

The Monopoly on Judaism in Israel: Limits to Achieving Jewish Pluralism

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institutions which have led Israel to the current situation in which it lacks true religious pluralism and limits the ability of individuals who identify as Jewish to be able to live as they hope in the land for all Jews.

Today, as a result of certain laws ushered in by what is called the “status quo agreement”, between the first prime minister, David Ben-Gurion, and the religious establishments as well as political concessions made by politicians to gain Orthodox support, Orthodox Jews have effectively been able to impose their lifestyle on mainstream society. Although the ultra-Orthodox are Israeli citizens and deserve the ability to live how they want, many laws force non-ultra-Orthodox individuals to indirectly live under laws tailored to Orthodox needs. The strictly Orthodox Chief Rabbinate and its rabbinical courts control certain institutions critical to Jewish life and personal status issues in Israel. Control over these institutions, such as conversion and marriage functions, ostracize many Israelis who have embraced societal secular<sup>4</sup> developments and practice a non-Orthodox form of Judaism. Because of this, the ultra-Orthodox have essentially formed a monopoly on Judaism in Israel relating to aspects of personal identity. The Orthodox stronghold on institutions that regulate Judaism in Israel has effectively limited the pluralistic goals of the Israeli state, as expressed in the declaration of independence in 1948, which aspires for Israel to be a place where all Jews can have sovereignty over his or her Judaism. Further, by looking at the struggles and experiences of immigrants from the former Soviet Union to Israel, especially relating to the institutions of conversion and marriage, this lack of ability to feel autonomy over one’s Jewish identity can be best identified. Thus, the ultra-Orthodox monopoly on Judaism in Israel must be broken down in order to

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<sup>4</sup> Miriam-Webster Dictionary defines secular as, “Of or relating to the worldly or temporal; not overtly or specifically religious”

develop a more pluralistic nation where all Jews feel respected and comfortable in the Jewish homeland of Israel.

This paper will be broken down into five main sections. The first will focus on the background surrounding how the social and political control over Judaism, which the Orthodox currently hold, came to be in Israel. Here, we look at the ramifications of the status quo agreement. Following an overview of the early history, I will delve into the change in Israel's character away from the secular, socialist and universalistic tendencies of early Israel and explore how the religious character of Israel has come to be what it is today. I will then move into the specific institutions and personal status issues that Orthodox leaders and the Chief Rabbinate effectively control within Israel. I also discuss the military exemption granted to the Orthodox. I then break down the strictly Orthodox Chief Rabbinate's control over conversion—an institution that negatively harms many who have emigrated and hope to emigrate to Israel and marriage which harms all non-Orthodox in Israel and inherently limits the actualization of all Jews in Israel's ability to live as they desire within a Jewish nation. I will then explore how



and the degree of their immersion in the values and activities of the nonreligious world.<sup>7</sup> These two elements result in a

which eventually led to the contemporary ultra-Orthodox enclave. The Haredi Jew consciously seeks to live in a separate society with an invisible wall protecting the holiness within and keeping away the profane world outside.<sup>10</sup> Not only did the ultra-Orthodox retain their identities through a strict observance of Jewish law, but the community extended certain Jewish customs and laws to more stringent observances to ensure the upkeep of Jewish general way of life. As Lowenthal puts it, “The preservationist, traditionalist, and general exclusivist stance of the Haredim was expressed and reinforced precisely by preserving and even extending the observance of halakhic details.<sup>11</sup> While this form of Jewish practice was effective in retaining Judaism within the diaspora during the Middle Ages and into the late nineteenth century, societal shifts beginning in the twentieth century ushered in a wave of secular tendencies which effectively pushed Jews into a separate sphere, especially in America where religion has become largely privatized. This shift, according to Lowenthal, openly threatened the survival of traditional Judaism, with its ancient store of subtle knowledge, its spirituality, and its ideals. The result was the erection of invisible ghetto walls in order to keep out the ‘transgressors,’ their books, and their profanity.<sup>12</sup> Faced with a societal shift which valued secularism and the privatization of religious belief, the Orthodox community chose to close themselves off from mainstream society.

