

Chapter Three

The Sabbath

The Proposal

1. A Basic Law will be promulgated to the following effect: The Sabbath is the official day of rest of the State of Israel.
2. Government offices, educational institutions, factories, banks, services and commercial establishments will be closed on the Sabbath. The prohibition against opening on the Sabbath will apply equally to urban areas, kibbutzim and moshavim, and along the roads. Essential industries, hospitals and essential services will operate within a Sabbath framework, as is the current custom.
3. Employees have the right not to work on the Sabbath. Non-Jewish employees have the right not to work on their religious days of rest. No Sabbath-observing individual will be discriminated against in terms of hiring or promotion in the workplace. A self-employed businessperson will not hire employees to work on the Sabbath. Workplaces operating on the Sabbath will engage employees to work on that day on a rotating basis, and to the extent possible will give Sabbath-observing employees the opportunity to perform higher-paid work during the week.
4. Restaurants and places of entertainment will not be forbidden to operate on the Sabbath, subject to suitable locations and noise levels. A limited number

of small grocery stores, gas stations and pharmacies will not be forbidden to operate on the Sabbath.

A concession to operate on the Sabbath may be awarded on a rotating basis, for a special fee. Restaurants, museums and other places of entertainment that are open on the Sabbath will close on another day of the week. Particulars of these arrangements will be elaborated and defined by an authorized committee of the local authority.

5. Transportation routes will remain open during all hours of the day and all days of the week. In towns or neighborhoods having a solid majority of Sabbath-observing residents, or in other locations where traffic should be limited to certain times, transportation routes may be closed for all or part of the Sabbath as per an authorized decision of the local authority. Local and public authorities are permitted to take measures to reduce the volume of traffic on the Sabbath in designated locations. Transportation arteries will not be closed for reasons of Sabbath observance.
6. A modified form of public transport will be permitted on the Sabbath on a reduced schedule, in order to afford mobility to those who depend on public transport while preserving to the extent possible the character of the Sabbath in the public domain and restricting the need to work on the Sabbath. Consideration will be given to operating public transport on the Sabbath by special concessionaires and by means of small vehicles (such as minibuses).

7. Commercial establishments which so desire will be entitled to open on Saturday night after the conclusion of the Sabbath, and to extend their hours of operation during the week.
8. Steps will be taken to facilitate recreation on the Sabbath in a manner that does not involve Sabbath desecration in establishments such as museums, zoos and national parks, or participation in events (for example, offering the advance sale of tickets).
9. The possibility of transferring sporting and other events which are currently held on the Sabbath to weekdays will be investigated.
10. A comprehensive effort will be made to move the entire economy over to a five-day work week, in order to enable joint social, family, sporting and cultural events on days other than the Sabbath. An employee required to work on the Sabbath will not be required to work as well on the other general day of rest.
11. Sabbath observance in the IDF will be discussed within the framework of a general discussion of the military.
12. Sabbath arrangements will not apply to local authorities having a majority of non-Jewish residents.
13. Official Israeli representatives abroad will not conduct official diplomatic activity on the Sabbath or Jewish holidays, and will not publicly desecrate the Sabbath in the course of their official duties.
14. Particulars of the arrangements, the specification of essential institutions and Sabbath frameworks, the identification of main traffic arteries, the ordering

of public transport and restrictions on location and noise for Sabbath activities will be determined by special committees. With regard to arrangements on the national level, the committee will be chosen by the prime minister. With regard to local arrangements, the committee will be chosen by the head of the local authority and the interior minister, in consultation with representatives of all municipal parties. Arrangements regarding an alternative day of rest other than the Sabbath and extended operating hours will be specified in regulations or secondary municipal legislation.

15. The above arrangements will be strictly and systematically enforced in order to effectively preserve the character of the public domain on the Sabbath.
16. This proposal does not attempt to detail all of the existing Sabbath arrangements. We recommend that these arrangements be reviewed anew in light of the principles of our proposal.

Main Points of Ruth Gavison's Explanation

My assent to the enforcement of certain restrictions on the Sabbath does not stem from religious coercion. My reason for assenting – as a free-thinking Jewish woman living in a state that wishes to preserve its Jewish-Hebrew public culture – is my own independent wish for a prominent and significant expression of the uniqueness of the Sabbath within the Israeli public domain. I therefore accept the fact that this constitutes a restriction

of individual freedom for cultural purposes. I admit that in this matter the proposal is paternalistic. In my opinion, the arrangement confers numerous advantages from the standpoint of the secular public. In addition to the main achievement – that of negotiations and the creation of a consensual framework outside of the courts – **there are five key gains for the non-observant public:**

One – Clarification that the debate between the observant and the secular on Sabbath-related issues is not halakhic, but cultural.

