

**THE STATUS QUO AGREEMENT AND JEWISH
RELIGIOUS PLURALISM IN ISRAEL: WOMEN OF THE
WALL AS A CASE STUDY**

By

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Abstract

Identified as a minority group of religious activist and feminist Jewish women, the Women of the Wall have been challenging the exclusively male and Orthodox hegemonic status quo at Judaism's holiest site, the Western Wall, for almost 30 years. In their practices and composition, they reflect Jewish pluralism since the group includes Orthodox, Reform, Conservative and secular women not only from Israel but from all around the Jewish world. The struggle of the Women of the Wall (hereinafter WoW) represents not only the efforts of a group to obtain the right to pray according to their custom, but it is also a metaphor of the evolution of the national and religious identities in Israel. The conflict over the right to pray at the Western Wall receives attention because of the paradox the Wall represents: it is considered as the holiest and most representative symbol of the Jewish Nation but its *status quo* has been negotiated between the State and the Orthodox Jewish parties between 1947-48. The objective of this project is to study and research the challenges to the religious *status quo* and its nationalistic expressions in Israel taking as a case study the struggle of the WoW. As Yacov Yadgar (2017) points out, the religious status quo in Israel not only represents a semi-constitutional tool to ease the *kulturkampf* between the secular and the religious establishment, but it is also the main gatekeeper for the maintenance of Jewish majority in the state. By being so, the status quo cannot be easily challenged, even when the requests for change are voiced by liberal Jewish movements in Israel. The status quo is then the expression of the reliance of the secular elites on narrow interpretations of Judaism in order to regulate the public sphere and govern national politics.

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Firstly, I wish do dedicate this thesis and all the hours of work to the lovely memory of my father, in the hope that also this endeavor would make him proud.

I dedicate this thesis also to my mother, whose strength guided me.

I dedicate this work to my extended family, without whom, I would not be here writing.

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Introduction

"*Zot HaTorah, Akhshav Tori!*" ("This is the Torah and now is my Turn!") is written on a t-shirt worn by an Israeli Jewish woman celebrating at the Kotel, with hundreds of Jewish women, the 30th anniversary of the feminist religious movement in Israel known as *Neshot ha-Kotel* (Women of the Wall). Identified as a minority group of religious Israeli activist and feminist Jewish women, Women of the Wall have been challenging the exclusively male and Orthodox hegemonic *status quo* at Judaism's holiest site, the Western Wall, for almost 30 years. Women of the Wall (hereinafter WoW) represents not only the efforts of a group to obtain the right to pray according to their custom, but it is also a metaphor for the evolution of the national and religious identities in Israel¹. The State of Israel is identified as the locus of Jewish self-determination², a secular and democratic nation-state in which, however, there is no separation between state and religion but rather a complex of secular-modern ethnonationalism and orthodox-dominated religious traditionalism³. The discussion about whether Judaism constitutes a religion or a nationality pervades Israel's politics and academic debates. Because of the embedded connection between state and religion, the religious behaviors in public space are contestation sites by both secular and religious groups⁴. The conflict over the right to pray at the Western Wall receives attention because of the paradox the Wall represents: it is considered as the holiest and most representative symbol of the Jewish people, but its *status quo* has been negotiated between the secular forces of the pre-state period and the haredi religious parties between 1947-48. At that time, the haredi parties represented a sensible minority within the *Yishuv*. The so called "status quo agreements" achieved in the very early stage of the creation of the State of Israel were not a

¹ Pnina Lahav, 'The Women of the Wall: A Metaphor for National and Religious Identity', *Israel Studies Review* 30, no. 2 (1 January 2015): 50, <https://doi.org/10.3167/isr.2015.300204>.

² Alan Patten, 'The Idea of Israel as a Jewish State', *Theoretical Inquiries in Law* 21, no. 2 (28 July 2020): 531–59, <https://doi.org/10.1515/til-2020-0023>.

³ Ruth Halperin-Kaddari and Yaacov Yadgar, 'Between Universal Feminism and Particular Nationalism: Politics, Religion and Gender (in)Equality in Israel', *Third World Quarterly* 31, no. 6 (September 2010): 905, <https://doi.org/10.1080/01436597.2010.502721>.

⁴ Jocelyne Cesari, 'Unexpected Convergences: Religious Nationalism in Israel and Turkey', *Religions* 9, no. 11 (30 October 2018): 334, <https://doi.org/10.3390/rel9110334>.

simple agreement between “State and Church” or to paraphrase the idiom, “state and synagogue”, but they regulated, and still do regulate, the Jewish character of the State of Israel empowering the Orthodox Rabbinate with all matters falling under the purview of personal status issues, such as the founding question of “Who is a Jew” and how Judaism should be practiced. The centrality granted to Jewish religious definitions in the State of Israel in the constitutional setting tips the balance towards a preponderance of the religious identity that makes defining Judaism all the more important⁵. Hence, every protest that entails challenging the Orthodox Rabbinate's hegemony also entails a challenge to the definition of the Jewish character of the State. In Israel the separation of “Church and State” does not exist. As Rubinstein explains, the complex relationship between state and religion is caused by three separate factors: 1) the nature of Judaism and Jewish tradition, and consequently, the nature of Israel as a Jewish state; 2) the Israeli political system which fostered a powerful religious political bloc; 3) The religious legal system that governs personal status.⁶

By its own legislation, Israel is defined as a “Jewish and Democratic state”⁷. As Peleg notes, this commitment to both the Jewish character of the state and to democracy was present from the very beginning of the statehood experience⁸. The adjective Jewish in this binomial does not find a common interpretation; according to some, the adjective describes a national identity rather than a religious one. For others, however, the adjective refers to the Jewish religious identity unequivocally. In general terms, the Jewish people combine a common identity with a shared religious tradition; ethnicity cannot divorce from religion.⁹ Given the intertwining of religion, ethnicity and nationality, many scholarly works disagree on the right terminology to use to describe the Israeli regime. The

⁵ Ephraim. Tabory, ‘State and Religion: Religious Conflict among Jews in Israel’, *Journal of Church and State* 23, no. 2 (1 March 1981): 275, <https://doi.org/10.1093/jcs/23.2.275>.

⁶ Amnon Rubinstein, ‘State and Religion in Israel’, *Journal of Contemporary History* 2, no. 4 (1 October 1967): 107, <https://doi.org/10.1177/002200946700200409>.

⁷ On the several interpretation of the “Jewish and democratic” formula, see Benyamin Neuberger, ‘Different Concepts Of A Jewish Democratic State’, in *Identities in an Era of Globalization and Multiculturalism*, ed. Judit Bokser Liwerant et al. (BRILL, 2008), 375–95, <https://doi.org/10.1163/ej.9789004154421.i-446.96>.

⁸ Ilan Peleg, “Israel between Democratic Universalism and Particularist Judaism: Challenging a Sacred Formula.” *The Report of the Oxford Centre for Hebrew and Jewish Studies* (2003): 5-20.

⁹ Rubinstein, ‘State and Religion in Israel’, 107.

attempts to describe Israel are various in nature; for Yacobson and Rubinstein Israel is a “liberal democracy”¹⁰, for Smoocha it is an “ethnic democracy”¹¹, for Yiftachel an “ethnocracy”¹² and for Peleg it is a “hegemonic regime/ethnic constitutional order”¹³. Finally, in an attempt to reconcile the several definitions, Harel-Shalev and Peleg coined the term “hybrid regime”¹⁴.

The case of Women of the Wall combines different scenarios that make its use as a case study in the scholarship of State-Religion relations fascinating for several reasons: 1) The religious and political establishments are directly challenged and faced with demands for gender and religious equality, 2) The support of the Conservative and Liberal streams of Judaism from the Diaspora has added a transnational level to the complexity of the religious conflict; 3) Its multi-denominational membership broadens the scope of the movement and the meaning of their claims, 4) The specific location of the Western Wall offers the possibility to analyze both Israel’s civic religion and religious Jewish practices in the State. The WoW case brings to attention several crucial dilemmas which are addressed more broadly in the literature related to state-religion relations, and are specifically related to the definition of “who is a Jew” and how Judaism is practiced in Israel but do also fit into the broader scholarship that analyzes the relationship between religion and gender studies. Given the role that the Jewish tradition plays in Israeli nationalism, the case of the Women of the Wall offers also a comparative insight into the relationship between nationalism and gender relations.

¹⁰ Alexander Yakobson and Amnon Rubinstein, *Israel and the Family of Nations*, (Routledge, 2008), <https://doi.org/10.4324/9780203894026>.

¹¹ Sammy Smoocha, ‘Minority Status in an Ethnic Democracy: The Status of the Arab Minority in Israel’, *Ethnic and Racial Studies* 13, no. 3 (July 1990): 389–413, <https://doi.org/10.1080/01419870.1990.9993679>; Sammy Smoocha, ‘Types of Democracy and Modes of Conflict Management in Ethnically Divided Societies’, *Nations and Nationalism* 8, no. 4 (October 2002): 423–31, <https://doi.org/10.1111/1469-8219.00059>.

¹² Oren Yiftachel, *Ethnocracy: Land and Identity Politics in Israel/Palestine* (Philadelphia: University of Pennsylvania Press, 2006).

¹³ Ilan Peleg, *Democratizing the Hegemonic State: Political Transformation in the Age of Identity* (Cambridge ; New York: Cambridge University Press, 2007).

¹⁴ Ayelet Harel-Shalev and Ilan Peleg, ‘Hybridity and Israel’s Democratic Order: The End of an Imperfect Balance?’, *Contemporary Review of the Middle East* 1, no. 1 (March 2014): 75–94, <https://doi.org/10.1177/2347798913518462>.

The violence, both physical and verbal against Women of the Wall is a manifestation of the attempts of Orthodox and ultra-Orthodox religious activists to preserve their patriarchal hegemony. This attempt is unique neither to Judaism nor to Jerusalem¹⁵.

The aim of this thesis is to present the ways in which Jewish traditions have been negotiated and confronted by the State of Israel; if the State is secular (and virtually neutral to religious coercion), the very endorsement of one stream, Orthodoxy, is beside a breach of religious and civil rights, a matter of state endorsed church. This work project on the Women of the Wall does not depict the group as a “revolutionary” one, but rather presents it as another example of the battle against the “religious coercion” or the *Haredi* monopoly of religious definition which affects not only non-practicing Jews but non-Orthodox Jews as well. The addition of the diasporic level in the analysis brings into question the relationship between Israel and World Jewry; if Israel is the State of the Jews, why would it not be possible for a part of them to freely exercise their religiosity publicly at the Western Wall beside being free to exercise it in reform or *Masorti* synagogues? Why should they eventually adhere to Orthodox practice or accept the secular alternative, which, by definition is not religious?

To better frame my hypothesis and thesis, this project will start by presenting a number of methodological clarifications. First of all, following the matrix presented by Yacov Yadgar in *Sovereign Jews*, I will try to assess if the traditional dichotomy “secular vs. religion” is applicable to the Israeli case. The underlying theory of the claim is that, as Yadgar points out, this epistemological framework is obsolete if not misleading while analyzing the socio-political realities in the State of Israel. Indeed, one of the questions that will be answered is if it is acceptable to frame Judaism as a religion in the Western sense and if and when it was “invented” as a religion. Once these questions are answered, the introductory chapter will assess the inherent paradox of Zionism being a secular

¹⁵ For detailed analysis on the role of patriarchal order in monotheistic religions, see, Frances Raday, ‘Sacralising the Patriarchal Family in the Monotheistic Religions: “To No Form of Religion Is Woman Indebted for One Impulse of Freedom”’, *International Journal of Law in Context* 8, no. 2 (June 2012): 211–30, <https://doi.org/10.1017/S1744552312000055>.

ideology while resting on Jewish religious traditions. The aim here is to demonstrate how Zionist secular leaders saw “Orthodoxy” as the gatekeeper of the Jewish definition of Israel and entered in a formal agreement with them about the Jewish definition of the State, the so-called *status quo Agreements*.

The first chapter of this thesis will analyze these agreements, what they entail, and how they reverberate in Israeli society. The second chapter will examine Jerusalem and the Western Wall as places where the *status quo* is visible and tangible. The chapter will describe the role of Jerusalem in the religious and national tradition, how the conquest and reunification of the city led to a reinforcement of the Orthodox definition of Jewishness and how, as a consequence, the traditions at the Western Wall have been changed to transform it into a *de facto* Orthodox synagogue.

The third chapter will enter into the analysis of the feminist and religious struggle of Women of the Wall. The chapter aims to give a portrait of the instances of the group, why they are hindered by the Orthodox establishment and why they are not supported by the state on a practical level. Finally, the last chapter will try to assess Israel-diaspora relations when the freedom of religious exercise is discussed in Israel. How does the diaspora perceive “religious coercion”?

1.Theory, Concepts and literature Review: Religion or tradition? A theoretical approach to the interpretation of Jewish traditions as religion vis-à-vis the Israeli polity.

1.1 The yarmulke and the beret: Israel's *Kulturkampf*

From Zionism's first appearance in the 19th Century, it was clear that religious traditions had a special place in the creation of the Jewish polity. For the classical Zionist thinkers, Zionism served a two folded aim. First, virtually, it served as an escape from what they labelled as religious obscurantism, and secondly, as a contrast to the perils of assimilation by bringing a public and political dimension to the Jewish experience. Zionism is seen then as a sort of non-deistic cultural reformation which, however, strongly relied on religious and traditional narrations¹⁶. The result is then an ideology with a secularizing character but strongly infused by acts and rituals retrieved from the religious-traditional context. This framework served, according to Beit-Hallahmi and Sobel, a double function: first, it provided a continuity passage from the privacy of the exilic *kehilla* to the public of the (potential) *medina*, and second, it provided a matrix of legitimation, i.e. it provided a framework for group definition vis-à-vis the "other" external to the group, such as the Arab population¹⁷.

It comes to no surprise then that we are presented with a rather confusing situation when analyzing contemporary socio-political issues in Israel; at a formal level, the majority of the population has been described as non-observant, fully secular, while national symbols and narrations are clearly heavily influenced by Jewish religious traditions. Generally, Israel is known by the oxymoronic label of the secular state of the Jewish People. To add a further level to the oddity of the matter, Israel's non-observance is rather "Orthodox"; rather than opting for a recognized nuanced level of religiosity recognition, religious is what Orthodox is; then, non-religious means non-Orthodox¹⁸. In this sense,

¹⁶ Zvi Sobel and Benjamin Beit-Hallahmi, eds., *Tradition, Innovation, Conflict: Jewishness and Judaism in Contemporary Israel*, SUNY Series in Israeli Studies (Albany: State University of New York Press, 1991), 1.

¹⁷ Ibid.

¹⁸ Sobel and Beit-Hallahmi, *Tradition, Innovation, Conflict*, 3.

while the Diaspora enjoys different levels and expressions of religious observance and attachment, such as Reform, Conservative (*Masorti*), Orthodox, and Reconstructionist¹⁹, in Israel the religious definition is recognized in “Orthodoxy” and it is state endorsed as well. Israel's political struggles are centered on reconciling two conflicting principles that define the Israeli polity, namely the state being Jewish and Democratic as embedded in several the Basics Law (which have quasi-Constitutional status)²⁰. Religious and secular Jews are involved in a quest for the meaning of the “Jewish State” and the essential role of religion and traditions in the public arena. This dichotomy manifests itself in what is perceived as the main *kulturkampf* in the State of Israel²¹. Is Israel Jewish in tradition but secular in definition? The largest segment of Israeli society, the *hilonim* (secular) see the expression of their Jewish identity in the public life of the state whereas for the *datiim* (religious) Jewish identity is strictly tied to religious observance. The presence of Orthodox hegemonic elements in the State of Israel brought many secular Jews (influenced by the secular Zionist thought) to refer to the current state of art as living under “religious coercion”. What Israel experiences for them then, is a “Consociational model”²² that, rather than being constructed on ethnic divisions is structured on the “secular vs religious” cleavage²³, where religious refers only to Orthodoxy and not to liberal streams in Judaism. The next chapter will assess the repercussions of this model on Israeli political landscape. As Tabory argues, Judaism and its tenets invest Israeli public life on two main levels. The first level entails the legitimation of the state as a “Jewish State” and the role of traditions in society: in other words, how to define “Who is a Jew”²⁴. Those who stick to religious prescriptions will say that the *halakha* (the religious law) should set the standards on matters of marriage, divorce and of course

¹⁹ Sobel and Beit-Hallahmi, *Tradition, Innovation, Conflict*, 3

²⁰ Since the State of Israel lacks a formal written constitution, the Declaration of Independence serves as guiding tool in the legislative process. The Basic Laws that frame the notion of Israel as a “Jewish and Democratic” state are the “Basic Law of 1985”, the Basic Law Human Dignity and Liberty” enacted in 1992, the “Basic Law “Freedom of Occupation” enacted in 1992. Both Basic Laws were amended in 1994. All Israeli Basic Laws are available at <https://main.knesset.gov.il/en/activity/pages/basiclaws.aspx>

²¹ Asher Cohen and Bernard Susser, *Israel and the Politics of Jewish Identity: The Secular-Religious Impasse* (Baltimore, Md: Johns Hopkins University Press, 2000), 17.

²² Arend Lijphart, ‘Consociational Democracy’, *World Politics* 21, no. 2 (January 1969): 207–25, <https://doi.org/10.2307/2009820>.

²³ Cohen and Susser, *Israel and the Politics of Jewish Identity*, 19.

²⁴ Tabory, ‘State and Religion’, 275.

defining who is a Jew and who is not, especially for *aliyah* purposes. The second level of analysis relates to the general character of the Jewish state, meaning how religious laws and tenets are experienced at a daily life level. An example of this can be found in the imposition of the *Kashrut* (the religious dietary custom) in all public spaces as well, in the rule of *Shabbat* observance nationwide and in the absence of a legislation concerning civil marriage and divorce. From this overlapping between state and *halacha* another major conflict arises, often foreshadowed by the main “secular-religious divide”, namely the clash between Orthodox Jewish denominations and the more liberal Reform and Conservative movements. The impossibility of describing other levels of religious adherence is also semantic: indeed, the term *dati*, religious, in Israel refers solely to the Orthodox community. Reform and Conservative Judaism represents still a minority in the Israeli religious market and cannot claim to be *datiim* in the pure meaning of the word; to use the term *datiim* to identify Reform and Conservative Jews in Israel represents a contradiction in terms for most Israelis, whereas for Orthodox authorities, Reform and Conservative Judaism are an abuse of the Jewish tradition²⁵. Israel’s idiosyncrasy finds its root in the early years of the settlement project in Palestine and were reinforced and maintained during the creation of the state by the decision of prioritizing security concerns at the expense of solving fundamental social issues on state and identity definition. At the dawn of the creation of the state in 1948, the need for national unity and the preservation of the “Jewish character” of the state led to the establishment of an agreement between the religious forces in the Yishuv and the secular ones, headed predominantly by the Socialist-Zionist forces. The status quo agreements achieved in the very early stage of the creation of the state were not a simple agreement between State and Church but they regulated, and still do regulate, the Jewish character of the State of Israel, empowering the Orthodox Rabbinate with all matters falling under the purview of personal status issues, ranging from the question of “Who is a Jew” to how Judaism should be practiced. The non-Orthodox movements are subjected to discrimination; indeed, non-Orthodox

²⁵ Tabory, 278.

rabbis are not recognized as religious authorities by the state and they cannot perform marriages in Israel.

Protests against Orthodox religious pressures are an integral part of the Israeli socio-political landscape. Many anti-religious (i.e., anti-Orthodox) movements have raised their voices against the alleged religious coercion; an example of such organizations are the League Against Religious Coercion²⁶, The Israel secular Movement and the Israel Religious Action Center²⁷. Anti-clerical sentiments are also to be found in the political arena; two clear examples are the left wing party Shinui (the predecessor of the Meretz party) which in 1999 won six seats in the Knesset running an entire anti-religious electoral campaign, and Avigdor Lieberman's Yisrael Beiteinu (Israel our Home), the sole right-wing party that openly advocates for the separation of religion and states and demands a change in the religious *status quo*, for example by enlisting yeshiva students in the Israel Defense Forces.

The struggles of these groups, however, do not seem to have had any major impact nor brought to radical changes in the power structure; the prolonged failure of secular Israelis to change or at least generate a strong demand of change is one of the reasons why scholars are critical of Israel secularism²⁸. The reason why secularism does not pose a political problem that reverberates to conscience of the public is strictly tied to the preservative role that religious traditions have in the state. This does not mean, however, that Israel society does not possess secularized elements in the behavior of everyday life: let us think for instance at the party night scenes in Tel Aviv every

²⁶ The League Against Religious coercion was founded by prof. Uzzi Ornan in 1950. He also served as a secretary of the Israeli secular Movement and in 1990 he became famous for his participation in the "I am Israeli" Movement. During his involvement in the "I am Israeli" movement, he petitioned the Israel's Supreme Court to obtain the right to be registered as "Israeli" instead of "Jewish" on behalf of his nationality rather than religion. For an analysis of the case see, "Ornan vs Ministry of the Interior", decided on October 2, 2013, available at <https://versa.cardozo.yu.edu/sites/default/files/upload/opinions/Ornan%20v.%20Ministry%20of%20the%20Interior.pdf>

²⁷ The Israel Religious Action Center (IRAC) is the public and legal advocacy arm of the Reform Movement in Israel, see <https://www.irac.org/about-irac>

²⁸ For an analysis of the debates on the secularisation processes in Israel see, Guy Ben-Porat, 'A State of Holiness: Rethinking Israeli Secularism', *Alternatives: Global, Local, Political* 25, no. 2 (April 2000): 223–45, <https://doi.org/10.1177/030437540002500203>. and, Uri Ram, 'Why Secularism Fails? Secular Nationalism and Religious Revivalism in Israel', *International Journal of Politics, Culture, and Society* 21, no. 1–4 (December 2008): 57–73, <https://doi.org/10.1007/s10767-008-9039-3>.

Saturday, the gay prides organized in the main cities, the thriving non-kosher culinary scene and many other events that lead us to think that religious values do not hold so tightly to the public, or at least, that there is a discrepancy between religious power (politically sustained) and public performance and choices. Thus, while religion represents the invisible hand that orients Israeli society, since the 1990s secular forces have been reclaiming their space leading to the development of a parallel Israeli society in which *hilonim* live in defiance of Orthodox hegemony in their everyday-life individual choices. As Yoav Peled states, secularization as a process can be separated from secularism, a comprehensive worldview based on the ideals of freedom and equality²⁹. Secondly, secularization generally implies the decline of religious authority rather than the decline of religiosity³⁰. Bearing this in mind, it is important to claim that in Israel secularization is a multifaceted process that interacts with religion rather than eliminating it from the private and public discourse³¹. Thus, the problem in Israel does not relate to the presence of religion *per se*, but it relates to the fact that the State it is not able (or not willing) to open a broader dialogue with non-Orthodox observant Jews.

Before turning the analysis into the realm of Israeli politics and how Orthodox movement gained their role during the foundation of the state, it would be useful to start with a number of theoretical concepts that will better frame the role of Judaism as a religion in the Zionist concept.

²⁹ Guy Ben-Porat, *Between State and Synagogue: The Secularization of Contemporary Israel*, Cambridge Middle East Studies (Cambridge ; New York: Cambridge University Press, 2013), 15.

³⁰ Ibid.

³¹ Yoav Peled, 'Towards a Redefinition of Jewish Nationalism in Israel? The Enigma of Shas', *Ethnic and Racial Studies* 21, no. 4 (January 1998): 703–27, <https://doi.org/10.1080/014198798329838>.

1.2 Religion as a political construct of the West: Epistemological discourses on “secular vs religious”.

Political Zionism introduced in the Jewish political thought of the 19th Century a concept born out of the European Christian-Protestant history, meaning the sovereign nation state where sovereignty and identity are juxtaposed³². In the Zionist view, sovereignty would transform the traditions of the exile; the *miztvot* of the *galut* will be enriched by the experience of a Jewish state where tradition and modernity go hand in hand. Zionism took at its heart the redefinition of Jewish identity by equating it with the long waited “sovereign moment”; while being truly committed to redefine Jewish identity in a way that was adaptable to a secular context, it was impossible to fully detach the Jewish tradition from the Zionist narration. Within different competing Zionist narratives, Liebman and Don-Yehiya³³ developed a study on the relationship between Zionism and Jewish tradition which will led to the establishment of Israel’s civil religion. The study shows three main periods that led to the formation of the Israeli civil religion:

1. from 1919-1945 Zionist secularism thanks to the inspiration of the so called “cultural Zionism”, aimed at the construction of a “new Jew” whose attachment to Jewish tradition was cultural and not religious. The traditions and visions of the prophets were the nexus between the Jews and Eretz Yisrael;
2. From 1948 to 1956 the so called “statist period” connected Jewish festivities and rituals with the pioneers’ values of the state building. The relationship with the tradition was functional to the nation-building endeavors;
3. from 1956 to 1980s there is a conflation of religious meaning and national meaning as a result of the Six-Day War in 1967, the 1973 War of Yom Kippur and the rise of the religious nationalist movement (*dati leumi*) and the settlements enterprise of Judea and Samaria.

³² Yaacov Yadgar, *Sovereign Jews: Israel, Zionism, and Judaism* (Albany: State University of New York Press, 2017), 67.

³³ Charles S. Liebman and Eliezer Don-Yehiya, *Civil Religion in Israel: Traditional Judaism and Political Culture in the Jewish State* (Berkeley: University of California Press, 1983), 315.

As Yacov Yadgar points out, sovereignty was sufficient enough for the classical Zionist thinkers to start a new political chapter in Jewish history; however, the model they had in mind and wished to apply to the Jewish nationhood was founded on a Christian-Protestant tradition³⁴. Here comes the paradox: while Zionists sought to establish a Jewish sovereign entity that would have led to the creation of “new Jews” detached from religion but attached to its cultural value, the search of sovereignty has been pursued in the name of the traditional definition of Jewishness. Zionist tautology brought its thinkers to say that Jewish is what Jewish is; it’s not a choice it’s a fate³⁵. The definition of Israel as the embodied sovereign state of the Jews demanded, by definition, that the state take active part into the definition, maintenance and preservation of the Jewish majority in the state. Given the fact that Zionism could not provide a Jewish definition totally detached from religious tradition, the state had to rely on the Orthodox establishment as the custodian of the Jewish definition *par excellence*. To allow this scheme to work, the state had to turn to the imposition of religious elements both in the public life of the state and in the private life of its Jewish citizens. What the socio-political configurations of the State of Israel testify is that Zionism has failed to be the secularization force of Judaism and that the epistemological-conceptual framework of “secular vs. religion” is rather obsolete and non-exhaustive in the Israeli case.

Is it advisable to use such a framework for a non-Western (non-European) non-Christian examples? Of course, Israel is not the only non-Western non-Christian case where this "Westphalian toolkit" is applied, especially when it comes to the use of the term "religion". The whole field of religious studies is infused by the claims that the time has come to give up to the usage of this terminology; it is considered an old convention Western-centered and imposed by colonialism³⁶. Many works convincingly claim an epistemological change in the mainstream of religious studies (or the study of religions), primarily when they deal with the relationship between religion (or traditions) and the

³⁴ Yadgar, *Sovereign Jews*, 67.

³⁵ Ibid.

³⁶ William T. Cavanaugh, *The Myth of Religious Violence: Secular Ideology and the Roots of Modern Conflict* (Oxford University Press, 2009), 77, <https://doi.org/10.1093/acprof:oso/9780195385045.001.0001>.

nation-state; to cite one among the many, Talal Asad's *Genealogies of Religion*³⁷. Then, for the rule of transitive relations, *religion* itself is a Western construct. In a game of pairing the contraries, *religion* has his fellow companion in the term secular, and both saw the light in the same historical period, war-torn 17th Century Europe.

Modernity transformed religion into a universal *genus*³⁸ to which various religions are ascribed; it passed from being a public matter to a private one. Religion turned, ironically, to be the apolitical product of a new political order³⁹. The modern “secular” nation-state was the main generator of the Western invention or construction of religion. In his book *The Meaning and End of Religion*, W.C. Smith demonstrates that “religion” as a different category of human activity is a product of the modern Western Europe; outside of it there is not an equivalent meaningful term “religion” as used in the West⁴⁰.

The privatization of religion well matches the claim that the State is sovereign, and the Church is a subject. In John Locke's words, religion is a state of mind, an inner force that reaches out to find the truth and as such it cannot be enforced publicly by the sovereign⁴¹. According to Locke, the differing churches could not set the essence of the true religion, not the only right way to pursue it and the (now) secular ruler could not possibly sustain one or another argumentation in such pursue.

Religion's transformation into an inner signifier of human spirituality was achieved during the 16th and 17th Centuries when the attention shifted from practice to belief. The transformation was eased by the creation of binaries dividing between the personal (apolitical) and the public (political).

However, while Christian Europe was challenging the rising of a politicized church, Zionist nationalism gave birth to a politicized and institutionalized religion.

³⁷ Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993).

³⁸ Cavanaugh, *The Myth of Religious Violence*, 77.

³⁹ Ibid.

⁴⁰ Wilfred Cantwell Smith, *The Meaning and End of Religion* (Minneapolis: Fortress Press, 1991), 44–45.

⁴¹ On the relationship between religion, State and Church in Locke's political thought see, John Locke et al., *An Essay Concerning Toleration and Other Writings on Law and Politics, 1667-1683*, The Clarendon Edition of the Works of John Locke (Oxford : New York: Clarendon Press ; Oxford University Press, 2010).

1.3 The invention of Judaism as a religion

The question that might arise at this point of the discussion is if Judaism is a religion, at least in the Lockian sense. How it is possible to understand Jewish laws and traditions under Christian-Protestant lenses? Starting with a semantic exercise might be helpful: which word describes “religion” in Hebrew? The term *dat*, that commonly translates “religion” in Hebrew is highly problematic and carries a personal story of its own as well as its counterpart *hiloniyut*, secularism. In following the above-mentioned discussion, *dat* and *datiyut* result in a double distortion; the problematic usage of the western concept of religion and its adaptability in Hebrew⁴². When then, did Jewish traditions become a religion? According to Leora Batnitzky the history of the transformation of Jewish traditions into a religion and specifically a German-Jewish one⁴³ started in the 18th Century, coincidentally when religion became an apolitical category in Europe⁴⁴. The Jewish political character of the observation of the Law was in dissonance with the process of privatization of religious practices; Law is public by definition and cannot easily be closed in the “box of faith and belief” in the Christian-protestant sense. The catalyst force that led to the transformation of Judaism into religion was the European Jewish Emancipation process, meaning the granting of civil rights in a number of European nation states. According to Batnitzky, prior to the emancipation era, Judaism was a religion, culture and nationality all in one⁴⁵. The “invention” of Judaism as a religion is fed, then, by the modern tension that developed in the European context of the sovereign nation-state between the public/political status of the Jewish community and the status of Jews as individuals.

