

The Complexities of Uncodified Constitution in Israel's Political System

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Abstract

This paper examines religious influence in Israeli politics by analyzing policy debates and public sentiment. The findings reveal that religious parties are critical in shaping social norms and legal frameworks that govern civil rights. The analysis highlights the tension between secular and religious factions and its implications for Israeli democracy. The paper illustrates how religious identity informs individual and collective actions through case studies and legal frameworks, ultimately shaping the national narrative. A major obstacle to democracy is the fact that Israel is among the few modern countries that have no formal constitution. Israel is one of five countries with an "uncodified constitution" - made up of rules found from various documents without a single document or written constitution. The research suggests that the inability to establish an agreed constitutional document representing the nature and goals of the Jewish state results from the disagreement between religious and secular leaders – the leading cause of tensions between religious and secular parties.

Keywords: Religious Parties; Secular Parties; Israel's Political System; Democracy; Constitution

Introduction

The research underscores the difficulties in shifting the deeply rooted religious status quo, primarily due to the significant political influence of religious parties. These parties often obstruct essential reforms that might threaten their interests, thereby maintaining a status quo that aligns with their objectives. Religion and politics significantly influence governance, social unity, and national identity. According to Ram (2008), as Israel evolves, it faces the ongoing challenge of reconciling entrenched divisions to foster national unity and cohesion. This requires both political solutions and broader societal efforts to harmonize the diverse identities and beliefs within the nation. The ongoing debate surrounding the role of religion in state affairs underscores the need for governance strategies that honor religious traditions while upholding secular democratic principles.

Examining Israeli politics requires a close look at the tension between secularism and religious orthodoxy, which is deeply woven into the nation's political landscape and shapes essential dynamics. This ideological conflict impacts policy-making and governance and carries profound societal and cultural consequences. However, as Tepe (2005) suggests, discussions about the role of religious parties in democracies can be misleading if their ideologies are categorized as moderate or radical. The entrenched positions of these parties within coalition governments allow them to shape legislation and policies by their doctrinal beliefs, which often conflict with public opinion. Since its establishment in 1948, the State of Israel has provided the Haredi community with considerable educational autonomy, prioritizing religious studies and nurturing a Jewish "Society of Learning Men" (Dödtmann, 2023).

Religious ideologies profoundly shape Israeli society (Kimmerling, 2001). Orthodox Jewish norms and values play a significant role in shaping personal life choices, including marriage, divorce, and education, leading to a divide between secular and religious communities. The lack of civil marriage options and the Orthodox Rabbinates' authority over personal status highlight the complex interplay between religion and state affairs (Kingsbury, 2020). Orthodox Jewish norms and values heavily influence personal life decisions related to marriage, divorce, and education, resulting in divisions between secular and religious communities. Without the option for civil marriage options and the Orthodox Rabbinates' control over personal status illustrates the intricate relationship between religion and state (Kingsbury, 2020).

This dynamic creates a complex political landscape where religious beliefs significantly influence policy and governance, challenging the secular democratic structure (Cohen, 2006). The ultra-Orthodox community, though

a minority, exerts substantial political influence by skillfully leveraging coalition politics. This allows them to shape legislation on religious affairs, state issues, and budget distribution. Their political clout often hinders significant reforms, ensuring the preservation of the status quo, particularly in contentious areas like military service exemptions and educational policies. This dynamic reflects the deep-rooted tension between religious interests and broader societal change.

Furthermore, the entrenched influence of religious parties complicates efforts to promote a more inclusive and equitable society. The ongoing struggle for power between secular and religious factions in Israel illustrates the broader challenges of reconciling diverse identities and beliefs within a democratic framework. The political influence of the ultra-Orthodox community highlights the difficulties of upholding a secular democratic system in the face of persistent ideological tensions. As Israeli society continues to change, it is essential to address these conflicts to promote unity and ensure that all citizens' diverse social aspirations and political interests are effectively represented. The research highlights the complexities of Israeli politics, emphasizing the need for ongoing dialogue and engagement to navigate the challenges posed by entrenched religious and political divisions, aiming to achieve a more balanced and equitable society.

