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My Journey for Change: Personal Introduction and Acknowledgments

Over the last twenty years I have worked to promote new arrangements with respect to the main issues that characterize the relationship between religion and state in Israel. In the meeting rooms of government ministries, in the discussion rooms of Knesset committees, in my public activity and in any other way that I believed could lead the State of Israel to the desired goal: strengthening its Jewish and democratic identity and calming the severe social tensions that are tearing Israeli society apart as a result of disagreements around the proper balance between religion and the state, or if you wish, between “church and state” in Israel.

As someone who works both to promote political and social change, as well as in the field of academic and applied research, my public advocacy has gone hand in hand with an array of research endeavors to better understand the terrain in which I operate. I have extensively studied the moral, legal, and historical components of religion-state relations in Israel, which together constitute the “status quo” that has framed—rather uneasily—these relations for many years.

This book is the fruit of my studies, but it also reveals the insights of someone who has worked to effect real change, not just to write about it from a safe academic distance.

I would like to take this opportunity to thank my friends and colleagues in the research field and in the “real world” for sharing this goal through their true

cooperation; our stimulating, sometimes challenging, conversations and their wise insights are reflected in this book. My thanks go to former Knesset member and renowned attorney Nachum Langental, with whom I began this practical and intellectual journey as a young law student; to my teacher and partner of many years, Professor Yedidia Stern; to my colleagues at the Peres Academic Center, the Israel Democracy Institute, and the Jewish People Policy Institute (JPPI); and to the many others who have been my intellectual partners and fellow seekers along the road toward change.

The book before you is based on a study of the religion-state “status-quo” I published with the Israel Democracy Institute. I thank the IDI for being my professional home during that period and for its unfailing support in publishing that research. This book is published with the assistance of my two current professional homes, the Jewish People Policy Institute (JPPI), and the Peres Academic Center. They have my gratitude.

Last but not least, I would like to thank my wife Oshrit and our children, who accompany and support me wherever I am. I am beyond grateful for that.

—Shuki Friedman

Preface

On State and Religion in Israel

Judaism is a unique entity. It is a religion and a culture, but also a national entity. The State of Israel, the fulfillment of a dream of two millennia, when without a foothold in the promised land, Jewish continued existence depended on religious, spiritual, and intellectual values. But how can this state, Jewish and democratic, relate to state and religion matters?

It is a complex issue. The Jewish population in Israel—about 80%—is not of a unified character: there are secular, traditional, orthodox, and ultraorthodox Jews, as well as small conservative and reform congregations. The spectrum is wide, and so are the issues: conversion, marriage and divorce, Kashrut, Shabbat—each of those is subject to major controversies, many of which are dividing society. I am writing having served in a number of public offices—Government Secretary under Prime Ministers Shamir and Rabin, Attorney General and Justice of the Supreme Court, and peace negotiator—and having been involved in decisions on each of these subjects.

Shuki Friedman, in his concise but very informative, balanced, and well-organized book, surveys the issues systematically and describes the development of state and religion issues since the establishment of Israel. A main motive is the erosion of what used to be the «Status Quo» agreed upon and implemented by 1948, which tried to «freeze» the pre-state situation in this regard. In the principal areas of contention—conversion to Judaism, marriage and divorce,

Shabbat and Kashrut—great changes have occurred over the years in Israeli social life and strata, which have changed the landscape and eroded the historic foundations.

I can personally attest to the changes and the efforts to find harmonious solutions to these issues. As Government Secretary, Attorney General and Justice (as well as Deputy Chief of Mission in our Washington Embassy), I was involved in negotiations and litigation concerning conversion in particular. My view has always been that we should look for harmony among the various Jewish trends. Sadly, it did not succeed. Contentions exist also in the other aforementioned areas. No government and Knesset succeeded in carving relevant legislation, and it fell to the Supreme Court to decide—which makes the Court controversial in certain circles of Israeli society and body politic.

Our author concludes by advocating a regulatory change, dividing the subjects between those that should be regulated, such as conversion and marriage and divorce, and those that should be left to private initiatives, such as Kashrut. Shabbat is of a third category, the public face of Israel on the day of rest, with other complexities.

Dr. Friedman should be commended for a meticulous and analytical achievement, highly readable. While it is difficult, given the political constraints, to be optimistic about agreed solutions, this work serves as very useful guide, and provides a glimpse of hope.