According to Moses Mendelssohn Judaism is not about faith, but it is rather a matter of practice. His claim is aimed at presenting Judaism as a rational religion which is not to be seen as an impediment

⁴² Dan, Joseph. “Religion Studies and the Concept of Religion: On the Verge of a New Era”, in *Bekhur Hayetzira* (The Cradle of Creativity: Shlomo Giora Shoham Jubilee), edited by Chemi Ben-Noon, 139–66. Hod-Hasharon: Shaarei Mishpat, 2004. (Hebrew) cited in Yadgar, *Sovereign Jews*, 31–32.

⁴³ Batnitzky, Leora Faye. *How Judaism Became a Religion: an Introduction to Modern Jewish Thought*. Princeton: Princeton University Press, 2013.

⁴⁴ Ibid, 40

⁴⁵ Ibid.

to the integrations of Jews in society; he does so by defining Jewish law as “in no way political”⁴⁶. His, then, is a Protestant understanding of religion. Mendelssohn’s interpretation of Judaism as a religion influenced the formation all streams of modern European Jewish thought creating various “denominations” as in the protestant fashion. Immediately, he was behind the inspirational force that created the Liberal Movement, or Reform, which sought to release the tension between adherence to Jewish Law and commitment to secular Law; the Reform movement gave up to the Law to embrace a more conciliatory practice of Judaism as citizens of the nation-states.⁴⁷ However, Mendelssohn was not trying to cancel religious practice altogether, indeed the ceremonial aspects of the Jewish law were crucial for Judaism in its view⁴⁸. The value of Judaism according to the liberal views emerged after the Emancipation period is the universal one, which has to do with spiritual achievements rather than observing the Law and practicing the *mitzvot*. The same Mendelssohnian invention gave birth to another fruit, Orthodox Judaism which was seen by its adherence as response to the Reform claim of rejection of the Law. Even if against the stances of the Reform movement, Orthodoxy acted in a way to reinforce Mendelssohn’s views; claiming to be the sole pure continuation of Judaism throughout time epitomized in the Hatam Sofer’s words “*Hadash assur min HaTorah*”, “the new is forbidden in the Torah”, it was nonetheless creating a new way of approaching to Jewish traditions by claiming a return to an original truth as revolution.

To put this narration in the context of a Zionist-Israeli discourse, Orthodoxy relates directly to the invention of Jewish religiosity/religiousness (*datiyut*), which is identified in Israeli political culture (following Zionist ideology’s lead) with Orthodox and ultra-Orthodox Judaism, and in effect also with Jewish authenticity⁴⁹. Zionism holds a rather complicated relationship with this Orthodox identity: by rejecting Reform and Conservative Judaism, Zionist leaders accepted, often implicitly,

⁴⁶ Yadgar, *Sovereign Jews*, 35.

⁴⁷ Ibid, p.39

⁴⁸ For an analysis of the role of ceremonial law in Mendelssohn’s thought see, Elisabeth Weber, ‘Fending off Idolatry: Ceremonial Law in Mendelssohn’s Jerusalem’, *MLN* 122, no. 3, (2007): 522–43.

⁴⁹ Yadgar, *Sovereign Jews*, 40.

Orthodox Judaism's claim to Jewish (religious) authenticity. Zionism is then, critically indebted to Orthodoxy's definition of Jewish identity.

1.4 Zionism, Jewish “religion” and secularism as a slogan

As to better understand the conundrum that any analysis concerning the "state and religion" relationship represents in Israel, it is useful to focus on several theoretical aspects of Zionism that will allow us the better use the terms *religion* and *nation-state* in application to the Israeli case.

Zionism espoused the creation of Jewish sovereign entity in *Eretz Yisrael* as an answer to the perils of anti-Semitism in Europe and as a solution to Jewish assimilation. In the academic debate, Zionism is usually seen as a “revolution” in the Jewish world, a revolution that aimed at reformulating Jewish identity. In the words of the Zionist thinkers, the time had come for a reformulation of the Jewish experience in a “secular” and “modern” context; the Zionist project entailed a modernization, secularization and politization of Judaism with the end to fit it in the new socio-political framework of the nation-state. Modernization and secularization were fundamental to extirpate from the Jewish identity its “exilic” inclination fostered by religious tradition.

In the Jewish tradition, the concept of sovereignty has always been a subject of debate. In the same Hebrew Bible⁵⁰, we find the seed of the discussion surrounding the idea of a Jewish sovereign entity: prophet's "theopolitics" could only be counterbalanced by a centralized kingship⁵¹.

Jewish histories, traditions, and laws express the tension between the inescapable need to create a collective political entity in the form of sovereignty, and eventually polity, and the predefined and ultimate God's authority.

The same tension and aspiration did not disappear in the nearly two millennia that characterized Jewish life outside *Eretz-Yisrael*. Should the Jews aspire to (re)gain sovereignty? Should they accept,

⁵⁰ In I Samuel chapter 8:6 (Revised Standard Version) records the request to God for a king by the Israelites.

⁵¹ Yadgar, *Sovereign Jews*, 1.

galut, the exile, and diasporic reality as a meta-historical framework where traditions and laws do not require political independence? These, among other questions, aggravated the rabbis, whose task in the exile concerned reminding *Am Yisrael* the oaths and promises of God to his people while far from the Promised Land.

The same concept of *galut*, the Hebrew word for *exile*, in a sense, is the antithesis of the concept of sovereignty: exile then, it is not only a spatial experience, but it is also a temporal and political one denoting the lack of Jewish sovereignty which is transferred in God's hands⁵².

Those Orthodox rabbis who took the establishment of the state of Israel as a quasi-blasphemy and firmly rejected the Zionist plans, justified their position in the traditional Talmudic notion (*midrash*) of “three oaths”, two for the Jewish people namely to not ascend *en masse* to the Land of Israel and to not rebel against the nations of the world. From these oaths, in a Rashi’s variation, one must conclude that Jews shall not force the hand of God in starting the messianic era. The most important sponsor of this firm vision against the perceived false messianism of Zionism was Rav Joel Teitelbaum with its publication *Vayoel Moshe*. As Moses decided to stay an alien in foreign land, so the Jews must choose to remain in *galut* rather than joining the Zionist ways⁵³. Rav Teitelbaum’s work was the foundation of the resistance of the ultra-Orthodox Hassidic movements against what they perceived as Zionist propaganda. Unlike the Religious Zionists or Agudat Israel that eventually came to terms with the Zionist’s attempts to create a Jewish State, Rav Teitelbaum’s followers were firm in their belief that, by establishing a modern European fashion-like state, the Zionists had substituted a nationalistic Jewish identity for a religious one. By imitating the gentiles, the Zionists had secularized the notion of Jewish peoplehood thus violating the principle of complete resistance to external influence since “what is new is prohibited by the Torah”⁵⁴.

⁵² Yadgar, Yacov, *Sovereign Jews: Israel, Zionism and Judaism, Introduction*, p.1

⁵³ Z. J. Kaplan, ‘Rabbi Joel Teitelbaum, Zionism, and Hungarian Ultra-Orthodoxy’, *Modern Judaism* 24, no. 2 (1 May 2004): 170, <https://doi.org/10.1093/mj/kjh012>.

⁵⁴ Ibid, 166

Rebelling against the exilic condition was at the heart of Political Zionism, the Herzelian stream of Zionist ideology. Herzl's thread advocated establishing a Jewish sovereign state using the same conceptual framework of Europe's nationalization process. In general, Zionism prided itself as the catalyst force behind the Jewish people's modernization: it strived for secularizing Jewish identity while simultaneously nationalizing, or politicizing, it⁵⁵. Indeed, Zionism has introduced in the Jewish "theo-political" traditions the concept of nation-state, the fruit of European and Christian (predominantly protestant) history and tradition epitomized in the Wars of Religion and the Peace of Westphalia.

A representative of the theory that sees Zionism as a modernizing revolution is Shlomo Avineri. Avineri, one of the more prominent authors who identifies Zionism as a Jewish revolution, defined Zionist thought as a modern answer to the question "Who is a Jew" and what its identity entails⁵⁶. This answer was key to a modern imperative, namely the necessity to offer a "secular formulation" to a Jewish meaning (the early notions of this formulation can be found in the attempts made by the *maskilim* in the 18th Century). Secularization meant a decline of the status of religion in the Jewish communities and a liberation from traditions. In a dichotomous conceptual scheme that synonymize modernity-premodernity with secular-religious, Zionism answered to the meaning of Jewish identity assumed that Jewish (religious) traditions as a basis for historical development⁵⁷. This equation posits an (alleged) paradox: Zionism which is secular by definition is tightly tied to Judaism which is rooted in religious tradition. For Avineri, Zionism is a secular substitute to Jewish religion as agent of unification for the Jewish people and gave a new public meaning to Jewish Identity⁵⁸.

⁵⁵ Yadgar, *Sovereign Jews*, 68.

⁵⁶ Avineri, Shlomo. Essay. In *The Making of Modern Zionism: the Intellectual Origins of the Jewish State*, 4. New York: Basic Books, 2017.

⁵⁷ Shlomo Avineri, *The Making of Modern Zionism: The Intellectual Origins of the Jewish State* (New York: Basic Books, 2017), 13.

⁵⁸ Ibid.

The narrative that sees Zionism as the secularization process of the Jewish tradition has found a large share of critics. For Yosef Salmon, Zionism is a clear example of co-dependence between religion and nationalism⁵⁹. He writes:

“In Jewish nationalism, there was not a single thinker or influential person who demanded separation between religion and nationalism or believed in it. Even those who call for a separation of religion and state did not extend this demand to the national Jewish movement in its whole.”⁶⁰

Salmon is convinced that those historians and sociologists who assert that Zionism is a secular nationalist movement are doing so on a stereotypical understanding of the interaction between religion (or Jewish traditions in this case) and nationalism⁶¹. This stereotypical narrative sees Zionism not only as “negation of the exile” but also a rebellion against Orthodoxy (as the epitome of religious tradition) and the staunch opponent of Religious Zionism and messianism. Such scholars, argues Salmon, have identified Zionist historiography as an axiomatic model that conflicts with historical substance⁶². Zionism is then a modern but not yet secular movement⁶³.

Although many scholars followed Salmon in trying to portray a more nuanced narration of the relations between Zionism and Jewish traditions, the secularization narrative still holds tight.

Many Zionist intellectuals have tried to provide an exhaustive redefinition of Jewish history and identity so to adapt it into a nation-state framework and all of them have crafted different conclusions and solutions. Among them, Ahad Ha'am was the proponent of interpreting Jewish traditions as a “culture”. Ahad Ha'am's positivistic stances allowed him to relegate religion to a subsidiary status within the cultural Jewish experience; secularism is then the replacement of religion with racial

⁵⁹ Yosef Salmon, *Religion and Zionism: First Encounters* (Jerusalem: The Hebrew University Magnes Press, 2002), 115., ed. Jehuda Reinharz, Yosef Salmon, and Gideon Shimoni, Jerusalem and Boston: The Zalman Shazar Center for Jewish History and the Tuaber Institute, Brandeis University, 1996. (Hebrew), cited in Yadgar, *Sovereign Jews*, 73.

⁶⁰ Ibid, 116

⁶¹ Yadgar, *Sovereign Jews*, 73.

⁶² Yosef Salmon, *Religion and Zionism*, 115

⁶³ Ibid.

sentiment (*regesh hagezah*), blood kingship (*kirvat hadam*), or spirit of the nation (*ruach haleom*). Ahad Ha'am wishes to answer to the question "Why be a Jew" rather than "Who is a Jew"⁶⁴. However, in Ahad Ha'am's thought, fully awareness of Jewish culture could not be separated from the intimate knowledge with all the layers of Jewish tradition: texts, practices and language⁶⁵. This conception of Jewish culture in a nationalist framework would give birth to what is commonly understood as the "division of labor" between Orthodox and secular Jews in Israel. Such framework requires national unity. For Yadgar

Ha'am also outlines what would later become a common (secular) Zionist practice among the Zionist settlers in Palestine and in the State of Israel: On the one hand, a negation of Liberal or Reform Judaism (since, given its definition of Judaism as a religion, which also disregards Jewish law, it is viewed as abandoning the Jewish "substance" especially in its national iteration); and on the other hand, a criticism of Jewish Orthodoxy for failing to evolve. In the middle of these two negations lies the principle willingness for what is seen as a "compromise with those who identified as religious, in the name of national unity"⁶⁶.

The above-mentioned compromise is necessary, and it is justified in the name of loyalty to the Jewish true essence and national consciousness. This compromise, however, carries a major price to pay, the acceptance of the Orthodox claims to be the sole Jewish authentic experience. This was the solution adopted by the first generation of "Statist Jews", the first political generation of the State of Israel.

⁶⁴Yadgar, *Sovereign Jews*, 99.

⁶⁵Ibid.

⁶⁶Ibid, 106

1.5 Jewish traditions as a continuum: religiosity over religion and the identity dilemma

The cleavage between religious (Orthodox) and non-religious, or “secular”, is beyond doubt the major perceived central split among Israeli Jewish citizens after the main Arab-Israeli cleavage. However, as for the previous analysis, when Israeli Jews define their attitudes towards religion, the religious-secular dichotomy is by no means satisfactory. For many individuals in Israel as well in the diaspora, would find it difficult to answer “yes or no” with a clear-cut question such as “Are you religious?”. Conversely, they will set themselves along four categories: secular (better non-religious), *Masorti* (traditional), Orthodox and ultra-Orthodox.

As seculars should be defined as those who do not observe any tradition in a religious sentiment, meaning that if they do observe some traditions, they do so in a form of cultural adherence to the “Jewish spirit of Zionism”. Beyond this category, there is also a wide group of individuals who are reluctant to call themselves either “secular” or “religious,” and tend to view themselves as “keeping to some traditions” such as lighting Hanukkah candles, having a family festive dinner on Friday, attending synagogue service on major festivals (especially Rosh Hashanah and Yom Kippur) etc. At the next stage of religiosity, there are the religious (*datiim*) who often also refer to themselves as national religious or “modern Orthodox”, and often are fervent “Kookians” (*datiim le’umi*), supporters of Religious Zionism. They are proud to be observant in the context of modern Israeli society, participating in all political and civil frameworks and portraying themselves as devoted Zionists, as they serve in the army. The next stage of religiosity is that of the ultra-Orthodox (*Haredim*, which means “tremblers [before God]”). Historically, the ultra-Orthodox were the among the first to oppose Zionism jointly with the reform movement. For many years, they viewed Zionism as a form of collective assimilation and an evil distortion of Jewish tradition and an act of disobedience against God’s commandments as stated in the Talmudic midrash of the three oaths, and tended to isolate separate themselves institutionally and individually from the mainstream of Israeli

society⁶⁷. The Reform movement instead, not only opposed the means employed to achieve the Zionist goal (the settlement of the land) but also questioned the very theological idea of a return to Zion both in Zionist and Orthodox terms. The *galut* for the Reform thinkers was not a condition that needed correction since it was a vital part of Reform religious, philosophical and ethical thought. However, as political Zionism evolved also Reform attitudes evolved to the point of transforming anti-Zionism in non-Zionism⁶⁸. However, after 1948 the position of the Reform movement towards Zionism and the constitution of the state of Israel changed dramatically leaning towards non hostility and acceptance.

By a large, Jewish Israeli society seems to be best described as a continuum where the largest group are the seculars, then traditionalists, followed by religious, and ultra-Orthodox being the smallest⁶⁹. Israel's religious continuum is nonetheless the manifestation of the existence of multiple Jewish traditions rather than the existence of a single Judaism.

The Reform and Conservative movements have a far smaller footprint in Israel compared to their US counterparts; according to the latest available Pew Research Center's survey of religion in Israel (2016) previously mentioned, 2% of Israelis declare themselves to be Conservative while 3% identify as Reform⁷⁰.

Israeli Jewish attitudes can be counted positive regarding the Reform and Conservative denominations, and toward expressions of religious pluralism in general. According to a Jerusalem Post survey, the majority of Jews favors the financial recognition of the minoritarian movements and positively receives their major involvement as a religious alternative in Israel⁷¹, meaning that also Reform and Masorti rabbis and synagogues might be salaried by the state or receive public funds,

⁶⁷ Yochanan Peres, 'The Religious-Secular Cleavage in Contemporary Israel', in *Jewry between Tradition and Secularism*, ed. Eliezer Ben-Rafael, Yosef Gorny, and Thomas Gergely (BRILL, 2006), 123, https://doi.org/10.1163/9789047409649_015.

⁶⁸ Naomi Wiener Cohen, 'THE REACTION OF REFORM JUDAISM IN AMERICA TO POLITICAL ZIONISM (1897-1922)', *Publications of the American Jewish Historical Society* 40, no. 4 (1951): 364.

⁶⁹ The data is confirmed in numbers by the latest Pew Research survey, *Israel religiosity divide*, Pew Research Center 2016, <https://www.pewforum.org/2016/03/08/israels-religiously-divided-society/>

⁷⁰ Ibid.

⁷¹ Gil Hoffman, "Majority of Jewish Israelis want egalitarian prayer site at Kotel" *Jerusalem Post*. September 16, 2016

both cases true for the Orthodox establishment. Moreover, non-Orthodox scholars cannot sit in the state religious councils which deal on a local scale with religious issues and halachic decisions⁷².

The great share of *hilonim* who, on the political axis, are both on the left, central-left and right-wing spectrum (Meretz and Yisrael Beitenu) shows sympathetic feelings towards the Masorti and Reform Movement whereas neutrality in the matter is chosen by many traditional Israelis positioned on the center-right⁷³. Hostility and rejection are the main manifestation among Orthodox and especially Haredi Jews on the political right.

⁷² As of today, only one non-Orthodox scholar has been admitted to seat in a religious council, see

⁷³ The Jewish People Policy Institute, "Attitudes to Jewish Pluralism and the Reform and Conservative Movements in Israel", available at http://jppi.org.il/en/article/risingstreams/toc/attitudes/#.X-N_Fy9abOQ

2. It is both a matter of Religion and Nation: the “Status Quo Agreement” as a test of the right to Israeli citizenship

The secularity of a Zionist ought to be different than that of a simple non-Zionist, in as much as the religiosity of a Zionist is different than that of a non-Zionist.

David Ben Gurion⁷⁴

2.1. At the beginning there was a compromise in the Yishuv: the etiology of a problem.

Israel's declaration of Independence was drafted on the 5th of Iyyar 5708 (14 May 1948). However, the *megillah*, crafted in all the glory of the revival of the Hebrew language, saw the light under turbulent moments. Shabbat was fast approaching, and the assembly entitled to craft the declaration was facing a thorny dilemma: should the Declaration of Independence contain a reference to “The God of Israel”? Some might have argued that the occasion that brought the members of the commission together was in itself a miracle: after nearly two millennia of exile, Jewish sovereignty in the Land of Israel was about to be restored. Of course, extraordinary times call for extraordinary measures, but they always have to be preceded by astounding questions to be asked. For the secular participants, mainly Socialist Zionists, the very mention of the supranatural was unthinkable; the religious participants thought gratitude should be given to the Holy One who allowed their generation to witness the answer to centuries of prayers in exile. The solution to the problem came in the form of the evocative expression “*metoch betachon be 'Zur Yisrael*” and therefore, the Independence was sealed in the trust in the “Rock of Israel”. The expression served well both religious and secular leaders; indeed, the term *betachon*, could be interpreted as “security”, as military security, or “faith”

⁷⁴ J. M. Barbalet, Adam Possamai, and Bryan S. Turner, eds., *Religion and the State: A Comparative Sociology* (London ; New York: Anthem Press, 2011), 93.

as faith in the Blessed One. When the declaration was once completed, it had the support of numerous parties, from the religious representatives of Agudat Israel to the Israeli Communist Party⁷⁵.

At the very start of the Israeli state experience, it is possible to find already the elements of compromise, based on deference and ambiguity, that characterizes the relationship between the Orthodox establishment and the state whose roots are to be found in the Yishuv period. As seen in the previous chapter, the ideological rifts that marked Israel's formation have their origins in the early Zionist movements in Europe and in the pre-state Jewish community in Palestine (*Yishuv*). Roughly, the visions that characterized the ideal Jewish state can be described by the angles of a triangular continuum⁷⁶. Socialist Zionists envisaged a democratic state based on socialist economic principles; secular culture should flourish while religious institutions were granted protection by the virtue of pluralism and democratic principles. The Revisionist Zionists hoped for a strong military state, where liberal economic principles would ensure the state's prosperity. The last angle of the triangular continuum is represented by the visions of the Religious Zionists who envisioned a theocratic state with *Halacha* as the sole compass (haMizrachi, which opposed to Agudat Israel's rejection to join Zionist secular forces in the Yishuv). The Socialist and Revisionist forces, although divided on political credos, both shared a secular vision for the state which stood in strong opposition to the Religious Zionist project⁷⁷, which strived for the establishment of a polity where religious law would prevail⁷⁸. Outside of the triangular continuum stood the Orthodox forces of Agudat Israel: they shared with the Religious Zionists the need to base the public life of the future state on the Torah and its tenets, however they could not possibly accept the creation of the Jewish polity as a product of man since, traditionally, only the messiah could legitimately restore a Jewish sovereign entity as fulfillment of the prophecies and in accordance with the *midrashic* oaths. For their part, the Orthodox

⁷⁵Cohen and Susser, *Israel and the Politics of Jewish Identity*, 11.

⁷⁶Isaac Olshan, "Jewish Religion and Democracy" in authors Itamar Rabinovich and Jehuda Reinharz, *In Israel in the Middle East: Documents and Readings on Society, Politics, and Foreign Relations 1948 – Present*, (Waltham, MA: Brandeis Univ. Press, 2008): 50

⁷⁷ Mark Tessler, 'Secularism in Israel: Religious and Sociological Dimensions', *Discourse* 19, no. 1, (1996): 63.

⁷⁸ Ibid.

leadership, who fiercely declared its antagonism to the Zionist project, faced a thorny question in deciding whether to support the creation of the State of Israel. For Orthodox Jews the Land of Israel was the Holy Land, therefore any polity claiming to be Jewish in the Holy Land must entail adherence to *Halacha* precepts. For the secular forces however, it was clear that religious law was an obstacle to the development of a modern and progressive society⁷⁹. These divergences threatened the unity of the Zionist movement especially in front of the international forces who were planning the possibility of the creation in Palestine of a Jewish state. The politics and dynamics of the religious status quo in Israel have their roots in three key periods in the Jewish experience in Eretz Yisrael, namely the transition from the British rule, the United Nations decision to establish a Jewish state and the Independence War of 1948⁸⁰. More than being just an historical issue for the records, the status quo is also a substantive matter, since it explains the coercive role of the religious forces in Israel and their role in the maintenance of the Jewish character of the state of Israel vis-à-vis a secular political majority⁸¹. Before describing the contents of the mythical letter believed to be the source of the status quo in religious matters, it would be useful to dwell on the debate within the Orthodox movements in the Yishuv and their position vis-à-vis the secular Zionist forces.

The discussion concerning the creation of a Jewish state were not only confined to the Orthodox communities already settled in Palestine, but it entailed the participation of the Orthodox movements in the diaspora as well, since the presence of the Orthodox community in Palestine was rather small. A week after the UN decision on the partition of Palestine (May 29th, 1947), a pamphlet entitled “Material Concerning the Question of Establishing and Organizing a Jewish State according to the Torah” was published by Agudat Israel’s leader in the United States Dr. Yitzhak Levine. According to Friedman, two articles are the key to understand Orthodox positions in the creation of a Jewish State in Eretz Yisrael. Two Agudat Israel’s leaders, Moshe Blau and Dr. Isaac Breuer proposed that

⁷⁹ Menachem Friedman, “The structural foundations for Religious Political Accommodation in Israel” in Troen, S. Ilan Troen and Noah Lucas, eds., *Israel: The First Decade of Independence*, SUNY Series in Israeli Studies (Albany: State University of New York Press, 1995), 51.

⁸⁰ Ibid.

⁸¹ Ibid, 52

the future state would recognize the authority of the Torah in public life⁸², meaning that Halacha would dictate the rules on marriage issues, education, dietary laws and the sanctification of shabbat. As a representative of the Orthodox world, Moshe Blau was afraid that Zionist secular forces would not allow religious Jews to observe in public spaces and to keep the *Shabbat*, to educate their children according to their custom in religious schools, therefore he proposed to ask for the creation of autonomous communities in case the future Jewish state would not be Torah-based. It is important to stress here that, during the British Mandate on Palestine, the several religious communities of Palestine fell under the purview of the Ottoman *millet* system: in personal law matters each religious community had its own court of law. Indeed, Jewish religious communities enjoyed a great deal of judicial authority concerning "personal status" matters and the creation of a secular Jewish state was perceived as jeopardizing their autonomy⁸³. Indeed, the Religious Communities Organization Ordinance and the Jewish Community Rules emanated on the January 1st, 1928 recognized as the sole ecclesiastic Jewish authority the Rabbinical council and the Chief Rabbinate, thus defining Judaism in Palestine as Orthodox. For the forces of the Mandate, the recognition of Jewish autonomy based on religious element had the goal to downplay the nationalist character of the Yishuv.

The Second World War and the tragedy of the Holocaust contributed to shake the staunch anti-Zionist attitudes of Orthodox rabbis both in Palestine and the diaspora. The great yeshivas, the powerful rabbinic dynasties and the dense network which constituted the diasporic life in the *Yiddishkeit* all disappeared in the tragedy of the Holocaust, leaving the Orthodox and ultra-Orthodox communities with the task to preserve what was left of the *splendor*, although lachrymose to some extent, of the Jewish communities of Central and Eastern Europe. For Agudat Israel, the main force representing Orthodox communities of Central and Eastern Europe in the Yishuv, the question regarding the recognition of the Jewish state was not only an ideological one but also a political and economic one.

⁸² Menachem Friedman, *The structural foundations*, 54

⁸³ For a detailed account on the life of religious communities under the millet system see, Daphne Tsimhoni, 'The Status of the Arab Christians under the British Mandate in Palestine', *Middle Eastern Studies* 20, no. 4 (October 1984): 166–92, <https://doi.org/10.1080/00263208408700605>.

Their anti-Zionist propaganda and their opposition to Jewish Orthodox migration to the Yishuv prior to the horrors of the Holocaust, had left Agudat Israel in a difficult position vis-à-vis the Zionist secular forces; their credentials were dismissed and the fear of not being able to play an active role in the decisions concerning the future state were tangible. Economically, without the strong ties of the now almost annihilated European diaspora, the financial resources were scarce, since Agudat Israel never managed to establish a socio-economic system in Palestine as strong as the secular one; indeed, Agudat Israel never joined the secular Zionist fund-raising system (the United Jewish Appeal); the party's weak position is epitomized in the "Tehran Children" affair⁸⁴.

The struggle of Agudat Israel to find its place in the power configurations of the Yishuv reflected on the internal struggles within the group; indeed those who firmly opposed any collaboration with the Zionist secular forces seceded from the group forming Ha'eda Haredit and Neturei Karta and left Agudat Israel in a precarious numerical position. The final stroke was given by the death of Rav Moshe Blau who became the leader of Agudat Israel in Palestine during these fragile years of negotiations⁸⁵. Lowered in number and with a fragile political position, since not all the *Gedolim* who orbited the organization were willing to openly turn Agudat Israel into a political religious party affiliated with the Zionist movement, the main leaders thought that the time had come to contact the Jewish Agency and start to bargain for the survival of Orthodox customs in the future state. With the arrival of the Anglo-American committee in Palestine, Agudat Israel leadership knew that the Jewish Agency needed the support of all Jewish parties in testifying to the committee that Eretz Yisrael was the only conceivable safe place for the persecuted scattered Jews of Europe. According to Friedman, Agudat Israel faced a thorny dilemma: while willing to repeal the limitations to Jewish migrations of the White Paper, the party also wanted to subtract the Jewish definition of the State to secular forces⁸⁶. If the creation of the state was inevitable, then Agudat Israel asked for reassurances about the

⁸⁴ Menachem Friedman, *The structural foundations*, 55

⁸⁵ For a testimony of Rav Blau, see "Rabbi Moshe Blau, Leader of Palestine Agudas Israel, Dies in Messina, Italy", *Jewish Telegraphic Agency*, available at <https://www.jta.org/archive/rabbi-moshe-blau-leader-of-palestine-agudas-israel-dies-in-messina-italy>

⁸⁶ Menachem Friedman, *The structural foundations*, 56

possibility to comply with an Orthodox observant life for whomever wished so. In other words, secular Zionism should not be the substitute for religious practice and should not be enforced on all citizen indiscriminately.

By the end of 1946 the secular forces in the Yishuv were significantly outnumbering the anti-Zionist forces, and Agudat Israel's political power was at its lowest; the leadership affirmed that the time had come to start the negotiations with the Jewish Agency to get what they could from it⁸⁷.

While fears for the non-religious character of the state paralyzed many *gedolim* to fully support the negotiations with the Jewish Agency, the leadership sought to resort to pragmatism and ask the Agency for autonomy of religious communities in matters of personal status law and religious education. According to Rav Levine, these rules concerned the "purity of the nation"⁸⁸. While the Jewish Agency assured Agudat Israel that autonomy would be easily granted, the leadership however was not satisfied by the refusal to base the constitution of the new state solely on the Torah and put a halt the consultation with the Agency. By doing so Agudat Israel was hoping to see an extension of the British Mandate or the creation of a Jewish-Arab federation where its political power would have been at the same level of the secular forces⁸⁹. These visions were unrealistic and David Ben-Gurion decided to urge Rav Levin himself for the sake of the "Jewish interest" to let the Jewish Agency represent the whole nation. After moments of hesitation, Rav Levin informed the Jewish Agency that Agudat Israel was ready to accept the Jewish Agency representation only if their religious demands were met.