Two – Explicit agreement that Sabbath arrangements are not designed to compel Sabbath observance.

Three – Agreement concerning the principle that those who do not own a private vehicle are also entitled to freedom of mobility on the Sabbath (clause 6).

Four – Explicit recognition that the operation of restaurants and places of entertainment on the Sabbath is not anomalous (clause 4).

Five – Transfer of decisions regarding the form of the Sabbath in a given town or neighborhood to the residents and their representatives, so that they do not become pawns in the hands of politicians.

True, the secular public will be obliged to organize their purchases somewhat differently and to forgo shopping on the Sabbath (other than at a small number of convenience stores that will be open), but from my perspective the gain in this case far exceeds the loss.

Does the proposed arrangement entail damage to fundamental liberties? I reject the claim that the restrictions on Sabbath occupations entailed in our proposal violate Basic Laws by infringing freedom of occupation or on general liberty. These important constitutional rights do not imply the freedom to conduct commercial activity seven days a week or twenty-four hours a day. The restriction for purposes of enforcing a general day of rest is for the sake of a worthy objective. In my judgment,

the limitations mentioned in the proposal do not exceed that which is required. There may be those who take issue with one or another component of the restrictions, but there is no sweeping constitutional claim here.

Would it be appropriate to designate a different general day of rest? The argument has been made that in a multi-cultural society a religiously “neutral” day of rest should be selected, in order to help bring about a crystallization of the civil nationality. It may well be that in principle this is indeed the appropriate solution for strong multi-cultural societies, but it does not seem fitting for the only country in the world with a Jewish majority and which was established in order to enable Jews to live in the only society having a Jewish-Hebrew public culture.

Finally, in my view the proposal is also advantageous from the standpoint of the religiously observant: They are not required to approve or validate the activities of others on the Sabbath, only to accept that the common legal framework is not designed to enforce religious commandments on those who do not wish to keep them.

Main Points of Yaacov Medan's Explanation

The importance of the Sabbath for the religious public is clear. For the secular public, the Sabbath can have at least three values:

One – Time out from the daily involvement in work and the pursuit of money and a livelihood;

Two – A central mode of expression of an overall Jewish – not necessarily religious – identity. Even Ahad Ha'am, a thoroughly secular Zionist thinker, viewed Sabbath observance as a national value, coining the phrase: “More than the Jewish people kept the Sabbath, the Sabbath kept them”;

Three – Mutual concessions on the issue of the Sabbath, which has been a perennial stumbling block in religious-secular relations, may actually serve as an opening for a renewed healing process in Israeli society.

As an observant Jew, I accept the fact that the value of keeping the Sabbath in the public arena does not nullify, at least from a practical point of view, the value of respecting the individual's freedom to act in accordance with his own beliefs on the Sabbath, or in any other disputed sphere (clause 4). Nevertheless, the Sabbath should take precedence over the economic interests of commercial bodies – and factories and commercial establishments will be closed on the Sabbath (clause 2).

In order to prevent discrimination favoring secular salaried or self-employed individuals over the observant, we stipulated that in principle employees will not work on the Sabbath – and in workplaces that do operate on the Sabbath, such as places of entertainment, as specified in clause 4, Sabbath employment will be conducted on a rotating basis (clause 3).

When we formulated the proposal regarding the Sabbath I had three principles in mind:

First principle – To instill in the mind of the public the conviction that there is a solution to the perpetual war between observant and secular in Israel that is not brutal or domineering. I expand upon this idea in my personal foreword as well.

Second principle – To refrain as much as possible from violating the prohibition against creating pitfalls for others. In other words: Nowhere does the covenant grant permission or exoneration for desecrating the Sabbath. What it does do is reduce state intervention in the form of imposing restrictions on the Sabbath.

Accordingly, in my humble opinion, our proposal does not pose a distinct halakhic problem.

Third principle – To weigh the damage our proposal inflicts on the character of the Sabbath, not only against the ideal image of the Sabbath but also against existing reality. This reality can be measured on two planes: The situation in the street reflects the present – and already today there is extensive Sabbath desecration; and the situation in the courts reflects the future—where contemporary judicial decisions presage a trend towards expanded Sabbath desecration.

I am aware of the serious concerns regarding the future if the proposal on the Sabbath is adopted (the price is high, in terms of Sabbath observance). I have given them my careful consideration, while weighing them against the dangers of a future in which no effort is made to reach an agreement with the secular public and affairs are allowed to proceed at their own momentum. The fears are great in both scenarios. In my judgment the hazards of quietism are not only more palpable, they are more severe.