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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,

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 regime² 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 its 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.

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 homogeneous nation-state and privileging the ethnic majority (Smootha 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

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 fundamental premises of the Zionist meta-narrative, namely the identification between Israeliness and Jewishness).

Indeed, the proliferation of alternative narratives, none of which enjoys a pre-dominance equal to their predecessor, renders any discussion on “Israeli identity” or “Israeli socio-political culture” pointless, since no such unified identity/culture/narrative can be found. Nevertheless, a study of the Israeli mainstream media (that is, the commercial, predominantly Westernized and secular outlets of Israeli culture) suggests several major paths, which Israeli socio-political culture has taken. At this level, these narratives’ treatment of Judaism and Israeliness tends to leave Judaism as the property of Orthodox Judaism and of the rabbinical establishment, allowing the latter to maintain the practical monopoly on the definition of Judaism as well as Jewishness that they were already accorded with previously. As we shall discuss later on, when combined with certain legal-structural characteristics of the Israeli political system, this practical identi-

fication between “Jewishness” and “religiousness” (which, in the Israeli context, also means “orthodoxy”) translates into the endowment of certain, most basic policies concerning both personal status and public affairs into the hands of the orthodox establishment in its supposed role as the “guardian” of Jewish identity and tradition. It also nourishes one of the most heated political debates in Israel, commonly referred to as the “religious secular cleavage”. As we shall further discuss, this bears immediate implications on the status of women.

Leaving the “pure” concept of Judaism aside, when considered together, as the varying, “parochial” manifestations of a more general, principle reassessment of the Zionist meta-narrative, the alternative narratives seem to constitute an attempt at replacing the meta-narrative by a post-national narrative, built around the values of universalism and humanism (again, this is true at least as far as the dominant, overtly secular realm of the public sphere is concerned; it should not be read as the sole alternative to the Zionist narrative, nor should it be seen as enjoying the same level of predominance). This post-national narrative redraws and rewrites some of the fundamental chapters of the national story, thus reformulating the tie between Israeli citizenship and Jewish ethno-nationalism. In the framework of this narrative both the Jewish-religious identity and the Israeli-Zionist ethno-national identity (with its built-in Jewish component) are perceived as anachronistic identities that only serve to isolate Israelis from the rest of the world.

Generally speaking, this narrative, which won its clearest formulation in the writings of prominent secularist journalists, academics and politicians (usually coming from what in Israel is considered to be the Liberal Left) carried an overtly secular character. The post-national, universalistic world-view it propagated was also a secular one. Nursing on a binary, dichotomous opposition between ancient, anachronistic and undemocratic religion on the one hand and modern, secular universalism, it tended to conflate (orthodox) Judaism with the particularistic Zionist narrative it sought to replace. Securing Israel’s secular identity (by transforming Israel into a “state of all its citizen” instead of a “Jewish state”, for example) has thus become a rather integral part of the post-national narrative discussed here. However, it should be stressed that several prominent cultural figures – prominent propagators of Israeli secularism – found this abandoning of Jewish tradition too costly. Under a cry for a “return to the Jewish book shelf” those figures sought a new interpretation of Judaism in which the values of universalism and humanism became the major values of the Jewish tradition. Still these voices were a minority among the cacophony of voices, which emphasized the tie between Judaism-Jewishness, religion and the Orthodox establishment – and the ethno-national particularism the post-national sentiment sought to overcome (Yadgar 2002; 2003).

Judaism (which, again, was commonly identified with the orthodox interpretation of Jewish tradition) was now portrayed, by propagators of this somewhat post-nationalist narrative as the obstacle to truth and a humanistic, universalistic peace. Jewish orthodoxy became a symbol of extremism, violence and ultra-nationalism. It should be stressed, that all major surveys strongly suggest that in their private lives Israeli-Jews continued to observe some Jewish rituals, and in their minds and hearts continued to harbour feelings of association with Jewishness and the Jewish people; but the now increasingly secularist public culture provided neither a language nor a symbol system for its expression (Liebman and Yadgar 2004).

The delicate interplay between Judaism (as a religion), Jewish identity and Israeli (Jewish) nationalism comes here into an explicit manifestation. The post-national narrative described here tends to be critical of both (orthodox) Jewish religion and Zionist nationalism (at least in its crudest form), but nevertheless does not abandon its claim

for Jewish authenticity. To put it differently, propagators of this post-national narrative never gave up on their claims for a viable collective and private Jewish identity. They “simply” sought to reinterpret the meaning of this identity as to be both detached from the tenets of Orthodox Judaism and from abusive formulation of Jewish nationalism. Thus, during the late 1990’s and early 2000’s a substantial wave of publications aimed at re-constructing secular Judaism as a viable alternative to orthodox Judaism has been taking place. These treatises usually also interpret Judaism in a more universalistic manner, echoing what we termed above (probably a little too crudely) a “post-national” inclination. We must stress that such reinterpretations of Judaism and Jewish nationalism most often do not amount to an anti-national or anti-Zionist stance.

It should also be noted that this secularist interpretation of Judaism, which is rather critical of traditional Jewish (religious) practice, is not widely accepted among Israelis, even those self-identifying as secular. This is the context in which something of a paradox comes to life: while practically all surveys of Israeli Jews suggest that the overwhelming majority, even among those who do not define themselves as “religious” observe many traditional Jewish rituals and report that Judaism and the Jewish people are important to them⁵, Judaism and Jewishness play a decidedly secondary role in mainstream Israeli culture.

Furthermore, we would argue that regardless of the frequent complaints concerning “religious coercion”, Israel’s insistence on preserving a predominant Jewish character to the public sphere also benefits secular Israelis in providing them with a background of an inevitable Jewish identity. To put it somewhat bluntly, the lack of separation of religion and politics enables secular, non-practicing Jews to nevertheless reaffirm their Jewish identity (it should be noted that Judaism is mainly a religion of *practice*; the imposition of Jewish practice on the public sphere, such as enforcing Jewish dietary laws on all public institutions, thus carry specific practical implications to all individuals partaking in these institutions), thus enabling them to distinguish themselves from the national “Other”, i.e., “the Arab”, and to enjoy the privileges reserved for the majority group. In other words, those non-practicing, sometimes anti-religious secular, Israelis enjoy a privilege unique to Jews in Israel (as compared with Jews in other countries), in which their Jewishness (and hence, among other things, their privileged position as members of the ethno-national majority in Israel, i.e., their mark as “non-Arabs”) is preserved and manifested by their very (secular) Israeliness. Indeed, this can help to explain why even many secular Israelis do not actively challenge the lack of separation of synagogue and state and its implications, such, for instance, the parallel personal status regimes (which we will discuss shortly) (Liebman and Yadgar 2004; 2009). Indeed, we should not for one moment forget that while all this takes place on the social-cultural level, the formal Jewish identity of the Jews in Israel is safeguarded by that unique combination of the Citizenship Law with the personal status legal regime.

d. The religious Zionist alternative

Against this background, a prominent segment of the religious Zionist camp has transformed (with a distinct momentum after the Six Days War in June 1967, during which Israel occupied the West Bank, the Gaza Strip and the Golan Heights) into the foremost champion of Right-wing Zionism, attempting to preserve, in a somewhat “reactionary” manner, some of the fundamentals of the Zionist meta-narratives, while shedding away its secular, anti-religious tone, stressing instead the (divine, or “religious”) sanctity of

⁵ See the discussion below.

land over practically all other considerations. This development, we should stress, does not amount to a replacement of the dominant Zionist meta-narrative (indeed, right-wing religious Zionism should properly be seen as a minority sub-culture inside the larger Jewish-Israeli context), but rather is one of various contesting narratives which present a re-interpretation of the Zionist meta-narrative, struggling for influence over Israeli culture and identity.

Prominent members of this religious-Zionist stream, followed by a considerable (yet, as aforementioned, minority) constituency, have pioneered the Israeli settlements movement and established Jewish presence inside those occupied territories, presenting this project as both politically and religiously motivated (Feige 2008). This camp has led the Israeli Right-wing's campaign against Israeli withdrawal from the occupied territories (whether as part of the peace process with the Palestinians or as a unilateral move by the Israeli government, as happened during Israel's "disengagement" from the Gaza Strip in 2005), infusing this campaign with distinct religious undertones. As we shall point out further ahead in our paper, the settlers movement, and the political campaigns it conducts involve the active participation of women, sometimes putting them in the forefront of violent confrontations, while by and large, the movement's leadership is strictly male.

e. Religious identification among Israeli-Jews

Any discussion on religion, society and politics in Israel must take into account the role that Judaism or Jewish identity (as a complex construct of what is commonly separated into the allegedly distinctive realms of ethnicity, nationalism, religion and folklore) play in the construction of Jewish-Israelis self- and collective- identities. In this regards, the issue of religion and political society in Israel is usually studied along the principle division of Israeli Jews into (at least) three groups, based on their varying religious identification. Common public discourse divides Israeli-Jews into three categories of Jewish identity, based on the level of observance: "secular" (*hiloni*), "traditionist"⁶ (*masorti*), and "religious" (*dati*). These categories are usually further divided, as religious identification developed into a socio-political mark of identity. This has serious implications in terms of the political society, since these religious identifications are also translated into political ones. Thus, for example, around 20% of the Israeli parliament is composed of representatives of parties that are identified as "religious" or "ultra-Orthodox". Traditionist Israeli Jews are commonly understood to be leaning to the political right, while the Israeli left is perceived to be overwhelmingly secular. Moreover, in recent years Israeli political society has witnessed the emergence of political parties whose main agenda is the perceived "secular-religious" cleavage that nourishes on the above-mentioned classification of Israeli Jews into groups marked by varying degrees of religious observance.

According to the most recent surveys, people who identify as secular (or "not-religious") constitute about one-half of Israeli Jews. Around one third of Israeli Jews

⁶ This English neologism is aimed at distinguishing the *masorti* construct of identity from Orthodox conservatism, which is often labeled as "traditionalism" (for example: Habermas, 1994). Edward Shils (1997:114-118) was probably the first to explicitly note the need to distinguish the traditionalist/Orthodox stance from other forms of adherence to tradition, although it is implicit in several major discussions of tradition (for example: Gadamer, 1989; MacIntyre, 1984; Taylor, 1994). Confusingly, William Graham (1993), following Joseph Levenson (1958), uses the term "traditionalism" to denote a similar non-Orthodox stance toward tradition. (We, too, have done so in several previous publications). We hope that this neologism solves this terminological confusion.

identify as “traditionist” and one fifth as “religious”. Nevertheless, as research into the meaning associated with these labels shows, they tend to confuse more than explain. Thus, for example, while the term “secular” is usually understood to denote non-observance, secular Israeli Jews report a rather high level of observance of certain Jewish rituals and practices. It seems that “secular” is used to denote a “neutral” religious identity -- that is, a “default” identity of those Israeli Jews who do not wish to be identified by their observance.

The differences between the categories are also not entirely clear, and the category ‘traditionist’ seems to have been the most enigmatic. Oftentimes, it is used as a kind of intermediate category between the ‘completely secular’ and the ‘really religious’ (traditionist, unlike religious Jews, do not proclaim to observe Jewish practice in full, while they do content that – unlike secular Israeli Jews – they are committed to the adherent observance of several, “basic” Jewish practices), hence marked as a problematic form of identity of those who are ‘both religious and secular’ and hence neither of the two supposedly distinct categories. This use of the term renders traditionism or traditionist identity a kind of artificial or residual category located between two ideal types and lacking any meaning independent of these two other categories. Contrary to this dismissive use and understanding of the term, when studied more closely, traditionism appears to be a uniquely modern phenomenon. It thus offers a fruitful alternative to the ‘religious-secular’ dichotomy, presenting a model of modernity, which is not necessarily accompanied by secularization. Traditionism appears as providing a different path through which modern Jewish identity can be preserved, updated and maintained (Yadgar 2009).

As aforementioned, practice – religious practice, to be precise, as interpreted by Orthodox Judaism – is often taken to be the criteria by which to categorize Jewish-Israelis’ identity. This is also the source of confusion regarding these categories. Some data could clarify this point: According to the most comprehensive study of religious practice among Israeli Jews, among the 50 percent of Jewish-Israelis who self-identify as “secular”, almost half also report to be “somewhat observant” of religious practices. That is, a vast majority of “seculars” are also “observant”, at least to a certain degree, of traditional Jewish practices. By comparison, only a third of the same 50 percent who self-identify as seculars indeed choose the label “secular” and report total non observance. Moreover, further breaking down of the data suggests that even this non-observance is not complete, as those “non-observing seculars” do partake in several national-religious practices. An overwhelming majority of Israeli Jews (between 70–90%) – including those identifying as secular, report on observing several “core” practices such as circumcising their newborn males, participating in a Passover ritual dinner, or fasting during Yom Kippur (65 % of all Israelis) (Levi et al. 2000).

Ethnicity, i.e. country of origin, plays a decisive role in the practice of Jewish tradition in Israel, as well as in constructing national identity. *Mizrahim*, those born in Arab speaking or predominantly Moslem countries, or those whose parents came from such countries, tend to present a higher level of observance and stronger commitment to Jewish as well as Israeli identities than *Ashkenazim*, those born in European or predominantly Christian countries or those whose parents were born in these countries. In addition, *Mizrahim* tend to present a more moderate attitude toward Jewish tradition, as they identify mostly as “traditionists”, while *Ashkenazim* tend to present more extreme attitudes, and usually chose either “secular” or “religious” as the labels of their Jewish identity. Some socio-historical data is of relevance here: The intra-Jewish ethnic divide has characterized Israel from the outset. Thus, while the pre-state Jewish community was overwhelmingly Ashkenazi (reflecting the fact that the Zionist project was essentially a Jewish-European project), massive Mizrahi immigration to the newly formed

State of Israel shifted this demographic balance. Culturally and politically, though, this balance-shift, was not followed by a shifting in the balance of political and cultural power. The Israeli elite – on its various location (i.e., politically, economically, culturally, and so on) has remained overwhelmingly Ashkenazi, while Mizrahim have come to form the Israeli lower classes and ‘periphery’. Up until the late 1980’s, Mizrahim constituted a demographic majority among Israeli Jews, although Israeli culture marked Mizrahi identity a minority identity. The demographic balance has been shifting since the early 1990’s as around one million immigrants from the former Soviet Union (most of them Jewish, the vast majority of whom are of Ashkenazi descent) arrived in Israel (Levi et al. 1993; 1999; Liebman and Katz 1997c; Rebhun and Waxman 2004).

III Israeli Political Society

a. Israeli party system and religion

Israel maintains a parliamentary democracy based upon proportional representation attained by periodic open and equal elections. This system induces the operation of numerous parties, many of which aim at representing certain (sometimes even narrow) segments of Israeli society, including those identified as religious (representing diverse variants of religiosity, ethnicity, and attitudes toward Zionism). Thus, the Israeli parliament, the Knesset, consists of parties who are identified not only by ideology, but also by the ethnicity and/or religiosity of their constituencies (as a result, in Israeli political discourse it is common practice to refer to “the Arab parties” and “the religious parties” as distinct political entities).

