com/news/national/israel-s-religious-services-ministry-to-allow-non-orthodox-state-funded-community-rabbis.premium-1.526909.

congregations with financial assistance from the government. It also by-passed the need to receive certification by the Chief Rabbinate, instead relying on the peak bodies of each Movement as the relevant authority to certify a person's eligibility to serve as a rabbi. The model was one received positively by moderate Orthodox leaders.

The agreement circumvented the situation in funding for buildings and past instances of funding for the Reform Movement on an ad hoc basis. A system was now established to secure ongoing funding for non-Orthodox rabbis with the possibility of extending the funding to rabbis in cities. Like the case of Leah Shakdiel it was an important step towards pluralism. Most notably Judge Dorit Beinisch applied the principles of pluralism advising the government of its obligation to treat all streams of Judaism equally. The government for its part delayed arriving to any resolution until it found itself in a position where it was no longer possible to continue to delay.

Chapter 7 - Civil Marriage

The Legal Aid Department of IRAC regularly received inquiries from couples seeking assistance to deal with the bureaucracy and the rabbinic establishment. A significant number of couples experienced problems when wanting to register their marriages. Increased interest in civil marriage as an alternative to dealing with the rabbinate, or for couples unable to marry according to Jewish law, brought a new opportunity for IRAC to lobby to change the marriage laws in a direction more favourable to the non-Orthodox Movements.

Campaigning for civil marriage signified a shift in policy for the Reform Movement away from earlier strategies aimed to pressure the government of the day to directly recognise marriages conducted by Reform rabbis. Under the banner of civil marriage, legislation proposed by IRAC also included recognition of non-Orthodox marriages. As an organisation, the issue of marriage was an opportunity for IRAC to establish and participate in networks designed to lobby for civil marriage and overcome the discriminatory application of Jewish marriage laws in relation to the status of women.

The widely publicised phenomenon of Israelis travelling to Cyprus for a civil marriage was a symptom of the problem. Civil marriage overseas was part of a growing trend from the 1990s onwards for couples seeking alternatives to an Orthodox marriage. Living as a common law couple was another development chosen by some couples as an alternative to a religious marriage. Common law couples, or cohabitation referred, to people living in a marital relationship without any recognised marriage ceremony. The rights of common law couples evolved over time by means of legal rulings and changes to specific laws. Nonetheless, the status and rights of common law couples remained open to legal debate.[1]

The right to marry is one entrenched in a democratic state and given importance in international law.[2] For supporters of liberal democracy it was not possible for Israel to be democratic yet deny marriage to sections of the population. Like conversion, discussed in

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[1] Avishalom Westreich and Pinhas Shifman, 'A Civil Legal Framework for Marriage and Divorce in Israel', ed. Ruth Gavison (Jerusalem: The Metzilah Center, 2013), 31-35. Interview number eleven. Israel Religious Action Center, 'Leading a Reform Marriage Ceremony without a Civil Marriage', Report for the Committee of Reform Rabbis (MARAM). Computer data base of the Israel Religious Action Center.

[2] Yuval Merin, 'The Right to Family Life and Civil Marriage under International Law and Its Implementation in Israel', *Boston College International and Comparative Law Review* 28, no. 1 (2005).

chapter nine, marriage defined the boundaries of who is a Jew, who is not; who is included, and who is excluded. Hitherto the boundaries of inclusion were defined by Orthodox Judaism as interpreted by the rabbis in positions of power in the hierarchy of the Chief Rabbinate. The defining feature of a Jew was Orthodox religion. IRAC became the champion of the excluded, using pluralism as the alternative, embodied in the slogan 'there is more than one way to be Jewish'.[3] The slogan applied equally to life cycle rituals as it did to religious observance.

For the purposes of immigration, the Law of Return (see chapter three) embraced the broader definition. On the one hand was the inclusive secular Zionist definition designed to encourage the immigration of Jews of all streams and ethnicity. Whether one was a Soviet Jew, an Indian Jew, an Ethiopian, Karaite, Reform or Conservative, all were permitted to become citizens as members of the Jewish People. Once inside the country, their Jewish credentials were subjected to the Orthodox religious definition of a Jew due to the authority of the Chief Rabbinate in matters of personal status. The narrower boundaries of *halakhah* in this area were embraced by the civil laws of the country. Marriage was a key issue on which IRAC challenged the boundaries of inclusion. This chapter will first discuss the difficulties of the religious only marriage laws before focusing specifically on the campaign for civil marriage led by IRAC.

The Problem of Marriage in Israel

Among the religious restrictions on marriage by *halakhah* is the ban on marriage between a *cohen*, a member of the priestly caste, and a divorcee. Merav was a divorcee, married to Natan by the rabbinate in Israel. Natan was a *cohen*. When the couple approached the registry for their marriage licence, the rabbinate realised the couple should not have been permitted to marry in the first place, and refused to issue the certificate. The couple approached IRAC for assistance in early 2004.

Appeals to the rabbinate by IRAC were unsuccessful. The matter was then presented to the Supreme Court. Ultimately the marriage was registered in the Population Registry.[4] The case was one of the various types of difficulties citizens encountered. In the same year, in 2004,

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[3] Tabory, 'The Influence of Liberal Judaism', 200.
[4] Israel Religious Action Center, 'Semi-Annual Report January to June 2004'.

the Legal Aid Department reported acting in 77 cases of civil marriage for the first half of the year as shown in table sixteen. In the previous year, 2003, the department acted in 111 cases related to civil marriage, and 65 on matters of divorce for the period January to June.[5] The status of marriage was compounded by matters relating to divorce and conversion, also connected to personal status matters attended to by the Legal Aid Department.

Table 16: Legal Aid Center for Olim Number of Marriage and Divorce Cases

	January to June 2003	January to June 2004	January to June 2005
Civil marriage	111	77	58
Divorce	65	47	42

Source: IRAC Legal Department reports

The marriage of Merav and Natan exemplified the difficulties of religious marriage laws in general. In the first instance, the restrictions placed on people marrying partners of their choosing left little alternative but to pursue a civil ceremony overseas, or to live as a common law couple.[6] In *halakhah* forbidden marriages usually focused on the status of the woman.[7] A *cohen* was also prohibited from marrying a convert. Women unable to receive a *get* risked having children in a subsequent marriage considered a *mamzer*. A person is labelled as a *mamzer* when a married woman has a child from a relationship with a man other than her husband. In turn, the *mamzer* is restricted in choice of marriage partners to another *mamzer* or to a convert.[8] In addition, interfaith couples were prevented from marrying, as were same-sex couples, and people not affiliated with a recognised religion.[9]

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[5] Ibid. Israel Religious Action Center, 'Semi-Annual Report January to June 2003'. Computer data base of the Israel Religious Action Center. Israel Religious Action Center, 'Activity Report: January – June 2005'.
[6] Ruth Halperin-Kaddari, *Women in Israel: A State of Their Own* (Philadelphia, Pennsylvania: University of Pennsylvania Press, 2004), 244-246.
[7] Ruth Halperin-Kaddari, 'Women, Religion and Multiculturalism in Israel', *UCLA Journal of International Law and Foreign Affairs* 5, no. 2 (2000): 348-349. Frances Raday, 'Women's Human Rights: Dichotomy between Religion and Secularism in Israel', *Israel Affairs* 11, no. 1 (2005): 80-82. Weiss, 'The Place of Orthodoxy in the State of Israel'. Zvi Triger, 'Freedom from Religion in Israel: Civil Marriages and Cohabitation of Jews Enter the Rabbinical Courts', *Israel Studies Review* 27, no. 2 (2012): 13.
[8] Abramov, *Perpetual Dilemma*. Zemer, *Evolving Halakhah*.
[9] Westreich and Shifman, 'A Civil Legal Framework for Marriage and Divorce in Israel'. Halperin-Kaddari, *Women in Israel*, 246-249.

The refusal of the rabbinical authorities to provide a marriage certificate to Merav and Natan also highlighted the strict approach by some in the Orthodox rabbinate in their interpretation of *halakhah*. Israeli Reform Rabbi Moshe Zemer argued *halakhic* precedence allowed a lenient approach granting validity to the marriage *post factum*.[10] Where Reform rabbis engaged with *halakhic* discussion on restrictions to marriage, the lenient path was followed. The emphasis on egalitarianism took precedence over the restrictions placed on the choice of marriage partners. The status of the *mamzer*, the distinction between *cohenim* and other Jews were regarded as irrelevant in the modern world.[11] The difficulty for the Reform Movement in particular was the rejection of Reform marriages by Orthodox rabbis specifically for lack of conformity with *halakhic* norms. The perception of restrictions on marriage as irrelevant and discriminatory was one shared by the secular opponents of the Orthodox monopoly on matters of personal status.[12]

From the point of view of religious law, the introduction of civil marriage risked creating two separate classes of Jews unable to marry each other, creating 'genealogical' trees.[13] The lack of rabbinic oversight of eligibility for marriage and proper *halakhic* procedures for a religious divorce could result in a dramatic increase in the number of *mamzerim*. Another fear was civil marriage would open the possibility of increased numbers of interfaith marriages, contributing to the differentiation among Jews, as well as increasing the risk of assimilation. For those who defined Israel as Jewish in *halakhic* terms, the prospect of assimilation was harmful to the state.

Assimilation represented a breakdown of the national boundaries preserving the Jewish character of the country.[14] In this argument, the religious marriage and divorce laws were necessary for 'the *unification* of the Jewish people'.[15] In this sense 'unification' was synonymous with homogeneity with little toleration for diversity within Judaism. As a counter argument, the pluralistic view insisted religion could not be forced onto an unwilling

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[10] Zemer, *Evolving Halakhah*, 80.
[11] Washofsky, *Jewish Living*, 151-174. Moshe Zemer, 'Traditional and Progressive Remedies to Marriage Impediments', in *Marriage and Its Obstacles in Jewish Law: Essays and Responsa*, ed. Walter Jacob and Moshe Zemer (Pittsburgh; Tel Aviv: Freehof Institute of Progressive Halakhah; Rodef Shalom Press, 1999).
[12] Ben-Porat, *Between State and Synagogue*, 66.
[13] Westreich and Shifman, 'A Civil Legal Framework for Marriage and Divorce in Israel', 59, 64-66. Woods, *Judicial Power and National Politics*, 80-81. Yuksel Sezgin, 'The Israeli Millet System: Examining Legal Pluralism through of Nation-Building and Human Rights', *Israel Law Review* 43, no. 3 (2010): 638-639.
[14] Ben-Porat, *Between State and Synagogue*, 65. Westreich and Shifman, 'A Civil Legal Framework for Marriage and Divorce in Israel', 64-66, 88.
[15] Ben-Porat, *Between State and Synagogue*, 65. Woods, *Judicial Power and National Politics*, 80.

public. Enforcement only alienated the public from religion when it would be better to engage in dialogue and foster toleration. It is better to protect against assimilation by educating citizens about the cultural tradition of their heritage.[16]

Fear of creating large numbers of Jews not eligible for *halakhic* marriage led to difficulties in integrating members of Jewish communities of different ethnic origins. In this sense the Reform Movement had a shared experience with other religious Jewish communities. Each community responded to the challenge in a different way with different outcomes in each case. The Bene Israel community from India immigrated during the 1940s and onwards. In 1944 the Ashkenazi and Sephardi Chief Rabbis ruled they could marry Jews from other communities.

The Bene community had for centuries lived in India without contact with the rest of the Jewish world.[17] Restrictions on marriage imposed by the Chief Rabbi during the 1950s were met with a huge outcry from the Bene Israel community both in Israel and in India. The matter was resolved when Cabinet asserted the right of the government to determine 'who is a Jew' in the interests of Jewish unity and the ingathering of the exiles.[18] The ruling of the Chief Rabbinate was not repealed. Rather the controversy subsided when the registering rabbis ceased enforcing the rabbinic ruling.[19]

Differences between the Karaite community and the rabbinic establishment stretched back centuries. For the Karaite community the difficulty was the lack of any legal framework to recognise marriage and divorce. The problem for the Karaites was similar to the one faced by the Reform and Conservative Movements, recognised for the Law of Return, but not for the

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[16] Westreich and Shifman, 'A Civil Legal Framework for Marriage and Divorce in Israel', 62-63, 88.

[17] Abramov, *Perpetual Dilemma*, 275-280. Zucker, *The Coming Crisis in Israel*, 117-121.

[18] The ingathering of the exiles was a major policy of the government in the first decades of the establishment of Israel. It was anticipated that with the establishment of a home for the Jews that Jews living in the Diaspora would come to live in Israel, free of persecution, to lead full Jewish lives.

[19] An investigation of Bene Israel in Israel and the discrimination they felt in the mid-twentieth century was documented by Schifra Strizower, 'The "Bene Israel" in Israel', *Middle Eastern Studies* 2, no. 2 (1966). For further studies on the history and lifestyles of the Bene Israel see; Shirley Berry Isenberg, 'The Bene Israel Villagers of Kolaba District: Generations, Culture, Change, Changing Identities', in *Studies of Indian Jewish Identity*, ed. Nathan Katz (New Delhi: Manohar Publishers & Distributors, 1995). Joan G. Roland, 'Indian-Jewish Identity of the Bene Israel During the British Raj', in *Studies of Indian Jewish Identity*, ed. Nathan Katz (New Delhi: Manohar Publishers & Distributors, 1995). Shalvah Vail, *India's Jewish Heritage: Ritual, Art & Life-cycle*. (Mumbai, India: Marg Publications, 2002). Shalva Weil, 'The Bene Israel Indian Jewish Family in Transnational Context', *Journal of Comparative Family Studies* 43, no. 1 (2012).

purpose of marriage.[20] Marriage between the Karaites and other Jews living in Israel was restricted from both sides. Similar issues followed the Ethiopian Jews.[21] They were airlifted to Israel during Operations Moses, Joshua and Solomon in 1984, 1985 and 1991 respectively.[22] In this case the Ethiopians readily undertook a modified conversion thereby alleviating complications when it came to marriage.[23]

The most challenging wave of immigration under the Law of Return came from the Former Soviet Union. The high rate of intermarriage led to large numbers permitted to immigrate who were considered not Jewish according to *halakhah*, or were non-Jewish relatives eligible to immigrate as a spouse, or child or grandchild of a Jew.[24] Their cause was adopted by New Family and The Forum for Freedom of Choice in Marriage.[25] New Family was a legal organisation actively promoting common law marriage.[26] IRAC played a key role in The Forum for Freedom of Choice in Marriage, discussed below.

Among secular Israelis, dissatisfaction with the rabbinic establishment grew as did the demand for weddings reflecting their lifestyle and individualism.[27] Couples complained about the attitude of the rabbinate towards the secular public.[28] Some couples were less willing to submit to *kashrut* limitations for the wedding celebrations. Others were unwilling to plan the date of the wedding to fall outside the menstrual days of the bride as required by Jewish law. Women complained about the necessity to hear a lecture on marital relations from the wife of the rabbi.[29] Another complaint was the excessive fees imposed by some rabbis. Among the

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[20] Abramov, *Perpetual Dilemma*, 280-284. Mordecai Roshwald, 'Marginal Jewish Sects in Israel (I)', *International Journal of Middle East Studies* 4, no. 2 (1973).
[21] 'Marginal Jewish Sects in Israel (II)', *International Journal of Middle East Studies* 4, no. 3 (1973): 344-348. Kaplan and Salamon, 'Ethiopian Jews in Israel'.
[22] Waxman, 'Multiculturalism, Conversion and the Future of Israel'.
[23] Ibid. Interview number twelve.
[24] Ben-Porat, *Between State and Synagogue*, 67. Mark Tolts, 'Jewish Marriages in the USSR: A Demographic Analysis', *East European Jewish Affairs* 22, no. 2 (1992): 8. Waxman, 'Multiculturalism, Conversion and the Future of Israel'.
[25] Ben-Porat, *Between State and Synagogue*, 77-82.
[26] New Family, accessed 25 February 2011, http://www.newfamily.org.il/. Carl Hoffman, 'Out Of Consensus', *The Jerusalem Post*, 23 July 2009, accessed 25 February 2011, http://www.jpost.com/Magazine/Features/Article.aspx?id=149652.
[27] Ben-Porat, *Between State and Synagogue*, 68-69. Ephraim Tabory and Sharon Shalev Lev-Tzur, 'Crossing the Threshold: State, Religion, and Opposition to Legally-Imposed Religious Weddings', *Review of Religious Research* 50, no. 3 (2009).
[28] Interview number seven.
[29] Interview number one.

206

reasons causing hostility towards the Chief Rabbinate was the development of a list of new immigrants and converts restricted from marrying.[30]

Some couples participated in marriage ceremonies with the Reform and Conservative Movements. Where couples chose a Reform ceremony rejection of the Orthodox monopoly and associated coercion was given as a common reason.[31] These couples rejected the Orthodox rhetoric depicting the Reform Movement as a threat to the Jewish identity of the state.[32] However, the majority of Israelis regarded the Orthodox stream as the preferred mode for a Jewish wedding ceremony.[33]

Dissatisfaction with marriages conducted by the Orthodox rabbinate was felt not only by secular Israelis, but also religiously Orthodox couples. An unusual alliance took place between Zionist Israelis and non-Zionist ultra-Orthodox sects. Yehiel and Tamar chose to marry in Jewish tradition without registering with the offices of the Chief Rabbinate. After marrying in an ultra-Orthodox ceremony the couple registered with the National Insurance Institute as a common-law couple.[34] A similar approach was taken by some modern Orthodox couples using their knowledge of *halakhah* to arrange a marriage of their choosing. As these couples did not always register their marriages it is difficult to ascertain how many couples married in this manner.

Like Reform and Conservative marriages, unregistered wedding ceremonies in the Orthodox community are referred to as 'private' marriages. A private Orthodox ceremony also gave the opportunity for a ceremony which treated the woman as an equal. This was achieved by the exclusion of *kinyan*, acquisition of the bride on the part of the groom, and *kiddushin*, sanctification of the marriage.[35] In this way, it was argued, women were protected from being denied a religious divorce; a recurrent problem when appearing before the Orthodox *beit din*, a religious court. The problem of *agunot* was not a common reason for couples to reject an Orthodox wedding.[36]

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[30] Yair Ettinger, 'Without the Rabbinate, I'll Thee Wed', *Haaretz.com*, 28 October 2011, accessed 30 October 2011, http://www.haaretz.com/weekend/week-s-end/without-the-rabbinate-i-ll-thee-wed-1.392439.
[31] Sezgin, 'The Israeli Millet System', 648-649. Tabory and Shalev Lev-Tzur, 'Crossing the Threshold'.
[32] Tabory and Shalev Lev-Tzur, 'Crossing the Threshold', 272.
[33] Ben-Porat, *Between State and Synagogue*, 72. Zvi Triger, 'Freedom from Religion in Israel'.
[34] Ettinger, 'Without the Rabbinate, I'll Thee Wed'.
[35] Ibid.
[36] Interview number one.

Neither civil marriage nor cohabitation ensured escape from the rabbinic courts when it came to divorce.[37] As discussed below, the possibility of being subjected to an Orthodox divorce was an important consideration for the Reform Movement. In 2006 the Supreme Court, led by Justice Aharon Barak, affirmed the jurisdiction of the rabbinic courts to grant a *get*, a religious divorce, for couples married in a civil ceremony. The Court also ruled these divorces were to be arbitrated in a simplified manner. Furthermore, the rabbinic courts could not deliberate on related financial and property matters.[38]

The ruling reinforced a trend since the early 1990s for greater involvement on the part of civil courts in the settlement of family disputes. The establishment of Family Courts in 1995 was part of this progression.[39] Some rabbinic judges chose to ignore the rulings of the Supreme Court in an apparent struggle for power between the two legal systems. According to Professor of Law Amihai Radzyner, the curtailment of the authority of rabbinic courts in the secular state led to a backlash among some rabbinic court judges who sought to restore their authority.[40] These rabbinic judges fought back by drawing on *halakhic* positions which would not have been considered under different circumstances.

The stricter interpretations and application of *halakhah* in rabbinic courts failed to address the suffering of the *agunot*.[41] Women's organisations rallied against the discriminatory nature and harsh consequences of religious marriage.[42] The International Coalition for Agunah Rights (ICAR) was a coalition of Orthodox, Conservative, Reform and secular organisations representing women and religious organisations.[43] The objective of ICAR was to affect the rabbinical court system from within. The premise was that the system was the problem, not *halakhah*. Members believed many *halakhic* solutions existed to solve the problem of *get* refusal, yet the rabbinic courts in Israel were not motivated to implement these solutions.[44]

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[37] Triger, 'Freedom from Religion in Israel'.
[38] Ibid., 6, 11. Amihai Radzyner, 'Problematic Halakhic "Creativity" in Israeli Rabbinical Court Rulings', *Jewish Law Annual* 20(2013): 107-108.
[39] Halperin-Kaddari, *Women in Israel*, 233-235.
[40] Radzyner, 'Problematic Halakhic "Creativity" in Israeli Rabbinical Court Rulings'. On the struggle for power between the rabbinic and the civil courts see also Margit Cohn, 'Women, Religious Law and Religious Courts in Israel - the Jewish Case', *Retfaerd (Scandinavian Journal of Social Sciences)* 107 (2004).
[41] Sezgin, 'The Israeli Millet System', 646-647. Susan M. Weiss and Netty C. Gross-Horowitz, *Marriage and Divorce in the Jewish State: Israel's Civil War* (Brandeis University Press: Waltham, Massachusetts, 2013).
[42] Sezgin, 'The Israeli Millet System', 651-653. Woods, *Judicial Power and National Politics*, 18-21.
[43] Sezgin, 'The Israeli Millet System', 652. The International Coalition for Agunah Rights, 'ICAR Members', accessed 6 November 2013, http://www.icar.org.il/icar-members.html. Interview number one.
[44] Interview number one.

For IRAC, participation in the coalition was part of a multi-pronged approach, along with other campaigns on marriage, to change the marriage laws.

In March 2004, Public Policy Coordinator for IRAC, Galit Nadav, worked with the Director of the International Jewish Women's Human Rights Watch, Sharon Shenhav, to raise awareness of the problem of *agunot*. Under the sponsorship of ICAR two films on the subject of *agunah*, followed by a panel discussion, were presented in Jerusalem to mark International *Agunot* Day.[45] Nadav also assisted in the development of a website with articles about *agunah* and a forum for discussion, and the development of a strategic plan for ICAR. When the Financial Agreement Law was introduced into the Knesset, IRAC participated with ICAR in lobbying to protect the rights of women during divorce. If passed in its original form, the legislation would have increased the authority of the rabbinic courts in divorce cases.[46]

The Financial Agreement Law attempted to move property settlement away from the civil courts into the realm of the rabbinic courts. Such a move would have further disadvantaged women relying on their husbands to grant a *get*. Secondly, the law permitted the rabbinic judges to ask the couple to return to the religious court regarding any other matters related to the divorce.[47] Lobbying by IRAC succeeded in removing both of the items from the final legislation ensuring property matters could be settled in a fair manner before the religious divorce became final.

Passage of the legislation was stalled in 2008 when the Speaker of the Knesset, Dalia Itzik of the Kadima party, delayed the third and final reading two days before the Knesset was to cease meeting for the year.[48] The Speaker was attempting to dispose of the Law in order to gain favour with the Orthodox parties opposed to the legislation in its revised form. IRAC submitted a petition stating a Bill which had passed its second reading must, by law, have the third reading in the same Knesset session. The Bill was presented to the vote and passed for its third reading thereby passing into law.

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[45] Israel Religious Action Center, 'Semi-Annual Report: January to June 2004'.
[46] Israel Religious Action Center, 'Rabbinic Court Judges', accessed 4 July 2010, http://www.irac.org/PublicPolicy.aspx.
[47] Ibid.
[48] Ibid. Israel Religious Action Center, 'Women's Rights: Gender Rights for Women in Divorce', accessed 4 July 2010, http://www.irac.org/PublicPolicy.aspx. Knesset, 'All Knesset Speakers', last accessed 23 March 2014, http://www.knesset.gov.il/vip/speaker/eng/SpHead_eng.htm.

In another strategy, ICAR and its constituent women's organisations sought to influence in the appointment of rabbinic judges.[49] The objective was to appoint judges sympathetic to women's issues. Judges are appointed by a committee comprised of the two Chief Rabbis, two judges of the Rabbinical Court of Appeals, the Minister or Religious Affairs and another government minister, two other Knesset members and two lawyers appointed by the Israel Bar Association.[50] Since 1997 women were represented on this committee as representatives of the Bar Association. When the position of director of rabbinical courts became vacant in 2010, IRAC was approached by Professor Ruth Halperin-Kaddari, director of the Rackman Center for the Advancement of the Status of Women at Bar-Ilan University, to provide legal representation in the campaign to appoint a woman to the position.[51] Atara Kenigsberg, also from the Rackman Center, was presented as the candidate with the management and leadership experience suited to the position.[52]

IRAC argued the government had a duty to appoint a woman to the position to ensure equal representation of women in administrative positions at a high level. In an administrative position which impacted so greatly on women it was essential for a woman to be appointed.[53] The reasoning followed the same argument made in the case of Leah Shakdiel discussed in the previous chapter. Women could not be forced into religious roles preserved for men, however, there was no restriction on women in an administrative role.

The difficulty with the position taken by IRAC was that by law the director of the court had to be a rabbinic judge, a position reserved for men. At one stage the law was amended to include a rabbi eligible to be a city rabbi as also eligible to be the director of the rabbinical courts. This was done as to enable the appointment of the preferred candidate of the Chief Rabbi at the time. This change was used as an argument by IRAC to declare the director did not have to be a rabbinic judge. Parallels were drawn to the equivalent position in the Muslim court system where the director did not have to be a religious judge. The judges of the Supreme Court urged IRAC to drop the petition on the grounds the proposed candidate to fill

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[49] Sezgin, 'The Israeli Millet System', 652. Sharon Shenhav, 'Choosing Religious Court Judges in Israel: A Case Study', *Jewish Political Studies Review* 18, no. 3-4 (2006), accessed 12 September 2010, http://jcpa.org/article/choosing-religious-court-judges-in-israel-a-case-study/.

[50] Shenhav, 'Choosing Religious Court Judges in Israel'.

[51] Interview number one.

[52] Chaim Levinson, 'Atara Kenigsberg, Could You Become Director of the Rabbinical Courts?' *Haaretz.com*, 21 September 2010, accessed 26 September 2010, http://www.haaretz.com/print-edition/features/atara-kenigsberg-could-you-become-director-of-the-rabbinical-courts-1.314901.

[53] Interview number one.

the position was a rabbinic judge supportive of women's organisations. The Court sought to avoid a confrontation with the rabbinic judges.[54]

The campaign to appoint Atara Kenigsberg failed only to be replaced by a renewed controversy the following year when for the first time since 1997 no women were appointed to the committee to appoint rabbinical judges.[55] Sharon Shenhav, who was appointed to the selection committee in 2002, described the appointment of religious court judges as highly political, with pressure to appoint judges on the basis of patronage instead of merit.[56] The limited employment opportunities for ultra-Orthodox men, discussed in chapter four, meant positions as judges were highly sought after among this sector of the population.

When the controversy over the appointment of women to the committee resurfaced, it came during the campaign against gender segregation on public buses conducted by IRAC. As will be discussed in the next chapter, the debate and reaction to the gender segregation issue witnessed what appeared to be a backlash on the part of religious groups and their supporters. As the campaign against gender segregation gained momentum, some sought to cement the influence of the ultra-Orthodox over public life in relation to the status of women, to make public spaces, public leadership and professional roles exclusively male domains.

Civil marriage affected many areas beyond the right of marriage alone. The restrictions on marriage affected a range of people apart from the non-Orthodox Movements; people from different ethnic backgrounds, people not eligible for a religious marriage, people disaffected by a Chief Rabbinate dominated by ultra-Orthodox male rabbis. There were implications for divorce and the status of women. Within the sphere of *halakhic* marriage there was a power struggle where the conservative rabbis attempted to maintain and enhance their authority in relation to the civil courts.

The approach among representatives of modern Orthodoxy was to reform the system from within, whether by making Orthodox marriage a more welcoming experience as advocated by Tzohar, noted in chapter five, or reforming the rabbinic courts to be more sensitive to the

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[54] Ibid.

[55] Elana Sztokman, 'How Women's Exclusion Threatens Coalition Government', *The Sisterhood, The Jewish Daily Forward*, 17 January 2012, accessed 23 March 2012, http://blogs.forward.com/sisterhood-blog/149724/how-womens-exclusion-threatens-coalition-govt/?

[56] Shenhav, 'Choosing Religious Court Judges in Israel'.

needs of women. The proposal for civil marriage was an attempt to provide a system outside the authority of the Chief Rabbinate giving the institution less control over personal status. Before turning specifically to the campaign to provide alternative legal frameworks for marriage, a closer investigation of marriages abroad follows.

The Cyprus Option

The number of Israelis going abroad to Cyprus to marry in a civil ceremony was a commonly used argument by IRAC to advocate civil marriage. When couples married through the Reform Movement they were required to sign a document agreeing to a civil marriage in Cyprus or Prague so their marriage would be legally recognised in Israel.[57] A simple Orthodox ceremony following the Reform ceremony was also accepted as a means to make the marriage legal. Prague and Cyprus were regarded as affordable and easy choices. Bureaucratic requirements ruled out some European countries as a destination. Travel agents made a trip to Cyprus or Prague simple by making all the arrangements in exchange for a fee. It became common practice for people to stay in Cyprus or Prague for a week combining the marriage ceremony with a holiday.[58]

The CBS began recording meaningful data on marriages abroad in 2000.[59] The information is limited. Whereas marriages in Israel are reported according to the number of marriage certificates issued, data on marriages abroad relies on people voluntarily reporting their marriage to the Population Registry. The CBS estimates an underreporting of marriages abroad. In other cases the marriage may be reported some time after the event meaning yearly data varies from one year to another.

Where one spouse is not an Israeli resident only data for the Israeli spouse is recorded in relation to country of birth, age and religion. Not all marriages abroad are necessarily civil ones. In countries where Jewish marriages are available, like the United States, a religious ceremony may be the choice made by the couple. The CBS does not collect data on whether the marriages abroad were of a civil or religious nature. In addition, some marriages abroad were accounted for by Israeli citizens living abroad at the time of the wedding.

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[57] Interview number eleven.
[58] Ibid.
[59] Central Bureau of Statistics, 'Marriages of Israelis Abroad 2000-2012', accessed 30 March 2014, http://www.cbs.gov.il/reader.

