

Chapter Four

Other Issues

A. Religious Councils

The Proposal

1. A national authority will be established to provide religious services for Jews. Its budget will be stipulated by law, and will be covered by the ministries of the Interior and Religious Affairs. The authority will be supervised jointly by the two ministries.
2. The scope of services to be supplied by this authority will be stipulated by law. The services will be furnished in consultation with the Chief Rabbinate and the local rabbinate. Services for the non-Orthodox and secular streams will be provided according to special rules to be determined. These services will not be subordinate to the rabbinate. They will be budgeted by the authority according to the scope of the religious services required by the various groups. All services will be subject to the oversight of the State Comptroller.
3. Employees of the national authority will be selected by tender for six-year appointments. The hiring criteria will be exclusively professional-administrative. Candidates for these positions must receive prior approval from the committee for oversight of appointments in the public sector. The authority will hire employees as required to provide services. Both their selection and their employment will be governed by civil service regulations.*

* In January 2004, the Ministry of Religious Affairs was abolished. The proposal should be adopted to this reality.

Main Points of the Explanation of Ruth Gavison and Yaacov Medan

According to our understanding, the councils' main task is to supply services to citizens, whether religious or secular and regardless of what stream they belong to. It is our assessment that principled disputes over the authority of the halakha and other issues, with all their importance, have no direct bearing on the specific function of the religious councils – and the more we distinguish between the two, the better. In our opinion, employees who provide religious services should be subject to the relevant regulations and receive instruction from the presiding rabbis. We have a great stake in their talents and integrity, and much less interest in their communal affiliations or their religious or secular worldviews.

Similarly, experience has shown that budgetary authority and budgetary oversight for religious services should be removed from the local authorities, thereby neutralizing a possible source of friction – ideological and financial – which has been harmful in the past. For reasons that are self-explanatory, we have severed the connection between the budget for addressing the religious needs of populations that do not regard themselves as subject to the Chief Rabbinate of Israel and the directives of rabbis operating under its auspices.

B. Kashrut – Religious Dietary Laws

The Proposal

1. The State of Israel will ensure maximal transparency on the subject of kashrut with regard to the preparation and sale of food products. Deception in matters of kashrut

will be categorized as a serious offence. Special effort will be made to increase the effective enforcement of the law.

2. Public kitchens in Israel which serve the Jewish sector (for example, the IDF, schools, government ministries, offices and hospitals) will be kosher.
3. A national licensing authority will be established for matters of kashrut. Its members will be appointed according to professional-administrative criteria, with the approval of the Chief Rabbinate and under the supervision of the Civil Service Commissioner. The authority will be independently financed through fees paid by food manufacturers and marketers. These fees will be price controlled. “Kashrut” in the operations of the national authority will define those foods and components that are permissible to consume according to Jewish law as derived from the “Shulhan Aruch”.
4. No kashrut certificate will be issued to a factory or other establishment by anyone other than the authority or bodies under its authorization. Kashrut inspectors and supervisors will be employed by the authority or bodies under its authorization.
5. The authority will be entitled to classify different levels of kashrut certification, and to issue kashrut confirmation and certificates accordingly.
6. The authority will grant approval to other bodies to issue kashrut certificates in accordance with their customs. Such approval will be granted upon written submission of the list of kashrut requirements and a description of the proposed supervisory mechanism, along with printed kashrut certificates that clearly specify the identity of the

body providing the certification. In order to prevent deception, kashrut certificates will be designed so that they are distinguishable from one another. Bodies authorized to issue their own kashrut certificates will include Reform and Conservative organizations. The authority will allocate finances from its own budget to pay for the activities of other approved bodies.

7. The kashrut authority will be forbidden to take into account extraneous considerations in granting kashrut certifications or in supervising any body that provides food to its clients, e.g., it may not deny kashrut certification because a Reform marriage ceremony was performed in the same venue, etc. Desecration of the Sabbath in a catering hall's kitchen, however, is likely to be legitimate grounds for denying kashrut certification.
8. Official representatives of the State of Israel will be obliged to refrain from eating obviously non-kosher food at official meals in the course of their duties.
9. We see no need to change the existing arrangements concerning the import of non-kosher meat.