This system, which was pre-conceived in the pre-state Jewish settlement in Palestine, encourages the attainment of national (that is, Jewish) consensus as a main tool of political decision-making. During the pre-state period, when significant political power was in the hands of the British mandate and the Jewish political community was a matter of voluntary communal participation, this consensus-based decision making mechanism was essential for the preservation of a unified Jewish stance vis-à-vis British rule. As it became apparent from the outset, this system endows minority groups (most significantly those identified by their religiosity in a context of secularist-dominated community) with a unique influence on the decision-making process. One important consequence of this insistence on consensus was the Israeli constitutive assembly failure to adopt a written constitution (as explained further on, Israel has never adopted one constitution)⁷, as it became apparent that the formulation of such a (consensual) constitution is practically impossible given the unique ideological and cultural differences among the various Jewish representative groups.

Since the formative years of the Israeli political system, it seems that the consensus model has been replaced by differing political mechanisms, which pertain to Israel’s multiparty system. Thus, for example, between 1948 and 1977 the centre-left, Zionist Labour party (under varying names) enjoyed a dominant status and was able to both ignore and delegitimize contesting political ideologies (mainly those of the Right-wing and the non-Zionists); Since 1977, the Israeli parliament has been mostly divided between two contesting blocks (usually refers to as the “right wing” and “left wing”), that seem to have given up on notions of national consensus, preferring instead a rule by a simple parliamentary majority. Given Israel’s fragmentary party system, this has proven to encourage political instability.

⁷ See below under the heading of VIb. Family law in Israel: The constitutional framework.

The ethnocentrically Jewish discourse is of relevance here, since the same consensus-minded, representational political mechanism consistently excludes parties representing the Arab minority (Smootha 2006). Thus, governing coalitions – including those ruled by the more dovish (at least nominally) Left -- have preferred to rely upon shaky agreements among Jewish parties than to include Arab parties as an official part of the ruling government. In its 60 years of existence, an Arab party has yet to officially and formally join Israel's government (even when the ruling coalition relied upon the parliamentary support of the Arab parties, as happened, for example, during the Rabin government from 1992 to 1995). In the same vein, common political discourse in Israel seems to accept as an axiom the notion that no government should rely on Arab support when promoting concessions vis-à-vis Arab nations. Consequently, other small parties – mainly those identified as “religious” (Jewish) – gained greater power as the decisive force, since the two larger blocks were dependent on their support for the formation of a ruling coalition.

As aforementioned, Israel's proportional parliamentary system encourages the division and further sub-division of political representation according to particularistic issues of culture and identity (whether national, ethnic or religious), in addition to more “general” considerations of nation-wide policies (such as security, international relations and economy). This is the background against which “religious” (or “Orthodox” and “ultra-Orthodox”) parties emerged and developed. These parties, which constitute a distinctive minority of around 20% to 25% of the Israeli parliament, have usually focused on two primary issues: The promotion of certain communal issues relevant to their respective constituencies, and the protection of what they interpret as the Jewish character of the Israeli public sphere. Historically, these parties had been assigned with responsibilities over major areas of religious manifestations in political and legal sphere. Thus, the operation of rabbinical courts, for instance, had always been subject to the control of such religious parties (Kimmerling 1999).

During the first three decades of Israeli statehood, as the Labour movement dominated (under various party names) Israeli politics, the political power of the “religious” parties was significantly limited. Based on what has been described as an “historical pact”, Labour had insisted on including the National Religious Party (NRP or *Mafdal*), which represents Religious Zionists, in the governing coalition. This was partly a manifestation of the same historical insistence on presenting a consensus among religious and non-religious Jews in Israel. This pact nurtured what Israeli political discourse considers as “the status quo”⁸ in matters of religion in politics. During those formative years the ultra-Orthodox (Ashkenzi) party, *Agudat Yisrael*, refused to take part in the governing coalition (as part of its apprehensive attitudes toward Zionism). This only further marginalized religious presence in Israel's government until the late 1970's.

During the late 1970's and 1980's as the Labour party's dominance diminished and the Israeli political system rearranged and regrouped as a two-block system (divided mainly along issues of land, peace and the Palestinian-Israeli conflict), the smaller parties, including those identified as religious, gained un-proportional influence on the decision-making process, as they, although small in size, could decided the fate of governing coalitions.

⁸ In Israel, the term “status quo” refers to an informal agreement conducted in 1947 between the secular leadership of the Zionist movement in Palestine and leaders of the Orthodox Jews, which created a framework for the establishment of the country. This agreement lays out ground rules for the relationship between state and religion in four major issues: Shabbat, education, Kashrut, and matrimonial law.

b. The (non)- issue of civil marriage in Israel

One often-discussed solution to the religious establishment's practical monopoly on issues of personal status (namely marriage and divorce) has been the possible institution of civil marriage in Israel. Although a comprehensive review of this historical, legal-constitutional debate is beyond the capabilities of this essay, we should mention that this debate has been one of continuing political importance. The call for instituting civil marriage as a constitutional expression of the protection of human rights has been the staple of left leaning, mostly liberal parties. Most pressing of all, civil marriage has been time and again suggested as the right solution for allowing those who simply cannot marry through the religious, orthodox institutions (due to the individual's status according to religious law, which prevents them from marrying through the religious establishments)⁹ to enjoy this fundamental human right. Still, the controversy surrounding the issue (emanating, at least in part, from the orthodox parties' vehement objection to such proposals, arguing that civil marriage among Jews would hurt the unity of the Jewish people) has been one of growing political relevance. Thus, for example, already in the late 1960's, a proposition (by the Independent-Liberal party) for allowing those who cannot marry through the Rabbinate to have the option of uniting as a couple through a civil arrangement has caused a political controversy that stirred the ruling coalition.

Nevertheless, until the late 1990's the issue failed to become of major practical political relevance. To a large extent, until then, the issue has been more of a principle, ideological concern than of a practical nature, and the political system chose to handle the issue by ignoring it. This solution seemed to be failing as the influx of immigrants from the Former Soviet Union (FSU) started to arrive in Israel during the 1990's. This wave of immigrants included what is believed to be a rather large constituency of people of Jewish decent, who cannot marry through the Rabbinate, due to their personal status as determined by religious law.¹⁰ Several parties, who have addressed the constituency of immigrants from the FSU, have put the institution of civil marriage on their platform, and introduced this demand as part of the coalition building negotiations. Most notably, *Shinuy*, a party who presented a rather anti-religious, vehemently secular agenda, and gained considerable success during the 2003 election campaign, demanded that the government (of which *Shinuy* was a part) finds a legal solution for those who cannot legally marry through the religious institutions. This demand was eventually left unanswered (the government set up a committee, whose recommendations for such a legal solution – a virtual arrangement of civil marriage, titled “covenant union” – were never instituted), and although picked up again by another party (*Israel Beitenu*), it still awaits considerations. The negotiations preceding the establishment of Israel's current government have dealt extensively with the issue, as the demand by *Israel Beitenu* (now Israel's third largest party) that the government comes up with a legal, civil arrangement for such “un-marriagable” couple's encountered strong objection from the orthodox parties, who compose an essential part of the ruling coalition. As it seems at this point, the issue, although gaining pressing relevance, is avoided by the political system as too explosive. Thus, while several solutions have been formulated and introduced to the Israeli

⁹ This strategic disregard was eased by some judicial developments, such as the formal recognition of civil marriages formed out of Israel, or the vast legal recognition accorded to de-facto unions, *see* the discussion *infra* text preceding and accompanying note 20.

¹⁰ In 2007 citizens without religious classification (who are mostly of Jewish decent but are not Jewish according to *Halachic* definitions – that is being born to Jewish mothers or converting through orthodox courts – formed 3.9% of Israel's population, and 5% of the population aged 20-44 age group).

government (some of which enjoy the support of major orthodox figures), they remain un-enacted, as the orthodox establishment, through the parties representing it, prevents any introduction of such an arrangement of even quasi civil marriage.¹¹

c. The emergence of Shas as a dominant social-political power

A major development in Israeli politics was the establishment of *Shas*, which first broke into the consciousness of the Israeli public as a religious-ethnic (that is, ultra-Orthodox *Mizrahi*) political party. It first ran for election in the 1984 Knesset elections. From that point on, *Shas* gradually grew in strength to become a *tour de force* in Israeli politics. In its highest achievements to date, it became the third largest party in the Israeli Knesset (in the 1999 election). Even when smaller in size, it has been recognized as one of the most influential parties in current Israeli politics. This success was especially remarkable, given the relative failure of former ethnically oriented parties in Israeli politics (Peled 1998). *Shas* presents the Israeli sphere with an interesting mixture of attitudes towards matters of religion, politics, and gender, and deserves, we believe, some close attention. Nevertheless, we should stress at the outset that *Shas* is surely not the sole player, nor is it the most unique. We believe that the importance of our short discussion below will be self-explanatory; while keeping in mind that other formulations of the matter abound.

Shas is not solely a political party (at least in the dominant, narrow sense of the concept in current Israeli politics). Together with its religious, educational, welfare and media institutions that have come to encompass a growing body of Israeli Jews (the overwhelming majority of whom are of *Mizrahi* origin), *Shas* has transformed into a dominant and influential factor in Israeli society and Israeli culture as a whole.

The social services provided by *Shas* – either through its school system or via other welfare initiatives, such as charitable organizations, became renowned for their breadth of activities, their rapid expansion and their aggressive outreach in peripheral areas with high concentrations of *Mizrahi* Jews. Its schools offer programs that are decisively religious in their content and organization, but which also imbue participants with ethnic pride and appreciation for Middle Eastern and North African Jewish religious and cultural customs that were downgraded when many immigrants from these regions arrived in Israel. According to a popular phrase coined by *Shas's* spiritual leader, Rabbi Ovadia Yosef, *Shas* aims “to restore the glory of the past” by rehabilitating traditional customs, dignifying the Sephardic rabbinical tradition, and revitalizing religious practices and values—all of which, *Shas* leaders claim, have been denigrated in modern Israeli society. Notwithstanding its patriarchal ideology and political leadership, *Shas* has managed to garner the support of women through an interesting process of developing new feminine identity, which draws upon ethnic and religious identification (fostered by *Shas*) as a source of women’s empowerment. In addition, *Shas* has opened new venues within civil society enabling various forms of women’s leadership (El-Or 2004; 2006). On the other hand, this seemingly favourable attitude towards women’s advancement had not translated into the formal-legal level. While *Shas* began to consolidate control over the Rabbinical establishment, acquiring ability to have the greatest influence over the nomination of chief rabbis, as well as rabbinical judges in the rabbinical courts,

¹¹ Further data shows that over 20% of Israelis who entered civil marriage abroad each year (as aforementioned, a practical solution for bypassing the Rabbinical Courts monopoly) were without religious classification – a figure which is five times their rate among Israeli population, thus proving their concrete predicament regarding the inability to marry in Israel.

Shas' power in matters of rabbinical jurisdiction has not led to a reform in rabbinical discourse regarding matters of personal status.

Shas' leadership structure is not dissimilar to the one fashioned by other religious (mostly Ashkenazi ultra-Orthodox) parties. It presents a leadership hierarchy in which religious figures, prominent Rabbis (all male), function as the highest authority, under the title of the party's "spiritual leadership". Thus, it ties with one important dimension in which the religious parties' central role in Israeli politics affects women and gender relations, *i.e.* their exclusion of women from political leadership roles. Thus, women are a-priori precluded from about 20%-25% of parliamentary seats. On the other hand, most religious parties are gradually assigning women with possibilities of active public participation within civil society (e.g. educational and welfare outlets of the parties).

Shas' ability to attract non-religious voters stems, in part, from the party's ability to transmit a political message that can be interpreted in varying ways by different audiences. The main message that *Shas* has broadcasted over the years is one of "a return to one's roots" – which is read by the majority of its constituency as a return to Jewish *Mizrahi* ethno-religious (but not necessarily Orthodox and ultra-conservative) values and behaviour (Zohar 2001) a reversal from the secularization and westernization process to which immigrants of North African and Asian origin have been subject (some would say subjected) since their arrival. This message is founded on sharp criticism of the values of secular culture and society in Israel. *Shas* is thus seen as a champion of what is presented to be the traditional values of *Mizrahi* Judaism – which, again, is read as avoiding necessitating ultra-orthodox lifestyle.

This is just a small part of the complex context in which *Shas'* political program and activities regarding women should be studied. *Shas* publicizes itself as promoting women's rights – albeit in a non-secular-feminist fashion – in various ways.¹² *Shas'* has a women's organization, "Marglit Em B'Yisrael", which mainly focuses on providing women with "women needs", as its' leaders see them. An understanding of their view can be gained through a survey of the activities it offers its members: classes in various topics, "fun days" – *i.e.*, socializing activities in a vacation setting, and various cultural events (such as theatrical shows and lectures). The organization sees its major aim as "enriching the spiritual world" (*ibid*) of its members, as well as celebrating the women's Jewish-Mizrahi culture. *Shas* also boasts its programs for encouraging ultra-Orthodox women to develop professional careers. Indeed, one such program is the successful women's college established by one of *Shas'* influential women members, who comes from *Shas'* most esteemed family (directly related to Rabbi Ovadia Yosef). In general terms, the party – and its various organizations – promote a view according to which women's needs should be catered for, albeit only in a personal, familial and communal level.

IV Gender and Politics in Israel: An Introductory Overview

The formative phase of the Zionist movement has introduced the ethos of gender equality, as the movement professed a completely egalitarian ideology, according to which women were to have full and equal participation at all levels of the nation-building enterprise. Thus, for example, women had equal voting rights in since the second Zionist Congress as early as 1898, and most Zionist utopian writings, including Herzl's vision-

¹² See, for example, *Shas'* websites: www.shas.org.il.

ary **Altnoiland**, depicted women as having equal rights to those of men (Elboim-Dror 1992). However, as the growing research body of women and gender in Israeli historiography shows, reality was very different. Ultimately, what the Zionist movement's egalitarian ideology formed was not an egalitarian society, but rather a powerful and long-lasting myth of equality which consistently suppressed much of the criticism and mobilization efforts in the direction of women's advancement (Hazelton 1977; Kamir 2007; Safran 2006; Bernstein 1987; Halperin-Kaddari 2000a).

It is only within the past twenty years that the story of the women has began to unfold as part of the overall narrative of Zionist-Jewish settlement in Israel. Pioneer women's writings from the period of pre-State Palestine were exposed, reflecting the personal confusion and disappointment at the shattered promise of equality (Bernstein 1987). Indeed, the revolutionary Zionist movement was expected to fully integrate women into all areas of work, labour and leadership, and to construct a new model of Jewish womanhood, as part of the construction of the "New Jew". These were perfectly understandable expectations, as the rebellion against traditional Jewish religion and social norms naturally included, among other things, resistance of traditional public-private divide, fixed gender roles, and women's confinement into the home. However, this is one area in which the Zionist movement had not lived up to its promise. Scholars of Zionism agree that while some changes in women's status have taken place, eventually the revolutionary potential in gender roles and relations has not been realized. Several explanations were offered to account for this failure or setback, including the fact that the feminist movement or women's movement in the Western world at large had not yet been fully developed at the time. Furthermore, scholars have pointed to the prosaic fact that it would be rather impossible to expect two revolutionary processes to take place together (Almog 2000:22). Of all the various explanations offered, the main ones are religion, and male-centered militarism. Significantly, these are the two major factors impeding women's advancement in Israel to date.