The reasons that led Agudat Israel to abandon its anti-Zionist stances relied on the realpolitik of the Yishuv. First of all, the small demographic number of Orthodox in the Yishuv never allowed the movement to grow as a political force and be an effective counterbalance to secular forces. Secondly, the scarcity of their economical means never allowed Orthodox entities to build a strong counter-

⁸⁷ Menachem Friedman, *The structural foundations*, 55

⁸⁸ Ibid. p. 56

⁸⁹ Ibid.

movement to the socialist *halutzim*. Lastly but no less important, by 1947 when the letter of the Jewish Agency reached the Agudat Israel headquarters, the creation of the Jewish state was more of a reality than a hypothesis. With scarce means to counterbalance their ideological competitors, Agudat Israel chose pragmatically to ask the Jewish Agency for autonomy in personal status law and religious education; for the leadership it was a better result that leave the whole state formation process in the hands of the secular forces. For Agudat Israel the gains, which seemed scarce at the beginning, were worth the compromise with the its nemesis. As it will be presented later, these requests that seemed symbolical at the moment, turned to be among the most important issues in Israel's society. By allowing the Orthodox forces to be *de facto* the custodian of the Jewish definition and of the purity of the nation, the Yishuv's secular forces opened the door not only for the secular-religious impasse on the definition of Israel as the Jewish state, but also prevented any other religious definition of Judaism to be valid and equally recognized by state institutions as it was during the Mandate. The lack of a written Constitution that clearly states the division between state and synagogue has reinforced the stalemate of the impasse and the alienation of liberal Jewish streams from the religious landscape of the state. The next paragraphs will analyze the status quo agreements and explain why the secular leaders agreed in entrusting the Orthodox sector with such vital defining role.

2.2 The “Status Quo Agreement” as a (failed) strategy of *appeasement*

In political science jargon, the status quo agreement is a conflict-neutralizing tool. The *status quo* is the name of various formal and informal arrangements, practices and political norms that describe the co-dependent relationship between religion and politics in Israel. This political configuration would draw a line between secularity and religiosity as they are practiced and lived in Israel. This “non-situation” represents the identification of the State of Israel as non-religious (secular) but nevertheless Jewish. The terminology used is understood to indicate a “ceasefire”, a truce or compromise between allegedly irreconcilable forces in a zero-sum game, where the parties slowly

negotiate their aspirations and needs in the name of national unity. According to Justice Barak-Erez, the two quarreling sides are the state law (secular by definition) and “religion”⁹⁰. For Shulamit Aloni the *staus quo*, represents the attrition between the rule of law and the rule of *Halacha*⁹¹. According to the general understanding, the *status quo* serves as a regulator of the legal status of religion. More than a truce, the *status quo* refers to unwillingness to change the state of the art of the Yishuv: what was the rule in the Yishuv would be the rule in the state. Hence, the circumstances present at the Declaration of Independence would be frozen⁹².

The *status quo* agreement is surrounded by a sanctified aura; it functions as a semi-constitutional document that is not fully understood by the parties and that leads to multiple interpretations but plays an important mythic role in suggesting that there is a fixed criterion for resolving political disputes concerning the domain of religion in the life of the state.⁹³

The origins of this mythical tool are to be found, according to the prevailing view, in a letter that David Ben Gurion, chairman of the Jewish Agency sent on the 19th of June 1947 to the leader of the ultra-Orthodox party Agudat Israel. However, as seen previously, the letter was the simple confirmation of the negotiation between secular and religious forces from which started in 1946. The occasion for the epistolary exchange concerned the upcoming visit of the United Nations Special Committee on Palestine which had commenced a fact-finding expedition on the feasibility of the creation of a Jewish State in Palestine (UNSCOP)⁹⁴. It generally accepted that the anxiety that led Ben Gurion to have a united Jewish front facing the UNSCOP justified the “greatest sin” in Israeli politics, namely socialist forces accepting to give a generous partial blank check to the *Haredim*⁹⁵. Indeed, the Jewish actors concerned in the creation of the Jewish state were divided into the triangular

⁹⁰ Cited in Yadgar, Yacov, *Sovereign Jews*, 212

⁹¹ Shulamit Aloni, *The Arrangement: From a State of Law to a State of Halacha*, Tel-Aviv: Otpaz, (1970). (Hebrew)

⁹² Cohen and Susser, *Israel and the Politics of Jewish Identity*, 17.

⁹³ Charles S. Liebman and Eliezer Don-Yehiya, *Religion and Politics in Israel*, Jewish Political and Social Studies (Bloomington: Indiana University Press, 1984), 31.

⁹⁴ Itamar Rabinovich and Jehuda Reinharz, eds., *Israel in the Middle East: Documents and Readings on Society, Politics, and Foreign Relations, Pre-1948 to the Present*, 2nd ed, The Tauber Institute for the Study of European Jewry Series (Waltham, Mass. : Hanover: Brandeis University Press ; Published by University Press of New England, 2008), 59-60.

⁹⁵ Itamar Rabinovich and Jehuda Reinharz, eds., *Israel in the Middle East*, 59-60

political continuum above described. While the socialist forces and the revisionist forces set aside their differences for the sake of unity facing the UNSP, the religious parties were rather reluctant to give up their Yishuv autonomy without a clear statement from the secular forces on the willingness to preserve the Jewish essence of the state (namely a Torah abiding state). Ben Gurion, however, perceived the religious threats as empty and without any real coercive power but was willing to accommodate some of the requests of Agudat Israel, namely matters regarding marital affairs, the observance of shabbat, autonomy of education and freedom of religious conscience (which for the Orthodox forces meant freedom to preserve and observe their religious lifestyle)⁹⁶. On 19th of June 1947 the headquarters of Agudat Israel received the letter signed by Ben Gurion in the name of the Jewish Agency (defined as the “government in waiting” of the Jewish State⁹⁷). The letter has two parts: the first part is a preamble which informs the readers of the constraints binding the Jewish agencies, meaning that more than promises the “government in waiting” could just demonstrate sympathetic feeling towards the requests, and a second part in which the Jewish Agency states its position on the four matters above mentioned. The formulations used by the Jewish Agency were rather nebulous: it is never mentioned, for instance, that the Sabbath would be observed, rather the formula asserted that the Sabbath will be considered the day of rest (echoing the European concept of day of rest as a social right rather than a sanctification of Sabbath for religious reasons. Other weak and feeble formulations were also used for what concerns marital laws and kosher food issues, making clear that the Jewish Agency was appeasing the demands of Agudat Israel while waiting for the creation of the State with a modern constitution, allegedly believing that religious demands would eventually surrender in front of the constitutional doctrines of modern democracies. More importantly, the autonomy granted to the orthodox and ultra-orthodox sectors granted to the yeshiva students the exemption from the military service creating an unjust distribution between the rights of a minority group and the duties of the majority.

⁹⁶ Menachem Friedman, *The structural foundations*, 55

⁹⁷ Itamar Rabinovich and Jehuda Reinharz, eds., *Israel in the Middle East*, 60

To Ben Gurion and the secular establishment, the requests of Agudat Israel seemed symbolic in nature, but those same issue still represent a problem in the relationship between secular, liberal Jews and religious Jews in the State of Israel. It might sound odd that a strong secular leader like Ben Gurion was willing to relinquish such important aspects of the Jewish definition of Israel in the hands of a strict religious minority. The scholarship is not unanimous in the explanation of such event, but many relate the three major points that might have motivated Ben Gurion's choice. First of all, the numeric presence of haredim both in the Yishuv and in the new state was so scarce to not constitute in the eyes of the secular elite a threat to the secular nature of the state of Israel⁹⁸. Secondly, as Zameret and Tamlim points out, there was a significant tradeoff between Ben Gurion the visionary man and Ben Gurion the visionary leader⁹⁹. As an open anti-Halacha leader, Ben Gurion was open enough to listen and accommodate Orthodox requests even if he believed that modernity had sealed religion in the past. In this very belief, he placed the solution to the problem of the demands of the Orthodox in the new state of Israel. Indeed, Ben Gurion was convinced that the Jewish experience in the state of Israel would homogenize the identity of the new Jews; although every Jew, according to the socialist leader, had the right to express his or her attachment to the religious tradition as he or she saw fit, the Zionist experience in the Land of Israel would soon take the place of the remnants of the diasporic experience, one of them religion. According to Ben Gurion, every Jew in Israel was Jewish by virtue of his or her life in Eretz Yisrael, whether Orthodox or not. As a true heir of Spinoza, Ben Gurion rejected ritualistic Judaism; in fact, he believed in the need to establish civil marriages and saw kashrut as the most anachronistic of Jewish precepts. Conversions for Ben Gurion represented a flaw in biblical interpretation rather than a true scriptural demand. To the question "Who is a Jew?" the Mapai leader responded by asserting that anyone who heartily desired to be one provided that he or she was not part of any other religion¹⁰⁰.

⁹⁸ S. Zalman Abramov, *Perpetual Dilemma: Jewish Religion in the Jewish State* (Rutherford, N.J: Fairleigh Dickinson University Press, 1976), 23.

⁹⁹ Zvi Zameret and Moshe Tamlim, 'Judaism in Israel: Ben-Gurion's Private Beliefs and Public Policy', *Israel Studies* 4, no. 2 (1999): 70.

¹⁰⁰ Ibid.

During the turbulent years of parliamentary diatribes on "who is a Jew?" Ben Gurion, in a personal letter addressed to a rabbi, wrote :

"When our [Zionist] enterprise is completed, then I am positive no one will forbid a Jewish citizen in this Jewish state from marrying a Gentile woman. She will have become Jewish by dint of her living here without anyone taking note of her religion. If they will have children, they will be Jewish"¹⁰¹.

For ben Gurion then, the Zionist enterprise would embrace the different souls that made up the Jewish society of the Yishuv and new state, making obsolete any definition or differentiation between secular and religious, Orthodox or otherwise. To confirm his hypothesis, Ben Gurion recalled how both Mizrachi and Agudat Israel had overcome reticence in granting the vote to women and to declare the (at least formal) equality of man and woman in the Declaration of Independence. In Ben Gurion's ideal imagination, the rabbi and his legal courts would be another branch of public administration, perhaps a reminiscence of Kemalist reforms in 1920s Turkey¹⁰². Finally, for the pragmatic political leader, it was of vital importance to postpone any ideological battle between the religious and secular camp in order to preserve the Jewish presence in Eretz Israel and bring to life the dream of a Jewish State. Indeed, for Ben Gurion, maintaining the Jewish unity of the Yishuv during the bloody War of Independence was worth much more than an ideological battle.

Ben Gurion's faith in the Zionist enterprise was not enough to resolve the tensions between secular, liberal and religious Jews. The decision to entrust matters under the purview of personal status to the religious establishment was not only symbolic but also substantial. As will be seen in the next paragraphs, the crystallization of the status quo that took place in the first 20 years of the life of the State of Israel made it possible to strengthen the ethnocratic nature of the state by entrusting

¹⁰¹ Quoted in Zameret, and Tlamim. "Judaism in Israel", 74

¹⁰² For a detailed account of Ben Gurion's sojourn in the Turkish Republic see Anita Shapira and Anthony Berris, *Ben-Gurion: Father of Modern Israel*, Jewish Lives (New Haven: Yale University Press, 2014).

Orthodoxy with the Jewish definition of the state, creating in Israel perhaps the opposite of what Ben Gurion had hoped. Indeed, the lack of a formal written constitution that could set clear boundaries between state and synagogue gave birth to an impasse that would become all the more important when the State of Israel had to interface with the phenomena of globalization and multiculturalism at the time of formulating the criteria for Israeli citizenship.

2.3 Who is a Jew and the politics of conversion: the crystallization of the status quo

The first years that followed the Declaration of Independence did not witness the creation of a written Israeli Constitution. Following the Harari Decision, the Constituent Assembly (the First Knesset, *de facto*) opted instead for a series of Basic Laws; between 1950 and 1988 Israel passed nine Basic Laws which organized the Israeli legal-political institutions. This unsolved constitutional situation coupled with several administrative and legislative decisions have formulated the basic structure for the *status quo*, laying down the pattern of mutual interdependence between Zionist nationalism and Orthodox monopoly¹⁰³. First, several laws have fulfilled the main parsimonious promises of the status quo understanding. First of all the 1951 “Hours of Work and Rest Law”¹⁰⁴ which consecrated Shabbat as the national day of rest for Jews, secondly the “Kosher Food for Soldiers Ordinance”¹⁰⁵, the important “Rabbinical Courts Jurisdictions Law”¹⁰⁶ over marriage and divorce of 1953 which established the monopoly of Halakhic Law in personal status matters of Jews in Israel . The State and Education law of 1953 has guaranteed the autonomy of religious schools (which means autonomy in setting the

¹⁰³ Daphne Barak-Erez, ‘Law and Religion Under the Status Quo Model: Between Past Compromises and Constant Change’, in *Law and Religion, An Overview*, ed. Silvio Ferrari and Rinaldo Cristofori, 1st ed. (Routledge, 2017), 498, <https://doi.org/10.4324/9781315091990-16>.

¹⁰⁴ Hours of Work and Rest Law, 1951, *International Labour Organization, ILO*, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/36146/81476/F1584867301/ISR36146.pdf>

¹⁰⁵ Kosher Food for Soldiers Ordinance, available at https://www.nevo.co.il/law_html/law150/laws%20of%20the%20state%20of%20israel-5.pdf

¹⁰⁶ Rabbinical Courts Jurisdiction Law over marriage and divorce, available at https://main.knesset.gov.il/EN/about/history/documents/kns2_rabbiniccourts_eng.pdf

school's curriculum) in addition to the option to choose religious schools over national ones¹⁰⁷. The test proof of the status quo effects concerning Jewish nationalism and its tie to the religious traditions is tested by the Law of Return of 1950 (amended in 1970) when dealing with naturalization process of converts and people with Jewish ancestry who could not claim to be Jews according to Halacha. The "Who is a Jew?" question which is mainly of symbolic originally in the framework of the original Law of Return and in connection with official registration of a person's identity as brought on the public scenes by the "Brother Daniel" case¹⁰⁸. The Law of Return was voted unanimously by the Knesset on July 5th, 1950 in the remarkable short time period of two days: the date chosen for the approval was not a coincidence, since it marked the anniversary of the death of Theodor Herzl. This fundamental law embodies the Zionist "credo" and serves as ethnic "gate keeper" since its instrumental value allows the Jewish State to maintain a Jewish demographic majority¹⁰⁹. Every Jew, according to the Law of Return, is entitled to immigrate in Israel as an *oleh*. Here the terminology plays a very important role: Jews who come to Israel make *aliyah*, literally they ascend to Eretz Israel, in reminiscence of the terminology used in pilgrimages to the Holy Land in Biblical times. The theological nuances of the terminology have been adjusted by the Zionist ideology to give to it a sense of joining a national collective and a community of destiny. The Law of Return does not confer direct citizenship to the immigrant, but it only recognizes the right to come as *oleh*; this step-by-step incorporation regime that grants potential citizenship to the *olim* (plural of *oleh*), treats every Jew around the world as a possible repatriate rather than as a migrant. According to Joppke and Rosenhek, this legal framework reflects the self-perception of Israel as a country of returnees rather than

¹⁰⁷ The Knesset, "State Education Law", 5713-1953, 7 LSI 113 (1952-53), available at https://main.knesset.gov.il/EN/about/history/documents/kns2_education_eng.pdf

¹⁰⁸ Brother Daniel, H.C.J. 72/62 Rufeisen v. Minister of Interior, 16 P.D. 2428 (1962); Selected Judgments of the Supreme Court of Israel, Special Volume 1 (1971). For a detailed account of the first case in which Jewish religion and Israeli nationality were discussed, see Rabinovich and Reinhartz, *Israel in the Middle East*, 172.¹⁰⁹ Yoav Peled and Gershon Shafir, 'The Roots of Peacemaking: The Dynamics of Citizenship in Israel, 1948-93', *International Journal of Middle East Studies* 28, no. 3 (August 1996): 395, <https://doi.org/10.1017/S0020743800063510>.

¹⁰⁹ Yoav Peled and Gershon Shafir, 'The Roots of Peacemaking: The Dynamics of Citizenship in Israel, 1948-93', *International Journal of Middle East Studies* 28, no. 3 (August 1996): 395, <https://doi.org/10.1017/S0020743800063510>.

immigrants as it is seen from the outside¹¹⁰. The Law of Return constitutes a nationality Law since all Jews, and only Jews, are entitled to enter the land and receive nationality status. In Israel everything is strictly tied to the *le'um* (nationality, in this case religiously described) of each individual. Since its foundation, the State of Israel had a clear objective and *raison d'être*, that of being the state of the Jews world-wide. Citizenship and Nationality law are hindered around this quasi-epistemological end: Jews and only Jews are part of Israel nationality and it's impossible to detach it from its Jewishness. The Law of Return constitutes a nationality Law since all Jews, and only Jews, are entitled to enter the land and receive nationality status. According to Tekiner, there could be several explanations of why the Hebrew word for nationality, *le'um*, is absent front the title of the Law of Return, but the main explanation has to be found in a terminological debate within the at the dawn of Zionist movement's claims¹¹¹. Zionist leaders, after confronting the Jewish Diaspora who was afraid that the introduction of a Jewish Nationality could jeopardize the processes of Jewish Emancipation in Europe, opted for a more neutral and soft terminology embedded in the locution "Jewish people" rather than "Jewish Nation" or "Zionist Nation"¹¹².

In the years after its establishment, the agencies of the State started to use the term *le'um* for nationality; from being a simple bureaucratic category, the term evolved in a divisive device for differentiating among citizens; in a more direct way, the term *le'um* is the epistemological foundation for the legal differentiation between Jews and non-Jews¹¹³. The first appearance of the term *le'um* has to be dated back in 1949 in the first general census of the population. Started as a statistical experiment, it eventually turned into the Registration of Residents which contained the terms *le'um*, citizenship and religion. While citizenship was an objective and fixed term and religion was

¹¹⁰ Christian Joppke and Zeev Rosenhek, "Contesting Ethnic Immigration: Germany and Israel Compared." *European Journal of Sociology / Archives Européennes de Sociologie / Europäisches Archiv Für Soziologie* 43, no. 3 (2002): 301.

¹¹¹ Roselle Tekiner, 'Race and the Issue of National Identity in Israel', *International Journal of Middle East Studies* 23, no. 1 (February 1991): 44, <https://doi.org/10.1017/S0020743800034541>.

¹¹² Ibid, p. 48

¹¹³ Don Handelmann, 'Contradictions between Citizenship and Nationality: Their Consequences for Ethnicity and Inequality in Israel [1]', *International Journal of Politics, Culture and Society* 7, no. 3 (March 1994): 44, <https://doi.org/10.1007/BF02142133>.

discretionary, *le'um* as term ad neither clear significance nor usage¹¹⁴. It was the subsequent discussions and the Law of Return that gave to the term *le'um* a connotation that was strictly linked to “Jewishness”. With the establishment of the Law of Return in Halakhic term in 1950, the term *le'um* gained an ethnic value, meaning that the possible nationality could be Jewish, Arab or Druse, going back in time to a structure similar to the Ottoman Millet system.

Halakhic Jewish *olim* are then registered as Jewish nationals and can count spiritually and materially withing the boundaries of *Klal Yisrael*¹¹⁵. As Liebman posits, "the collectivity of Jewish Israelis has a weak sense of state in the Western sense and a strong sense of community. When they imagine Israel they imagine a community and not a state"¹¹⁶

What happens when non-Orthodox *olim* or non-Jewish spouses or even non-Jews who have the desire to convert, wants to marry, register a baby or get the citizenship in Israel? For the purposes of the Law of Return

[Section 3A]““Jew” means a person who was born of a Jewish mother or has become converted to Judaism and who is not a member of another religion.”¹¹⁷”

Among the many problems that might arise from these definition, one refers to the relationship between Orthodoxy and other Jewish streams which do not strictly abide to the orthodox halakhic interpretation of “Who is a Jew”. For example, the question that arises then, refers to which among the several Jewish traditions one should convert. Or how converts from the *masorti* or reform movements are considered for Aliyah purposes?

¹¹⁴ Ibid.

¹¹⁵ The term *Klal Yisrael* both in ancient and modern times refers the totality of the Jewish People. In its classical meaning *Klal Yisrael* refers a religious peoplehood with a divine Constitution embedded in the Torah. In its modern definition, the term has a political and ideological sense which refers to the communal dimension and its well-being and integrity in the face of a changing political and social process in the Diaspora. For a deeper analysis of the definitions of *Klal Yisrael* see, Judit Bokser Liwerant et al., eds., ‘Between Center And Centrality: The Zionist Perception Of *Klal Yisrael*’, in *Identities in an Era of Globalization and Multiculturalism* (BRILL, 2008), 23–34, <https://doi.org/10.1163/ej.9789004154421.i-446.6>.

¹¹⁶ Charles S Liebman, "Conceptions of 'State of Israel' in Israeli society." *Jerusalem Quarterly* Vol. 47 (1988), pp. 95-107 in Hadelman, Don (1994), in “Contradictions between citizenship and nationality, 44

¹¹⁷ The Knesset, “Law of Return available”, Basic Law of Israel, available at <https://m.knesset.gov.il/EN/activity/Pages/BasicLaws.aspx>

In the years between 1948 and 1950 when the Law of Return was discussed, the issue of mixed marriages created a great distress for the political forces. Not only the religious camp was against mixed marriage, but also the secular forces were convinced that citizenship should be conferred to a non-Jewish spouse only after conversion¹¹⁸. However, the applicability of the Law of Return was tested in the 1970s when the state faced migrations waves of Soviet Jews, many of whom, could not be considered Jewish according to Orthodox interpretation since they were considered Jewish by patrilineal descent in Soviet Union. By 1970, the Law of Return was amended to include a Jewish religious definition of Jewishness for *aliyah* purposes and for the Population Registry, with great content of the National Religious Party, a key actor in the government coalition of Golda Meir. The years that followed the amendment of the Law of Return were centered around the attempts of the Orthodox and ultra-Orthodox religious parties to restrict the policies of Jewish conversions in favor of Orthodoxy. As Weiss states, the discussion of the law's amendment was a pure Jewish internal affair, since there were no debates on how the question of Israeli citizenship would evolve vis-à-vis non-Jewish minorities but it was focused at maintaining a clear definition of "Who is a Jew" for the Population Registry. As Kimmerling states, anyone who is not registered as "Jew" in the Population Registries of the Jewish state will suffer of deficit of rights even if they hold the Israeli citizenship¹¹⁹.

It has been decided that the matter of determining one's 'religious' Jewish identity, to which one's Jewish nationality is essentially bound, is to be decided by members of the Orthodox rabbinical elite¹²⁰. More simply and direct, those immigrants deemed to be of the Jewish religion by the state are registered as 'Jewish' under both religion and nationality (regardless of the

¹¹⁸ Daniel Levy and Yfaat Weiss, eds., *Challenging Ethnic Citizenship: German and Israeli Perspectives on Immigration* (New York: Berghahn Books, 2002), 91.

¹¹⁹ Baruch Kimmerling, "The New Israelis: a Plurality of Cultures without Multiculturalism", *Alpayim*, vol. 16, (1988): 264-308 (Hebrew) cited in Levy and Weiss, 96.

¹²⁰ Yaacov Yadgar, *Israel's Jewish Identity Crisis: State and Politics in the Middle East*, 1st ed. (Cambridge University Press, 2020), 100, <https://doi.org/10.1017/9781108773249>.

nationality and prior citizenship). For immigrants who are not Jewish (but are granted citizenship by virtue of them being offspring of Jews or the spouses of these, as stated by the Law of Return), the state's practice is different: they are registered as non-Jewish under religion and their nationality is determined by their first citizenship. Here comes the paradox, by being lawful citizens of Israel they cannot be counted as part of the nation which constitutes Israel. Once a person in this situation decides to convert, he/she can be registered as part of the Jewish nation as well. Procedurally, the state decided to leave the task of determining one's Jewish identity for the Orthodox rabbis seated on the chairs of the Chief Rabbinate, whose understanding of Jewish identity is not strictly political but religious. The conversion process has little to do with ethos of the Zionist ideology, but it is primarily a process of religious catechesis¹²¹.

2.4 Who still needs a status quo? The Statist Jew and the definition of Jewish Identity

There is not a right answer to the question whether or not Ben Gurion was truly convinced that its *mamlakhtiyut* (Statism) would literally lead to a Jewish consciousness free of labels and definitions in the State of Israel. Even if the famous letter that symbolizes the status quo in the collective imaginary was aimed at reassuring the Orthodox forces to join the secular forces in the quest for the Jewish State in the Yishuv, what emerged in the years after the declaration of independence was a citizenship status that was directed at defining and protecting the Jewish character of the state of Israel vis-à-vis non Jewish minorities in the state. Moreover, the notion of Jewishness was tied to a specific religious definition, the Orthodox which also controlled the policies of conversions for *Aliyah* and census purposes. The inherent tension between the notions of "Jewish State" and "Democratic state" have been addressed by many scholars under several lenses.

¹²¹ Yadgar, *Sovereign Jews*, 100

What it is central to this analysis is to understand why such a confusing and blurred semi-constitutional document that serves as the basis of every coalition government that counts religious parties has survived for almost 70 years inspiring the legislation on the scope and limits of the freedom of religion and consciousness¹²². As previously seen, religious symbols have played an important role in the nation building process. According to Shapira, secular Zionism was cultivated by a messianic enthusiasm and adopted religious symbols so to that beneath the secular nationalist narrative, Jewish tradition never ceased to exist¹²³. The traditional culture and the reinterpretation of the texts by the secular Zionists led to the creation of a civil religion in the state of Israel that is deeply embedded with religious significance¹²⁴. Indeed, Jewish traditional culture provided Zionism with a narrative of continuity of nationhood, as Ben Porat testifies¹²⁵. From the cradle to the final place of rest, Jewish life in Israel is rooted in religious tradition with a nationalist secular flavor. As a result Zionism can offer to religion its interpretation but could not be completely detached from it, as it is directed by powerful religious structures¹²⁶. Zionism and religion share what Elam calls an ideological mantle that shadows Israeli society¹²⁷.

As previously described, the factors that led to the incorporation of religion in Zionist discourses in the Yishuv and then in the state, were practical and political at the same time¹²⁸. First of all the inclusion of religious groups that shared the desire for sovereignty, second the need for the secular forces to represent the totality of the Jewish people in the Yishuv and lastly the use of religion for the legitimization of territorial claims¹²⁹. This incorporation of religion led to the creation of an ordering force that, thanks to the so called status quo agreement, guided Israel in the formative years; indeed,

¹²² Yadgar, *Israel's Jewish Identity Crisis*, 20.

¹²³ Liebman and Don-Yehiya, *Religion and Politics in Israel*, 41.

¹²⁴ Ibid

¹²⁵ Ben-Porat, *Between State and Synagogue*, 32.

¹²⁶ Ben-Porat, 'A State of Holiness', 223.

¹²⁷ Elam, Yigal (2000), *Judaism as a Status Quo*, Am Over, Tel Aviv, in Ben-Porat, *Between State and Synagogue*, 32.

¹²⁸ Ibid.

¹²⁹ in Ben-Porat, *Between State and Synagogue*, 32.

the status quo legislation had (and still has) a direct effect on the lives of secular Jews. According to Susser and Cohen, the status quo that operated as guidelines for secular-religious negotiations in the formative years of the state, is still the basis of Israel's relationship between secular and religious forces. Beyond legislation and formal institutions regulating private lives, the status quo included formal and informal institutions that helped overcome disagreements. The ability of the status quo to survive lies in the desire of the social and political actors to avoid conflict that would divide Jewish society. According to Ben Porat, political parties and Israeli Jews in general were more concerned with matters of state building and survival so that they manage to marginalize secular-religious divergencies¹³⁰. The consensus was secured by political interest and cooperation between the dominant labor party (Mapai) and Orthodox parties. While the labor party took the burden of securing the borders of the state and Israel's foreign policy, the religious establishment was entrusted with a monopoly over important aspects of public life.

This tendency to heavily rely on consensus and conflict neutralization policies led Susser and Cohen to label the consensus formation in Israel's religious-secular relations as of consociational type.

Consociationalist theories initially were devoted to achieve political stability in highly divided societies, especially in Europe. The theory saw a remarkable expansion when, after the decolonization process of the 50s, 60s and 70s, created potential new consociational realities and it became related to the broader concept of "consensus democracy"¹³¹. For Arend Lijphart, the most important theorist of consensus democracy, the theory shows how in consociational democracies the need to stabilize the highly fragmented societies leads an elite cartel to run the government¹³². The divergency between the secular and religious camp led Susser and Cohen to describe the status quo as an agreement of elites cartel that led to the creation of a democratic consensus in Israel¹³³. The societal cleavage that

¹³⁰ Ibid, 33

¹³¹ Rudy B. Andeweg, 'Consociational Democracy', *Annual Review of Political Science* 3, no. 1 (June 2000): 509, <https://doi.org/10.1146/annurev.polisci.3.1.509>.

¹³² Lijphart, Arend, (1969). Consociational Democracy. *World Politics*, 21(2), 207–225. <https://doi.org/10.2307/2009820>

¹³³ Cohen and Susser, *Israel and the Politics of Jewish Identity*, 17.

divided Israel in its first years ran along the secular religious divide and, for the authors, the very essence of the status quo relies on a series of conflict deflating strategies namely¹³⁴:

1. The refraining from decisive settlements in contested issues, such as the lack of a written constitution that formally states the separation between synagogue and state and the role of halacha in the state;
2. The in the political arena to constructed majorities rather than simple majorities to solve contentious issues. Even if the Mapai party had on its side the tip of the balance of power, reportedly avoided confrontation with the religious establishment and opted for accommodation;
3. The power of veto on vital issues for one of the party, such as in case of the debate regarding the “who is a Jew” question and the conscription of Orthodox women and yeshiva students for the Orthodox parties
4. Autonomy in clearly defined areas, such as the autonomous educational systems of the Orthodox and ultra-Orthodox schools and yeshiva;
5. The decision to form broad coalitions due to the electoral proportional system, as in the many governments led by the Mapai- NRP (National Religious Party) coalition;
6. The choice to resort to local and administrative solutions for contentious issues, for example the urban autonomy of ultra-Orthodox neighborhood, or the decision to leave out the city of Haifa outside the status quo agreement regarding the institutionalization of Jewish festivities;
7. The transfer of politically contentious issues to judicial arbitrations, as the case of the Women of the Wall will show.