Main Points of Ruth Gavison's Explanation

There is no argument over the fact that there must be arrangements enabling people who wish to keep kosher to do so. From my perspective, the only question is why kashrut should be a public issue involving the state. I believe there are three answers to this. **First**, in situations of joint activity, separation is liable to produce waste and to compartmentalize different segments of the population. There is a need for one food system, and it must be

kosher. The multiplicity of streams in Judaism mandates that the food system be one that does not exclude the Orthodox (clauses 1-3). **Second**, in overseas venues as well there are contexts in which kashrut is important. Just as Israel's missions around the world refrain from operating on the Sabbath, it is also fitting that they should observe kashrut (clause 8). **Third**, deception in kashrut is fraud. If the law is brought to bear against deceptive advertising, there is no reason not to use it against deception in kashrut (clause 1). Here as well, our proposal explicitly permits a variety of kashrut arrangements reflecting the positions of diverse streams of Judaism, with the main goal being transparency and preventing deception.

Main Points of Yaacov Medan's Explanation

Our proposal (clauses 1, 3 and 4) underscores the importance of full transparency in matters of kashrut, affirms that deception with regard to kashrut is a serious offence, and recommends launching a campaign for effective enforcement in the sphere of kashrut. In taking into account the freedom of every person to eat whatever he pleases, in my judgment it is important to refrain from proscribing a limited quantity of imported non-kosher meat, including pork. From my perspective, it would be appropriate to forbid pig farming in Eretz Israel out of national, not necessarily religious, considerations. We did not reach agreement on this point, and it remains open for public discussion.

C. Pathology and Organ Transplants

The Proposal

An ongoing discourse is taking place on this subject between various sectors of Israeli society, a discourse which finds expression in existing legislation. The Anatomy and Pathology Law of 1953, with its amendments, along with the memorandum of the Director General of the Ministry of Health on determining the moment of death, offer a reasonable consensus, generally speaking, and we see no need to change it.

D. Burial

The Proposal

1. Israel will maintain both religious and civil cemeteries.
2. Existing religious cemeteries in the Jewish sector will continue to practice Jewish burial in accordance with Jewish law.
3. Future allocation of cemetery tracts will be in accordance with demand, while enabling the conduct of civil burials throughout Israel.
4. Permission will be granted to establish civil and other burial societies, which will be allowed to conduct burial ceremonies in accordance with the wishes of the deceased or his family. The state will participate in financing these services in the same way that it underwrites existing Hevra Kadisha services.
5. The greater the possibilities of genuine choice among burial styles, the less justification there will be for High Court intervention in burial practices in religious cemeteries.

6. Existing law will be amended in order to enable alternative burial, even in cases where the deceased failed to express a preference, so long as there is no disagreement among his first-degree relatives, given the absence of any public interest in preferring halakhic burial.
7. It will be expressly stipulated that civil cemeteries will bury those who are not eligible for burial in other cemeteries, even if they did not declare a preference in advance.
8. The existing legal situation will be explained to the public, and they will be informed that an effective condition for realizing the right to alternative burial (non-religious, in existing cemeteries) is the expression of a preference by the deceased (or his relatives).

Main Points of Ruth Gavison's Explanation *

Most of the items in our proposal are self-explanatory. The sixth clause is the chief innovation with regard to existing law; it reinforces the principle of choice concerning a suitable burial, in contrast with the current burial practice which is religious by default. We suggest that the first-degree relatives of the deceased be entitled to choose a civil burial, even if the deceased did not actively express such a preference. At present there is no public awareness of the right to choose alternative burial, for example by saying so in a will. It should be assumed that in most cases, if there is no controversy within the family concerning which type of burial the deceased would have chosen, the family's wishes will reflect those of the dead, and they should be honored. In cases of disagreement, the deceased should be buried according to the default option of traditional Jewish burial.

* Yaacov Medan did not submit any explanations on the topic of burial.

E. Prayer at the Western Wall Plaza

The Proposal

1. The Western Wall plaza and adjacent areas are sites of religious and national significance.
2. The Western Wall plaza should be accessible to all the people who have an interest in it, while upholding the public order and standards of behavior appropriate to the character of the site.
3. The authority to determine what constitutes behavior appropriate to the character of the site will be entrusted to a person or body (hereinafter: “the authorized body”) to be jointly appointed by the ministers of Religious Affairs and Internal Security.* In the event of disagreement, the prime minister will have the final decision as to whom to grant this authority.
4. The authorized body will conduct itself with sensitivity to the public welfare and to freedom of worship and religion for all. The decisions of the authorized body do not confer legitimacy on a specific prayer style or type of behavior. The decisions of the authorized body in this matter will not be subject to judicial review.