The religious factor, which is at the centre of our attention here, is often portrayed as the price that the secular Israeli majority has to pay for coalition purposes, for appeasing the religious political forces, for maintaining the "status quo", and in the pre-State period for appearing united before the British mandate authorities. Most generally, this status qua refers to the preservation (usually thorough rules, laws and regulations) of the Jewish character (interpreted mainly through an orthodox prism) of the public sphere, while preventing a similar over-reaching interference in the private conduct of the individual's daily life. It should be noted, however, that Israeli citizen's private life are far from being free from intervention by religious institutions. The "status quo" arrangement endows the rabbinical (orthodox) establishment (which, it should be stressed, also functions as the spiritual leadership of the religious political parties) with unique influence on personal matters, which are legally under the jurisdiction of religious courts, in line with the aforementioned personal status regime (Cohen and Susser 2000; Liebman, 1990, 1999; Ravitzky 2000). The religious rule in matters of personal status is thus viewed as a reflection of the infamous "religious coercion", forced upon the secular political forces. However, a deeper examination of the political process that preceded the passage of the Rabbinical Courts Law - 1953 has recently led Zvi Triger to suggest a different interpretation (Triger 2007; Triger 2005), following the path charted by Pnina Lahav who studied the adoption of the Women's Equal Rights Law - 1951 (Lahav 1994). Lahav concluded that "gender inequality in Israel had rested not only on political compulsion..., but was deeper, and stemmed from an agreement in principle with the religious establishment about the essence of the woman" (Lahav 1994: 154). Noting the fact that religious parties composed only 12% of the Knesset (the Israeli Parliament) when the law was passed, and recognizing other areas in which the secular majority did

not yield to attempted religious coercion, Triger, joined by Orit Kamir, propose that what appeared as religious coercion in fact served the purposes of the mostly non-religious Jewish male legislatures, just like their secular male Zionist predecessors (Triger 2007; Triger 2005; Kamir 2007). The latter, observes Kamir, were anxious to strengthen the image of the “New Jew”, which was somewhat threatened by their female counterparts’ demands for gender equality. “By adopting the religious marriage and divorce laws”, she claims, “Political-Zionism found the way to construct the new Jewish male as a powerful patriarch, who holds almost unlimited privileges and control over his wife, whose honour within the family sphere resembles that of the mythological patriarchs of ancient world, and immeasurably supersedes that of modern Western men” (Kamir 2007: 272-273). After quoting from the proceedings of the parliamentary debate over the law, which prove that the discriminatory nature of the religious marriage and divorce laws was perfectly clear to all, Kamir, paraphrasing Triger, concludes that “*MAPAI*’s¹³ members of Parliament, the representatives of the Zionist ideology of Honour and of the new Jewish males in Israel, were not forced or coerced by the religious and ultra-orthodox Jews: They found a wonderful window of opportunity and a perfect strategy to magnify their Zionist honour by constructing their patriarchal honour at the expense of their women” (Kamir 2007: 273).

As we have seen above, the current political map is such that religious parties now have much larger representation and power than fifty-five years ago. Thus, uprooting of the religious rule over marriage and divorce is politically impossible. However, the analysis of the religious rule’s incorporation into the Israeli polity may be just as relevant today. In other words, building upon the historic analysis, and in light of the current lack of real political commitment to promote gender equality (as discussed later), there is no certainty that if it were not for the religious/orthodox political power, the law would change and civil marital code would be introduced (Fogiel-Bijaoui 2003).

Going back to the pre-State era, the previous discussion should not obscure impressive feminist mobilization, which has nonetheless taken place from the very first steps of the Zionist movement in Israel/Palestine. The first major effort was the 1919 formation of the Union of Jewish Women for Equal Rights in the Land of Israel, the first national women’s movement in the pre-State period (forming a coalition of several already existing women’s organization), under the slogan “one constitution and one law to man and woman”. The Union is mostly remembered as the local Suffrage movement, leading a battle that ended successfully at the national level in late 1925, and continued on the municipal level until the late 1930s. The suffragist battle has probably been the most visible demonstration of the conflict between religion and gender equality. Women of the Union fought to lift the direct restriction on their full citizenship and political participation, as the opposition to the women’s demand came from the circles of the ultra-orthodox settlers of the “Old *Yishuv*”, half-heartedly joined by the religious-Zionists of the *Mizrahi* movement (Berenstein 1987; Rozenberg-Fridman 2005). In line with the consensus-based decision making mechanism which characterized the *yishuv*’s politics,¹⁴ the political male leadership sought compromise, expecting the women to withhold their demands. The suffragist struggle lasted for almost a decade of political manoeuvres between the religious and other sectors of the civil society, and included such episodes as a “*kosher*” ballot during one election in Jerusalem, namely a ballot in which only men voted and each vote was counted twice; and on the other hand, a national day for women’s rights organized by the women’s organizations in reaction to yet another

¹³ *MAPAI*, a Hebrew acronym for “Israeli Worker’s Party” is the historical title of the dominant Labour party.

¹⁴ See above, under the title “Israeli party system and religion”.

proposal for conducting a national referendum over their right to suffrage, in which only men were to participate (Azaryahu 1947; Fogel-Biajoui 1991; Boaz 2002; Safran 2006). The struggle ended when in the final preparations for the second Electorate Conference the ultra-orthodox representatives adopted an even more stringent stance and withdrew from the negotiations that were still going on in an attempt to reach a compromise over the women's suffrage, and the national elections that were then held included full women's participation (Boaz 2002). In fact, following their failure to obstruct the planned national referendum over women's electoral participation that was to take place prior to the national elections, with women's participation, the ultra-orthodox boycotted the 1925 elections, so that less than 60% of eligible voters actually participated in them. The outcome was record-setting for women: 25 out of the 221 elected were women (11.3%), a precedent which was broken only decades later. Thirteen out of the 25 women elected were members of the Union. To conclude this episode, in January 1926 full equality for women in the *yishuv* was declared at all levels of civil, economic and political life (Safran 2006: 62). This, evidently, was the prelude to the classic, on-going gap between the formal-declaratory level, and reality.

Nevertheless, as sociologist Hagai Boaz writes, for the women's organizations, the suffragist struggle was part of an overall feminist battle to remove matters pertaining to women's status from the jurisdiction of religious law (Boaz 2002: 119). Indeed, as current research shows, this was only one battle among many other endeavors in which the Union was involved. The Union operated legal aid bureaus for women, advocated legal reforms, and vehemently opposed the 1922 transference (and later the maintenance) of personal status matters into the exclusive jurisdiction of the newly established formal rabbinical courts (Shiloh *et al. forthcoming*). Interestingly, some of the critical writing on the subject from that time can be read as if it were written today. While the basic legal structure in family law remained, the Union was the leading force in quite a few successful battles for legal reforms: the 1923 passage of the Inheritance Law, guaranteeing women (widows and orphans) with same inheritance rights as those of men; the 1936 new prohibition on marriage of girls under 15 years old; the 1944 passage of the Rabbinical Regulations ordering divorced fathers to support their children up to the age of 15; and the 1947 amendment to the Penal Code finally prohibiting polygamy on Jews (Radzyner, *forthcoming*). Apart from that, the Union was engaged in legal work on other fronts, such as that of advocating for an overall solution for the problem of deserted Jewish women who remained chained to their deserting husbands and could never remarry. Union activists were among the most vocal opponents of the emerging rabbinical establishment within the Jewish pre-State settlement, yet when the need arose to present a case in opposition to the Mandate authorities as was the case with respect to the bigamy prohibition, they smartly cooperated with the rabbinical leaders (Radzyner, *forthcoming*).

But all these activities and impressive achievements represented only a small segment in Israeli society, one that was apparently not sufficient to carry over its mobilization throughout the critical passage of the Independence War and the establishment of the State of Israel. The socio-political dynamic that had formed here would accompany the story of women in Israel to date: matters pertaining to women have been considered sectorial, secondary, and threatening to national solidarity (Chazan 1989; Freedman 1990; Yishai 1997). National solidarity has become the prime goal under Israel's political agenda, which in fact corresponds to the national-Jewish agenda, and draws its prioritization from the sole factor of the Arab-Israeli conflict (Herzog 2008: 271).

In any event, most researchers agree that the feminist mobilization had faded with the establishment of the state (Herzog 2008: 269). In a fascinating study, sociolo-

gist Nitza Berkovitch connects the decline of the feminist discourse with the passage of the Defense Service Law (1949) (mandating women's conscription to the Israeli army) and the Women's Equal Rights Law (1951). Both these laws purportedly formalized the equal status of women upon the founding of the State, thus reinforcing the myth of equality mentioned above. However, as Berkovitch shows, these laws began a process in which motherhood was established as an alternative path to civil status for women (Berkovitch 1997). Motherhood became a ticket to participation in the collective, and served – for women – as central element in defining their civil status. Once again the presence of the Arab-Israeli conflict becomes the determining element for women's existence in Israel: when a society is formed around a national struggle, living with ongoing armed conflict and experiencing a continuous “demographic threat”, motherhood inevitably gains the formative role for women, and their central course for membership within the collective (Berkovitch 1997; Fogiel-Bijaoui 2002).

This analysis perfectly ties in with another way in which religion affects women in Israel. There is another, informal and more subtle side to the place that religion holds within the Jewish national collective, beginning during Israel's formative years, and the effect it still has on women, and that is what Yuval-Davis has termed women as “bearers of the collective” (Yuval-Davis 1980). In the context of the Jewish national collective, this carries not only the actual biological reproductive function of women, which, as we have just observed, was elevated into women's defining societal role, but also the determination of the boundaries of national identity. This is the result of the matrilineal attribute of Judaism, namely the rule (formed some time after the fall of the first Temple, during the return to the land of Israel by Ezrah and Nehemia, 5th century B.C.) that designates the mother as the “transmitter” of the Jewish identity, and hence of the membership in the collective of the Jewish people. Adoption of the matrilineal principle was a departure from the patriarchal construction of Jewish family law, and stood in stark contradiction to most other ancient traditions (Cohen 1999).

At first blush, the matrilineal principle can be presented, as the Encyclopaedia Judaica says, as the one respect in which Jewish law discriminates against men (see Sorek 2002). It would also follow that since children of Jewish women from non-Jewish fathers are Jews, the prohibition against intermarriage could be expected to be more rigidly enforced against men. This, however, is not the case. Normatively, the matrilineal principle, perhaps counter intuitively, has in fact served as a justification for intensified control over women's sexuality and reproductive capacities (Kahn 2000). Likewise, the apparently gender neutral legal ban on inter-faith marriages in Israel has in reality imposed greater burden on Jewish women than on Jewish men (Triger 2009, *forthcoming*), and also on non-Jewish female spouses in inter-faith marriages who experience much stronger pressure to convert (Hacker 2009).

As the State of Israel incorporated the matrilineal principle into the Law of Return, in defining a Jew (in §4B) as “a person who was born of a Jewish mother or has become converted to Judaism and who is not a member of another religion”, the gendered aspects of the dual roles that women fill as the “bearers of the collective” (in both the biological and the national-religious senses), and the interplay of the religious factor inherent in both contexts, are all as relevant today as they were in the pre-State period. Thus, much of the policies, practices, and developing social norms with respect to gender roles, women's work, and the public-private divide, should be viewed in light of these critical roles women unwittingly held before, and still hold today (Klein 1997).

Going back to the historical analysis, the portrayal of women's organizations within pre-State period and the manner in which the link between religion and politics affected women's mobilization cannot be complete without reference to two more groups, that of Jewish religious (orthodox) women, and of Arab-Palestinian (religious

and non-religious) women. While obviously very much different in political circumstances and size, both movements shared a rather uncritical view of their respective religions.

The Jewish religious women formed under the religious-Zionist *Mizrahi* movement, adhering to the male *Mizrahi* leaders who called upon the women to join them in the nation-building task in light of the values of the Torah. The first local chapter of *Mizrahi* Women was established in 1919, and the national organization was established in 1940. As Rosenberg-Friedman (2005) writes, the Mizrahi movement aimed at constructing a dualistic feminine identity, old and new at the same time, one that continues the traditional roles of women (care-taking, child education, welfare), yet embedded in new national values that would expand their traditional roles into the public space, for the national cause. Indeed, *Mizrahi* women focused their work on such areas as building up educational institutes for young children and vocational training for religious girls; as well as in the area of welfare and health. Through this seemingly traditional work, the women developed new and independent venues of operation, which eventually led to some conceptual change in religious women's place and role (Rosenberg-Fridman 2005).

The (Palestinian) national Arab Women's Association was formed in October 1929, during a congress attended by over 200 women in Jerusalem, shortly after the August 1929 riots. At the congress, the women emphasized that they were working “alongside the men”, a continually reiterated phrase, but they nevertheless set about building their own, separate women's movement, aiming to undertake “women's awakening” and elevate the status of Arab women in Palestine, as one of their subsequent resolutions stated. Nevertheless, as Ellen Fleischmann points out, their work toward this goal was un-programmatic and variable, while their nationalist work was far more explicitly political, both in content and activity. What strikes out of much of the recent work on Palestinian women's organizations during the mandate period and beyond is the lack of overt criticism of religion and its effect on women. As Fleischmann explains, women's liberation was viewed secondary to national liberation, and feminists believed that their emancipation would naturally follow national independence: “When nationhood was achieved, “reform” would follow since it was the state's responsibility to reform social order, as happened in Turkey” (Fleischmann 2003: 145). Nevertheless, a shared interest in narrowing religious control on issues pertaining to women's rights did lead to Jewish-Arab feminist cooperation in one instance, and that was the case of child marriages during the 1930s. A group of Christian, Muslim and Jewish women formed the Social Service Association, to fight child marriages and together with the Union of Hebrew Women convinced the Government to raise the minimum marital age to 16. Significantly, even this initiative was not supported by too many on the Palestinian feminist front. Thus, for instance, Matiel Mogannam, one of the leaders of the women's movement who had written the only feminist text on the Palestinian women, was of the opinion that the Mandatory government could not enact such legislation, as such measures of reform could only be introduced by national Governments. In her 1937 book *The Arab Woman and the Palestine Problem* Mogannam extols the role played by Islam in enabling Arab women to attain legal rights and social status. Apparently, this uncritical view of religion was common to many women activists, and continued to hold true until quite recently.

V Women in Israel today: A positivist account

There are various ways to present the situation of women in any given society or state. Different sociological variables and types of data account for different factors and tell

different stories. Elsewhere one of us has constructed two parameters that inform women's status (Halperin-Kaddari 2004). The first parameter reflects the basic quality of women's lives: their life expectancy, maternal and infant mortality, levels of literacy, marital age and so on. The second parameter is somewhat more complex and can be understood by evaluating such issues as: participation of women in public life, participation of women in the workplace, wage equity, educational opportunities and so on. Much progress has been made in Israel, but it is primarily in the first parameter of women's lives. This cannot be said about the more sophisticated, advanced level of women's lives.¹⁵

On the basic health level, women's health in Israel is steadily improving, at all segments of society, although there are remaining gaps between Jewish and non-Jewish women. Women's life expectancy keeps rising and is now 82.5, 5.5 years more than it was in 1987.¹⁶ Infant and maternal mortality is significantly decreasing, as is the general birth and fertility rate, which now stands at 2.8 children for Jewish women and 3.9 for Muslim women (compared to 4.7 for Muslims in 1985-1989). Marriage age is likewise rising, and is over 25 years for Jewish women and just below 22 for Muslims. At the educational level, illiteracy rate for Jewish women is miniscule, and is non-existent among the 15-17 years old, just like among Arab women of the same age group, while among elderly Arab women the illiteracy rate is still 10% (a significant decrease from 70% in the early 1960s). The rate of women with more than 13 years of education is a little higher for Jewish women than men (42% and 41% respectively) and equal for Arab women and men (19%, a significant increase from 7% for Arab women in 1985). Women outnumber men as students at all levels of higher education. Women's participation in the workforce has gone up from 38% among women over 15 years old in 1985, to 51% in 2007. While Arab women's workforce participation has sharply increased, by close to 80% since 1990, their participation is still the lowest of all social groups in Israel: 56.7% of the Jewish women over 15 years old, but only 17.6% of the Muslim women are in the workforce. Compared to the men's participation rate the differences are even more striking: Muslim's women participation rate formed only 28.3% of that of Muslim men's, while Jewish women's rate formed 92.3% of Jewish men's.