The consociational model well describes the real implications of the status quo as an internal Israeli Jewish Affair. Indeed, as Don Yehiya affirms it leaves out other important segment of Israeli society which are non-Jewish by definition¹³⁵. This issue is of outmost importance when trying to understand

¹³⁴ Ibid, 7–12.

¹³⁵ Eliezer, Don Yehiya, *Religion and Political Accommodation in Israel*, (1999) Floersheimer Institute for Policy studies, Jerusalem.

why the status quo survives and why any attempt to reframe the Jewish definition of the state impacts on the status quo.

The religious significance established in the formative years allowed the religious establishment to perform the role of gatekeeper¹³⁶. The role assigned to the religious establishment rested on the political power accumulated by the religious parties and the and the choice of mainstream secular parties to compromise in order to define the Jewish character of the state. As Ben Porat affirms, the gap between religious groups and a large proportion of the secular population was narrowed by common symbol and the shared idea of Jewish sovereignty but, most importantly, of the instrumentality of religion for boundaries maintenance¹³⁷. The secular idea of a Jewish state whose ethnicity relies on religion definition was called up to maintain the boundaries of *Klal Yisrael*.

According to Weiss, the contradictions between the notion of a “Jewish state” based on the idea of ethnos and the “democratic state” based on the idea of demos, have to be found experience of the Jewish diaspora in Center and Eastern Europe were the relationship between nationality and citizenship derived not from the tension between majority and minorities, but from power relations between ethnic populations in transition between multi-national empires and new nation-states¹³⁸

The inquiries about the resilience of this mythical product of the art of political compromise can be answered if the *status quo* is unpacked and analyzed under the lenses of the ethnicized society and citizenship of Israel. One framework of analysis, recognizes that conflict and power control in Israel are centered around “ethnic differences” and group exclusion/inclusion. Shafir and Peled have described the Israeli citizenship as ethno-nationalist and republican¹³⁹ supporting Smootha’s claims of Israel being an ethnic democracy¹⁴⁰. Under this scheme, the *status quo* is a mechanism for the

¹³⁶ Ben-Porat, ‘A State of Holiness’, 235.

¹³⁷ Ibid

¹³⁸ Levy and Weiss, *Challenging Ethnic Citizenship*, 99.

¹³⁹ Gershon Shafir and Yoav Peled, *Being Israeli: The Dynamics of Multiple Citizenship*, Cambridge Middle East Studies 16 (Cambridge ; New York: Cambridge University Press, 2002), 16.

¹⁴⁰ See, Smootha, ‘Minority Status in an Ethnic Democracy’.

maintenance of the ethnic boundary which legitimizes the ethnic Jewish ethnic nature of Israeli citizenship over territorially bounded citizenship solutions¹⁴¹.

In this optic, *status quo* and ethnicization are two faces of the same coin and its nominal values goes beyond the institutional (state-religion) or political (consociational) analytical frame.¹⁴² In a paradox, this elusiveness or double value, allows a high degree of flexibility for secularism to find vital space at the societal level without impinging its endurance at the state level¹⁴³ and allows religious traditions to also be credited as funding pillars of the society.

In other words, as Yadgar and Levy suggest, it is not the Orthodox interest or coercion that yields a Zionist, nationalist (i.e. ‘secular’) reliance on ‘blood and faith,’ but rather that the very natural threshold for determining political, national inclusion and exclusion¹⁴⁴. The *status quo* is nonetheless the proxy tool of the Zionist elite for the entitlement of a gatekeeper of the nationhood; Orthodoxy and the Chief Rabbinate sole.

Despite being so resilient, the status quo has suffered from many pressures for change during the years. Indeed, after the enactment of the Basics Laws Human Dignity and Liberty of 1992¹⁴⁵, the heavy restrains that the religious control on the personal status of the Israeli citizens clashes stridently with this Basic Law that started a new era in the recognition of human rights in Israel . From the inception of the Jewish State until nowadays, the nature of coalition agreements in Israel’s political landscape has reiterated these principles and given the authentic definition of Jewishness in the hands of the Orthodox establishment, cutting out any other “Jewish interpretation”. Over the years, the status quo has become a relevant point in the political arena, an object of legal and political discussions which has been criticized ostensibly by anticlerical political parties, such as Shinui until 2003, Meretz and also the right wing party Yisrael Beitenu and its strong political platform based on separation of religion and state , and even more by feminist groups, especially the religious ones like

¹⁴¹ Gal Levy., “Secularism, Religion and the Status Quo”, in Barbalet, Possamai, and Turner, *Religion and the State*, 94.

¹⁴² Gal Levy, *Religion and the State*, 94

¹⁴³ Ibid.

¹⁴⁴ Ibid, and Yadgar, *Israel’s Jewish Identity Crisis*, 20.

¹⁴⁵ Ruth Lapidot, ‘Freedom of Religion and of Conscience in Israel’, *Catholic University Law Review*, 47 (1998): 441.

Women of the Wall. The only actor who can claim to challenge the status quo and the Jewish definition of the state is the Israel Supreme Court, whose work and endless decisions about a revision is seen as proper work of “judicial activism”¹⁴⁶. Despite the fact that the agreement faced significant challenges and has shifted in some of its contents, leaning according to the general sentiment of the *hilonim* towards the increment of religious’ demands satisfaction¹⁴⁷, it is still seen as a pillar of Jewish consensus which target the independent and contrasting actors in the Yishuv into the modern state framework¹⁴⁸.

¹⁴⁶ On the judicialization of Israeli politics see, Hélène Sallon, « The Judicialization of Politics in Israel », Bulletin du Centre de recherche français à Jérusalem, 16 | 2005, 287-300.

¹⁴⁷ Yadgar, *Sovereign Jews*, 67.

¹⁴⁸ On this, see Fogiel-Biajoui. “Why Won’t there be a Civil Marriage in Israel any Time soon”, in *Nashim: A journal of Jewish women Studies and Gender Issues*, Vol 6, pp. 28-33

3. On Performing Israeliness: The birth of the "Cult of the Kotel": The Western Wall as a barometer of Israeli "Church-State" relations

We are writing the next chapter of the Bible,

Hanan Porat, 1967

This chapter aims at presenting the “Western Wall” as a barometer of Israel’s “Church-State” relations. As a barometer measures the level of pressure in a certain environment, the *Kotel* as well functions as a barometer for the pressures within the secular-religious *status quo* environment in Israel. The reacting element that exposes the levels of pressure in this case is embodied in the *mechitza*, the partition fence that separates genders in most Orthodox synagogues around the world. The presence of the *mechitzah* at the Western Wall has been the object of contentions between anti-clerical secular forces and the religious establishment. Is the Western Wall a sole national symbol, or inevitably, it carries the weight of a mythical sacred past that must be respected and replicated? As this chapters illustrates, the State of Israel has chosen to acknowledge a double meaning to the Wall while also entrusting its protection and “sacred authenticities” to the Orthodox and Ultra-Orthodox religious establishment to the detriment of the secular and non-Orthodox Jewish experiences.

3.1 Jerusalem and its Wall(s): "What is Jerusalem" or, better, "Who is Jerusalem"?

"You take delight, not in a city's seven or seventy wonders, but in the answer it gives to a question of yours." These were the words that Marco Polo disclosed to the emperor Kublai Khan in Italo Calvino's book *"The Invisible Cities"* (*"Le Città Invisibili"*)¹⁴⁹. Jerusalem answers many questions, and it generates even more queries. Jerusalem is its Old City, a place surrounded by white stones and thick

¹⁴⁹ Italo Calvino, *Le città Invisibili*, Giulio Einaudi Editore (1972)

walls. The area is less than half a square mile, but for the pilgrim in the ancient times, or the modern tourist, it appears larger and more imponent. These stones and walls bear the weight of prayers, hopes, and messianic expectations in candid silence; the aura of (imposed) sanctity is almost tangible like a cloak that shrouds those who enter.

The Old City is formally divided into four quarters, Muslim, Jewish, Christian, and Armenian, each with its own sacred traditions and revelations. While being Holy, the city reflects the various conflict that juxtaposes in Israel; it is not only a microcosm and a reference point of the Israeli-Palestinian conflict¹⁵⁰ but also manifests the conflict between *hilonim* (secular) and *datim* (religious) Israelis. Jerusalem is then the photo of a Tolstoian divided family; it is divided over religion and religiosity, ethnicity, and class. The battle over who controls Jerusalem is the focus of both, internal and external attention as well. There is a constant need for negotiation for those who participate actively in this battle that cannot lead to massive changes; negotiation is a serious game. Every step taken must be followed by another one with neutralizing effects. Jerusalem then is a symbol of the *Status Quo* if not the *Status Quo* itself. In the language of the Chicago School of urban sociology, Jerusalem is a mosaic of social worlds¹⁵¹, all of them in contraposition when not in open contrast. The social groups that form part of Jerusalem's socio-political landscape shape the city by projecting their power, a mechanism that perpetuates the city divisions; growth and division go hand in hand in Jerusalem¹⁵². Although Jerusalem is the official capital of the Jewish state, being "Jewish" is not a unifying element as one may think. The urban performances of everyday lives are deeply embedded in the religious-secular cleavage in a city as Jerusalem. While Ultra-orthodox and Orthodox dwellers wish to see the *Halakha* respected and implemented, for example, in the observance of Shabbat, secular Jews and

¹⁵⁰ On the subject see, Colin Chapman, *Whose Holy City?: Jerusalem and the Israeli-Palestinian Conflict* (Oxford: Lion, 2004).

¹⁵¹ For a deep analysis of "Urban Mosaic" see, Richard P. Greene, 'Urban Mosaic', in *International Encyclopedia of Geography: People, the Earth, Environment and Technology*, ed. Douglas Richardson et al. (Oxford, UK: John Wiley & Sons, Ltd, 2017), 1–2, <https://doi.org/10.1002/9781118786352.wbieg1109>.

¹⁵² Anne B. Shlay and Gillad Rosen, *Jerusalem: The Spatial Politics of a Divided Metropolis* (Cambridge ; Malden, MA: Polity Press, 2015), 1.

liberal Jewish, on the other side, wish to have a religion free space, with no religious impositions (or as the secular narrative defines it, coercion) in their performances in the urban setting.

A visualization of this *impasse* can be found at the Western Wall or in Hebrew *haKotel haMa'aravi*, (in Arabic Hai't Al-Buraq) a place that is considered as the most sacred for Judaism and the jewel of the Zionist attempts to unify Israel after its creation in 1948. Before entering into a deep analysis of how the Western Wall became the symbol of Israel most pressing socio-political *impasse*, let us briefly describe what was the Western Wall in the pre-state period. Not only the Kotel is the symbol of the failed secularism rhetoric in Israel, it is also the symbol of the Orthodox coercion on the Orthodox definition of Jewish religion in Israel.

There is a universal assumption among Jews that the Western Wall has been the most sacred religious site for two thousand years¹⁵³. The Wall is said to be a remnant of the Temple destroyed by the Romans in the first century; as Charmè points out, the Wall incarnates the idea of an unbroken continuity between the sacred pilgrimages of the past and the glorious return to the Wall during the Six-Day War of 1967. The notion of the Western Wall as one of the holy places for Jews dates back to the Middle Ages, when the Wall, the plaza and the mosques were part of the Muslim *waqf*¹⁵⁴. Like all shrines, the *Kotel* is a demarcated space which carries all the messages within its horizon¹⁵⁵. The synchronic messages of sovereignty coexist with Jewish traditional notions of that the Wall represents. When the Wall is superposed on the mythical Zion, it embodies a collective memory that is passed from generations to generations, in prayers and religious performances, such as in Jewish

¹⁵³ In reality, today's Western Wall is no remnant of the original Temple. All the walls of the original Temple were destroyed in by the Romans in 70 C.E. and there are no remnants. Today's Wall represents a small section of the wall of the elevated area, or Temple Mount, which was the original place of the Temple. Today's *Kotel*, indeed is neither a surviving remnant nor a wall of the original Temple. See F.E. Peters, *Jerusalem: The Holy City in the Eyes of Chroniclers, Visitors, Pilgrims and Prophets from the Days of Abraham to the Beginning of Modern Times*, Princeton, NJ, Princeton University Press (1985): 225

¹⁵⁴ In Islamic law, a *waqf* is an endowment made by private citizens to religious or charitable organizations. The Wall was part of the Abu Madyan waqf, a religious institutions dating back the time of Saladin for Muslim of Moroccan origin (*Moghrebis*), see Weinstock, N, *Terre Promise, Trop Promise. Genese du conflict Israélo-Palestinien (1882-1948)*, (Paris: Odile Jacob 2011), Stuart Charme, 'The Political Transformation of Gender Traditions at the Western Wall in Jerusalem', *Journal of Feminist Studies in Religion* 21, no. 1 (2005): 7.

¹⁵⁵ Danielle Storper-Perez and Harvey E. Goldberg, 'The Kotel: Toward an Ethnographic Portrait', *Religion* 24, no. 4 (October 1994): 4, <https://doi.org/10.1006/reli.1994.1026>.

weddings when a glass is broken as a reminder of the destruction of the Temple. In this sense, the *Kotel* embodies the eternal dilemma than ponders of how modern historical understandings can replace the mythical functions of ancient practices, as discussed by Y.H. Yerushalmi in his book *Zakhor*¹⁵⁶.

Even if the liturgical performances at the *Kotel* do not appeal to the majority of contemporary Jews, the Wall manifests abstract meanings of space and time while also appealing to the many competitive meaning of contemporary Jewish life. As a *locus* of redemption, the Kotel appeals to Orthodox Jews and Ultra-Orthodox Jews while, as a symbol of regained sovereignty, the Wall appeals to the secular Israeli Jews who celebrate the manifestation of Jewish life in *Eretz Israel*, and finally as a combination of both meanings, the *Kotel* holds a special place in the imaginary of the Jewish Diaspora who celebrates sovereignty while waiting redemption. The Western Wall is a *lieu de memoir*, a place of memory, that fits the rubric of civil religion and traditional liturgical practices¹⁵⁷. In Geertz's phrasing, the Western Wall is a "thick site", as Jobani and Perez posit. Indeed, the Western Wall as a "thick site" is characterized by 1) being loaded with different and intersectional meanings, 2) these meaning often are in open contrast, 3) the meanings are deeply entrenched within groups' narrations that they are irreplaceable and non-negotiable.¹⁵⁸

The prominence of the Western Wall in modern Jewish life carries a presumption of antiquity and authenticity that legitimate today's practices at the Wall¹⁵⁹. Thus, everything that happens at the Wall is taken for granted, as if they were ancient traditions and customs while in reality they are recent innovations introduced to maintain Jewish power at the Western Wall, first against the Muslim Arabs during the British Mandate, and secondly against "liberal Jews" from 1967 onwards. Indeed, the Wall

¹⁵⁶ Yosef Hayim Yerushalmi, *Zakhor: Jewish History and Jewish Memory*, The Samuel and Althea Stroum Lectures in Jewish Studies (Seattle: University of Washington Press, 1996).

¹⁵⁷ On the concept see *Les lieux de mémoire. I*, Quarto (Paris: Gallimard, 2013).

¹⁵⁸ Yuval Jobani and Nahshon Perez, *Women of the Wall: Navigating Religion in Sacred Sites* (New York, NY: Oxford University Press, 2017), 29.

¹⁵⁹ Charme, 'The Political Transformation of Gender Traditions at the Western Wall in Jerusalem', 4.

assumed its centrality as the most sacred spot in Jewish tradition relatively late and the *mechitza*, the partition fence between man and women, was not as rigid as today¹⁶⁰.

The Western Wall did not acquire a special status in Jewish practice until the 16th Century, when sultan Suleiman the Magnificent engaged in a major restoration and opened the site to Jewish prayers. At that point, different ideas and notions of sacredness were put together to construct the “holy space” that the Western Wall would become; for example, the *Mishnaic* notion of the presence of God never leaving the Temple (a metaphorical expression) sedimented in relation to the Western Wall consecrating it to the holiest site in Judaism¹⁶¹. Now that the Jews were free to visit an actual Western Wall instead of longing for the virtual one, Jewish tradition started to emphasise religious reasons to visit the Wall.

Throughout the 18th and 19th Centuries, the Wall became a universal symbol of Judaism and gender segregation was not a concern, since without a formal organization rules were more “relaxed”¹⁶². Indeed, the behaviour portrayed at the Wall suggests that visitors and pilgrims did not consider the Wall as a synagogue nor saw the need to enforce any particular practice or custom, nor any Jewish Law tenet to applied. The Wall then, was governed more by folk traditions than Rabbinic authority¹⁶³. In mid-19th Century, the Western Wall was seen as a place of communal gathering where “men, women, and children, of all ages, from infants to patriarchs of fourscore and ten, crowded the pavement and pressed their throbbing foreheads against beloved stones¹⁶⁴. In the rituals that started to take place at the *Kotel*, women and men participated together, without any strict gender separation of sort; there was no need for a *mechitzah* since the Wall could not be considered a synagogue. The

¹⁶⁰ S. Grossman, “Women and the Jerusalem Temple” in *Daughters of the King: Women and the Synagogue: A Survey History, Halakhah, and Contemporary Realities*, ed. S.Grossman and R. Haut, Jewish Publication Society (1992): 15-37

¹⁶¹ Charme, ‘The Political Transformation of Gender Traditions at the Western Wall in Jerusalem’, 8.

¹⁶² Ibid, p. 10

¹⁶³ Ibid.

¹⁶⁴ W.C.Prime, quoted in Adler, *Memorandum on the Western Wall*, p. 50, in S.Charme, “The Political Transformation of Gender Traditions at the Western Wall in Jerusalem”,12

practices were fluid and free, given the fact that the Muslim Arabs and the officials of the British Mandate did not consider the place equivalent to, as said, a synagogue¹⁶⁵.

The growing concern for gender separation at the beginning of the 20th Century followed the diversification of Jewish population attending the Western Wall. The growing number of *haredi* Ultra-Orthodox, which outnumbered the small Sephardic community living in Jerusalem at the time, demanded for a stricter gender separation among those praying at the Wall. In describing the demands of the *haredim* for gender segregation and the Western Wall, V. Pouzol cites what she calls the “*mechitzah* affair”. In 1928 during the holiday of Yom Kippur, a group of *haredim* attempted to position a *mechitzah* for the purposes of gender segregation, causing serious concerns among Muslim and British Authorities,

A big crowd gathered at the Wailing Wall as was usual on that day. A screen or partition that had not been there during the ceremony on previous years, had been brought in to separate the men from the women. The Muslims who owned the land adjacent to the Wall immediately decided that this apparently inoffensive change hid a scheme that it would be wise to outmanoeuvre. The mufti went to see the governor of the city, explaining that the presence of this screen caused the alley effectively to become a synagogue, and was thereby a violation of the status quo and a seizure of territory that would become irrevocable if it was permitted. The same scheme, he added, had been tried two years earlier with flexible screens that had immediately been taken from the participants, pursuant to his directions. The governor gave the order to remove the screen and the English police officer in charge of the area around the Wall asked those present to remove it themselves. They refused, explaining that they were in the midst of a prayer that should under no condition be interrupted. The police consequently took on the task, and the result in that narrow little alley was a crush of bodies difficult to imagine. The Hebrew-language press today is filled with indignant protests against the behaviour of the authorities¹⁶⁶.

¹⁶⁵ Abdul .Latif Tibawi, *Jerusalem: Its Place in Islam and Arab history*, Institute for Palestine Studies Monograph series 19, Beirut 1969), pp. 25-26, cited in S.Charme, “The Political Transformation of Gender Traditions at the Western Wall in Jerusalem”,¹⁴

¹⁶⁶ Information bulletin of the French Ministry of Foreign Affairs, late September 1928, Levante-Palestine, 1918-1929, XXII, 102, cited in Valérie Pouzol and Marian Rothstein, ‘Women of the Wall (Jerusalem, 2006-1880)’, *Clio.Women, Gender, History*, vol. 44 (2016): 255.

The attempts to separate the sexes at the Wall were the epitome of an intra-Jewish struggle within the *Yushuv* that would later manifest in a struggle between secular and religious institutions to gain the Western Wall for their own political agendas from 1967. The transformation of the Western Wall into a *de facto* Orthodox synagogue is the symbol of the grip that the religious establishment holds on the State institutions.

3.2 *Yerushalaim Shel Zahav* or The Six Days War and the (re)conquest of Jerusalem

The year 1967 was the year of messianic dreams. In the early morning of June 5 1967, the radio stations of the IDF were transmitting the astounding message "*Har ha-bayit beyadeinu!*" ("The Temple Mount is in our hands!").

A young brigadier, Shlomo Goren¹⁶⁷, who identified as a religious nationalist (*dati leumi*) entered the Temple Mount as a modern Joshua: while entering the narrow streets of the Old City he sought to encourage its fellow soldiers by blowing a *shofar*¹⁶⁸, the ram's horn used for religious purposes during Jewish high holidays. In addition to the *shofar*, the young paratrooper was also carrying a *Torah* scroll while ready to be the first Israeli soldier to enter the Western Wall area¹⁶⁹. Yossi Ronen, a radio reporter witnessed Goren arranging an *impromptu* "military synagogue" while guiding other paratroopers into prayer:

¹⁶⁷ For a written testimony of Rav Shlomo Goren see, "A Summary of Rabbi Shlomo Goren's testimony", IDF and Defense Establishment Archives, available at https://archives.mod.gov.il/sites/English/Exhibitions/The_Six-Day_War/Pages/Shlomo-Goren.aspx. For a photo of Goren holding a Torah scroll surrounded by its fellow paratroopers see "The photos of the Six-Day War", Jewish Virtual Library, available at <https://www.jewishvirtuallibrary.org/jsource/images/israel/toi1967-1.jpg>. Goren would eventually become Chief Rabbi in 1972.

¹⁶⁸ A Photo of the soldiers surrounding Rav. S. Goren while blowing the shofar, Jewish Virtual Library, available at <https://www.jewishvirtuallibrary.org/jsource/images/israel/toi1967-7.jpg>

¹⁶⁹ The specifics and personal history of the paratrooper Shlomo Goren are illustrated in the article Daniel Bertrand Monk, 'Diskotel 1967: Israel and the Western Wall in the Aftermath of the Six Day War', *Res: Anthropology and Aesthetics* 48 (September 2005): 166–78, <https://doi.org/10.1086/RESv48n1ms20167685>.

“...the excitement reached its peak, as Rabbi Shlomo Goren, the chief Rabbi of the IDF ... blew the *shofar* and recited prayers ... the paratroopers burst out in song, and I forgot my role as “objective reporter” and joined with them in singing “Jerusalem of Gold¹⁷⁰”

The song cited by Ronen, “Jerusalem of Gold” (in Hebrew *Yerushalaim Shel Zahav*) is not part of any liturgical *nusach*, nor is a passage from the Book of Psalm or any other biblical reference. No, the song was the fruit of a specific request by the Mayor of Jerusalem Teddy Kollek to the committee of the Israeli Song Festival, which was scheduled that year for the celebrations of Israel Independence Day, on May 15th. Kollek commissioned a song about Jerusalem, a task accepted by the popular song writer Naomi Shemer. The insertion of Shemer’s song in the rituals at the Western Wall is seen by Monk as the epitome of the intermingling between secular and religious in Israeli public life¹⁷¹. The song became a folkloric symbol of the victory of the War and the reconquest of Jerusalem.

The intertwining of reality and religious performance was also heavily criticized by the Orthodox intellectual Yeshayahu Leibowitz who created the term “disKotel” (the union of the words discothèque and Kotel) to describe what he defined a grotesque display of religious folklore, one could say, precisely, a display of “Kotelatry”¹⁷². In a way, Leibowitz was prophetic: while entering conquering East Jerusalem, Religious nationalist and secular “kibbutznik” paratroopers entered -unconsciously- together into a new battle, an ideological one for the value and meaning of the symbol they were facing.

¹⁷⁰ Cited in Monk., *Diskotel*, 8.

¹⁷¹ For a detailed account of how the song became the symbol of national religious discourses in Israel see Dalia Gavriely-Nuri, ‘The Social Construction of “Jerusalem of Gold” as Israel’s Unofficial National Anthem’, *Israel Studies* 12, no. 2 (2007): 104–20.

¹⁷² For a detailed account of Y. Leibowitz’s philosophical, religious and political see, Rhynold D, “Yeshayahu Leibowitz”, The Stanford Encyclopaedia of Philosophy, Edward N. Zalta (ed.), (2019) URL = <<https://plato.stanford.edu/archives/spr2019/entries/leibowitz-yeshayahu/>>.

After reciting the prayers for the falling soldiers, Rav Goren would burst into “*Le-shana HA-ZOT be-Yerushalayim ha-b’nuya, be-yerushalayim ha-atika!*” (This year in a rebuilt Jerusalem! In the Ancient Jerusalem!).¹⁷³

Following the military conquest of the Old City, public figures of both the political-institutional and religious establishment as well began to pay special attention to the possible configuration of the Western Wall. Would it be a national shrine for the glory of Zionism? Would it be a religious site, a pilgrimage destination and a new chapter in Jewish religious consciousness? This conflagration of meanings was embodied by the conflicting attentions that Defense Minister Moshe Dayan and Minister of Religion Zerach Warhaftig were paying to the *Kotel*. For his part, Defense Minister Moshe Dayan was deeply concerned about the prospect of a possible religious direction of the Western Wall. In fact, the Minister believed that this hypothesis could constitute a new element of union for the Arab-Muslim countries and in a new alliance to liberate Jerusalem given its proximity to the Temple Mount and the desire of many Jewish national-religious groups to hold prayer services there¹⁷⁴. On the other hand, Minister of Religion Zerach Warhaftig feared that the Western Wall would be transformed into a war monument belonging to the IDF in which religious memory and practice would have no place¹⁷⁵.

In the few months that followed the conquests (not only Jerusalem, but also the areas in the West Bank) of the 1967 War, the Minister of Defense was the sole in charge of the Western Wall. However, the competition for the control of the symbol hovered in the air. Various authorities were called upon the task, namely the Israel Parks Authority, the Israel Antiquities

¹⁷³ The recording of the Radio Station “*Kol Israel*” (the Voice of Israel) which broadcasted the entering in the Old City of Jerusalem and the Western Wall are available at <https://soundcloud.com/isracast/kotel-kotel>. Full transcript of the speech is available in “The Six-Day War: The Liberation of the Temple Mount and Western Wall”, Jewish Virtual Library, at <https://www.jewishvirtuallibrary.org/the-liberation-of-the-temple-mount-and-western-wall-june-1967>

¹⁷⁴ Kobi Cohen-Hattab and Doron Bar, ‘From Wailing to Rebirth: The Development of the Western Wall as an Israeli National Symbol After the Six-Day War’, *Contemporary Jewry* 38, no. 2 (July 2018): 282, <https://doi.org/10.1007/s12397-018-9251-z>.

¹⁷⁵ *Ibid.*, 287.

Authority and the Ministry of Religion. Apparently, Prime Minister Levi Eshkol and Minister of Defence Moshe Dayan considered to transfer the responsibility for the sites in Jerusalem and the West Bank, including the Western Wall, to the Israel Nature and Parks Authority¹⁷⁶. Of course this plan met the strong opposition of the Minister of Religion who eventually won when the Knesset enacted the “Protection of the Holy Places Law” in the same year of the conquest¹⁷⁷. The name of the law in itself was a sign of which pole the tip of the balance was favouring: by declaring the Western Wall a sacred holy space, the Ministry of religion managed to subtract the Wall to the realm of earthly politics and ascribed it to an eternal exclusiveness¹⁷⁸. As the next paragraphs and chapters will further explain, this “exclusiveness” was a sole prerogative of Jewish Orthodoxy.

A first reaction to the control acquisition by the religious establishment came from Yaakov Yanai, director of the Nature and Parks Authority who protested

“Since when is the Western Wall place visited only by religious Jews? Why do they believe that Jews come to the Western Wall only to pray? And secular Jews in Israel, why should they be forced to stand at the Western Wall without their wives? What will a person do who wants to stand at the Western Wall and commune with himself, silently without prayer?”¹⁷⁹

Yanai’s words identified the core problem with the transitioning of the Western Wall from a national monument into a religious sacred site.

Prior to be transformed into what was defined as an “Orthodox Synagogue”, there was enough time for the creation of a complex connection between the IDF and the Western Wall. The first year after the 1976 war was crucial for the transformation of the Wall into a national symbol; the very first

¹⁷⁶ Cohen-Hattab and Bar, 288.

¹⁷⁷ The Knesset, Protection of the Holy Places Law of the State of Israel, available at <https://www.knesset.gov.il/laws/special/eng/holyplaces.htm>

¹⁷⁸ Izhak Englard, ‘The Legal Status of the Holy Places in Jerusalem’, *Israel Law Review* 28, no. 4 (1994): 590, <https://doi.org/10.1017/S0021223700011766>.

¹⁷⁹ Cohen-Hattab and Bar, ‘From Wailing to Rebirth’, 289.

connection between the IDF was made by the speech delivered by Moshe Dayan as Minister of Defence together with the then Lt. General Yitzhak Rabin, to top IDF officers. With the time, the Western Wall became a symbol for the celebrations of Memorial Day after the Six-Day War until turning into an annual tradition institutionalized by the presence of the President of the State and members of the Government, the IDF chief staff and the parents of the victims of Six-Day wars and subsequent wars fought by Israel¹⁸⁰. The emphasis on the commemoration of the fallen soldiers at with bereaved parents by the institutions of the State at the Western Wall played an important role in the imaginary of the Israeli People. The Western Wall is a metonymy of the conquest of Jerusalem and the sacrifices made during the Six-Day War. This metonymy, was reinforced by the swearing-in ceremonies organized by the IDF. Prior to the Six-Day War, the IDF held swearing ceremony at the basis or in places of historical significance, such as Masada. The first swear-in ceremonies were held in September 1967 firstly for paratroopers and then for all the IDF battalions¹⁸¹. In the muscular Zionist imaginary, finally, Jerusalem and the Western Wall replaced Masada.