Religious Freedom

The research examined how profound ideological divisions, influenced by religious and secular values, significantly affect governance and social cohesion. Kaplan and Werczberger (2015) indicate that the dominant presence of Orthodox Jewish parties creates a notable tension between upholding Jewish religious traditions and adhering to democratic governance principles. This tension complicates policy-making across various sectors, such as education, family law, and public life, fueling an ongoing debate about the role of religion in state matters.

Moreover, political elites' manipulation of religious symbols to maintain power and the vital role of coalition politics within a multi-party system underscores the challenges of governing a society with diverse and often conflicting ideological views. Israeli policymakers must navigate these ideological divides to achieve effective governance, stability, and inclusivity while upholding a distinct religious and national identity. The ongoing interplay between politics and religion, characterized by power struggles and ideological conflicts, presents persistent challenges to the state's capacity to govern effectively and meet the needs of its diverse populace.

Israel has long been a focal point of interest for political scientists due to its blend of established democratic practices, such as free elections and stable institutions, with a fragmented society and ongoing conflicts with Arab neighbors and the Palestinian population. The relationship between religion and state further complicates this political landscape, as religious parties advocate for policies that reinforce Orthodox Jewish values. In contrast, secular parties call for more apparent separations between religion and state. The ideological schism concerning religion's role in public life influences numerous policies, from religious freedoms to state funding for religious organizations. Maoz and Henderson (2020) discuss how elites' political manipulation of religion for survival intertwines the religious and political spheres, often resulting in contentious symbolic issues among various societal groups. Additionally, Malach (2018) highlights that the significant influence of the Orthodox community sparks ongoing debates about religion's role in Israeli society, culture, and politics. The dominance of these religious groups, coupled with a lack of clear separation between religion and state, presents ongoing challenges in balancing the interests of religious and secular citizens within a democratic framework (Zandberg, 2018). This influence is evident in various social aspects, including education and family law, particularly regarding policies that restrict interfaith and same-sex marriages (Sharabi, 2014).

Orthodox Jewish parties, representing a substantial demographic with considerable political power, frequently dominate coalition governments and advocate for policies aligned with their religious priorities. Over time, what began as a religious, political landscape constrained by shared goals has evolved into a politicized religious compromise, maintaining the status quo while enabling mediation between secular and religious factions (Ben-Porat, 2013). However, the strong religious influence on societal life often results in strict religious laws that impact all Israelis, reflecting the political clout of Orthodox parties that can destabilize governments if their demands are unmet (Cohen, 2022).

Consequently, the political landscape is marked by deep ideological divisions affecting various issues, from identity and borders to security and socio-economic policies. Political parties embody multiple ideologies, from nationalist and religious factions advocating for more significant territorial expansion to leftist groups championing peace and social justice reforms (Belder, 2021). These divisions drive political discourse, electoral competition, and coalition-building strategies, presenting ongoing challenges in reconciling ideological commitments with the practical realities of governance. Policymakers and stakeholders face the continuous task of initiating dialogue, fostering consensus, and effectively responding to societal demands while navigating the complex interplay between politics and ideology to pursue national objectives and effective governance.

Legal Complexities

Israeli politics is deeply influenced by ideological conflicts, particularly concerning its identity as a Jewish state. In 2018, the Knesset passed the Basic Law: Israel – The Nation-State of the Jewish People, often called the 'Nation-State Law.' This legislation contains essential provisions that grant national self-determination rights exclusively to the Jewish people within Israel, establish Hebrew as the official language while demoting Arabic, and promote the development of Jewish settlements as a national priority (Adalah, 2018). Fox (2024) notes that this trend, where a state endorses a majority religion and fosters doctrinal uniformity, typically enhances social trust among members of the dominant faith, as evidenced in Israel, as Cohen (2006) describes.

Israel was founded as a homeland for Jews, intertwining Jewish identity with the state's identity. However, this creates challenges in addressing the religious and cultural needs of non-Jewish minorities, resulting in feelings of inequality and discrimination. This dynamic resonates with Laurence and Vaïsse's (2006) observations about the challenges faced by religious minorities striving to be acknowledged as part of the national community. The situation in Israel reflects a complex interplay of religious, ethnic, and political factors that continuously shape both domestic and international policies. The ongoing challenge lies in balancing respect for religious traditions while fostering an inclusive, secular public space that accommodates the rights and identities of all citizens. The intersection of state policies and religious practices often leads to contentious debates regarding religious freedom. For example, the role of Orthodox Jewish laws in state affairs, including marriage, divorce, and public observance of the Sabbath, can be perceived as government-imposed restrictions on the religious practices of non-Orthodox Jews and non-Jews.