All these are examples of the basic level of indicators informing women's status, which are necessary for the development of the more advanced and intricate facet. However, improvement on the former in no way guarantees similar progress on the latter. This is indeed demonstrated in women's participation in public life and their presence in decision-making positions, political and otherwise. Although the Kadima party, headed by a woman (Ms. Tzipi Livni, former Minister of Foreign Affairs) has won the majority of votes in the recent January 2009 elections, the 32nd government was formed by the *Likud* party (headed by Mr. Netanyahu), and in the current 31 Ministers Government there are only two women (!). Likewise, while the recent elections lead to a record-breaking 21 women members of the Knesset (MKs) no woman heads (or has ever headed) any of the more influential and prestigious Parliamentary Committees (e.g. Security; Finance; Legislation; Parliament). It should also be remembered that the current peak of 21 MKs, composing 17.5% of all MKs is only a slight improvement over the

¹⁵ Data in the following sections is taken from the following sources: Statistical Annual Abstracts published by the Central Bureau of Statistics, various years; official site of the Central Bureau of Statistics; official site of the Knesset (Israel's parliament); **Women and Family in Israel: Statistical bi-annual Report** (Halperin-Kaddari and Karo eds.) 2007, 2009; Taskforce on the Status of Palestinian Women Citizens in Israel: an NGO Report to CEDAW (2006).

¹⁶ Although Arab women's life expectancy is still lower, and stands at 78.8, while Jewish women's life expectancy is 82.6.

11.3% record set in the very first national elections in the *yishuv* in which women participated in 1925, and came after a continuous decline from composing 10% of the MKs in the third Knesset and a deep fall to only 7.5% in the not too long ago 14th Knesset in the 90s. There is only one Arab-Palestinian woman MK (and there has never been more than one in any Knesset), and no Arab woman has ever served in a ministerial post. Since Israel has not adopted the parity mechanism, guaranteeing adequate gender representation through a quota system, this low representation at the electorate level can be taken as an authentic reflection of Israel's poor progress on that measure. The situation is no better at the municipal level: only two women were elected as city mayors. This only complements the very slow, if any, progress of women within the civil service, where the 1995 legislative introduction of affirmative action is hardly felt. Likewise, in the academic world, although the rate of women senior lecturers has gone up more than 40% in the past two decades, women still compose less than 10% of the highest rank of full professors. There is no doubt that the glass ceiling is very much in existence within Israel's labour market, in both the public and the private sectors, and it is accompanied, not surprisingly, by strong gender job stratification. These largely contribute to the deep pay gaps between working men and women in Israel. The average monthly income of salaried man is still 56% higher than that of a woman, and even when adjusted by working patterns so that hourly wages are compared an average of 19% pay gap is maintained, and has not decreased since the beginning of this decade. Here too ethno-national gaps are strongly felt: more than half of the working Arab women in 2007 earned less than the minimum wage. The only economic (and political) area where the situation is somewhat different is the legal field and the judicial branch: women compose 42% of practicing lawyers, and they make up 50% of the judiciary, yet in 2003 out of 603 judges (247 of whom were women), there were only 6 Arab women. The current president of the Supreme Court is a woman, and four out of the current fourteen Justices are women. Significantly, the category of attorneys is the only occupation within the civil service where the gender pay-gap is to women's advantage.

As one of us has argued previously, based on such overview and supported by international comparative aspects, the improvement in women's situation and status in Israel has not been due to broad-based egalitarian consciousness or feminist awareness, but is rather a side effect of Israel's impressive progress as a welfare state for all its citizens (Halperin-Kaddari 2004). In other words, most of the progress in women's status for the first 40 years of the state's existence is incidental to Israel's overall socioeconomic advancement.

Following this gap, and within the general disparity between women and men's respective situations, more clear gaps exist between the law on the books and the social reality, and within the legal sphere, between family law and other areas of law. The latter will be elaborated below, as it is obviously a main characteristic of the tie between religion and state in Israel. Apart from family law, Israeli legal system dealing with women's rights has often been described as enjoying progressive legislative and judicial initiatives, mostly from the late 80s onwards, yet suffering from general lack of supervision and enforcements (Halperin-Kaddari 2004). This supports the argument about the lack of true political commitment to gender equality and advancement of women. To better understand this contention, a brief overview of the legal framework with respect to women's rights in Israel is in place.

VI Women in Israel: The Legal Framework

a. Women's status in Israel: A legislative analysis

As one of us suggested previously, the process of the advancement of women in Israel through the legal sphere can be characterized as a move, sometimes actual and sometimes still needed, from first generation of feminist legal theories, namely of liberal legal feminism that mostly holds onto a formal perception of equality, to second generation of feminist legal theories, namely cultural and radical feminist theories, that may require an altogether different conception of the relationship between law and society. The course of the advancement of women in Israel started while the myth of gender equality in Israel still reigned. Even when some appreciation of the “women’s problem” was evident, the conduct chosen by policy-makers reflected the legal liberalism perception of formal equality. It is only in recent years that a change can be located, reflecting a deeper change in feminist cognition, or rather an attempt to locate a substitute to the liberal legal feminist approach.

The formative years of “women’s legislation” in Israel, which run roughly from the establishment of the state until the early 1970s, can indeed be seen as compatible with the perception of liberal legal feminism (Halperin-Kaddari 2006).¹⁷ This is not to claim that the driving force behind that legislation was liberal feminist ideology alone. Of course there were much more powerful forces promoting that legislation, primarily the emergence of the Israeli welfare state. Nevertheless, the prime legislation, Women’s Equal Rights Law – 1951, certainly reflects a typical liberal approach in its central declaration that “A man and a woman shall have equal status with regard to any legal action”. Both the “identity approach” (“equal status”) and the focal point of the law (“to any legal action”) are pertinent to this observation (Lahav 1993). The other major provision is §5 which excludes the whole area of personal status from the scope of the law (by stating that “this law does not hamper the laws of marriage and divorce”), and its significance will be discussed later. Other early pieces of “women’s legislation”, such as the Compulsory Education Law – 1949, the Equal Pay (Male and Female Employees) Law – 1964, and others, continued this trend. They all reflect the typical liberal perception that once equal rights in such basic areas as employment and education are formally guaranteed, nothing else is needed. Special treatment of women or the formation of specific mechanisms for the advancement of women were deemed unnecessary, as could be expected in light of the already mentioned myth of equality which existed during Israel’s formative years (Hazelton 1977; Lahav 1993). This analysis ties in with the process described above of the decline of the feminist mobilization with the establishment of the state and was connected to the passage of these laws, which purportedly formalized the equal status of women.

These beliefs of the first stage lasted a quarter of a century, until the equality myth, together with many other formative myths central to the founding ideology of the State became shattered during the 1973 Yom Kippur war (Azmon and Izraeli 1993). Following the 1975 International Year for Women, a National Commission on the Status of Women was appointed. However, most of the proposals contained in its 1978 report, though impressive and ambitious, were allocated either few resources or no means to realize them. Significantly, this transitive stage of myth-shattering and bureaucratization of women’s equality contained very little legislative development with respect to women’s status. Nevertheless, the work of this Commission had important effect on fur-

¹⁷ By “Women’s legislation” we mean any legislation whose purpose or effect is to promote women’s status.

ther mobilization of the feminist movement, as we shall see later when discussing women in the civil society.

It is only within the third stage, which started in the late 1980s and went on until around the turn of the century, that a gradual change has been taking place with respect to the position of women in the Israeli society. Perhaps the most noticeable expression about this stage is its intensity on the legal front. In a sense, the 1990s have been the decade of women's legal reform, on both the judicial and the legislative arenas. If the overall legal developments of the 1990s can be described as intensive, the legislative initiatives can be described as impulsive. This term is chosen to hint at the extraordinary pace at which legislation has progressed, and not always with enough premeditation, planning, or sufficient reliance on hard facts and core research. The list of new, and quite often innovative laws, is very long. To give but few examples: the Prevention of Violence in the Family Law – 1991; the Equal Pay (Male and Female Employees) Law – 1996; the Single Parent Family Law – 1992; the 1993 amendment to the Government Companies Law – 1975; the 1995 amendment to the State Service (Appointments) Law – 1959 (both amendments direct the use of affirmative action); the Prohibition on Discrimination in Services and in Entry into Public and Entertainment Places – 2000; the Equalization of Pension Rights to Widows and Widowers – 2000; and more.

The extent of the phenomenon has been attributed to the introduction of primaries as a means for selecting parliamentary candidates, as “catering to women's interests... appears promising from the electoral perspective, at least as viewed by prospective candidates” (Yishai 1997: 21). This explanation also implies the policy-makers' recognition and appreciation of women as a distinct interest group, perhaps for the first time on such a scale: of women's interests and needs, of women's adversity, and of their political power. Legislation presents a relatively easy form of political achievement with immediate gratification and certification. But from investigating the legislative process that preceded many of the new laws – from examining their initiation through various stages of enactment – the phenomenon truly indicates a new phase in appreciating the position of women in Israeli society, and not just a cynical use of another newly discovered political power group.

From the perspective of feminist legal theories, a deep change could be traced. The clearest development is that of an informed acceptance of the idea of substantive equality, i.e. the recognition that treating likes alike cannot ameliorate past discriminations, nor can it handle situations in which concrete and “real” gender differences are evidenced. This acceptance is manifested by such expressions of affirmative action, and by other areas where the legislature condones purposeful disparate treatment of women (for example, as victims of sexual violence who are now protected from testifying in the presence of the accused; or as employees, who have the option of retiring either at 60 or at 65). It is also seen by the beginning of a deeper understanding of the phenomenon of gender wage-gap and women's subordinate position within the workforce in general, as manifested in the enactment of the Equal Pay (Male and Female Employees) Law – 1996, thus giving a statutory approval to the concept of wage-equity and equitable-worth. An even more significant indication is the move from maternal employment rights to parental employment rights, thus recognizing the need to accommodate workplace and career requirements not just to motherhood, but to parenthood and to the family unit as a whole.

In a previous work, one of us suggested that this move went beyond mere replacement of formal perception of equality by adherence to substantive equality (Halperin-Kaddari 2004: 18-23). These legislative and legal developments could also indicate an entry into a more mature era of feminist understanding and awareness, an era of feminist consciousness that strives not only beyond formal equality, but beyond

legal liberal feminism altogether, reflecting an aspiration for fundamental social change. Three more laws at the close of the 20th century could be added to complete this analysis, first and foremost of them is the 2000 broad amendment to the Women's Equal Rights Law, accompanied by the Authority for the Advancement of Women Law – 1998 and the Prevention of Sexual Harassment Law – 1998. Taken together, it was suggested, these laws could be viewed as demonstrating a new approach to “women’s legislation”, deeper and more thoughtful, quite distinguished from the impulsive legislative initiatives of the 1990s. In this sense, these three laws were labelled as the fourth stage of “women’s legislation” in Israel. All three proposed a broad vision of social change, envisioning a complete transformation of gender power relations.

For the purpose of the current research, the sweeping amendment to the Women’s Equal Rights Law – 1951 (in fact, a complete revision of the 1951 law) merits further discussion. In a sense, a line can be drawn from the 1951 law to its 2000 revision, epitomizing the whole evolutionary process, and ultimately symbolizing the call for radical change described above. If the 1951 law was reflective of legal liberalism’s formal equality, its revision, half a century later, is exactly its antithesis. The revision, in fact, reads almost like a radical feminist manifesto, except for that one central issue – that of the rule of religious laws in the area of family law – where it acquiesced to the existing norm so as not to hinder the passage of the law. In this respect, the dramatic revision only reaffirmed the age-old pattern of subordinating women's rights and interests to those of national unity, guided by the overarching religious rule. Otherwise, reading the text of the revision gives a sense of educational legislation *par excellence*. It’s all in there: starting from a declaration of the law’s intention to ensure total gender equality and women’s advancement in all areas of the state, the society, the economy and the family; going on to prohibit all forms of discrimination against women; proceeding with the guarantee of substantive equality, including affirmative action; explicitly relating to equality in human dignity, including delineation of social rights; expressly ensuring a woman’s right over her body and providing for protection from violence, sexual harassment, sexual abuse and trafficking; proceeding with a broad provision of adequate representation in public bodies; and concluding in a provision of equal service in the security forces. Some of the provisions, such as protection from violence and sexual harassment, were reiterations of existing legal norms. Some, such as the mandate for adequate representation or for affirmative action, were an expansion of existing norms. And some presented complete novel rights. Such is, for example, the guarantee of a woman’s right over her body, which clearly implicates the issue of reproductive freedom.

Indeed, if it were not for the religious issue, the revised law would have the potential of creating a total revision of women’s legal status in Israel and of the gender regime from the legal perspective. However, and there always seems to be a “however” in this area, leaving the religious sphere out of the scope of the revised law has a detrimental effect, which is probably even stronger than in the situation that preceded the revision. The educational quality of this legislation was already mentioned. It is particularly because of this educational value that the acquiescence to political-religious considerations is indeed detrimental, since it is a reaffirmation of existing normative discrimination, on the occasion of such an impressive reformation of women’s status.¹⁸

As already mentioned before going into the analysis of the legal field, Israel is a classic case of progressive legislation in general (except for the area of family law),

¹⁸ The retraction in this sense is even graver, since the revision added a new qualification with specific reference to religious offices, such as judges in religious courts.

with very little implementation, enforcement and supervision, leading to the rather disappointing portrayal of women's situation in Israel unfolded above. The central legislative initiative in the fourth stage (at the turn of the century) described above, the National Authority for the Advancement of Women Law, indeed had the potential for supplying the means to rectify the situation, by designating a strong central governmental agency that would coordinate all the plans, initiatives and undertakings in the field, and would ensure concrete implementation and enforcement of existing laws and regulations. However, a combination of un-guaranteed and insufficient operating budget, deficient and inadequate staff, in addition to political appointments instead of professional ones, have led to disappointing outcomes (Halperin-Kaddari 2004: 49; Halperin-Kaddari 2006: 183-184).

