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Religion, Politics and Gender Equality among Jews in Israel

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I Preface

When thinking of politics of religion and state and their effect on gender relations, the case of Israel is unique in many respects: Israel has been established as a State for the Jewish People (in its Declaration of Independence), and is defined as a Jewish and democratic State (in its Basic Laws); there has never been formal separation between religion and state in Israel's legal and political structure and religion is intertwined in all levels of governance, political society, and civil society; the struggle against religious exclusive rule over marriage and divorce and in other matters has been on the agenda of women's organizations since the British mandate on Palestine with not much success; religious laws' exclusive jurisdiction is still maintained in matters of marriage and divorce and civil marriage is non-existent in Israel; civil society in Israel is extremely diverse and heterogenic, yet the significance of the ethno-religious component is shared by most groups on various levels, ranging from issues of identity (both formal, personal and group identity) to issues of internal governance and authority, and more.

It seems, though, that another "idiosyncrasy" of the Israeli case is of special, more influential relevance to the issue of gender relations: Israel's continuing, violent conflict with its Arab neighbours – a conflict that is viewed by many Israelis as a struggle for the very existence of the Jewish state – has overshadowed most other civil and social issues, rendering them "secondary" to the primary concern of securing the safe existence of the State. As we will attempt to demonstrate throughout this essay, this perception has pushed such pressing issues as gender equality and women's rights aside, marking them "less important" than the national conflict, thus allowing for the perpetuation of discriminatory, sometimes rather repressive treatment of women in Israel. The most blatant expression of this is the turning of the struggle for civil marriage and divorce into a non-issue.

We will first present a concise historical review of this political context, as well as a discussion of the socio-cultural background against which issues of women, religion and state should be considered. This will be followed by a review of the Israeli political system and its influence on women's status, including some background on gender and politics in Israel. We will then proceed with a more detailed review and legal analysis of women's status in Israeli society. A discussion of women's organizations within Israeli civil society, highlighting the emergence of religious feminism, will conclude this essay.

II Introduction: Some Preliminary Considerations Regarding The Relevant Historical and Social Context

The State of Israel – to try and capture its rather unique mixture of nationalism, religion, politics, culture and identity – is a self-identifying secular (sometimes even anti-religious) democratic nation-state in which, however, there is no separation of religion and politics (or "synagogue and state", to adopt the common "church and state" idiom), but rather a complex intertwining of (at least nominally) secular-modern ethno-nationalism and orthodox-dominated traditionalism and religion. This, in a way, is captured in the common idiom entrenched in its two basic laws which are commonly viewed as Israel's semi-constitution, referring to Israel as both a "democratic" and "Jewish" state (see Liebman and Don-Yehiya 1983 a/b, 1984; Liebman 1997 a/b).

a. Zionism during its formative years preceding the establishment of the State of Israel: Late 19th century to 1948 (the yishuv period)[1]

The complex relations between Jewish religion and the identity of the State of Israel as a Jewish and democratic state trace back to the inception of the Zionist movement in the late 19th century in Europe. A secular movement of Jewish national revival, Zionism was an effort to renew Judaism and the Jewish people, and sought to introduce radical changes to the observance and practices of Jewish tradition.

Zionism had thus started as a modern secular national movement, which, while relying on Jewish history, ethnicity and nationalism, at the same time sought to rebel against what could be termed, for the sake of brevity, "traditional", "religious" or "orthodox" Judaism (granted, these terms are in the least problematic, since they tend to reify the pre-conception of a dichotomous, binary distinction between the traditional/religious and the modern/secular; nevertheless, they have been dominant in the construction of collective identities among Zionists and Israeli-Jews) (Shimoni 1995; Laqueur 1989).

Religious-Zionism, which formed into a distinct faction within the Zionist movement, sought to reconcile this tension by incorporating both value systems and cultures (that is Zionist ideology, and traditional, orthodox Judaism) as two compatible and complementing organs of the same cultural-political ethno-national and religious project. According to this construct, Zionism is inherently a religiously-Jewish mission, even-though its main carriers do not acknowledge the religious character of their Zionist commitment, and insist on viewing it, and themselves, as rebelling against traditional Judaism. This somewhat paternalistic view seems to have served the (minority) religious-Zionist camp more than any other party involved, since it enabled religious Zionists to carry on their cooperation with the larger Zionist movement, including the majority of ideologically secularists within it. In any event, such blending of Zionism and orthodox Judaism remained – until this day – a unique characteristic of the religious-Zionist camp, which composes a distinct minority within Jewish-Israeli society. The vast majority of the dominant Zionist factions remain secular, oftentimes anti-religious (Schwartz 2002; Ravitzky et. al. 1996).