Table seventeen uses raw data from the CBS to provide a snapshot of the marriages abroad in 2010. In that year a total of 47,855 marriages were registered in Israel.[60] By comparison 6,077 marriages abroad were reported with a total of 9,162 Israeli residents participating. Of these marriages approximately half took place either in Cyprus or in the Czech Republic and Slovakia. Two-thirds of individuals participating in an overseas marriage identified as Jewish. In relation to common law couples, approximately 4 percent of couples living together were not married in 2010.[61] Together, the number of common law couples and the number of marriages abroad represented approximately 16.7 percent of all couples registered as married or in a common law relationship. As noted in chapter two, the Reform Movement reported conducting one thousand weddings in the same year.

Table 17: Selected data for marriages in 2010

	Jews	Muslims	Other Religion	Total
Marriages in Israel	35,887	10,220	1748	47,855
	Both Spouses Residents	One Spouse Resident	Total	
Reported Marriages Abroad	3,085	2,992	6,077	
	Cyprus	Czech Republic & Slovakia	The Former Soviet Union	
Marriages Abroad – The Three Most Popular Locations	1,555	1,434	1,120	
	Jews	Arabs	Other	
Residents Married Abroad by Population Group	6,063	184	2,195	

Source: Central Bureau of Statistics

Recognition of Reform Marriages

The long struggle by the Reform Movement for recognition of non-Orthodox marriages placed IRAC in a good position to lead and organise the campaign for civil marriage. Initially the Reform Movement sought legal recognition of Reform marriages. During the pre-state

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[60] Central Bureau of Statistics, 'Selected Data for Tu B'Av', [In Hebrew] 1 August 2012, accessed 14 August 2012, www.cbs.gov.il.

[61] Central Bureau of Statistics, 'Families and Households in Israel - Data for "Family Day",' [In Hebrew] 21 February 2012, accessed 17 August 2012, www.cbs.gov.il.

period the issue was very much one of personalities as evidenced by the experiences of Rabbis Elk, Rosenberg, Wilhelm and Philipp. Rabbi Wilhelm maintained good relations with the Chief Rabbi of Jerusalem and was permitted to conduct wedding ceremonies.[62] When Wilhelm moved to Sweden in 1948 his successor Rabbi Philipp was also given permission to officiate at wedding ceremonies before his congregation Emet Ve-Emunah became affiliated with the Conservative Movement. The relationship between Rabbi Rosenberg and the Chief Rabbi of Tel Aviv was conflictual. Rosenberg never received permission to officiate at weddings.[63] Rabbi Elk used his energy to develop the Leo Baeck Education Center instead of struggling with the Orthodox rabbinate to allow him to officiate at weddings.

The rabbis of the Progressive synagogues made an unsuccessful attempt pre-statehood to influence the character of the state. Rabbis Wilhelm, Elk and Rosenberg presented a memorandum to the Advisory Committee for a Constitution in January 1948.[64] The memorandum called for the adaptation of Shabbat observance to modern requirements, and equal access to government funding. As representatives of religious organisations, the rabbis did not support the trade unionist calls for separation of religion and state, or the introduction of civil marriage.

The Progressive rabbis advised 'far-reaching reforms' should be implemented. The letter requested recognition of non-traditional religious practices, a share of financial support levied from taxes regardless of congregational affiliation, and official recognition of Progressive rabbis. The memorandum also called for 'equality for women in judicial proceedings … and in the management of property'.[65] The primary concern of the rabbis was recognition for the Reform Movement including recognition of marriages under the auspices of the Movement.

When in 1968 the World Union for Progressive Judaism held its first ever conference in Israel, the convention presented the Prime Minister Levi Eshkol with a list of demands to in effect recognise Reform marriages in Israel. A petition was later presented to the High Court in 1980 for this purpose. The court action resulted from a wedding ceremony at the Reform Kibbutz Yahel. The ceremony was conducted by a Reform rabbi with the orthodox rabbi for the city of Eilat as a witness.

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[62] Glazier, 'The Development of Liberal Judaism in Palestine'.
[63] Ibid.
[64] Ibid., 70.
[65] Ibid.

The orthodox rabbi approved and registered the marriage.[66] When the public became aware of the marriage, the Chief Rabbinate declared the marriage was an isolated situation and no further Reform marriages would be registered. The Reform Movement then petitioned the High Court to authorise Rabbi Zemer based in Tel Aviv, and Rabbi Rotem of Haifa to register marriages.[67] The judges of the High Court referred the petition to the Chief Rabbinate for an opinion in 1982.[68]

The Rabbinate deliberated on the matter on the basis of the *halakhic* issues they deemed relevant. In rejecting the authority of Reform rabbis to register marriages, the rabbinic committee cited the rejection by the Reform Movement of the applicability, validity, and divine origin of *halakhah*. The committee also cited a decision in 1979 by the Reform Movement in the United States to accept civil divorce as a means to the dissolution of a marriage.[69] The High Court decided it was acceptable for the Minister of Religion to accept the advice of the Chief Rabbi on the matter therefore denying the authority of Reform rabbis to register marriages.[70] An appeal to the High Court was rejected in 1989.[71]

Introducing a Civil Marriage Bill

The Forum for Freedom of Choice in Marriage was established under the umbrella of HEMDAT with the assistance of NIF in 2000. HEMDAT was an organisation promoting freedom of religion in Israel with the Reform Movement, represented by IRAC, and the Conservative Movement as part of the founding organisations. Rabbi Uri Regev was an executive member.[72] Other founding organisations of HEMDAT included the women's organisation Na'amat, the Israel Association of Humanistic Secular Judaism, and Free Israeli representing new immigrants. The role of HEMDAT was to co-ordinate activities around the

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[66] ARZA - Association of Reform Zionists of America, 'Extending Beyond the Synagogue'. Eliad, 'The Work of World Union for Progressive Judaism', 408.
[67] ARZA, 'Extending Beyond the Synagogue'.
[68] The Chief Rabbinate of Israel, 'Decision', [In Hebrew] response to HCJ 47/82 The Movement for Progressive Judaism in Israel v. The Minister for Religious Affairs. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College – Jerusalem.
[69] Ibid.
[70] Section titled 'The Hostile Environment' in Tabory, *Reform Judaism in Israel*.
[71] 'Israeli Court Grants All Converts Full Rights', *The New York Times*, 24 July 1989, accessed 18 October 2014, http://www.nytimes.com/1989/07/25/world/israeli-court-grants-all-converts-full-rights.html.
[72] HEMDAT, last accessed 23 April 2014, http://www.pathbridge.net/host/hemdat/index.htm. Interview number one.

issue of freedom of religion. Twenty organisations joined The Forum. The organisation also enlisted the assistance of high profile figures such as Naomi Chazan.[73]

IRAC played a critical role in organising and carrying out the various activities of the Forum.[74] An educational campaign targeting the media, and a hotline for couples to inquire about alternatives to Orthodox marriage were undertaken. A novel form of protest was the arrangement of a 'Love Boat' wedding offshore. The couple could opt for a civil marriage on a boat, outside Israeli territorial waters, with the option of a Reform or Conservative wedding at the same time.[75] A wedding of this nature was conducted in February 2002.

IRAC also published a guide on behalf of The Forum advising couples in which countries they could receive a civil marriage.[76] Legislation was drafted by IRAC to present to the Knesset to allow for civil and religious marriage, and marriages conducted by Reform, Conservative and Orthodox rabbis. The objective of these activities was to gain public support for the proposed Basic Law: Freedom of Religion referred to in chapter five.

The attempt to introduce a new Basic Law and subsequent efforts to introduce a civil marriage law in the ensuing decade failed.[77] The earlier forms of civil marriage legislation provided for civil marriage and civil divorce under the jurisdiction of the Family Court. In 2004, the attempt to pass a civil marriage bill contributed to a coalition crisis and the demise of Shinui, a political party elected on the promise of religious freedom.[78] In 2006 the Justice

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[73] Matthew Wagner, 'Civil Marriage Raised in Coalition Talks', *The Jerusalem Post*, 23 April 2006, accessed 15 February 2011, http://www.jpost.com/Israel/Article.aspx?id=19755.

[74] Israel Religious Action Center, 'Marriage in Israel', accessed 7 February 2011, http://www.irac.org/IssuePapers.aspx. Israel Religious Action Center, 'Civil Marriage', accessed 31 January 2011, http://www.irac.org/IssuePapers.aspx.

[75] HEMDAT.

[76] Israel Religious Action Center, 'Marriage in Israel'.

[77] Yuval Azoulay, 'Justice Ministry Drafts Civil Marriage law For "Refuseniks",' *Haaretz.com*, 3 July 2006, accessed 10 February 2011, http://www.haaretz.com/news/justice-ministry-drafts-civil-marriage-law-for-refuseniks-1.191997. Gideon Alon, 'Likud Helps to Torpedo Civil Marriage Bill', *Haaretz.com*, 18 July 2002, accessed 10 February 2011, http://www.haaretz.com/print-edition/news/likud-helps-to-torpedo-civil-marriage-bill-1.39340. Shahar Ilan, 'Bar-On Panel Proposes Civil Marriage Under Another Name', *Haaretz.com*, 10 June 2004, accessed 10 February 2011, http://www.haaretz.com/print-edition/news/bar-on-panel-proposes-civil-marriage-under-another-name-1.124770 . Gideon Alon, 'Meretz MKs Table Bill to Allow Civil Marriage', *Haaretz.com*, 21 May 2003, accessed 10 February 2011, http://www.haaretz.com/print-edition/news/meretz-mks-table-bill-to-allow-civil-marriage-1.9470.

[78] Yuval Azoulay, 'Justice Ministry Drafts Civil Marriage law For "Refuseniks".' Aviram Golan, 'Mask of Liberalism has been Removed', *Haaretz.com*, 16 March 2004, accessed 10 February 2011, http://www.haaretz.com/print-edition/opinion/mask-of-liberalism-has-been-removed-1.116921. Shahar Ilan, 'Analysis/A Victim of Disengagement', *Haaretz.com*, 29 July 2004, accessed 28 February 2011, http://www.haaretz.com/print-edition/news/analysis-a-victim-of-disengagement-1.129884.

Ministry was instructed to draft a civil marriage bill specifically to assist the non-Jewish Russian immigrants. The instructions from the Justice Minister Haim Ramon specified the bill should not provide civil marriage for those *halakhically* excluded from marriage, or those people who chose to avoid a religious marriage.

The Forum was active until 2007 when it ceased activities for lack of financial support. In 2009, NIF requested IRAC to restart the coalition in response to the introduction to the Knesset of the *Brit Hazogiut* law, known in English as the Civil Marriage Bill 2010.[79] The Bill permitted people of no religion to marry each other. It was passed in the Knesset in March 2010. The Bill was criticised by the Reform Movement and other sectors in society for its limited scope. In practice the Bill gave more authority to the Chief Rabbinate. Those opposed to the limited civil marriage bill argued it would lead to the development of a new form of minority in Israel.[80] Effectively the bill strengthened the existing marriage laws by its application to those without a religion only. It did not assist the Jewish person who wished to marry a non-Jew, or interfaith couples, nor did it confer any rights for marriage by Reform or Conservative rabbis.[81]

Particularly outspoken against the law was the Reform Movement. Gilad Kariv enunciated the problems with the civil marriage bill in an article published in the Israeli newspaper *Yediot Ahronot*.[82] The Bill would assist only a small proportion of the estimated 300,000 Russian immigrants classified as non-Jewish. Drawing on numbers of marriages conducted abroad by Israeli citizens, he concluded less than 4 percent of the 1219 couples who married abroad between 2000 and 2005 would qualify. Nearly 90 percent the non-Jewish Russian immigrants chose to marry someone recognised as Jewish.

Secondly, Kariv argued, the law would instigate a 'black list', a legal quarantine, identifying couples who could only be married under the new law. This discrimination would occur even though these people qualified to enter the country under the Law of Return because they had

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[79] Interview number one.

[80] Nathan Jeffay, 'A (Limited) Promise of Marriage in Israel', *The Jewish Daily Forward*, 13 November 2008, accessed 8 February 2011, http://www.forward.com/articles/14564/. Amnon Meranda, 'Meretz MK: Pared Down Civil Marriage Bill "Political Bluff",' *Ynet*, 9 March 2010, accessed 25 January 2011, http://www.ynetnews.com/articles/0,7340,L-3859956,00.html.

[81] Irit Rosenblum, 'Exposing the "Partnership Covenant for Religionless",' *The Jerusalem Post*, 22 November 2010, accessed 25 February 2011, http://www.jpost.com/Opinion/Op-EdContributors/Article.aspx?id=196363.

[82] Gilad Kariv, 'Duped by the Civil Marriage Bill', *Israel Religious Action Center*, 20 July 2009, accessed 31 January 2010, http://www.irac.org/PublicPolicy.aspx.

a Jewish father or grandparent but did not have a Jewish mother. Furthermore, couples married through the *Brit Hazogiut* law would have to wait eighteen months before qualifying for inheritance, adoption or naturalization.[83]

Kariv pointed out the *Brit Hazogiut* Law required people to seek affirmation from the Chief Rabbinate to prove they were not Jewish and of no religion.[84] The registrar was instructed to make a public announcement of the couple's intent to marry as well as sending the request to each of the religious courts of each faith; Jewish, Christian, Muslim and Druze. If either party was found to belong to one of the religions the application was to be rejected. Members of the public were given the right to lodge an objection to the marriage with the registrar.[85]

By creating a new class of people confined to a non-religious status the Civil Marriage Bill added to the hierarchical and stratified nature of society in Israel. Limited civil marriage enforced by religious authorities reinforced the boundaries of exclusion limiting the equality of citizens. The conventional understanding of citizenship implied entitlement in return for contribution to the state, commonly through military service or financial contribution as tax-payers. However, fulfilment of this contract did not automatically ensure equality in Israel.[86] A person may have fulfilled the citizenship contract by the usual means of military service or paying taxes, but such contributions did not guarantee inclusion much less equality. Being a good, loyal citizen did not guarantee full citizenship rights.[87]

Reconsideration of Reform Policy

At the request of the Reform Rabbinic Council MARAM, IRAC prepared a position paper on the legal consequences of not engaging in a civil marriage in addition to a Reform marriage. In such cases couples were recognised as common law couples. The paper was presented to MARAM in July 2008.[88] The report compared the rights of common law couples to those of

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[83] Ibid.
[84] Ibid. Irit Rosenblum, 'Exposing the "Partnership Covenant for Religionless".'
[85] Dan Izenberg, 'Knesset Committee Approves Civil Marriage Bill for Final Reading', *The Jerusalem Post*, 9 March 2010, accessed 25 January 2011, http://www.jpost.com/Israel/Article.aspx?id=170554.
[86] Guy Ben-Porat and Bryan S. Turner, 'Contemporary Dilemmas of Israeli Citizenship', *Citizenship Studies* 12, no. 3 (2008). Israel Religious Action Center, 'Burial in Israel', accessed 7 February 2011, http://www.irac.org/IssuePapers.aspx.
[87] Ben-Porat, *Between State and Synagogue*, 108-111.
[88] Israel Religious Action Center, 'Civil Marriage'.

married couples, and the implications in the event of divorce as well as implications for religious marriage.

Whereas couples married in a civil ceremony were considered not married by the Rabbinate, couples participating in a Reform marriage were considered religiously married and may be required to undertake a religious divorce before an Orthodox *beit din*. The risk was considered low because of the desire of the rabbinic courts not to give the impression of recognising Reform marriages or creating a situation where children were designated as *mamzerim*. It was more likely the Orthodox rabbis would warn against a Reform marriage in the first place.[89] Where one spouse was a Reform convert, and therefore not recognised as *halakhically* Jewish, it was necessary for the divorce to take place in the Family Court.

In order to prevent complications, the report to MARAM recommended the creation of a mechanism to oblige couples to undergo divorce proceedings through the Reform Movement.[90] The recommendation was for the Movement to have a contractual arrangement with the couple to require a religious divorce through the Reform Movement. However, a contract was not a complete solution as it would be difficult to enforce. A lesser known risk for the Reform Movement was the potential for private marriages to be considered a criminal offence, on grounds of being harmful to the public. Although the number of alternative wedding ceremonies grew in Israel, the position paper noted no complaints or legal action was taken in this period. Days before the paper was presented, legislation was passed removing the relevant clause of 'harm to the public' from the Penal Code.[91]

The report also examined other complications arising from a couple married in a Reform ceremony living as a common law couple. One complication was the need to provide proof of the relationship to authorities at various times. Three elements were needed to prove the establishment of family life; the existence of marital relations, an economic foundation to the relationship, and an emotional foundation.[92] A common law couple could not jointly adopt children as this entitlement was available only to married couples. In relation to pension rights it was determined the term 'wife' also applied to a common law wife inferring her with the same entitlements as a married woman.

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[89] Israel Religious Action Center, 'Leading a Reform Marriage Ceremony without a Civil Marriage'.
[90] Ibid.
[91] Ibid.
[92] Ibid.

Other matters related to separation. Liabilities in the event of dissolution of the relationship could be bridged by an agreement between the couple, for example, ensuring child support and arrangements for the division of property. The crime of bigamy did not apply to a common law couple. A person still legally married could live in a common law relationship without being subject to any penalty.[93] The policy of the Reform Movement to require couples to undertake a civil marriage was being reviewed because Family Law in Israel is dynamic and constantly changing. The concern of the Reform rabbis was for people to accept marriage within the Reform Movement as a serious commitment, equivalent to a civil of Orthodox religious marriage.

Campaigning for Civil Marriage

For the sixteenth time IRAC attempted to bring legislation to the Knesset in 2011 to introduce civil marriage.[94] Each time IRAC drafted the legislation for a Knesset Member to table. The majority of these attempts, eleven in total, were brought to the Knesset between the years 2000 and 2011.[95] The last attempt in 2011 was different to earlier ones as it was accompanied by an organised campaign to create public pressure. Fifty-seven Members of the Knesset from a total of one hundred and twenty members voted on the Bill, seventeen in favour and forty against.

The vote was regarded by IRAC as a modest success because previously the number of people voting in favour of a Civil Marriage Bill varied between four and nine Members. The goals for the campaign were to increase the number of Members attending the session to vote, for Members to make a commitment of support, and for Members to follow up on their commitment.[96] IRAC published information in the media regarding which Members committed themselves to attend the vote, which Members of the Knesset voted, and how they voted. Publication of this information was used to pressure Members to put aside their fear of showing support for civil marriage.

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[93] Ibid. Westreich and Shifman, 'A Civil Legal Framework for Marriage and Divorce in Israel', 34.
[94] Interview number five.
[95] Ibid.
[96] Ibid.

The details of the Civil Marriage Bill 2011 reflected the policies of the Reform Movement on the matter.[97] The objective of the Bill was to expand the options for a religious marriage to allow for non-Orthodox marriages. An internal memo discussing the Bill stated, 'The goal of proposing this law is to expand the possibilities for recognised methods of religious marriage by the State in a way that recognises pluralism in Judaism and other religions.'[98]

For the purpose of the Bill a religious community was defined as one with a framework for both performing marriages and dissolving marriages. Couples would be given the option of receiving a religious divorce in a ceremony conducted in the same community where the marriage was performed. At the same time the couple retained the right to divorce by a different method ensured by a written agreement to this effect. However, the preference of the Reform Movement was for divorce to take place through the same religious community as the marriage. Civil divorce would be available to all couples regardless of the religious community where the wedding took place.

The Civil Marriage Bill 2011 attempted to introduce two new legal forms of marriage, non-Orthodox marriages and civil marriages.[99] Civil marriage was proposed by IRAC as a parallel framework to religious marriage choices. A new authority to govern civil marriage was recommended.[100] The duties of the civil marriage authority were specified as appointing marriage celebrants, and to establish the conditions for such appointments. It was also necessary, according to the IRAC proposal, to create a body to supervise the civil marriage authority. It was recommended for the Family Courts to deal with issues related to civil marriage so as to prevent couples unwittingly being subjected to the religious courts. The Bill emphasised choice in marriage whether it was religious or civil. The status of civil divorce in the legal sense was elevated to the default method as opposed to the existing situation where Orthodox religious divorce was the default.

Following the passage of the *Brit Hazogiut* Law 2010, IRAC participated in a conference on civil marriage led by Nitzan Horowitz, Chair of the Knesset Lobby for Equality and

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[97] Israel Religious Action Center, 'The Forum for Free Choice in Marriage's [sic] Aspirations to Propose Legislation on Marriage and Divorce', memo, Computer data base of the Israel Religious Action Center.
[98] Ibid.
[99] Interview number one.
[100] Israel Religious Action Center, 'The Forum for Free Choice in Marriage's [sic] Aspirations '.

Pluralism and a member of the Meretz party.[101] The conference was attended by representatives of all organisations belonging to the Forum for Freedom of Choice in Marriage. Recently joined members of the Forum representing Orthodox women and the Arab sector also participated. Orthodox women were represented by Mavoi Satum, an organisation working with the problems of receiving an Orthodox divorce, and the Orthodox feminist organisation Kolech.

The representatives of the Arab sector discussed how the lack of civil marriage affected non-Jewish citizens. Other topics discussed were the problems experienced by *agunot*, how civil marriage would increase the number of couples choosing a Reform or Conservative wedding, and the harm experienced by the gay community. The main issue discussed at the conference was the problems of immigrants from the Former Soviet Union not qualified to marry in the Orthodox system.[102] Highlighting the impact of the marriage laws on different sectors of the population emphasised the denial of the constitutional right of people to marry in the country in which they lived.[103]

To accompany the introduction of the Civil Marriage Bill into the Knesset, IRAC launched a media campaign in April 2011 using the slogan 'one frame does not fit all'.[104] Advertisements were placed in the online newspaper *Ynet*. A YouTube video was released in Hebrew, then a few days later in English, depicting several couples trying to fit into one single frame of rabbinic marriage. The still picture below is a sample scene from the video. The video featured Israeli celebrities and a combination of gay and heterosexual couples. In June the same year IRAC organised a demonstration in the centre of Jerusalem. A frame was set up like the one in the video showing couples trying to fit into the frame.[105]

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[101] Israel Religious Action Center, 'Knesset Conferences', accessed 30April 2014, http://www.irac.org/PublicPolicy.aspx. Knesset, accessed 2 May 2014, http://www.knesset.gov.il/mk/eng/mk_eng.asp?mk_individual_id_t=843.
[102] Interview number one. Israel Relgious Action Center, 'Knesset Conferences'.
[103] Interview number one.
[104] Israel Relgious Action Center, 'Fieldwork', accessed 30April 2014, http://www.irac.org/PublicPolicy.aspx.
[105] Ibid.

Figure 1: Still Picture Promoting Civil Marriage
Source: Hiddush.

A second conference was held in the Knesset in July to coincide with voting for the Civil Marriage Bill 2011. This conference concentrated on Knesset members supporting the Bill. Participants were asked to come dressed as brides and grooms. IRAC presented data on the number of marriages overseas, the duty of the government to legislate to allow civil marriage, and the forthcoming petition to be presented to the Supreme Court by IRAC.[106] The petition filed in Supreme Court in September 2011 sought to induce the Court to call on the government to legislate appropriately for civil marriage. Central to the argument in the petition was the case of the estimated 300,000 immigrants from the Former Soviet Union considered not Jewish by the rabbinate because the mother was not Jewish.[107]

The petition argued the level of abuse to human rights in this area had increased since the founding of the State because of the large numbers of Soviet Jews affected. However, as with the case of Rabbi Miri Gold in chapter five, Atara Kenigsberg above, and gender segregation discussed in the next chapter, the Supreme Court was reluctant to become involved. The Court recommended IRAC withdraw its petition referring the matter back to the Knesset.[108]

Despite the lack of success in introducing a civil marriage law, the issue is one which IRAC was determined to keep pursuing. Although civil marriage was not high on the public agenda, the perception was more public attention was focused on the Orthodox monopoly in relation

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[106] Interview number one.
[107] Israel Religious Action Center, 'IRAC's Legal Petition to Initiate Civil Marriage in Israel', memo. Computer data base of the Israel Religious Action Center.
[108] Israel Religious Action Center, 'Great Expectations', The Pluralist email distribution list, 6 December 2011.

to marriage.[109] IRAC concluded more discussion about civil marriage was taking place in the media and among Members of the Knesset. All this led to the belief that the time would come when civil marriage would be introduced.

Civil marriage was more likely to be introduced than legalisation of Reform and Conservative marriages. Non-Orthodox marriage was considered far more problematic according to the Orthodox rabbis because non-Orthodox marriages, as indicated above, were recognised as religious in nature. *Halakhically* it could be argued civil marriage was not really a marriage at all so it was easier to deal with in the case of dissolution of the marriage and the status of children. Furthermore, some Orthodox rabbis had come to advocate for civil marriage as a solution for non-religious citizens.[110]

Summary

The campaign to introduce civil marriage into Israel displayed the problems encountered in integrating disparate Jewish communities into the developing state. In the Diaspora each community was able to formulate religious practice as it saw fit, or relevant to the environment and historical context in which they were located. In the new state of Israel there was no room made available for different interpretations of religious law when it came to the application of marriage and divorce procedures. The introduction of civil marriage became a prominent issue since the 1980s for similar reasons to other issues of religion and state.

In part, the immigration from the Former Soviet Union demanded alternative paths to marriage to cater for the needs of immigrants with no religious status, or recognised as Jewish under the Law of Return but who were not recognised by the religious authorities. Secondly, the dissatisfaction of secular Israelis with the demands placed by religious authorities in relation to *halakhic* marriage led some secular Israeli Jews to pursue alternatives. The radicalisation of the rabbinate exposed in the next chapter on gender segregation on public buses led religious Zionists to campaign for changes to the marriage laws in order to make religious marriage more appealing to Israeli Jews.

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[109] Interview number twelve.
[110] Interview numbers one and twelve.

The turn of events was fortuitous for IRAC and its parent body the Reform Movement. The Reform Movement readily adopted the civil marriage path as a means to recognition for the Reform Movement itself. Publicly and in practical terms, the campaign for civil marriage enabled IRAC to present a platform of interest which went beyond the Movement itself. The issue of marriage moved into a broad based one presented as in the interests of Israeli citizens in general. In terms of policy, civil marriage presented an excellent platform to push forward the importance of liberal democracy as a premier value. Israel was defined as the Jewish state, however, the Jewish state was one which needed to be pluralistic, allowing scope for expressions of Jewish identity in personal status dictated by personal choice, not by an external religious authority.

IRAC led the campaign to challenge the religious marriage only laws. Nevertheless, the introduction of civil marriage did not become prominent on the political agenda in the minds of the public. Other matters affecting Israeli citizens rated more highly. For politicians the desire to maintain the support of the ultra-Orthodox parties as a means to hold onto political power was more pressing than addressing the public need for civil marriage.[111] What appears to outsiders as the *status quo* being unchanged because of failure to change the law belies the true nature of the trend in this area. Ever practical, Israelis have found ways to circumvent the state sanctioned marriage laws. IRAC intends to persist in maintaining the pressure for civil marriage to be introduced in the firm belief that civil marriage will in time be passed into law.

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[111] Sezgin, 'The Israeli Millet System', 649.

Chapter 8 - Gender Segregation in Public Spaces

During the course of 2011 the issue of gender segregation in public spaces in Israel became more prominent in the minds of Israeli citizens. Prior to that point the issue gained widespread interest among Diaspora communities, particularly in the United States. As with the case of Miri Gold, IRAC highly promoted the campaign against gender segregation on public buses in the Diaspora. IRAC became involved in 2001 after receiving complaints by women of physical or verbal abuse when not conforming to the segregation or modesty rules on the *mehadrin* buses.[1] The term *mehadrin* meaning 'extra kosher' was used to imply the service was provided strictly in accordance with Jewish law. The bus lines required adherence to strict separation of men and women: women had to board the bus at the back and sit only at the back, and men boarded the bus from the front and sit in the front. Women were also expected to conform to strict modesty rules in their attire; wear long skirts and long sleeves, no pants, and no low cut collars.

In 2007, IRAC submitted a petition to the High Court on behalf of five women with the Ministry of Transport, Egged and Dan bus companies as the defendants. The lead plaintiff was the internationally known author Naomi Ragen. Ragen was born in New York into an Orthodox Jewish family and has lived in Jerusalem since 1971. Gender issues in the Orthodox community are a recurring theme in her novels and plays.[2] In January 2011 the Court handed down a decision declaring forced segregation on public buses was illegal, but permitted passengers to board the bus from the back door in order to allow voluntary segregation. In doing so the judges sought to balance the rights of the religiously observant and the rights of female customers of the bus services to fundamental rights of freedom, equality and dignity.[3]

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[1] Israel Religious Action Center, 'Fighting Gender Segregation on Public Buses', accessed 19 December 2010, http://www.irac.org/LegalWork.aspx.

[2] Naomi Ragen blog, 'About Naomi', accessed 6 April 2015, http://www.naomiragen.com/about-naomi/. Ragen has also been the defendant in charges of plagiarism by authors Sarah Shapiro, Michal Tal and Sudi Rosengarten. Maya Sela, 'Jerusalem Court Finds Author Naomi Ragen Quilty of Plagiarism', *Haaretz.com*, 12 December 2011, accessed 6 April 2015, http://www.haaretz.com/print-edition/news/jerusalem-court-finds-author-naomi-ragen-guilty-of-plagiarism-1.400891#article_comments. Maya Sela, 'Writer Naomi Ragen Agrees to Cut Sections from Novel, Resolving Long-Running Plagiarism Suit', *Haaretz.com*, 9 November 2013, accessed 6 April 2015, http://www.haaretz.com/print-edition/news/jerusalem-court-finds-author-naomi-ragen-guilty-of-plagiarism-1.400891#article_comments. Zvi Harel, 'Author Naomi Ragen Loses Plagiarism Suit', *Israel Hayom*, 14 November 2014, accessed 6 April 2015, http://www.israelhayom.com/site/newsletter_article.php?id=21449.

[3] HCJ 746/07 Naomi Ragen v. The Ministry of Transportation, [In Hebrew] (5 January 2011).

Arguments for and against bus segregation were based on religious arguments and multicultural arguments for group rights. However, it was the fundamental rights of human dignity and freedom associated with the democratic character of the country that directed the Court in its deliberations. As time passed, it became clear significant numbers of ultra-Orthodox women were opposed to the segregation, but found it difficult to voice their opinions in public. The highly successful campaign against gender segregation on public buses forced the public and politicians to re-examine the role of religion, in particular the influence of the ultra-Orthodox interpretation in the context of how people chose to relate to and practice Judaism.