Thus, it is somewhat difficult to hold onto the optimistic reading of the legal developments of the third and fourth stages, from the 1990 until the present times, drawn from the feminist legal theories perspective. It seems that when moving from the theoretical to the concrete, the hopeful course has been lost. Nevertheless, one can still find some hope in the direction in which the very recent legal initiatives have been moving. The legislative progress has indeed continued in recent years, in an even more promising direction, as it moved away from what turned to be mere declaratory pronouncements to more operative and commitment reflecting legislative and policy measures. Such, for example, are the following new laws: the 2008 law establishing the Equal Employment Opportunities Commission aimed at supervising the implementation of previous legislation guaranteeing non-discrimination (on various grounds) in employment; the 2008 Encouragement of Workplace Adaptation to Women and Advancement of Women's Integration into the Workforce which provides for monetary incentive to employers who advance women; the 2007 Gender Assessment Law charging the National Authority for the Advancement of Women with the task of providing a "gender assessment" for any new bill that may have gender implications; the 2008 law amending the Statistics Ordinance and the Woman's Equal Rights Law, directing all public entities that routinely publish data to provide for gender-segregated data on a regular basis. Several other laws have been adopted or amended, including tougher measures in the fight against trafficking in women, and the recent amendment to the Spousal (Property Relations) Law which will be discussed below. These particular laws were detailed here since they best reflect the promising new direction that focuses on concrete implementation (the new Commission, and the incentives measures), in addition to the adoption of established "best practices" from other countries to integrate gender mainstreaming into the Israeli polity. It remains to be seen whether the optimistic reading this time is more justified than before. And we should not forget for one moment that the major obstacle for formal gender equality in Israel, namely the exclusive religious rule over marriage and divorce, is not being questioned at present, nor in the foreseeable future.

b. Family law in Israel: The constitutional framework

For a combination of social and political reasons, Israel did not adopt a written constitution upon its establishment. Various attempts have been made over the years to enact a bill of rights, and one of the main obstacles to that endeavour has been the issue of gender equality and equal status for women under the law. The maintenance of the rule of religious laws over the area of family law, which means that matters concerning personal status are determined according to the religious affiliation of the parties involved in each case, renders full equality for women impossible. In terms of Israel's conformity with international standards, it has been the reason for Israel's reservations to the Convention on Elimination of all forms of Discrimination against Women (CEDAW), as

well as to the International Covenant on Civil and Political Rights (ICCPR) (Halperin-Kaddari 2004). Instead of a full constitution, Israel has chosen the method of enacting “Basic Laws”, two of which were enacted in 1992 and address two human rights guarantees: Basic Law: Human Dignity and Liberty and Basic Law: Freedom of Occupation. Many jurists in Israel, former Chief Justice Aharon Barak central among them, refer to these as a “semi-constitution,” and identify them as the beginning of the judicial review process in Israeli law. However, an express right to equality is absent from both. Several attempts to pass an all-encompassing Basic Law on Human and Civil Rights have failed, primarily due to the impossibility of its passage without a guarantee of the principle of religious laws in marriage and divorce.

The maintenance of the rule of religious laws in family matters has thus become a major barrier to the adoption of a comprehensive constitution or bill of rights (Raday 1994: 254). A clear pattern of subordinating gender equality to religious values has been formed, as early as 1951 when the Woman's Equal Rights Law was passed with its exclusionary provision for marriage and divorce, and it is also seen in part in the present Basic Laws' provision of immunity from judicial review that is given to existing laws. Thus, even as case law progresses in adopting the position that the right to gender equality is included in the “semi-Constitution” as an unenumerated right, and courts have the power to strike down discriminatory legislation that violates the right to gender equality, this does not cover the whole existing area of family law and personal status matters which fall under the rule of religious law. While recalling that the rule of religious laws over personal status matters is in fact a legacy of the Ottoman Empire's *millet* system that was carried over by the succeeding British Mandate over Palestine, its maintenance throughout Israel's 60 years of existence is a statement. It is a position that clearly prefers the preservation of the patriarchal culture at the expense of violation of individual rights and liberal values in general, and violation of women and of gender equality in particular (Halperin-Kaddari 2000b). To understand this claim, a closer look at the law and reality of divorce in Israel is needed. The following discussion will begin with a short description of the Muslim Family Law and will then focus on Jewish personal status law.

c. Muslim Family Law in Israel

The position of Muslim women in Israel in matters of personal status has been precarious at two main levels. Up until 2001, Muslim Courts, which during the Ottoman rule had held broad exclusive jurisdiction at all levels of society, maintained exclusive jurisdiction over Muslims on all issues of personal status, including paternity claims as well as spousal and child support. Thus, they had broader jurisdiction than other religious courts, consequently leaving Muslim women with fewer options than women of other religious groups for turning to the civil system. This has changed in late 2001, when a coalition of mostly Muslim women's organizations succeeded, after a six years struggle, to amend the Family Court Law so as to grant it with parallel jurisdiction in those personal status matters, based on the petitioner's choice, as we elaborate below.¹⁹ More substantially, in the Muslim Courts themselves the status of women is undermined by the applicable law, the substantive Shari'a (Islamic) law, which is highly discriminating towards women (Layish 1995; Churi 1996; Abdo 1997; Abu-Rammadn & Monteresko 2008). Application of the substantive law is heavily influenced by the patriarchal social structure and cultural norms of Arab society in Israel (Abdo 1997).

¹⁹ See below under the section of “Muslim Feminist Movements”.

Muslim law discriminates against women in marriage itself. While in effect the marriage of a Muslim man to a non-Muslim woman is valid under Muslim law, a Muslim woman cannot marry a non-Muslim man. Moreover, the option of polygamy is available only to men, who may marry up to four wives (Layish 1995). But it is especially Muslim divorce law that is discriminatory towards women. While a man may divorce his wife of his mere volition simply by saying “*talaq*” (you are divorced), with no judicial intervention or supervision at all, this option is not available to women. Indeed, a Muslim woman may obtain divorce only through judicial decree and only on limited grounds such as the husband's marriage to another woman or his ceasing to provide for her. Israeli law has attempted to remedy these inequalities in marriage and divorce by criminalizing both polygamy and the *talaq* unilateral and unsupervised divorce (Meron 2001). Although the secular legislator's intervention has indeed reduced the frequency of their occurrence, these practices are still common amongst Muslims, and the law that prohibits them is not enforced (Halperin-Kaddari 2004).

Discrimination in the area of marriage and divorce is complemented by discrimination in the area of parents and children law. *Shari'a* law, for instance, grants guardianship of children to the mother only until a certain age, after which the guardianship is transferred to the father. A mother may lose custody in cases of remarrying outside her former husband's family, or if deemed to be a *murtada* – having converted out of Islam, or a *fasika* – religiously or morally transgressing. The Women's Equal Rights Law - 1951 had attempted to end this discrimination, by designating both parents as equal guardians of their children and setting the best interest of the child as the prime consideration, applicable by all courts that have jurisdiction over matters of custody, including religious courts. However, as claimed by women's organizations, and as demonstrated in academic writings, Muslim Courts often disregard these provisions (Task-force on the Status of Palestinian Women 2006; Abu-Rammadan (spelled differently earlier) & Monteresko 2008). On the other hand, some scholars also point to an interesting process whereby the Muslim Courts, finding themselves trapped between the High Court of Justice supervisory power and Muslim feminists' critic and attacks on the one side, and the need to appease Muslim traditionalist prejudices on the other side, are engaging in adapting *Shari'a* law to more liberal and less discriminatory norms, while claiming this to be within the framework of the religious scriptures (Abu-Rammadan & Monteresko 2008). We shall go back to this aspect in our concluding remarks.

d. Legal regulation of Jewish divorce in Israel

Divorce in Israel is complicated by a jurisdictional split between religious and civil courts, within a context of exclusive jurisdiction in matters of marriage and divorce by the Rabbinical Courts. This means that all Jews in Israel, whether religious or secular, can be married and divorced only in the Rabbinical Courts, which are exclusively male tribunals, completely governed by religious law, employing the orthodox perception of Jewish law. However, all other matters that are related to divorce disputes, ranging from child custody and maintenance to property claims, are under the concurrent jurisdiction of both the civil (i.e., Family) and religious courts. Filing a suit in one forum prevents the matter from being addressed in the competing arena. As a result, each side in a divorce proceeding seeks to gain advantage by petitioning the forum that is perceived to be more favourable to her or to him in matters that are under concurrent jurisdiction. Because the rabbinical tribunals rule according to substantive Jewish law, apply religious rules of procedure and evidence and overall ignore substantive civil law, in general the relief offered by the religious courts is perceived to favour the husband, while the relief offered by the civil courts is regarded as a better choice for the wife (Rosen-

Zvi 1990; Shifman 1995). For example, contrary to civil courts which rule according to the principle of community property, Rabbinical Courts distribute property according to the formal title, and do not consider themselves bound by the Spousal (Property Relations) Law - 1973. Moreover, Rabbinical Courts may deny women both property and maintenance claims if there is proof of sexual impropriety on the part of the woman, while there is no similar sanction for men's transgressions. It is important to note, however, that whatever forum handles the issues related to the divorce, the right to divorce and the divorce itself are determined and granted only by the Rabbinical Courts that are bound solely by religious law. Even when issues like custody or property are handled by the civil courts, the religious law governing the right to divorce still applies.

As the highest judicial forum in Israel, the High Court of Justice is authorized to supervise the operation of all other judicial tribunals, including religious courts, and accordingly has the power to intervene if the Rabbinical Court exceeds its jurisdiction. Realizing the problematic enforcement of religious law and jurisdiction over non-religious people, and the injustices caused mainly to women in Rabbinical Courts, civil courts – mainly through the High Court of Justice – have engaged in a gradual and consistent process of narrowing the scope of religious law and jurisdiction, starting as early as in the late 1950s. In the early 1990s, parallel to the overall “constitutional revolution” that Israel has allegedly been undergoing, the High Court of Justice began to subject the religious courts to the basic norms and principles that govern the civil legal system (Halperin-Kaddari 2001). In addition, the civil system has also been developing civil courses of alternative forms of intimate relationships that would be accorded various degrees of recognition by the state. Most common among them is the civil marriage either outside of Israel, or by proxy, where that method is recognized by the marrying state. These marriages are registered by the Ministry of Interior, and just prior to his stepping out office, former Chief Justice Barak settled the perplexing question of the actual legal validity of such marriages between two individuals who are Israeli citizens and reside in Israel, ruling that according to private international law these marriages are valid for all purposes. The most interesting development on this front has taken place when the Grand Rabbinical Court, fearing it might lose jurisdiction over such marriages performed by Jewish Israelis abroad, recently ruled that Jewish law does recognize the validity of civil marriages, although to a lesser degree than proper Jewish marriages. Parallel to this venue, the Israeli legal system has developed the most elaborate system of non-marital cohabitation worldwide, attaching to it a bundle of rights and obligations, that altogether amount to the creation of a virtually parallel institute to that of formal marriage (Lifshitz 2005).

These substantial judicial developments, however, could be viewed as a means for easing the tension and the distortion of the system, but in no way could they offer a comprehensive solution. Even on a pragmatic level, the High Court's judicial review powers are limited and its intervention in the Rabbinical Court's holdings cannot reach the nucleus of marriages and divorce. Moreover, for various political reasons, in recent years the High Court has adopted a self-restraining approach, which dramatically curbed its stance as the last resort against injustices caused by the Rabbinic system. As for the alternative routes judicially created by the secular legal system for bypassing religious marriages, in practice not many Jewish Israelis take them, and recent data shows that most people continue with the traditional and socially-expected practice of marrying “according to the religion of Moses and Israel” (the religious language for Jewish marriage).²⁰ Thus, the value of these legal subterfuges is more symbolic than practical, and

²⁰ Every year since 2000, 10-12% of Israeli residents who marry, do so by civil marriage out of Israel. Moreover, the majority of those married abroad each year is Israeli citizens without religious classifica-

it could very well be that these very subterfuge mechanisms, in the mitigating effect they have on the coercion, in fact enable the preservation of the *status quo* and postpone the overall introduction of civil marriage and divorce in Israel (Halperin-Kaddari 2004: 228).

The construction of gender in Jewish law of marriage and divorce, as it is understood and practiced in rabbinical courts in Israel, results in unequivocal inferiority and vulnerability of women. In a nutshell, Jewish law conceives of marriage as a one-sided transaction in which the man betroths the woman and not the opposite, sanctions inequality and discrimination regarding spousal obligations and rights toward each other during the course of marriage, and sanctions harsh limitations over the process of divorce and inequalities with respect to it, to the detriment of women (Halperin-Kaddari 2000b).

There is a fundamental disparity between men and women regarding their need for the bill-of-divorce, *i.e.* the *get*. According to Jewish law, the husband's voluntary provision of the *get* is an absolute prerequisite, without which the divorce is invalid (Warhaftig 1985). Although the woman must also agree to accept the *get* for the divorce to be valid, there are a number of situations in which men are allowed to marry without the divorce²¹, whereas women are never accorded this right. Moreover, if a woman who has not been granted a *get* were to have children from a relationship with another man, these children would be stigmatized as *mamzerim*, bastards, a status that entails a number of sanctions in the ritual sphere and precludes them from marrying within the Jewish community except with converts or other *mamzerim*. The children of a man who has not yet divorced do not suffer any religious stigma at all (provided the mother of his children is not married to someone else). In addition, the grounds for divorce which determine Rabbinical decisions about the necessity of divorce are very different for men and for women (Rosen-Zvi 1990; Shifman 1995; Warhaftig 1985). For example, even a single case of adultery by the wife constitutes an immediate, obligatory and irrevocable ground for divorce, whereas for the husband, only prolonged extra-marital relationships provide grounds for divorce and only in the opinion of some authorities (Halperin-Kaddari 2000b)²². Furthermore, until very recently even the woman's property rights were dependent upon the divorce, as the Spousal (Property Relations) Law conditioned the distribution of the marital property upon the granting of the *get*, thus by withholding the *get*, the husband could also deny the wife's property rights (Halperin-Kaddari 2008).

Thus, as a rule, the husband has an almost absolute control over the *get*, which the wife categorically requires in order to divorce. While rabbinical courts have the power, under certain circumstances, to coerce husbands to grant the *get*, they are apprehensive about the validity of the *get* if granted under coercion, which is dependant upon

tion, who are unable to marry in Israel due to the Israeli legal situation which permits only religious marriage. In fact, the portion of Jewish couples among those marrying abroad has decreased to 31%-33% within the last decade (Halperin-Kaddari & Karo 2009: 33-40). As for the other "bypassing" method, that of cohabitation (or de-facto unions), while data shows some increase in the number of couples living together without marriage, this still reflects a transitional period typical for young couples who later resort to formal marriage, usually prior to having children (*id.*).

²¹ Men can marry without the woman's acceptance of the *get* if the wife has been declared incompetent, for example. This involves gathering written consent by one hundred rabbis. In fact, it has been used in cases where women have been obligated by the Rabbinical Court to accept the *get* but have refused to do so (Shershevsky 1993; Haut 1983).