While fundamentally revolutionary and anti-traditional (at least as far as its own self-image is concerned), mainstream Zionism at the same time relied on traditional Jewish symbols and precepts as the basis of the (Jewish) nationalism it propagated: in order to confirm the Jewish identity of the Israeli polity (and the polity of the *yishuv*), Zionist ideology relied upon symbols drawn from traditional Jewish culture capable of expressing and fostering the historic and contemporary links between Judaism, the Jewish people, and the Israeli polity. The tension emerging from this ambivalent attitude toward Jewish tradition accompanied the Zionist movement throughout its battle over the establishment of the State of Israel (in 1948), and became one of the prime characteristics of the Jewish state (Liebman and Don-Yehiya 1983 a/b; Zerubavel 1995).

During its formative years, preceding the establishment of the State of Israel, the Zionist movement, led by the socialist Labour movement, has developed a confrontational attitude toward what it depicted as the "old", "religious" Jewish tradition, seeking to reformulate parts of it so as to cater to the "modern" and "secular" national identity propagated by Zionist ideology. In this confrontational context, Zionism served the ethno-national Hebrew culture as a kind of substitute for traditional Judaism, which was conceived as archaic, "exilic", old and degenerative. Instead of this "old" Judaism,

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[1] The term *yishuv* describes the Jewish communities of pre-state Palestine.

mainstream Zionist ideology constructed an image of the "new Jew", embodying an authentic national-Jewish identity centred on the independent existence of a Hebrew speaking society in the Land of Israel (Liebman and Don-Yehiya 1983 a/b; Ze'ira 2002). While we develop the gender aspects of this process later, we should already point out that, as critical-gender research has shown, "the Zionist movement in Europe since 1897 was (an) essentially and knowingly male business" (Safran 2006: 398). Moreover, the confrontational attitude towards the old religious Jewish tradition and the desire to form a "New Jew" whose image would be antithetical to the stereotypical religious Jew of the Diaspora, has resulted in that "the New Jew was clearly and shamelessly male-being", as succinctly put by Paula Heiman (Heiman 1997:115).

Going back to the confrontational attitude, this was later to be replaced by a more lenient, "selective" approach toward Jewish tradition which, although based on a similar negative appreciation of traditional Judaism, preferred not to confront it (by reformulating the contents of religious beliefs and practices, for example, as done in the context of the confrontational approach). Instead, this approach was characterized by the selective adoption of certain aspects of Jewish tradition into an emerging national, political culture or civil religion, at the centre of which stood the State as an embodiment of Jewish nationalism.

b. Religion and politics in Israeli statehood: The statist paradigm 1948 - 1973

Being the culmination of the Zionist project and ideology, the State of Israel had confronted a major dilemma of reconciling "traditional", "religious" culture and the political needs of a "modern", "secular" national identity. In view of the central role of Jewish religion in the national history and culture of the Jewish people, there is hardly a single Jewish symbol which is not loaded with religious meaning. Moreover, these symbols are inherently "religious", in the sense that they are – as is Jewish religion in general – God-centred. Thus, practically all traditional Jewish symbols refer to God as the ultimate point of reference of power and authority. The mainly-secular movement of Zionism had to reconcile this point of view with the conception of national self-redemption, in which the nation and the state take over this role of the ultimate point of reference, embodying both the power and authority and the very essence of this political movement.

The creation of the state of Israel, along with the influx of new immigrants still closely tied to traditional practices, breathed new life into the Jewish tradition. Jewish symbols were now adapted to build and to strengthen national identity and loyalty. The first and second generations of native-born Israelis, whose Israeli identity was constructed under the inspiration of Zionist ideology, resolved the paradox of being a secular Jew by redefining Judaism in Israeli-Zionist terms. The retention of traditional rituals was done despite the Zionist culture and was therefore culturally trivial. But the state's civil religion provided a coherent system of holidays, rituals, symbols, myths, values and beliefs that were interpreted as Jewish without the "stain of the Diaspora" (Liebman and Don-Yehiya 1983 a/b). This transformation of Judaism and Jewishness – in the context of a Jewish national polity – allowed Israeli Jews to identify Israeliness with Judaism-Jewishness. As we shall discuss shortly, this association is now being increasingly put into question. Nevertheless, it has been one of the predominant dimensions of Israeli identity and culture.