With the Six-Day War, the *Kotel* became a “national town square¹⁸²” where Israelis began celebrating many rituals. The place passed from being the “Wailing Wall”, a symbol of sorrow and destruction, into a symbol of rebirth and reconquest. Apex of the Western Wall transformation was the creation of a new commemoration for the Israeli calendar, namely Jerusalem day which is celebrated at the *Kotel* on the 28th day of Iyar, the Hebrew date when Jerusalem was captured by the IDF in the Six-Day War. While the IDF sought to keep the Western Wall a secular national symbol, the aspirations of the religious establishment were already pushing for receiving the total control a powerful symbol of Jewish spiritual re-birth in *Eretz Israel*.

¹⁸⁰ K. Cohen-Hattab and D. Bar (2018), “From the Wailing to the Rebirth, 289

¹⁸¹ Ibid., p. 291

¹⁸² Ibid.

3.3 The custodians of the Temple: Orthodox hegemony and the transformation of (gender) customs at the Kotel

Like many “State Churches”¹⁸³, the Rabbinate was and still is entrusted with the role of agent of memory that has the power to authenticate the myths that base the national performances of the State. The victory of 1967 and the liberation of Jerusalem and the Temple Mount caught the Chief Rabbinate and the general Orthodox establishment by surprise. The victory of the Six-Day war not only represented the reunification of Jerusalem but also a regained sovereignty over the Temple Mount, the potential holiest site for Judaism since the construction of the Temple in Judaic tradition¹⁸⁴. However, every dream or will to fully reconstitute the Temple after the Six-Day War had to leave place for pragmatism; the area was and still is part of the Muslim *waqf* where the Al-Aqsa Mosque and the Dome of the Rock lie. As enunciated before, Ministers Dayan and Werhafting had to agree to entrust the *waqf* to Jordanian control while Israel would take on the security matters on the site¹⁸⁵. At that point, with the fading hope of a Temple Mount with full Israeli sovereignty, the Chief Rabbinate and the Minister of Religious Affairs turned their attentions to the Western Wall, which was not relinquished in negotiations with Jordan for the establishment of the *status quo* of holy places. The Kotel represents everything that is both Jewish and Israeli, and in the imaginary of Israelis it was a secular and religious symbol at the same time. One may argue that this is a result of two processes taking place at the same time: the importance that religious Jews projected to the now “liberated” Western Wall, and the victory of the National Religious Party's representatives in the coalition government, who insisted on religious control over the wall¹⁸⁶. Minister Warhafting was part of the

¹⁸³ A prominent example of the many works regarding the roles of national churches in the construction of national identities can be found in the eighth volume of *The Cambridge History of Christianity*, focusing on “The Churches and National Identity”: S. Gilley and B. Stanley, eds, *World Christianities c.1815–c.1914* (Cambridge: Cambridge University Press, 2008), 215–426. For a more updated picture see J. Madeley and Z. Enyedi, eds, *Church and State in Contemporary Europe: The Chimera of Neutrality* (New York: Routledge, 2003).

¹⁸⁴ For a detailed story of the sanctity of Temple Mount see, Kobi Cohen-Hattab ; Bar Doron, *The Western Wall: The Dispute over Israel's Holiest Jewish Site (1967–2000)*. (BRILL.2020)

¹⁸⁵ For an account of the attempts to constitute a synagogue on Temple Mount and the attempts to plan for a third temple see, Yoel Cohen, “The Political Role of the Israeli Chief Rabbinate in the Temple Mount Question”, *Jewish Political Studies Review*, Vol. 11, No. 1/2 (1999), “Religion in the Public Square: Within the Jewish People”, 101-126

¹⁸⁶ Charles Liebman, and Eliezer Don-Yehiya. *Civil Religion in Israel*, 159

National Religious Party known in Hebrew as *Miflagah Datit Leumit* known also by the acronym “Mafdal”. The party won 12 seats out of 120 in the Knesset elections of 1965 becoming an important force within the coalition of Levi Eshkol's Labor government¹⁸⁷. It is interesting to point out that Prime Minister Eshkol Levi himself was not adamant to give full control of the Wall to the religious Orthodox establishment, indeed he would say “the Kotel was not a synagogue. There is something offensive about it.”.¹⁸⁸

The “Protection of the Holy Places Law” enacted by the Knesset in 1967 gave power to the Orthodox and Ultra-Orthodox establishments to have control of the Western Wall Plaza. It is important to remind here that the large plaza we see today is the result of the demolition of the Mughrabi quarter, which was part of the previously cited Muslim *waqf*. The erosion of the *waqf* was the first step that symbolized the “Judaization” of the *Kotel* and the plaza. As Shamuel Berkowitz notes, the law itself does not define the term “holy sites” so to give the power of interpretation to the Minister of Religion by instituting rulings as in 1981 with the ruling on “the Protection of Sites held holy by Jews”¹⁸⁹. The laws that protect the Western Wall as a Holy Place in Judaism are mainly based on Orthodox interpretations cementing a state complicity in entrusting the religious establishment with the “ultimate and legitimate” definition of Judaism. Indeed, the Western Wall became an Orthodox synagogue in every aspect, and this endeavor crystallized the so called *minhag haMakom* (the custom of the place) as Orthodox and therefore subjected to Orthodox interpretations of *Halacha*.

To determine the policies at the Western Wall the Israeli government invoked on what was described in the first chapter, the so called *status quo* between secular and religious forces. The imposition of the partition fence for gender segregations purposes, the *mechitza*, had two mutual reinforcing meanings: firstly, by reconstructing the performances of an “Orthodox synagogue”, the religious

¹⁸⁷ Israel's 1965 elections, The Israel Democracy Institute, data available at <https://en.idi.org.il/israeli-elections-and-parties/elections/1965/>

¹⁸⁸ Meron Benvenisti, Jerusalem (Jerusalem: Isratypeset 1976): 309. Cited in Yoel Cohen (1999), “The Political Role of the Israeli Chief Rabbinate in the Temple Mount Question”, 115

¹⁸⁹ Samuel Berkowitz, *The Temple Mount and the Western Wall in Israeli Law*, The Jerusalem Institute for Israel Studies, The Teddy Kollek Center for Jerusalem Studies (2016):19

establishment was enforcing strict patriarchal meaning to the Wall for the sake of the performativity of Jewish masculinities, and secondly, by doing so, it was excluding all those stream in Judaism that allow gender-mixed practices. For his part, the Government was, once again, enforcing the “Orthodox Jewish” definition as the sole possible definition especially in those years when the question of “Who is a Jew” was investing the Israeli public.

When in 1968 an international conference of Reform Jews in Jerusalem announced the wish to organize a mixed-gender prayer at the *Kotel* they were vehemently opposed by the Minister of Religion and the Chief Rabbi who argued that gender separation is not negotiable¹⁹⁰. The post 1967 rules in place at the Western Wall decided by the Orthodox rabbinic authorities forbidden women to bring Torah scrolls and other ceremonial paraphernalia and to stay in the space allotted to them which is smaller than the man prayer area. As ironically Charmé points out, Orthodox Jews were prohibited to erect a *mechitzah* according to a *status quo* (of Jerusalem and Bethlehem Holy sites) in the 1920s, and now they were calling upon another *status quo* to erect it¹⁹¹.

According to the Orthodox narrative, the Western Wall the “sacred ecology¹⁹²” is substantiated by three elements: authenticity, continuity and gender separation¹⁹³.

For the Orthodox establishment, authenticity is engraved in the above mentioned *Midrashic* saying “The Presence of God never leaves the Western Wall¹⁹⁴”. However, the saying would be in reference to the original Western Wall of the Temple itself, not to the today’s external retaining walls (see note 5 par.1). A staunching example of this narrative can be found in the website of the Western Wall Heritage Foundation which opens with the *Midrashic* saying above mentioned¹⁹⁵. The sanctity of the Western Wall was crafted rightly after the endeavors of the Six-Day War by the same Minister

¹⁹⁰ Charmé, ‘The Political Transformation of Gender Traditions at the Western Wall in Jerusalem’, 25.

¹⁹¹ Ibid

¹⁹² Leah Shakdiel, ‘Women of the Wall: Radical Feminism as an Opportunity for a New Discourse in Israel’, *Journal of Israeli History* 21, no. 1–2 (1 January 2002): 144, <https://doi.org/10.1080/13531040212331295892>.

¹⁹³ Jobani and Perez, *Women of the Wall*, 64.

¹⁹⁴ Exodus Rabba 2:2

¹⁹⁵ “What is the Western Wall”, The Western Wall Heritage Foundation, Facts and figures, <https://thekotel.org/en/facts-and-figures/>

Warhafting. While faced with many criticism for the Ministry of Religions position's towards the alleged holiness of the Wall, Warhafting declared that "no power in the world can take the Western Wall away from its holiness"¹⁹⁶. In a ceremony held at the Wall, the minister kept insisting that "all the four walls that surround the Temple Mount are holy and their holiness stems from the Torah which commands us to protect the temple and all the holiness that is part of it"¹⁹⁷.

The holiness is linked to the alleged sanctity and reverence that the Jews have been paying to the Western Wall. According to the website of the Western Wall Heritage Foundation, the Jews have been praying continuously at the Western Wall since the destruction of the Temple, even if as pointed out previously, the celebrations at and reverence towards the Western Wall started only from the 16th Century. The auxiliary body created to help the Chief Rabbinate in controlling the Kotel is the Western Wall heritage Foundation, established in 1988 and it operates under the guidance of the Ministry of Religious Affairs and under the auspices of the Prime Minister Office. The objectives of the Western Wall Heritage Foundation deal with the administration of public funds and donations, within Israel and from the diaspora for the maintenance of the *Kotel*. The activities under the direction of the foundation are various, both of religious and national values, such as tours for the Birthright or Masada programs, tours of the archeological tunnels and excavation areas and the religious celebrations of bar and bat mitzvah according to the orthodox custom, the upsherin/chalek ceremonies on Lag BaOmer and religious ceremonies that also gained national values such as Simchat Torah, Birkha Kokhanim on Passover, etc...¹⁹⁸

The final point of the Orthodox narrative is tied to the alleged sanctity of the Wall and the juxtaposition of the Wall with the Temple itself. Given that the Wall is the remnant of the Temple, the same rules on gender segregation that applied to the Temple should be applied to the Western Wall

¹⁹⁶ Doron.Bar . "The struggle over the Western Wall, 1967– 1973". In Yehoshua Ben- Arie, Aviva Halamish, Ora Limor, Rehav Rubin, & Ronny Reich (Eds.), Study of Jerusalem through the ages (pp. 318– 346). (Jerusalem, Yad Ben- Zvi Publications, 2015),335

¹⁹⁷ Ibid.

¹⁹⁸ For a list of celebrations see, "Calendar of the celebrations at the Kotel", available at <https://thekotel.org/en/uncategorized-en/>

as Well. As it will be portrayed in the next chapter, this argumentation was used in the Supreme Court to refute Women of the Wall petitions to pray at the Western Wall. Indeed, Justice Menachem Elon and Prof. Eliav Shochetman, who served as the State respondent before the Supreme Court, both agreed in referencing the Western Wall as a *de facto* Orthodox synagogue and a “miniature” of the Temple¹⁹⁹.

¹⁹⁹ Menachem Elon, “The Status of Women: Law and Judgement, Tradition and Transition, the Values of a Jewish Democratic State”. (Tel Aviv: Kibbutz HaMeuchad. 2005) In Jobani and Jobani and Perez, *Women of the Wall*, 64.

4. Prayer as a form of protest: Women of the Wall agenda from its origins to present day

“One day the story will change:
then shall the glory
of women resound [...]
Reversing at last the sad
reputation of ladies.”

Medea, Euripides

In October 2014 a young Jewish girl, Sasha Lutt²⁰⁰, made history: for the first time a female person read out loud from a Torah scroll at the Western Wall in Jerusalem. In the celebration of her Bat Mitzvah, Sasha was representing a quarter-century long struggle in which the Women of the Wall (WoW) sought legal permission to conduct practices in the women’s section (*ezrat nashim*) that were reserved only to men under the current arrangements at the *Kotel*: to wear a tallit, or to pray and read collectively from a Torah scroll.

The objective of this chapter is to present WoW’s struggle vis-à-vis the Western Wall Foundation and the State of Israel, which have failed to provide the legal right to WoW to pray at the Kotel according to their custom while endorsing the preservation of the Kotel arrangements as those of an Orthodox synagogue.

4.1 A “Herstory”²⁰¹: From Women’s Prayer groups to the Israeli Public Arena

The previous chapter shows that the Western Wall is a contested zone where different agendas collide.

In this highly problematic area, Women of the Wall has settled the ground for another dispute about intra-Jewish agendas vis à vis the State of Israel. Indeed, this struggle does not involve other nations

²⁰⁰ R. Kashner, “The Bat Mitzvah Girl Who Made Kotel History”, The Forward, October 28, 2014, available at <https://forward.com/life/208090/the-bat-mitzvah-girl-who-made-kotel-history/>

²⁰¹ The term “herstory” is used in feminist scholarship to describe history from women’s point of view. The term is often credit to “second wave” feminist Robin Morgan. For further reference see, Robin Morgan, *Sisterhood Is Powerful: An Anthology of Writings from the Women’s Liberation Movement* (New York: Random House, 1973).. In relation to Women of the Wall the term is cited in Shakdiel, ‘Women of the Wall’., 127

or cause international turmoil; this is a struggle within Judaism, a battle concerning what is halakhically acceptable and who has to determine what *Halakha* means and how it should be interpreted.

Women can pray at the *Kotel* in their dedicated divided space (*ezrat nashim*) by the *mechitzah*, the physical partition that divides women from men in almost every Orthodox synagogue around the world²⁰². However, this area is much smaller than the size allotted to men. Women can touch the stones, pray as individuals, and read from the *siddurim*; however, women cannot engage in the following activities: praying aloud in a group, wearing *tallitot*, wearing *tefillin*, blowing a shofar, and carrying or reading out loud from a *Sefer Torah*. Beside the restrictions women face, women often exhibit a form of deeper attachment to the Western Wall²⁰³. Following the tradition that sees the Divine presence, *Shekhina*, always present at the Kotel, many Jewish women feel a special connection towards the *Kotel* and its perceived sanctity.

The first challenge to the patriarchal order set at the Western Wall came in 1988 at a conference at the Hyatt Hotel in Jerusalem, where the First Conference of Jewish Feminists was held. This conference was inspired by fifteen years of American Jewish Feminist activism within the "second wave" of feminism; the term "Jewish Feminism" marked a new development that foresaw a commitment to change Judaism and Jewish society in light of the feminist vision²⁰⁴. According to Judith Plaskow, these pioneers of Jewish Feminism were concerned, along with matters entailing

²⁰² The *mechitzah* is a physical barrier that divides men's and women's section in orthodox synagogues; it can be a fence, a curtain or any other physical barrier that allows gender segregation and differentiation within the synagogue. In some synagogues the *mechitzah* is replaced by a balcony for the women's section. As symbol, the *mechitzah* is also a divider or an architectural important difference between orthodox and reform synagogues, where the *mechitzah* is absent. For a more complete account on the history of the *mechitzah* see, Litvin, Baruch Baruch Litvin, Jeanne Litvin, and Melvin Teitelbaum, *The Sanctity of the Synagogue*, 3rd rev. and expanded ed (Hoboken, N.J.: KTAV Pub. House, 1987)..

²⁰³ Danielle Storper-Perez and Harvey E. Goldberg. "The Kotel", 35

²⁰⁴ For an interesting account of "Jewish Feminism" within the "Second Wave Feminism" see, Ann R. Shapiro, 'The Flight of Lilith: Modern Jewish American Feminist Literature', *Studies in American Jewish Literature* 29, no. 1 (2010): 68–79, <https://doi.org/10.1353/ajl.2010.0018>.

divorce, with the exclusion of Jewish women from the *minyanim* (all-male prayers group) and women's exemption from the performance of positive binding *mitzvot*²⁰⁵.

The conference participants mainly were from North America (USA and Canada) from all streams of Judaism, and all of them took part in women's *tefillah* prayer groups (WTGs). These groups intended to change women's role in public prayers, from passivity to active participation, within the limits of Orthodox Halakhic policies²⁰⁶. No longer willing to be an accessory to men's prayer, these women held female groups prayer where they could experience the active roles reserved for men, such as the Torah reading and other rituals²⁰⁷. These women prayer groups met on every *Rosh Chodesh*, the beginning of every Jewish month²⁰⁸, and other prominent Jewish Holidays, while also encouraging women in reading out loud from the Torah (*qiri'at Torah*, or also performing *aliyah*, the stepping up and reading from the Torah and reading out loud while facing the congregation, or women group in this case). During these services, some women used to wrap up themselves in flowerily and colorful *tallitot* (prayer shawls) and wear *tefillin* for the morning prayer of *Shacharit*. Moreover, the ceremony of *bat mitzvah* has a special place in WTGs since it represents the initiation of young Jewish girls within the Jewish religious life as in the boys *bar mitzvah* ceremony.

It is important to stress that these women sought to operate within the limits of the Orthodox interpretation of *Halacha*, while also being multi-denominational; flexibility and adaptation were indeed, the constitutive elements WTGs whose primary goal was to enhance women religious participation rather than quarreling over the different spiritual or traditional approaches of their Jewish practice²⁰⁹.

²⁰⁵ For an accurate detail of the endeavours of Jewish feminist theologians see Judith Plaskow, *Standing Again at Sinai: Judaism from a Feminist Perspective*, 1st HarperCollins pbk. ed (New York, NY: Harper San Francisco, 1991).and Judith Plaskow and Donna Berman, *The Coming of Lilith: Essays on Feminism, Judaism, and Sexual Ethics, 1972-2003* (Boston: Beacon Press, 2005).

²⁰⁶ According to Orthodox custom, it is forbidden for man and women to pray together without gender division.

²⁰⁷ Shakdiel, 'Women of the Wall', 128.

²⁰⁸ For a description of the feminine and feminist value of the celebrations of Rosh Chodesh see S. Berrin, "Rosh Chodesh: intersecting feminism and Judaism". *Canadian Woman Studies*, Vol. 17, Issue 1 (1997)

²⁰⁹ For a more detailed account on the birth and creation of Women Prayer Groups in the United States of America, see Rivka Haut, "Women's Prayer Groups and the Orthodox Synagogue" in Susan, ed., *Daughters of the King: Women and*

The story of WoW started on the morning of December 1st, 1988, in a conference room of the Hyatt hotel in Jerusalem, where seventy American Jewish Feminists were discussing the state of women in Judaism and, in general, religious rights in Israel. The conference, which bore the name “International Conference for the Empowerment of Jewish Women” was organized under the auspices of the American Jewish Congress²¹⁰. That day, as a ceremonial closing gesture, the group of women decided to head to the *Kotel* wearing prayer shawls. Their departure from the hotel and the attempts to pray at the Western Wall were filmed and edited to create the documentary "Half the Kingdom" by Francine Zuckerman²¹¹. The footage clearly shows these women's reception at the Kotel by the Orthodox and Ultra-Orthodox men and women alike; while the women were singing "*Oseh Shalom*," the men answered by cursing them and shouting, "it is forbidden!". Indeed, what triggered the harsh response from *haredi* men and women alike was the opening of a Torah scroll and the consequent out-loud reading from it. The situation escalated very quickly and the group of women found themselves surrounded by a dense black-coated crowd which shouted insults and catcalls of the sort “witches”, “nazis”, “dogs”, while Orthodox women kept stating that “the Torah belongs to men”²¹². The group of women managed to escape unharmed, however the agitation at the Kotel did not pass unobserved to Rav Yehuda Gertz, the so called *Memuneh al haKotel* (Rabbi of the Wall), the official supervisor of the Holy Site on behalf of the Ministry of Religion. Rav Gertz while admitting that the women were not in breach of *Halacha*, he asserted that their practices hurt the sensibility of Orthodox

the Synagogue; [a Survey of History, Halakhah, and Contemporary Realities], 1. paperback ed (Philadelphia: Jewish Publ. Soc, 1993), 135–58.

²¹⁰ An article in “The Washington Post” describes the proceedings of the conference and mentions the presence of the US feminist congress woman Bella Abzug. Indeed, at the conference were present many famous Jewish activists women such as south-African anti-apartheid Helen Suzman the “Refusnik” Ida Nudel, and Renee Epelbaum one of the founders of the Argentine activist group “Mother of Plaza de Mayo” (Madres de Plaza de Mayo) of Linda Gradstein, “In Jerusalem, a Feminist Call”, *The Washington Post*, December 10, 1988 available at <https://www.washingtonpost.com/archive/lifestyle/1988/12/10/in-jerusalem-a-feminist-call/0d04086c-0ccf-4dc5-aeeb-cac5b137ad12/>

²¹¹ Francine Zuckerman's “Half the Kingdom” is available in the catalogue of “National Centre for Jewish Films” at the following url: <https://jewishfilm.org/Catalogue/films/kingdom.htm>.

²¹² For a detailed ego-documentation of the attacks that the women received that morning, Phyllis Chesler and Rivka Haut, eds., *Women of the Wall: Claiming Sacred Ground at Judaism's Holy Site* (Woodstock, Vt: Jewish Lights, 2003). Haut and Chesler work collects the personal experiences of the members of WoW in form of short essays and memoir. Although not a scholarly work, it is considered an important source of documentation regarding the WoW scope and goals, a sort of manifesto.

and Ultra-Orthodox men by being against *minhag haMakom*²¹³ (literally, the custom of the place). Indeed, L. Shakdiel presents an excerpt that clearly shows how Rav Gertz sensed the potential challenge presented by what he perceived the initiation to a new custom at the Kotel,

My dear and respected sister, I welcome you as you come to the Western Wall, remnant of our Temple.

You are now in the holiest approachable site for our people in these times...

I beseech you, dear sister, to help me protect the holiness of this site from desecration, God forbid, *and not to change anything in our people's tradition of many generations* [emphasis added]²¹⁴.

Rav Gertz's fears became more of a reality than a speculation when the group of women decided to start holding Rosh Chodesh prayers and other religious events on the calendar at the Western Wall. The group started calling themselves *Shirah Chadashah* (New song), but soon started to be identified as *kvutzat Neshot haKotel* (now *Neshot haKotel*) from the English "Women of the Wall". By the winter of the same year, Rav Gertz's fears concretized in the issuing of strict restrictions against the Women of the Wall: by drawing force from the 1967 "Law for the protection of the Holy Sites" and the "1981 Rulings on the Protection on Sites held Holy by Jews", the first prohibition for women to wrap themselves in *tallitot* and read out loud from the Torah at the Western Wall was issued with immediate effect. Later on the same year, a prohibition for women to sing out loud was added. This prohibition left the women of the group without defenses in front of the harassment of *haredi* attackers and manifestants; according to the provisions issued, the WoW were offenders who were disrupting the custom in place at the Western Wall and could not reclaim the protection of the police. From their part, the members of the group have always strived to not answer back with violence but to be rather submissive and accepting of the decision of the authorities, even when the decisions involved resorting to physical search (to prevent the women to carry on a Torah scroll) and imprisonment.

²¹³Shakdiel, 'Women of the Wall', 134.

²¹⁴ Ibid.

The choice to pray at the Western Wall takes into consideration the high value that the place constitutes not only within Judaism, but also for the civic religion of the State of Israel. To pray and perform rituals in a WTG is not the same as praying and performing out loud at the holiest site for Judaism and the symbol of a recovered “Zionist Jerusalem” after 1967. R. Haut one of the founding members in the WoW and a pioneer of WTGs in Israel wrote

We were absolutely clear that was unacceptable to us and that we would not have part in it. Our peaceful approach derived not only from the incompatibility of prayer with any form of violence but also from our consciousness of the violence that has pervaded Israel during the 1980s and during the *intifadas*. The goal of the Women of the Wall was to contribute to the sanctity of a very dear place. We were determined to demonstrate peaceful methods, exercising the institutions of democracy to effect the changes we envisioned. We were hopeful that, ultimately, women’s full participation in the public religious life of the Jewish State would be upheld, protected and honored and perhaps even welcomed²¹⁵.

Similarly, Rav Helen Ferris, a Reform rabbi who attended the ceremony when asked “why?” the [Western Wall], she answered,

So my answer to “why?” is this: I refuse to be excluded from Jewish history. The Wall, symbolizing our national experience, has been a focus of past tragedy and future hope. It is my past and my hope, and I will fight to be part of them.

The Wall is a symbol of the promise of our people, that we will be light unto the nations, that we are God’s witnesses to the world. I will remain part of the light. I will remain a witness to God for the future of Israel, for the future of the world.²¹⁶

It is clear that, for the Women of the Wall, the Western Wall carried a multitude of (thick) meanings that transcended a simple exercise of “women’s rights” within the *second wave feminism* which was approaching Israel. For this women, and today’s WoW group as well, the

²¹⁵ Chesler and Haut, *Women of the Wall*, 5.

²¹⁶ Ibid, 211

Wall carries the weight of being, at the same time, the symbol of their Judaism and their commitment to Zionism. Indeed, the women identify as proud feminist and Zionists and the Wall represents the symbol that perfectly merges these two elements²¹⁷.

To further discredit the group, the main Orthodox narration depicted the WoW as a group of Reform Jewish women who were seeking to bring heretical practices at the *Kotel*, a classic trope generally addressed to non-orthodox Jews, despite the fact of being or not Reform. The labelling of the group as “reform” clearly exemplifies the urgency felt by the Orthodox monopoly to halt any attempt to install a new Jewish pluralist vision that conjured together Jewish woman and, later, also male supporters which could provide a new “Jewish” definition within the state of Israel. Indeed, the struggle was set within the historical tension between Reform and Orthodox Judaism, ignoring the WoW self-identification and committed to pray within the limits of Orthodox interpretation of Halacha and being multi-denominational²¹⁸.

Since 1988, the group of women has replicated the rituals and activities of the WTGs at the *Kotel* for almost 34 years with some innovations introduced during the beginning of the 2000s, when Jewish feminist activism and scholarship sought to expand the rituals available for women.

The main activities of the group involve what Jobani and Perez (2018)²¹⁹ call the “three Ts”, namely *Torah*, *Tfilah* and *Tallit*. By wanting to perform *tfila* in public, WoW challenges several rationales that exempt women from religious active duties when public and at fixed times (*mitzvot asse shehazman gramman*). The patriarchal Orthodoxy framework effectively prohibits the active participation of women in public prayer in general and specifically, by

²¹⁷ It is interesting to point out that the Women of the Wall had chosen to maintain a low profile in their relationship with the media. Indeed, their main fear of a broad national and international coverage of the issue dealt with the fear of instigating anti-Israeli sentiments and the fear of presenting a weak Israel that lacked the support of the numerous American diaspora. The sentiment that Susan Aranoff describes was cantered in the fear of portraying a weak Israel that would lose the sovereignty of a reunited Jerusalem. See, Susan Aranoff, “The Politics of the Women of the Wall”, in R. Haut, *Women of the Wall*, 180.

²¹⁸ Lahav, ‘The Women of the Wall’, 52.

²¹⁹ Jobani and Perez, *Women of the Wall*, 19.

preventing women's prayer groups to constitute a *minyan* (legal quorum). The WoW are united by their desire to challenge this prevalent exclusion of women from public prayers, even though they refrain from holding prayers that would need a minyan (known as *devarim shebekdusha*)²²⁰. Indeed, as previously stated, since the membership of the WoW comes from different Jewish denominations (Orthodox, Conservative, Reform, etc.), they manifest different preferences regarding how to challenge Orthodox patriarchy. Some believe that women should pray exactly like men do, while others believe that, even though women's prayers are a necessity and legitimate, they must be conducted taking into account *Halakhic* restrictions²²¹. In a *Halakhic* perspective, the liturgy would be so composed by prayers that can be recited by individuals, men or women, and there is no formation of a congregation (*tzibur*) in the act of praying. Women praying in this fashion are, therefore, a collection of individuals that happened to pray together, without forming the *Halakhic* threshold of a congregation (*tzibur*), a *minyan*, in the technical *Halakhic* sense. As mentioned before, since the objective of the group is to be innovators and pioneers in Jewish feminist activism, the women of WoW have chosen compromise over radical preferences; to do so the prayer leaders include or exclude passages from the group's prayers according to their own religious sensitivities²²².

For what concerns the reading of the Torah in public, WoW maintains the same boundary of Orthodox *Halakhic* interpretations, since the readings chosen do not need a *minyan*.

For what concerns the "third T" WoW wishes to call attention to the fact that women have worn the *tallit* and *tzitzit* in different manners and circumstances in several historical periods²²³. Given the positive attitudes of several Rabbinical authorities to women wearing *tallit* and *tzitzit*, WoW wishes to bring this argumentation to women wearing them at the Western Wall as usually done by men.

²²⁰ Chesler and Haut, *Women of the Wall*, 267.

²²¹ Jobani and Perez, *Women of the Wall*, 20.

²²² Ibid

²²³ Ibid, 20

Beside this core element, the WoW organizes the celebrations of *bat mitzvah*²²⁴ for girls at the *Kotel* (specular to boys' *bar mitzvah* at the Kotel administrated by the Western Wall Heritage Foundation), seminars and workshops where women can learn how to blow a *shofar*²²⁵, shake the *lulav* for *Shavuot*²²⁶, or how to learn to read from the Torah with appropriate trope and the traditional prayer for the beginning of every Jewish month (*Rosh Chodesh*)²²⁷. In 2015 they managed to have included women in the public ceremony for *Hannukah* at the Western Wall and in April 2016 they challenged the Western Wall Foundation announcing a call for “*Birkat Kohanot*” (Blessing of the Priestesses) for Passover, to be held in parallel to the “*Birkat Kohanim*” (Blessing of the Priests)²²⁸. This new level of religious activism met a stronger reaction by the *haredi* system; while the harassment and the *Kotel* is still a practice, new manifestations against the group's endeavors manifest in vandalization of WoW public campaigns, condemnation of WoW activities through mainstream *haredi* media and traditional channels, and harsh condemnation from the Western Wall Rabbinate²²⁹. In these atmosphere, the members of the group have also to face the possibility of being arrested by the order police of the Kotel for disturbing the peace of the place and “hurting the sensibility” of people praying at the Wall²³⁰.