On the other hand, secularism had a drastically different effect on Orthodox Jews,

more comfortable with identifying as both a Jew and a member of their respective nation. As members of the new nation of Israel, these Jews who embraced secularism were bound to present a contrast to the more traditionalist ultra-Orthodox. Ben-Gurion was thus forced to strike a balance between the various forms of Jewish observance, since, on the one hand, Israel had a high number of secular Jews living both in cities and in community-centered Kibbutzim, and, on the otherhand, there was a group of ultra-Orthodox Jews who feared that life in a nation-state such as Israel, even if it was a “Jewish State”, would limit their ability to retain their form of strict Jewish observance. Ultimately, when Israel was founded in 1948, the secularizing government had to compromise with ultra-Orthodox

The task of creating a unified nation from millions of immigrants brought the spectrum of Jewish beliefs and practices to the forefront of Israeli policy as leaders worked to mitigate potential divisions based on Judaism. Consequently, “Ben-Gurion's vision of the state gradually became pluralistic in terms of ideology and pragmatic in terms of policy...[thus], at the beginning of 1951, Ben-Gurion stated that Israel must adopt a regime of compromise.”<sup>13</sup> Although Ben-Gurion himself lived a rather secular life, he still accepted Judaism “as a social and political focus... and he was well aware of the centrality of religion and religious symbols in the lives of many of the citizens.”<sup>14</sup> Because of this, Israel’s early leaders made a conscious effort to position Judaism as a force of common identity. Still, compromise would prove necessary to define exactly what form of Judaism would function as an effective unifying force.

As Israel has developed as a nation since its creation, so has the relationship between different denominations of Judaism in Israel. David Ben-Gurion pragmatically attempted to



mend what he viewed as an inevitable divide between the Orthodox and secular Israelis to achieve his goal of having all Jews feel empowered and accepted in Israel. Nathan Yanai argues that “compromise was Ben-Gurion's principal guideline on the issue of religion. It derived in part from the same reasons as in the economic sphere and led to the concept of *the status quo*,” which refers to the status of (Orthodox) Judaism in Israel as a Jewish and democratic state, has its origins in the pre-state period and is symbolized by the arrangements agreed upon by Israel's first prime minister, David Ben-Gurion, and the leadership of the ultra-Orthodox sector.<sup>16</sup> As most European ultra-Orthodox communities were destroyed in the Nazi Holocaust, a few survivors arrived in the pre-state or (later) Israel, such as the great Abraham Isaac Kook (Rav Kook), creating the need to allow the small number of them to recreate their Ultra-Orthodox way of life in Israel.<sup>17</sup> During the process of developing this agreement, the scope and content of this condition was actually decided, despite its name, through a gradual bargaining process marred by conflict crisis.<sup>18</sup> To achieve the compromise Ben-Gurion understood that he needed to show strictly Orthodox leaders that he and the state of Israel were committed to respecting their way of life. Because of this, as Nathan Yanai explains

Ben-Gurion was prepared to respond, though not in full and not always without crisis, to the ultimate integrative needs of the religious sector of the Israeli population: kosher kitchens in the army, which prevented the need to form two institutionalized sectors in the army; making Sabbath by law the official day of rest from work for the Jews (Sunday for Christians, Friday for Moslems) which prevented discrimination against religious workers; and the exemption of religious women and yeshiva students from military service.

It was the secularist Beaurion who, in his famous "status quo letter," influenced and

### Religiosity in Israel- How it came to be:

In the years leading up to the founding of Israel, as well as when it was created in 1948, many who moved to Israel hoped to cultivate the land through labor and a socialist lifestyle on the kibbutz. Others came to the cities to establish lives based on European secular models favoring high education, the professions, industry, and the arts. As was true with Ben himself, many of these individuals identified as more secular than religious. The early pioneers in nation building were not focused on manifesting God's covenant with the Jewish people by moving to Israel but to live in a state for Jews and build a new modern Jewish nation State. While ultra-Orthodox individuals who survived the Shoah did move to Israel as well, many early settlers such as Ben-Gurion did not prioritize their religion when moving to Israel. Because of this, the status agreement which Ben-Gurion agreed upon with the Orthodox leaders in Israel was only being applied to a portion of the small population, a group which has grown exponentially since the early days of the State.