²² Additional grounds against the husband include lack of financial support by the husband, extreme violence that endangers the life of the wife, and impotence. Additional grounds against the wife include improper sexual or religious behavior, refusal of conjugal relations, refusal to do housework. See Shershevsky 1993; Falk 1973; Haut 1983, for a discussion of the grounds for divorce in Rabbinical law.

the man's "free will", and usually prefer to have only a recommendation for divorce and to send the parties away for the negotiation of terms. This leads the way for a common course of negotiation, which generally results in the woman buying her way out of the marriage by paying whatever the husband demands in terms of property rights, child support, and so on. Women who refuse to pay for their freedom to remarry, whether it is a downright payment or in the form of giving up their legal rights to the marital property, have no recourse within the Israeli legal system. They are *agunot*, i.e. women who are "chained" or "anchored" to their husbands, or *mesoravot get*, i.e. women whose husbands refuse to give them a *get*, with no relief available to them, either in the religious system or civil system. The most worrying development in recent years in this battle-field is the rabbinical courts' growing use of what has been termed the "doom's day weapon": the retroactive invalidation of the *get*, in cases where women who have conceded to the extortion and agreed to give up their rights in return to the *get*, later retracted and sought redress from civil courts (Halperin-Kaddari, 2009).

While to date there has been no systematic empirical study of the consequences of this power imbalance in divorce agreements in Israel, there is substantial anecdotal evidence in testimonies submitted to women's organizations about pressure and extortion by husbands as well as references to the abuse of the husband's power in legal literature and in legal decisions themselves (Rosen-Zvi 1990). The only empirical data available concerning the extent to which women are vulnerable to pressures about the *get* can be found in a survey commissioned by the Ruth and Emmanuel Rackman Center for the Advancement of the Status of Women at Bar Ilan University in June, 2004. The survey of a random sample of the adult Jewish female population revealed that one third of the women who had been involved in divorce proceedings claimed that they had been subject to pressures by their husbands who threatened to withhold the *get*. Furthermore, 7% of them are still married, having given up on their wish to divorce, due to this dynamic of extortion and risk of remaining an *agunah* or *mesorevet-get* (Halperin-Kaddari 2009). Moreover, of the 916 women surveyed, close to 40% said they personally knew women for whom the *get* had been used as a means to extort concessions²³.

The plight of the *agunot* is indeed the most extreme expression of women's inferiority under Jewish family law. However, a deeper reflection of the law reveals that this is but one reflection of structural inferiority that is built into the system of Jewish family law. This inferiority permeates all three levels of marital life: in the entry to marriage, during marriage, and in the dissolution of marriage through divorce. The point is that women's structural inferiority in family law in Israel has grave detrimental consequences on the position of women in other areas outside of family life. Thus, as explained above, the discriminatory process of divorce often leads women to give up their legal property and monetary rights so as not to get into the intolerable position of *agunah* or *mesorevet-get*. In other words, women's economic situation is jeopardized as a direct result of the religious law of divorce.

As mentioned above, this distorted tie between the financial-economic level and the marital strife, expressed in the suspension of the distribution of the marital property until the *get* has been awarded, has only recently been finally severed. This was the result of a decades-long stubborn and consistent struggle of (mostly religious) women's organizations to amend the Spousal (Property Relations) Law – 1973. Of all women's organizations efforts in this area of personal status, this is perhaps the most important achievement thus far. Yet it should not obscure their other activities and efforts. Let us

²³ The telephone survey of 916 adult Jewish women was conducted by Geocartograph, a prominent survey institute in Israel. This survey has not yet been published. A copy of the survey can be obtained from the Rackman Center, rackman@mail.biu.ac.il.

now indeed turn to the current situation with respect to women's organizations in Israel, beginning with a general analytical description of the field, and then focusing on those organizations which operate on the interface between religion, feminism and politics, in the broad sense of the term.

VII Women's Organizations within Civil Society in Israel

a. The Israeli Feminist Movement

Women's organizations have always played a fundamental role in society in general, and for the advancement of women in particular. Accordingly, they have been the subject of much academic interest and research (Izraeli 1988; Azmon 1993; Swirski 1993a; Wenzel 1996). One of the most comprehensive works in this area is that of sociologist Yael Yishai (1997), analyzing Israeli women's dilemma: whether to focus on women's rights and feminism, or to show national allegiance and fulfil the desire to belong and integrate from within. Most researchers agree that despite the large number of women's associations in Israel, Israeli women do not appear to represent (and have never represented) a decisive political force impacting on society as a whole. This relative powerlessness, Yishai suggests, can be attributed largely to the priority traditionally given by all – including women – to the building and strengthening of the national Jewish-political entity – a priority coming at the expense of a particular feminist voice in Israeli society (Yishai 1997: 57). Indeed, we have already seen this dynamic forming when discussing the fading of the *Yishuv* feminist mobilization around the establishment of the state.

But perhaps another reason can be suggested. In recent years, the general evolution affecting Israeli society as a whole, moving from collectivism to individualism, and contemplating the identity of a multicultural society (Eisenstadt 1985; Mautner 1993: 122-141), seems to point in the direction of increased openness to new trends and ideas, allowing for more women's voices to be heard in the present socio-political debate. At the same time, however, this increased pluralism also affects the women's movement as such. In Israel, following the developments throughout the world, third-wave feminism has led to the deconstruction of the mythic term, "Israeli Woman", and to the need to address the intersections of religion, ethnicity, social class, sexual preference, and gender, and their implications (Halperin-Kaddari 2004: 263-265). As suggested by political-scientist Hanna Herzog, this may weaken the women's movement, by making it impossible to gather around shared causes and find common interests. This can then weaken the capacity of the women's movement to become an influential political force (Herzog 1999, 353-354). More recently Herzog has pointed to yet another development within the women's movement in Israel, its NGOization, namely the expansion and institutionalization of non-governmental organizations (Herzog 2008). In light of significant changes within Israeli society which ominously affected the women's movement, not least of which is the move to a multicultural society, Herzog succinctly poses the question: "is there still a women's movement in Israel?" (Herzog 2008: 273), and answers by pointing out to that process of NGOization, which, together with the move to particularism, offers a whole new portrayal of the women's movement in Israel, namely one that has been restructured, and "even expanded to embrace questions of social justice, including novel thinking on matters of peace and security" (Herzog 2008: 265).

We would like to suggest that this description should be supplemented by the generally accepted characterization of women's organizations in Israel as mostly services-providers (as opposed to political-ideologists organizations) (Halperin-Kaddari 2004: 58; Eilam 1991). Moreover, where political (extra-parliamentarian) activism has

been exiting, it has taken the shape of left-wing peace activism (Halperin-Kaddari 2004; Hazan 1993; Herzog 2008). As we develop these observations later on, we shall argue that these are important factors contributing to the apparent standstill with respect to the religious rule over marriage and divorce in Israel, which is one of our main research questions in this paper.

As shown in our brief historical account of women's movement in pre-State Palestine above, most social-historians agree that women militants seeking equal political participation for men and women in the *Yishuv* were not able to garner significant support for their demands (Bernstein 1992; Izraeli 1990). The battle over the ballot, which ended in 1925, was certainly an impressive achievement, but did not serve as a turning point in gender politics in pre-Israel society. As early as the 1930s, liberal demands for equal political participation were overshadowed by the Zionist concept of the Socialist Labour Movement, which demanded that all workers, men and women alike, devote themselves utterly to building a Jewish political entity. The *Yishuv*'s suffragettes thus increasingly withdrew from the political scene, eventually giving way to women's organizations concentrating primarily on domestic matters (Wenzel 1996: 8).

With time, instead of serving as a tool to restructure the division of political power and labour, these women's organizations made temporary respite to working mothers their primary commitment, by taking care of their children. *Na'amat*, the Movement of Working Women and Volunteers, today the largest women's organization in Israel (founded in 1976 through the merging of *Moetzet ha-Poalot* and the *Association of Working Mothers*), is a case in point of the role of traditional women's organizations in Israel. Inheriting the ethos of the socialist Zionist women's movement in the *Yishuv*, *Na'amat*'s goal is defined by the desire to encourage women to engage in productive work. By attempting to offer every Israeli woman full-day nursery care for her children, they have *de facto* defined the care of young children as a role for women's organizations (rather than public policy). With more than half of childcare in Israel under their wings, women's organizations in Israel have in essence allowed the state to renounce its role in financing and equipping child-care centres (Pope 1993: 228-229). This is indeed just one demonstration of the general characterization, already mentioned above, of many of the women's organizations in Israel during that time-period as service-providers, rather than ideologically-driven agents for social change.

But then came the 70s, which, as we have already seen, was a decade full of turmoil and myth-shattering in Israel. As for Israel's women, a combination of the 1973 Yom-Kippur war, together with Israel's governmental response to the 1975 International Year for Women in the form of establishing the National Commission on the Status of Women, created a whole new scenario. The 1973 war, lasting for several weeks, stunned Israeli society with the realization how gravely the Israeli workforce was dependent upon manpower, in the literal meaning of the term and revealed the degree of women's exclusion from the public sphere. The Report of the National Commission, presented in 1978, gave official recognition to the already existing public disillusionment with the myth of equality.

Unlike the traditional women's welfare organizations, the new feminist groups that formed in the 70s not only sought to eliminate all discrimination against women, but also to advance a fundamental modification in social structures of power. But unlike the Woman's Liberation movements in the USA and Western Europe that found legitimacy in the context of flourishing protest movements, the first Israeli feminists were confronted from the start with widespread mistrust from the population. In the early 1970s their call for socio-political changes ran the risk of being perceived as an attack on national security rather than as a proposal for reform. Indeed, to some extent the failure of the Israeli Feminist Movement to grow into a national movement can be ascribed

to the attempt by certain sections in the Movement to place its protest against the socio-political discrimination of women in the context of a struggle against all forms of oppression, demanding that women's liberation express solidarity with the Palestinian people (Wenzel 1996, 28-30). At a time when Israeli society still had trouble addressing Palestinian identity and suffering, this became a major point of dissent between those forces that stressed their solidarity with the Palestinian liberation movement, and a majority of the feminists who felt themselves under an obligation to women's liberation only (Swirski 1993a: 298). These gaps also harmed the legitimacy of the movement as a whole in the eyes of the wider public.

Despite this barrage of suspicion, the feminist movement was among the first to protest its dissatisfaction with the socio-political situation in Israel. Refusing to give the question of national security and uniformity the priority, it instead declared self-development to be a socio-political goal. The advent of the first feminist consciousness-raising groups allowed a new understanding of women's societal, political and social dominance by men. Among other issues, it exposed the central place of the Israeli army in forming political leadership, through the creation of an "old boy network" in effect closed to women (Wenzel 1996: 20). Eventually, issues and problems such as illegal abortions, domestic abuse, gender wage gaps, and more – to which most Israelis had closed their eyes for years – were brought to light by the Feminist Movement. The Feminist Movement was also a primary contributor to establishing the first battered-women shelters (Wenzel 1996: 29-33; Swirski 1989).

While this Feminist Movement has failed what was perhaps its most important attempt to influence formal politics, that of running as a women's political party in the 1977 parliamentary elections (Safran 2006:94-96), it did play a significant role in paving the way to what turned out to be the leading feminist body in the country since the mid-80s, the Israel Women's network (IWN) (Halperin-Kaddari 2004:59; Herzog 2008:272). The IWN was founded in 1984 as an expression of the solidarity of women MKs of various political factions with the feminist demand for an improvement in the "status of women" (Yishai 1997:71). This organization has come to function as a political lobby group and, at the same time, as a network working towards improving the status of women in Israel. In the 1990s, the IWN also exerted substantial influence in matters relating to legal precedent and legislation, and much of the precedent-setting cases as well as the legislative reforms described above can be attributed to its activities. In effect, the organization has achieved a monopoly in terms of promoting women's political participation, and some contend that this is to a certain extent at the expense of less powerful grass-root organizations (Wenzel 1996:38). Moreover, some have claimed that Israeli feminism, epitomized by the IWN, has been reduced to a list of reforms, an enterprise concerned with adding "the women's component" to existing institutions, but lacking a vision of society in which relations between women and men are basically different. Moreover, the Feminist Movement was increasingly perceived as being an elitist movement largely disconnected from the grass-roots (Swirski 1993a:300). The substance of the IWN's activities, and the identities of its leading members, as well as the ongoing connection with government and establishment bodies, led to the organization developing an elitist reputation as a stronghold of the secular Ashkenazic bourgeoisie (Herzog 2008: 272).

This, together with the larger societal move from collectivism to individualism noted above, has paved the growth of more specified women's groups. As already mentioned, it also corresponded with the worldwide feminist development of third-generation stand-point feminism that introduced the concepts of intersectionality and multiple discriminations (Matsuda 1989; Crenshaw 1995). Thus, the 90s saw the emergence of *Mizrahi* feminist groups, lesbian organizations, strengthening of Palestinian

women's organizations, and of religious women's groups (Halperin-Kaddari 2004:61-65, 265-285). Hanna Herzog recently pointed to the passage of the NGO law in 1981 which had reinforced this process of the fragmentation of the feminist discourse, leading the way to what she sees as the current NGOization of the women's movement in Israel. The plethora of women's organizations in Israel now ranges from creation of feminist writing, knowledge (including alternative knowledge) and information gathering and provision; through assistance and services provision in all areas of women's lives (sexual violence; domestic violence; health and education; legal assistance, counselling and representation); to economic and political empowerment (Herzog 2008:274-275). Indeed, the recent 2008 Guide to Women's Organizations and Services in Israel published by the National Authority for the Advancement of the Status of Women lists about 220 such bodies, in addition to the governmental ones. While not all of them are feminist, and some are indeed general (and not just women's) services-providers, this is nonetheless an impressive number. While Herzog points to some dangers that the NGOization process may entail, we would like to suggest that it also facilitated another fascinating development on the Israeli feminist scene that of inter-organizational cooperation and coalition-building, which, as we shall soon see, greatly contributed to the important mobilization described below.

But from a deeper examination of the heterogenic women's movement in Israel, historically and present, an interesting observation emerges, which is important for the purpose of this current research: most of the feminist endeavours in Israel have taken place on the socio-economic sphere. Even those organizations such as the IWN that departed from the traditional service-providers role and entered the political front in the sense of lobbying for policy and legal reforms stayed within the socio-economic realm, or what could be termed as the Israeli class divide, and did not move into what are usually perceived as the "real" ideological-political schisms in Israel: the right-left divide, and the religious-secular divide.²⁴ Significantly, concrete extra-parliamentary ideologically-driven political feminist involvement came largely from the very left of the political spectrum, in the form of the women's peace movement of the early 80s onwards. From the outset, women were actively involved in movements such as *Shalom Achshav* (Peace Now) whose aim was to pressure the Israeli government to consider constructive peace proposals, but separate women's organizations in favor of peace began making their mark especially with the advent of the first war in Lebanon in 1982 (Chazan 1993). Over the years, the feminist peace movement has grown into numerous groups and organizations, some composed of Jewish women only (i.e. Women in Black, *Arba Imahot* – the Four Mothers, Women Against the Invasion of Lebanon, *Machsom* (checkpoint) Watch) and some manifestly combine Jewish and Arab women (i.e. *Reshet* – The Israel women's Peace Net, The Jerusalem Link, Women Refuse, *Bat Shalom* (daughter of peace)). Gradually, women's peace activism took on an added dimension. Inspired by the idea that women are genuinely more peace-loving and committed to a different drive to preserve human life (Wenzel 1996: 46), women's peace organizations began underlining the impact of the politico-military balance in Israel on the socio-political situation of women. In their eyes, the search for peace became linked to the larger goal of changing the structure and priorities of the societies in which Israeli and Palestinian women were living. In Hanna Herzog's words: "The gendering of the discourse on peace and security is perhaps the most fruitful area of innovative and challenging thinking and organizational patterns to emerge in Israel" (Herzog 2008: 272).