Development of Gender Segregation on Buses

During the 1990s members of the ultra-Orthodox sector began making requests for public transport services compatible with what they claimed was the character of their community. In response, a committee was convened by the Ministry of Transport to examine ways to increase public transport usage among the ultra-Orthodox population, appropriately called 'The Committee to Examine Increasing the Use of Public Transport Among the Haredi Sector'. The Committee was led by the general manager of the Ministry of Transportation Nachum Langenthal.[4]

Of utmost importance to the ultra-Orthodox community was the need to uphold the custom of no contact or touching between men and women, although the degree to which this prohibition was practiced varied between ultra-Orthodox sects. The request for men to board from the front and women from the back was made as a possible solution to avoid incidental contact. The modesty protocol required men not to glance at women, so placing women at the back of the bus was regarded as a solution to prevent incidental glances. The Langenthal Committee proposed the arrangement as a voluntary one only, with a recommendation to install ticket machines at the back door to facilitate the arrangement.[5]

Another concern raised by the ultra-Orthodox community regarding the transport services was the radio and music broadcasts, a common feature on bus services. Some members of the ultra-Orthodox objected the broadcasts were 'not to their taste'. The Langenthal Committee

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[4] Report, *Committee to Investigate Public Transport Lines for Use by the Haredi Sector*, [In Hebrew] (Jerusalem: Ministry of Transport, 2009).
[5] Ibid.

228

recommended drivers not turn on radios on the *mehadrin* lines so as to avoid controversy among passengers. The Committee also recommended signs be placed next to the doors of the bus to advise prospective passengers the bus was *'mehadrin'*. This last recommendation was never implemented. During this time private transport services not registered with the public transport authority emerged. These services, which catered to the specific needs of the ultra-Orthodox community, were considered less safe.[6]

The recommendations of the Langenthal Committee report emphasised the suggested segregation was to be voluntary. Passengers on the special services would be allowed to embark and disembark from either the back door or the front door of the bus. If they chose, the ultra-Orthodox public could establish a voluntary system of segregation and persuade the user population to implement the arrangement within a voluntary framework.[7] The Langenthal Committee advised that in keeping with the voluntary arrangement, the driver could not direct women to sit at the back nor men to sit at the front. Nor could the driver refuse passage to anyone entering from whichever door.

The Langenthal Committee recommended that two *mehadrin* lines be established in the ultra-Orthodox neighbourhood of B'nei B'rak. After a few months, *mehadrin* lines were to be established in Jerusalem using information gathered from the operation of the experimental lines in B'nei B'rak. Despite the recommendations the trial was never implemented and more *mehadrin* lines were established and expanded, many of them for intercity services.[8]

Not all ultra-Orthodox sects were in favour of gender segregation. For example, in the town of Modi'in Illit only two bus services from a total of twenty-two were segregated.[9] Populated by Lithuanian Haredim the city rabbi Meir Kessler did not support bus segregation on the grounds married couples should be able to sit together. Moreover, the ultra-Orthodox residents of Modi'in Illit saw no reason to change the past practice of mixed travel. In Beitar Illit the five intra-city bus services provided separate seating but men and women boarded the bus from the front.[10] A report released in 2008 by the Rabbinical Committee on

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[6] Ibid. Interview number four.
[7] Report, *Committee to Investigate Public Transport Lines*, 6. Halperin-Kaddari, 'Women, Religion and Multiculturalism in Israel', 363.
[8] Report, *Committee to Investigate Public Transport Lines*.
[9] Shahar Ilan, 'Hiddush Report on Sex-segregated Buses', *Hiddush*, March 2010, accessed 11 April 2011, http://hiddush.org/Default.aspx, 8.
[10] Ibid.

Transportation showed that on thirty-two out of a total of fifty-two *mehadrin* services women boarded from the back of the bus. On the other twenty lines women boarded from the same door as the men, from the front, and then moved to the back of the bus.[11]

The Ministry of Transport Committee itself recognised the diversity of opinions in the ultra-Orthodox community.[12] Those who identified themselves as ultra-Orthodox in their petitions to the Committee, but disagreed with the segregation, asked for their anonymity to be protected. Accordingly, opponents of segregation declined to appear before the Committee in person. The most significant objection to the segregation was the desire for the family to be able to sit together. Other considerations were the safety of children running between parents on the bus, and trying to pay the driver. Another frequently mentioned objection to the segregation was the observation that the practice was an invented tradition, a newly introduced custom of gender segregation in public spaces.[13]

In 2010 there were approximately fifty public bus services designated as *mehadrin*. It represented a small percentage of the total public transport system but became symbolic of the tensions between the ultra-Orthodox community and the rest of the population. The high birth rate of the ultra-Orthodox community was increasingly bringing them into avenues of interaction with the Israeli public in general, creating an increasing number of areas of friction. Between 1990 and 2008 the community grew from three percent to nine percent of the Jewish population.[14] As discussed in chapter four, the ultra-Orthodox population was projected to keep growing as a proportion of the population. New neighbourhoods of ultra-Orthodox communities were established throughout Israel outside the traditional areas of B'nei B'rak and Jerusalem spurred on by the search for affordable housing.[15] The pattern of intercity bus lines that were established reflected this demographic change.

Mehadrin bus services were established between B'nei B'rak, Petah Tikvah (near Tel Aviv), Ashdod and Beitar Illit, located near the Green Line, and as far north as Haifa, Tiberias, Safed and Netanya, and in various cities in the south of the country.[16] In general, the Mehadrin lines were concentrated in areas with a large ultra-Orthodox population; a

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[11] Shahar Ilan, 'Hiddush Report on Sex-segregated Buses', 7-8.
[12] Report, *Committee to Investigate Public Transport Lines*.
[13] Ibid.,
[14] Rebhun and Malach, *Demographic Trends in Israel*, 27.
[15] Interview number four.
[16] Shahar Ilan, 'Hiddush Report on Sex-segregated Buses', 5.

population less likely to own a car and more likely to rely on public transport. The dispute over the introduction of gender segregated buses encompassed a number of matters apart from the direct issue of the status of women.

One of the complaints made against the segregated bus services was the bus lines served both the ultra-Orthodox population and the rest of the population. Often no alternative service was provided for those preferring not to use the segregated service.[17] In some cases where an alternative route was provided the trip may have been a longer one, or required changing buses twice, using three different buses as opposed to one bus only to arrive at the same destination. At the time the Langenthal Committee was convened the Ministry of Transportation was also revising pricing policies in an attempt to increase competition in the public transport system. The lower cost of *mehadrin* bus services was part of the plan to increase usage among the ultra-Orthodox community.[18] Critics of the fare structure regarded it as disadvantageous to all other public transport users.

At the direction of the High Court a second committee was established by the Ministry of Transport in 2008 to investigate the provision of public transport services to the ultra-Orthodox sector. The second committee, 'Committee to Investigate Public Transport Lines for Use by the Haredi Sector', found many ultra-Orthodox passengers using the service did not understand the voluntary aspect of the service. They believed the service to be specifically for the ultra-Orthodox community and that all passengers were obligated to conform to the segregation and modesty rules.[19] In reality though, the *mehadrin* bus system remained a public service available to all who wished to use the service. The services were operated by private bus companies heavily subsidized by the state under licence from the transport authority.

The Campaign against Bus Segregation

Soon after the gender-segregated buses were introduced, the Israel Women's Network petitioned the High Court arguing the policy discriminated against women. Their argument

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[17] Ibid. Report, *Committee to Investigate Public Transport Lines*.
[18] Report, *Committee to Investigate Public Transport Lines*.
[19] Ibid., 38.

rested on the precedence of *Brown v. Board of Education of Topeka* in the United States.[20] In this case, a group of black parents argued for the right of their children to be educated in mixed schools, alongside white children rather than the norm at the time of children being educated in racially segregated schools. In 1954 the United States Supreme Court decided segregated schooling did not provide black children with equality of educational opportunities to which they were entitled.[21] The Israeli Supreme Court denied the application of the Israel Women's Network on the grounds the gender segregation on buses was supported by the religious community and was aimed at that sector alone, the acceptance was voluntary, and there were no complaints. As the struggle against gender segregation on buses grew under the stewardship of IRAC, the analogy to the civil rights movement in the United States became a prominent feature of the campaign.

Complaints against the *mehadrin* bus services grew, largely from religious and secular women outside the ultra-Orthodox community in relation to the coercive manner in which the segregation came to be enforced. Furthermore, 'modesty' guards appeared on the buses. Some ultra-Orthodox men claimed they were responsible for ensuring modesty dress codes and segregation were enforced. IRAC heard reports from women about being forced off the bus, or subjected to physical or verbal abuse when it was deemed they were not appropriately dressed, or sat towards the front of the bus. Often the buses were not well marked as *mehadrin.*

Repeated requests by IRAC to the Ministry of Transportation to stop the discriminatory practice towards women met with no response. The petition submitted by IRAC to the High Court on 24 January 2007 requested the provision of alternative services to the gender segregated ones, and for the authorities to ensure safe passage for female clients.[22] In response to the petition, the Court instructed the Ministry of Transportation in January 2008 to form a committee to investigate the *mehadrin* service, called the 'Committee to Investigate Public Transport Lines for Use by the Haredi Sector'. Initially the Committee comprised only men, until IRAC filed a motion for women to be included. Consequently three women were added to the invetigative committee.[23]

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[20] Halperin-Kaddari, 'Women, Religion and Multiculturalism in Israel', 362-364.
[21] Brown v. Board of Education, 347 U.S. 483 (1954).
[22] Ricky Shapira-Rosenberg et al., 'Excluded, for God's Sake: Gender Segregation in Public Space in Israel' (Jerusalem: Israel Religious Action Center, 2010), 11.
[23] Israel Religious Action Center, 'Fighting Gender Segregation on Public Buses'.

When the Ministry of Transport Committee presented its report in October 2009, it concluded neither gender segregation, nor any other form of segregation was acceptable in the public transport system.[24] Even though the service was designed to cater to the needs of a specific population, the service remained a public service, not an asset of any specific community, serving all of the public equally. Men and women would be able to sit wherever they chose. If a woman chose to sit at the front of the bus she could not be prevented from doing so. The use of the term *mehadrin* was forbidden and the previously named *mehadrin* services declared to be no different in any way from 'regular' services.

On the other hand, if other members of the public chose to sit in a segregated manner, then their rights would also be respected and there would be no attempt to prevent them from doing so. Similarly, any passenger should be permitted to embark and disembark from either the back door or the front door on the previously named *mehardin* lines. The use of force, or physical or verbal violence was prohibited.[25] The fare structure would be reviewed so that all fares would be equalized on comparable services. Services designated as *mehadrin* would be cancelled, and a one year trial period was suggested to ensure the new arrangements would be implimented. The Ministry of Transport was to check if the new regulations were enforced.

When it was established, the second Transport Committee appealed to the public to present submissions. The Committee heard evidence from represenatives of the ultra-Orthodox communities, Kolech, and IRAC, and invited experts to present evidence on relevant aspects of the investigation. Approximately 7,000 submissions were received of which 6,300 could be accepted as legible or not duplicates. From these submissions 5,038 came from people indentifying themselves as ultra-Orthodox, mostly in favour of the segregation. Only fifty-nine members of this group opposed the arrangment.[26] The large number of submissions by members of the ultra-Orthodox community reflected the ability of their leaders to mobilize the community into action. The Transport Committee noted reports to this effect.[27]

Towards the end of 2009 and early 2010, IRAC reported receiving calls from ultra-Orthodox women, and sometimes men, expressing their opposition to the segregation and thanking the

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[24] Report, *Committee to Investigate Public Transport Lines*, 63-68.
[25] Ibid.
[26] Report, *Committee to Investigate Public Transport Lines*, 18-19.
[27] Ibid, 10.

organisation for campaigning against the segreation.[28] Further evidence of oppostion to segregation on buses within the religious community came from the establishment of a telephone hotline in December 2009 by Kolech. The hotline gave an opportunity for Orthodox and ultra-Orthodox women to report and discuss segregation and discrimination not only on buses, but also in public places in general. The volunteers staffing the phones themselves were Orthodox and ultra-Orthodox women.[29]

The Transport Committee Report in 2009 failed to bring any change to the gender segregation. The then Minister for Transportation Yisrael Katz did not accept the report of the Committee, but instead announced the segregated service would continue. The only change to which he conceded was the instigation of signs to advise the arrangement was voluntary. The Ministry of Transport failed to monitor the *mehadrin* lines as recommended by the Transport Committee.

IRAC enlisted other organisations to participate in riding on buses to monitor the extent of coercion.[30] These organisations included the Conservative Movement in Israel, Noar Telem (the youth movement of the Reform Movement in Israel), Kolech, Jerusalemites, The Faithful of Torah and Labour, Free Israel and Meretz. Between August and October 2010, volunteers travelled on 128 trips. Complaints were received in relation to 31 trips 'including cases when women were prevented from boarding by the front door or from sitting in the front section of the bus. Many women experienced harassment and serious threats from other passengers, sometimes supported by the driver.'[31]

It was only after the final judgement delivered on 6 January 2011 that the recommendations of the Transport Committee report began to be implimented.[32] In drawing attention to how unacceptable it was for there to be violence against women, or any attempt to force women to sit in designated seats or dress in a proscribed manner, Judge Elyakim Rubinstein drew attention to two incidents of violence presented by witnesses the Court.[33] One woman reported that when she embarked on the bus it was completely empty so she chose a seat near

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[28] Interview number fourteen.

[29] Ibid. New Israel Fund, 'Kolech Launches Hotline on Gender Segregation', 15 December 2009, accessed 24 April 2011, http://www.nif.org/issue-areas/stories/kolech-launches-hotline-on.html.

[30] Interview numbers five and six. Shapira-Rosenberg et al., 'Excluded, for God's Sake', 12.

[31] Ibid.

[32] Interview number four.

[33] HCJ 746/07 Naomi Ragen v. The Ministry of Transportation, 13.

the front of the bus. As the journey progressed the bus began to fill. Suddenly a few ultra-Orthodox men demanded she move to the back. She replied there was no room available at the back of the bus. The men insulted her ceaselessly and threatened her with physical assault.

A second woman explained how she sat at the back of the bus knowing this was what was expected.[34] Hearing a commotion at the front of the bus she rang her male partner who was sitting near the front. He explained some male passengers were complaining to the driver that she was dressed immodestly. She was wearing a long sleeved shirt and a skirt that went to just above the knees. The bus driver demanded she disembark from the bus, even though it was night time, so as to avoid problems. It was only after she was lent a shirt to cover her knees that the commotion abated. The driver defended his action as the policy of the Egged bus company for modest attire to be worn.

Although the High Court and the Transport Committee mandated the segregation could not be enforced the implementation was not assured. Despite the fact that the service was supposed to be voluntary from inception, there were numerous complaints of coercion to force women to sit at the back, or objections when women were deemed to be dressed immodestly. Many students from the Hebrew University boarded buses unaware of their *mehadrin* designation. One female student phoned IRAC to ask what could be done.[35]

Together with the field officer from IRAC they established a group called *tofsot makom*, 'Take a Seat'. Using Facebook, mailing lists and fliers, the group recruited volunteers to monitor buses gathering information about abuses experienced. The aim of the 'Take a Seat' campaign was to change attitudes of both the secular and religious public towards gender segregation in all public spaces. The campaign was about much more than where men and women sat on the bus. The volunteers, the field workers and the legal team at IRAC all regarded the issue as part of the broader struggle for the equal rights of women in Israel.

The continuing calls from ultra-Orthodox women voicing their objection to the segregation indicated an extreme faction was imposing the segregation on them. One woman explained the campaign volunteers sitting at the front of the bus caused her to think of herself first, and

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[34] Ibid.
[35] Interview number six.

to dare to say to herself that she was disturbed by the arrangement. Female volunteers boarding the buses and sitting at the front provided an example of women making a choice rather than dogmatically accepting the segregation. IRAC received many calls from women indentifying themselves as ultra-Orthodox reporting where segregation was occuring, and asking IRAC to act against the segregation on their behalf.

The women did not give their names for fear of retribution from within their community, being considered outcasts, and told they were not real *Haredi*. As the women explained, the ultra-Orthodox men felt much freer to 'educate' the women of their own community about conforming to segregation than other women who entered the bus and sat in the front section. The expectation from within the community was the women would sit in the back section. Another example was published in the IRAC email newsletter *The Pluralist* on 3 January 2012.

> A week ago a young Orthodox woman called to thank us for our struggle against segregation. She mentioned that she 'thanked God every day for having Reform people'. She told us that many women in her community oppose segregation but can't express their opposition. She said most rabbis think separation requirements are nonsense, but no one dares to be 'the rabbi who permits mixed seating' for fear of retaliation by extremists. It drives her crazy when people say you should let the ultra-Orthodox 'live their lives' because nobody checks to see what the ultra-Orthodox really want.

It was difficult to determine whether the High Court decision was a factor or not. Perhaps it was an indication of the continued monitoring of the buses by IRAC volunteers had a measure of success in reaching out to the ultra-Orthodox community. What did change was that instead of harrassement by ultra-Orthodox men of women in general, secular and religious, the focus of attention became one of harrassing only the Orthodox women to conform. The volunteers who boarded the buses and sat in the front section could easily be identifed as not belonging to the ultra-Orthodox community by the style of clothing worn. In general since the High Court decision in 2011 volunteers reported less physical or verbal violence than previously.[36]

In several instances ultra-Orthodox women were reported as participating or supporting the enforcement of the segregation arrangement. They argued it was their way of life where the

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[36] Interview number four.

Torah was the law they followed, not the law of the land, and deflected discussion to standards of dress in the secular world and reports of illicit lifestyles of famous people in the media, a world they wished to exclude from their own lives.[37] The ultra-Orthodox women would say things like; 'This is good for us, this is what we want.'[38] Another explanation given was that compliance with the segregation showed respest for the men and the women were obliged to follow the custom.[39] The Transport Committee also heard testimony from ultra-Orthodox women saying the segregation suited their lifestlye and they found it pleasant to sit among women.[40]

Segregation in Other Spheres of Activity

As the number of segregated bus lines grew, so did reports of enforcement of segregation in other public spaces. In November 2010, IRAC published a report, *Excluded, for God's Sake: Gender Segregation in Public Space in Israel* providing an indication of the extent of the spread of gender segregation.[41] The spread of segregation to other spheres of activity was a perrenial concern of those opposed to segregation. The report found two health clinics in Jerusalem and two in an ultra-Orthodox neighbourhood in Ashdod which had introduced a dividing wall or screen to separate the waiting areas between men and women.

In Jerusalem, one of the clinics required women to dress modestly. The Jerusalem clinic also provided male physicians for men and female ones for women. The regulations of the clinic claimed there would be no non-*Haredi* literature, such as newspapers and magazines, in the waiting rooms. The IRAC report argued even though the clinics were located in ultra-Orthodox neighbourhoods the clinics were also used by people who did not belong to the ultra-Orthodox community. Furthermore, members of the ultra-Orthodoxs community also objected to the segregation.

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[37] Tamar Rotem, 'Israel's Real Rosa Parks Takes to the Buses', *Haaretz.com*, 23 December 2011, accessed 1 January 2012, http://www.haaretz.com/weekend/week-s-end/israel-s-real-rosa-parks-takes-to-the-buses-1.403135. 'Yael Navon of Beitar Illit Takes on Bus Gender Separation', *The Yeshiva World News*, 31 October 2011, accessed 4 November 2011, http://www.theyeshivaworld.com/news/General+News/107261/Yael-Navon-Of-Betar-Illit-Takes-On-Bus-Gender-Separation.html.
[38] 'Women Talk about Segregation in Israel', Israel Religious Action Center, January 2012, 17.
[39] Ibid, 26.
[40] Report, *Committee to Investigate Public Transport Lines*, 23.
[41] Shapira-Rosenberg et al., 'Excluded, for God's Sake'.

IRAC argued that if gender segregation was imposed on the public, the state still had a responsiibility to provide services on an egalitarian basis free from discrimination. In order to do so, the state bore a responsibility to run two parallel services whether it was for public transport, health clinics, or other services to enusre the principles of equality and the right to dignity upheld.[42] These rights were ensured in the Basic Law: Human Dignity and Liberty (1992). The petition to the High Court requested that where a *mehadrin* service was in existence, an alternative service should be provided.[43] The recommendation was in keeping with the commitment to the value of religious pluralism; to provide a service that was consistent with the lifestyle of the ultra-Orthodox yet at the same time valuing the rights and needs of the rest of the population.[44] Weighed against this was the fact that running two services in parallel could be a costly exercise which may not be justified when taking financial considerations into account.

In another instance of segregation, Israel Army Radio reported in December 2009 the Poalei Agudat Israel Bank would be holding a convention for men only in accordance with the customs of the ultra-Orthodox community.[45] The subject of the seminar was the management of institutions and organisations, covering topics such as employment, construction and investments. It was decided that as the ones most involved in these occupations men would be the target audience. Yet women in the ultra-Orthodox community dominated as the breadwinners of the family, allowing the husbands to devote their time to Torah study.

The bank responded to criticism by arguing it held many gender segregated seminars to meet the demands of its ultra-Orthodox clientele. It also offered seminars to women on 'health or other subjects'. According to the Army Radio station, several women from the ultra-Orthodox community complained the practice was discriminatory and perpetuated the inferior status of women.[46] The incident highlighted the nature of segregation and the perception of women's roles. The physical segregation extended into public life the norms of women's roles in ultra-Orthodox society in family life defended by religious arguments

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[42] Ibid., 49.
[43] Ibid., 11.
[44] HCJ 746/07 Naomi Ragen v. The Ministry of Transportation, 5.
[45] Shapira-Rosenberg et al., 'Excluded, for God's Sake', 14-15.
[46] The Marker, 'Haredi Women Outraged Over Men-only Business Convention', *Haaretz.com*, 8 December 2011, accessed 26 April 2011, http://www.haaretz.com/print-edition/business/haredi-women-outraged-over-men-only-business-convention-1.2557 . Matthew Wagner, 'Bank Catering to Haredim Holds Men-only Business Conference', *The Jerusalem Post*, 8 December 2009, accessed 26 April 2011, http://www.jpost.com/Israel/Article.aspx?id=162551.

valuing modesty. The content of the seminars mirrored the gendered roles of ultra-Orthodox women as homemakers.[47] The extension of the private homemaker role into public life failed to recognise women as the primary income earners in many ultra-Orthodox homes.

In some instances, investigations of reports of segregation turned out to be as they had seemed. For example, an investigation into a report of the introduction of a 'kosher police station' in Ashdod turned out to be a case of segregation in a community program recruiting volunteers as security guards. An inquiry to the police station revealed the ultra-Orthodox community had imposed restrictions on female members of their community volunteering.[48] Similarly, a report that El Al planned to introduce gender-segregated flights for Passover in 2009 was found to be unsubstantiated. Following contact with the Ministry of Transportation and the Airports Authority it was explained the segregation applied only to charter flights which in this case would be utilized by ultra-Orthodox people.[49] The general public would not be affected by the arrangement.

Public activities designed specifically for the ultra-Orthodox community raised a dilemma. To what extent could the gender segregation into public spaces be banned? If the event was designed specifically for an ultra-Orthodox public, it could be argued the prevention of gender segregation amounted to an interference in the chosen lifestyle of the community. As long as the gender segregation did not impinge on the rights of the rest of the population, banning the segregation altogether may be considered as unreasonable intrusion.

In another case the Jerusalem municipality organised a fair designed mainly for the ultra-Orthodox community about their rights in relation to state authorities. The fair advertised different hours for men and women.[50] IRAC sent a representative to investigate only to find there was no segregation even though the event was advertised as such. When asked, the participants replied the segregation was unnecessary as there was no dancing or other immodest activity taking place. Authorities equated services to the ultra-Orthodox community with segregation regardless of the context or opinions of participants. Decisions were made by a small group of ultra-Orthodox persons not always representative of the views

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[47] Regarding haredi women's roles in family life and particpation in the workforce see Herzog, 'Imagined Communities'.
[48] Shapira-Rosenberg et al., 'Excluded, for God's Sake', 14.
[49] Ibid.
[50] Israel Religious Actoin Center, 'Jerusalem Related Issues and Updates', memo. Computer data base of the Israel Religious Action Center.

of other members of the community. During a meeting organised by the Ministry of Education in 2006, the women were asked to move the back of the hall. The event, organised by the Torah Culture Department, concerned the issue of applying for funding for religious classes. The segregation was imposed despite protest from some of the women and the difficulty they experienced in hearing and participating in the discussion.[51]

Part of the problem was the lack of any government policy, guidelines or criteria in relation to gender segregation in public spaces.[52] The reason for this may be the lack of public awareness of the issue or its extent. Without any counter views or pressure, there was no reason for government authorities not to comply with requests for segregation by the ultra-Orthodox leadership. After many months of lobbying IRAC was able to bring the matter for discussion before the Knesset Committee for the Status of Women in November 2011. The attention of politicians was drawn to the issue by the increasing number of reports in the media of gender segregation and associated physical and verbal abuse.

A particularly contentious issue arose when a group of ultra-Orthodox soldiers left an official defence force event where women were singing.[53] Four of the soldiers were expelled when they refused to return to their unit. As part of their rules of modesty the ultra-Orthodox believed men could not hear a woman sing or hear a woman's voice; nor should a woman should appear before men in public. The incident was controversial given the iconic status of the defence forces in Israeli life. Members of parliament became far more engaged and outspoken, particularly in defence of women's rights to be equal participants in public life. Opponents of gender segregation regarded the exclusion of women from the public arena as part of a patriarchal model which reinforced the inferior status of women. It forced women to be hidden, defined only as an object of sex.

The Legal Aspects

The judges of the High Court concluded the practice of segregation on *mehadrin* bus services was damaging to the principle of equality and to the rights of human dignity and freedom of

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[51] Shapira-Rosenberg et al., 'Excluded, for God's Sake', 21.
[52] Ibid., 8-9.
[53] Amos Harel, 'Religion in the IDF/Army Needs Consistent Policy to Avoid Offending Sensibilities', *Haaretz.com*, 9 September 2011, accessed 6 February 2012, http://www.haaretz.com/print-edition/news/religion-in-the-idf-army-needs-consistent-policy-to-avoid-offending-sensibilities-1.383339 . Kobi Nahshoni, 'Cadet's Dismissed Over Woman's Song', *Ynet*, 9 September 2011, accessed 6 February 2012, http://www.ynetnews.com/articles/0,7340,L-4119877,00.html.

religion and conscience protected by law in Israel.[54] The coercion used to enforce the practice of segregation, the physical and verbal violence experienced by women who did not comply with the segregation or excessive modesty requirements, and the humiliation and harrassment suffered by the women as expressed by the women giving evidence rendered the service illegal.[55] The judges agreed the service was provided for the use of all of the population.

Any attempt to enforce segregation on the buses could be considered a criminal offence. It was incumbent on the Ministry of Transport to adopt the recommendations of its own committee. The judgement was limited to the case of gender segregation on public transport. However, the underlying principle was interpreted by many as applying to segregation in general, that is, that segreation could not be forced onto those who do not wish to participate. The rights of human dignity, equality and freedom took precendence when these rights conflicted with other rights. In this instance, the individual rights prevailed over the group claim in support of a particular lifestyle.

The Court instructed notices be placed in daily newspapers, and newspapers targeted to the ultra-Orthodox community to advise the cancellation of the *mehadrin* services. Signs on buses designating a service as *mehadrin* were now forbidden.[56] Passengers would be allowed to embark and disembark from the back door or the front door and sit where they chose. The bus companies were now required to display signs on buses previously regarded as *mehadrin* advising all passengers they may sit where they chose.

The Egged bus company was also expected to instruct the drivers about protecting the rights of all passengers, and supporting women who wanted to sit at the front of the bus. Most drivers had previously not interfered in the segregation because, as some said, they felt it was none of their concern. The Court instructed the Ministry of Transportation to monitor the previously *mehadrin* services to ensure harrassment or abuse of women was no longer taking place, and to take appropriate steps when it did occur.[57]

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[54] HCJ 746/07 Naomi Ragen v. The Ministry of Transportation.
[55] Ibid. Interview number four.
[56] Ibid. Israel Religious Action Center, 'Main Principles of the Ruling by the High Court for 746/07 "Mehadrin Lines" and the Gender Segregation in Public Transport', [In Hebrew] memo, 6 January 2011. Computer data base of the Israel Religious Action Center.
[57] Ibid.

The legal argument was based primarily on the Basic Law: Human Dignity and Freedom, and the principle of equality. It also drew on the Law for the Prevention of Discrimination in Production, and Entry to Places of Entertainment, and Public Places 5761/2000.[58] The law prohibited discrimination in the provision of goods and services in public areas 'on the grounds of race, religion or religious group, nationality, country of origin, sex, sexual orientation, political opinion or party affiliation, personal status, parenthood, or disability'.[59] The law did grant exemptions under certain circumstances. To receive an exemption the reasons for the segregation had to be justifiable and meet specific criteria. The criteria for exemptions specified were;

> A. Without segregation, a given group will be unable to use the service.
> B. The segregation is justified with reference to the nature of the service.
> C. It must be considered whether the service is a vital one.
> D. It must be ensured that a reasonable alternative exists free of segregation.
> E. The needs of the public injured by segregation must be taken into account.[60]

The law emphasised the principle that discrimination was not permissible in public spaces and venues. The exemptions were intended primarily for cultural or social activities such as swimming pools, banquet halls and entertainment venues. The customs which already existed in specific activities and private spaces, intended for specific groups of people, were recognised as valid, for example, a wedding celebration in a banquet hall. The law was designed to prevent discrimination in public spaces intended for use by all citizens.

Those defending the segregation in public spaces, either on buses or in other areas, sometimes used the exemption clause to argue that without segregation people would not use the service. Rabbi Yehuda Warburg of Yeshiva University in New York went so far as to interpret the law as legitimating segregation.[61] Such a defence could only be substantiated on consideration of the other factors also noted, including whether the service was a vital one, whether reasonable alternatives were available, and whether the segregation offended other members of the public.

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[58] 'Law for the Prevention of Discrimination in Production, and Entry to Places of Entertainment, and Public Places 5761/2000', Section 3A, [In Hebrew] Ministry of Industry, Trade and Labour, accessed 10 March, 2011, http://www.tamas.gov.il/NR/exeres/A4587F25-5F3F-4FBA-8A90-818960801A9E.htm.
[59] Translation taken from Shapira-Rosenberg et al., 'Excluded, for God's Sake', 46.
[60] Shapira-Rosenberg, 'Excluded, for God's Sake', 47.
[61] A. Yehuda Warburg, 'The Practice of Gender Separation in the Ultra-Orthodox Community in Israel: A View from a Liberal Cathedral', *Tradition* 44, no. 1 (2011): 20.

242

In the case of gender segregation on buses it was demonstrated exemptions could not be made as reasonable alternatives were not readily available and significant numbers of women were injured by the practice. Furthermore, when considering attempts to introduce gender segregation into other services, extensive exemptions to the anti-discrimination law would obviate the objective of the law to provide freedom from discrimination. Rather than accept the request for alternative bus services, both The High Court and the Transport Committee decided the enforcement of gender segregation in public spaces was illegal. The lack of voluntary compliance created a situation which discriminated against women and damaged the principles of equality, human dignity and freedom.