Justice Elyakim Rubinstein

Introduction: “A People that Lives Apart”—the Uniqueness of Israel between Nation States

“I see a people that lives apart,” said the prophet Balaam about the people of Israel (Numbers 23:9) and indeed, at least from the perspective of church and state relations in Israel, Balaam was right. The State of Israel is unique, different from any other country in the world. This book deals with the interplay between religion and state in Israel and seeks to provide a perspective on and meaning to these relations. But to allow a better understanding of the conflicts over the Jewish identity of the State of Israel, described throughout the book, I will begin with a broad overview of Israel’s identity axes, the constitutional regime built along with them, and the rifts that characterize Israeli society.

Israel is a nation-state. It is the nation-state of the Jewish people. But unlike other nation-states, the fundamental defining feature of the Jewish nation-state is its Jewishness. The State of Israel, as determined constitutionally, is a Jewish (and democratic) state. It is the world’s only Jewish state. One might ask: Other nation-states are also unique, what makes Israel special? Whereas in other nation-states, several characteristics, apart from territory, bind the citizens of the state and make them the people, the fundamental and central definition of the State of Israel is its Jewishness—an identity component that results from interweaving almost inextricable ethnic and religious affiliation. Therefore, while in other nation-states an immigrant or a minority member can usually

choose to feel at home within the national identity, even if not perfectly, a non-Jew will never fully be a national member of the Jewish nation-state.

For those who grew up with the American constitutional tradition, which regards the First Amendment's Non-establishment clause as a core element of its national foundational framework, it is difficult to understand how different the State of Israel is in this respect. In contrast to the American wall of separation between church and state, in Israel the Jewish religion is deeply rooted and integrated into the country's constitutional mechanisms of government. This is easily illustrated by its allocation of a budget to religious issues. In the US, issues such as funding transportation to religious schools or using public school facilities after school for religious purposes have long been the subject of sharp debate. In fact, the US Supreme Court is currently debating its long tradition of rulings limiting the scope of legitimate public funding of religious education.¹ In contrast, in Israel, religious studies are the core curriculum of about 40% of the schools in the formal, state-financed education system. The scope of the funding allocated for this, and for other distinctly Jewish-religious purposes, is enormous and constitutes a significant percentage of the of the State of Israel's budget.

Even for the European observer familiar with the tradition of the Christian state, understanding the situation in Israel is not intuitive. While a fundamental precept of Christianity calls for the separation of the kingdom of heaven from the kingdom of man, Judaism in its fundamentalist form advocates an all-encompassing rule of heaven, including the management of the affairs of the kingdom of man—the state. In this respect, Judaism is somewhat similar to its sister religion, Islam. As in Judaism, in Islam the word of God as expressed in Sharia, Muslim law, should regulate the conduct of state affairs. But even with regard to Islam and the Muslim countries, Israel is special. In some Muslim countries, Islamic identity is indeed a cornerstone of government and constitutionality, but it is not the single defining feature of their unique national distinctiveness. After all, there are dozens of Muslim nation-states in the world, which, despite their common religious denominator, differ from one another, and in too many cases also fight each other.

1 On the First Amendment in the US Supreme Court see: Benjamin Justice, "The Originalist Case Against Vouchers: The First Ammdement, Religion, and American Public Education," *American Public Education* (October 1, 2014), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2494890; Klint Alexander, "The Road to Vouchers: The Supreme Court's Compliance and the Crumbling of the Wall between the Separation of Church and Stat in American Education," *Kentucky Law Journal* 92, no. 2 (2003), <https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=1401&context=klj>.

What, then, makes Judaism such a unique defining element of a nation-state and one that makes the state of Israel a unique case among nation-states? To understand this, one can turn to Jewish history. In a nutshell, Jewish history ranges from a sovereign or semi-sovereign existence for about a thousand years in the Land of Israel, two thousand years ago, to a decentralized existence of two thousand years in the Diaspora. This history has created an identity compound that mixes classic national elements of territory, language, and common past, with identity definitions that stem from the Jewish religion and rely on Jewish law as created mainly after the period of Jewish national sovereignty. This Halachah built legal walls around the Jews, in order to preserve a religious but also ethnic identity uniqueness and thus preserve, despite the geographical dispersion, the Jewish nation. This strategy, it should be noted, has been a phenomenal success.