It proves important to map out how the power of the religious grew in its position in Israel. While the ultra-Orthodox remain a minority in Israel in relation to the majority of secular Jews, a variety of forces have served to increase their power. Here, we can begin with a description of the settler movement following the 1967 war as well as the emergence of the Mizrahi or Middle Eastern as opposed to the European or Ashkenazi communities in political power.

Suffice it to say that in the 1977 election and beyond Israel shifted from a society dedicated to the socialist and universal tendencies of the early Labor party to the capitalist and religious emphasis on Judaism in Israel seen today. This shift has proven essential as the

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<sup>25</sup> Kedar, "Ben-Gurion's" 164-166.

most dominant political party in Israel— Likud— emphasized, and continues to campaign on, the need for a Jewish character to the State of Israel.

As a result of success in the Six Day War in 1967, the young state of Israel expanded its territories after capturing land in all directions. While Israel would give back much of this land in peace treaties with Egypt, Jordan, and Palestinians following the Oslo accords, the government of Israel has kept control of certain parts of the West Bank as well as the holy city of Jerusalem.

After securing this land, a wave of support began as individuals hoped to reestablish Israel's connection with Judaism by creating communities of Jewry within the West Bank. By settling in the West Bank these individuals essentially cut off pockets of the Palestinian land, marking it

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“the most significant site in the world for the Jewish people.”<sup>28</sup>



### Ultra-Orthodox Political Power:

While Israel today represents a thriving economic hub in the Middle East, the strictly Orthodox focus on living an isolated, traditional lifestyle has remained a staple of the ultra Orthodox community. This, combined with their desire to ensure a respect and understanding of Judaism in Israel, make the community's ability to hold political power essential. Through the retention of political power within Israel's parliamentary system, ultra Orthodox have proven largely successful in retaining the necessary power to ensure the control over entities granted to them by Ben-Gurion over seventy years ago through status agreements. Regardless of the fact that Orthodox leaders and rabbis sometimes even reject the Zionist movement as a political and nationalist movement, the communities' leaders have still often been chosen to take a role as members of Israel's parliamentary coalition. Scholar Hadar Lipshits focuses on the relationship between Orthodox political power and money to highlight the process by which the ultra-Orthodox gained political power in the first place. Forty or so years ago when the ultra-Orthodox community really began political involvement, the ultra-Orthodox were only able to elect a few representatives to the ruling coalition. Lipshits explains, "The political power of the Haredi parties has increased since the major turning point in the election of 1977, ever since which they have been considered the tie breaking factor."<sup>35</sup> The two primary political parties within Israel, the Labor party, and the Likud party, have both tended to get a similar number of votes during most elections. As Lipshits explains, however, "It seems that the main political power of the Haredi parties was reflected in their position as 'tiebreaker'. Ever since Israel moved to a two block system, it has been the

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<sup>34</sup> Hadar Lipshits, "Budgeting for Ultra-Orthodox Education: The Failure of Ultra-Orthodox Politics, 1996-2006", *Israel Studies Vol. 20* (Indiana University Press 2015) 136.

<sup>35</sup> Lipshits, 136.





respect for them as citizens of Israel, but also out of fear of losing enough representatives to hold

artificial, eroded, inauthentic forms of assimilated, suburban... Jewish life distinctly  
 American perspective, many Jews have been able to retain their Jewish identity while also being  
 active and important participants in the American civil sphere. This being said, the orthodox  
 movements have generally failed to take root in Israel as they have in America; only about eighty  
 of the approximately sixteen thousand synagogues in Israel are Conservative or Reform.  
 Further, individuals in Israel often identify as either secular, nationalistic (modern  
 orthodox), or ultra-Orthodox. While this lack of diversity has developed a society where  
 individuals are forced in many ways to either identify with some form of orthodoxy or as secular,  
 this also proves important as it supports the government and its religious leader's views on what  
 can be considered

most Jews lived according to an Orthodox form of Judaism. Through this, Jews often held their Jewish identity to be distinct and different from the national identity of the country they inhabit.