At issue was the dilemma that the ultra-Orthodox community was by nature illiberal, concerned with a particular way of life, but demonstrating little or no tolerance for the way of life of the rest of the population. For many years the tolerance appeared to flow in one direction, from the secular majority to the religious community. However, for society to function effectively along democratic principles, the tolerance needed to be reciprocal between the two different sectors of society.

In order to recognise and balance the different cultural practices and norms, limits needed to be placed on the tolerance of activities of any one sector at the expense of others.[62] The judgement was consistent with earlier rulings where a distinction was made between the private and public spheres.[63] Individuals were free to practice their religion according to their preference in private, as they moved out into the public domain the strength of the personal preference declined in as far as they could not force their preference onto others.

The High Court decision allowed for a twelve month period to monitor the implementation of the voluntary regime.[64] The results of the decision were varied. In general, the volunteer riders reported less violence and abuse towards women.[65] The ultra-Orthodox men averted their eyes, or avoided sitting next to a woman sitting at the front of the bus.[66] They may have tried to tell the woman the bus was *mehadrin*, but the reply came back that *mehadrin* buses

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[62] HCJ 746/07 Naomi Ragen v. The Ministry of Transportation, 30-32.
[63] Shapira-Rosenberg et al., 'Excluded, for God's Sake', 39-40.
[64] HCJ 746/07 Naomi Ragen v. The Ministry of Transportation. Interview number four. Israel Religious Action Center, 'Main Principles of the Ruling by the High Court for 746/07 "Mehadrin Lines".'
[65] Interview numbers four and six.
[66] Sarit Hashkes, 'Boarding the "Discrimination" Lines', in Moria Shacham and Amos Oren, 'Women Talk about Segregation in Israel', Israel Religious Action Center, Jerusalem, 2012.

were illegal. The men did not necessarily acknowledge the ruling, but nor did they try to force the women to move.

Although signs were placed on buses to advise men and women could sit where they wanted, the signs were not always effective. The signs were made as stickers often placed at the front of the bus, but within twenty-four hours they would be pulled off.[67] When placed at the front the women did not see the signs because they either boarded from the back, or if they embarked from the front they immediately moved to the back of the bus. On some buses signs were placed inside, above the back door.

IRAC found entry for women by the back door problematic, even under a voluntary arrangement, because the system naturally channelled women to sit at the back of the bus. Even if they wished to do so, it would be difficult for the women to move towards the front. Nevertheless, the Court allowed for people to continue to enter the bus from either door albeit voluntarily. The fact that both the High Court and the Transport Committee came out so strongly in determining that forced segregation on buses was illegal caused IRAC to reconsider its position. The responsibility of the State was to act in the interests of non-discrimination. According to the ruling of the Court even passive acceptance of segregation by the state was unacceptable. IRAC moved from a position of requesting alternative services to one of objection to gender segregation on buses and in public spaces in general. Also contributing to this change in outlook was the concern over widespread demands for gender segregation in general.

In difficult cases of discrimination IRAC assisted women to file complaints with The Ministry of Transport. The anti-discrimination law allowed payment of damages up to the value of NIS 50,000 (approximately $AUD12,500) without needing to prove harm.[68] Several claims were made under the anti-discrimination law on behalf of women who experienced discrimination as a consequence of gender segregation. In one case an ultra-Orthodox woman turned to IRAC for assistance when she was discriminated against when trying to purchase a Rav Kav.

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[67] Interview six.
[68] Ibid.

The Rav Kav introduced in 2011 was a card which could be loaded with credit for passage on public transport. The woman stood in a queue with her husband in order to purchase and have her photo taken for the card as required. When she reached the head of the queue she was told the booth was for men only. She would have to go to another queue a few streets away. She was given legal assistance by IRAC after she rang Kolech to voice her anger at the situation.[69] The co-operation by the women of different streams of Judaism to improve their situation was a remarkable development given how for many decades the non-Orthodox communities were vilified.

The Multicultural and Religious Arguments

Embedded in the arguments surrounding gender segregation was the question of support or otherwise by the ultra-Orthodox women themselves. The women represented in the 2007 petition included both Orthodox and secular women. The case was relatively straightforward according to the judges, in as far as the discussion concerned the enforcement of segregation outward from the ultra-Orthodox community to the general population. Even if the ultra-Orthodox community was of the opinion segregation was a vital principle, it could not be forced onto others who disagreed with it. The issue evolved to also concern the rights of ultra-Orthodox women as much as the rights of the non-ultra-Orthodox public. Central to the religious argument was the question of whether gender segregation was discriminatory.

The religious arguments used to defend gender segregation were an extension into public life of the discourse in relation to women reading from Torah, and the custom of sitting in a partitioned area in the synagogue. The religious reason for the separation was to prevent men being distracted from study. Potential distractions were not limited to a woman's appearance or form of clothing. A woman's voice heard singing in public or addressing an audience was thought to arouse sexual tensions distracting the men from their obligation to study or pray or devote themselves to holy pursuits.[70] Some in the ultra-Orthodox community argued the segregation honoured women rather than demeaned them. The segregation on buses provided

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[69] Interview number four.
[70] Avinoam Rosenak, ' "Dignity of the Congregation" as a Defense Mechanism: A Halakhic Ruling by Rabbi Joseph Messas', *Nashim*, no. 13 (2007). Shapira-Rosenberg et al., 'Excluded, for God's Sake', 30.

women with privacy, and protected their modesty by protecting them from unwanted attention.[71]

Opponents argued the segregation diminished the status of women. The modesty rules treated women as nothing more than sexual objects.[72] The traditional roles assigned to women by the religious argument confined women to the private space of the home preventing them from fully participating in religious and spiritual life.[73] Instead of hiding women and making them invisible in the public space, it was incumbent on men to learn to control their sexual impulses. Moreover, the segregation in public spaces served to maintain a hierarchy of male hegemony over women's subservience. It was also argued the segregation was actually invalid according to the Torah. The Torah gave honour to women and men alike. When two dictums conflicted, providing honour to women or men took priority. By implication the humiliation attested to by women, religious and non-religious, made the segregation unacceptable according to *halakhah*.[74]

On the other hand Alon Harel explained, as a traditional society gender segregation was not considered discriminatory in Judaism.[75] The differing roles assigned to men in spiritual life and women in family life was based on the biological differences between men and women, valuing the dignity of women as well as men. Yet these differing roles could be discriminatory when they led to the exclusion of women from opportunities for 'beneficiary positions', for example, positions of leadership and study of religious texts.

The concept of equality per se was alien to ultra-Orthodox communities.[76] In order to demonstrate whether or not gender segregation was discriminatory, as Harel noted, it was necessray to demonstrate the segregation was harmful to women. Demonstrating the harm was a complex task depending on the varying perceptions of the benefits or otherwise of the

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[71] Warburg, 'The Practice of Gender Separation in the Ultra-Orthodox Community in Israel', 29. Report, *Committee to Investigate Public Transport Lines*, 26.

[72] Shapira-Rosenberg et al., 'Excluded, for God's Sake', 37-38.

[73] Tova Hartman, *Feminism Encounters Traditional Judaism: Resistance and Accommodation* (New Hampshire: Brandeis University Press; University Press of New England, 2007), Ch 3. Tzvia Greenfield, 'Is It Really So Benign? Gender Separation in Ultra Orthdox Bus Lines', *Law & Ethics of Human Rights* 1, no. 1 (2007).

[74] Rosenak, ' "Dignity of the Congregation" as a Defense Mechanism', 186, 199 n.125. Rotem, 'Israel's Real Rosa Parks Takes to the Buses'.

[75] Alon Harel, 'Benign Segregation? A Case Study of the Practice of Gender Separation in Buses in the Ultra-Orthodox Community in Israel', *South African Journal on Human Rights* 20, no. 1 (2004).

[76] Ibid. On the lack of awareness of equality and rights among ultra-Orthodox women see Almog and Perry-Hazan, 'The Ability to Claim and the Opportunity to Imagine'.

segregation, and the social meaning placed on segregation by both the religious community and the public in general. According to this criterion, bus segregation cannot be considered discriminatory in as far as it did not prevent participation in activities carrying beneficial participation. Alternatively, if the underlying social meaning of bus segregation was to reinforce sexist attitudes, then the practice could be deemed discriminatory.[77]

The generally accepted principle among liberal scholars and supporters was that members of a group cannot claim rights for that group at the expense of damage to the rights of members of the group. The principle was formulated specifically with reference to situations where the rights of women conflicted with the demand for recognition of group rights, particularly when the individuals experienced harm.[78] The exclusion of female doctors and professionals prevented each year from speaking at the annual Puah Institute conference on fertility issues was an example of limiting access to a 'beneficiary postion.[79]

The organisers of the Puah conference issued a statement in January 2012 stating the conference was directed to the needs of rabbis and professionals who otherwise would not attend medical conferences because of their modesty standards. The statement pointed out that female doctors and speakers were invited to speak at other seminars organised by the Puah Institute. Participants at the conference were also required to sit in a segregated arrangement. The Israel Medical Association issued a paper barring its members from discriminating against women in medical treament, medical publications and conferences. Most of the doctors cancelled their lectures for the Puah conference.

A suggested solution for public transport in the Israeli context was seating women to the right of the bus and men to the left. This was considered less discriminatory than the arrangement of men at the front and women at the back. IRAC argued the fact the women were required to

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[77] Harel, 'Benign Segregation?', 73, 75.

[78] Susan Moller Okin, 'Is Multiculturalism Bad for Women?', in *Is Multiculturalism Bad for Women?*, ed. Joshua Cohen, Matthew Howard, and Martha Craven Nussbaum (Princeton, New Jersey: Princeton University Press, 1999). Yaacov Ben-Shemesh, 'Law and Internal Cultural Conflicts', *Law & Ethics of Human Rights* 1, no. 1 (2007). Avishai Margalit and Moshe Halbertal, 'Liberalism and the Right to Culture', *Social Research* 71, no. 3 (2004): 536.

[79] Shapira-Rosenberg et al., 'Excluded, for God's Sake', 23. Judy Siegel-Itzkovich, 'Reporter's Notebook: Puah Institute Conference', *The Jerusalem Post*, 12 January 2012, last accessed 8 February 2012, http://www.jpost.com/Health/Article.aspx?id=253263.

sit at the back was an indication of a trend towards the removal of women from public spaces while at the same time reinforcing and restricting their role to the private domain.[80]

The extension of religious precepts from traditionally accepted spaces such as synagogues into the public space in general made the issue contentious. A more pragmatic ruling regarding congestion on public transport was provided in the American context by *halakhic* authority Rabbi Moshe Feinstein (1895-1986). He ruled the unintentional contact between men and women on the subway and on buses was not of a sexual nature, rather 'it is idleness that makes a man prone to lascivious thoughts'.[81] The social meaning placed on the practice of segregation differed between the two sides, elevating the conflict between the two camps.

Comparison to the United States

The canpaign and High Cout petition against gender segregation used two analogies to the United States to argue the case. Opposition to gender segregation drew comparisons to the campaign for civil rights in the United States. Secondly, the existence of segregated bus services catering to the ultra-Orthodox community in New York. The principle articulated in the decision of *Brown v. Board of Education* was applied. The principle declared separate does not mean equal. It was given more weight in response to the IRAC petition precisely because of the feelings of humiliation and inferiority reported by the petitioners as a result of the physical and verbal abuse used to enforce the segregation.[82]

The analogy to the civil rights movement also drew on the metaphor of Rosa Parks frequently used in reference to women who refused to move to the back of the bus when requested to do so by the driver or the 'modesty' guards.[83] Rosa Parks also merited a reference in the verdict of the High Court in relation to the responsibilities of bus drivers, noting neither drivers nor the public transport operator could dictate to passengers where they could or could not sit on

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[80] Shapira-Rosenberg et al., 'Excluded, for God's Sake', 7.
[81] *Jerusalem Post* Editorial, 'Haredi Prurience off the Track', *The Jerusalem Post*, 25 August 2010, accessed 26 August 2010, http://www.jpost.com/Opinion/Editorials/Article.aspx?id=185971. Shapira-Rosenberg et al., 'Excluded, for God's Sake', 45. Report, *Committee to Investigate Public Transport Lines*, 25-26.
[82] HCJ 746/07 Naomi Ragen v. The Ministry of Transportation, 34-35.
[83] In 1955 Rosa Parks refused to vacate her seat for a white passenger when instructed by the driver of the bus to do so in Montgomery Alabama. Her action instigated the Montgomery Bus Boycott making Parks a symbolic figure in the campaign for civil rights.

the bus.[84] Both analogies underscored the basic principle at stake; the rights of human dignity, freedom of religion and from religion, and equality.

In relation to the second analogy, segregated bus services for ultra-Orthodox clientele have operated for a number of decades in New York. In 1994 a dispute erupted when a secular Jewish woman refused to vacate her seat when the ultra-Orthodox men asked her to move so they could curtain off a section at the back of the bus to conduct afternoon prayers. In an out of court settlement the bus company Monsey Trails agreed not to actively segregate men and women, nor provide facilities for a curtain during prayer times. The bus line had been operating for decades providing a service to a largely ultra-Orthodox clientele. If the passengers voluntarily segregated themselves or erected a curtain for prayer services there would be no reason to prevent them doing so.[85]

Another service operated by The Monroe Bus Corporation service ran between the ultra-Orthodox community in Kiryat Joel and Brooklyn with a curtain hung down a large section of the centre aisle with men sitting on one side and women on the other.[86] Both the Monroe bus service and the Monsey Trail service were privately operated and received government subsidies. The Monroe service may be considered unlawful, but apparently had not received any complaints about the arrangement. In a third case, a bus service operated in between Borough Park and Williamsburg where women were required to sit in the back. The legality of the arrangement was brought into question once the practice was made public. In this case the company did not receive public funding.[87]

The principles in both the American and the Israeli experiences of gender segregation on buses were the same. On the one hand it was unacceptable to force women to sit in designated areas against their will. The question of whether ultra-Orthodox women in the United States agreed with or opposed the arrangement did not appear to have become an

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[84] HCJ 746/07 Naomi Ragen v. The Ministry of Transportation, 12.

[85] Joseph Berger, 'Discrimination or Discourtesy? A Commuter Won't Leave Her Bus Seat for Hasidic Prayer Meeting', *The New York Times*, 9 September 1994. Joseph Berger, 'Commuters Reach Settlement over Jewish Prayers on Bus, *The New York Times*, 14 March 1995.

[86] Sasha Chavkin and Josh Nathan-Kazis, 'Outside New York City, Sexes Separated on State-Funded Bus', *The New York World*, 4 November 2011, accessed 28 January 2012, http://www.thenewyorkworld.com/2011/11/04/outside-new-york-city-sexes-separated-on-state-funded-bus/.

[87] Adam Dickter, 'Segregated Bus Line Tacitly Sanctioned for Decade', *The Jewish Week*, 25 October 2011, accessed 26 October 2011, http://www.thejewishweek.com/news/new_york/segregated_bus_line_tacitly_sanctioned_decades.

issue as in Israel.[88] On the other hand, the principle of religious freedom applied equally to ultra-Orthodox and less religious, traditional or secular people. As long as the arrangement on the New York lines did not offend anyone, there was no reason for prevention of the arrangement or intervention into the right of the community to use segregated bus services in keeping with their religious beliefs.

Yet there were significant differences in the manifestation of the practice in each country. Firstly there was a demographic issue in Israel in as far as the ultra-Orthodox population was growing at a much faster rate than the rest of the Jewish population. As their numbers continued to grow they would inevitably have greater influence on policies and the character of daily life. Secondly, in Israel the gender segregation was cited as a trend towards extremism in sections of the ultra-Orthodox community. The presence of many different factions of ultra-Orthodox putting forward different views highlighted the many variations and frictions among this population seeking to influence the public agenda.

In the United States the segregation was far more confined to specific ultra-Orthodox neighbourhoods. Thirdly, the trend in Israel must be viewed as part of a greater problem of tensions between secular-traditional Israelis and religious Israelis on a range of matters such as army service and government funding, and ideas of what it meant for the country to be a Jewish state. These issues did not exist in the United States for the very reason the majority culture is not Jewish. The ultra-Orthodox in the United States were a relatively far smaller minority than in Israel.

In Israel, the ultra-Orthodox were far more concerned with shaping the state as a Jewish state according to their desire to continue what they believed was the tradition of authentic Judaism. When they were unable to do so, or were hampered in their efforts, they turned their attention to protecting their way of life by secluding themselves from the outside world. In the United States as one of many different cultures the priorities of the ultra-Orthodox changed order.[89] They sought to preserve and protect their community and their way of life

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[88] Jan Feldman provided a detailed argument that women from the Lubavitch sect are honoured and well educated and therefore accept segregation in their community willingly. See Jan L. Feldman, *Lubavitchers as Citizens: A Paradox of Liberal Democracy* (Ithaca: Cornell University Press, 2003).

[89] Samuel C. Heilman, 'Haredim and the Public Square: The Nature of the Social Contract', in *Jewish Polity and American Civil Society: Communal Agencies and Religious Movements in the American Public Sphere*, ed. Jonathan D. Sarna, Robert A. Licht, and Alan Mittleman (Lanham, Maryland: Rowman & Littlefield, 2002). Feldman, *Lubavitchers as Citizens*, Ch 3.

rather than impose their authority on public life. Their interactions with the outside world were to either secure assistance such as public funding for education, or to influence the values of the American community. These values incorporated moral issues such as opposition to abortion or homosexuality, or the promotion a Jewish voice in keeping with their viewpoint.

Minority and Majority Culture

The contrast between the ultra-Orthodox communities in Israel and the United States emphasised the position of ultra-Orthodox Judaism as a minority culture. In Israel the argument in support of bus segregation predicated on the desire to preserve the distinctive way of life of the ultra-Orthodox community, the right of the group to preserve and perpetuate its culture and values, the right to culture. The defence of the cultural rights of the ultra-Orthodox and Arab populations in Israel was presented by Avishai Margalit and Moshe Halbertal.[90]

Margalit and Halbertal attributed three levels to the right to culture: the right of a minority group to practice its culture without interference subject to the principle that no harm was caused to individuals; the right of recognition of the group's culture, and the right to government support in order for the group to flourish.[91] The decision of the High Court in January 2011 indicated there was harm to individual women necessitating the need to set limits on the right to culture of the ultra-Orthodox community. Prevention of injury and protection of the rights of individuals who did not choose to comply with the segregation and modesty rules took priority. However, the decision did stop short of banning segregation altogether in recognition of the right to culture of the ultra-Orthodox community.

The second two levels also proved to be problematic in claiming special privileges for the ultra-Orthodox community as a minority culture. The principles of the right to culture were intended to extend protection to minority groups so as to preserve and pass on their culture in an environment where there existed a real risk their culture may be lost, subsumed by the dominant surrounding culture of the majority population. In the case of the ultra-Orthodox population there was no risk their culture may be lost or suffer unduly.

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[90] Margalit and Halbertal, 'Liberalism and the Right to Culture'.
[91] Ibid., 536.

The ultra-Orthodox remained a privileged group in Israeli society. They held a privileged position in Israeli society who, along with the Orthodox community, was regarded as the gate-keepers of Jewish identity for the nation.[92] Their representation in successive coalition governments gave them political power far beyond their representation in the community. Moving Israeli society towards pluralism threatened the privileged position of the ultra-Orthodox community but not its existence or way of life. In an authentically pluralist Jewish society they would be equal, no longer privileged.

The high birth rate among the ultra-Orthodox meant this population faced minimal risk of their culture falling into decline. Moreover, the demands for segregation on buses, as noted by the Lithuanian sect, represented new practices rather than preservation of traditional practices, attributable to a radical trend among a section of the ultra-Orthodox population. The increased demands for segregation of women resulted in stricter standards of modesty, not, as claimed, preservation of a traditional way of life.[93] The trend was to some extent a response to the modern world from which it was increasingly difficult for the ultra-Orthodox to seclude themselves.[94]

The depiction of the ultra-Orthodox as a minority culture bore two characteristics, both a minority and a culture. The two features were not synonymous. The term minority related to the dominance within the political culture. The status of a minority related not to the numerical size of the group, as commonly assumed, but to belonging to the dominant group exercising power.[95] 'Minorities are political outsiders whose identities do not fit the criteria defining legitimacy and membership in the political community on whose territory they reside.'[96] The fact that a group may be numerically small may be a contributing factor to its claim for special consideration but not the only factor.

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[92] Gila Stopler, 'Contextualizing Multiculturalism: A Three Dimensional Examination of Multicultural Claims', *Law & Ethics of Human Rights* 1, no. 1 (2007): 324-334. Frances Raday, 'Claiming Equal Religious Personhood: Women of the Wall's Constitutional Saga', in *Religion in the Public Sphere: A Comparative Analysis of German, Israeli, American and International Law*, ed. Winfried Brugger and Michael Mousa Karayanni (Berlin; New York: Springer, 2007), 272.

[93] Gila Stopler, 'Countenancing the Oppression of Women: How Liberals Tolerate Religious and Cultural Practices That Discriminate against Women', *Columbia Journal of Gender and Law* 12, no. 1 (2003): 205.

[94] Interview number four. Report, *Committee to Investigate Public Transport Lines*, 21.

[95] Jennifer Jackson Preece, *Minority Rights: Between Diversity and Community* (Cambridge, United Kingdom; Malden, Massachussettes: Polity Press, 2005), 9-16.

[96] Ibid., 9.

252

As a part of the dominant Jewish culture, religion, ethnicity and linguistic group the ultra-Orthodox also enjoyed a sphere of influence not associated with minority cultures. Indeed, their commitment to preserving Jewish religion garnered the support among other Jews in Israel and the Diaspora who saw value in the role of the ultra-Orthodox ensuring the continuity of Judaism. Their political power derived from participating in parliament and government was further enhanced by their increasing economic power. The large numbers of ultra-Orthodox represented a significant market potential for business people, private and public organisations, as in the case of the Ministry of Transportation, seeking to tap into the potential economic benefit.

In terms of culture, the legitimacy proffered in this regard stemmed from the members of the group. The individual members of the group collectively provided entitlement to claim protection of their culture. When dissension within the group brought into question the norms for the culture, the claim to protect the right to culture was weakened. The different opinions on the position of *halakah* as determined by leading rabbis of the various ultra-Orthodox sects raised questions about the nature of the tradition. The efforts of ultra-Orthodox women to make their opposition known despite community pressure to conform to segregation, further contributed to the questioning of the tradition. The religious debate over the validity of gender segregation in public spaces brought into question just what was being preserved in the defence of culture.

The radicalization was a movement of change in a direction distasteful to many citizens valuing the rights and freedoms of those citizens. The responsibility of the state was three fold: firstly to not discriminate on the grounds of a person belonging to a group or minority; secondly to promote tolerance and mutual acceptance in society; and thirdly to enable members of the minority to preserve and develop their language, culture, religion or traditions.[97] The rights of the minority group were not independent of the rights of the individuals constituting that minority. The right of groups was predicated on the rights of the individual persons belonging to that group. If the rights of those individuals were violated then the rights of the group or minority was diminished.

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[97] Keynote address of Mr Max van der Stoel, Conference on Security and Co-operation in Europe High Commissioner (CSCE) on National Minorities, at the CSCE Human Dimension Seminar on 'Case Studies on National Minority Issues: Positive Results', Warsaw, 24 May 1993.

Summary

IRAC was drawn into the campaign against gender segregation on public buses after being approached by women adversely affected by the policy. The perseverance to pursue the campaign was energised by the anonymous support of women from the ultra-Orthodox community. More than any of the other campaigns or activities in which IRAC was engaged, the issue challenged the conception of IRAC, and by extension the Reform Movement, as marginalised outsiders in Israeli society with little impact on the overall scheme of things.

IRAC developed into an organisation to which members of the public, of any sector, could approach for legal assistance and an impact on government policies. For the Reform Movement, the campaign turned attention away from the Reform as a body to be excluded, to one with an important role to contribute to the development of democracy in Israel. The campaign raised public awareness of the impact of the ultra-Orthodox communities beyond the lifestyles within their own communities.

The public and politicians became sensitised to the broader implications for society as a whole. The focus on women and their role in society was one with which the majority could identify, enabling widespread support within Israel and overseas. The mood changed from one of tolerance of the ultra-Orthodox, permitted to continue their activities as guardians of Jewish tradition and Jewish identity, to one of increased dissatisfaction with the impositions placed on the non-observant public, and the unfair distribution of resources and obligations of citizens to society.

A year after the decision by the High Court determining forced segregation as illegal, the Tal Law was declared to be unconstitutional. After decades of government support for draft evasion and continuing supported study for ultra-Orthodox men, public pressure made it clear to the authorities that the privileged position of the ultra-Orthodox community would no longer be tolerated. Politicians were forced to respond by amending and revising the legal framework. Adapting perceptions of the status and role of the ultra-Orthodox leadership and community was a fundamental step in the process towards introducing religious and political pluralism into Israel.

Chapter 9 - The Boundaries of Conversion

Sonia was an Israeli citizen who had immigrated to Israel as the spouse of a Jewish man. After five years of marriage the couple divorced. When she approached the Ministry of the Interior to register her divorce, Sonia was accused of having entered into a fictitious marriage. She was advised she would receive a reply about her status by post. In the meantime Sonia decided to convert to Judaism. A year later she completed her conversion and then applied to the Ministry to register her as a Jew. She still had not received a reply in relation to her divorce. Two weeks later she received a letter from the Ministry to advise her that her citizenship was cancelled and she had to leave the country within two months. After IRAC petitioned the High Court, the Ministry of the Interior reinstated Sonia's citizenship and registered her as Jewish and divorced.[1] This example was one of countless cases dealt with by the Legal Aid Department on behalf of people where the families comprised mixed Jewish and non-Jewish backgrounds.

Two avenues of citizenship were available to immigrants. The Law of Return, quoted in chapter three and attached in full in the appendix two, entitles all Jews to become citizens on arrival in Israel. Less well known is the fact that non-Jewish spouses can become citizens after living in the country for five years.[2] 'Who is a Jew' for the purpose of the Law of Return and the associated difficulties was a critical area of the work of IRAC. Like the question of marriage, the Law of Return acted as a gatekeeper of who was included and who was excluded.

The original version of the Law of Return in 1950 deliberately allowed a broad definition consistent with the ideology of Zionism to facilitate the immigration of all Jews. Already at that time the religious parties in the Knesset lobbied for the word *halakhah* to be introduced to the Law to limit immigration to people considered *halakhically* Jewish. The religious parties continued to campaign for such a change raising controversy over the issue while the Reform Movement placed much effort into campaigning against any change.

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[1] Israel Religious Action Center, 'Semi-Annual Report January to June 2003'.
[2] Rinat Gilboa, 'Immigration, Family Reunification and Marriage Policy in Israel', (Jerusalem: The Institute for Zionist Strategies, 2009), accessed 19 April 2013, http://www.izs.org.il/eng/default.asp?father_id=121&catid=217, 26-28.

In relation to proposed changes to the Law of Return, IRAC was concerned to ensure immigrants from the Diaspora converted by Reform rabbis would be accepted as citizens on arrival. The goal was also to ensure conversion inside Israel by Reform rabbis would be accepted for citizenship. Successive petitions to the High Court discussed below created an avenue for the acceptance of non-Orthodox conversion outside the sphere of the Chief Rabbinate. An additional difficulty discussed in this chapter was the lack of any immigration policy for non-Jewish people who came to live in Israel whether as relatives of Jews, tourists overstaying their visa, refugees or as foreign workers.[3]

The Law of Return

The Law of Return was one of two major events to shape Israeli policy towards immigration and at the same time tied immigration to conversion.[4] The second event was the immigration of an estimated one million Jews and their family members during the 1990s from the Former Soviet Union. The immigration included approximately 300,000 non-Jews.[5] In the aftermath of the Holocaust the objective of the Law of Return was to establish Israel as a place of refuge for any Jew living in a country in distress.[6]

The Law also facilitated the development of the state by encouraging immigration, and was thought to secure the country as a Jewish state. The immigration of non-Jewish family members led to the amendment in 1970 after two prominent cases before the High Court brought the issue to public attention, the case of Brother Daniel and the Shalit case discussed below. The amendment was a political compromise demonstrating the different ethnic and religious Jewish identities seeking to define the Jewish character of the State.

The political compromise allowed a definition of a Jew as a long accepted cultural and religious tradition of inheritance through the maternal line. The amendment quoted in chapter three was consistent with *halakhah* in deference to the religious Orthodox sector. A person born of a Jewish mother, or a convert to Judaism immigrating to Israel became entitled to

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[3] Shlomo Avineri et al., *Managing Global Migration: A Strategy for Immigration Policy in Israel*, ed. Ruth Gavison (Jerusalem: The Metzilah Center, 2010).
[4] Gavison, *The Law of Return at Sixty Years*.
[5] Leshem and Sicron, 'The Soviet Immigrant Community in Israel'.
[6] Itamar Rabinovich and Jehuda Reinharz, eds., *Israel in the Middle East: Documents and Readings on Society, Politics, and Foreign Relations, Pre-1948 to the Present*, 2nd ed. (Waltham, Massachussettes; Hanover: Brandeis University Press, 2008), 102.

citizenship on arrival. The reference to conversion was left undefined allowing non-Orthodox converts to immigrate under civil law. The decision facilitated good relations with the Diaspora community, particularly in the United States with its large constituency of non-Orthodox Jews. In 2013 the Pew Research Center reported 35 percent of Jews in the United States identified with Reform Judaism compared to less than 4 percent in Israel reported here in chapter two.[7]

The second major change in the Law of Return in 1970 allowed spouses of Jews, children and grandchildren and their spouses, to immigrate acknowledging a reality that was taking place with little or no monitoring of the composition of immigration. During the 1990s, this clause made it possible for non-Jewish relatives from the Former Soviet Union to immigrate under the Law of Return with eligible Jewish immigrants. Others immigrated as Jews, however their status as *halakhically* Jewish was doubted by the Chief Rabbinate.[8] The dimensions of this immigration were seen as a national problem demanding a solution. The solution was to convert as many non-Jewish immigrants as possible, especially women who as mothers determined the Jewish status of children.[9] The policy of converting as many non-Jewish citizens as possible has been described as a 'national mission' by political and rabbinic leaders.[10]

Disagreement arose over how to encourage the non-Jewish Soviet immigrants to convert. The strictly religious sought to enforce conversion based on strict religious law requiring the convert to adhere diligently to the *mitzvoth*.[11] They were less concerned with the demographic implications than with the eligibility for a *halakhic* marriage. The more moderate Orthodox, usually associated with religious Zionism, sought to encourage conversion by making the process and requirements less stringent, more friendly and

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[7] Luis Lugo and Alan Cooperman, 'A Portrait of Jewish Americans: Findings from a Pew Research Center Survey of U.S. Jews' (Washington: Pew Research Center, 2013), accessed 24 October 2014, http://ejewishphilanthropy.com/wordpress/wp-content/uploads/2013/10/jewish-american-survey-full-report.pdf.