In order to remove doubt we stress that if the authorized body determines that the current prayer plaza of the Wall is to be considered a synagogue abiding by Orthodox customs, this does not unreasonably infringe upon the freedom of worship of those who seek to pray otherwise.

One possible solution, in our opinion, would be to distinguish between the front section of the plaza that serves as a synagogue and which can be reserved for prayer

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according to the (Orthodox) custom, and the more distant section, where IDF swearing-in ceremonies are conducted and where other prayer services could be held. This is not a unique suggestion, but in our proposal the chief criterion for the decision must be that it conforms to a proper decision-making mechanism which takes all considerations into account.

Main Points of Ruth Gavison's Explanation

The issue of women's prayer at the Wall is a prime example of a conflict between opposing views. The proposed arrangement does not take an explicit position on the specific question of whether Women of the Wall (or any other group) is entitled to pray at the Wall as it sees fit. The arrangement only stipulates that the site must be generally accessible and that behavior therein may be restricted both for reasons of public order and out of considerations related to the character of the site. We propose appointing an authorized body to be responsible for determining what constitutes behavior appropriate to the character of the site. Clause 4 explicitly states that such authorized body will not exercise unrestricted authority. It is expressly specified that the body will be permitted (and obligated) to take into account criteria of public welfare, but also criteria of freedom of worship and religion for all. We clarify that even a decision determining that the **current prayer plaza** is to be considered an Orthodox synagogue (in contradistinction to the Wall plaza as a whole, which serves as a forum for events of a national, non-religious nature) would not be an infringement of freedom of worship. Insofar as the decisions of the authorized body are taken within the framework of these constraints on its authority, it will not be subject to judicial review.

Main Points of Yaacov Medan's Explanation

I have an opinion on the painful subject of the Women of the Wall and the use of the act of worship as a banner to march under in a public struggle to achieve equal rights for women. But I will refrain from addressing this subject.

Nonetheless, I wish to protest against what I view as a blatant injustice. On the one hand, religious bodies are willing to raise a hue and cry against what they consider to be the wrong perpetrated in the Wall plaza by the Women of the Wall or adherents of Reform Judaism. Yet on the other hand, they maintain a docile silence in the face of the dictates of the government, the police and the courts, which forcibly repress any outcry over the evil that is being perpetrated on the Holy Mount itself through the destruction of Temple relics, the burial of corpses on the Mount, the prohibition against Jews entering the site, and the creation of a *prima facie* Muslim claim to the area.

F. The IDF

The Proposal

1. The operating principles of the Israel Defense Forces should reflect the profound connection between the army's existence and the character of the state. We welcome the change in the IDF's ethical code, which clarifies that the IDF is the army of the state of the Jewish people.
2. Jewish and non-Jewish soldiers serve together in the IDF, each with different ties to the commandments of their religions. The IDF must ensure that religiously observant soldiers (of all religions and streams) can

serve in a manner that allows them to uphold the commandments of their respective religions.

3. No soldier will be obligated to take part in a religious ceremony against his will. This rule will not apply to general educational activities that promote national values. The IDF needs to formulate a position regarding “private” activities within its framework.
4. **Kashrut:** The IDF must ensure that the food served to soldiers is kosher, and that its kitchen facilities are not used in a manner that renders common cooking and eating utensils unfit for those who observe kashrut. Efforts must be made to explain the importance of this matter and to enforce it. A solution must also be found for those soldiers having especially strict kashrut needs.
5. **The Sabbath:** This subject is divided into numerous sub clauses:
 - a. **Cooking and kitchen:** These substantially relate to the kashrut issue mentioned above.
 - b. **Vehicular travel:** The accepted principle is that activity dictated by security needs is permissible, while other forms of activity that desecrate the Sabbath are not. This principle must be enforced.
 - c. **Parental visits:** It is recommended that such visits be permitted, subject to the commander’s judgment.
 - d. **Individual behavior:** In practice there is no official obligation for individuals to keep the Sabbath, even in the public military domain. This state of affairs should continue.
 - e. Operational activities that are not vital on the Sabbath shall not be conducted on that day.