likely the ultraOrthodox ways of conducting the various institutions in the ways that they do will prove problematic and change will take place. Instead, as the state and political parties such as Likud who held ruling power within the coalition for many years prioritize an Orthodox understanding of Judaism, the UltraOrthodox strict beliefs and practice of Judaism flourish in Israel. Thus, utilizing the argument of authenticity, the increase in general religiosity within

into Israeli society and a route to social mobility.<sup>51</sup> Thus, for many in Israel, mandatory service



spheres of religious and civic life in Israel, leaving personal matters such as marriage, divorce, burial, and conversion in the exclusive realm of the Orthodox Chief Rabbinate.<sup>56</sup> Because of this control, non-Orthodox citizens in Israel are forced to conform to the views of the Chief Rabbinate, led by the Ashkenazi and Sephardi chief Rabbis. This effectively means that all non-Orthodox forms of Judaism, such as Reform, Conservative, and Reconstructionist, what are sometimes referred to as “liberal” or “progressive” forms of Judaism are illegitimate in Israel. As a result, the Israeli Religious Action Center holds, “religious coercion has become an inseparable part of life for most Israeli citizens, and the level of discrimination that exists against progressive Judaism would be unimaginable in any other democratic country.”<sup>57</sup> To make this clear, all non-Orthodox conversions, marriages, divorces, and burials, performed by non-orthodox rabbis, are not considered valid in the Jewish State of Israel.

### Conversion:

One important aspect of Jewry in Israel which a12 (e)4 ( i)-2ds,ied vTI w 10 (l)1 (,iqui4 (r72 48

While “those who convert to non-Orthodox Judaism in another country have been able to gain Israeli citizenship for decades,” in order to be considered a Jew in Israel one must undergo a conversion process controlled by the Orthodox Rabbinate





Israel Because of this, the Chief Rabbinate only allows for those identified as Jews to be married under their jurisdiction and often assumes a very religious orientation with both the man and woman being required to complete religious rituals prior to and during the wedding.<sup>65</sup> While “supporters of the system say it preserves unity by maintaining one standard of Judaism that adheres to strict Jewish law and that it protects future generations from canonical chaos,” for the many non-Orthodox Israelis there exists no alternative civil form of marriage which they are also able to consider.<sup>66</sup> Thus, individuals who wish to be married in Israel are forced to choose between having a religious authority who may not represent or respect their lifestyle conduct their marriage or not having their marriage be recognized by the state.

In 2018 the Israeli Judaism Network, ‘Panim’ released a report on the data and trends of Jewish wedding ceremonies outside the jurisdiction of the Chief Rabbinate. In this, they summarize the current state of marriage in Israel:

The State of Israel is the only Western country that does not permit civil marriages and that forces all of its citizens into religious marriage ceremonies. As a result of religious restrictions, some of the citizens of the State cannot formalize their lives as a couple in an official manner that is recognized by the State. The religious demand, which has been upheld by the legislature, to keep marriage and divorce laws subject to the Rabbinate, was explained by the need to preserve the ‘unity and wholeness of the nation.’ This has given rise to the situation in which it is the Chief Rabbinate that defines the boundaries of the nation; a Rabbinate whose world view is strictly Orthodox. This situation is in fact causing the exclusion of a considerable portion of the Jewish people, despite their desire to be part of the Jewish people.<sup>67</sup>

As mentioned in this quote the authority of the Orthodox Chief Rabbinate over marriage functions to exclude many Israelis. The excluded Israelis represent over fifty percent of the

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<sup>65</sup> Isabel Kershner, “Israel’s Latest Culture War Plays Out Under the Wedding Canopy,” *New York Times*, August 19, 2018, <https://www.nytimes.com/2018/08/19/world/middleeast/israel-weddings-orthodox>

Israeli population who for various reasons are either not allowed or would simply not want a wedding officiated by the Rabbinate.<sup>68</sup> Today, for example, the Chief Rabbinate bars hundreds of thousands of LGBTQ Israelis each year from being married.<sup>69</sup> Further, prior to agreeing to officiate one's wedding in Israel the Chief Rabbinate often completes an extensive background check to ensure that both the spouse and groom are Jewish according to their interpretation of who is a halakhic Jew. Although background checks and barring Jews from being married by the Rabbinate uniquely harm populations such as the Russian Jews, many Jewish orthodox Israelis also feel excluded by the control of marriage by the Orthodox