But above all else, the State of Israel has formally accorded the Jewish religion with the highest honour of defining its collective identity, through a combination of citi-

zenship, immigration, and personal status laws (Fogiel-Bijaoui 2003). First and foremost among them is the 1950 Law of Return, which proclaims (in §1) that "Every Jew has the right to come to this country as an *oleh* [immigrant]", and adopts (in §4B) the religious definition of "who is a Jew" as the criteria for the "right of return". The 1952 Citizenship Law grants automatic citizenship to any person who is entitled to the right to return. No less significant than the Law of Return is the 1953 Rabbinical Courts Jurisdiction (Marriage and Divorce) Law, which, by providing (in §2) that marriage and divorce of Jews shall only be conducted according to Jewish law, precludes any possibility of intermarriage in Israel, as Jewish law prohibits marriage of both Jewish women and men to non-Jews. While the Rabbinical Courts Law has not been a novel creation of the newly established Jewish state, but rather an embodiment (albeit with some expansion) of the religious personal status regime[2] carried over as a legacy of the Ottoman rule in Palestine through the British Mandate unto the State of Israel, it has come to represent the focal point of Israel's identity as a state for the Jewish people. The Law of Return and the Rabbinical Courts Law are often considered the centrepiece of the State of Israel's Jewish identity (Klein 1997; Shachar 2000). Thus, any discussion of the complex ideological relationship between the Zionist movement (and later the State of Israel) with the Jewish religion must bear in mind the very basic legal level, in which the formal tie between the Zionist project and the Jewish religion was conserved.

On another level, it has also been suggested that the preservation of the religious personal status regime, which guarantees the formal tie between all the different ethno-national groups in Israel and their respective religions, serves an un-admitted deeper need for maintaining the separate identities and boundaries of the collectives of the various ethno-national-religious groups (Fogiel-Bijaoui 2003). Thus there is a shared interest by both Jews and Arabs in Israel in maintaining this arrangement. The need for the external-legal formal imposition of ethno-national segregation may even overcome, to some extent, the Arab citizens' struggle for full equality. Indeed, the association between Israeliness and Jewishness (which is, in fact, an association between citizenship and ethno-nationality) assigns a "downgraded", questionable role to non-Jewish (mainly Moslem Arabs) citizens of Israel. This ethno-national preference is clearly expressed in Israel's Law of Return, which manifests Israel's preference of Jewish immigration, and forms legal inequality in terms of joining the Israeli polity (Shachar 2000; Carmi 2006). Culturally and politically, this attribute is expressed in the continuous discussions on the "demographic threat", referring to the State's active preservation of a Jewish majority within Israel (Stopler 2008; Ben-Shemesh 2006). At this and other levels (such as government budgetary support, infrastructure, land acquisition, welfare and education, and most recently in it's change of policy regarding family reunification requests involving Palestinians from the West Bank; see Davidov et. Al. 2005; Ben-Shemesh 2006; Zilbershats 2006) non-Jewish Israelis are clearly accorded, in practice if not in principle, a second-class citizenship (Liebman 1997 a/b/c; Liebman and Yadgar 2009).

Thus, while the State of Israel's declaration of independence proclaims democratic values of total equality among its citizens, regardless of religion, race or ethnicity, its dominant political culture renders non-Jewish Israeliness a "problem", to say the least. This is further intensified by the fact that, in light of the ongoing conflict between Israel and the Arab states, Jewish-Israeli identity and Arab identity have been constructed as the opposites of each other, as "the Arab" was depicted as the ultimate "Other" of Israeli identity.

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[2] The religious personal status regime, or the principle of religious personal law, which is discussed at length later on, means that matters concerning personal status (marriage, divorce, support) are determined according to the religious affiliation (and consequently religious laws) of the parties involved.

Some contextualization is in place here: According to the latest official estimates, Jews comprise roughly 75% of Israel's population; Muslim Arabs comprise around 16%, while Christian's, mostly Arabs, share is just below 2%, similar to the share of Druze.[3] These numbers do not include the non-Israeli Palestinian population in the West-Bank, which is under Israeli military control.[4]

One of the oft-cited (and, somewhat surprisingly, also rather uncontroversial) formulations of the immanent tension between the democratic principles, upon which the state of Israel was founded, and the ethno-national impulse, that drives the Israeli polity, suggests that we label Israel an "ethnic-democracy". This theorization emerges, as it happens, from the failure of other political-scientific models to capture the essence of the Israeli case: ethnic democracy clearly differs from the other types. It is not a liberal democracy, because the state recognizes ethnic differences, accords some collective rights, and fails to treat all citizens and groups equally. It is not a consociational democracy either, because the state is not ethnically neutral; rather, it is owned and ruled by the majority, while the minorities do not enjoy autonomy and power-sharing. It is not a *Herrenvolk* democracy, because citizenship is extended to all and the minorities are not excluded from the benefits of citizenship and are allowed to avail themselves of democracy for furthering their interests. Ethnic democracy is a system in which two contradictory principles operate: "the democratic principle," making for equal rights and equal treatment of all citizens, and "the ethnic principle," making for fashioning a homogenous nation-state and privileging the ethnic majority (Smooha 1997:200; 2006; Dowty 1999; Yonah 2000; Gavison 1999).