²⁴ This observation is supported by Dorit Avramovitch, a feminist activist and a sociologist who is currently writing a report for the Heinrich Boell Foundation on feminist organizations in Israel; interview with Dorit Avramovitch, March 25 2009.

This important and impressive feminist contribution to the promotion of peace in the region has nonetheless had some adverse effect on the general feminist cause in Israel, in at least two directions: first, as already mentioned before,²⁵ the feminist movement's inclination towards the left wing of the political map, no matter how partial it really was, was sometimes perceived in the public-eye as delegitimizing the movement as a whole. Second, and more important to our work here, it is somewhat ironic that the very factor that had consistently and openly been used to reject women's claims and demands, and had obscurely served as a justification to construct the most traditional gender roles (i.e. in the form of glorification of motherhood), namely the Israeli-Palestinian conflict, has been taken on by some of the most avowed feminists as their fundamental cause. By that, a major part of the feminist work has been channeled in a direction that is certainly not representative of the hard-core of women's concerns.²⁶ This critical appraisal of the Israeli feminist focus on peace-work presumably reflects the frustration at the continuous failure of the peace process. Had that been successful, what is currently viewed as a strategic mistake by feminists (attaching themselves too closely with the Palestinian cause and peace movement) might have not been regarded as such.

We contend that to some extent, the political energy and resources put towards this goal had come at the expense of other political endeavours in which feminist activists might have engaged. To clarify, we do not argue that political feminist activism can only focus on one issue at a time, nor do we claim that peace work inherently precludes any other political struggle, or that there is a built-in conflict between political work towards peace and political involvement to fight religious coercion and promote civil marriages. However, we suggest that the Israeli experience has shown that in fact, one does come at the expense of the other.

Viewed upon this background, the mobilization of women within the religious community (in the broad sense of the term) is particularly significant. There can be no doubt that this is where the most interesting, vibrant and powerful processes with respect to women's mobilization and feminist advancement in Israeli society are taking place. While these unfold within both the Jewish-Orthodox and the Arab-Palestinian communities in Israel, our discussion of the former will be lengthier, not just for reason of familiarity and information accessibility, but also because of what we believe to be its larger impact on Israeli society in general and on women in Israel in particular. As we shall see, there are some similarities in the direction in which the feminist endeavour is going on both fronts, while there are also unique venues, especially for women in the Jewish religious right-wing circles. However, both camps experience direct complex interplay with religion, and they both put heavy emphasis on challenging the religious rule over marriage and divorce, albeit from two opposite standpoints: one (the Jewish movement) from within the religious-practicing community, while the other (the Muslim movement) from outside the practicing community. More important for our purpose here, their work and efforts can be characterized as truly political, in at least two senses: within their own religious communities, they struggle to transform the gendered distribution of power; and on the national level, their initiatives take on a political dimension,

²⁵ See the discussion of the early years of the Feminist Movement in Israel

²⁶ Despite of the vast literature and experience of women's peace initiatives and involvements worldwide, it is still fair to suggest that this direction is beyond the heart of women's concerns. Similar observations were recently professed in an op-ed column by one of the leading feminist activists, who, under the title of "Women's liberation or Palestine liberation" argued against what she felt has become the bon-ton of Israeli feminism, namely the support of the Palestinian struggle and the identification with the left side of the political map (Aloni-Sedovnik 2009).

and are often related to concrete political parties' actions, and to legislative and lobbying work. Thus, they offer distinctive venues of operation within the broader scene of the feminist movement and women's organizations in Israel.

We shall first discuss the developments taking place with respect to women within the Jewish religious community, and then move on to Arab-Palestinian women.

b. Religious Feminism within Jewish-Israeli Society

Two factors have generated the emergence of feminism within the Jewish religious community in Israel: increased level of learning, in both religious and secular education, and feminist influences from both the secular Israeli society and the US modern-orthodoxy. A key player here is the 10 years old organization called *Kolech*: Religious Women's Forum. In choosing the name *Kolech* ("your voice" in the feminine form, a quote from the Song of Songs 2:14 "let me hear thy voice; for sweet [is] thy voice", but also deliberate reference to the various religious rulings that a woman's voice should not be heard in public) this movement expresses its strive towards inclusion of women into all areas and spheres of religious life and religious community. Unlike Emunah, its former counterpart,²⁷ *Kolech* openly identifies as conforming with feminist ideology, and is distinctly bi-partisan and politically unaffiliated. In what can be seen as epitomizing the development towards multidimensional feminism within Israeli feminism, *Kolech* is laboring for the advancement of women both within the Orthodox religious community itself and within Israeli society in general (Kehat 2005). This movement cannot be separated from the changes that took place in orthodox women's education, which truly amount to a revolution in women's learning (El-Or 1998; Ross 2007). Women's entry into the world of advanced Jewish studies, including study of *Gemara* (Jewish Oral Law) from which they have been historically excluded, has sharpened the discrepancy between women's position in the general society and their position in religious life, and has generated energy and urgency in changing their position thereof (Cohen 1999; Shakdiel 2005).

Lacking historic awareness, like many other revolutionary movements, *Kolech* has not kept organized record of its operation, but the four Conference Books resulting from one of its key initiatives, the bi-annual conferences, offer a very good portrayal of the variety and range of its activities (Shilo 2001, 2003; Cohen 2005, 2009), including many educational initiatives, monthly publications of women's Torah writings, women's empowerment and leadership programs, and more. They also describe *Kolech*'s entry, under the courageous leadership of its founder Dr. Chana Kehat, into the painful and until then tabooed subject of sexual harassment by leading rabbinical figures (Kehat 2005:18-19; Gross 2009). Among all these, a central direction of operation in which *Kolech* has joined forces with other religious women's organizations has been the struggle for *agunot* and *mesoravot-get*.

Indeed, apart from this wide, all-encompassing movement, religious women have been advancing other, more specific, feminist initiatives, operating more as service-providers, with much emphasis put on women's plight in the Rabbinical Courts. Several organizations are active in this field, including *Yad La'Isha* (Hebrew: A hand for the woman) – the first organization consisting of women rabbinical advocates (who were allowed practicing only after a 1994 High Court of Justice ruling, see Halperin-Kaddari 2004:168-169) offering free legal representation in Rabbinical Courts for

²⁷ Emunah continued the Mizrahi women's movement discussed above, the women's auxiliary of the National Religious Party MAFDAL.

agunot and *mesoravot-get*; Mavoi Satum (Hebrew: Dead end) – offering psychological as well as legal aid to *agunot* and *mesoravot-get*; the Rackman Center for the Advancement of the Status of Women at Bar-Ilan University – an academic center combining research, policy formation and advocacy with *pro bono* legal aid for women on all aspects of divorce proceedings; and the Justice Center for Women, representing current as well as former *agunot* in attempting to recover damages for their pain and sufferings. All these are religious women's organizations, in the sense that their founders, as well as their members and their staff are all women who regard themselves as religiously committed, leading what is usually regarded as religious way of life in Israel.

As often happens, especially in a relatively small field, many of the active members in the various organizations were familiar with each other, and mutual working relations and cooperation emerged. But it was not until external formal support came that these informal ties could materialize into substantive force that was more than all its components. The external support came in the form of an international coalition of Jewish women called ICAR (acronym of International Coalition for *Aguna* Rights, and a Hebrew word meaning 'the most important thing') which was formed in 1991 to advance solutions for the problem of the *agunot*. The coalition was initially formed outside of Israel, as the problem of the *agunot*, is inherent to the Orthodox Jewish law of marriage and divorce, and is common to all practicing Jewish communities (Shifman 1995; Broyde 2001). Towards the end of the 90s, ICAR (which now constituted 28 organizations, orthodox and non-orthodox, as well as other human-rights organizations) was selected by the New Israel Fund's "start-up" program to receive organizational and operational assistance.²⁸ This started a decade of intensive legal and political activism, including parliamentary lobbying on issues pertaining to legislative reforms and to appointments of rabbinical judges, public campaigns, demonstrations and more. As already mentioned before, ICAR's operation culminated in the recent 2008 amendment to the Spousal (Property Relations) law – 1973, which severed once and for all the Gordian knot between property division and the *get*, finally allowing for the distribution of marital property before the *get* has been awarded (Halperin-Kaddari 2008).

From the broader perspective of the divorce regime and laws in Israel, this amendment is no doubt the most important development in years in advancing the status of women and gender equality in the Israeli family law and divorce system. Ever since it was passed, the Property Relations Law was no more than a "dead letter", as the Supreme Court described it, because its arrangement for equal distribution of the marital property could only be executed after the divorce, i.e. only after the husband gave the wife a *get*, as explained above. In other words, ever since it was passed, the civil law increased the power given to the husband by Jewish law, as delaying the *get* also delayed the division of property. Attempts for amending the law have been on-going almost since the law was initially passed, in 1973. But the rabbinical establishment was consistently opposed to allowing the property to be divided before the *get*, claiming that this would encourage divorce and also cause many couples to separate without arranging a religious divorce.

Recently, and more so when ICAR's lobbying work gained more publicity and started to look as it might actually bear fruit, it has also been suggested that a *get* given after the property was divided according to the amendment, might be considered a "coerced *get*", thus not valid according to Jewish law, so that the woman would really still be married to her husband, forbidden to marry another, and her children by any other man would be considered bastards (*mamzerim*). In this the rabbinical establishment has

²⁸ See <http://www.icar.org.il/en/?CAKEPHP=e37f5e4b131916ca6b07a08ab804380d>.

unmistakably placed itself on the side of the husbands, closing its eyes to the suffering of countless women, who had to make extensive concessions to achieve their *get* and their liberty. But the truth of the matter is that the Rabbinical Courts and the religious parties backing them were simply afraid of losing their complete control over the separation procedures between spouses. Thus, the battle over this amendment boldly brought together the two war zones that sadly govern the painful area of divorce law in Israel: the gender war, and the war between the rabbinical establishment and the secular legal system. If this language might seem too harsh, one only needs to read what Israel's Chief Rabbi Shlomo Amar had to say to his fellow Rabbinical Judges in a conference convened just one month after the amendment was passed: "Even those Rabbinical Courts that used to be strong were hurt, as a result from many laws passed in recent years, and the battles are tough. Women's organizations are the fear of the country, and it is because of them that we are in such acute position in this war."²⁹

As already hinted before, there is another, often overlooked angle to the feminist-evolutionary process that the religious community is currently undergoing, which shares the same roots and underpinnings as the more acknowledged (and indeed respected) process described above, but takes it to the much more openly political field as part of the religious right-wing circles. The outcome of this process is clearly evidenced in the recent confrontations between the Israeli army and the right-wing mostly religious settlers, supported by the right-wing national religious constituency over the 2005 disengagement from Gaza, and the ensuing evacuations that followed. The presence of women, mostly young women, in utterly disproportionate rate to their actual numbers, completely overshadowing the actions of their male counterparts, cannot be overstated. If one picture is indeed worth more than a thousand words, then there is no doubt that those pictures that are engraved in Israelis' collective memory as epitomizing the trauma of civil disobedience as well as violent resistance (on the verge of "brethren war") have this in common: the resisting settler, who blocks a line of soldiers, who gets dragged on the ground, who is being pulled to a ladder, who prays in devotion while soldiers get ready to their task, who holds a baby before being carried out of the home – is always a woman.³⁰ Like these reflective photos, media reports had also told endless stories of women's leadership role in the struggle against the forced evacuations. Perhaps the most impressive part played by those girls has been their resistance to the legal authorities. More than a dozen religious girls, some as young as 13 or 14, were arrested in a number of such conflicts and demonstrations, and were kept in custody, as they vehemently refused to give their names and personal information, as part of their refusal to cooperate with the "evil administration".³¹

Interestingly, the phenomenon of unprecedented heightened political participation by young Zionist-orthodox women has not yet captured the attention of sociologists and scholars of Israeli society. In light of the gap between the intensity of the unfolding events and the scarce critical attention given to them, one cannot help but wonder whether this is only because these developments are still too recent to be reflected upon. While there is definitely a great need of research and collection of data, we would like

²⁹ Quoted in *Yediot Aharonot* daily newspaper, 1.12.08, see <http://www.ynet.co.il/articles/0,7340,L-3631774,00.html>.

³⁰ Indeed, the one Pulitzer Award winning disengagement photo is that taken in February 2006 in Amona, an illegal settlement that was evacuated by Prime-Minister Olmert, following the path paved by Prime-Minister's Sharon before becoming comatose, in which a young religious woman is seen as if blocking, all by herself, by leaning on a Perspex wall, a long chain of male soldiers apparently trying to enter the compound. See <http://www.haaretz.co.il/hasite/spages/849139.html>.

³¹ See <http://www.nrg.co.il/online/1/ART1/684/651.html>.

to suggest, for a start, that this phenomenon cannot be separated from the broader feminist-evolution within the religious community, and yet it is also related to the legacy of the Israeli settlement movement in which women played major role, both publicly and politically as well as internally within their own communities (Herzog, *forthcoming*). It seems that the younger generation of religious women on the right-wing political map has internalized the unique combination of high-level learning, including religious learning, and the openly feminist discourse that has gained legitimacy within the religious community, together with that legacy of their mothers' active political participation. We believe that this peculiar synthesis is certainly worth deeper and further analysis than we can do here. Even if these young female settlers' activism is not explicitly feminist, it does break the patriarchal order. It remains to be seen whether this will lead to more explicit feminism.

c. Muslim Feminist Movements³²

The case of Arab-Palestinian women citizens of Israel can be viewed as the ultimate manifestation of the experience of intersectionality. As put in the Shadow Report presented to the UN Committee on Elimination of all forms of Discrimination Against Women (CEDAW) in 1996 by the Working Group on the Status of Palestinian Women in Israel, Palestinian women in Israel suffer from a three-tiered discrimination: as women in Israel, as Palestinians in Israel, and as women within the Palestinian community. The uniquely complex interaction between competing, and sometimes contradicting struggles, has apparently had adverse effect on Palestinian women's struggle for liberation, in a manner that bears resemblance to the case of the Jewish Israeli women. Notably, relations between nationalism and feminism have been the subject of much research and scholarly writing. Many seem to agree on a direct causal link between one and the other, namely that nationalism often leads to an awakening of feminist awareness and to a beginning of a feminist movement (Serougi 1998). The case of women in Israel, both Jewish and Arab, indicates that things may not be as simple (*cf.* Herr 2003). While the early British mandate period supports the conventional thesis (as also described above³³), this seems to have changed on both sides of the national politics in Israel, after the foreign power has left and the national battle evolved into an on-going armed conflict in which the religious factor plays a major role. As women's demands have turned inwards, and not outwards against the foreign ruler, they found themselves faced with accusations of disloyalty and sedition (Rouhanna 1999). This tension was much more overt on the Palestinian side of the map, culminating in the struggle that lead to the amendment passed in the Knesset in 2001 of the Family Courts Law which decreased the exclusive jurisdiction of the *Shari'a* Courts, equating it to that of the Rabbinical and Christian Courts in Israel. This has probably been the most important legal achievement of the feminist Palestinian movement in Israel, and one that clearly epitomizes the tension between national-religious allegiance and feminist commitment, demonstrating how religion impedes feminist mobilization.