The Women of the Wall group entered a new stage of activism when former Jerusalem City Council Anat Hoffman stepped in as Chair of the Board. Hoffman, the Executive Director of the Israel Religious Action Center (IRAC) -deemed to be the legal advocacy arm of the Reform

²²⁴ WoW's description of Bat Mitzvah celebration for girls at the Kotel, <https://womenofthewall.org.il/bat-mitzvah/>

²²⁵ A short video shows the initiative of teaching women to blow a *shofar* with a professional teacher, available at <https://www.youtube.com/watch?v=vNNpd33ICX0>

²²⁶ Here a video of Anat Hoffman, today's chair of WoW, presenting a WoW boot where to learn how to shake the *lulav*, <https://hi-in.facebook.com/womenofthewall/videos/3171796073093604/>

²²⁷ WoW's calendar of Rosh Chodesh celebrations at the Western Wall, <https://womenofthewall.org.il/rosh-hodesh/>

²²⁸ As a parallel to the ceremony of the “Blessing of the Priests”, the WoW's ceremony would have gathered women of priestly descend to receive the blessing during Passover. Unlike other WoW practices, this ceremony does not find any parallel in Reform or Masorti movements and it is harder to justify it with *halachic* interpretation Jobani and Perez, *Women of the Wall*, 21.1

²²⁹ “Western Wall Rabbi: women desecrating the site by bringing Torah”, *The Times of Israel*, March 11, 2016 <https://www.timesofisrael.com/western-wall-rabbi-women-desecrating-site-by-bringing-in-torah/>

²³⁰ Zvi Ben Ghedalyahu, “Police arrested three “women of the Wall” after they violated High Court limitations and wore prayer shawls in a “Rosh Chodesh” protest”, available at <https://www.israelnationalnews.com/news/159027>

Movement in Israel- succeeded in grafting the WoW's struggle within the broader discourse on Orthodox hegemony in Israel; not only the hegemony of the Wall but also, the "cultural hegemony" of what concerns the *personal status*, thus in matters of marriages, conversions, and the answer to the general question "who is a Jew"²³¹. Indeed, on their websites, they define themselves as the "modern-day Western Wall liberators" referencing the soldiers that in 1967 have entered the Western Wall Plaza and on multiple occasion have showed support to the WoW group²³².

4.2 The religious establishment's position: taming a rebellion or a revolution?

As stated before, in their political and legal proceedings the Women of Wall (the analysis will follow in the next paragraph) kept clear that their manner of praying is carried within the boundaries of *Halacha* (they are a prayer group not a *minyan*) and their activities are moved by genuine spiritual motives rather than being a political stunt and spectacle. Moreover, in their position, there is no uniform "custom of the place" at the Wall but rather a given monopoly of the Orthodox and ultra-Orthodox establishment that run the Western Wall as a private Orthodox synagogue. If then everything is conducted within the limits of Jewish Law, how and why the religious establishment cannot come to terms and accept WoW's requests? Let us summarize in this paragraph the narration, arguments and rhetoric behind the Israeli Religious Establishment which is composed by the Ministry of Religion, the Chief Rabbis of Israel, the Rabbi of the Wall, the Orthodox and Ultra-Orthodox newspapers and media and *yeshivot* and finally, by association, the State's attorney that filed the answers in Court to the WoW on behalf of: The Chiefs Rabbis and Rabbi of the Wall, the Ministry of Religion, the Police Officer in

²³¹ Here for reference, an interview of Anat Hoffman at BBC discussing the tensions and arrests of WoW members at the Kotel, <https://www.haaretz.com/meet-haaretz-s-person-of-the-year-1.5329503> . Hoffman herself was arrested on October 2012 while praying at the Kotel in a WoW gathering.

²³² "1967 IDF Paratroopers stood with the women, defending their actions and demanding freedom at the holy site", From Women of the Wall website, available <https://womenofthewall.org.il/feb112013pressrelease/>

charge of the Old City of Jerusalem, the Police Officers in charge at the Western Wall and the Israeli Police department²³³.

It is interesting to note that at the beginning of the quarrel, the Establishment avoided any debate that entailed the recourse to debating Jewish Law. Indeed as we saw from Rav Gertz's letter, even if Jewish Law permits women prayers group, they do not constitute "custom" (*minhag*) and women do not have authority to change custom²³⁴. In this case, custom is a decisive factor when discussing customary changes rather than legal (*halachic*) changes within the Jewish world. In the State's legal brief presented to the Supreme Court, Prof. Shochtmann explains that within the Jewish legal framework custom equals *absolute law* and the room for negotiations is razor thin, if not totally absent²³⁵. Within this argumentative framework, WoW requests are perceived as revolution that seeks to change the established order and a revolution that is fostered by alien polluting elements (women prayers group are tied to the "*women liberation movement*"). While *halacha* can be manipulated and interpreted and re-interpreted all over due to its complex multi-layered nature, custom is inflexible and by definition unchangeable²³⁶.

In article dated 12 February 1988 in the *New York Times*, Rav Gertz was quoted saying that "a woman carrying a Torah is like a pig at the Wailing Wall", a very harsh comment that compares the prayers of the WoW as something impure and polluted²³⁷.

The same discreditation narratives are applied when Orthodox and Ultra-Orthodox deemed the group members to be not Jewish and labelled as "heretic Reforms"²³⁸; on the walls of the neighborhood of Mea Shearim and Geula is still possible to spot several *pashkevlim* that

²³³ Susan Sered, 'Women and Religious Change in Israel: Rebellion or Revolution', *Sociology of Religion* 58, no. 1 (1997): 13, <https://doi.org/10.2307/3712103>.

²³⁴ Ibid

²³⁵ Jobani and Perez, *Women of the Wall*, 54.

²³⁶ Sered, 'Women and Religious Change in Israel', 13.

²³⁷ Ibid

²³⁸ As previously inferred, Orthodox and especially ultra-Orthodox Establishment view the Reform Movement as heretic and an "American" adulteration of genuine Jewish tradition.

condemn WoW activities²³⁹. When in 2014 the WoW started to celebrate various *bat mitzvah* ceremonies at the Kotel, several posters from the *bat mitzvah* campaign were vandalized and sprayed with phrases of the sort “put an end to the abomination photos”²⁴⁰. According to today’s WoW’s chief, Anat Hoffman, many of these posters call for a violent reaction against Wow the use of the words “help” and “desecration” carry the weight of a “holy battle” against what the *charedi* perceives as foreign crusaders²⁴¹.

Ultra-Orthodox women, as well, have been taking part in defamation and harassment campaigns. Reportedly, Ultra-Orthodox women engage more in physical violence against the women of the group by grabbing away their siddurim and by ripping off the women’s hair coverings. These physical attacks manifest a “willingness” to expose the WoW as infiltrators and imposter who ought to be exposed for the sake of the Jewish community²⁴². Besides physical harassment, Orthodox and Ultra-Orthodox women have also started a counter group called “Women for the Wall” which is specifically dedicated to contrast the narration of Women of the Wall²⁴³.

²³⁹ Here an example of a *pashkevil* that targets a WoW event at Western Wall. The header says “We are shamed. Disgrace has covered our faces. Strangers have come into My Temple, Beit Adonai. The cry of the great rabbis of our time is that the Western Wall is to be desecrated and trampled upon.”[Hebrew]. The photo of the *pashkevil* is available at <http://rrfei.org/2016/02/pashkvil-published-in-ultra-orthodox-neighborhoods-the-cry-of-the-great-rabbis-of-our-time-is-that-the-western-wall-is-to-be-desecrated-and-trampled-upon/>.

²⁴⁰ The photos portrayed a mother and a girl wearing *kippot* and *tallitot* and reading from the Torah as in a bar mitzvah ceremony, the sentence says “Mom, I too want to celebrate my bat mitzvah at the Kotel”. Some of these posters were put on public transportation thus resulting in damage of public property. N. Dvir, “Haredim vandalize buses featuring women on campaign ads” YNews, October 10, 2014, available at <https://www.ynetnews.com/articles/0,7340,L-4582248,00.html>

²⁴¹ In Hoffman’s words : “[...]the words 'protest and cry out' are 'lip service': 'It is clear that the posters with the word 'Help' and then three times the word 'desecration' is a call to immediate action to save the holy places in Israel. Such a call would encourage a person to prevent desecration by injury of women of the Wall group”. “Women of the Wall: Posters encourages harm to us”, Bkhol, News article available at <https://www.bhol.co.il/news/134915>

²⁴² Sered, ‘Women and Religious Change in Israel’, 15.

²⁴³ The webpage of “Women for the Wall” states that “Women for the Wall (W4W for short) is run by a coalition led by Ronit Peskin. These women, from a broad spectrum of backgrounds, all share the common goal of making prayer at the Kotel a more pleasant experience for everyone, while maintaining an atmosphere of sanctity (Kedusha) and respect for Jewish tradition. Following their website, the mission of “Women for the Wall” is “Preserving the Sanctity of the Wall. We respect those who desire a sincere connection to G-d in whatever form, but we ask that everyone respect thousands of years of tradition, and the rights of those who wish to pray as has been done for generations” [according to the custom, added]. The statements are available at <https://womenforthewall.org/who-we-are/>

In this climate and within the “Establishment” framework, WoW’s activities are perceived as a degenerate revolution rather than a genuine attempt to innovate and create space for inclusion of women within the limits of what is *halachic* Orthodox.

4.3 Women facing a (brick) Wall: The political and judicial saga of Women of the Wall and the ghost of an unacceptable compromise

After only one year from the beginning of what would be WoW’s long journey, the Chief Rabbi Avraham Shapiro and Religious Affairs Minister Zevulun Hammar met with WoW, advising them to pray individually, in silence and possibly at home²⁴⁴. The attempt to silence the group’s voice and to divert the group’s interest in the Western Wall are a common feature of the last 35 years of legal and political battles. In an interview with Yitzhak Reiter, Hofmann states that the Wall is “an Archimedean point through which many sicknesses in the Israeli society can be rectified”²⁴⁵. The Wall symbolizes the stalemate in which the State of Israel finds itself in its relationship with the religious establishment.

This paragraph attempts to represent the most significant points of the legal and political saga of the Women of the Wall and their journey to the recognition of their right to pray at the Wall. The apexes of this journey are the three Supreme Court Rulings and the attempt from the political establishment to solve the issue with a compromise, the so called “Sharansky-Mandelblit Plan”. What the feminist movement went through was a proper legal odyssey. Their request to pray at the Western Wall according to their “Jewish feminist custom” has generated three different ruling by the Israeli Supreme Court, respectively in 1994, 2000 and 2003. These three rulings are of utmost importance in the Israeli legal landscape since they were issued by the Supreme Court and deal with religious practices that might lead to a change in the *status quo* in the most sacred place in Judaism and in

²⁴⁴ Sered (1997), “Women and Religious Change in Israel”, p.16

²⁴⁵ Yitzhak Reiter, ‘Feminists in the Temple of Orthodoxy: The Struggle of the Women of the Wall to Change the Status Quo’, *Shofar: An Interdisciplinary Journal of Jewish Studies* 34, no. 2 (2016): 84, <https://doi.org/10.1353/sho.2016.0001>.

Israel's civil religion. Indeed, the court rulings opened the Pandora's Box of Israeli church-state relations: is Orthodoxy more Jewish than others religious streams? The Women of the Wall demands were balanced: they did not ask to destroy the mechitzah but they asked instead to be allowed to pray in the women's section according to their own custom, if not for *Halacha* at least for the sake of Israeli secular Law, which formally grants freedom of thought and religion.

a) *The first ruling of the Supreme Court: Halacha vs custom*

The WoW submitted their first petition to the Supreme Court in 1989, a year after their first prayer at the *Kotel*. As previously stated, after the first event held at the Wall by WoW, the Minister of Religion sought to rapidly fill any possible administrative vacuum that would lead to permit WoW to pray at the Kotel; rapidly, it published an addendum to the 1981 Regulations for the Protection of Holy Places for Jews that prohibited "holding of a religious ceremony that is not according to the custom of the place, and that offends the sensitivities of the worshipping public toward the place"²⁴⁶. In this way, Israeli law gives to the Rabbi of the Wall authority over all administrative matters of the Wall and no courts has the power to declare his decisions illegal. As it will be shown later, every change regarding the Western Wall needs to be discussed at a parliamentary level rather than judicial²⁴⁷. Central to the discussion of the justices that seated in the Supreme Court at the time was the notion of "custom of the place" (*minhag haMakom*) and how to strike a balance between secular Israeli Law, *Halacha* and said custom. While all three justices agreed that the women were entitled to the freedom of religious practice, they disagreed on whether their right to pray could be applied to the Western Wall and the custom at place. Since in it was impossible to find a compromise between the three justices' positions, the court decided to refer to the government of the State of Israel to find a solution. Let us briefly summarize the justices positions issued in three separate opinions.

²⁴⁶ Regulation 2(a)(1a), Regulations for the Protection of Holy Places for Jews, 1981.

²⁴⁷ Sered, 'Women and Religious Change in Israel', 11.

Justice Elon, the scholar for matters in Jewish Law, rejected the requests of WoW by asserting that, even if their activities do not contradict the *Halacha*, they certainly contradict the “custom of the place” (*minhag haMakom*) which coincides with the custom held in Orthodox synagogues. Moreover, according to Elon, even if permissible, the changing of an “established custom” might lead to unjustified quarrels for the control of the holy place²⁴⁸. Justice Elon affirmed that, all in all, the *Kotel* is and should remain an “Orthodox synagogue” despite the secular and national significance that it carries. On the other hand, justice Levin defended the right of WoW and rejected justice’s Elon rulings by asserting that in this case, secular law should prevail over any religious legal consideration. He reminded that, the Western Wall beside the religious and spiritual value it carried for the *whole* of the Jewish People, it also carries a national and secular significance which should take into consideration the “good faith” of those visiting the site. The fact that it serves as a prayer site does not grant it the statute of synagogue *a fortiori*. Finally the notion of “custom of a place” should be interpreted in the most flexible and evolutionary terms possible, so to reflect the various sensibilities within the Jewish People²⁴⁹.

Finally justice Shamgar, president of the court, while asserting the abstract right of WoW to their freedom of religion and belief and prayer practice at the *Kotel*, he rejected the appeal of WoW with the reasoning that the Supreme Court was not the right place to solve the issue; on this matter he would say “ The petitions before the Court lead us to the bumpy road of trying to balance between approaches and beliefs that are incompatible”²⁵⁰.

²⁴⁸ High Court of Justice, HCJ 257/89, Hoffman v. Director of the Western Wall, decided on January 26, 1994, available at <https://versa.cardozo.yu.edu/opinions/hoffman-v-director-western-wall>

²⁴⁹ Ibid

²⁵⁰ Ibid

b) *the second ruling of the Supreme Court*

Following the decision of the first ruling, the government of the State of Israel created three ministerial commissions which were unable to come to a solution.

The first committee started to survey four possible alternative sites for the WoW to pray: the area of Robinson's Arch, the area in front of Hulda Gates, the southeast corner of the Wall of the Temple Mount, and an area known as "Small Wall" (*haKotel haKatan*), a small tail of the Western Wall. However, after two years of deliberations, and taking into consideration the police suggestions, the committee recommended that the WoW's prayer take place far from the Wall plaza itself, towards the south-east corner of the Wall²⁵¹.

The second committee recommended that WoW's activities not to be permitted neither at the Wall nor in any other recommended site. The rationale behind the prohibition was based on security concerns regarding the *status quo* of the Temple Mount and Dome of the Rock; indeed, according to the committee all the suggested sites have the potential to cause an confrontational escalation with Muslim worshippers at the Dome of the Rock²⁵². The third committee, which went under the name of "Neeman Committee" recommended Robinson's Arch as the most appropriate alternative location. Robinson's Arch is entirely hidden from the Wall Plaza by a rampway that leads to the Dome of the Rock²⁵³.

After the conclusion of the first committee were reached, WoW petitioned the Supreme Court once again, since the Government proved incapable of resolving the situation at the Wall. A decision was reached by the Court in May 2000, after the deliberation of the third committee and after several postponements requested by the Government. The court was headed by justices Matza, Beinisch and Strassberg-Cohen who visited the alternatives sites which have been considered by the committees.

²⁵¹ Jobani and Perez, *Women of the Wall*, 42.

²⁵² Viktor Bruns and Frances Raday, 'Claiming Equal Religious Personhood: Women of the Wall's Constitutional Saga', in *Religion in the Public Sphere: A Comparative Analysis of German, Israeli, American and International Law*, ed. Winfried Brugger and Michael Karayanni, vol. 190, Beiträge Zum Ausländischen Öffentlichen Recht Und Völkerrecht (Berlin, Heidelberg: Springer Berlin Heidelberg, 2007), 22, https://doi.org/10.1007/978-3-540-73357-7_8.

²⁵³ Ibid

As Raday points out, while in Hoffman I the justices were all male, in Hoffman II, the court was composed by two women and one man²⁵⁴. Justice Matza wrote the opinion of the Court to which justices Beinisch and Strassberg-Cohen concurred. In Hoffman II²⁵⁵ the Court concluded that none of the alternatives sites could serve to implement the right of WoW to pray at the Western Wall. Moreover, the court held that in Hoffman I the majority had recognized the right of WoW to pray in their manner at the Western Wall itself. Hence, the Court asked the Government to implement WoW's prayers right at the Western Wall within six months²⁵⁶. The decision of the court was an important stone in the long judicial journey of WoW, since it set clearly the rights of the group. Indeed, the Court clarified that in Hoffman I the decision recognized the group's right and also transformed justice's Shamgar recommendation into a judicial directive that concretized in a mandate to the government to be responsible of WoW's rights. The Court however, refrained from directly establishing the prayer arrangements because the petition had been presented in the context of a Government's failure to take a decision. According to Raday, who served as attorney for WoW, this elusive answer of the court has to be attributed to the Court's defensiveness in face of possible backlashes from political and religious elements, even from academics who could have blamed the Court of "strong activism" in "church-state" matters²⁵⁷.

The reactions in Israel to the decision to Hoffman II was particularly aggressive, as Raday tells. The religious parties immediately crafted a legislative proposal that would once and for all clearly state that the Western Wall and its plaza are indeed an Orthodox synagogue. Any person violating the Orthodox custom would face seven years of imprisonment. Surprisingly enough, this proposal was backed by many Knesset members of secular parties as well. Moreover, Attorney General E. Rubinstein asked the president of the Supreme Court to grant a further hearing of the case in order to overrule Hoffman II. The request came as a surprise since the decision of the court was unanimous.

²⁵⁴ Bruns and Raday, 'Claiming Equal Religious Personhood', 23.

²⁵⁵ High Court of Justice, HCJ 3358/95, *Anat Hoffman v. Prime Minister Office*, 2000(2) 846.

²⁵⁶ Ibid

²⁵⁷ Jobani and Perez, *Women of the Wall*, 42.

The president of the Supreme court, A. Barak, granted the request of the Attorney General and appointed an extended panel of nine justices.

c) *the third ruling of the Supreme Court*

In Hoffman III, the court was divided and published an ambivalent decision. The majority judgement delivered by justice Cheshin with the support of justices Barak and Or held that the right of the WoW to pray at the Western Wall had been recognized but it was not absolute, and the best way to grant their right was to find an alternative site, like the Robinson's Arch. Four members of the court, justices Mazza, Beinisch, Strassberg-Cohen and Levin, wrote a minority report advocating for full recognition of WoW prayer rights at the Western Wall.

The majority decision provided that, should the Government fail to construct a proper prayer area at Robinson's Arch within 12 months the WoW would have the right to pray at the Wall according to their custom. Here again, the court has decided to put the onus of action on the executive branch rather than implementing by itself the prayer arrangements at the Wall.

It is important to stress that the Robinson's Arch is an archeological site, it is adjacent to the Wall but has not traditionally been a prayer site. Moreover, the structural works for the implementation of the prayer area could potentially damage the site. Indeed, the park is under the auspices of the Antiques Authority who strongly oppose the construction of a prayer area at the site²⁵⁸.

d) *The Sharansky-Mandelblitt Plan and recent developments*

In 2005, the Government declared that the works for the prayer area were complete at the Robinson's Arch, now the only possible site where the WoW could pray. Even though WoW had accepted the Supreme Court's ruling of 2003, they claimed that the area was still raw and unable to hold prayer services. In 2005 WoW returned to the Western Wall to resume their practices and this time, they

²⁵⁸ Jobani and Perez, 42.

faced again with the obstruction of the *haredi* sector and the arrests of the police. Anat Hoffman was arrested with several other women for displaying an “[improper]behavior in a public place in a way that is liable to disturb the peace,” “the violation of a legal ruling,” and “a prohibited act in a holy site”²⁵⁹. In addition, some of the group members were banned from the Wall for varying periods of time.

Despite the arrests, the group kept their activities with the same determination until April 2013, when the course of action took an unexpected turn. The Jerusalem Magistrate Court decided²⁶⁰ to release a group of incarcerated WoW members without any stipulation and rejected the state’s request to bar the women to enter the *Kotel* plaza. Indeed, when showed with the footage of the incidents at the Kotel, judge Larry-Bavli stated “You have arrested the wrong people. The ones who were disturbing the peace were not the women who have come to pray.”²⁶¹

The State’s subsequent appeal was rejected by Jerusalem’s district court judge Sobel, who in his decision set for a major advancement of WoW’s rights and cause. First of all, the provisions of the 2003 Supreme Court ruling were not to be interpreted as carrying criminal liability for the Women if they prayed at the Western Wall. Second, the improvement works at the Robinson’s Arch were still in process so the government could not claim that the plaza was ready to be safely used. Third, and most importantly, WoW’s prayers are not against the “custom of the place” and sided with the majority interpretation of the first Supreme Court ruling. Finally, since the group has always maintained a pacifist and non-violent attitude, the burden of blame should not be attributed to them for the disruption of peace and public order. In Sobel’s words “Neshot haKotel, hen kvar khelek mi-minhag haMakom”²⁶²(“the Women of the Wall are already a part of the custom of the place”).

Even if judge Sobel’s ruling has to be considered a significant step forward in the recognition of WoW’s right, the WoW could pray according to their fashion but not read aloud from the Torah,

²⁵⁹ Jobani and Perez, 44.

²⁶⁰ [2013] 21352- 04- 13 State of Israel v. BR Ras and others, in Jobani and Perez, 44.

²⁶¹ Lihi Ben Shitrit, *Women and the Holy City: The Struggle over Jerusalem’s Sacred Space* (Cambridge, United Kingdom ; New York, NY: Cambridge University Press, 2021), 80.

²⁶² Ben Shitrit, 20.

thanks to a counter response from the Chief Rabbinate. Ultra- Orthodox Rabbi Shmuel Rabinowitz, the Rabbi of the Western Wall and the chairman of the Western Wall Heritage Foundation, started to appeal on a 2010 regulation in order to circumvent Judge Sobel's ruling and to continue to prevent the WoW from praying in their manner at the Wall²⁶³. According to the regulation issued by the Western Wall Heritage Foundation and approved by the Minister of Justice, everyone is forbidden to bring their own Torah scrolls to the Wall without receiving special and formal permission from the Rabbi of the Western Wall. The rationale behind this is that, according to the Rabbi of the Wall, Torah scrolls are already present at the *Kotel* and bringing them from outside might led to security concerns²⁶⁴. Of course, the Torah Scroll present at the Western Wall all cherished within the male sector, so inaccessible to women and WoW.

Following the arrests and release of the incarcerated women, the Women of the Wall dis-adventures caught the eyes of the Israeli public opinion, more and more against the Orthodox hegemony (even though never strong enough) and those of the Jewish Diaspora, especially of the US based one.

In 2013 the then Prime Minister Benjamin Netanyahu charged cabinet secretary A. Madelblit to investigate the possibilities to implement the so called "Sharansky Plan", a plan envisioned by the then chair of the Jewish Agency Natan Sharansky. Sharansky's plan had the goal to solve the disputes between Orthodox and non-Orthodox movements in Israel and to calm the grievances of the American diaspora which were pressing on prime minister Netanyahu for a solution of the matter that could encompass an egalitarian Western Wall. Sharansky's plan envisioned an extension southwards of the Western Wall Plaza so to create an egalitarian plaza, equal in size to what would be definitely considered the "Orthodox plaza". Since the area of the Robinson's Arch is below the level of the Western Wall plaza, a podium would be erected to elevate the prayer area. The new prayer area would receive the name of *Ezrat Israel*, literally "the section of Israel" and would share the same entrance of the Western Wall plaza. The presentation of the Sharansky-Mandelblit plan generated mixed

²⁶³ Jobani and Perez, *Women of the Wall*, 45.

²⁶⁴ Ibid.

reactions within the WoW group. If, from one side there was a concrete possibility to pray in freedom and without fear, from the other, the objective to allow to pray not only WoW but every non-Orthodox Jew at the Western Wall was pushed further away. Eventually, chair Anat Hoffman accepted the compromised, a fact that led to a split within the WoW movement. Cofounder of WoW Devora B. Haberman and other 16 women publicly denounced their discontent with the compromised and formed a group that is known today as the “Original Women of the Wall”²⁶⁵. The conflagration of WoW’s requests and the general requests of Reform and Traditional (Masorti) movements for recognition in Israel had the effect to shadow the original struggle of the group; indeed, their specific instances have been absorbed by the general stances for recognition of the non-Orthodox movements leading to compromises and loss of visibility that have heavily influenced the course of the non-resolved struggle of WoW.

However, even if the Sharansky-Mandelblit plan seemed a pragmatic viable option, it resulted in a mere illusion since, by 2017, all the project constructions have come to an halt due to the heavy pressure that the religious parties were playing on the Netanyahu’s government coalition, with great regret of Sharansky and the Jewish Agency²⁶⁶. The problem for the religious parties was not in the Sharansky-Mandelblit plan of extending the Wall (Wall Rabbi Rabinowitz was in favor of the plan²⁶⁷), but in the evolution that the recognition of non-Orthodox streams of Judaism would lead in Israel: the slow, but inevitable erosion of the monopoly of Jewish definition by the Orthodox and Ultra-Orthodox sectors.

²⁶⁵ Reiter, ‘Feminists in the Temple of Orthodoxy’, 92.

²⁶⁶ B.Ravid and J.Maltz, “Jewish Agency Cancels Dinner With Netanyahu in Protest of Western Wall Egalitarian Prayer Space Freeze”, Haaretz, June 26, 2017, available at <https://www.haaretz.com/israel-news/jewish-agency-cancels-dinner-with-netanyahu-in-protest-of-western-wall-prayer-space-1.5488735>. For a scholarly work on Netanyahu’s government unresolved issues, see Robert O. Freedman, ed., *Israel Under Netanyahu: Domestic Politics and Foreign Policy*, 1st ed. (Abingdon, Oxon ; New York, NY : Routledge, 2020.: Routledge, 2019), <https://doi.org/10.4324/9780429342349>.

²⁶⁷ Reiter, ‘Feminists in the Temple of Orthodoxy’, 99.

5. Tensed relations on the definition of Jewishness: contentious definitions of the Jewish Identity

Through a historical catastrophe - the destruction of Jerusalem by the emperor of Rome - I was born in one of the cities in the diaspora. But I always deemed myself a child of Jerusalem, one who is in reality a native of Jerusalem.

S.Y. Agnon

The Jewish diasporic experience is considered the embodiment of the term “diaspora” itself. When studying the diasporic phenomenon, one of the central questions lies on identifying where are the centers of the ethno-national-religious diasporas. When it comes to the Jewish diaspora, undoubtedly the thought goes to the binomial Israel-Jerusalem. However, the numbers in the diaspora suggest that the United States of American ought to be considered a second center for the Jewish diaspora; here the non-orthodox streams of Judaism represent the majority and display a mosaic of possibility in regard to Jewish religious engagement. This chapter will present the general attitudes of the American Jewish diaspora vis-à-vis the State of Israel, the Western Wall and the transnational power of the actors involved, such as the International Committee of the Women of the Wall which rallied support in the USA for the WoW in Israel. Moreover, the last paragraph will look at the reaction of the diaspora to the “Wall compromise” and the reactions to its freezing in 2017.

5.1 Not a center but two poles: elliptic experiences between Israel and the Jewish diaspora on the meaning of Jewish Identity

Traditionally, within the scholarly framework of diaspora studies, the Jewish diaspora represent the diasporic nature *par excellence*. Jointly with the experiences of the Armenian and Greek diasporas, the Jewish diaspora meets the threshold tests of what constitutes a diaspora: a scattering originated from a traumatic experience, a mythical matrix that is based on an alleged homeland and the return to it in order to correct the diasporic condition, and willingness to maintain closed the boundaries of

the community for self-preservation²⁶⁸. Within the Jewish traditional context, the homeland embodied both a point of reference in the past, and an eschatological hope for the future redemption of the “diasporic deformity” and the lack of sovereignty. Jewish prayers are centered around the return to Zion, the ingathering of the exiles and are embodied in the Passover wish “*L’Shanah haBa’a BiYerushalayim*”, “Next year in Jerusalem”.

One of the central questions when analyzing the diasporic phenomenon is to identify where are the centers of ethno-national-religious diasporas and transnational entities²⁶⁹.

The constitution of the perceived homeland in 1948, the State of Israel, did not put an end to the *galut*, the diaspora, at least formally. Even the concept of the “negation of the diaspora” was not sufficient to eliminate centuries of diasporic life and culture. Incidentally, Jewish tradition as practiced today in all of its forms is a product of the diaspora.

According to Sheffer²⁷⁰, the relationship between the diaspora and the homeland develops and changes according to four critical stages:

1. the creation of closer and quicker connections thanks to new communication systems;
2. the development of interests and ties with the homeland by the diasporans;
3. the maturing of a “host identity” in the host land by the diaspora which is complementary to the diasporan one;
4. the involvement of the homeland in the social, political and economic life of the diaspora.