Among scholars of the phenomenon of nationalism, there is well-known controversy as to the “nationalism” of the Jewish people that well illustrates the unique identity complexity of Judaism. On the one hand, some scholars of nationalism, those of the modernian school, including Eric Hobsbawm and Benedict Anderson, argue that Judaism is a religion and therefore Jewish nationalism is fundamentally an ontological impossibility. On the other hand, scholars of nationalism belonging to the ethno-symbolic school, including Anthony Smith, believe that the Jewish people is the model of an ancient nationalism that has been renewed.

At the turn of the nineteenth century, carried on the waves of the European “Springtime of Nations,” the founding fathers of the State of Israel sought to establish a Jewish nation-state in the Land of Israel. From the first Zionist Congress in 1897 to the present day, the definitional challenge of Judaism and its definition disturbs, and perhaps even haunts, the Jewish state. What is the Jewishness of the Jewish state? The first Zionists asked themselves this question and it is still being asked by the citizens of twenty-first-century Israel. Is it the secular-national expression of what Judaism was until Zionism and the establishment of the state and its religious components a shell that should be shed? Is it the traditional commitment to the legal-halachic norms and rules of Judaism as shaped in the Oral Torah that should be its identity compass? Or is there some balance to be struck between these two ideas?

The issue that most clearly illustrates the entanglement of Jewish identity and the relationship between the State of Israel and its Judaism (and which I will address in more detail below) is the question of “who is a Jew” or what defines Jewishness in the eyes of the state. It can be assumed that in the very distant past, at the beginning of Jewish sovereignty, well before exile, the basis for belonging to the Jewish people was purely tribal-ethnic, and joining this people,

as the book of Ruth teaches us, was simply a matter of will. Over the years, in the Diaspora, alongside the ghetto walls, the walls of Jewish identity also rose. Joining and belonging to what was predominantly an innate Judaism was conditional on the conversion process which requires a complete willingness to keep the commandments of the Jewish law—the Halacha. During these long years of life in the Diaspora, the clear defining element of Judaism was religion, and it was Jewish law that determined who could enter its gates. With the advent of Zionism, and even more so with the establishment of the Jewish state, the question of the definition of Judaism became much sharper. This is because the essential, central defining element of the Jewish state is that the majority of its citizens are Jews.

By virtue of the Law of Return, which states that every Jew can immigrate to Israel, Judaism is key to Israeli citizenship. But what is it? Ben-Gurion, the founding father of the Jewish state, wanted to establish a secular Jewish state in the Land of Israel. He wanted the young nation-state to set the boundaries of Judaism and its definitions. In matters concerning the society established in the Land of Israel, such as its entrance gate and its recognition of one's Jewishness formulated national-secular definitions that were not bound by the religious-halachic standard. To his distress, a political crisis surrounding the definition of Judaism erupted, and when he saw that he might lose to the religious politicians, Ben-Gurion turned to the "sages of Israel." He wrote to a number of Jewish thinkers, many of them not religious, and asked them what they thought defined Judaism. The "sages of Israel" disappointed Ben-Gurion. Although they presented a wide variety of possibilities for Jewish identity as a matter of principle, most of them admitted that there is a religious component to Jewish identity that is not easily neutralized. They thought this was true even in the case of Jewish nationalism, and that it was expressed in the secular Jewish state, which had opened a new definitional space.

Israel has no written constitution. The never-ending debate about the meaning of its Jewish identity when founded is one of the reasons for this. But over the years, the State of Israel has created a constitution that is based on its Declaration of Independence and made up of the Basic Laws that have been enacted, one by one, throughout the seventy-four years of the state's existence. Both the Declaration of Independence and the Basic Laws enacted in 1992 enshrined the dual, complicated nature of Israel as a "Jewish and democratic state." In so doing, the constitution of the state rests on a foundation with significant potential for conflict. Democracy in the thick sense—substantial/liberal democracy—means the uncompromising adoption of a long line of liberal values and human rights. Judaism in the full and fundamental sense

implies obedience to Jewish laws and norms, some of which are in contradiction with liberal values. In addition, Jewish nationalism in the broader and more extreme sense means, at least in the eyes of some Israelis, reduced rights for the Arab minority.

This debate is significantly reflected in the daily political, sociocultural existence of the State of Israel. Two major schisms have divided Israeli society since its inception: the Jewish-Arab rift, and the religious-secular rift. At the heart of the Arab-Jewish rift is a dispute over the balance between the Jewishness—in the national sense—of the state and the rights of the large Arab minority living in it. At the heart of the religious-secular rift is controversy over the significance of the state's Jewish nature, in the religious sense, and the expression that should be given to the state's Jewishness in general, especially when it conflicts with other rights and values. These rifts have many legal, structural, and practical expressions.