[8] Asher Cohen and Bernard Susser, 'Jews and Others: Non-Jewish Jews in Israel', *Israel Affairs* 15, no. 1 (2009). Waxman, 'Multiculturalism, Conversion and the Future of Israel'.

[9] Daphna Hacker, 'Inter-Religious Marriages in Israel: Gendered Implications for Conversion, Children, and Citizenship', *Israel Studies* 14, no. 2 (2009). Michal Kravel-Tovi, ' "National Mission": Biopolitics, Non-Jewish Immigration and Jewish Conversion Policy in Contemporary Israel', *Ethnic and Racial Studies* 35, no. 4 (2012). Yedidia Z. Stern, 'From Ruth to Natasha: On the Future of Conversion in Israel', (Jerusalem: Israel Democracy Institute, 2010), accessed 9 August 2010, http://www.idi.org.il/sites/english/ResearchAndPrograms/Religion%20and%20State/Pages/FromRuthtoNatasha.aspx. Alexander Yakobson, 'Joining the Jewish People: Non-Jewish Immigrants from the Former USSR, Israeli Identity and Jewish Peoplehood', *Israel Law Review* 43, no. 1 (2010).

[10] Kravel-Tovi, ' "National Mission" '. Waxman, 'Multiculturalism, Conversion and the Future of Israel'.

[11] Waxman, 'Multiculturalism, Conversion and the Future of Israel'.

welcoming.[12] The different approaches to conversion between the ultra-Orthodox and the Religious Zionists caused friction between the two groups. The controversy reached a peak in 2008 when a panel of ultra-Orthodox rabbis retrospectively cancelled conversions conducted under the authority of the Religious Zionist Rabbi Haim Druckman.[13]

Another proposal by former Knesset member Yossi Beilin was to introduce secular conversion consistent with a secular nationalist Israeli identity.[14] He argued in 1999 this would appeal to those from the Former Soviet Union who for the most part were not interested in religious conversion. Conversion would be bestowed by virtue of living a Jewish life that bonded a person to the Jewish people. The idea of wanting to join the Jewish people became a key test in determining if an individual was worthy of becoming a citizen. If later the person wanted to marry in a Reform, Conservative or Orthodox synagogue they could then decide whether to undertake a conversion with the relevant movement.[15]

The Reform Movement borrowed from all these conceptions of conversion as applied in Israel. Some believed that by living a Jewish life and serving in the army, non-Jewish citizens demonstrated a commitment to the Jewish people and so should be considered Jewish.[16] MARAM required a conversion process with a period of study and appearance before the *beit din*. In petitions before the High Court to recognise non-Orthodox conversions IRAC argued the case for the motivation of the convert to join the Jewish people. As proposed by Beilin, if a person converted with the Reform Movement and later wanted to marry in an Orthodox synagogue they could choose to reconvert. Reform conversion should be accepted by the state as one of a number of methods of conversion to bind a person to the Jewish identity of the state consistent with a pluralist approach to Judaism.

IRAC sought to soften the approach to immigration to allow for an inclusiveness of a more humanitarian nature.[17] Drawing on the experiences of clients of the Legal Aid Center, the organisation wanted immigration laws to be amended to allow family reunion to reflect the complexities of family relationships, and to amend legislation to remove the arbitrariness of

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[12] Stern, 'From Ruth to Natasha'.
[13] Kravel-Tovi, ' "National Mission".' Waxman, 'Multiculturalism, Conversion and the Future of Israel'.
[14] Yossi Beilin, '*Secular Conversion*', *Sh'ma: A Journal of Jewish Responsibility*, 30, no. 565 (1999), accessed 7 December 2012, http://www.bjpa.org/Publications/details.cfm?PublicationID=8172.
[15] Ibid.
[16] Interview number two.
[17] Ibid.

decision-making at an administrative level when people applied for registration in the Population Registry. On a practical level the Legal Aid Center valued maintaining good relations with the administrative staff in the Ministry of Interior to achieve outcomes for their clients while contending with the often hostile directives from a Minister representing one of the religious parties.[18]

Dilemmas of non-Jewish Immigration

The success in achieving recognition of non-Orthodox conversions performed in the Diaspora for the purpose of immigration was driven by lobbying arguing the necessity to maintain good relations between Israeli and the American Jewish community in particular. The case of Susan Miller discussed in chapter three established the right for people converted in a Reform or Conservative setting in the Diaspora, to be registered as a Jew in Israel for the purpose of the Law of Return. The question of status of non-Jewish relatives, or those whose Jewish identity was in doubt, has been around since the State of Israel was established, and was always a matter of controversy, sometimes, but not always because the conversion was conducted by a Reform rabbi.

Various reports indicate there were thousands of mixed married couples fleeing Europe from 1933 onwards, and again after the Second World War ended in 1945. Among these couples were non-Jewish wives who concealed their identity to enable their children to integrate into Jewish society.[19] At that time it was sufficient to declare oneself as Jewish in order to gain entry. By the late twentieth and early twenty-first century application for entry came under greater scrutiny with the demand for provision of supporting documentation.

In 1947, Rina Eitani, the daughter of a non-Jewish German mother and a Polish Jewish father, immigrated to Israel and registered as a Jew. Later, when she was serving as a municipal council member, her Jewishness was questioned by another council member. Many Israelis considered her as Jewish since she and her parents suffered during the Holocaust. Eitani herself lived a Jewish life in Israel and had served in the army.[20] When in 1956 the Polish government eased restrictions on Jewish emigration to Israel, some 45,000

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[18] Ibid.

[19] Abramov, *Perpetual Dilemma*, 425, n 447. 'The Conversion Crisis: The Current Debate on Religion, State and Conversion in Israel', The Anti-Defamation League, 2001, accessed 22 July 2012, http://www.adl.org/israel/conversion/crisis.asp.

[20] Ibid., 295-298. Zucker, *The Coming Crisis in Israel*, 188-189.

Jews made *aliyah*. Approximately ten percent of the new arrivals were considered not *halakhically* Jewish.[21]

David Ben-Gurion declared children of mixed marriages should be registered as Jewish if both parents agreed. In Israel, among a Jewish majority, the children would become integrated into the Jewish people in a form of reverse assimilation. His own granddaughter, Galia Ben-Gurion, was forced to convert in 1968 when she applied to register her intent to marry in Haifa. Galia's mother converted with a Reform rabbi in London before immigrating with her husband. It was the usual practice for the Rabbinate in Israel, and the Jewish Agency as the immigration processing authority, to treat spouses converted by the non-Orthodox Movements as not Jewish and therefore not eligible for immigration.[22] The National Religious Party rejected the argument by Ben-Gurion favouring a *halakhic* interpretation of a Jew as born of a Jewish mother or converted according to *halakhah.*

Early Challenges to the Law of Return

Until the 1990s non-Orthodox conversion in Israel was rare. An early attempt to recognise a Reform conversion in Israel was thwarted in 1970. In 1964 Helen Zeidman (her married name) arrived in Israel as a tourist. Soon after her arrival Zeidman became a resident and joined the secular Kibbutz Nahal Oz. In 1967 she attended conversion classes taught by Rabbi Moshe Zemer at the Progressive synagogue in Tel Aviv where she was subsequently converted by the Progressive *beit din*.

Immediately after her conversion Rabbi Zemer officiated at her marriage to fellow kibbutz member Benjamin Zeidman. A proxy marriage in Mexico recognised by Israel was also performed. As a *cohen*, Benjamin Zeidman was prevented from marrying a convert and a divorcee, which Helen also was, according to *halakhah*.[23] Living on a secular kibbutz Helen Zeidman did not approach the Orthodox rabbinate for conversion as she had no intention of keeping the *kashrut* laws or changing her lifestyle.

The Ministry for the Interior refused to register Helen Zeidman as Jewish in the Population Registry. The Minister at the time was Haim Moshe Shapira, a member of the National

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[21] Waxman, 'Multiculturalism, Conversion and the Future of Israel'.
[22] Abramov, *Perpetual Dilemma*, 315-316.
[23] Ibid., 313. Zemer, *Evolving Halakhah*, Ch 8.

Religious Party. Zeidman petitioned the High Court for the Ministry to register her as Jewish.[24] The Attorney-General advised the Court there was no legal reason to deny Zeidman's request. In order to avert a political crisis, the Chief Rabbi of the military, Rabbi Shlomo Goren, convened a *beit din* with two Orthodox rabbinic colleagues and converted Helen Zeidman.

Some Orthodox rabbis were opposed to the second conversion. In the opinion of Rabbi Zemer, Rabbi Goren had conducted a Reform conversion. Goren did not demand Zeidman commit to observing all the Biblical commandments, nor did he instruct her to study further. For her part, Zeidman participated in the second conversion due to the considerable pressure she felt to do so from representatives of the Orthodox community. A similar situation arose in the Conservative Movement just over twenty years later in the early 1990s. On that occasion Anita Lobegren was reconverted by an Orthodox *beit din* before her application for recognition of the Conservative conversion could be heard in the High Court.[25]

The conversion of Helen Zeidman by Rabbi Goren took place in the same year the petition of Benjamin Shalit was determined by the High Court, and eight years after the determination of the petition of Oswald Rufeisen, also known as Brother Daniel. In the case of Shalit, the petitioner applied for his two children, whose mother was not Jewish, to be registered as Jews by nationality. The High Court ruled a person's statement attesting to their being Jewish was sufficient grounds to grant citizenship in keeping with the practice to that point in time.

Rufeisen had converted to Christianity while hiding in a Catholic Church during the Holocaust. According to *halakhah*, a person does not lose their Jewish status by conversion. However the High Court used a secular interpretation ruling he was not Jewish, and therefore not entitled to citizenship according to the Law of Return. The landmark rulings led in 1970 to the amendment of the Law of Return to define a Jew as a person born of a Jewish mother and not voluntarily converted to another religion, or someone who had converted to Judaism but was not a member of another religion.[26]

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[24] Abramov, *Perpetual Dilemma*. Zemer, *Evolving Halakhah*.
[25] Asher Maoz, 'Who Is a Convert?' *Justice* 15 (1997): 17.
[26] Ibid., 12-14. Abramov, *Perpetual Dilemma*, 285-309. Law of Return (Amendment No. 2) 5730-1970.

The government resisted attempts by the National Religious Party to add the word *halakhah* to the 1970 amendment. The decision was made deliberately to ensure Jews converted in non-Orthodox congregations in the Diaspora would continue to be eligible to immigrate.[27] The Reform Movement continued to lobby against attempts to change the Law of Return to restrict the definition of a Jew to a *halakhic* one. The lobbying extended also to resisting attempts to confine conversions in Israel to the authority of the Chief Rabbi by changing the Chief Rabbinic Law.[28] During the 1990s when the focus shifted from recognition of immigrants under the Law of Return, to recognition of conversions of Israeli residents, the Reform Movement continued to lobby against changes on the basis of the potential harm to Diaspora-Israel relations.

Increasing Pressures of Conversion

During the 1970s, after the amendment to the Law of Return, an increasing number of marriages between non-Jewish female volunteers on kibbutzim and Jewish Israeli males led to the establishment of state operated conversion institutes under the authority of the Chief Rabbinate.[29] Rabbi Shlomo Goren was elected to the position of Ashkenazi Chief Rabbi in 1973.[30] He adopted a relatively lenient approach to conversion with regard to the degree which the convert was expected to follow the *mitzvoth*. Rabbi Goren stressed conversions within the state sponsored approach were valid only in Israel where it could be guaranteed the children would grow up to live as Jews.[31] After Rabbi Goren completed his term as Ashkenazi Chief Rabbi in 1983, the lenient approach to conversion gave way to a more

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[27] *Perpetual Dilemma*, 309-313. HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 285-286 (2005). Moshe Samet, 'Who Is a Jew (1958-1988)', in *Readings on Conversion to Judaism*, ed. Lawrence J. Epstein (Northvale, New Jersey: Jason Aronson, 1995), 166-167.

[28] Nicole Brackman, 'Who Is a Jew? The American Jewish Community in Conflict with Israel', *Journal of Church and State* 41, no. 4 (1999). Samet, 'Who Is a Jew (1958-1988)'. Ezra Spicehandler, 'The Law of Return: It's Political and Relgious Ramifications', World Union for Progressive Judaism, 18th International Conference, 3-8 July 1974. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem. 'Who is a Convert Legislation Sought by Ultra-Orthodox', World Union for Progressive Judaism, News Update, December 1986. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem. Deborah Schultz, Report to Association of Reform Zionists of America, February 1988, 2-3. Archive of Progressive/Reform Judaism in Israel, Abramov Library, Hebrew Union College - Jerusalem.

[29] Michal Kravel-Tovi, 'Rite of Passing: Bureaucratic Encounters, Dramaturgy, and Jewish Conversion in Israel', *American Ethnologist* 39, no. 2 (2012): 373.

[30] Waxman, 'Multiculturalism, Conversion and the Future of Israel'.

[31] Ibid.

traditional approach. The number of conversions performed annually declined. At the same time the ultra-Orthodox rabbis became more outspoken in their opposition to conversion.[32]

While debate continued about the best way to deal with immigrants from the Former Soviet Union, less attention was focused on other sources of non-Jewish immigration; foreign workers who overstayed and wanted to marry a Jewish citizen, people on tourist visas who applied for citizenship, and foreign spouses of Israelis who travelled abroad.[33] In between the differing views of how to implement the Orthodox objective of increasing the rate of conversion lay a myriad of situations affecting family life. The situations could not readily be remedied by the conversion of a spouse, but necessitated a coherent policy to address family reunification, labour policies and the complexities of non-Jewish immigration to Israel.

The Law of Return was applied selectively targeting non-Jewish immigrants from the Former Soviet Union for conversions while attempting to exclude temporary residents, mainly foreign workers, foreign spouses of Israeli Jews, and holders of tourist visas.[34] Some of these residents who found it difficult to gain citizenship approached the Legal Aid Center for assistance. Some also, along with some non-Jews from the Former Soviet Union, found their way to the Reform Movement to participate in the conversion process.

Since 1990 the proportion of non-Jewish immigrants has increased as a percentage of total immigration.[35] Immigrants were defined as people who entered the country for the purpose of permanent residence under the Law of Return or the Law of Entry. The data included potential immigrants: people eligible to enter under the Law of Return and allowed to stay for a period of up to three years to examine the possibility of immigrating and settling in Israel. Tourists who changed their status to 'immigrant' or 'potential immigrant' while staying in Israel were also included in the data as immigrants.[36] Data on immigration patterns in the graph in figure two is shown from 1985 onwards because the method of recording religion changed in that year. Prior to 1985 religion was recorded on arrival in the country. Since

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[32] Ibid.

[33] Interview number seven.

[34] Kravel-Tovi, ' "National Mission" ,' 749-750.

[35] Eilat Cohen-Kastro, *Immigration to Israel 2007-2010* (Jerusalem: Central Bureau of Statistics, 2012), accessed 28 April 2013, http://www.cbs.gov.il/webpub/pub/text_page_eng.html?publ=18&CYear=2010&CMonth=1#100. 17-20.

[36] Ibid., 17.

1985 the religion of the immigrant was recorded when he or she applied to the Population Register for an identity card.

Figure 2: Immigrants by Religion and Year of Immigration
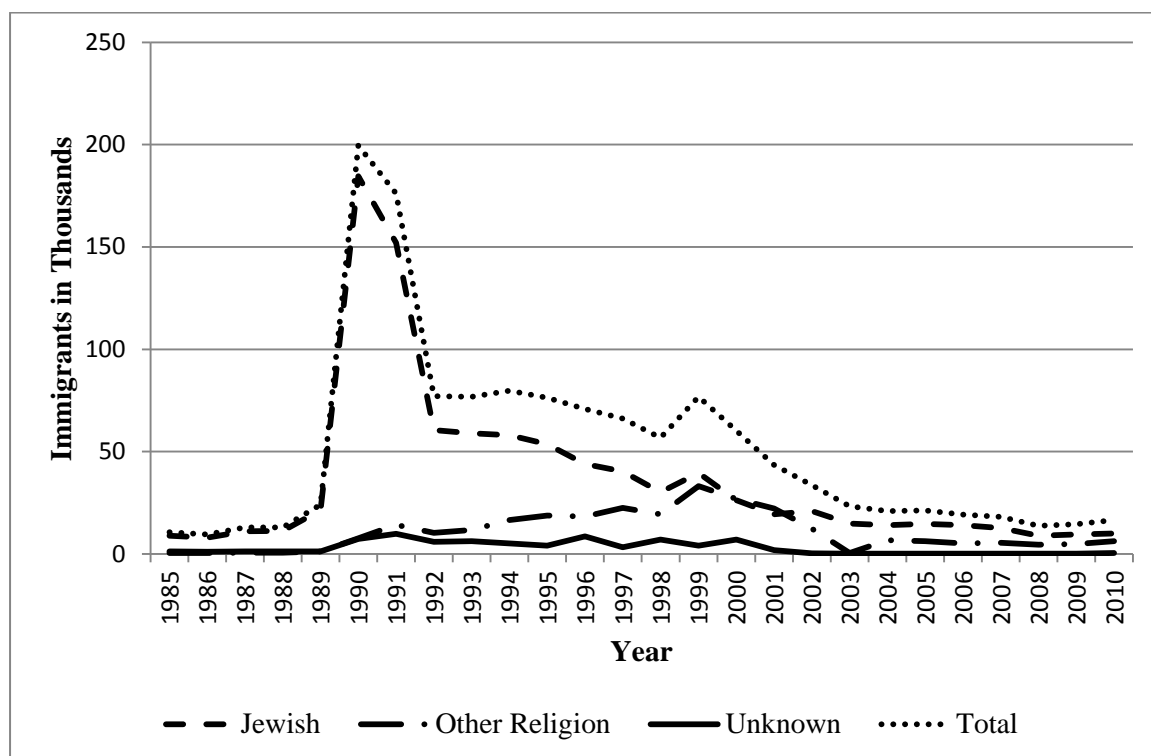
Total levels of immigration declined after peaking in 1949 after the state was established, and then again in 1990 after the fall of the Soviet Union. Between 2007 and 2010 immigration declined until it reached some of the lowest levels in the short history of Israel. In the period between 2007 and 2010 the percentage of immigrants registering as a religion other than Jewish averaged 34 percent whereas in the late 1980s non-Jewish immigration accounted for approximately 5 percent of all immigrants. Absolute numbers of non-Jewish immigrants were significantly lower than during the mass migration from the Former Soviet Union during the 1990s. Nevertheless the proportion of non-Jewish immigration indicated the need for a well thought out immigration policy going beyond the limited objectives of the Law of Return to foster Jewish repatriation.

Reform Conversion in Israel

The largest conversion class for the Reform Movement was based at Beit Daniel synagogue in Tel Aviv.[37] Renowned as a city which attracts young people, the conversion classes in Tel Aviv received requests from a broad cross section of the population. Other Reform conversion classes in Haifa, Ranana and Jerusalem attracted a less diversified group of people, largely of Russian background. The Reform Movement offered classes in Russian as well as Hebrew. Beit Daniel synagogue was the only class in the country to offer a conversion class in English. Approximately eighty to a hundred people were converted each year from the Tel Aviv conversion classes alone. According to the IMPJ annual report two hundred people were converted across the country in 2011.[38] The number was very small by comparison to the 5,104 people converted in the same year by the IDF and the State Civilian Conversion Authority.[39]

In addition to the regular year-long conversion program, the Tel Aviv conversion school offered a special intensive class for people Jewish by patrilineal descent. The intensive class was introduced around the year 2007. Participants in this course were usually in their twenties, post military service, and wanting to marry a Jewish partner in a Jewish ceremony. Many children were also converted with the consent of the mother. In 2010 and 2011 demand developed for conversion of adopted children and children of male gay couples born as a result of surrogacy.

Most adult participants in conversion classes were women, around ninety percent. One reason was men were reluctant to be circumcised in order to complete their conversion. The other reason was the social pressure placed on women to convert because Jewish heritage is inherited through the female line. The phenomenon of high rates of conversion among women was consistent with the experience in the Jewish community in Israel generally.[40] Inquiries for conversion in the Reform Movement in Israel increased after the High Court determined in 2002, discussed below, that these converts should be registered in the Population Registry.[41] Potential converts approached the Reform Movement because they did

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[37] The following information about Reform conversion classes is sourced from Interview number seven.
[38] Israel Movement for Progressive Judaism, 'Annual Report 2011-2012'.
[39] Waxman, 'Multiculturalism, Conversion and the Future of Israel'.
[40] Hacker, 'Inter-Religious Marriages in Israel'.
[41] Interview number seven. Israel Movement for Progressive Judaism, 'Annual Report 2010-2011'.

not want to be subjected to the strictures of the Orthodox system. People were deterred by rumours of the lengths to which Orthodox rabbis went to ensure that high levels of observance would be maintained. For example, during the conversion process the rabbi was reported to arrive at the home of a conversion student's home, unannounced, to ensure the dishes were separated according to *kashrut* standards.

The requirement for couples to live in separate apartments before marriage was considered unacceptable for some people. Sometimes people falsely affirmed their commitment to observing the customs. The Orthodox rabbinate therefore checked carefully in the knowledge not all people who testified to maintaining observance would do so. When children were adopted it was expected the child would attend a religious school. If a second child was adopted, and the parents were not able to provide proof of religious education, they were denied a conversion by the Orthodox rabbis.[42]

Applicants for conversion classes in the Reform Movement were advised marriage in the same Movement will not be recognised by the State.[43] Conversion also impacted on adoption.[44] When a non-Jewish child was sent to a Jewish family for adoption the child was placed with an Orthodox family. The state argued this arrangement was in the best interests of the child because when he or she became an adult, the conversion of the child would be fully recognised. As an adult the adopted child would be able marry through the rabbinate.[45]
After a person was converted through the Reform or Conservative Movement and registered as Jewish in the Population Registry, there were no problems of any note experienced in the case of burial by the Chevra Kadisha, the Jewish burial society appointed to conduct burials on behalf of the state. The main concern of the Ministry of the Interior when registering people in the Population Registry was the possibility of abusing the system in order to gain citizenship.[46]

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[42] Interview number seven.
[43] Interview number seven.
[44] Interview numbers two and four. Israel Relgious Action Center, 'Who Can Adopt?' memo. Computer data base of the Israel Religious Action Center.
[45] Interview number two.
[46] Israel Religious Action Center, 'Basic Information About Making Aliyah', 2009. Computer data base of the Israel Religious Action Center.

Frequently people converted through the Reform Movement because it was important for them to be recognised as Jewish by the state.[47] The inclusion of foreign workers in conversion classes and subsequent requests for citizenship raised fears within the Ministry of the Interior that foreign workers took advantage of conversion as an easier path to citizenship than the alternative of length of residency.[48] Sensitive to criticism of non-Orthodox conversions being open to abuse of the system because of their less stringent requirements, the Reform and Conservative Movements restricted conversion to applicants with residency in Israel.[49]

Loosening the Reach of the Chief Rabbinate

IRAC presented a series of petitions to the High Court between 1993 and 2005 to recognise non-Orthodox conversions completed in Israel. The earlier decsions, *HCJ 1031/93 Goldstein (Pesarro) v. Minister of Interior* and *HCJ 5070/95 Na'amat v. Minister of Interior* concentrated on the principle of equity and religious freedom. The third case, *HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior* adjudicated in 2005, was concerned with the sincerity and motivation for conversion. The judicial discussions did not enter into deliberation of the validity of one type of conversion or another, deferring such consideration to the Knesset as the proper authority.

Initially, the High Court limited their deliberations to the Population Registry. After the decision ensuring the registration of Susan Miller in the Population Registry, the Shas party made an unsuccessful attempt to overturn the decision. In 1987, Shas appealed the Miller ruling in the case *HCJ 264/87 Federation of Sephardim Torah Guardians – SHAS Movement v. Director of Population Registry Administration.* Shas proposed overseas conversions could only be recorded in the Population Registry if the conversions were conducted by an Orthodox or ultra-Orthodox rabbi.[50] The argument by Shas rested on the requirement for a public certificate to be issued by the Chief Rabbinate to change a registration in the Population Registry. The judges rejected the appeal on the basis that the requirement for a

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[47] Interview number two.
[48] Ibid.
[49] Interview number seven. HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 277. Gavison, *The Law of Return at Sixty Years*, 60, n83, 138.
[50] Gad Barzilai, *Communities and Law: Politics and Cultures of Legal Identities* (Ann Arbor: University of Michigan Press, 2003), 244. HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior. Israel Religious Action Center, 'Summarizing Activities Regarding Conversion up to the Time of the Ne'eman Committe in the Late 1990s', memo. Computer data base of the Israel Religious Action Center.

public certificate related only to Israeli citizens. The requirement was not relevant to people converted overseas.[51]

The definition of a Jew in the Population Registry Law was by reference to the Law of Return so the definition was identical. Chief Justice Aharon Barak explained the purpose of the Population Registry was statistical only.[52] On the other hand, the Law of Return required a higher level of scrutiny because it entitled the applicant to rights of citizenship. It followed that conversion had to be defined, highlighting the different systems of conversion between Israel and the Diaspora. Regarding the Population Registry, the registration officer in the Ministry of the Interior was obligated to accept the information provided by the applicant unless the information was obviously erroneous. It was sufficient for the applicant to provide a document testifying to the conversion from a recognised Jewish community abroad in order to be registered.[53]

Strengthened by the ruling in the Shas case, IRAC petitioned the High Court on behalf of Elian Pesarro in 1993 for recognition of her conversion in the case *HCJ 1031/93 Goldstein (Pesarro) v. Minister of Interior*.[54] Elian Pesarro arrived in Israel from Brazil in 1990. After her arrival she completed conversion with the Reform Movement in October 1991 and married an Israeli Jew by the name of Goldstein. She applied for citizenship under the Law of Return and registration as a Jew with the Ministry of the Interior in 1992.[55] IRAC argued that the ruling made in the Shas decision should also be applied to non-Orthodox conversions in Israel.[56] The Ministry countered by arguing that according to the Religious Community (Conversion) Ordinance dating from the British Mandate the conversion of Pesarro required the approval of the Chief Rabbi. According to the Ordinance, to be a member of a religious community it was necessary to receive the approval of the religious leader, in this case, the Chief Rabbi of Israel.

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[51] Israel Religious Action Center, 'Summary of Verdict (2002)'. Computer data base of the Israel Religious Action Center. Rahel Rimona, 'Non-Orthodox Conversions in Israel', *Justice* 15 (1997).
[52] HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 283-284.
[53] Ibid., 342. Gidon Sapir, ' "Who Is a Jew" on the Proper Role of the Judiciary in a Democratic State', *Justice* 41 (2005): 36. Asher Maoz, 'Who Is a Convert?', *Justice* 15 (1997): 15.
[54] Israel Religious Action Center, 'Summarizing Activities Regarding Conversion'. Maoz, 'Who Is a Convert?', 15. Rimona, 'Non-Orthodox Conversions in Israel'. Gidon Sapir, ' "Who Is a Jew",' 36-37.
[55] Israel Religious Action Center, 'IRAC Wins Rights for Non-Orthodox Converts to be Registered as Jews in Israel', accessed 16 December 2010, http://www.irac.org/IssuePapers.aspx.
[56] Rimona, 'Non-Orthodox Conversions in Israel', 44.

In 1995 the judges ruled six to one that the British Ordinance did not apply in this case. The reason given was that the Ordinance applied only to matters of personal status as defined by law. The Ordinance was limited to regulation of marriage, divorce and burial.[57] It did not apply to the civil registration of conversion, although the Ordinance did indicate that it was desirable for people to notify when they changed their religious community.[58] The Court did not instruct the Ministry to register Pesarro. The fact that the judges limited their decision to consideration of the Ordinance was regarded as unusual.[59] The reason appears to be the judges did not want to enter into the area of the validity of Reform conversions conducted in Israel regarding the Knesset as the appropriate forum for such deliberations.

Among the issues raised was one of equity. How could a non-Orthodox conversion abroad be valid while not in Israel? The law should be applied the same in both cases. If, for the Population Registry, the registration officer could not inquire into the validity of a conversion from overseas, then would that not also be the case in Israel?[60] The status of Pesarro as a 'Jew' was not queried. Nor was the question of the validity of her conversion raised.[61] The arguments were presented in the context of civil law pertaining to the registration of Pesarro in the Population Registry.

The issue before the Court, as the judges interpreted it, was one of equality and religious freedom. The one dissenting judge, Zvi Tal, argued the matter was not one of equality, that was a given. The principle of equity though did not mean anyone could force the state to recognise their conversion. A person could have a private conversion in Israel as in the United States. The implication was that their rights were not infringed.[62]

Justice Tal cautioned against creating a situation where a person could be registered as a Jew for the Population Registry and the Law of Return but not for personal status. He pointed out such a situation would cause confusion and unhappiness, as well as be misleading to the public. He recommended the Chief Rabbinate as the authority to supervise the process of conversion. Tal advised the petitioner could undergo an Orthodox conversion, or else apply for citizenship under the Nationality Law. The verdict noted that conversion had a private

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[57] HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 297.
[58] Rimona, 'Non-Orthodox Conversions in Israel', 43-47.
[59] Asher Maoz, 'Who Is a Convert?', 15. Gidon Sapir, ' "Who Is a Jew",' 36-37.
[60] Rimona, 'Non-Orthodox Conversions in Israel', 44.
[61] Israel Religious Action Center, 'Summarizing Activities Regarding Conversion'.
[62] Rimona, 'Non-Orthodox Conversions in Israel', 47-48.

aspect and a public aspect by bestowing the right of return and citizenship.[63] Conversion was a religious term with secular implications and joining a community of people.

The verdict infuriated the Rabbinate as it challenged their authority as the only means of conversion in Israel. The Ministry of the Interior accepted this authority in registering residents and citizens.[64] IRAC welcomed the decision as a breakthrough declaring there was no legal obstacle to recognition of Reform conversions in Israel. The next step was to bring before the Court a petition requesting the registration of a convert as Jewish in the Population Registry. In response, the Ministry of Interior ceased registering non-Orthodox converts from the Diaspora and from Israel between 1996 and 1998.[65] The Ministry argued recognition of overseas conversions was dependant on the person living and studying in the community where they converted, for at least one year, meaning a 'leaping conversion' was not valid.[66]

'Leaping conversions' referred to a situation where after studying in Israel prospective converts travelled overseas, usually England for English speakers or Argentina for Spanish speakers, to complete the conversion by appearing before a rabbinical court, then immediately returned to Israel. The state argued such conversions were fictitious. They were not overseas conversions at all, but in practice conducted in Israel and not recognised by the state.[67] The Reform Movement counteracted arguing the conversions were overseas conversions. These conversions aroused suspicion by The Ministry of Interior that the system of acquiring citizenship was being abused. For the Reform Movement 'leaping conversions' were a way to circumvent restrictions by the Ministry of the Interior to the registration of conversion by people who had studied in Israel.