6. Activities and facilities operated by the Soldier's Committee (swimming pools, entertainment, etc.) and by the Rehabilitation Department (soldiers' homes and their facilities, activities on behalf of disabled veterans, etc.) will allocate hours, activities and privileges for the religiously observant in accordance with their numbers (for example, separate hours for men and women in the pool and gym, other activities that are restricted by the laws of modesty, the Sabbath, etc.).
7. **Opening of additional positions to women:** We recommend identifying options for giving women soldiers equal opportunities, provided this does not impair the ability of religiously observant soldiers to uphold their religious obligations, does not present them with difficult and superfluous conflicts, and does not prevent them from serving in every military profession and every type of unit.
8. **National service for women:** This should be expanded and offered to secular women as well in place of military service, and for the same period of time as military service. The rights of women in national service will be made equal to those of women performing military service. Ultra-Orthodox women will be offered a separate, voluntary arrangement.
9. **Equality in military service for men:** The current state of affairs in the IDF, in both regular army service and the reserves, embodies glaring inequalities in the discharge of the obligation of military service between one person and another, and at times between one sector and another. Suitable solutions will have to

be found through negotiations and compromise, and by means of graduated arrangements. The ultimate objective must be an egalitarian arrangement in which various population sectors are mobilized to share the security and social burdens.

10. **The IDF rabbinate:** The army institution designed to address religious issues is the military rabbinate. We recommend that the appointment of the IDF's chief military rabbi be non-partisan and disinterested, so as to allow him to perform his task well.
11. We welcome the trend to increase and to anchor in law the rights of IDF conscripts and of those who do active reserve duty.

Main Points of Ruth Gavison's Explanation

Equality and the integration of women: The struggle waged by women against their exclusion is justified, but it should be remembered that this is not a struggle against religion. Unfortunately, the exclusion of women in Israel is at times a cultural, social and economic phenomenon no less than a religious one. Nevertheless, we must guard against the tendency to jump to the conclusion that the one proper mode of addressing past patterns of exclusion is by means of a sweeping imposition of a policy of "gender-blindness". The inclusion of women into combat units staffed by yeshiva students would likely evoke physical and emotional tensions that could undermine the units' operational efficiency (tensions that Rabbi Medan dwells on below). In my opinion, this is a legitimate consideration that would justify separate (but equal) units for men and women

(clause 7). Is it our intention to encourage hesder yeshiva boys to enlist in ultra-Orthodox Nahal units?

Drafting of yeshiva students: In principle, the security and work loads need to be shared equitably. It is my conviction that it is preferable to implement the Tal committee recommendations (with improvements, perhaps, but only consensual ones) for a limited time period in order to set in motion the gradual process of integrating the ultra-Orthodox into military and national service rather than maintain the *status quo*, which only increases the scope of the problem. On the other hand, the *status quo* is preferable to enacting instant legislation for a mandatory draft now. In my assessment such legislation would not produce an immediate mobilization, given the opposition of the ultra-Orthodox as well as the absence of infrastructures to accommodate such soldiers and a general lack of interest on the part of the army. The legislation would only generate contempt for the law and lead both sides to dig in their heels (clause 9).

Main Points of Yaacov Medan's Explanation

Recently, the operational patterns of the military rabbinate have changed significantly for the better. This is a welcome development, since for many years the rabbinate engaged in political intrigues that damaged its functioning.

I would like to expand on a difficult subject: the opening of field positions to young women. I will refrain from expressing my opinion here about the general connection between equal rights and equal dignity between the sexes, which in my opinion are values of unrivaled importance, and equality of roles, clothing and appearance between the sexes. In my view, those who set the public agenda in Israeli society have paid insufficient attention

to the differences between the two “equalities”, starting from an erroneous attribution of identity between the two. Mixed units are liable to cause – and in practice do cause – the religiously observant soldier to violate the prohibition against being alone with a woman (for example, through joint guard duty). I believe that it will be impossible to establish mixed units, and that most units will be composed exclusively of men.

To conclude this chapter, our proposal states that we welcome the change in the IDF’s ethical code specifying that the IDF is the army of the state of the Jewish people (clause 1). This addition further hones the obligation of the Israel Defense Forces to defend unconditionally and at any price the existence of the Jewish people in its only country, and its commitment to every Jew wherever he may be.