There are many interconnections between these rifts. The debate over Judaism—in the religious sense of the state—impacts the debate around Judaism in the national sense, and vice versa. Therefore, the two rifts described have mutual implications and consequences. And yet in everyday Israeli reality most of the controversial issues that are at the seam between the components of Israel's identity can be associated with one of these rifts. This can be illustrated as a tension moving along two axes: one between Judaism, in the national sense, and democracy; the other between Judaism, in the religious sense, and democracy. The subject of this book is the internal Jewish rift and the debate that is animated by a triangle of relations between democratic-liberal Israel, Jewish-national Israel, and Jewish-religious Israel. Some issues carry both tensions, others only one.

Israel is seventy-four years old, but the debate over the character of the state began in the early days of the Zionist movement. At first, when Zionism was simply an idea, the debate was purely ideological. To the extent that the idea found practical expression in the initiation of Jewish settlement in the Land of Israel, this debate also took on concrete aspects in the daily reality of the Zionist enterprise. Dilemmas regarding Sabbath observance versus individual liberties, shared public education versus the segregation of religious and nonreligious schools, the management of religious services, and more, were already prominent for the pioneers of the renewed Jewish settlement in the Land of Israel.

These debates, which have become a constant struggle between people with different worldviews in all arenas of the State of Israel, are the subject of this book. Each of the concrete issues it deals with, those framed as part of the Status Quo in religious-state relations, are expressions of the root and principled debate

about the nature of Israeli-religious Judaism and the proper balance between it and the Jewish-national and democratic-liberal components. Therefore, the story of the Status Quo and the way in which it has been shaped, eroded, and updated since the founding of Israel until today should be read from this broad perspective. The debate is not about the least number of bus lines that should operate on Shabbat, but about the balance between freedom of movement and relinquishing it in deference to Jewish law, which prohibits traveling on Shabbat. The debate is not about how kashrut services will be delivered, but about the monopoly of the rabbinical establishment, if you will, over the state's affairs in the religious sphere and more generally, and so on.

The bitter debate over the character of the State of Israel has a significant impact on its nature as a liberal and open state and its place among Western liberal-democratic states. This debate also has significant direct and indirect effects on Jews living outside Israel. Many of these Jews see Israel as their second home. Some of the arrangements discussed in this book, including the issue of the definition of Judaism ("who is a Jew"), directly affect the way Jews outside Israel view their Jewish identity, as the Jewish state's decisions with regard to various matters have an impact on them. Other issues affect the image of Israel in the eyes of some of these Jews, most of whom, in the United States and other countries, are secular and liberal. These Jews find it increasingly difficult to admire and connect with the State of Israel as long as it chooses a more pronounced and conservative Jewish-religious-national identity, with practical expressions in the Israeli reality.

The book is structured as a broad framework story that describes the history of the relationship between religion and state in Israel while addressing each of the concrete issues that constitute this relationship. It describes the cornerstones that established the relationship, the factors that led to changes in the various arrangements and in the broader picture and in reality as it is today. It is my hope that anyone who has an interest in understanding the contemporary State of Israel and its challenges will find it useful and illuminating.

Jewish and Democratic— On Church-State Relations in Israel

The classic term “Status Quo”¹ has been used for more than seven decades to describe the relationship between religion and state in Israel;² the history of the term is also the history of this relationship. It includes a complex network of de jure and de facto arrangements that govern areas where the Jewish religion and the State of Israel coincide, generate friction, or come into conflict. The use of “Status Quo” in this sense has become so self-evident that many coalition agreements over the years³ have employed the term to describe the relationship between religion and state before the signing of the agreement and to anchor

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- 1 “Status quo ante bellum” is a Latin phrase whose meaning is “the situation before the war.” This, in the shortened forms “Status Quo ante” and “Status Quo” has come to mean the existing state of affairs at a particular time in the past or present.
 - 2 The relationship between religion and state in Israel—that is, between the Jewish religion and the State of Israel—has two main dimensions, the national and the religious. The former refers to the interplay between Israel as the nation-state of the Jewish people and as a democratic state (the Jewish-Arab divide). The latter involves the limits of the Jewishness of the state and the legal and practical arrangements that regulate the relations between religion and state and translate them into public and official conduct. In this book I refer mainly to the second dimension, and specifically to these arrangements and their impact on the character of the state as a Jewish state. See Ruth Gavison, “A Jewish and Democratic State: Political Identity, Ideology and Law,” *Tel Aviv University Law Review* 19, no. 3 (1995): 631–82 [Heb.].
 - 3 See, for example, David Ben-Gurion’s commitment to the religious parties, in 1955, that his new government’s basic guidelines would specify adherence to the Status Quo and that

the new government's commitment to preserve the existing situation insofar as government action is concerned.⁴