The requirement for a person to live and study for a minimum of one year in the community where the conversion took place represented a change in policy on the part of the Ministry of Interior. Previously eligibility for immigrant status and citizenship relied only on the presentation of a certificate from a recognised Jewish community abroad.[68] At the same time, the Orthodox sector pressured the government to pass a conversion law in the Knesset. If

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[63] HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 281.
[64] Israel Religious Action Center, 'Summarizing Activities Regarding Conversion'.
[65] Ibid. Section titled 'The Hostile Environment' in Tabory, *Reform Judaism in Israel*.
[66] Israel Religious Action Center, 'Summary of Verdict (2002)'.
[67] Interview number two.
[68] Israel Relgious Action Center, 'Problems With the System for Processing Overseas Conversions', memo. Computer data base of the Israel Religious Action Center.

270

passed, the proposed Bill would have amended the Rabbinic Courts Jurisdiction Law to include *halakhic* conversion under the jurisdiction of the Chief Rabbinate as the only form of conversion to Judaism to be recognised in Israel.[69] It was feared the Bill would be extended to curtail recognition of non-Orthodox conversions from the Diaspora. The American Reform Movement joined in lobbying against the proposed Bill.

In 1997, the government formed a committee led by Professor Ya'akov Ne'eman to resolve the matter. The mandate of the Ne'eman Committee was expanded to include the recognition of non-Orthodox marriages. Ultimately only the issue of conversion was considered.[70] The proposal was to establish a new institution for the education of converts in consultation with the Reform and Conservative Movements, with the actual conversions taking place under the authority of an Orthodox *beit din* within the jurisdiction of the Chief Rabbinate.

The proposals were ratified by an overwhelming majority in the Knesset, but lacked support from the Chief Rabbinate preventing the adoption of all the recommendations of the Ne'eman Committee.[71] The recommendation of co-operation between the non-Orthodox and Orthodox in the process of conversion was never realized. However the idea of a single state regulated conversion authority where the Chief Rabbinate signed off on conversions did survive.[72]

The right to register non-Orthodox conversions conducted in Israel in the Population Registry was recognised by the High Court in 2002 in the case of *HCJ 5070/95 Na'amat, Working and Volunteer Women's Movement v. Minister of Interior.* The petition was first presented to the High Court in 1995. The decision, by a majority of nine judges to two, recognised Israel as a country composed of a diverse range of Jewish communities. The decision incorporated three petitions.[73] In two of the petitions IRAC represented families from the Reform and Conservative Movements whose adopted children were converted by the Movements in Israel and abroad. The Ministry of Interior had refused to register the conversions of the children. The third petition was an appeal by the Ministry of an order by the District Court to register

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[69] Interview number two. Daniel J. Elazar, 'How Do the Issues in the Conversion Controversy Relate to Israel?', *Jewish Political Studies Review* 11, no. 1 (1999).
[70] Tabory, 'The Influence of Liberal Judaism', 196-197.
[71] Tabory, *Reform Judaism in Israel*. Tabory, 'The Influence of Liberal Judaism', 195-197. Cohen, 'Changes in the Orthodox Camp', 79-80.
[72] HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 299. The Conversion Authority was established in 1995 to provide a suitable framework to convert immigrants from the Former Soviet Union. See Waxman, 'Multiculturalism, Conversion and the Future of Israel'.
[73] Israel Religious Action Center, 'Summary of Verdict (2002)'.

the change in religion and nationality of twenty-three citizens who had converted in the non-Orthodox Movements. The verdict stated there should be no difference between conversions performed in Israel and abroad. The location of preparation for conversion was irrelevant.

The state argued registration in the Population Registry was about more than statistics, since government agencies made decisions using information from the Registry including the right to citizenship under the Law of Return.[74] The respondents drew on the ruling in the Shas case to argue the Right of Return for a convert related to one where the person joined the community where the conversion took place, not a convert who had no intention of joining the community abroad.[75] For the Chief Rabbinate the prospect of recognising non-Orthodox conversions threatened the continuation of a single Jewish community in Israel governed by Orthodox religious law.

Again the Court separated consideration of registration in the Population Registry and rights under the Law of Return. President Barak rejected the argument of the state saying that in the case of the Registry the role of the clerk was limited to verifying the truthfulness of the information and documents provided by the applicant. The clerk had no authority to consider complicated questions regarding conversion. Barak upheld the verdict of the District Court ruling that it was irrelevant whether the conversion took place abroad or in Israel. Most importantly he stated that Israel was not a singular Jewish community. Israel was the home of the Jewish people with more than one stream of Judaism, each practicing freely according to their beliefs.[76] The remarks and consequent decision were important for conceiving of Israel as a pluralistic community. It rejected the idea of Jewish unity as dependent on a singular Orthodox religious practice overseen by the Chief Rabbinate.

A separate petition on the adoption issue was presented by IRAC to the High Court in 2003.[77] IRAC argued the policy of placing children for adoption with Orthodox families only was discriminatory. Firstly, the practice rejected the lifestyle of non-Orthodox parents, and secondly the policy discriminated against non-Orthodox conversions. The policy contradicted the verdict in the Na'amat decision stating non-Orthodox conversions must be registered in the Population Registry. In June 2005, Children's Services announced it would end its policy

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[74] Ibid.
[75] Sapir, 'The Proper Role of the Judiciary in a Democratic State ', 37.
[76] Israel Religious Action Center, 'Summary of Verdict (2002)'.
[77] Israel Relgious Action Center, 'Who Can Adopt?'

272

of requiring children 'without religion' to be converted. However a child of a religion other than Jewish would still need to be converted. Regarding the 2003 petition, the Court announced in 2006 it would defer a decision until recognition of non-Orthodox conversions in Israel was resolved.[78]

In the Rodriguez-Tushbeim case the High Court was no longer able to avoid deliberation of non-Orthodox conversion in Israel in relation to the Law of Return. The petitioners in this case, submitted in 1999, all prepared for their conversions in Israel in either the Reform or Conservative Movement, then completed their conversion by appearing before a *beit din* abroad. The hearing combined two petitions, Tushbeim as one, and secondly Tamara Makrina in conjunction with fourteen other people. The petitions included ones set aside in the Na'amat hearing where the Law of Return had to be considered.[79] The plaintiff Tais Rodriguez-Tushbeim withdrew his petition because he received citizenship by naturalization in the interim.[80] However the petition still carried the name.

In 2005 by a majority of seven to four, the judges ruled 'leaping conversions' should be recognised for the purpose of the Law of Return.[81] The judges rejected the argument of the Ministry of Interior to deny the petition because the applicants returned to Israel immediately after their conversion was completed rather than joining the community where they appeared before the *beit din*.[82] The Ministry was concerned for there to be appropriate control and supervision to prevent the abuse of the Law of Return for gaining citizenship. The legal representative of the state argued that Israel had become a desirable destination for immigration of non-Jews. Allowing citizenship on the basis of conversion would encourage an influx of non-Jewish immigrants whose only objective was to receive Israeli citizenship. Bypassing the spirit of the Law of Return in such a manner would be against the public interest and welfare.[83]

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[78] Ibid.

[79] Israel Religious Action Center, 'IRAC Wins Rights for Non-Orthodox Converts'. HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior. Sapir, 'The Proper Role of the Judiciary in a Democratic State', 37-38.

[80] HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 277.

[81] Interview number two.

[82] HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 277.

[83] Sapir, 'The Proper Role of the Judiciary in a Democratic State ', 35.

The judges' ruling in the majority argued that it was unreasonable to reject the Rodriguez-Tushbeim petition because the plaintiffs asked to join the Jewish community in Israel.[84] The Ministry reiterated its argument from the Na'amat case that conversions in Israel had to be ratified by the Chief Rabbinate although the earlier case determined this was not so. The state then argued the Law of Return did not apply to someone who lived in Israel, and then underwent a conversion. The judges decided the Law did apply equally to a person living in Israel who then converted and someone who converted abroad. The state revised its argument saying because the Law of Return carried with it substantial rights it was necessary to ensure the accepted procedures were carried out for the conversion. Therefore, only conversions carried out within the state framework could be considered for this purpose.

IRAC replied that for conversions outside of Israel it was for the converting community to evaluate the sincerity of the conversion. Confining conversions in Israel to the state system contravened previous rulings by the High Court that conversions carried out in Israel were equal to conversions abroad for the purpose of the Law of Return. By limiting the state system to Orthodox conversions the state was acting in contravention of earlier Court rulings recognising multiple streams of Judaism in Israel. Nor did the state system guarantee openness, and conversions could be cancelled retrospectively when candidates did not observe all the *mitzvoth* regularly.[85]

The fact preparations for the conversions were completed in Israel, within recognised branches of Judaism, the same branches which completed the conversions abroad, gave credibility to the conversions. IRAC argued this provided evidence that the conversions were undertaken for the genuine purpose of joining the Jewish people. The Jewish People was one entity dispersed around the world. Whoever joins a community outside Israel joins the Jewish people, and so should be considered as Jewish for the Law of Return.[86]

Dissenting Judge Procaccia protested the majority decision arguing the state was the proper authority to formulate an appropriate policy, and had not been given sufficient opportunity to regulate and guarantee the conversions of Israeli residents conducted overseas. Where preparation for conversion was completed in Israel, but bestowed abroad, the question arose

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[84] HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 267-268.
[85] Ibid., 275-277.
[86] Ibid., 285.

274

of state responsibility for the process to ensure the propriety of the process and honesty of motive.[87] Procaccia raised the question of whether broadening the understanding of conversion to be part of the Jewish people increased opportunities for the motive for conversion being one of acquiring citizenship. The notion of joining the Jewish people was a spiritual one with a cultural heritage, as distinct from the civil connection of acquiring citizenship.

Rigorous state supervision was needed the judge argued, to ensure the motive for conversion was a genuine desire to join the Jewish community. This principal applied to conversion in Israel in general. However, the relatively easier path to conversion in the non-Orthodox Movements contributed to the concern of abuse of the process. In the case before the Court the petitioners demonstrated completion of the necessary requirements of study, immersion in a *mikve*, and circumcision in the case of males. It could not be guaranteed though that these requirements would be met in all future such conversions as the process of conversion varied considerably from one Reform community to another.[88] In the opinion of Procaccia the test of joining the converting community abroad should stay in place. In the present case he preferred to leave the petitions pending allowing time for the state to formulate policy and time for the petitioners to satisfy the criteria.

The ruling delivered in 2005 emphasised the decision applied to the petitioners in the case being heard, and not to all non-Orthodox conversions. In principle, the Law of Return was to be applied equally to all conversions being legally valid for cases where preparation took place in Israel with appearance before a religious court being abroad.[89] The victory was an emotional one, not a substantive victory, because non-Orthodox marriages were still not recognised. Non-Orthodox converts registered in the Population Registry could publicly say they were Jewish yet their personal life choice rights were still limited.[90]

Recognition of non-Orthodox conversions did require verification from the umbrella organisation for each non-Orthodox Movement providing a level of supervision that was not undertaken in Orthodox communities until that time. The decision represented an incremental

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[87] Ibid., 305-330.
[88] Ibid., 319-320.
[89] Israel Religious Action Center, 'IRAC Wins Rights for Non-Orthodox Converts'.
[90] Interview number two.

step towards a pluralistic model of religion-state relations advocated by IRAC and the Reform Movement in Israel.

In a change of attitude, by 2010 the non-Orthodox Movements in Israel preferred people to complete their conversion in Israel and qualify for registration by means of naturalization while continuing to campaign for recognition of non-Orthodox conversions in Israel for the Law of Return. This was a turnaround from prior the mid-1990s when the Reform Movement deliberately used 'leaping conversions' as a way around the system.[91] After the decision in the case of Rodriguez-Tushbeim IRAC also presented petitions to the High Court regarding *mikvaot* and circumcision all related to the fact that non-Orthodox conversions were not recognised. All petitions relating to adoption, *mikvaot* and circumcision were put on hold pending negotiations for the proposed Conversion Bill in 2010. Also suspended were fourteen individual petitions related to 'leaping conversions' where the Ministry of the Interior did not reply to applications for registration.[92]

When converts were taken to the *mikve* to complete their conversion they were turned away because the attendant advised it was only for use for the Orthodox.[93] An application to the High Court in 2006 was unsuccessful the following year. The state claimed the *mikvaot* were not services provided by religious councils. The *mikvaot* were contracted to supply the service for participants in the state authorized Orthodox conversion system. As private organisations the state or religious councils did not have a responsibility to provide the same treatment as it did for the public Orthodox institutions. IRAC was advised to apply to each religious council separately. Similar arguments were used by the State to deny funding for circumcision. The state subsidised the expense incurred for circumcision for men converted in the state conversion system. Non-Orthodox converts were not entitled to any financial assistance.[94] In a petition to the High Court in 2009 IRAC argued the situation was discriminatory and illegal.

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[91] Interview number two. Israel Religious Action Center, 'Letter to Conversion Rabbis, Conversion Teachers, and Conversion Program Coordinators', 4 March 2010. Computer data base of the Israel Religious Action Center.

[92] Interview number two.

[93] Interview number four. Israel Religious Action Center Report, 'IRAC Women's Issues'. Israel Religious Action Center, 'January - June 2010 Legal & Public Policy Report'. Israel Religious Action Center, '2009 Final Narrative Report'.

[94] Interview number four. Israel Religious Action Center, '2009 Final Narrative Report'.

Although each petition addressed specific and separate items, common themes emerged. The place of residence, whether in Israel or abroad, was one consideration. Another was whether a recognised Jewish community for the purpose of recognising conversions meant a specific community in a geographical location, or the Jewish people in general. The sincerity of conversions which carried with it rights of citizenship was of particular concern in the Tushbeim case decided in 2005. Above all, the decisions described Israel as composed of multiple streams of Judaism, not one form of Judaism led by the Chief Rabbinate.

The description of Israel as composed of more than one stream of Judaism supported the arguments of the Reform Movement of Israel as a pluralist society. In order to reach their conclusions the judges used a narrow definition of conversion. Conversions were defined as the act of appearing before the religious court, *beit din*. The process of preparation for conversion was not part of the conversion. This definition enabled the Court to declare 'leaping conversions' were performed abroad and therefore could be recognised for the Law of Return.[95] The relative roles of the Population Registry and the Law of Return were also extensively discussed in the proceedings.

An Issue of Immigration

The debates and petitions on the issue of conversion took place as growing concern emerged over the treatment and citizenship rights of foreign workers. The atmosphere was one which made citizenship for foreign spouses and minors close to impossible.[96] Applying for citizenship through the Ministry of the Interior could also be a difficult process in terms of providing proof of sincerity of conversion and relevant documents.[97] Difficulties arose if the applicant resided in Israel on previous occasions; the conversion process took place in more than one community; the applicant had relatives who were Israeli citizens who did not convert, or the applicant was an African American.

Sometimes applicants were asked for documents in addition to those normally requested by the Jewish Agency. Applications from the Former Soviet Union and Ethiopia were processed by the Ministry of Immigration instead of the Jewish Agency as was the norm in other parts of the Diaspora. In addition, there was only one clerk to process applications for immigration based on conversion, making it impossible to process all the requests in a timely manner.[98]

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[95] HCJ 2597/99 Rodriguez-Tushbeim v. Minister of Interior, 293.

Applications from the Former Soviet Union took a particularly long time to process, sometimes taking months or years for a reply.

Just what should be an appropriate immigration policy for Israel to maintain the Jewish character of the State and addresses humanitarian concerns remains a matter of debate. One proposal called for strict restrictions on entry to the country with leniency after arrival to facilitate long term residency and naturalization.[99] IRAC proposed incorporating humanitarian considerations into legislation regulating residency applications of foreign nationals. It also called for regulating the procedures in the Ministry of Interior to safeguard principles of natural justice, and expanding human resources to enable timely responses to applications.[100]

Attempts by the Ministry of the Interior to prevent registration were not limited to converts from the non-Orthodox Movements.[101] The government wished to deter a trend of granting citizenship to foreign workers, tourists and spouses of Israelis married abroad, and therefore made registration difficult for those converted through an Orthodox stream.[102] Sometimes the citizenship of a person was cancelled when it was later determined the information provided was false. Other times the Ministry of the Interior refused applicants whose conversion took place in a recognised Orthodox community in the United States belonging to the umbrella organisation for Orthodox rabbis. The Ministry justified the decision on the basis the Chief Rabbinate did not recognise the rabbis.[103] After the verdict in the Tushbeim petition was delivered, registration with the Ministry of the Interior under the Law of Return became more difficult. All converted applicants were treated with suspicion of an ulterior motive for their conversion.[104]

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[96] Adriana Kemp, 'Reforming Policies on Foreign Workers in Israel', in *OECD Social, Employment and Migration Working Papers* (Paris: OECD, 2010), 23-24. Adriana Kemp, 'Managing Migration, Reprioritizing National Citizenship: Undocumented Migrant Workers' Children and Policy Reforms in Israel', *Theoretical Inquiries in Law* 8, no. 2 (2007).

[97] Israel Relgious Action Center, 'Problems With the System for Processing Overseas Conversions'. Interview number two.

[98] Interview number two.

[99] Avineri et al., *Managing Global Migration*.

[100] Nicole Maor et al., 'Immigration Policy for the State of Israel: Proposals from the Center for Jewish Pluralism for Immigration Policy Principles for the State of Israel' (Jerusalem: Israel Religious Action, 2007).

[101] Gavison, *The Law of Return at Sixty Year*, 81-82.

[102] Waxman, 'Multiculturalism, Conversion and the Future of Israel'.

[103] Israel Relgious Action Center, 'Problems with the System for Processing Overseas Conversions'.

[104] Interview number two. Israel Religious Action Center Legal Department Report, 'January - December 2006, For the Ford Israel Foundation'. Computer data base of the Israel Religious Action Center.

From 2005 onwards the State began funding private Orthodox conversion classes. IRAC challenged the practice as discriminatory towards the private conversion classes of the Reform and Conservative Movements.[105] The State reiterated arguments it had used in the petitions discussed above. The State argued that Orthodox conversion was the method agreed on by 'all of Israel'. It regarded Orthodox conversion as the best method to integrate new immigrants into Israeli society. In her ruling Chief Justice Beinisch stated this was contrary to the ruling in the Na'amat case that Judaism in Israel is not one stream led by the Chief Rabbinate. Nor could the government determine that only Orthodox conversions could be recognised for the purpose of the Law of Return. By funding only private Orthodox conversion classes, the government was showing bias towards its preferred form of conversion. In doing so the government was violating the principle of equality as protected in Basic Law. It also infringed on religious freedom by violating the right of a person to choose their religious affiliation.[106]

Once the State had funded private Orthodox conversion classes it had an obligation to also fund the non-Orthodox conversion classes. The commitment of the State to pluralism was not a passive one but an active one where all the religious streams were to be treated equally. Justice Beinisch drew a distinction between *halakhic* and civil law. The *halakhic* issue could not be used to deny equality in civil law. As for the integration of new immigrants, this entailed cultural, social, national and religious aspects. The religious affiliation was not necessarily the most important aspect for which the funding was provided. The Progressive Movement argued they wished to facilitate the integration of immigrants into Israel society in accordance with their religious principles. Justice Beinisch continued that it was insufficient for the government to support pluralism by verbal statements; it had also to put this principle into practice by providing funding equally.[107]

A petition presented by IRAC to the High Court to accept conversions completed before a *beit din* in Israel was suspended along with other petitions noted above when a new

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[105] Israel Religious Action Center, 'IRAC Wins Rights for Non-Orthodox Converts'. Israel Religious Action Center, 'High Court Petition 11585/05 The Movement for Progressive Judaism v. The Department for Immigration and Absorption Verdict Summary'.
[106] Israel Religious Action Center, 'High Court Petition 11585/05 The Movement for Progressive Judaism v. The Department for Immigration and Absorption'.
[107] Ibid.

Conversion Bill was introduced to the Knesset in 2010.[108] The Bill was introduced by David Rotem, Member of the Knesset for Yisrael Beiteinu, in order to simplify the conversion process for immigrants from the Former Soviet Union. As the Bill was debated during the committee stage it endowed greater authority to the Chief Rabbinate.

The Bill was another attempt to amend the Chief Rabbi Law in order to give the religious courts exclusive authority over conversions in accordance with Jewish law. Furthermore, the Bill stated that if the conversions were not carried out according to the provisions of the Bill, the conversion would not be valid for the purpose of granting an immigrant a visa or citizenship.[109] Potentially the impact of the Bill was to overturn the previous decisions of the High Court regarding recognition of non-Orthodox conversions from the Diaspora. The lobbying against the Bill was reminiscent of the outcry against the Conversion Bill of 1998. The 2010 Bill was postponed indefinitely and so were the related petitions to the High Court.

Summary

An inconsistency in the establishment of the legal system made it possible for the non-Orthodox Movements to make progress on recognition of conversion where it was not possible in recognition of rabbis or marriage. The civil laws placed all responsibility for matters of marriage and personal status, but not conversion, under the jurisdiction of the Orthodox rabbis via the institution of the Chief Rabbinate. On the matter of definition of a Jew, the Knesset deliberately refrained from using the term *halakhic* leaving an opening for non-Orthodox converts to immigrate to Israel and receive recognition for the purpose of civil law. Attempts by the Rabbinate to incorporate conversion within existing laws relating to personal status failed in the face of strong opposition from the Reform Movement, with support from its Diaspora counterpart.

As important as the issue of recognition of conversion was to the Reform Movement, it detracted to some extent from the necessity for debate on immigration policy and the Law of

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[108] Interview number two. Gal Beckerman, 'As Conversion Bill Stalls in Knesset, Jewish Diaspora Leaders Can Claim Victory', *The Jewish Daily Forward*, 21 July 2010, accessed 20 March 2011, http://forward.com/articles/129546/. Israel Religious Action Center, Conversion Bill (Full Text), 'The Chief Rabinate of Israel (Amendment Jurisdcition with Respect to Conversions) Bill 5770 - 2010, Amendment of Section 2', 12 July 2010, accessed 30 August 2011, http://www.irac.org/NewsDetailes.aspx?ID=1101.
[109] Israel Religious Action Center, Conversion Bill (Full Text), 12 July 2010, accessed 30 August 2011, www.irac.org.

Return reflecting the composition of the Israeli population. For IRAC the difficulties faced by immigrants and arrivals not automatically receiving citizenship under the Law of Return presented an opportunity to push the boundaries to introduce non-Orthodox conversion. Emphasis on the Population Registry as a civil instrument for recording purposes enabled the institution of the Chief Rabbinate to be bypassed to allow non-Orthodox converts to become citizens. After studying with the Reform Movement in Israel, converts could become citizens either by travelling overseas to appear before a *beit din* or attain citizenship after having lived in the country for the required number of years.

The Population Registry became critical to developing a legal framework for recognising religious pluralism. The judges of the High Court applied the broader definition of a convert as a member of the Jewish People rather than the narrower definition of a Jew according to *halakhah*. The concept of the Jewish People was used by the judges to accept the arguments of IRAC in support of pluralism. The Court gave effect to the vision of Israel as pluralist state composed of more than one stream of Judaism. A legal framework for conversion was being developed to recognise religious pluralism providing an alternative to the institution of the Chief Rabbi.

Chapter 10 - Racism and Discrimination

The stranger who dwells among you shall be to you as one born
among you, and you shall love him as yourself; for you were
strangers in the land of Egypt: I am the Lord your God.

Leviticus 19:34

The above quote from the Bible introduced the IRAC report *Love the Strange as Yourself?* *Racism in the Name of Halacha: Racial Incitement by Rabbis in Israel*. The metaphor of the 'stranger' was applied to Arab citizens, and to a lesser extent to migrant workers and refugees, to draw attention to the theme of the report, as the title suggests, that racist statements by rabbis contravenes Jewish law. The fifth core issue represented another shift in policy from emphasis on fair allocation of government resources to the Arab minority to concentrating on religious extremism.[1] The issue of racism presented the opportunity to promote the Reform vision of Israel as a Jewish and democratic state. It became important to communicate to the public that Jewish did not mean allowing discrimination or treating non-Jews unfairly. In this respect Jewish and democratic values were reconcilable.

The campaign against racism focused on promoting the principle that it was unacceptable for rabbis engaged in racist activities to be paid a government salary. For this project IRAC worked as part of the Coalition Against Racism in Israel. The Coalition comprised more than twenty-five organisations representing Ethiopians, Russians, Sephardim, Arab Israelis, Bedouins, farmers, refugees and Jewish groups concerned with human rights.[2] Each constituent organisation worked in the community with different objectives but combined their resources in the Coalition to fight all forms of racism. This chapter first discusses the problem of racism as it applies in Israel and the difficulty of prosecution. The investigation then examines the campaign against racism by following the activities of Rabbi Shmuel Eliyahu.

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[1] Interview numbers twelve and fourteen.
[2] Interview number fifteen. The Coalition Against Racism in Israel, last accessed 26 October 2014, http://www.fightracism.org/en/index.asp.

Universalist versus Particularist

Rather than interpreting the Biblical texts in a manner which entreats Jews to treat the non-Jew fairly, the extremist rabbis interpreted the texts in a manner which reflected the personal viewpoints of the authors of the statements.[3] These views were shaped by the cultural norms which favoured either a particularist, or a universalist perception of the place of the group in the world. Religious scholar Admiel Kosman attributed the proliferation of particularist tendencies among the religious community to a trend in Religious Zionist education to concentrate on exclusive types of Biblical commentary.[4] Kosman holds the Chair for Rabbinic Studies at the University of Potsdam in Germany and is Academic Director of Abraham Geiger College in Berlin.[5]

Kosman argued the particularist understanding of Jews as 'the chosen people' set Jews apart from non-Jews, permitting different standards to be applied to each group. The perception of the 'Other' as different progressed to a process of fragmentation within Israeli society extending the differentiation between Jew and non-Jew to within Israeli Jewish society as well. Kosman cited as an example the prohibition among some Orthodox circles on eating together, not only with non-Jews, but also other Orthodox Jews when kosher food supervision was provided by different authorities. This isolationist interpretation excluded converts in the belief that the only 'real Jews' were those born of a Jewish mother. Another view extended the seclusion to women as part of the 'out-group'. The disparagement of the Reform Movement was another manifestation of the trend to particularism.

Kosman concluded that within this seclusionist and particularist interpretation of Jewish religion, the verses in the Bible which instructed one to love the stranger as yourself was restricted to those included in the 'in-group'. Citing the Biblical verse 'Love your fellow as yourself' (Lev. 19:18), Kosman explained the term 'fellow' was used to exclude non-Jews as people dissimilar to those included within the group. The differentiation was then extended to Jews behaving differently from those within the group, restricting the term 'fellow' to those

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[3] Einat Hurvitz et al., 'Love the Stranger as Yourself? Racism in the Name of Halacha' (Jerusalem: Israel Religious Action Center, 2011), 31-38.
[4] Admiel Kosman, 'The Cultural Crisis of Contemporary Israel: A Jewish Theological Perspectives in Israel', *Israel Studies Review* 26, no. 2 (2011).
[5] Ibid., 53.

who were like the ones acknowledged as Jewish.[6] Emphasis was placed on allegiance to the group, ignoring or diminishing the status of the 'stranger' outside the group.

The particularist Jewish practice contrasted to the modern Jewish interpretation which extended the term 'fellow' to non-Jew and Jew alike. Journalist Carlo Strenger argued the dilemma over racism could be overcome by fostering a modern inclusive form of Judaism. Racism was not intrinsic to Judaism. He wrote, 'modern Judaism is generally anti-racist and anti-nationalist'.[7] Modern Judaism is universalist by nature. Strenger distinguished modern Judaism from the ethnocentric nationalism and racism of many Israeli ultra-Orthodox rabbinic leaders and right-wing politicians.

Modern Judaism was the Judaism of the Reform, Conservative and Modern Orthodox, as well as leading Jewish rabbinic scholars Abraham Heschel, Joseph Dov Soloveichik and Rabbi Jonathan Sacks. Strenger's comments distanced him and like-minded thinkers from the harsher, particularist aspects of Jewish nationalism. The dominance in the political realm of ultra-Orthodox and right-wing leaders was accompanied by increasing displays of racism by extremist rabbis. The lack of action to discipline this form of racism became the target of attention by IRAC.

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[6] Ibid., 52.
[7] Carlo Strenger, 'Modern Jewish Identity Is Not Racist or Nationalist: A Letter to Shlomo Sand', *Haaretz.com*, 29 May 2013, accessed 3 June 2013, http://www.haaretz.com/blogs/strenger-than-fiction/modern-jewish-identity-is-not-racist-or-nationalist-a-letter-to-shlomo-sand.premium-1.526594.

Defining Racism

Racism is the antithesis of liberalism undermining the inherent values of equality, freedom and justice. Attributing inherent difference to certain groups and privileging others, racism can limit opportunities and access, and also citizenship. In the introduction to the Coalition Against Racism in Israel report for 2012, Professor of Sociology at Tel Aviv University Yehouda Shenhav explained racism as an evasive phenomenon with a definition which changes between one time period to another and one society to another.[8] He described two dimensions of racism applicable to Israeli society, the sociological dimension and the regime of laws and governance that normalises racism.

Shenhav described sociological racism as the successor to biological racism. The use of biological language was the medium of racism during the nineteenth century and during the first half of the twentieth century. Biological and cultural attributes of individuals led to the conclusion of inherent difference of Africans, Asians and Jews. Racist ideologies developed the false assumption that humanity could be divided into superior and inferior races where harmful genetic consequences would occur if the races were to mix.[9] Also known as 'scientific racism' this form of 'scholarship' fell into disrepute after 1945 when the defeat of Nazi Germany with its extreme racist ideology led to critical assessment.[10]

Some scholars argued scientific racism made way for 'new racism' or 'racism without race'; a term introduced by French researcher Etienne Balibar. The new racism was couched in sociological language found in liberal societies; ethnicity, cultural affiliation, national affiliation, class, sexual orientation or gender. The broader phraseology incorporated discrimination against different groups in society rather than systems of racist beliefs. Proof of 'new racism', it was argued, may be tested in observations of inequality between, for example, men and women, or people on basis of colour.

An application of sociological racism in Israel was the method for controlling entry into small community settlements. Community settlements are small towns organised on a co-operative

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[8] Yehuda Shenhav, 'Introduction to Theory: Racism and the Social Map', in The 2012 Racism Report, [In Hebrew] *The Coalition Against Racism in Israel*, accessed 24 September 2012, http://www.fightracism.org/cat.asp?cat=12.
[9] Roselle Tekiner, 'Race and the Issue of National Identity in Israel', *International Journal of Middle East Studies* 23, no. 1 (1991): 39-48.
[10] Ibid.