²⁶⁸ For a discussion on “classic diasporas” see, William Safran, ‘Diasporas in Modern Societies: Myths of Homeland and Return’, *Diaspora: A Journal of Transnational Studies* 1, no. 1 (1991): 83–99, <https://doi.org/10.1353/dsp.1991.0004>. William Safran, ‘The Jewish Diaspora in a Comparative and Theoretical Perspective’, *Israel Studies* 10, no. 1 (April 2005): 36–60, <https://doi.org/10.2979/ISR.2005.10.1.36>., Khachig Tölölyan, ‘The Contemporary Discourse of Diaspora Studies’, *Comparative Studies of South Asia, Africa and the Middle East* 27, no. 3 (1 December 2007): 647–55, <https://doi.org/10.1215/1089201x-2007-040>., James Clifford, ‘Diasporas’, *Cultural Anthropology* 9, no. 3 (August 1994): 302–38, <https://doi.org/10.1525/can.1994.9.3.02a00040>.

²⁶⁹ Gabi Sheffer, “Reflections on “Israel and Jerusalem as the Centres of World Jewry” in Eli’ezer Ben Refa’el, Judit Bokser de Liwerant, and Yosef Gorni, eds., *Reconsidering Israel-Diaspora Relations*, Jewish Identities in a Changing World, volume 22 (Leiden Boston: Brill, 2016).

²⁷⁰ Ibid.

Given the centrality of this four stages when discussing the relationship between the (Jewish) diaspora and the homeland, it would be useful to start the analysis with a discussion of the diaspora attitudes vis-à-vis the State of Israel. Is Israel central to the definition of a Jewish identity?

Since the end of the Second World War, Jewish Diaspora identity has been based on several *foci* besides the traditional one, or the "religious" one, which encompasses a spectrum of experiences, from Reform to Ultra-Orthodox. Indeed, especially in the Western states, processes of liberalization and integration led to the creation of Jewish identities that can be detached from the sole traditional/religious experience, but rather rely on ethno-cultural bonds. These processes led to the "privatization of Judaism" leading to the creation of specific Jewish experiences that reclaim equal status with the Israeli experience. The diaspora experienced forced the Jews to continuously explore and reinvent their tradition²⁷¹. To a certain degree, many Jews especially those living in Western countries and especially in the United States, the notion of diaspora does not match anymore with "exile".

In 1950, in a conversation with Ben Gurion, the president of the American Jewish Committee Blaustein would remind to the Israeli political leader that " American Jews vigorously repudiate any suggestion or implication that they are in exile. To American Jews, America is home".²⁷²

Given that Jewish diaspora is divided on several sub-groups varying across the religious-secular spectrum, there is however a common understanding in (except for some-Ultra-Orthodox fringes) in the role of Israel and Jerusalem as central to the Jewish experience.²⁷³

After the Second World War and the consequent establishment of the State of Israel, the great core of the Jewish population resided in North America. Once the diasporic central-European past was forgotten, the Jews became American Jews. With the constant assimilation, Jewish practices became an option for most of the American Jews who now looked at Israel as an identity label. Israel became

²⁷¹ Eric Hobsbawm and Terence Ranger, eds., *The Invention of Tradition*, 1st ed. (Cambridge University Press, 2012), <https://doi.org/10.1017/CBO9781107295636>.

²⁷² Caryn Aviv and David Shneer, *New Jews: The End of the Jewish Diaspora* (New York: New York University Press, 2005), 72.

²⁷³ Gabi, "Reflections on Israel and Jerusalem as the Centers of World Jewry", 430

then part of the cognitive emotional luggage of American Jews with a series of practices tied to it: the photo of the Western Wall hanging in the living room, gifting Israeli bonds to every bar mitzvah boy, the Blue Box of the Jewish National Found (JNF-KKL) present in every community center, and so much more.

The interest of the Diaspora in what can be labeled as “Jerusalem affairs” were not constant but sensible to up and downs, which calque the experience of Israel as an independent and sovereign entity. If in the early stages of the *Yishuv* Jerusalem played a special role in religious discourses, such as those of Hovevei Zion²⁷⁴ with some attempts of the secular parts, it was the year 1948 that fostered major involvements of the diaspora in Jerusalem and Israel’s affairs. However, it was 1967 that showed a burst of interest of the diaspora in Jerusalem’s affairs. As previously discussed, the Six-Days War was a turning point event in the history of Israel but also in the history of Israeli-Diaspora relations. Indeed, the perception of Israel's imminent annihilation by the Arab coalition gave rise in the diaspora to a never-before-seen solidarity movement. As Shneer and Aviv recall “ American Jews flocked to Israel shortly after the 1967 Six Day War out of Zionist pride and a desire to fully express Jewishness as a national ethnicity²⁷⁵”. The support from the diaspora ranged from Ultra-Orthodox to Liberal Jewish streams with very few exceptions. The embodiment of this new proud feeling was embodied in the Israeli control of the Western Wall as holy national shrine. However, around the 80s, the support from the Diaspora in “Jerusalem affairs” and Israeli affairs started to attachment began to wane due to endogenous and exogenous forces. From the outside, Israeli policy was beginning to come under heavy criticism for processes of expansion beyond the Green Line, i.e., plans to colonize the West Bank through settlements. Contextually in the diaspora, especially the American diaspora, civil rights movements and the decolonial narrative were beginning to have their effects especially among the youth. In terms of domestic politics, meanwhile, the waning of the Labor dream and the rise of the Likud party pushed even further the initial perceived alienation of the diaspora.

²⁷⁴ For an account of the first encounter between Zionism and Religion see, Salmon, *Religion and Zionism*.

²⁷⁵ Aviv and Shneer, *New Jews*, 11.

Contextually with the rise of a conservative political class, the constant problem of Jewish definition that cut off non-Orthodox movements weighed on the restless identity of the American diaspora perceived as non-Jewish enough.

The 1990s, all things considered, were the years that in scholarship crystallized the concept of "diaspora estrangement" Between the end of the old and the beginning of the new millennium, Israel found itself coming to terms with an increasingly multicultural society, quite different from that of the 1950s and the first waves of "aliyyot." On the other hand, the political class became increasingly conservative and less elastic in defining Jewishness. The crisis of recognition of Jews from the FSU first, the initial non-recognition of Ethiopian and African communities later, showed the American diaspora how Israel was no longer a safe haven for all Jews. The dichotomy between diaspora Jewish identity and Israeli identity still represents a strong tension today that shakes both the diaspora and Israel, as the A.B. Yehoshua affairs testify²⁷⁶.

5.2 International Committee of the Women of the Wall (ICWOW): a case of transnational influence and solidarity network

The current literature describes both diasporas and transnationalism to cross-border processes. While once the notion of diaspora entailed ways of forced dispersion, today it entails various conditions which are characterized by their hybrid nature. Under such conditions, the paradigmatic Jewish Diaspora is rephrased as a virtual space between the center and a "dispersed" periphery²⁷⁷. According to Clifford, "the lateral axes of the Diaspora" are decentered networks of intense communication through travel, trade and kingship that connect the several communities of the diaspora²⁷⁸. Within

²⁷⁶ In 2012 the writer A.B. Yehoshua while invited by the American Jewish Committee shocked the audience by asserting that Jews in Israel are complete even without the diaspora and that an hierarchy of merit between diaspora and Israeli Judaism must be finally acknowledge, see Yehuda Kurtzer, "A.B. Yehoshua Should Pipe Down", Tablet Magazine, available at <https://www.tabletmag.com/sections/arts-letters/articles/yehoshua>.

²⁷⁷ Eliezer Ben-Rafael, Judit Bokser Liwerant, and Yosef Gorny, eds., '19 Jewish Diaspora and Transnationalism: Awkward (Dance) Partners?', in *Reconsidering Israel-Diaspora Relations* (BRILL, 2014), 373, https://doi.org/10.1163/9789004277076_021.

²⁷⁸ Clifford, 'Diasporas', 321–22.

this transnational framework lies the work of the North American supporters of the Women of the Wall who because of a community network and coalition building sought to have a transnational impact from the diaspora to Israel.

After the Jerusalem conference in 1988, it was clear for the women who formed the first nucleus of the WoW that they needed to involve the North American Jewish diaspora in the quest for egalitarian prayers at the Wall.

As Susan Aranoff recalls in the book that serves as WoW manifesto, the politics surrounding Women of the Wall's endeavor was multifaceted and deeply intertwined within the logics of the Israeli politics vis-à-vis the expectations of the Jewish diaspora²⁷⁹.

The violent antagonism expressed by the *Haredim*, and the inability of the State to provide the same level of legitimacy awarded to Orthodoxy to other Jewish experiences led the group to perceive the delegitimization of their demands as a tool for disempower any possible alteration of the *status quo*. The group had really clear that their requests lied at the center of major questions within Israeli society: as Aranoff says, "given the mix of democracy and theocracy combined with the heterogeneity of Israel's population and Israel's role as a spiritual center for a very diverse world Jewry, it seems that controversy over the role of religion in Israeli society was inevitable"²⁸⁰. Of all the arguments that led and still lead Israeli secular sector against *charedi* sector, the need for an egalitarian Western Wall seems the least attended, despite the violence displayed at the *Kotel*.

The very first reaction of the group was to establish the International Committee of the Women of the Wall, an international (but mostly North American) branch of the Israeli sisters' struggle. Indeed, many of the Women that took part in the first prayer services at the Kotel were diasporans, meaning that even if they were Israeli citizens, many of them would return to their original communities in the diaspora for economic or familiar reasons. Leaving Israel without a backup in the diaspora would have meant to have left the Israeli women by themselves against the Israeli political system.

²⁷⁹ Aranoff, "The Politics of the Women of the Wall, 180.

²⁸⁰ Ibid, 181.

The first two issues tackled by the ICWOW concerned the maintenance of an equilibrium between Orthodox members and non-Orthodox members, so to not legitimize any labelling of the group as solely non-orthodox (such as solely “Reform” or “Masorti”). Indeed central to this goal was the preservation prayers’ guidelines as conforming to halakhic orthodox interpretation. The second most pressing issue to tackle concerned the relationship with and the resort to national and international media. As Aranoff states, this issue fostered a heated debate within the group. The question of the relationship with the media arose - especially the non-Jewish one – after the ICWOW submitted the first lawsuit against the Israeli government. The reason ICWOW voted against entertaining any relationship with the non-Jewish media lied in the fear that a negative phrasing of their struggle could damage Israel’s image around the world. Indeed, the same Aranoff (a member of ICWOW’s leadership) stated that she was not comfortable with the prospects of New York Times to equate Israel to Iran’s theocracy²⁸¹. It is possible to hypothesize that the mistrust of non-Jewish media and a general perceived “Israelophobia” coupled with the fear to be labelled as a group against anit-Zionist by the nationalist establishment refrained the ICWOW to take a more International public position. Moreover, there was the fear to be the harbingers of a general delegitimization of the “Israeli cause” within the American political establishment firstly, and the wide American Jewish diaspora secondly. Specifically, ICWOW were concerned on a possible international challenge to Israel’s sovereignty of a re-united Jerusalem: if the diaspora would be set against the Israeli administration of the Old City and its Holy Places, the call for an internationalization of the city could have been raised by international actors with the consequent loss of an “Israeli Jerusalem”. However, WoW did not abide to a similar policy and started to campaign in both national and international media, Jewish and non-Jewish.

The same fear manifested, however, when seeking for political allyship within the American scenario. The proposition of presenting a resolution of WoW in the New York City Council made the strong

²⁸¹ Aranoff , “The Politics of the Women of the Wall, 183.

opposition of some women that were afraid to portray Israel as a villain in international political arenas²⁸².

While in Israel the ICWOW had to maintain a delicate balance between the aspirations of the WoW and the use of the media to bring attention to the cause, in the United States the object of the committee's anxieties was the management of intercommunal politics. The very first initiative undertaken between 1988-89 was a fundraising campaign for the purchase of a Torah scroll for the WoW in Israel undertaken by ARZA²⁸³, the Association of Reform Zionists in America that still today supports the WoW cause within the general call for Jewish pluralism in Israel²⁸⁴. Another important moment for intra-communal politics manifested when the American Jewish Congress agreed to present a Torah scroll to the women in Jerusalem during a mission. The ICWOW has received the support of many Jewish organizations within the Jewish liberal movements such as Reform, Masorti and Reconstructionist. The support of the liberal sector brought to ICWOW and WoW the possibility to speak in an unified voice during the hearings of the first governmental Commission for the prayer arrangements in 1991²⁸⁵. When it comes from the orthodox circles, especially the feminist one, the collaboration and support was scarce. The Orthodox Women's Tefillah Network did not endorse the ICWOW. The Jewish Orthodox Feminist Alliance (JOFA) founded in 1998, published a statement congratulating to ICWOW after the 2000 Supreme Court decision in Israel but refrained to publicly endorse or suggest to endorse the WoW's cause²⁸⁶.

The year 2013 was an important moment not only for the WoW in Israel but also within the broader American Jewish diaspora. The news that the Court finally ruled in favor of WoW custom to be legal at the *Kotel* after the arrest of several members has shaken the walls of the Orthodox communities, especially the feminist ones. Thanks to fast communication tools, such as social media, a great debate sparked in feminine Orthodox religious circles. As Baumel-Schwartz explains, the debate on social

²⁸² Aranoff, "The Politics of the Women of the Wall", 184.

²⁸³ Ibid

²⁸⁴ To see a recent fundraising campaign by ARZA see, <http://arza.org/donation/religious-equality>

²⁸⁵ Aranoff, "The Politics of the Women of the Wall", 186

²⁸⁶ Ibid, 187

media and forums have raised awareness around religious practices in Israel concerning the Orthodox female body²⁸⁷. Apparently, many of the debates on-line were fostered by the founder of “Women for the Wall” (see chap.3) who was seeking to promote the organization in its role against WoW. The campaign online activity, however morphed into a “learning experience” into the Israeli legal and political landscape and legal and religious debates regarding the status of women in Israel²⁸⁸. At the same time, many feminist Jewish Orthodox women have used the social media platform to show their support to WoW within the boundaries of their communities.

The solidarity with WoW from the diaspora was one of the major driving forces for the whole movement. On October of 2012, in a response to the arrest of Anat Hoffman, a solidarity flash mob took place around the world: thousands of Jews around the world recited the *shema* prayer together in honor of WoW’s women arrested. The event was organized by the United Synagogue of Conservative Judaism, in New York. The “Global Shema Flash mob” was advertised through their Facebook page²⁸⁹.

Consciously or unconsciously, these “diasporic” debates functioned as a virtual and neutral connecting platform between the diaspora and Israel, making the diaspora a transnational actor.

An analysis of the role of the diaspora in the political field will be addressed in the next paragraph.

5.3 The Sharasnky-Mandelblit Plan or Israeli-Diaspora relations reloaded: the quest for the definition of Jewish Identity

As stated in the previous chapter, by the turning point of the Court’s decision of 2013, the WoW cause was merged within the largest request for religious pluralism in Israel, symbolized by the creation of a common prayer area at the *Kotel* for non-orthodox Jews. Israel’s prime minister

²⁸⁷ Eliezer Ben-Rafael, Judit Bokser Liwerant, and Yosef Gorny, eds., ‘10 Orthodox Jewish Women as a Bridge Between Israel and the Diaspora’, in *Reconsidering Israel-Diaspora Relations* (BRILL, 2014), 201–22, https://doi.org/10.1163/9789004277076_012.

²⁸⁸ Ibid

²⁸⁹ Melanie, Lindman, “Diaspora Jews stand with Women of the Wall”, The Jerusalem Post, October 23, 2012 available at <https://www.jpost.com/Jewish-World/Jewish-News/Diaspora-Jews-stand-with-Women-of-the-Wall>

Benjamin Netanyahu tasked the Chairman of the Jewish Agency Natan Sharansky to craft a viable compromise which would allow WoW and members of non-orthodox groups to pray, if not at the *Kotel*, at least in a designated area near the *Kotel*. The task was not easy, and the same Sharansky in an interview with *Haaretz* stated that it would be impossible to hear all the requests and accommodate all of them²⁹⁰. Implicitly, Sharansky was admitting that within the compromise, someone was asked to make more sacrifices than the others; for WoW, the compromise would have requested to its orthodox member to pray next to men in the pluralist prayer area, something that orthodox women were not willing to do since this does not resonate with the Orthodox custom.

The Sharansky-Mandelblit plan called for the construction of an elevated platform at Robinson's Arch, the area southeast of the *Kotel* and, therefore, not part of the shrine, to be administered between the government of Israel, the Jewish Agency and representatives of the non-Orthodox branches of Judaism in Israel. According to the many interviews which Sharansky released in explanation for his plan, he claimed that the plan was the result of the joint labor of the Jewish Agency, the Israeli governmental representatives and the Jewish communities of the diaspora both at the congregational level and with grassroots Jewish movements²⁹¹. As a testimony of the importance of the plan for the diaspora, the first media outlet to present Sharansky's plan was the famous *Jewish Daily Forward*²⁹².

In its public releases of the plan, Sharansky was confident to have reached a Solomonic endeavor, since the diaspora seemed content with it and, according, to the chair of the Jewish Agency, the government was keen to seek a definitive solution for the stalemate at the Western Wall. Sharansky would say that the government was ready to set the question once and for all in even one day²⁹³; however, Sharansky's hopes, genuine or not, were quickly dashed. For more than four years, from

²⁹⁰ Judy Matz , "Full Plan for Western Wall Prayer Space to Be Unveiled This Month, Sharansky Tells Haaretz", Haaretz, <https://www.haaretz.com/jewish/.premium-sharansky-kotel-plan-to-move-ahead-1.5320044>

²⁹¹ Isabel Kershner,, "Compromise Is Proposed on Western Wall Praying," New York Times, April 9, 2013 available at <https://www.nytimes.com/2013/04/10/world/middleeast/plan-to-resolve-western-wall-prayer-controversy.html#:~:text=Sharansky's%20proposal%20involves%20expanding%20and,day%2C%20seven%20days%20a%20week.>

²⁹²Jane Esner, Sharansky to propose egalitarian section at the Kotel", available at <https://forward.com/news/174503/sharansky-to-propose-egalitarian-section-at-the-ko/#ixzz2PyMvhpKH>

²⁹³ Malz, "Full Plan for Western Wall Prayer Space to Be Unveiled".

2013 to 2017, the project came under the crossfire within Netanyahu's own party, the Likud, and from within the governing coalition over which the Orthodox parties exerted great influence. Before leaving space to the analysis of the reasons that brought the plan to a stall, let us briefly dwell on the reasons that led the diaspora to support the plan.

One of the most important diasporan actors supporting the plan was the Jewish Federations of North America (JFNA), an umbrella organization which counts 146 Jewish federations and 300 and more independent communities²⁹⁴. In their statement of the “Kotel Agreement”, the JFNA highlighted important issues regarding the definition of the Jewish Identity between Israel and the diaspora. By citing the specific case of the WoW, the JFNA remarked that the custom at the Kotel is a construction of the Orthodox establishment which received the control of the Kotel after the 1967 Six-Day War. Indeed, JFNA reminds to the readers of the statement that there is a copious volume of photographic material that pre-dates 1967, that shows the Western Wall as a place where genders were mixed during prayer time. Despite the fact that Robinson’s Arch is not part of the Kotel and therefore it outside the national shrine, however it is the first time that the state vouched for a basic recognition of non-Orthodox streams in Israel at least at this symbolic venue²⁹⁵. The JFNA position is equal in terms and strength to that of the Orthodox movement. To have rabbis from the Conservative and Reform movement seated together with the government and the Jewish Agency in full control of their “part of the Wall” was received as an impressive step towards the full recognition in the near future of said movements in Israel. However, beside the content of all the parties involved, the plan was set to a rough start. First of all, the same governmental coalition that proposed the creation of the plan was unable to set its internal disputes over the matter. The Minister of Justice Tzipi Livni and the Minister of Religious Affairs Naftali Bennet diverged on who was in charge to implement or contrast Sobel’s ruling in Hoffman III. According to Livni, as she accepted the ruling

²⁹⁴ Jewish Federations of North America (JFNA), Network Communities, <https://jewishfederations.org/network-communities>

²⁹⁵ JFNA, Statement on the Kotel decision, available at <https://jfedpgh.org/file/jfna-statements/Kotel-Decision-Background-6262017.pdf?erid=0>

and Sobel's interpretation, the WoW would not constitute a security threat anymore at the Kotel. For Bennet, however, the jurisdiction in the matter falls under the purview of the Ministry of Religious Affairs who did not accept Sobel's interpretation²⁹⁶.

Eventually, all the good faith and purposes come to an end, when in 2017 Prime Minister Netanyahu halted the negotiation and froze the plan. From 2013 to 2017 the plan made no significant improvements and the only egalitarian area at Robinson's Arch was constructed by the Ministry of Religious affairs to poorly testify of their willingness to solve the question. Indeed, the area, as a Times of Israel editorial calls it, is a monstrous hydra created by the same government: while the liberal movements keep holding their services there, no proof of written agreement is in sight since the area is also revered as an important archeological site which will be soon countered for excavation purposes. Moreover, a number of yeshiva student enter the area with the purpose of holding gender-segregated prayers in the egalitarian area as a political provocation centered in the discomfort against the liberal movements²⁹⁷.

While the freezing of the plan altered the diaspora America Jewry, the first disappointment was manifested by Berkowitz, S. (2016), *The Temple Mount and the Western Wall in Israeli Law*, The Jerusalem Institute for Israel Studies, The Teddy Kollek Center for Jerusalem Studies Prime Minister Netanyahu. Netanyahu perceived that the drift between the diaspora and the State was reaching a point of non-return: the diaspora, according to the prime Minister was moving further and further away from Judaism itself²⁹⁸.

First, increasing assimilation in the non-Orthodox American Jewish community made this part of the Diaspora population less connected to Jewish issues, including Israel. Second, Israeli policies have created a sharp division between non-Orthodox American Jews and Israel precisely because of

²⁹⁶ Revital Hovel, "Livni Moves to Block Bennett's Bid to Stifle Women of the Wall", Haaretz, May 16, 2013, available at <https://www.haaretz.com/.premium-livni-shielding-the-women-of-wall-1.5242919?lts=1653083605030>

²⁹⁷ Amanda Borschel-Dan, Western Wall egalitarian area used daily for gender-segregated Orthodox prayer, July 19, 2018 Times of Israel, available at <https://www.timesofisrael.com/western-walls-egalitarian-area-is-used-daily-for-sex-segregated-orthodox-prayer/>

²⁹⁸ Rephael Ahren, "Netanyahu suggests Diaspora is drifting away from Judaism", September 29, 2018, available at <https://www.timesofisrael.com/netanyahu-suggests-diaspora-is-drifting-away-from-judaism/>

Netanyahu's inability to agree and compromise on the *Kotel*. Finally, the settlement policies in the West Bank were perceived by the bulk of the diaspora as the first obstacle to the completion of the peace process²⁹⁹. All Netanyahu's intent would eventually come to an end in 2018, when its coalition collapsed in another question centered around the status quo, i.e. the exemption of haredim of serving in the military.

²⁹⁹ Freedman, *Israel Under Netanyahu*, 1–9.

Conclusions: “The Shul I don’t go is an Orthodox one”

“Here [in Israel], there’s a very Orthodox mentality, even the secular people have an Orthodox mentality because, they grew up in an Orthodox world³⁰⁰”

At the time of writing, the egalitarian section at the Western Wall is still incomplete and the WoW still face harassment when praying at the Western Wall.

The journey of the WoW is in itself a true metaphor of religious and national discourses in Israel. In a way, the issues raised by the group's practices represent another way of asking the same question, "who is a Jew"?, a question that has been permeating Israeli politics since its creation. In this case, the question of “who is a Jew” does not entail genealogical researches for confirmation of halachic Jewish heritage, but remind that even with an Orthodox-legitimate Jewish heritage there is a proper way to participate in the Jewish commonwealth in the *Eretz Israel*. In a way, this is an issue not concerned with the boundaries of Jewishness but rather with a politization of Judaism.

This thesis agrees with Lahav and Shakdiel according to whom the WoW phenomenon serves as a chemical reactor to describe the changes in Israeli society, chemicals that are not always visible but lead to already well known reactions.

In 2013 the newspaper Haaretz conducted a poll with the goal of finding the “Israeli person of the year”. The poll was posted on the Facebook page of the newspaper and was entirely in English, and presumably, the participant were Israeli members of the anglophone community. The poll crowned Anat Hoffman, the chair of WoW, as the person of the year at the expense of other personalities such as the founder of Waze, the Israeli navigation app purchased by Google, peace negotiator Tzipi Livni,

³⁰⁰ Josh Hasten, “Why Israelis aren’t as worked up about the Western Wall as Diaspora Jews”, Jewish National Syndicate, August 1, 2018, available at <https://www.jns.org/why-the-israelis-arent-as-worked-up-about-the-western-wall-as-diaspora-jews/>

Finance Minister Yair Lapid or Sheldon Adelson, the American casino magnate³⁰¹. The article however, is quite frank in the assessment of the results: it is quite improbable that a poll in Hebrew would have led to the same results. Even if the results were the fruit of the position of the anglophone community both in Israel and the Diaspora and they cannot be taken as a representation of an “Israeli vote”, it is quite certain that by that year WoW’s struggle had gained momentum. However, the success in Hoffman’s public relations did not result in an improvement for the WoW requests; nor the symbolic election of their chairman as “person of the year”, nor the 2013 Supreme Court decision seemed to lead to any significant change, nor any other winnings in district courts seemed to lead to a significant improvement for WoW quest’s to pray at the Kotel according to their custom. One can undoubtedly argue that the Supreme Court’s decision should have a value in a liberal democratic system, where the executive and parliamentary branches of the State are called to correct the distortions of the system and grant rights to its citizens. If the Supreme Court in its last judgement has confirmed that WoW’s practices are already *mihag haMakom*, how is that all the attempts to solve the situation end in an inexplicable stalemate? If one can understand the resistance of the *haredi* sector to any change to their privilege, why the secular sector is unable or unwilling to change the status quo in favor of a wider Jewish definition? The winnings of WoW -small or large – appear as pyrrhic victories; their return on the investment (economical and emotional) is much lower than the one expected. The echo of the struggle does not find the same level of resonance in *Eretz Israel* as in finds it in the Diaspora. Even if the majority of Israelis declare themselves to be secular and open to Jewish pluralism, the WoW struggle and the struggle of liberal streams of Judaism to be recognized by Israel seems to lack the support of the *hilonim*. “Why Jerusalem?” and “why the Kotel?” seem to be the most asked questions. At the end, many would say, reform and *Masorti* synagogues can be found in Tel Aviv where women can pray and perform freely without succumb to the *Jerusalem fièvre*. However, these questions miss the point of the WoW struggle and implicitly admit that Jerusalem is

³⁰¹ “Women of the Wall’s Anat Hoffman Is Haaretz’s Person of the Year”, Haaretz, September 5, 2013, available at <https://www.haaretz.com/meet-haaretz-s-person-of-the-year-1.5329503>

an Orthodox city whereas Tel Aviv is the city for everything else, from gay prides to religious liberalism. First of all, *Neshot HaKotel* is a multi-denominational Jewish group which relies on Orthodox halachic interpretations to conduct their prayers; in fact many members of WoW are Orthodox and their struggle ought to be framed as Orthodox innovations of religious practice. Second, claiming that WoW can pray in Tel Aviv with the same results as in Jerusalem cancels any other value but the Orthodox definition of the *Kotel*, which is de facto a national symbol as well. For WoW praying at the Kotel has the same deep religious and national value that for any group which is framed under the recognized Orthodox label (as for instance the national-religious group, *datiim leumi* or the *haredi leumi*). One cannot understand the cognitive dissonance of this reality without assessing methodically the mixture that forms Israeli ethno-religious nationalism and civic religion of the State topped with the masculine definitions of the Israeli citizenship.

To better understand the discrepancies between realities and expectations it is useful to frame the WoW relationship with the State of Israel as that of a “Protestant” group against a “Catholic” state. As Shakdiel points out, Zionism envisaged a “Catholic” (universal) definition of Judaism based, however, on the Orthodox definition. Every attempt in redefining the religious definition of Judaism leads inevitably to a “*kulturkampf*” on religious grounds which cannot be resolved unless a new Jewish definition is applied by the State itself through its political institutions. The grounds of the “Zionist-catholic” definition rely on the *status quo agreement* and the subsequent empowerment of the religious establishment with the definition of Judaism. The most powerful symbol of the *status quo agreement* is the Western Wall which was transformed in a *de facto* Orthodox synagogue with the partition of the plaza with the *mechitza*. In an extraordinary period such as 1967 and the reunification of Jerusalem, who could better lead the whole nation in a collective *teshuvah* (repentance) facing the supposed holiest place for Judaism? The Orthodox claims of authenticity, continuity and sacredness well fit the role of the guardians of Judaism and Jewish order assigned to the religious establishment by the secular forces.

As Hazleton formulates, in the Zionist configuration, Orthodoxy represents a moral system whose values have penetrated the Israeli consciousness³⁰². Even if the formulations of the status quo are described as conflicting, the two legal systems (the secular and the religious) operate side by side in defining and maintaining Judaism an integral part of Israeli civic awareness³⁰³. The majority of Israeli Jews, those that in the statistics fall under the category of *hilonim* (seculars) lack the cognitive map to understand that they are what Hazleton labels, in a provocation, as “pagan Jews” since they are emotionally involved with religion but intellectuality remote from it³⁰⁴. This visceral relationship explains the passive acceptance of the Orthodox religious monopoly even by the secular. Therefore, Israeli “Theo-politics” lies in the subconscious of the secular while being practiced and applied by the religious establishment; one half is ethnocratic while the other is theocratic. While the home land is stuck in this limbo, the Diaspora, the “protestant Jews” in Simon and Shakdiel’s words, have internalized the democratic social contract based on rights, liberties and freedom. Moreover, the processes of emancipation and assimilation that have taken place in the West, especially in the United States which has the largest diaspora, has led the Jewish community to think in private terms about their relationship with religiosity. While in the Diaspora liberal Jewish movements such as the Masorti, Reform and Reconstructionist are interpreted as personal choices of the individual’s level of religiosity and their relationship to society outside the community, in Israel these movements are seen as a different branding of secularism. Hence, the liberal movements rather than being perceived as religious alternatives to a single Jewish definition, are perceived as different manifestations of secular culture. While the diasporic Jews try to engage in cultural battle for the redefinition of Judaism in a more pluralistic sense, the Israeli secular cannot possibly engage on the same level since they lack the cognitive tools to frame this “kulturkampf” in a religious one, rather than the classic secular vs. religious divide. As Shakdiel affirms, the WoW in their struggle call on two Western events to frame

³⁰² Lesley Hazleton, *Israeli Women: The Reality behind the Myths* (New York: Simon and Schuster, 1977), 53.