On many issues there is a convergence of religion and state. The most important of these are Sabbath observance in the public sphere; marriage and divorce; parallel school systems; conversion to Judaism; kashrut (Jewish dietary laws); and the provision of religious services. Other issues that fall under this rubric are burial, the military conscription of yeshiva students, the inclusion of religious content in school curricula, the exclusion of women in the public sphere, religious observance in the armed forces, organ donations, euthanasia, autopsies, holy sites, hametz (leavened products) on Passover, pig farming, and the import of nonkosher meat. In this study, I have focused on the main issues that are traditionally included in the Status Quo—the Sabbath, marriage and divorce, conversion, and kashrut—because of their impact on life in Israel and on Israel-Diaspora relations, but also because most of them were included in the Status Quo when it gelled before the establishment of the state and can accordingly be used to demonstrate its erosion over the years.⁵

they would advance no new demands related to religious observances. See M. Shmaryahu, "Finishing Up the Draft of the Coalition Guidelines," *Maariv*, Sept. 15, 1955 [Heb.].

The coalition agreement between United Torah Judaism and the Likud, in advance of the formation of the thirty-fourth government in 2015, provided that "the Status Quo on issues of religion and state in Israel will be preserved as it has been for decades." See http://main.knesset.gov.il/mk/government/documents/Coalition2015_2.pdf, 6. See also: the 2009 coalition agreement between Shas and the Likud prior to the formation of the thirty-second government (<http://main.knesset.gov.il/mk/government/documents/coal2009Shas.pdf>); the agreement between Shas and Kadima before the establishment of the thirty-first government in 2006 (<http://main.knesset.gov.il/mk/government/documents/Coal2006shas.pdf>); the agreement between the Likud and United Torah Judaism prior to the formation of the twenty-ninth government in 2001 (<http://main.knesset.gov.il/mk/government/documents/coal2001yht.pdf>).

- 4 Another instructive example is the coalition agreement signed by the Labor Party and Shas before the establishment of the twenty-fifth government in 1992, whereby "if the Status Quo in religious matters is violated, the parties undertake to amend the violation by appropriate legislation." The next section of that agreement specifies that "the Prime Minister will appoint a five-member committee of jurists who will recommend, within a hundred days of the date of this agreement, appropriate legislation to anchor the Status Quo in matters of religion and ensure its existence and preservation" (<http://main.knesset.gov.il/mk/government/Pages/CoalitionAgreements.aspx>). A majority opinion of the High Court of Justice refused to invalidate the agreement, on the grounds that the court recognizes the Knesset's authority to legislate matters of religion and state, even when the court has spoken and ruled otherwise. In an aside, Justice Aharon Barak (then the vice president of the court) recognized the existence of the Status Quo in matters of religion and state and its legitimacy. See H CJ 5364/94, Vilner v. the Chair of the Israel Labor Party, PD 49 (1) 758, 784 (1995).
- 5 See below. Surprisingly, there is no full mapping of the issues of religion and state in Israel, despite the quantity of writing in the field. I am not excused from the matter.

The Status Quo comprises both a symbolic dimension⁶ and concrete arrangements.⁷ On the symbolic level, it is the Archimedean point of the relations between religion and state, a “living creature in its environment” that is constantly changing.⁸ On the regulatory level, it is the result of normative compliance, ad hoc arrangements, national and local political compromises, court rulings, and a reality that often reflects the erosion of all of these.

The arrangements that created and shaped the initial Status Quo were forged at the establishment of the state and in the early years of independence. Since then, these arrangements have undergone constant modification and erosion for several reasons: changes in Israeli society and its values, changes in the composition of the Israeli population, judicial activism, efforts by civil society organizations to promote religious pluralism, and the nonreligious population’s growing awareness of the nature of the religious services they wish to enjoy or are forced to consume.