286

basis. Shenhav described how it was common practice for the selection committees of these settlements, usually comprised of Ashkenazi members, to reject applications based on ethnicity, gender or family status.[11] When questioned about the reason for rejecting these applicants, the reply in one case cited was that the small tight-knit community could not devote limited resources to dealing with the friction and disputes that would arise from candidates unsuited to the life of the community.

The argument of compatibility with the community appeared rational given the law permitted selection committees to screen applicants on the basis of social incompatibility. The law was enacted to enable communities to determine the character of their culture. On a national level the unequal distribution of land and the preference given in Israeli law to Jews over non-Jews may be interpreted as discriminatory, or as racist in a manner which legitimises and empowers racism.[12]

According to Shenhav, the laws, social structures and public institutions form a racist regime, or regime of racism. In other words, the laws and institutions were arranged in a way that enabled behaviour considered discriminatory or racist to be displayed.[13] The regime allowed patterns of behaviour considered racist to be thought of as 'normal' and 'natural' whether it be in settlements, work places, or exclusion from night clubs. Compounding this regime of racism was the permanent state of emergency since 1948.

Under cover of emergency provisions the state introduced laws during 2010 and 2011 to limit boycotts perceived as injurious to Israel, arresting suspects of security offences for lengthy periods of time without judicial review, and permitting the arrest of asylum seekers for a period of three years. Disguised as necessary to the security of the state, the laws served to protect the dominance of the Jewish population, relegating the subjects of the law to an inferior status. The laws privileged those considered culturally suitable.[14]

Prosecution of racism relied on an amendment to the Penal Law (1977) passed in the Knesset in 1986.[15] The Penal Law made the publication or dissemination of material to incite racism a

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[11] Shenhav, 'Introduction to Theory: Racism and the Social Map'.
[12] Tekiner, 'Race and the Issue of National Identity in Israel'.
[13] Shenhav, 'Introduction to Theory: Racism and the Social Map'.
[14] Ibid.
[15] Natan Lerner, 'Israel Adopts Bad Law against Racism', *Patterns of Prejudice* 20, no. 4 (1986).

criminal offence whether the material was disseminated in written form, by computer or any visual or auditory means. In section 144A, racism was defined as;

> Persecution, humiliation, degradation, a display of enmity, hostility or violence, or causing violence against a public or parts of the population, due to colour, racial affiliation or national ethnic origin.[16]

Emphasis was placed on awareness on the part of the writer of the material that others will adopt racist attitudes and activities. It was not necessary to demonstrate the racist material did actually lead to racist activity. If the material was a religious document, or prayer book, or speech, or a religious ritual it was exempt from prosecution as long as there was no intent to cause racism.[17] The clause left an opening for rabbis to claim their publications were exempt on the basis of their religious nature. It fell to the state as the potential prosecutor to demonstrate the material was intended to incite racism which could be difficult to prove.

The parameters for applying the exemption to religious material were set in the trial and conviction of Rabbi Ido Elba in 1995. Rabbi Elba published a pamphlet about religious laws concerning the killing of gentiles. The pamphlet declared it was a *mitzvah* to kill gentiles who deny the basic beliefs of Israel and Torah, to kill gentile women and children during time of war, to kill gentiles who it was suspected may kill Jews, or aimed to force Jews to abandon the settlements. The pamphlet was distributed two months after Baruch Goldstein entered a mosque at the Cave of Machpelah in February 1994 murdering twenty-nine Palestinians. The recipients of the pamphlet were students in the same *yeshiva* attached to the synagogue at the Cave of Machpelah.[18]

Rabbi Elba was also convicted of attempting to procure weapons illegally and obstructing legal proceedings. In his ruling, Justice Mazza argued the serious offence of racist incitement harmed the character of the state as Jewish and Democratic. Since that time it became very difficult to prosecute cases of racist incitement by rabbis. Data collected by IRAC revealed that between 2002 and 2011 only one case from a total of forty-eight complaints of incitement resulted in a conviction.[19] Eighteen cases were opened by police for criminal

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[16] Hurvitz et al., 'Love the Stranger as Yourself?', 20. Penal Law 5737-1977.
[17] Ibid. Interview number fifteen.
[18] Raphael Cohen-Almagor, 'Religious, Hateful and Racist Speech in Israel', *Shofar* 31, no. 2 (2013): 101-103. Ehud Sprinzak, *Brother against Brother: Violence and Extremism in Israeli Politics from Altalena to the Rabin Assassination.* (New York: Free Press, 1999), 261-266.
[19] Hurvitz et al., 'Love the Stranger as Yourself?', 26-27.

investigation. Laws against racial incitement were enforced more rigorously when the perpetrator was not a rabbi.

Difficulties of Prosecution

As the Penal Law relates to criminal proceedings only the prosecution of incitement to racism was limited. There was no alternative of civil proceedings. Only the Attorney-General was able to determine if a case of racist incitement should be brought to trial. The reason appeared to be to prevent the overuse of investigation and prosecution of such cases thereby hampering freedom of speech.[20] Another reason put forward was that prosecution could lead to resentment and outrage from radical Jewish elements. It was explained by the State Attorney in the Elba case that it was necessary to be cautious in order to maintain peace.[21] Confining investigation of racist incitement on the part of rabbis to the decision of the Attorney-General was one reason which may account for the lengthy times it can take if and when an investigation did take place.

Apart from criminal prosecution under the Penal Code, rabbis could be disciplined in their capacity as public servants. Such a course of action has never been taken even though a disciplinary response may in some cases be more appropriate than a criminal investigation. The reason given for the lack of disciplinary action by the Ministry of Justice was that criminal proceedings took priority. The end result was that little or no action was taken against racist incitement by rabbis.[22] Another reason given for the lack of prosecution of racist incitement by rabbis was the right to freedom of expression. In the case of public figures such expression was particularly important as a means to communicate with supporters. To counter this point IRAC argued the racist view that one race was superior to another undermined the democratic principles which form the basis of freedom of expression.[23]

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[20] Ibid., 21.
[21] Cohen-Almagor, 'Religious, Hateful and Racist Speech in Israel', 103.
[22] Hurvitz et al, 'Love the Stranger as Yourself?', 23-24.
[23] Ibid., 25.

The Nature of Incitement to Racism

The annual report of The Coalition Against Racism in Israel collects information from reports in the media as well as incidents documented by organisations belonging to the Coalition, and incidents reported by other organisations.[24] The Coalition has published reports beginning with the year 2008 indicating a general increase in the incidence of racism in the years surveyed. Since it was impossible to determine the number of unreported incidents of racism, the data in these reports was inconclusive. Each report covered the period from March to February the following year. The report for the year 2012 recorded 107 instances of incitement to racism by members of the Knesset and public leaders. This was almost twice the number of 60 reported for the previous year, 2011.

The incitement was directed in large part towards Arabs, migrant workers and refugees; 50 in 2011 and 99 in 2012. Data for incitement by public figures was not recorded in the earlier reports. Other cases of incitement were reported towards Mizrahim (Jews from Arabic countries), Russian speakers, Ethiopians, ultra-Orthodox and homosexuals. Almost one third, 213 reported cases of racism, were related to institutional racism; government institutions, private businesses, private and public organisations. Examples noted in the report were denial of entry to nightclubs mainly for Mizrahim and Ethiopians, and demolition of the homes of Arabs living in the Negev.

The report attributed the increase to activities during the lead up to the Knesset elections in January 2013. The year 2012 also witnessed harsh government policy towards African asylum seekers calling for their deportation.[25] Another factor contributing to the atmosphere permitting incitement was the volume of anti-democratic legislation introduced by the eighteenth Knesset since its election in February 2009.[26] A fourth reason for racism towards

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[24] 'The Main Findings of the 2013 Racism in Israel Report', *The Coalition Against Racism in Israel*, accessed 22 May 2013, http://www.fightracism.org/en/Article.asp?aid=398.

[25] Ulrike Schleicher, 'Refugees in Israel Face Tough Immigration Policy', *Deutsche Welle*, 21March 2013, accessed 30 May 2013, http://www.dw.de/refugees-in-israel-face-tough-immigration-policy/a-16673008. David Sheen, 'A Year in Review: Anti-African and Asylum Seekers in Israel', *+972 Magazine Blog*, 29 May 2013, accessed 2 June 2013, http://972mag.com/a-year-in-review-anti-african-racism-and-asylum-seekers-in-israel/72381/.

[26] 'The Coalition Against Racism in Israel 2010 Racism Report, Main Findings', *The Coalition Against Racism in Israel*, 8 December 2011, accessed 5 June 2013, http://www.fightracism.org/en/Article.asp?aid=134. 'The Main Findings of the 2013 Racism in Israel Report', *The Coalition Against Racism in Israel*, 21 March 2013, accessed 22 May 2013, http://www.fightracism.org/en/Article.asp?aid=398. Mordechai Kremnitzer and Shiri Krebs, 'From Illiberal Legislation to Intolerant Democracy', *Israel Studies Review* 26, no. 1 (2011).

Arab and other minorities cited was the discourse of fundamentalist religious rabbis inciting hatred and violence towards non-Jews.

An example of the discourse of fundamentalist rabbis was the publication in 2009 of *The King's Torah* written by Rabbis Yitzhak Shapira and Yosef Elitzur. The book asserted the killing of innocent people was justified because the life of a Jew was more precious than the life of a non-Jew.[27] It demonstrated the extreme positions adopted within the particularist interpretation of Judaism where compassion for others was .limited to those accepted as part of the Jewish in-group. Particularly disturbing was the contention that non-Jewish babies could be killed because they may grow up to be wicked or evil like their parents.[28] The lack of enforcement of the ban on racist speech led to an impression of acceptability of such speech among the public with religious youth more likely than secular youth to oppose equal rights for Arabs.

The New Jewish Fundamentalism

IRAC protested the actions of several rabbis sympathetic to right-wing views. Reports by IRAC noted a number of examples of racist statements and incitement to racism by rabbis since 2002 which conformed to this pattern. Common themes in these statements were instructions not to rent or sell apartments to non-Jews, not to employ Arab labour, and preventing Jewish women forming relationships with and marrying Arab men. The statements came across as discriminatory, protecting the interests of the 'in-group' of Jews. The case of Rabbi Shmuel Eliyahu discussed in the next section was one which IRAC followed closely since 2002 with the intention of prosecuting him for his racist comments.

The phenomenon of right-wing racist rabbis was described by writer Shalom Boguslavsky as 'the new Jewish fundamentalism'.[29] The new fundamentalism differed from classic Jewish fundamentalism by its refusal to moderate their views in order to come closer to the Israeli public for the benefit of mutual interests. Boguslavsky attributed the rise of the new fundamentalism to a combination of the rise of the Shas party and victory in the 1967 War. The hard-line leadership of Sephardi Jewry represented by the Shas party evolved without the

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[27] 'The Coalition Against Racism in Israel 2010 Racism Report, Main Findings'. Hurvitz et al., 'Love the Stranger as Yourself?', 11-12, 24.
[28] Matthew Wagner, 'Shapira's Distinction between Jewish, Gentile Blood', *The Jerusalem Post*, 28 January 2010, accessed 12 April 2015, http://www.jpost.com/Home/Shapiras-distinction-between-Jewish-gentile-blood.

characteristics of moderation. The victory in the 1967 War propelled the fundamentalists into the pursuit of the settlement of the occupied territories.[30] The racism discussed in this chapter became an intrinsic feature of this new fundamentalism.

In 2001 Rabbi Yitzhak Ginzburg published a book titled *Root Treatment* calling for expulsion of non-Jews and extermination of anyone dangerous to Jews.[31] Ginzburg had previously issued a pamphlet titled *Baruch HaGever* (*Blessed is the Man*, alternatively translated as *Baruch the Man*) in 1994 with subsequent editions in 1995 and 1996. The pamphlet justified the massacre of Arab worshippers by Baruch Goldstein in Hebron at the Cave of Machpelah. In 1998 the State Prosecutor rejected demands to indict Ginzburg for publishing the pamphlets.

Following two newspaper interviews in October 2000 and January 2001, the State Prosecutor closed a police investigation of Ginzburg for suspected incitement to rebellion.[32] In 2003 the Attorney-General decided to prosecute Ginzburg for racial incitement for his book *Root Treatment*. The case was cancelled after Ginzburg apologized publicly.[33] At the same time, IRAC appealed to the Ministry of Religious Affairs to cease funding Ginzburg's organisation *Gal Eini*. After the request was rejected IRAC turned to the Attorney-General to disband the organisation. Once the Attorney-General decided to prosecute Ginzburg the government advised IRAC that funding for *Gal Eini* would cease and requested the Registrar of Non-Profit Organisations to disband *Gal Eini*.[34]

Investigation of the authors of *The King's Torah* provides insight into the spread of racist views, supported by theological arguments, within a close-knit community. Rabbi Shapira was a disciple of Rabbi Yitzhak Ginzburg. He succeeded Ginzburg as dean of the Od Yosef

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[29] Shalom Boguslavsky, 'On the Rise of Jewish Fundamentalism in Israel', *+972 Magazine Blog*, 11 December 2010, accessed 5 April 2015, http://972mag.com/on-the-rise-of-jewish-fundamentalism-in-israel/6029/.
[30] Ibid.
[31] Israel Religious Action Center, 'The Struggle to Expose Racism and Xenophobia', memo. Computer data base of the Israel Religious Action Center. Motti Inbari and Shaul Vardi, *Jewish Fundamentalism and the Temple Mount: Who Will Build the Third Temple?* Trans. Shaul Vardi (Albany: State University of New York Press, 2009), 131-160.
[32] Gideon Alon and Baruch Kra, 'Rabbi Charged with Incitement to Racism against Arabs', *Haaretz.com*, 3 July 2003, accessed 25 June 2013, http://www.haaretz.com/news/rabbi-charged-with-incitement-to-racism-against-arabs-1.93113.
[33] Inbari and Vardi, *Jewish Fundamentalism and the Temple Mount*, 188, n3.
[34] Israel Religious Action Center, 'The Struggle to Expose Racism and Xenophobia'. Israel Religious Action Center, 'Semi-Annual Report July to December 2004'.

Chai Yeshiva in the West Bank settlement Yitzhar.[35] Rabbi Elitzur also lived in Yitzhar. In January 2010, not long after *The King's Torah* was published, Shapira and nine other Jewish settlers associated with the Od Yosef Chai Yeshiva were detained by the Israeli security agency Shin Bet in connection with the torching and vandalising of a mosque in the nearby Palestinian village Yasuf. *The King's Torah* did not mention Arabs or Palestinians directly.[36] However, in the context of activities targeting the Arab population, the implication was that the Palestinians were uppermost in the minds of the authors.

The Od Yosef Chai Yeshiva was the publisher of *The King's Torah*. Ginzburg endorsed the book in the preface emphasising the necessity to illuminate the differences between Jew and non-Jew 'at a time when we are obligated to conquer [the land of Israel] from our enemies'.[37] The book was also endorsed in the preface by Rabbi Dov Lior, another prominent rabbi known for a history of racist statements (see below), and Rabbi Yaakov Yosef, son of Rabbi Ovadia Yosef. After the attack on the mosque in Yasuf, the Ashkenazi Chief Rabbi Yona Metzger visited the village to express his regret. However, he and the Sephardi Chief Rabbi Shlomo Amar made no comment regarding *The King's Torah*.[38]

IRAC initially responded to the publication of *The King's Torah* by writing letters to the Minister of Justice and the Attorney-General with a request to investigate the authors of the publication, the rabbis who had endorsed the book, and the distributors of the book. The letters also requested all copies of the publication to be confiscated.[39] A number of arrests were made by the police but no prosecution ensued. In June 2010 Rabbi Shapira was released a few hours after being arrested.[40] A criminal investigation was opened in August 2010. Rabbis Lior and Yosef refused to co-operate with the investigation. Subsequently the rabbis arrested by the police for questioning; Lior in June 2011 and Yosef in July 2011.[41] In the meantime funding provided to Od Yosef Chai by the Ministry of Social Service and the

[35] Wagner, 'Shapira's Distinction between Jewish, Gentile Blood'. Daniel Estrin, 'Rabbinic Text or Call to Terror?' *The Jewish Daily Forward*, 20 January 2010, accessed 12 April 2015, http://forward.com/articles/123925/rabbinic-text-or-call-to-terror/.
[36] Ibid.
[37] Estrin, 'Rabbinic Text or Call to Terror?'
[38] Ibid.
[39] Israel Religious Action Center, 'IRAC Combats Racism in the Publication of Torat HaMelech', accessed 26 June 2013, http://www.irac.org/LegalWork.aspx.
[40] Chaim Levinson, 'Police Release Rabbi Arrested for Inciting to Kill Non-Jews', *Haaretz.com*, 27 July 2010, accessed 12 April 2015, http://www.haaretz.com/print-edition/news/police-release-rabbi-arrested-for-inciting-to-kill-non-jews-1.304261.
[41] Israel Religious Action Center, 'IRAC Combats Racism in the Publication of Torat HaMelech'.

Ministry of Education was frozen. Three years after filing a petition in the High Court, IRAC achieved modest success in November 2013 when the judges allowed the State two months to respond as to why there was no prosecution of the authors of *The King's Torah*, nor any disciplinary action taken.[42]

Another example of racism by state-salaried rabbis cited by IRAC was in 2004 when the Tiberias Kashrut Department of the Rabbinate included in their criteria for certification of food as kosher whether or not the company employed non-Jews.[43] On another occasion in 2006, state employed rabbis took part in a demonstration against the establishment of a bilingual Jewish and Arab school in a Jerusalem neighbourhood. In response to a request from IRAC, police opened an investigation which revealed sufficient evidence for a criminal prosecution against two rabbis.[44]

In November 2010 six rabbis, including neighbourhood rabbis and the chief rabbi of the Tel Aviv Rabbinical Court, signed a *halakhic* ruling prohibiting the rental of apartments to Africans. A month later, Rabbi Meir Kessler, the city rabbi of Modi'in Illit distributed a letter to landlords prohibiting the rental of apartments for foreign workers. He also demanded the eviction of any foreign workers leasing apartments.[45] In 2011 Chief Rabbi of Kiryat Arba near Hebron, Rabbi Dov Lior, wrote an article in the form of a *halakhic* decision for Jews not to employ Arabs or lease apartments to them. He later defended the ruling in a newspaper article by stating 'we are speaking of life threatening matters'.[46]

Dov Lior had a long history of association with the extreme right-wing. Lior was born in 1933 in Galizia in Eastern Europe arriving in Israel a few weeks before the country became independent in 1948. He studied at the Mercaz HaRav yeshiva led at the time by Rabbi Zvi Yehuda Kook.[47] Like Dov Lior, many students of the HaRav yeshiva became leaders of the

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[42] Israel Religious Action Center, 'Victory at the Supreme Court', *The Pluralist* email distribution list, 26 November 2013.
[43] Israel Religious Action Center, 'The Struggle to Expose Racism and Xenophobia'.
[44] Ibid. Israel Religious Action Center, 'Civic Equality Resource Allocation Monitoring Project 2007', memo. Computer data base of the Israel Religious Action Center.
[45] Hurvitz et al, 'Love the Stranger as Yourself?', 18.
[46] Israel Religious Action Center, 'IRAC January-June 2011 Core Activity Narrative Report'.
[47] Hawaii Book Library, accessed 12 April 2015, http://www.hawaiilibrary.net/article/whebn0011502533/dov%20lior.

movement to promote Jewish settlement in the occupied territories after the 1967 War.[48] Examples of racist statements and incitement to violence against Palestinians on the part of Rabbi Dov Lior are numerous. The instances noted here provide information on his activities during some major events in Israel's recent history.[49] Moreover, Loir enjoyed the support of many state-salaried rabbis as exhibited in an advertisement in 2013 signed by 105 rabbis. The advertisement aggressively protested comments by political leaders condemning Dov Lior.[50]

In the early 1980s, Lior was a supporter of the Jewish Underground responsible for the murder of Peace Now activist Emil Greentzweig.[51] According to Menachem Livni, the leader of the terrorist group, Rabbi Lior pressured the members of the underground to murder Arabs.[52] In 1995, Lior praised Baruch Goldstein as a holy martyr and supported a rabbinic ruling sanctioning the assassination of Prime Minister Yitzhak Rabin.[53] As the racist comments of extremist state-salaried rabbis gained momentum, Rabbi Lior also issued pronouncements calling for the expulsion of Palestinians from the occupied territories.[54] He was active politically as a spiritual leader of the religious political party Tekuma. Tekuma partnered with the Jewish Home party, the successor to the National Religious party, for the 2013 elections.[55]

Rabbi Shmuel Eliyahu

Incitement to racism on the part of the Chief Rabbi of Tzfat Rabbi Shmuel Eliyahu was one case IRAC had followed consistently since 2002. The case was well documented by IRAC demonstrating the various elements of the problem of incitement to racism, and the difficulty in eliciting prosecution or government action. Although there were numerous examples of statements considered incitement to racism criminal proceedings never resulted in a

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[48] Michael Feige, *Setting in the Hearts: Jewish Fundamentalism in the Occupied Territories* (Detroit: Wayne State University Press, 2009), 28, 39.

[49] Institute for Middle East Understanding, 'Rabbi Dov Lior: A Case Study in State-Sponsored Incitement', 24 July 2014, accessed 12 April 2015, http://imeu.org/article/rabbi-dov-lior-a-case-study-in-state-sponsored-incitement.

[50] Sefi Rachlevsky, 'The Extremist Rabbi Who Reigns Unobstructed', *Haaretz.com*, 5 November 2013, accessed 12 April 2015, http://www.haaretz.com/opinion/.premium-1.556311.

[51] Sprinzak, *Brother against Brother*, 212-216.

[52] Rachlevsky, 'The Extremist Rabbi Who Reigns Unobstructed'.

[53] Ibid. Sprinzak, *Brother against Brother*, 245-258. Israel Shahak and Norton Mezvinsky, *Jewish Fundamentalism in Israel* (London; Ann Arbor, Michigan: Pluto Press, 2004), 101.

[54] Institute for Middle East Understanding, 'Rabbi Dov Lior'.

[55] Jeremy Sharon, 'Rabbi Dov Lior Steps Down as Chief Rabbi of Kiryat Arba, to Move to East Jerusalem', 26 October 2014, accessed 12 April 2015, http://www.jpost.com/Israel-News/Rabbi-Dov-Lior-steps-down-as-chief-rabbi-of-Kiryat-Arba-to-move-to-east-Jerusalem-379874.

conviction, nor was disciplinary action taken in his position as a publicly employed official. Eliyahu's activities may be regarded as part of a pattern of behaviour observed among some rabbis sympathetic to extremely right-wing views.

Shmuel Eliyahu was the son of Rabbi Mordechai Eliyahu, Sephardi Chief Rabbi of Israel from 1983 to 1993, both descendants of a famous rabbinic family.[56] Mordechai Eliyahu himself had a reputation as extreme in his nationalism and racist in his attitudes towards Palestinians.[57] In 1951 he was arrested and imprisoned for ten months for possession of arms, damaging cars driven on Shabbat, threatening taxi drivers who worked on Shabbat, and threatening a butcher selling non-kosher meat. During his tenure as Chief Rabbi he ruled it was forbidden to return the occupied territories and banned a Jew from renting a house to a gentile. He declared the tsunami of 2004 punishment for plans by Israel to withdraw from the occupied territories.

The rulings of the senior Eliyahu regarding Jews were compassionate, for example, he ruled Ethiopian immigrants were Jews despite objections from his colleagues.[58] On another occasion he allayed the fears of a religious man concerned his daughter and grandson were desecrating Shabbat. The only day of the week the family could visit him was on Shabbat, but as they lived some distance away they had to drive to be able to visit. Mordechai Eliyahu advised it was far more important to allow them to visit so as to keep the family together.[59] The attitude was consistent with the distinction between Jews and non-Jews, those included as worthy and those of an inferior status. Shmuel Eliyahu cultivated his father's reputation as a mystic and miracle worker in an effort to further his own leadership ambitions.

The younger Eliyahu also propagated the racist views his father espoused, further evidence of how the attitude disseminated among the rabbinic community.[60] The statements of Shmuel Eliyahu perpetuated the image of the Arab as the enemy who was dangerous to Israel and the

[56] Daphna Baram, 'Rabbi Mordechai Eliyahu: Israel's Sephardi Chief Rabbi Who Was Orthodox in His Religion and Radical in His Politics', *The Independent*, 16 July 2010, accessed 5 April 2015, http://www.independent.co.uk/news/obituaries/rabbi-mordechai-eliyahu-israelrsquos-sephardi-chief-rabbi-who-was-orthodox-in-his-religion-and-radical-in-his-politics-2027760.html.
[57] Ibid. Anshel Pfeffer, 'Rabbi Mordechai Eliyahu – An Eloquent Racist', *Haaretz.com*, 11 June 2010, accessed 5 April 2015, http://www.haaretz.com/print-edition/news/anshel-pfeffer-rabbi-mordechai-eliyahu-an-eloquent-racist-1.295498.
[58] Baram, 'Rabbi Mordechai Eliyahu'.
[59] Pfeffer, 'Rabbi Mordechai Eliyahu – An Eloquent Racist'.
[60] Shalom Boguslavsky, 'On the Rise of Jewish Fundamentalism in Israel'.

Jewish people and the welfare of Jewish women.[61] IRAC monitored closely repeated statements by Rabbi Eliyahu in newspaper and radio interviews. The quotes below are recorded here as an example of statements made by Rabbi Eliyahu.

After a terrorist attack in area of Tzfat in August 2002, Rabbi Eliyahu called for the expulsion of Arab students attending Tzfat Junior College.[62] IRAC requested the Attorney-General to instigate criminal proceedings for incitement to racism. IRAC also requested the Prime Minister to investigate Rabbi Eliyahu for insubordination. During the following three years Rabbi Eliyahu expanded his comments in the media to call for the expulsion of all Arabs from Tzfat and Arab citizens in general, not to rent property to them, nor to conduct business with Arabs, and to warn against the seduction and mistreatment of Jewish women by Arab men.[63] Two examples of these statements are documented here.

Towards the end of the second intifada Eliyahu drew links between intermarriage and leasing homes to Arab citizens, and the conflict with the Palestinians. In an article published in the weekly newspaper *Kol Ha'emek Vehagalil* on 30 July 2004, Eliyahu described the seduction of Jewish women by Arab men as another front in the war with the Palestinians. He wrote;

> This is another foundation of the war the Palestinians are waging against us, and we must know how to defend ourselves against it. It's about Jewish young women… who have been seduced by young Arab men. The relationships that develop are not healthy ones, and we must rescue them… In most cases, these Arab men are married to Arab women, and they take the Jewish women as kind of maidservants, and the women cannot escape…[64]

Another quote from a radio interview in August 2004 Eliyahu went on to also draw a link between the terrorist attacks and the demand to not rent or sell apartments to Arab citizens.

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[61] Hurvitz et al, 'Love the Stranger as Yourself?', 15.

[62] Israel Religious Action Center, 'The Struggle to Expose Racism and Xenophobia'. Israel Religious Action Center, 'List of Statements by Rabbi Shmuel Eliyahu', accessed 24 June 2013, http://salsa3.salsalabs.com/o/50494/p/salsa/web/common/public/content?content_item_KEY=11196.

[63] Israel Religious Action Center, 'The Struggle to Expose Racism and Xenophobia'. Israel Religious Action Center Legal Department Report, 'January - December 2006'.

[64] Israel Religious Action Center, 'List of Statements by Rabbi Shmuel Eliyahu'.

If we examine the results of in the vast majority of cases, over ninety percent of the cases we handle of Jewish girls who ended up… who entered into relationships with Arab men, then the vast majority ends in violence… It is no secret that they [Israeli Arabs] identify with the Arab struggle and are happy when there are terror attacks, like any Arab who is sent or who sends people to commit attacks – they also support them financially… I am still urging people not to rent apartments to Arabs and not to sell apartments to Arabs, I haven't retracted my statements.[65]

Police investigations produced sufficient evidence for an indictment regarding the earlier remarks from 2002. IRAC petitioned the Attorney-General for three years to prosecute Rabbi Eliyahu.[66] In 2006 Rabbi Eliyahu was charged with incitement to racism. Before the hearing, which was set for June 2006, the Attorney-General reached an agreement with Rabbi Eliyahu to dismiss the charges if he issued a public apology. The agreement was for Rabbi Eliyahu to retract his statements and explain his comments were not intended to apply to all the Arab population, but to a minority who supported terrorism.[67]

The Rabbi published the apology on the internet site where he had previously published the offending statements and the case was closed. The prosecution advised further statements of a similar nature would be reason to re-open the case.[68] IRAC petitioned the Court to reinstate the criminal proceedings arguing the apology should not take the place of the legal proceedings. It was unreasonable for the law not to be enforced in the case of a prominent rabbi as it would in the case of any other citizen.[69] The Court allowed IRAC to amend its petition which was then resubmitted. However, the hearing of the petition was postponed several times.[70]

In October of 2006, Rabbi Eliyahu renewed his call to not rent property to Arabs during a convention in the city of Acre. A police investigation was carried out under instruction from the Ministry of Justice in response to a complaint. Rabbi Eliyahu denied the allegations and

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[65] Ibid.
[66] Israel Religious Action Center, 'Anti-Racism', memo. Computer data base of the Israel Religious Action Center.
[67] Ruth Levush, 'Israel: Criminal and Ethical Aspects of Municipal Rabbis' Letter Concerning the Sale or Rental of Property in Israel to Non-Jews', (Law Library of Congress, 2010), accessed 1 July 2013, http://www.loc.gov/law/help/Israel_2011-005100_final_1.pdf.
[68] Ibid.
[69] Israel Religious Action Center Legal Department Report, 'January - December 2006'.
[70] Israel Religious Action Center, 'Civic Equality Resource Allocation Monitoring Project 2007'.

the case was closed for lack of evidence.[71] Rabbi Eliyahu made similar statements on similar themes in 2008 after a Palestinian, driving a bulldozer, struck vehicles on one of Jerusalem's main roads killing three people and injuring others.[72]

> Again and again it emerges that ostensibly cheap Arab labour actually wreaks the heaviest of prices on us, in blood. The **murderous tractors** driven by Arabs from East Jerusalem are merely the tip of the iceberg of a national problem that has long since become an existential danger that threatens the wellbeing of the nation dwelling in Zion, as sources of livelihood are usurped and Jews are displaced at every turn. Through the creeping seizure of Jewish neighbourhoods, through insolence and audacity, through increasing verbal and physical violence, through the systematic and deliberate offense to the honour of Jewish girls, and up to the point of intermarriage with Jewish women who fall into their net.[73]

The police did not accept any of the complaints put forward by IRAC regarding Rabbi Eliyahu, nor did the Attorney-General renew criminal proceedings. A request to the Court to continue hearing the case led to the petition being heard in March 2009.[74] On that occasion the Court ruled no charges would be laid as long as Rabbi Eliyahu issued an apology. However, he would have to be prosecuted for both the original charges as well as new charges if he published further statements of a racist nature.[75]

Later, in October 2010, Rabbi Eliyahu organised eighteen colleagues to sign a written statement banning the leasing and sale of apartments to Arabs accompanied by a media campaign to garner support.[76] The letter included claims that letting and selling apartments to Arabs would be injurious to neighbours and lead to a decline in property values. The objective of the letter was to prevent the leasing of apartments to Arab students in Tzfat. Rabbi Eliyahu organised a conference opposing the establishment of a medical school in Tzfat because it would attract Arab students. The conference was funded by the Tzfat religious council to campaign against the integration of Arabs into the city. Rabbi Eliyahu

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[71] Mariyam Hussain,'Shadow Report', United Nations Against All Forms of Racial Discrimination, Submitted on behalf of The Coalition Against Racism, January 2012, 22.
[72] Israel Religious Action Center, 'List of Statements by Rabbi Shmuel Eliyahu'.
[73] Ibid. Emphasis appears in original source of quote.
[74] Israel Religious Action Center, 'Legal Department Activity Report; July to December 2008. Computer data base of the Israel Religious Action Center. Israel Religious Action Center, 'IRAC – Fighting Racist Incitement', accessed 26 June 2013, http://www.irac.org/LegalWork.aspx.
[75] Israel Religious Action Center, 'IRAC – Fighting Racist Incitement'. HCJ 6702/05 The Center for Religious Pluralism v. The Attorney-General [In Hebrew].
[76] Israel Religious Action Center, 'List of Statements by Rabbi Shmuel Eliyahu'. Hurvitz et al., 'Love the Stranger as Yourself?', 15-17.

repeated his views in November in newspaper articles in *Ma'ariv* and *Haaretz*.[77] He attempted to defend his activities as self-protection. In the article in the newspaper *Ma'ariv* in November 2010 he was reported as saying;

> I'm not against Arabs. I'm in favour of strengthening girls and the religious family. **Expelling Arabs from Jewish neighbourhoods is part of the strategy**. The Israeli Arabs want to annihilate me and remove me from the land. So I don't need to engage in discussions with them.[78]

On 1 December, IRAC filed a contempt of court petition since Rabbi Eliyahu had contravened the Court decision of March 2009.[79] A few days later on 7 December, fifty state employed rabbis signed and published a *halakhic* ruling endorsing the prohibition on leasing apartments to Arabs. This document came to be known as the 'Rabbis' Letter'.[80] The motivation for the 'Rabbis' Letter' appears to have been in part, to prevent the Attorney-General from prosecuting Rabbi Eliyahu for his earlier statements. They reasoned that if so many rabbis endorsed Eliyahu's remarks as a principle of *halakhah*, legal action could not be taken.[81]

Later the same month twenty-seven wives of prominent rabbis signed a letter urging Jewish women not to socialize with Arab men, nor work in the same place as Arab men, nor participate in National (Volunteer) Service with them.[82] The letter warned Jewish women that once they had been seduced the women would be cursed, beaten and humiliated. The letter was published on behalf of an organisation called LeHava, an acronym for 'Preventing Assimilation in the Holy Land'.