³⁰³ Norman L. Zucker, *The Coming Crisis in Israel: Private Faith and Public Policy* (Cambridge, Mass: MIT Press, 1973).

³⁰⁴ Hazleton, *Israeli Women*, 54.

the struggle: the so called protestant revolution based on religious pluralism and the democratic revolution based on personal rights vis-à-vis collective ones³⁰⁵.

The so called “Constitutional Revolution”³⁰⁶ that led to the creation of two more Basic Laws, the law “Human Dignity and Liberty” and “Freedom of Occupation”, added to the Israeli corpus the first laws framed within the international framework of Human Rights protection. Within this framework, it seemed that the time had come for Israel to implement the protection of religious rights and the implementation of feminist policies, as the second petition of the WoW showed. Beside requesting the right to pray at the Kotel, the group was also reclaiming the implementation of women’s equality rights as expressed in the Declaration of Independence of 1948. All in all, given the resilience of the WoW impasse, the commitment of the state to defeat gender discrimination since its creation was a myth³⁰⁷. The Supreme Court’s ruling of the early 2000s saw all three justices of the panel in support of WoW’s right to pray at the Kotel testifying then that the Constitutional Revolution was taken seriously. However, the court was blamed to be acting under the influence of “judicial activism” by stretching its arm and settle an issue that should have been settled politically from the beginning. Paradoxically, the secular Supreme Court became the last resort to solve religious disputes, challenging religious authorities in their conventional realm³⁰⁸. In fact, the activism of the court had a negative impact on the political establishment and caused a general panic in the religious parties and the coalition they were part of: the investment of the Supreme Court with constitutional powers has set the grounds for a feud between the Knesset and the court³⁰⁹. The attempts of the government to implement the requests of the court fell victim of the political environments: the religious parties in the government coalitions made sure that any attempts to alter the consociational *status quo* at the Western Wall were aborted immediately or resulted in a long consuming attrition battle. Indeed,

³⁰⁵ Shakdiel, ‘Women of the Wall’, 139.

³⁰⁶ Aharon, Barak (2011) “A Constitutional Revolution: Israel’s Basic Laws,” Constitutional Forum / Forum Constitutionne 14, no. 1–4, <https://doi.org/10.21991/C92D47>

³⁰⁷ Hazleton, *Israeli Women*, 54.

³⁰⁸ Patricia J. Woods, *Judicial Power and National Politics: Courts and Gender in the Religious-Secular Conflict in Israel*, SUNY Series in Israeli Studies (Albany, N.Y: Suny Press, 2008).

³⁰⁹ Shakdiel, ‘Women of the Wall’., 138

WoW strategy to pass from their perceived peripheral battle into the mainstream battle of “religious vs. secular” by joining the other movements for an egalitarian wall, has diminished significantly the scope of their religious-feminist manifesto. Unconsciously, in doing so, the group succumbed to a self-fulfilling prophecy. From the outset, the *haredim* have framed the group's actions not in a Jewish claim within the Israeli Jewish world, but in a claim alien to Jewish tradition itself. The goal of the religious establishment has been to frame the WoW as an outsider to the Jewish world by associating it with the two great outsiders for the Orthodox, namely the Reform and Masorti movements. Not surprisingly, among the most common insults the group receives there are accusations of being “Reform”, heretical provocateurs and destroyers of the sanctity of the Kotel. As Woods claims, the WoW’s endeavors instead of being framed as in-group request for change and innovation, they have been framed as provocations from out-group. In the words of Ben-Dahan³¹⁰ when asked about the WoW

“Who said that they are Orthodox? . . . There are rules for the orthodox. If a person is orthodox, he has rules and he has the halakha. Let anyone come and say they have one orthodox rabbi who allows them to pray, women and men together³¹¹.

By asserting that WoW is not an Orthodox group (again, WoW’s services are conducted according to Orthodox interpretation of *Halacha*), the religious establishment frames WoW requests as a revolution to a proper order rather than a rebellion within a group, as Sered states. This revolution entails seeking change to a fixed order³¹². This perception of the outsider status seemed to have been perceived by the religious establishment and secular alike. The predominant idea was that a group of American women were trying to appropriate a national and holy symbol by projecting experiences

³¹⁰ Rav Eliyahu Micheal “Eli” Ben-Dahan from 2013 to 2016 was Deputy Minister of Religious Services, as representative for the Jewish Home party before passing to the Likud. Woods, *Judicial Power and National Politics*, 86.

³¹¹ Ibid., 87

³¹² Sered, ‘Women and Religious Change in Israel’, 14.

of the diaspora. Those experiences are framed in apocalyptic terms, since they are the fruit of the processes of emancipation and perceived integration within the host communities of the diaspora.

WoW's requests are not accepted both at the religious level and at the State level as well. Two parallel lines enclose WoW's aspirations: the directrix drawn by the religious establishment, which in the patriarchate sees the perfect order of things in "heaven as on earth", and the other is the directrix of the state, which in patriarchy sees an ordering structure for the in the life of the polis.

The ethnocratic structure that sustain Israel's nationalism coupled with the consociational model rooted in the status quo agreement, are the key to understanding why the WoW's struggle finds itself in a constant stalemate. Despite being perceived as antagonist forces, the secular and religious establishment work hand in hand when it comes to the control of women's expression. Indeed, regardless of the committed rhetoric to equality, Israeli-Jewish nationalism gave birth to a sexist-macho reality of its own³¹³. Israel in fact is not only a Jewish state but an Orthodox Jewish one, since the only available definition is the Orthodox. By giving legal status to Orthodox interpretation of religious law, Hazleton states, the secular forces have raised a barrier for women full equality in the state³¹⁴.

Facing this ethnocratic concept of citizenship, the diaspora feels to be trapped in a dilemma: how to reconcile the support for the homeland when the homeland does not recognize them under none other definition but the orthodox one? The general answer to this question, the "secular road" does not satisfy the request of religious identities expressions outside orthodoxy which create the paradoxical situations that not all Jews can pray at the Western Wall according to their custom, not even while visiting the Wall as Jewish historical heritage site rather than a religious one. While American Jews look at Israel with the eyes of a diaspora that does not feel in exile but, nonetheless, cares for the homeland, the state looks at the diaspora with suspicion and accusation, presenting the attempts for religious egalitarianism as an Americanization of Israel rather than cooperation for innovation.

³¹³Hazleton, *Israeli Women*, Introduction.

³¹⁴ Ibid, 97

Within this framework, an ethnocratic state with a “catholic” definition of Judaism, the WoW’s chances to strongly impact the system are narrow and razor thin even if Anat Hoffman is elected Israeli of the year.

Bibliography

- Abramov, S. Zalman. *Perpetual Dilemma: Jewish Religion in the Jewish State*. Rutherford, N.J: Fairleigh Dickinson University Press, 1976.
- Andeweg, Rudy B. 'Consociational Democracy'. *Annual Review of Political Science* 3, no. 1 (June 2000): 509–36. <https://doi.org/10.1146/annurev.polisci.3.1.509>.
- Ann R. Shapiro. 'The Flight of Lilith: Modern Jewish American Feminist Literature'. *Studies in American Jewish Literature* 29, no. 1 (2010): 68–79. <https://doi.org/10.1353/ajl.2010.0018>.
- Asad, Talal. *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*. Baltimore: Johns Hopkins University Press, 1993.
- Avineri, Shlomo. *The Making of Modern Zionism: The Intellectual Origins of the Jewish State*. New York: Basic Books, 2017.
- Aviv, Caryn, and David Shneer. *New Jews: The End of the Jewish Diaspora*. New York: New York University Press, 2005.
- Barak-Erez, Daphne. 'Law and Religion Under the Status Quo Model: Between Past Compromises and Constant Change'. In *Law and Religion, An Overview*, edited by Silvio Ferrari and Rinaldo Cristofori, 1st ed., 343–55. Routledge, 2017. <https://doi.org/10.4324/9781315091990-16>.
- Barbalet, J. M., Adam Possamai, and Bryan S. Turner, eds. *Religion and the State: A Comparative Sociology*. London ; New York: Anthem Press, 2011.
- Ben Refa'el, Eli'ezer, Judit Bokser de Liwerant, and Yosef Gorni, eds. *Reconsidering Israel-Diaspora Relations. Jewish Identities in a Changing World*, volume 22. Leiden Boston: Brill, 2016.
- Ben Shitrit, Lihi. *Women and the Holy City: The Struggle over Jerusalem's Sacred Space*. Cambridge, United Kingdom ; New York, NY: Cambridge University Press, 2021.
- Ben-Porat, Guy. 'A State of Holiness: Rethinking Israeli Secularism'. *Alternatives: Global, Local, Political* 25, no. 2 (April 2000): 223–45. <https://doi.org/10.1177/030437540002500203>.
- . *Between State and Synagogue: The Secularization of Contemporary Israel*. Cambridge Middle East Studies. Cambridge ; New York: Cambridge University Press, 2013.
- Ben-Rafael, Eliezer, Judit Bokser Liwerant, and Yosef Gorny, eds. '10 Orthodox Jewish Women as a Bridge Between Israel and the Diaspora'. In *Reconsidering Israel-Diaspora Relations*, 201–22. BRILL, 2014. https://doi.org/10.1163/9789004277076_012.
- , eds. '19 Jewish Diaspora and Transnationalism: Awkward (Dance) Partners?' In *Reconsidering Israel-Diaspora Relations*, 367–404. BRILL, 2014. https://doi.org/10.1163/9789004277076_021.
- Bokser Liwerant, Judit, Eliezer Ben-Rafael, Yosef Gorny, and Raanan Rein, eds. 'Between Center And Centrality: The Zionist Perception Of Klal Yisrael'. In *Identities in an Era of*

Globalization and Multiculturalism, 23–34. BRILL, 2008.
<https://doi.org/10.1163/ej.9789004154421.i-446.6>.

- Bruns, Viktor, and Frances Raday. 'Claiming Equal Religious Personhood: Women of the Wall's Constitutional Saga'. In *Religion in the Public Sphere: A Comparative Analysis of German, Israeli, American and International Law*, edited by Winfried Brugger and Michael Karayanni, 190:255–98. Beiträge Zum Ausländischen Öffentlichen Recht Und Völkerrecht. Berlin, Heidelberg: Springer Berlin Heidelberg, 2007. https://doi.org/10.1007/978-3-540-73357-7_8.
- Cavanaugh, William T. *The Myth of Religious Violence: Secular Ideology and the Roots of Modern Conflict*. Oxford University Press, 2009.
<https://doi.org/10.1093/acprof:oso/9780195385045.001.0001>.
- Cesari, Jocelyne. 'Unexpected Convergences: Religious Nationalism in Israel and Turkey'. *Religions* 9, no. 11 (30 October 2018): 334. <https://doi.org/10.3390/rel9110334>.
- Chapman, Colin. *Whose Holy City?: Jerusalem and the Israeli-Palestinian Conflict*. Oxford: Lion, 2004.
- Charme, Stuart. 'The Political Transformation of Gender Traditions at the Western Wall in Jerusalem'. *Journal of Feminist Studies in Religion* 21, no. 1 (n.d.): 31.
- Chesler, Phyllis, and Rivka Haut, eds. *Women of the Wall: Claiming Sacred Ground at Judaism's Holy Site*. Woodstock, Vt: Jewish Lights, 2003.
- Clifford, James. 'Diasporas'. *Cultural Anthropology* 9, no. 3 (August 1994): 302–38.
<https://doi.org/10.1525/can.1994.9.3.02a00040>.
- Cohen, Asher, and Bernard Susser. *Israel and the Politics of Jewish Identity: The Secular-Religious Impasse*. Baltimore, Md: Johns Hopkins University Press, 2000.
- Cohen, Naomi Wiener. 'THE REACTION OF REFORM JUDAISM IN AMERICA TO POLITICAL ZIONISM (1897-1922)'. *Publications of the American Jewish Historical Society* 40, no. 4 (1951): 361–94.
- Cohen-Hattab, Kobi, and Doron Bar. 'From Wailing to Rebirth: The Development of the Western Wall as an Israeli National Symbol After the Six-Day War'. *Contemporary Jewry* 38, no. 2 (July 2018): 281–300. <https://doi.org/10.1007/s12397-018-9251-z>.
- Englard, Izhak. 'The Legal Status of the Holy Places in Jerusalem'. *Israel Law Review* 28, no. 4 (1994): 589–600. <https://doi.org/10.1017/S0021223700011766>.
- Freedman, Robert O., ed. *Israel Under Netanyahu: Domestic Politics and Foreign Policy*. 1st ed. Abingdon, Oxon ; New York, NY : Routledge, 2020.: Routledge, 2019.
<https://doi.org/10.4324/9780429342349>.
- Gavriely-Nuri, Dalia. 'The Social Construction of "Jerusalem of Gold" as Israel's Unofficial National Anthem'. *Israel Studies* 12, no. 2 (2007): 104–20.
- Greene, Richard P. 'Urban Mosaic'. In *International Encyclopedia of Geography: People, the Earth, Environment and Technology*, edited by Douglas Richardson, Noel Castree, Michael

- F. Goodchild, Audrey Kobayashi, Weidong Liu, and Richard A. Marston, 1–2. Oxford, UK: John Wiley & Sons, Ltd, 2017. <https://doi.org/10.1002/9781118786352.wbieg1109>.
- Halperin-Kaddari, Ruth, and Yaacov Yadgar. ‘Between Universal Feminism and Particular Nationalism: Politics, Religion and Gender (in)Equality in Israel’. *Third World Quarterly* 31, no. 6 (September 2010): 905–20. <https://doi.org/10.1080/01436597.2010.502721>.
- Handelman, Don. ‘Contradictions between Citizenship and Nationality: Their Consequences for Ethnicity and Inequality in Israel [1]’. *International Journal of Politics, Culture and Society* 7, no. 3 (March 1994): 441–59. <https://doi.org/10.1007/BF02142133>.
- Harel-Shalev, Ayelet, and Ilan Peleg. ‘Hybridity and Israel’s Democratic Order: The End of an Imperfect Balance?’ *Contemporary Review of the Middle East* 1, no. 1 (March 2014): 75–94. <https://doi.org/10.1177/2347798913518462>.
- Hazleton, Lesley. *Israeli Women: The Reality behind the Myths*. New York: Simon and Schuster, 1977.
- Hobsbawm, Eric, and Terence Ranger, eds. *The Invention of Tradition*. 1st ed. Cambridge University Press, 2012. <https://doi.org/10.1017/CBO9781107295636>.
- Jobani, Yuval, and Nahshon Perez. *Women of the Wall: Navigating Religion in Sacred Sites*. New York, NY: Oxford University Press, 2017.
- Kaplan, Z. J. ‘Rabbi Joel Teitelbaum, Zionism, and Hungarian Ultra-Orthodoxy’. *Modern Judaism* 24, no. 2 (1 May 2004): 165–78. <https://doi.org/10.1093/mj/kjh012>.
- Lahav, Pnina. ‘The Women of the Wall: A Metaphor for National and Religious Identity’. *Israel Studies Review* 30, no. 2 (1 January 2015). <https://doi.org/10.3167/isr.2015.300204>.
- Lapidot, Ruth. ‘Freedom of Religion and of Conscience in Israel’ 47 (n.d.): 27.
- Les lieux de mémoire. I. Quarto*. Paris: Gallimard, 2013.
- Levy, Daniel, and Yfaat Weiss, eds. *Challenging Ethnic Citizenship: German and Israeli Perspectives on Immigration*. New York: Berghahn Books, 2002.
- Liebman, Charles S., and Eliezer Don-Yehiya. *Civil Religion in Israel: Traditional Judaism and Political Culture in the Jewish State*. Berkeley: University of California Press, 1983.
- . *Religion and Politics in Israel*. Jewish Political and Social Studies. Bloomington: Indiana University Press, 1984.
- Lijphart, Arend. ‘Consociational Democracy’. *World Politics* 21, no. 2 (January 1969): 207–25. <https://doi.org/10.2307/2009820>.
- Litvin, Baruch, Jeanne Litvin, and Melvin Teitelbaum. *The Sanctity of the Synagogue*. 3rd rev. and Expanded ed. Hoboken, N.J.: KTAV Pub. House, 1987.
- Locke, John, J. R. Milton, Philip Milton, and John Locke. *An Essay Concerning Toleration and Other Writings on Law and Politics, 1667-1683*. The Clarendon Edition of the Works of John Locke. Oxford : New York: Clarendon Press ; Oxford University Press, 2010.

- Monk, Daniel Bertrand. 'Diskotel 1967: Israel and the Western Wall in the Aftermath of the Six Day War'. *Res: Anthropology and Aesthetics* 48 (September 2005): 166–78. <https://doi.org/10.1086/RESv48n1ms20167685>.
- Morgan, Robin. *Sisterhood Is Powerful: An Anthology of Writings from the Women's Liberation Movement*. New York: Random House, 1973.
- Neuberger, Benyamin. 'Different Concepts Of A Jewish Democratic State'. In *Identities in an Era of Globalization and Multiculturalism*, edited by Judit Bokser Liwerant, Eliezer Ben-Rafael, Yosef Gorny, and Raanan Rein, 375–95. BRILL, 2008. <https://doi.org/10.1163/ej.9789004154421.i-446.96>.
- Patten, Alan. 'The Idea of Israel as a Jewish State'. *Theoretical Inquiries in Law* 21, no. 2 (28 July 2020): 531–59. <https://doi.org/10.1515/til-2020-0023>.
- Peled, Yoav. 'Towards a Redefinition of Jewish Nationalism in Israel? The Enigma of Shas'. *Ethnic and Racial Studies* 21, no. 4 (January 1998): 703–27. <https://doi.org/10.1080/014198798329838>.
- Peled, Yoav, and Gershon Shafir. 'The Roots of Peacemaking: The Dynamics of Citizenship in Israel, 1948–93'. *International Journal of Middle East Studies* 28, no. 3 (August 1996): 391–413. <https://doi.org/10.1017/S0020743800063510>.
- Peleg, Ilan. *Democratizing the Hegemonic State: Political Transformation in the Age of Identity*. Cambridge ; New York: Cambridge University Press, 2007.
- Peres, Yochanan. 'The Religious-Secular Cleavage in Contemporary Israel'. In *Jewry between Tradition and Secularism*, edited by Eliezer Ben-Rafael, Yosef Gorny, and Thomas Gergely, 121–32. BRILL, 2006. https://doi.org/10.1163/9789047409649_015.
- Plaskow, Judith. *Standing Again at Sinai: Judaism from a Feminist Perspective*. 1st HarperCollins pbk. ed. New York, NY: HarperSanFrancisco, 1991.
- Plaskow, Judith, and Donna Berman. *The Coming of Lilith: Essays on Feminism, Judaism, and Sexual Ethics, 1972-2003*. Boston: Beacon Press, 2005.
- Pouzol, Valérie. 'Women of the Wall (Jerusalem, 2006-1880)', 2020, 12.
- Rabinovich, Itamar, and Jehuda Reinharz, eds. *Israel in the Middle East: Documents and Readings on Society, Politics, and Foreign Relations, Pre-1948 to the Present*. 2nd ed. The Tauber Institute for the Study of European Jewry Series. Waltham, Mass. : Hanover: Brandeis University Press ; Published by University Press of New England, 2008.
- Raday, Frances. 'Sacralising the Patriarchal Family in the Monotheistic Religions: "To No Form of Religion Is Woman Indebted for One Impulse of Freedom"'. *International Journal of Law in Context* 8, no. 2 (June 2012): 211–30. <https://doi.org/10.1017/S1744552312000055>.
- Ram, Uri. 'Why Secularism Fails? Secular Nationalism and Religious Revivalism in Israel'. *International Journal of Politics, Culture, and Society* 21, no. 1–4 (December 2008): 57–73. <https://doi.org/10.1007/s10767-008-9039-3>.

- Reiter, Yitzhak. 'Feminists in the Temple of Orthodoxy: The Struggle of the Women of the Wall to Change the Status Quo'. *Shofar: An Interdisciplinary Journal of Jewish Studies* 34, no. 2 (2016): 79–107. <https://doi.org/10.1353/sho.2016.0001>.
- Rubinstein, Amnon. 'State and Religion in Israel'. *Journal of Contemporary History* 2, no. 4 (1 October 1967): 107–21. <https://doi.org/10.1177/002200946700200409>.
- Safran, William. 'Diasporas in Modern Societies: Myths of Homeland and Return'. *Diaspora: A Journal of Transnational Studies* 1, no. 1 (1991): 83–99. <https://doi.org/10.1353/dsp.1991.0004>.
- . 'The Jewish Diaspora in a Comparative and Theoretical Perspective'. *Israel Studies* 10, no. 1 (April 2005): 36–60. <https://doi.org/10.2979/ISR.2005.10.1.36>.
- Salmon, Yosef. *Religion and Zionism: First Encounters*. Jerusalem: The Hebrew University Magnes Press, 2002.
- Sered, Susan. 'Women and Religious Change in Israel: Rebellion or Revolution'. *Sociology of Religion* 58, no. 1 (1997): 1. <https://doi.org/10.2307/3712103>.
- Shafir, Gershon, and Yoav Peled. *Being Israeli: The Dynamics of Multiple Citizenship*. Cambridge Middle East Studies 16. Cambridge ; New York: Cambridge University Press, 2002.
- Shakdiel, Leah. 'Women of the Wall: Radical Feminism as an Opportunity for a New Discourse in Israel'. *Journal of Israeli History* 21, no. 1–2 (1 January 2002): 126–63. <https://doi.org/10.1080/13531040212331295892>.
- Shapira, Anita, and Anthony Berris. *Ben-Gurion: Father of Modern Israel*. Jewish Lives. New Haven: Yale University Press, 2014.
- Shlay, Anne B., and Gillad Rosen. *Jerusalem: The Spatial Politics of a Divided Metropolis*. Cambridge ; Malden, MA: Polity Press, 2015.
- Smith, Wilfred Cantwell. *The Meaning and End of Religion*. Minneapolis: Fortress Press, 1991.
- Smootha, Sammy. 'Minority Status in an Ethnic Democracy: The Status of the Arab Minority in Israel'. *Ethnic and Racial Studies* 13, no. 3 (July 1990): 389–413. <https://doi.org/10.1080/01419870.1990.9993679>.
- . 'Types of Democracy and Modes of Conflict Management in Ethnically Divided Societies'. *Nations and Nationalism* 8, no. 4 (October 2002): 423–31. <https://doi.org/10.1111/1469-8219.00059>.
- Sobel, Zvi, and Benjamin Beit-Hallahmi, eds. *Tradition, Innovation, Conflict: Jewishness and Judaism in Contemporary Israel*. SUNY Series in Israeli Studies. Albany: State University of New York Press, 1991.
- Storper-Perez, Danielle, and Harvey E. Goldberg. 'The Kotel: Toward an Ethnographic Portrait'. *Religion* 24, no. 4 (October 1994): 309–32. <https://doi.org/10.1006/reli.1994.1026>.
- Susan, ed. *Daughters of the King: Women and the Synagogue ; [a Survey of History, Halakhah, and Contemporary Realities]*. 1. paperback ed. Philadelphia: Jewish Publ. Soc, 1993.

- Tabory, E. 'State and Religion: Religious Conflict among Jews in Israel'. *Journal of Church and State* 23, no. 2 (1 March 1981): 275–83. <https://doi.org/10.1093/jcs/23.2.275>.
- Tekiner, Roselle. 'Race and the Issue of National Identity in Israel'. *International Journal of Middle East Studies* 23, no. 1 (February 1991): 39–55. <https://doi.org/10.1017/S0020743800034541>.
- Tessler, Mark. 'Secularism in Israel: Religious and Sociological Dimensions'. *Discourse* 19, no. 1, (1996): 160–78.
- Tölölyan, Khachig. 'The Contemporary Discourse of Diaspora Studies'. *Comparative Studies of South Asia, Africa and the Middle East* 27, no. 3 (1 December 2007): 647–55. <https://doi.org/10.1215/1089201x-2007-040>.
- Troen, S. Ilan, and Noah Lucas, eds. *Israel: The First Decade of Independence*. SUNY Series in Israeli Studies. Albany: State University of New York Press, 1995.
- Tsimhoni, Daphne. 'The Status of the Arab Christians under the British Mandate in Palestine'. *Middle Eastern Studies* 20, no. 4 (October 1984): 166–92. <https://doi.org/10.1080/00263208408700605>.
- Weber, Elisabeth. 'Fending off Idolatry: Ceremonial Law in Mendelssohn's Jerusalem'. *MLN* 122, no. 3, (2007): 522–43.
- Woods, Patricia J. *Judicial Power and National Politics: Courts and Gender in the Religious-Secular Conflict in Israel*. SUNY Series in Israeli Studies. Albany, N.Y: Suny Press, 2008.
- Yadgar, Yaacov. *Israel's Jewish Identity Crisis: State and Politics in the Middle East*. 1st ed. Cambridge University Press, 2020. <https://doi.org/10.1017/9781108773249>.
- . *Sovereign Jews: Israel, Zionism, and Judaism*. Albany: State University of New York Press, 2017.
- Yakobson, Alexander, and Amnon Rubinstein. *Israel and the Family of Nations*. Routledge, 2008. <https://doi.org/10.4324/9780203894026>.
- Yerushalmi, Yosef Hayim. *Zakhor: Jewish History and Jewish Memory*. The Samuel and Althea Stroum Lectures in Jewish Studies. Seattle: University of Washington Press, 1996.
- Yiftachel, Oren. *Ethnocracy: Land and Identity Politics in Israel/Palestine*. Philadelphia: University of Pennsylvania Press, 2006.
- Zameret, Zvi, and Moshe Tlamim. 'Judaism in Israel: Ben-Gurion's Private Beliefs and Public Policy'. *Israel Studies* 4, no. 2 (1999): 64–89.
- Zucker, Norman L. *The Coming Crisis in Israel: Private Faith and Public Policy*. Cambridge, Mass: MIT Press, 1973.

Online Newspaper Articles

- "Women of the Wall's Anat Hoffman Is Haaretz's Person of the Year", Haaretz, September 5, 2013. <https://www.haaretz.com/meet-haaretz-s-person-of-the-year-1.5329503>

- Hasten, John, "Why Israelis aren't as worked up about the Western Wall as Diaspora Jews", Jewish National Syndicate. available at <https://www.jns.org/why-the-israelis-arent-as-worked-up-about-the-western-wall-as-diaspora-jews/>
- Ahren, Rephael, "Netanyahu suggests Diaspora is drifting away from Judaism", September 29, 2018. available at <https://www.timesofisrael.com/netanyahu-suggests-diaspora-is-drifting-away-from-judaism/>
- Borschel-Dan, Amanda Western Wall egalitarian area used daily for gender-segregated Orthodox prayer, July 19, 2018Times of Israel, available at <https://www.timesofisrael.com/western-walls-egalitarian-area-is-used-daily-for-sex-segregated-orthodox-prayer/>
- Hovel, Revital, "Livni Moves to Block Bennett's Bid to Stifle Women of the Wall", Haaretz, May 16, 2013. available at <https://www.haaretz.com/.premium-livni-shielding-the-women-of-wall-1.5242919?lts=1653083605030>
- Esner, Jane, Sharansky to propose egalitarian section at the Kotel". available at <https://forward.com/news/174503/sharansky-to-propose-egalitarian-section-at-the-ko/#ixzz2PyMvhpKH>
- Matlz, Judy, "Full Plan for Western Wall Prayer Space to Be Unveiled This Month, Sharansky Tells Haaretz", Haaretz,, <https://www.haaretz.com/jewish/.premium-sharansky-kotel-plan-to-move-ahead-1.5320044>
- Kershner, Isabel, "Compromise Is Proposed on Western Wall Praying," New York Times, April 9, 2013. available at <https://www.nytimes.com/2013/04/10/world/middleeast/plan-to-resolve-western-wall-prayer-controversy.html#:~:text=Sharansky's%20proposal%20involves%20expanding%20and,day%2C%20seven%20days%20a%20week.>
- Lindman, Melanie "Diaspora Jews stand with Women of the Wall", The Jerusalem Post, October 23, 2012. available at <https://www.jpost.com/Jewish-World/Jewish-News/Diaspora-Jews-stand-with-Women-of-the-Wall>
- Kurtzer, Yehuda "A.B. Yehoshua Should Pipe Down", Tablet Magazine, April 6, 2012. available at <https://www.tabletmag.com/sections/arts-letters/articles/yehoshua> .
- Ravid, Barak and Maltz, Judy, "Jewish Agency Cancels Dinner With Netanyahu in Protest of Western Wall Egalitarian Prayer Space Freeze", Haaretz, June 26, 2017. <https://www.haaretz.com/israel-news/jewish-agency-cancels-dinner-with-netanyahu-in-protest-of-western-wall-prayer-space-1.5488735>
- "Women of the Wall: Posters encourages harm to us", Bkhol. <https://www.bhol.co.il/news/134915>
- Dvir,Noam "Haredim vandalize buses featuring women on campaign ads" YNews, October 10, 2014.<https://www.ynetnews.com/articles/0,7340,L-4582248,00.html>
- Ghedalyahu, Zvi Ben, "Police arrested three "women of the Wall" after they violated High Court limitations and wore prayer shawls in a "Rosh Chodesh" protest". <https://www.israelnationalnews.com/news/159027>

“Western Wall Rabbi: women desecrating the site by bringing Torah”, The Times of Israel, March 11, 2016. <https://www.timesofisrael.com/western-wall-rabbi-women-desecrating-site-by-bringing-in-torah/>

Gradstein, Linda. “In Jerusalem, a Feminist Call”, The Washington Post”, December 10, 1988. <https://www.washingtonpost.com/archive/lifestyle/1988/12/10/in-jerusalem-a-feminist-call/0d04086c-0ccf-4dc5-aeeb-cac5b137ad12/>

Kashner, R. “The Bat Mitzvah Girl Who Made Kotel History”, The Forward, October 28, 2014. <https://forward.com/life/208090/the-bat-mitzvah-girl-who-made-kotel-history/>