For years individuals excluded by the Rabbinate-controlled institution of marriage have still

secular couples who choose private ceremonies outside of the Rabbinate, there is an increasing concept of such marriage as being a normative choice derived from c



ethnic conception of their Jewish identity. Although hardly practicing Jews, as long as these Soviet Jews qualified to immigrate to Israel with the Law of Return then the state of Israel would

Yitzhak Yosef, who argued that many Russian Israelis “complete gentiles’ who’d been brought to Israel to counter the ultra-Orthodox vote in elections. In addition, Yosef claimed that some are even Communists and haters of religion. Rhetoric such as this has led to many Soviet Jews feeling as outsiders in Israel. The state meant for all Jews. This sense of alienation is “frequently reinforced by the Israeli media and by informal contacts with relative *halakhically* Jewish peers,” making the attacks on Russian Jews ‘Jewishn

population has gradually undergone what Professor Asher Cohen of Bar Ilan University calls a 'sociological conversion.' Almost thirty years later, Russian Jews "work with us, they play with us, and they die with us."<sup>88</sup> Through being functioning members of the Israeli society, essential contributors to the Israeli economy and active participants in the Israeli army, the 'Russian' population has fully become a fully engrained part of Israeli society, regardless of ultra-Orthodox efforts to paint them as not Jews.

While sociological conversion may be a positive for Russian Jews within mainstream Israeli society, it is important to note that this lack of acceptance of Soviet Jews by the ultra-Orthodox establishment as 'real' Jews has had legitimate consequences. Out of the million who came, about 120,000 have since left, heading to points west or back home as a result of their Jewish identity being critiqued.<sup>89</sup> Many individuals, such as Yogev Karasenty, a policy adviser to the Jewish Agency, believe that "if this particular group had access to a friendlier conversion process, it would be very reasonable to assume that their dropout rates would not be as high... [but] because they are not considered Jewish here, it is much more difficult for them to feel a part of the country."<sup>90</sup> Today the Soviet Jews who remain in Israel, particularly generation 1.5, are forced to live within an Israeli society with institutions of personal status led by the very individuals who reject their Jewish identity, illuminating the problematic nature of the Orthodox monopoly on Judaism in Israel.

As is true with conversion, the lack of ability to participate in the institution of marriage proves particularly harmful to Soviet Jews. Because one must be halakhically Jewish to be married in Israel, as Yaakov Kop describes: "The transformation of



cases of marital status for all Jews has created inconsistencies between the definition of a 'Jew' for the purpose of the Law of Return and in terms of other issues.<sup>91</sup> This proves particularly problematic for the hundreds of thousands of Soviet Jews who fall within this inconsistency.

These Jews, and today their children, who came to Israel through the Law of Return but are not considered Jewish by the state, are banned from having a marriage recognized by the state in Israel. While the lack of civil marriage in Israel affects many Jews in Israel, the Soviet Jews are especially harmed and at times even targeted by this policy as their Jewishness is more intensely scrutinized than other populations. Lily Galili of The Brookings Institute discovered that "in some extreme cases, Israel's rabbinate has been performing DNA testing on immigrants from the former Soviet Union to check if they are genetically Jewish as a condition for marriage registration."<sup>92</sup> One organization named "Shorashim" (Roots), a small NGO established in 2003, "sends emissaries to remote villages and cities in the FSU to look for convincing proofs necessary to determine Jewish ancestry of couples registered to marry."<sup>93</sup> It is true that these Soviet Jews can utilize the available loopholes to get their marriage recognized in Israel by traveling abroad as others who the state does not consider halakhically Jewish may do. Still, the particular attention which Soviet Jews receive, as the state and other organizations work to disregard their claims of being Jewish, shows how this community has a difficult time living under the current Orthodox controlled marriage system.