The 'Rabbis' Wives' Letter' was signed, among others, by Esther Lior, the wife of Rabbi Dov Lior, and Nitzchiya Yosef, the wife of Rabbi Yaacov Yosef who had also endorsed the book *The King's Torah*, as well as the daughter of Rabbi Ovadia Yosef, the spiritual leader of Shas.[83] LeHava also made public the names of landlords who had rented property to Arabs

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[77] Israel Religious Action Center, 'List of Statements by Rabbi Shmuel Eliyahu'.
[78] Ibid. Emphasis in original source of quote. Hurvitz et al., 'Love the Stranger as Yourself?', 17.
[79] Israel Religious Action Center, 'IRAC – Fighting Racist Incitement'.
[80] Ibid.
[81] Hurvitz et al., 'Love the Stranger as Yourself?', 17-18.
[82] Ibid., 19. Mark Weiss, 'Rabbis' Wives Call on Jews Not to Date Arabs', *The Telegraph*, 29 December 2010, accesssed 24 January 2010, http://www.telegraph.co.uk/news/worldnews/middleeast/israel/8229831/Rabbis-wives-call-on-Jews-not-to-date-Arabs.htm.
[83] Ibid.

and publicized *kashrut* certificates for businesses which did not employ Arabs. Complaints by IRAC to the Attorney-General regarding the activities of LeHava went unheeded.[84]

In a follow up statement to the 'Rabbis' Letter' published in 2011, Rabbi Eliyahu again denied his pronouncements as racist. He also urged his followers to refrain from violence as it would be detrimental to the struggle to maintain Tzfat as a Jewish city. In the statement he said;

> This struggle has nothing to do with racism and hatred. It is aimed in its entirety only at preserving our state as Jewish….It is possible to win and it is necessary to win without violence. ... It is necessary to see this struggle as action completing the Law of Return and the declaration of a Jewish state, as a continuation of the redemption of lands by the founders of the state and as action completing the government's decision on Judaizing the Galilee. [85]

On publication of the 'Rabbis' Letter' both IRAC and the Association for Civil Rights in Israel (ACRI) requested disciplinary proceedings be taken against Rabbi Eliyahu.[86] The disciplinary proceedings were never undertaken. In 2011, ACRI was advised by the Attorney-General that disciplinary proceedings were delayed due to the corresponding criminal investigation.[87] Attempts by IRAC to appeal to the Attorney-General and the High Court to prosecute Rabbi Eliyahu to incitement to racism were unsuccessful. The reason, it appears, was that the Attorney-General was reluctant to pursue the matter to the point where the Rabbi would be convicted.

In July 2012 the state withdrew the case against Rabbi Eliyahu arguing it was not possible to verify whether the published statements accurately reflected the rabbi's words.[88] In December 2012 the judges of the High Court dismissed the case for contempt of court due to the lack of evidence presented in the earlier 2006 petition. The judges did leave open the possibility of

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[84] Israel Religious Action Center, 'IRAC January-June 2011 Core Activity Narrative Report'.
[85] Eli Ashkenazi, 'Safed Rabbi Says Struggle to Keep the City Jewish Moving Forward', *Haaretz.com*, 8 April 2011, accessed 27 June 2013, http://www.haaretz.com/print-edition/news/safed-rabbi-says-struggle-to-keep-the-city-jewish-moving-forward-1.354738.
[86] Hurvitz et al., 'Love the Stranger as Yourself?', 24, n12. Harriet Sherwood, 'Dozens of Israeli Rabbis Back Call to Forbid Sale of Property to Arabs', *The Guardian*, 8 December 2010, accessed 1 July 2013, http://www.theguardian.com/world/2010/dec/07/israeli-rabbis-ban-rental-sale-to-arabs.
[87] 'ACRI-The Municipal Rabbi of Tzfat Should be Dismissed, not Promoted', The Association for Civil Rights in Israel', 21 May 2013, accessed 1 July 2013, http://www.acri.org.il/en/2013/05/21/tzfat-rabbi/.
[88] Philip Podolsky, 'State Shelves Incitement Case against Safed Chief Rabbi', *The Times of Israel*, 8 July 2012, accessed 2 July 2013, http://www.timesofisrael.com/case-against-shmuel-eliyahu-shelved/.

presenting charges against Rabbi Eliyahu in a new petition.[89] The 'Rabbis' Letter' of 2010 attracted widespread condemnation within Israel and the Diaspora as well as by Prime Minister Benjamin Netanyahu.[90]

Legislation

Working with the Coalition Against Racism and empathetic Knesset members to address some of the problems from the failure of enforcement, IRAC proposed the introduction new legislation. The proposed legislation would remove racism from the Penal Law to create a separate law dealing with civil and criminal penalties unifying all the enforcement mechanisms.[91] The introduction of civil penalties would provide an alternative means of prosecution given the lack of criminal proceedings in such matters.[92] It also intended to shift the burden of proof for incitement to racism from the prosecution to the individual publishing the religious material. For example, in relation to the book *The King's Torah*, it was necessary for the state to demonstrate that the book was published for the purpose of inciting racism. Under the proposed law it would be necessary for the writers of the book to verify that there was no intention to incite racism or violence.

Summary

The priority placed on racism by IRAC expressed the commitment of the Reform Movement to an anti-racism philosophy. By concentrating on the activities of rabbis on a state salary, IRAC sought to make a contribution to the issue in an area not tackled by other organisations. The fostering of pluralism also demanded an acceptance of other cultures and belief systems whether the background of the group was of Jewish or non-Jewish origin. IRAC sought to educate the public that Jewish and democratic could be reconciled when Jewish identity was interpreted as universal principles accepting equality and drawing on principles of justice depicted in the Bible. Racism was a particularly sensitive issue which neither the government or the High Court was prepared to confront.

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[89] HCJ 6702/05 The Center for Religious Pluralism v. The Attorney-General.
[90] Levush, 'Criminal and Ethical Aspects of Municipal Rabbis' Letter'.
[91] Interview number fifteen.
[92] Hurvitz et al., 'Love the Stranger as Yourself?', 40.

Section 4

Conclusion

Chapter 11 - Conclusion

This thesis investigates matters of religion and state in Israel by an examination of the work of the Israel Religious Action Center. The central objective of IRAC to promote religious pluralism became the main theme of this thesis. The thesis questions were therefore designed to gain an understanding of the vision of pluralism IRAC sought to promote, activities taken towards its objective, and the success or otherwise of the objective. What was the vision or plan of IRAC for Israel as a society embracing religious pluralism? How does the IRAC model fit with other recommendations to restructure religion-state relations? How does IRAC apply and advance religious pluralism in Israel? To what extent has IRAC been successful or otherwise in its objective? What explains the success or failure to implement the model?

This thesis contributes to knowledge by demonstrating how the hegemonic role of the Chief Rabbinate in Israel is gradually being eroded. The ultimate goal of IRAC is to introduce pluralism as an alternative model of religion-state relations to the exclusive Orthodox model applied since Israel was founded. Two types of pluralism were identified as interacting to develop the alternative model promoted by IRAC. Religious pluralism based on the principle of equal participation and equal access to resources for all religions and streams requires political pluralism to bring religious pluralism into practice. Political pluralism in this context provides the necessary legal and governance framework to promote and foster the value of religious pluralism.

Several themes emerged on a recurring basis in the discussion in this thesis: the apparent impasse between the Supreme Court and the Knesset; the conflict between the definition of a Jew for the purpose of immigration, and within the country for the purpose of personal status; the challenge posed by IRAC to the public image of the Reform Movement as an inconsequential minority in Israel; the importance of demographic and social changes in creating an environment more open to the platform promoted by IRAC; the introduction and spread of the idea of pluralism in Judaism; the leading role taken by IRAC to put onto the public and political agenda areas of specific concern to the organisation and the Reform Movement. Among the changes in society was the growth and development of civil society of which IRAC is a part. Civil society was the catalyst for change; the vehicle by which

IRAC became a member of a network of liberal democratic organisations and activists seeking similar objectives.

The Vision for Religious Pluralism

The objective of the IRAC plan for religious pluralism was to replace the hierarchical enforcement of religious practice from the top down, to a democratic process empowering individuals to make their own choices. The monopoly exercised by the Chief Rabbinate was being broken down by transferring power from the rabbinic leaders to the people using their services. To implement the objective, IRAC sought to restructure the relations between religion and state by separating religious institutions from government institutions. The proposal was to provide a system of federations to represent each stream of Judaism to recognise cultural and religious pluralism.

The model was an extension of the method by which the Reform Movement was organised in Israel. The IMPJ was the peak body established in 1971 to co-ordinate and support the activities of the Movement in Israel. Under the proposal the role of the Chief Rabbinate would be downgraded in order to represent only communities and organisations voluntarily accepting the authority of the institution. This plan represented a radical departure from the existing situation where the Chief Rabbinate by law bears authority for all religious activities and personal status matters for the Jewish population.

The proposal to separate the institutions of government and religion maintains a neutral role for government. Funding would still be provided to religious institutions, however, the funding would be provided on the basis of defined criteria for each stream and religion to meet. The underlying principle for the provision of funding was a needs basis according to the demand for the services of each stream of Judaism. By this method it was anticipated the favouritism displayed by the government towards Orthodoxy, in particular the ultra-Orthodox, would be negated. The principles of equal treatment would be extended to the non-Jewish religions represented in Israel.

With the downgrading of the role of the Chief Rabbinate, a greater role would be expected for the federal religious bodies and municipal councils. Responsibility for services such as the allocation of land for buildings and supervising *mikvaot* would be retained by the municipal

306

authorities. Religious councils would be abolished, as would the role of neighbourhood rabbis and rabbis in rural areas to service the local area. Rabbis would instead be employed through the federations or local communities providing a greater choice for residents in who they wanted to consult when seeking the services of a rabbi.

The centralised system of marriage would be abandoned in favour of empowering rabbis and clerics and civil authorities with the duty to officiate at marriage ceremonies. Extending the authority to perform marriage to civil authorities provided the option of civil marriage for people not eligible, or not choosing a religious marriage. Religious divorce would be conducted via the stream of Judaism in which the marriage took place. Religious courts, *beit din*, would be restricted to people who voluntarily took their case to the *beit din*. Similarly, there would not be any state sanctioned conversion authority. Conversions by each non-Orthodox and Orthodox stream of Judaism would be recognised for the purpose of civil law for the Law of Return, citizenship, and registration in the Population Registry.

The model of pluralism promoted by IRAC rested on a cultural definition of Israel as a Jewish state, not a *halakhic* definition. The Jewish identity would be manifested by Hebrew as the national language, Jewish symbols used as the state symbols, national holidays determined by Jewish holidays, and Jewish content in the education system. Racism as an issue was an example of the manner in which Judaism was understood. The characteristics of Judaism being promoted were justice, kindness to the stranger, and inclusiveness. In this context the status of Arab citizens was dealt with by IRAC as an issue of human rights.

In keeping with the commitment to social justice the activities of IRAC concentrated on equal rights and equal opportunity. Emphasis was on domestic issues leaving aside the controversial issue of the continuing conflict between Israel and Palestinians living in Gaza and the West Bank. In this way the deep division among members of the Reform Movement regarding the conflict was avoided. By emphasising the humanitarian aspects of Judaism, the identity of Israel as a Jewish state could be reconciled with the democratic principles of equal rights and freedom.

Alternative Recommendations to Restructure Religion-State Relations

The proposal by IRAC to develop a new legislative framework was radical compared to most other attempts to reform the system from within. Among scholars and Orthodox leaders the answer to the difficulties in religion-state relations focused on modifying the existing connections to make the system more responsive to secular Israelis. The Gavison-Medan Covenant sought compromise, to meet the needs of both secular and Orthodox Jews, without any substantial change to the religious institutions. Tzohar emphasised the need to make marriage and other services to the secular community more welcoming so secular Israelis would more willingly engage in Orthodox ritual and life-cycle ceremonies. The needs of the non-Orthodox Movements were of marginal interest related to the perception of their minority status. As a minority, the interests of the Reform and Conservative Movements were considered of less importance than resolving matters related to the role and integrity of the Orthodox rabbinic institutions.

Nor did the IRAC proposal endorse complete separation of religion and state advocated by some commentators. IRAC envisaged a role for government to support religion but on the basis of equal treatment. The only other proposal of a similar nature was the communal model proposed by the religious Zionist organisation Ne'emanei Torah v'Avodah discussed in comparison to the proposal by IRAC for religion-state relations. The communal model emphasised the role of religious communities to make decisions and administer services for the members of the community.

Whereas the IRAC publication was a set of principles and policy, the communal model provided more practical observations on the implementation of such principles and policies. The concept of religious pluralism promoted by IRAC was one which evolved using incremental steps to campaign for religious freedom through the civil courts and by lobbying the government. How to implement these principles came as a matter of trial and error as cases arose to test the legal framework and possibilities for change within the democratic principles upheld by the state. It continues to be an evolving process pursued with a constant eye on the end goal.

Advancement of Religious Pluralism

With their legal expertise and experience in lobbying, IRAC was well placed to take advantage of the demographic and societal changes taking place. Several factors contributed to the ability of IRAC to achieve its objectives on specific issues. The twenty-five years of activism from when IRAC was established in 1987 witnessed a shift in policy from attempting to gain acceptance, to developing alternative structures by modifying the legislative and governing framework. At a local level the role of municipal councils was particularly important for promoting or hindering equality for non-Orthodox congregations.

On a national level, demographic changes were important to creating an environment more open to the platform promoted by IRAC. The most apparent change was the large scale immigration from the Former Soviet Union. An increase in the proportion of non-Jewish immigrants from all around the world, and people whose Jewish status was questioned, placed demands on the services of the Legal Aid Department of IRAC. Also important was the increase in numbers of the ultra-Orthodox population placing greater demands on national resources. The modest increase in the numbers of people aligning themselves with either the Reform or Conservative Movement brought IRAC and its supporters cause for optimism as to their importance and impact on Israeli society as a counterweight to the ultra-Orthodox. In response to the new reality some Orthodox organisations took on a more moderate stand allowing scope for the inclusion of the non-Orthodox Movements.

The rules of the game were changing. The norm for examining the relationship between religion and state was the paradigm of religious versus secular, Orthodox monopoly versus the rights and freedoms of the secular Jewish majority. However, the desire to integrate immigrants from the Former Soviet Union placed added stress on the integrity of the Orthodox institutions. The emergence of cosmopolitan secular Israelis exposed to liberalism in the United States and other countries was accompanied by new conceptions of religious identity in a democratic state. Barriers between secular and religious Israelis were also more obscure than previously reported as secular Israelis sought new ways to engage with and learn about Judaism. Facilitated by an evolving society, the cases pursued by IRAC pushed forward the implementation of pluralism in modest yet significant ways.

Initially the resources of IRAC were utilised to campaign on the issues of conversion, marriage and the recognition of non-Orthodox rabbis in a multi-pronged approach. Attempts during the 1990s to elect members of the Reform Movement to religious councils were unsuccessful precisely because the objective was to become incorporated into the existing mode of delivering religious services. It was not possible to work in co-operation with the Orthodox leadership because of their resistance to co-operating with representatives of the Reform Movement. Similarly the recommendations of the Ne'eman Committee failed to be realised because the Chief Rabbinate decided not to participate in any conversion process with the non-Orthodox Movements.

The change in policy to concentrate on methods of establishing alternative frameworks to the Chief Rabbinate built on the success of developing an alternative civil legal framework to recognise non-Orthodox conversions. The agreement to pay salaries to Miri Gold and fourteen of her colleagues presented a model for providing equality to streams of Judaism outside the authority of the Chief Rabbinate. While moving away from concentrating on recognition of Reform marriages directly, to the introduction of civil marriage, IRAC was able to develop a campaign with the possibility of reaching a wider range of people unable to marry according to religious law.

Instigating a campaign of broader appeal regarding issues related to marriage also presented the opportunity to work in partnership with other organisations with similar objectives. In this manner civil marriage, gender segregation and racism presented issues relevant to interest groups outside the sphere of the non-Orthodox Movements. IRAC was able to develop and participate in networks with other organisations to lobby for agreed objectives. The diverse range of interest groups represented women's groups, minorities and the NIF acting as an umbrella group to foster co-operation between various interest groups. IRAC incorporated the Reform Movement into a broad based movement of like-minded liberal organisations seeking to optimise democratic rule while maintaining the Jewish character of the state.

Gender segregation on public buses was particularly successful in raising debate among Israelis regarding the status of women in the nation as a democracy and the status of women in religious practice. As such, attention was turned to the impact of the ultra-Orthodox on religious practice in public life. As the numbers of ultra-Orthodox grew, the increased demands for government funding, and lack of participation in the workforce and national

310

service drew hostility from secular members of the population. IRAC participated in the widespread pressure for change among secular Israelis. During the 1980s and 1990s IRAC worked on exposing corruption in the delivery of religious services under the umbrella of the Chief Rabbinate. Adoption of the issue of gender segregation represented an offensive stance directly challenging the authority of ultra-Orthodox rabbis to set the rules in public spaces.

The aggressive stance against the excesses of the ultra-Orthodox sector, along with successes on some other issues, challenged the image of the Reform Movement as an inconsequential minority in Israel. Instead, IRAC presented the Reform Movement as an organisation capable of affecting the character and legislative framework of the nation. Earlier representations of the Reform Movement in Israel depicted the Movement as the victims of unfair treatment who, as staunch supporters of Israel, were rewarded by being treated as second class citizens. On the issues of gender segregation and core curriculum the roles were reversed with the ultra-Orthodox seeking to defend their position and policies. By the end of the first decade of the twenty-first century IRAC was actively challenging the authority of the Chief Rabbinate boosted by a sense of optimism for the future of the Movement in Israel.

Insistence on registration in the Population Registry brought recognition by the government for the purpose of civil law. The Population Registry was critical to the recognition of conversion outside the sphere of the Chief Rabbinate. Whereas authority of the Chief Rabbinate for marriage was specified in legislation, no such authority was extended to conversion. IRAC was able to prevent successive attempts to change legislation to bring conversion under the exclusive authority of the Chief Rabbinate, assisted by lobbying efforts of the Reform Movement in the Diaspora.

The Reform Movement in the United States lobbied against changes to the Law of Return already in 1970 when the Law was amended. Deliberations by the judges of the High Court regarding conversion concentrated on the broader philosophical questions of equality and religious freedom, and Jewish peoplehood. However the discussions connecting Jewish peoplehood to pluralism did not reach beyond the confines of the High Court. Among politicians and Orthodox leaders the debate around conversion remained a matter of how to encourage non-Jewish immigrants to convert.

Impediments to the Implementation of Pluralism

The various trends described above contributed to the ability of IRAC to implement a pluralist model to some extent. Two widely recognised reasons for the inability of IRAC to achieve further success were the reluctance of the High Court to become involved in matters of religion and state, and the reluctance of the Knesset to take action to make changes favourable to the non-Orthodox Movements. Another factor was the inability of IRAC to educate and communicate to the public the alternative vision of pluralism as a viable alternative to the Orthodox monopoly. A lack of a clear model of Israel as a pluralistic democracy contributed to this failure. As IRAC proceeded in its campaigns, a set of principles was articulated in the State-Religion Relations platform in 2011. How these principles would be implemented was a question being answered gradually with each new challenge.

Matters presented to the High Court by IRAC tended to undergo a long and protracted process as the judges endeavoured to shift the issues back to the Knesset. Efforts to refer matters back to the Knesset frequently met with an impasse, because the responsible government representatives failed to take the required action or engage in meaningful dialogue designed to resolve matters. When the government did bring in legislation or procedures to make changes, the efforts were met with resistance by the ultra-Orthodox community making implementation difficult. Efforts to introduce core curriculum was a prime example of the difficulties encountered.

In regard to court action IRAC was successful in changing the attitudes of the judges from examining matters from the religious Orthodox perspective, to examining matters from the perspective of pluralism. As Judges Aharon Barak and Dorit Beinisch explained, Israel is a pluralist society composed of more than one stream of Judaism in which the responsibility of the state is an active one to provide support for all streams of Judaism. The liberalisation of the court system contributed to the readiness of the judges to accept values promoting liberal democracy. Pluralism began to enter the lexicon, yet still remained a concept on the margins of Israeli society not properly understood or defined in the Israeli context. As a central goal, promoted by IRAC, pluralism became the vehicle to achieve equality and freedom of religion.

312

Further Research

This thesis contributes to knowledge of religion and state relations in Israel by a detailed investigation of how IRAC attempted to reshape the relationship along the lines of a pluralist democracy. The effort to reform the role of Judaism in the state is one shared by liberal Orthodox organisations like Torah v'Avodah and Kolech. More specific areas of research warranting investigation would improve understanding of the Reform Movement in Israel and the possible implementation of pluralism.

1. Surveys indicated the secular public in particular shared support for policies also advocated by IRAC. However, the parallel support for issues such as the introduction of civil marriage or equal treatment for the non-Orthodox Movements did not translate into a corresponding increase in the number of people joining the Reform Movement. Further investigation into the reasons why people supported issues, such as the introduction of civil marriage and recognition of non-Orthodox Movements, would shed light on the reasons for the discrepancy.

2. An investigation of the reasons people affiliated with the Reform Movement in Israel and their ethnic and religious backgrounds would assist in understanding how the Reform Movement is currently perceived in Israel.

3. An understanding of pluralism and how it may be implemented in Israel would be facilitated by an investigation of the multiplicity of organisations promoting the value of pluralism, or incorporating it into the objectives of their organisation. Such a study would be enhanced by investigating knowledge about pluralism among the general public to ascertain the extent or otherwise to which pluralism may or may not be accepted.

4. More specific research is needed on the reasons people choose to live as common law or cohabiting couples, and the reasons for choosing not to marry or to seek a civil marriage option. At present, information on the reasons why people choose to marry in a civil ceremony tends to be anecdotal in nature. Research into the reasons people choose to marry in a civil ceremony or live in a common law relationship would provide a more accurate picture than currently available.

313

5. Much emphasis was placed by IRAC on the Law of Return as an avenue for citizenship rather than length of residency for which people may qualify after having lived in the country. Acceptance of an immigrant under the Law of Return is accompanied by government financial benefits. Further investigation would reveal if the importance of the Law of Return is an ideological or symbolic one, or a practical one due to the associated financial benefit.

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316

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Appendices

Appendix 1 - IRAC partners

As a part of our advocacy work, the Israel Religious Action Center partners with many organizations [sic] that share our ideals. The following list includes our past and current partners and coalitions:

(partial list, listed alphabetically)

Agenda - Israeli Center for Strategic Communications
Association for Civil Rights in Israel
Bimkom - Planners for Planning Rights
Bina - Center for Jewish Identity and Hebrew Culture
Coalition to Prevent Hot Return of Sudanese Refugees
Forum for Arab Education in the Negev
Forum for Freedom of Choice in Marriage
Forum of Department Heads of Welfare in the Arab Sector
Forum to End Nutritional Insecurity in Israel
Hemdat - the Council for Freedom of Religion in Israel
Hotline for Migrant Workers
International Coalition for Agunah Rights
Jerusalem Open House for Pride and Tolerance
Kollot - Empowerment for the Disabled
Masorti Movement in Israel
Menucha Nechona
Mesila
Midrasha b'Oranim
Mossawa - The Advocacy Center for Arab Citizens in Israel
New Israel Fund
PTA of Bedouin in the Negev
Panim - The Institute for Jewish Leadership and Values
Shatil
Tebeka - Advocacy for Equality & Justice for Ethiopian Israelis
Water Coalition
Women's Budgets Forum
Yedid - The Association for Community Empowerment

Appendix 2 - Law of Return

Law of Return 5710-1950

*Right of aliyah**	1. Every Jew has the right to come to this country as an oleh**.
Oleh's visa	2. (a) Aliyah shall be by oleh's visa.
	(b) An oleh's visa shall be granted to every Jew who has expressed his desire to settle in Israel, unless the Minister of Immigration is satisfied that the applicant
	(1) is engaged in an activity directed against the Jewish people; or
	(2) is likely to endanger public health or the security of the State.
Oleh's certificate	3. (a) A Jew who has come to Israel and subsequent to his arrival has expressed his desire to settle in Israel may, while still in Israel, receive an oleh's certificate.
	(b) The restrictions specified in section 2(b) shall apply also to the grant of an oleh's certificate, but a person shall not be regarded as endangering public health on account of an illness contracted after his arrival in Israel.
Residents and persons born in this country	4. Every Jew who has immigrated into this country before the coming into force of this Law, and every Jew who was born in this country, whether before or after the coming into force of this Law, shall be deemed to be a person who has come to this country as an oleh under this Law.
Implementation and regulations	5. The Minister of Immigration is charged with the implementation of this Law and may make regulations as to any matter relating to such implementation and also as to the grant of oleh's visas and oleh's certificates to minors up to the age of 18 years.

DAVID BEN-GURION
Prime Minister

MOSHE SHAPIRA
Minister of Immigration

YOSEF SPRINZAK
Acting President of the State
Chairman of the Knesset

** Translator's Note: Aliyah means immigration of Jews, and oleh (plural: olim) means a Jew immigrating, into Israel.

Law of Return (Amendment 5714-1954)*

Amendment of section 2(b)

1. In section 2 (b) of the Law of Return, 5710-1950** -

(1) the full stop at the end of paragraph (2) shall be replaced by a semi-colon, and the word "or" shall be inserted thereafter ;

(2) the following paragraph shall be inserted after paragraph (2):

"(3) is a person with a criminal past, likely to endanger public welfare.".

Amendment of sections 2 and 5

2. In sections 2 and 5 of the Law, the words "the Minister of Immigration" shall be replaced by the words "the Minister of the Interior".

MOSHE SHARETT
Prime Minister

YOSEF SERLIN
Minister of Health
Acting Minister of the Interior

YITZCHAK BEN-ZVI
President of the State

Law of Return (Amendment No. 2) 5730-1970*

Addition of sections 4A and 4B

1. In the Law of Return, 5710-1950**, the following sections shall be inserted after section 4:

"Rights of members of family

4A. (a) The rights of a Jew under this Law and the rights of an oleh under the Nationality Law, 5712-1952***, as well as the rights of an oleh under any other enactment, are also vested in a child and a grandchild of a Jew, the spouse of a Jew, the spouse of a child of a Jew and the spouse of a grandchild of a Jew, except for a person who has been a Jew and has voluntarily changed his religion.

(b) It shall be immaterial whether or not a Jew by whose right a right under subsection (a) is claimed is still alive and whether or not he has immigrated to Israel.

(c) The restrictions and conditions prescribed in respect of a Jew or an oleh by or under this Law or by the enactments referred to in subsection (a) shall also apply to a person who claims a right under subsection (a).

Definition

4B. For the purposes of this Law, "Jew" means a person who was born of a Jewish mother or has become converted to Judaism and who is not a member of another religion."

Amendment of section 5

2. In section 5 of the Law of Return, 5710-1950, the following shall be added at the end: "Regulations for the purposes of sections 4A and 4B require the approval of the Constitution, Legislation and Juridical Committee of the Knesset.".

Amendment of the Population Registry Law, 5725-1965

3. In the Population Registry Law, 5725-1965****, the following section shall be inserted after section 3:

"Power of registration and definition

3A. (a) A person shall not be registered as a Jew by ethnic affiliation or religion if a notification under this Law or another entry in the Registry or a public document indicates that he is not a Jew, so long as the said notification, entry or document has not been controverted to the satisfaction of the Chief Registration Officer or so long as declaratory judgment of a competent court or tribunal has not otherwise determined.

(b) For the purposes of this Law and of any registration or document thereunder, "Jew" has the same meaning as in section 4B of the Law of Return, 5710-1950.

(c) This section shall not derogate from a registration effected before its coming into force.".

GOLDA MEIR
Prime Minister
Acting Minister of the Interior

SHNEUR ZALMAN SHAZAR
President of the State