It should be stressed that throughout the history of the Zionist movement and the State of Israel, the primordial bond connecting the democratic and secular Jewish State (as well as its predecessor, the pre-state Zionist movement) with Jewish ("religious") tradition was seldom put in question. Indeed, throughout the years, there could be found in Israel militant Jewish secularists, who insist on total separation of Israeli society and culture from any link to traditional Judaism as well as to Jews outside Israel. At the opposite extreme there are also certain ultra-orthodox circles who deny the legitimacy of a so-called Jewish state, which they perceive as the antithesis of authentic Judaism. However, the crucial point is that the vast majority of Israeli Jews do affirm the attachment of Israel with Jewish culture, symbols, peoplehood and even religion per-se. Interestingly, this is true even though the majority of Israelis self-identify as secular or at least "not-religious". (Levi et. al. 1993; 1999).

c. The decline of the Zionist meta-narrative: 1973 onward

The significant change in this context has been the dramatic weakening of the Zionist grip on the Israeli political culture. This process began with the Yom Kippur war (1973) when those basic beliefs upon which Israeli-Zionist identity was built began to be questioned (Yadgar 2002). Indeed, in retrospect, the Yom Kippur War has come to mark a watershed in the development of Israeli national-identity. Largely seen as a defeat suffered by the Israeli army (even-though military assessments differ; see Liebman 1993), the war was usually interpreted as marking the failure of the State and the Israeli army – the ultimate guardians of modern Jewish existence – to deliver on their promise and

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[3] For an updated review of Israel's population see Israel's Central Bureau of Statistics website: www.cbs.gov.il.

[4] The Palestinian population of the West Bank is estimated by the CIA World Factbook at around 2.5 million, while the population of Palestinians in the West Bank is estimated at more than 1.5 million.

duty to protect the Jewish people. This perceived defeat instigated a national soul searching, which culminated in the re-evaluation of the national meta-narrative and the questioning of some of the most basic principles of socio-political culture in Israel. Most importantly, it seems to have encouraged the abandonment of Statists principles in favour of a more diverse understanding of Jewish statehood and peoplehood (i.e., a re-awakening of Jewish identity, and a reassessment of the relations between Israel and the Jewish Diaspora). Thus, the decline of the Zionist, Statist meta-narrative did not mark the replacement of this narrative by another dominant, "monopolistic" narrative, but rather encouraged a proliferation of narratives, none of which gained the same prominence that the Zionist statist narrative had enjoyed. As we shall elaborate below, this also facilitated the development of multi-cultural awareness in Israel, which acknowledges Israeli society's diversity. It also should be noted that the Yom Kippur War itself is not the sole cause for this reassessment of the Zionist, statist narrative. It functioned as a catalyst, encouraging deep, mostly silenced misgivings about this narrative to surface up to a conscious, public level, thus allowing, practically for the first time in Israel's short history, a public, rather open, criticism of the State and its institutions. To sum up, the 1973 war – or, to be precise, the perceived failure on the side of the State and Army to fulfil their role as guardians of Jewish existence in a hostile world during this war – is thus commonly viewed as marking the end of the age of the predominance of a Zionist-statist meta-narrative and its replacement by a plurality of contesting, often contradictory narratives, each of which presenting a different assessment of Jewish history, ethno-nationality, and statehood (Yadgar 2002).

This is the context against which the 1970's and 1980's are commonly seen as a period in which the Zionist meta-narrative started to gradually lose its dominance among Israeli Jews. Alternative, often critical, perspectives of Israeli and Zionist history have become legitimized, and sometimes even widely accepted (Ram 1995). Many of Zionism's founding myths have been revisited and questioned in what seemed to become a national hobby of "myth-shattering", manifesting a collective identity crises. The issue of Israel's Jewish identity and its political implications was one of the foci of this national soul searching (for example, Evron 1995).

With the decline of the Zionist meta-narrative most Israeli Jews seem to remain without an unmediated tie to Judaism and Jewishness and without a narrative that will help formulate their Israeli identity. Judaism and Jewishness as a construct of Israeli Zionism has dramatically weakened, and the narratives which have replaced them seem largely to have abandoned the effort to construct a systematic, all-inclusive structure of Jewish-Israeli identity. (Granted, as shall be noted below, this is not true of all the alternative narratives to have flourished after the decline of the Zionist, statist narrative; some of them, mainly the religious-Zionist narrative, refused to give up on some of the