All these factors are eating away at the Status Quo and affect the Jewish character of the state as expressed in concrete arrangements. This trend further sharpens the question of what is “Jewish” in the Jewish state. They also lead to a confused situation. On the one hand, the courts and the real world continue to chip away at the existing arrangements, leaving islands of regulated issues in a sea of nonobservance, or incoherent regulations; on the other hand, the legislature and the political system find themselves with no real ability to reach an accord on these matters.⁹

The trend is not uniform and is not always significant. For example, there are those who allege that the growing presence of religion in the education system (a component of “the Status Quo Letter”),¹⁰ for which they have coined

6 Or an “unwritten social charter,” as Aviezer Ravitzky called it in *Religious and Secular in Israel: A Kulturkampf?* (Jerusalem: The Israel Democracy Institute, 1997), 15.

7 This study focuses on the practical arrangements rather than on the fundamental philosophical questions about the very legitimacy of these arrangements in the liberal sense. For a philosophical perspective on the appropriate and justifiable relationship, see Gideon Sapir and Danny Statman, *State and Religion in Israel: A Philosophical-Legal Inquiry* (Cambridge: Cambridge University Press, 2019), 9–40.

8 Thus Justice Yoel Sussman, in H CJ 58/68, Shalit v. Minister of the Interior, PD 23 (2) 477, 513 (1970).

9 Guy Ben-Porat has dealt with several aspects of the relationship between religion and state in Israel in several respects. He focuses on the public sphere and what I call the “change from below” in that relationship. Ben-Porat shows how several factors, including market forces, ideology, the courts, and the lack of governance have led to the secularization of public space. See Guy Ben-Porat, *Between State and Synagogue: The Secularization of Contemporary Israel* (Cambridge: Cambridge University Press, 2013), 1–26.

10 See below, note 11.

the neologism “religionization,” aims to equate Judaism with its Orthodox interpretation and to implement unequal budgeting of the secular and religious school systems.¹¹ This, they say, undermines the Status Quo by opening the secular system to increased religious influence.¹² Because this issue does not fall squarely into the normal acceptance of religion-and-state legislative state arrangements and does not have a strong normative expression, I will not consider it further in this study.¹³

11 According to the Secular Forum, an organization at the forefront of the campaign against religionization in Israel, religious discourse has penetrated the public education system from various directions, with the encouragement of the Ministry of Education, which is now dominated by religious and nationalist elements (The Secular Forum website: <https://www.hiloni.org.il/hadata-handle/what-is-hadata>). The forum, as well as a number of journalists and public figures (e.g., Or Kashti, “[Education Minister] Bennett Says There Is No Religionization; The Money, the Books, and the Curriculum He Is so Proud of Prove Otherwise,” *Ha’aretz*, July 7, 2007 [Heb.], <https://www.haaretz.co.il/news/education/.premium-1.4235956>), the secular education system is liable to change its character as a result of this push. A study published by Molad, a progressive research institute, “Winning Souls: How the Religious Right Has Taken Over Values Education in the Secular Schools” (Molad website, Center for the Renewal of Democracy: <http://www.molad.org/images/upload/files/ZehutMasa.pdf>), concludes, in brief that, funded by government budgets and with political support, religious organizations are penetrating the secular school system and disseminating their religious-conservative-right wing notion of Jewish identity. By contrast, the Knesset Research and Information Center investigated the issue and found that these claims are not borne out. See “Information on the Involvement of External Elements in Educational Activities in the Schools” (Knesset website: <https://www.knesset.gov.il/mmm/data/pdf/m04025.pdf>) [Heb.].

The Status Quo Letter (See S. Ilan Troen and Noah Lucas, eds., *Israel: The First Decade of Independence* [Albany: SUNY Press, 1995], 78–79) states that the “full autonomy of every educational stream will be assured.” It can be inferred that this paragraph might mean that forcing religious content into the secular school system is a departure from the Status Quo. It can be countered, of course, that even if this is the case and there is indeed an attempt to inject more religious content into the secular system, this does not violate the Status Quo, which merely ensures the independence of the different streams of education. Moreover, the alleged religionization of education is a phenomenon only of the last two or three years, and hence cannot be seen as an ongoing erosion of the Status Quo.

12 Shuki Friedman, “The ‘Religionization’ of Israel Is Troubling, but the Fears about It Are Hysterical,” *jta.org*, June 28, 2016, <https://www.jta.org/2016/06/28/opinion/the-religionization-of-israel-is-troubling-but-the-fears-about-it-are-hysterical>.