³² As explained later, this movement is secular rather than religious, thus raising the question of whether this title is appropriate. In our view, however, even though the women in this movement do not necessarily identify as Muslims (but rather as Palestinians), they are forced to work against the Muslim background, both socially, culturally and formally. The State imposes religious affiliation upon them and forces them to relate to the *Shari'a* Court as a powerful authority in their lives. Thus, we think, referring to this movement as Muslim feminism is in place.

³³ See *supra*, under the title "Gender and politics in Israel: An introductory overview".

There are no doubt some similar lines between the Palestinian women's struggle in this area and their Jewish counterparts, first and foremost the very nature of the struggle as one between women's organizations and the male religious establishment. The element of a coalition of organizations working in close cooperation is also significant. However, while the leading forces in the Jewish struggle led by the ICAR coalition were religious, emphasizing their belonging to the religious community, the Palestinian activists were clearly secular, openly resorting to secular feminist and human rights discourse. Significantly, the process itself was triggered by the Association for Civil Rights in Israel (ACRI). In 1995 the Working Group for Equality in Personal Status Law was formed, consisting of several Arab-Palestinian women's organizations together with the IWN and ACRI, joining efforts to confer jurisdiction to civil courts, to parallel the jurisdictional choice Muslim women have in divorce disputes to that of Jewish women.³⁴ As already mentioned, these attempts have generated much opposition, mainly from Muslim religious leaders – all men. A typical reaction was that of Qadi Natour, President of the High *Shari'a* Court of Appeal, calling it a “big mistake of almost historical proportions”, and explaining that “the personal law is structured on the *Qur'an* and not on the personal opinion of one jurist or another from any particular historical period. *Shari'a* for Moslems is a part of their identity” (*Justice* 1998: 21). These last words reflect the crux of the matter. Struggling to advance the position of Muslim women in the area of family law is not just a struggle within the familiar progressive-civil system and the patriarchal-religious conflict, but also within the national-political conflict within Israel. And that makes it a much more complex struggle. The Palestinian feminists found themselves facing a peculiar coalition of *Shari'a* Courts judges, nationalists-liberal leaders, and Muslim-religious-traditionalists, all demanding them to give up their struggle, and accusing them of giving in on the interests of the national Palestinian collective (Rouhanna 1999). The religious opposition had even reached the point of issuing a *fatwa* (a religious verdict) against the women activists.³⁵

Indeed, it seems that this complex interaction between religious-national sentiments, patriarchal social norms, and feminist mobilization is far from being resolved. Notwithstanding the dramatic legislative success, recent data gives reason to question its actual use by women: every year, around 12% of all maintenance suits in Israel (whether by Jews, by Muslims, or by others) are filed with the *Shari'a* Courts, a figure that remained stable since 2000 (Halperin-Kaddari & Karo 2009:86).³⁶ In other words, opening the option of filing with the secular Family Court had apparently not have any effect on women's actual choices. While perhaps unaware of the severity of the concrete figures, Muslim feminists seem to acknowledge the little use made by women of the choices theoretically opened to them, and they point to concrete-practical difficulties Muslim women face when wanting to turn to Family Courts, as they are located in major Jewish cities, making accessibility very difficult for Muslim women. It seems to us, though, that there is more to it than just a problem of accessibility. We would like to suggest that the data reflects the social and political impediments Muslim women have yet to overcome, even after they won the legal battle.³⁷

³⁴ See www.pstatus.org.

³⁵ This was disclosed during a meeting of the Knesset (Parliament) Committee on the Advancement of the Status of Women (31.5.06), by Nasarin A'alimi, director of the Working Group for Equality in Personal Status Law. See <http://law.haifa.ac.il/clinics/clinic4/kne.doc>.

³⁶ In fact, in 2007 this figure even went up to 13.4% of all maintenance cases. The other 88% (or 86.3%) are divided between the Family Courts (around 58%) and the Rabbinical Courts (around 30%).

³⁷ Another explanation was recently offered by Qadi Aiad Zahalka, the *Shari'a* Courts Administrator, in a conference on Church and *Shari'ai* Courts in Israel, convened by the Rackman Center for the Advance-

d. Juxtaposition

Let us take a closer look at the concrete achievements of both the Jewish religious and the Muslim secular feminist coalitions: Why have the two coalitions of Jewish religious feminists and Muslim feminists succeeded where all other previous attempts failed? How did they manage to bring about such dramatic changes in the very field that evolved into being almost untouchable, or at least perceived as such, by almost all social and political agents? How did they overcome the standstill caused by the national conflict, which, as we have seen throughout this paper, was internalized not only by society at large, but also by the feminist movement, leading (in different manners) to that perception of a deadlock with respect to religious courts' jurisdiction?

While it is tempting to claim these as two parallel developments on the two sides of the political map, these are certainly not identical phenomena, although the similarities are definitely worth looking into. In both cases these were coalitions of mostly women's organizations with distinct national identity (although in the Muslim case, the process was also initiated by the Association for Civil Rights in Israel but was later moved mostly by the Muslim women). But their self identity in terms of religiosity is strikingly different: in the case of the Jewish women, although the ICAR coalition brings together religiously affiliated with unaffiliated organizations, the moving forces are those of the religiously affiliated, mostly orthodox groups; in the case of the Muslim women, the coalition identifies as secular, and openly professes the use of human rights discourse.

Moreover, the two processes are linked in more than one way. To begin with, it could be that the political forces that objected (and still threaten to reverse) the Jewish women's achievement in amending the Spousal (Property Relations) Law were the very forces that aided the Muslim women's battle against the objections coming from within the Muslim religious forces. In other words, Jewish religious male politicians filled opposite roles in the two cases (Muslim male politicians' power was too little to be effective), and it was the national factor that determined which direction their political activity would go. Since the amendment to the Spousal (Property Relations) Law has been taken as narrowing the power of the Rabbinical Courts, their direction could only be fierce objection (with minor exception from the more moderate modern-orthodox members). The amendment to the Family Courts Law, on the other hand, was taken as narrowing the power of the Muslim Courts, that way not only did it not impair their own national interests, it might have also served those interests by weakening the Muslim Courts and bringing them to the same dimension of those of the Rabbinical Courts in terms of their jurisdiction.

The actual or perceived power of the Jewish religious (male) politicians could also be a key factor in understanding the different approaches taken by the Rabbinical and Muslim Courts, but in a much more subtle fashion. As we have seen above, Rabbinical Courts' have recently adopted a more stringent attitude, reflected in their resort to the "doom's day weapon", while Muslim Courts apparently attempt reconciliation of *Shari'a* edicts with secular laws directed at them. These two opposite approaches are both in reaction to the secular legal system's constant intervention (which is not a new phenomenon in this field), but more than that, to the new development which is the sub-

ment of the Status of Women at Bar-Ilan University and the Sha'arei Mishpat Law College, on September 16, 2009. Qadi Zahalka suggested that it is the language and cultural barrier that prevents Muslims (women and men) from turning to the civil courts.

ject of our interest here: the growing political involvement of Jewish-religious and Muslim women's feminist movements. While Rabbinical Courts know they have the political power of their male politicians to rely upon in safeguarding their jurisdiction, Muslim Courts understand their precarious position, hence their new accommodation-seeking tactic.

VIII Conclusion: Religious Feminism and the Post Secular Turn

When examining external forces, it seems to us that Israel's on-going conflict with its Arab neighbours plays a major role with respect to the pushing aside of gender-equality issues in general, and in reinforcing nationalistic sentiments (which in turn strengthen religion's role in public life) in particular. We feel we should clarify that this impacts non-Jewish (Arab) women in Israel in an even more significant way, as we clearly saw when discussing the battle to limit the *Shari'a* Courts' exclusive jurisdiction. However, this paper focuses mostly on Jewish women in Israel.

In this context, when trying to overcome the blinding influence of the predominance of the national conflict, we would argue that an important, potentially transformative process related to issues of religious, politics and women's status in Israel is what some see as the rather benign development and spread of religious feminist organizations. Our argument relates mostly to those organizations' tendency to reformulate the discourse on matters of religion, gender, and nationalism, a reformulation that transcends the prevalent dichotomous discourse, which nourishes mainly from the predominant secularization and modernization paradigm.

In order to understand our argument one must first take a theoretical step backwards and consider the paradigmatic framework, or discourse, in which most discussions on the subject of religion, feminism and politics have taken place in the past. This framework could be labelled the "secularization and modernization" paradigm. This paradigm - or rather, as proposed by several students of secularism, this (meta)-narrative (for example: Swatos and Christiano 1999; Asad 1999, 2003; Jakobsen and Pellegrini 2008) – tends to construct a web of dichotomous distinctions, contrasting the modern; progressive; rational; liberated; egalitarian and universal (that is, the "secular") with the traditional (or 'primitive'); backward; irrational; repressive; patriarchal and parochial (i.e. the "religious"). This narrative tends to equate modernity with secularity, predicting (and expecting) that with the advent of modernization, religion is to be 'privatized' (that is, excluded from the public sphere). It also predicts that religious belief and practice are bound to decline in light of progressive, enlightened and scientific modernity (see also Bhargava 1999; Berger 1996; Martin 2005; Stark 1999a).

Most importantly for the purpose of our discussion, this narrative tends to view the (modern) feminist agenda as quintessentially secular. By equating modernity, universalism and secularity and presenting them as opposed to pre-modern patriarchal religiosity, this narrative often renders the notion of "religious feminism" a kind of oxymoron. This narrative has been prevalent in the Israeli context, and one could safely say that it has dominated the public discourse on matters of religion, gender and politics.³⁸ Indeed, as we have recently learned, a contemporary survey of Israeli feminist organizations, conducted on behalf of a progressive international foundation, precludes religious feminist organization since these are seen as essentially services-providers in nature,

³⁸ Compare that to Chana Kehat's (founder of Kolech) reference to "some secular feminists" who do not understand "Kolech's uncompromising commitment to *halacha*" and "believe that Orthodox feminism is an oxymoron" (Gross 2009: 19).

rather than ideologically driven by a social-change agenda.³⁹ This could be yet another expression of the difficulty to grasp the “weird” mixture of these two supposedly mutually exclusive domains: (orthodox) religiosity and progressive feminism.

Nevertheless, as we have shown above, Jewish religious feminist organizations (and Muslim feminist organizations) have presented the Israeli civil and political spheres, as well as the religious establishment, with some major challenges in matters of gender, religion, and politics, managing to present a discourse that overcomes those dichotomous distinctions, thus enabling a renewal of the public debate regarding women's status, ethno-nationalism and religion.

It seems that the solution to this theoretical conundrum arises from the emergence of a post-secular perspective that has been gaining momentum during the last two decades. This perspective offers a ‘revisionist’ reconsideration of the ‘orthodox’ narrative of secularization. The revisionism at hand involves practically all of the narrative's components, questioning not only the descriptive-analytical merit of the secularization thesis, but also its political and philosophical implications. Critics have pointed, among other things, to the thesis' misevaluation of the role of religion - as an institution - in the modern world (Casanova 1994), its misunderstanding of the role of religious belief and practice in the modern, ‘secular age’ (Taylor 2007; Lila 2007), and its orientalist sense of the ‘universalism’ of the European-Protestant case (Asad 2003; Casanova 2003; Nandy 1999; Jakobsen and Pellegrini 2008). As one prominent and heavily influential formulation of this revisionism argues, the secularization thesis is so deficient and lacking – whether in its historical assessment of the role of religion in times past or in its sociological (mis)-understanding of the role of religion today – that it is time to ‘lay it to rest’ (Stark 1999a:1; see also Stark 1999b; Stark and Finke 2000). Eventually, this criticism amounts to a recognition of the label ‘post-secular’ as adequate not only to describe the shape of the sociology of religion today, but also to identify the (post)-modern experience as a whole (see also Hervieu-Leger 2000; Hammond 2000; Lyon 2000; Keenan 2002; de Vries and Sullivan 2006).

Most importantly for the purpose of our current discussion, the revisionist, post-secular perspective also argues against the secularization narrative's insensitive imposition of dichotomous, categorical distinctions on the ambivalent, complex and ambiguous modern (be it ‘late modern’, ‘high modern’ [Keenan 2002: 282], ‘postmodern’ [Lyon 2000] or ‘liquid modernity’ [Bauman 2000]) ‘project’ of maintaining personal and collective identities (Connolly 1999; Taylor 2007). As lucidly put by Charles Taylor (2007), although some individuals do find themselves comfortable identifying with one ‘side’ or the other (let them be called ‘secularity’ and ‘religiosity’), most people do not identify with either pole, and choose to conduct themselves somewhere along the continuum suggested by these poles; ‘[P]eople take up a stance of this kind in a field which is polarized by the two extreme perspectives; they define themselves in relation to the polar opposites, whereas the people in the polar opposition don't return the favour, but usually define themselves in relation to each other, ignoring the middle (or abusively assimilating it to the other side). It is in this sense that the two extreme perspectives define the field’ (Taylor 2007:431). And, as argued persuasively by Connolly (1999), this abusive insensitivity, which tends to centralize political discourse around the religious-secular dichotomy, is critically lacking. Hence, there is an acute need for an authentic de-centralized perspective that transcends secularism's ‘endlessly circular chain of reference’ (Bell 1992:101; see also Jakobsen and Pellegrini 2008). Jose Casanova's (1994:38) denunciation of the secularization's perspective in America seems to

³⁹ See interview with Dorit Avramovitch, *supra* note 26.

capture this sentiment rather straightforwardly: ‘We may say with some confidence that currently, at least in America, both religious ‘fundamentalist’ and fundamentalist ‘secular humanists’ are cognitive minorities, that the majority of Americans tend to be humanists, who are simultaneously religious and secular. The theory of secularization should be reformulated in such a way that this empirical reality ceases to be a paradox’.

It is in this sense that the religious-feminist perspective emerges as potentially post-secular, offering an exemplification of the possibility to transcend and decentralize the dichotomous worldview professed by the secularization thesis. Being both and at the same time ‘modern’, ‘egalitarian’, ‘feminist’ and ‘religious’ if not even adamantly “orthodox”, – or, in other words, constructing a viable alternative that does not fit into either of the polarizing alternatives of ‘secular feminism’ vs. “religious patriarchalism” – these organizations can be seen as offering a viable post-secular alternative of preserving religious practice and belief while at the same time challenging the repressive attitude of some of those practices towards women.

The analogous success of the Jewish and the Muslim feminist coalitions, using what appear at first blush as two almost opposite strategies (the Jewish religious feminists fighting from within, while the Muslim secular feminists striving from outside), could indeed be taken as challenging the secularization narrative's dichotomous distinctions. Changing (part of) the ever-lasting *status quo*, in close proximity of time, confronting similar resistance and experiencing parallel dynamics of dispute, we suggest that these two phenomena may lead to reform the discourse regarding religion, gender and politics in Israel, as they present both the religious establishment and the secular feminist leadership with fascinating challenges. Indeed, as can be learned from the quote by the Chief Rabbi Shlomo Amar on the one hand, and by the *fatwa* issued against the Muslim activists on the other hand,⁴⁰ those who do pay attention to this new discourse have realized the enormous potential it has in influencing women's status both inside and outside the religious community. We would contend that closer attention should be paid to this development, as it presents the Israeli public sphere with a potential to overcome some of the most misguided debates that have dominated it during the last half century.

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⁴⁰ See *supra* notes 32 and 38.

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