No population in any democratic nation should feel as though they do not belong. Yet in many interviews Soviet Jews express feelings of





particularly from the powerful Ministry of the Interior (and the Chief Rabbinate), which is controlled by ultra-Orthodox political parties.<sup>87</sup> Also, the Israel Religious Action Center works to create a pluralistic environment in Israel by supporting Orthodox movements, such as Reform, Conservative, and sometimes even Modern Orthodox Judaism, which have been suppressed by the politically powerful ultra-Orthodox. To achieve this, IRAC provides direct legal services to non-Orthodox movements as well as its congregations and rabbis in Israel to ensure that they receive the government funding and services they are due.<sup>88</sup>

Another organization working towards pluralism in Israel is the New Israel Fund (NIF). By working to secure freedom of and from religion, the New Israel Fund attempts to ensure that Israel embraces a democratic character by fighting for religious tolerance, gender equality, and against the ultra-Orthodox monopoly on religious life. NIF notes on its website: “One would think that, having finally achieved a Jewish homeland in Israel, Jews could practice their religion – or not – untroubled by government interference.”<sup>89</sup>

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### Legal Initiatives:

After decades of living under Israel's commitment to an Orthodox-centric civil sphere and institutions, since the turn of the century Orthodox movements have turned to the courts to challenge the status quo of Sephardi and the Ashkenazi-Orthodox political parties have used their increasing political power to minimize religious pluralism and the existence of non-Orthodox Judaism. Because of this, the Reform and Conservative movements have turned to American-style court challenges and financial measures to ward off efforts of delegitimization.<sup>101</sup> These non-Orthodox and secular circles have specifically attempted to challenge legislation that imposes religious norms on the public at large such as marriage laws and the restriction on Orthodox-only conversions. As Israel has no written constitution but a working set of basic laws, the Supreme Court plays an important role in deciding the extent to which Israel will allow the Orthodox to reign supreme. This being said, a major aspect which continues to restrict any real progress is that any changes towards valuing pluralism almost always result in a major pushback from Orthodox parties. As Daniel Elezar holds, "the Reform and Conservative may win such a victory in the Israel Supreme Court but it would be a pyrrhic victory<sup>102</sup> for them as well as for the Orthodox because of the religious conflicts that would intensify as a result of it."<sup>103</sup> For instance, when American Jews vowed to ask the U.S. Congress to intervene against religious discrimination in Israel, Shas and its leadership warned that legitimizing Reform or Conservative movements would "sanction intermarriage... a form of 'auto genocide.'<sup>104</sup> Any advance that non-Orthodox individuals in Israel make towards allowing

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<sup>101</sup> Ofira Seliktar, "Separating the Synagogue from the State: American Jews and the Struggle for Religious Pluralism in Israel." *Israel Studies Forum* vol. 18, no. 1, (2002): 68, <http://www.jstor.org/stable/41804910>

<sup>102</sup> According to Miriam Webster Dictionary, "A pyrrhic victory is a victory that comes at a great cost, perhaps making the ordeal to win not worth it."

<sup>103</sup> Elazar, "Orthodox and Non-Orthodox Judaism: How to Square the Circle"

<sup>104</sup> Seliktar, "Separating the Synagogue from the State: American Jews and the Struggle for Religious Pluralism in Israel" 71.



increase. Through this I agree with Daniel Elazar who feels as though ultimately the rabbinical establishment will have to give up its exclusiveness by accepting Reform and Conservative involvement in common operational matters such as training for conversion, performance of marriages, and handling the provision of religious services to the Israeli Jewish population.<sup>107</sup> Only when this occurs will Israel truly be a home for all Jews

Prior to the creation of Israel in 1948, for almost two millennia Jews were a minority who often had to hide their Judaism. With the creation of Israel an enormous task of rescuing and reconstructing Jewish

the legal system to try and adapt the current system, there has been minimal progress made. Change must come from within the Orthodox community through voices of moderation that understand the need for Jewish pluralism in Israel and how much stronger it will make the country. For the past seven and a half years Israel has slowly built itself into an economic hub and a center for democratic and liberal values especially in its major cities. Yet all of this is under threat if the Jewish people of Israel split apart on the basis of ultra-Orthodox Judaism – the important force that Ben-Gurion turned to for creating unity at the beginning of the Jewish state. Israel must change the current monopoly on Judaism which the ultra