13 Another alleged arena of religionization is the IDF. Although there has never been a clear Status Quo in the military, some believe that there are increasing manifestations of religious influence there. See Yagil Levy, “The Theocratization of the Israeli Military,” *Armed Forces & Society* 40 (2013), 269–294. See also: Yagil Levy, *The Divine Commander in Chief: The Theocratization of the Israeli Military* (Tel Aviv: Am Oved, 2015), 9 [Heb.]. Others hold that the IDF is becoming more secular, as shown by the integration of women into many positions and units and the adoption of liberal values by within the military education system. A vehement spokesman of this school is Rabbi Yigal Lowenstein, the cofounder of the Bnei David premilitary academy in Eli. See: Shimon Cohen, “Rabbi Lowenstein in a Letter to the Graduates of Bnei David,” *Arutz 7*, March 27, 2017, <https://www.inn.co.il/News/News.aspx/343098>.

One thing has not changed, however. For seventy-two years, issues of religion and state have been at the heart of an ongoing political and public controversy.¹⁴ As a result of the political power relations just before and after independence, and today as well, these issues have repeatedly triggered coalition crises that sometimes threaten and actually do bring down the government.¹⁵ The relative strength of the religious and secular has not changed dramatically over the years; today, too, the religious parties can tip the balance and determine which secular party heads the coalition.¹⁶ The struggle between the sectors over the character of the Israeli public sphere, with regard to religion and state, has continued along much the same lines from the early days of the state to the present.

On the other hand, out of an understanding of the importance of easing the tensions between the different sectors of Israeli society, attempts have been made to arrive at new arrangements, through compacts proposed by civil society elements,¹⁷ as well as through action by the political echelons.¹⁸ Although the compact documents received broad popular support, the political expression of their proposals has been limited. Many of them were formulated into bills and submitted to the Knesset, but the traditional veto exercised by the religious and ultraorthodox parties and the opposition of rabbis from all across the Orthodox spectrum to any compromise on issues of religion and state has meant that none of them became law. Hence the impasse persists and no new arrangements have been established.

14 That was highlighted in the second general election campaign in 2019, in which state-and-religion relations were a main topic of the public debate.

15 At the end of 2017, Minister of Health Yaakov Litzman of the ultraorthodox United Torah Judaism party resigned his portfolio after the government permitted Israel Railways to perform infrastructure work on the Sabbath. The Shas party has threatened to quit the coalition if the Municipalities Ordinance is not amended so as to restrict the interior minister's authority to approve local bylaws that permit commercial activity on the Sabbath. See: Tal Shalev and Yaki Adamker, "Litzman Resigns from Government Following the Railroad Crisis: 'They Have Violated the Status Quo,'" *Walla!*, November 26, 2007, <https://news.walla.co.il/item/3114380>; Haim Levinson, "Deri Threatens: If the Supermarkets Law Doesn't Pass Tonight, I Will Resign," *Ha'aretz*, December 11, 2017, <https://www.haaretz.co.il/news/politi/1.4678197>. See also Itzhak Galnoor and Dana Blander, *The Political System of Israel*, 2 vols. (Tel Aviv: Am Oved, and Jerusalem: Israel Democracy Institute, 2013), 1027 [Heb.].

16 For a discussion of the significance and power of the satellite parties, including the ultraorthodox, see *Recommendations for Reform of the System of Government and Action Plan* (Jerusalem: The Israel Democracy Institute, 2011), 36–37; Shlomo Hasson, *State and Religion in Israel: Possible Scenarios* (College Park: Gildenhorn Institute for Israel Studies at the University of Maryland, 2015), 43.

17 See below, p. 86.

18 See below, p. 78.

The chapters that follow focus on a description of the current relations between religion and state, rather than on some ideal situation. They show that the Status Quo is a hollow shell that should be replaced by coherent arrangements that govern issues of religion and state in Israel. I also examine whether there is any point in trying to regulate these relations by means of legislation—as tested by the possibility of enforcing it—and whether informal attempts at regulation have any prospect of success. In conclusion, I will argue that it is appropriate to preserve only an essential core of arrangements that derive from religion-state relations, while expressing the country’s Jewish identity in other ways. There is a place for a minimum of arrangements aimed at preserving a Jewish framework for the State of Israel, while working to strengthen its Jewish identity in ways that express its Jewishness on the ethical, cultural, and educational planes.

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