A significant aspect of this conflict is the tension between secular Jews and the ultra-Orthodox community. Despite being a minority, the ultra-Orthodox community wields considerable political influence. In recent decades, ultra-Orthodox parties have strategically leveraged religious issues to gain political power, while secular politicians have tapped into anti-religious sentiment among secular Israeli Jews. The central point of contention revolves around the demand for military service exemptions for ultra-Orthodox religious males, a policy that has profoundly impacted the community. Finkelman (2011) explains that Haredi Judaism developed as a reaction against modernity's challenges to strict adherence to Jewish law. Haredi Jews prioritize Torah study, viewing it as central to their existence, leading their educational system to emphasize religious texts over general education. Men are expected to engage in full-time Torah study well into adulthood. As a result, while the Haredi community has experienced significant growth over the past few decades, its educational system now grapples with financial crises and an increasing number of dropouts and defectors.

Israel's political framework is marked by fragmentation and the necessity for coalition-building, often requiring partnerships with religious parties to secure governing majorities. These political dynamics afford religious factions significant influence over government policies, particularly concerning issues like military conscription exemptions for ultra-Orthodox Jews and funding for religious education. The lack of a formal constitution has led to a historical agreement governing the interaction between religious and political spheres, striking a balance between secular and religious demands. Rosenthal (2024) asserts that the establishment of the state of Israel was the culmination of the Zionist movement, which originated in Europe and was profoundly influenced by Enlightenment ideals, national self-determination, democracy, and socialism. He argues that Zionism, from its inception, was primarily a secular movement that distanced itself from traditional Jewish practices. However, despite their secular orientation, the founders of Israel rooted the nation's political, judicial, economic, social, and educational institutions in ethical values and cultural practices derived from Jewish tradition. This process of secularizing an ancient religious and cultural tradition often manifests as a conflict between opposing ideologies.

The societal divide along secular and religious lines contributes to tensions surrounding state funding for religious institutions, the role of religious authorities in public life, and the enforcement of religious laws. Orthodox Judaism holds significant sway in political and societal matters, particularly in personal status issues like marriage, divorce, and conversion. This influence is often contested, especially regarding the recognition of non-Orthodox Jewish denominations and the expansion of civil marriage options, which face resistance from Orthodox authorities. Rosenberg (2018) explains that Israel's rapidly growing ultra-Orthodox population presents a significant challenge to the nation's future as a knowledge-based economy. Generally, ultra-Orthodox Jews are economically disadvantaged, with their education system primarily focused on religious texts rather than the skills necessary for modern economic participation.

Israel's legal framework lacks a provision for civil marriage, necessitating that Jewish citizens marry by Orthodox Jewish law. This challenges those who do not adhere to Orthodox practices or belong to unrecognized Jewish denominations. This arrangement illustrates the delicate balance between safeguarding religious freedom and accommodating the influence of religious institutions, particularly Orthodox Judaism, in legal and governance matters. Zur (2024) posits that ultra-Orthodox Jews have a complex relationship with modernization. While many

within the community resist progress and modernity, they do not entirely reject the internet, provided they can filter its negative aspects to protect their way of life. Their goal is to preserve traditional values while minimizing the moral risks associated with internet use and maintaining their isolation. Consequently, ultra-Orthodox Jews perceive the internet as a tool that poses a significant threat to Jewish values and moral integrity. The Basic Law: Human Dignity and Liberty enshrines the right to human dignity and liberty, affirming the principles of freedom and equality. However, critics argue that these laws must be consistently enforced or interpreted uniformly, leading to ongoing tensions between religious observance and civil rights. The state's identity as a Jewish state also fosters complex challenges regarding the rights of non-Jewish citizens, mainly Arabs and other minority groups. There is a continuous struggle for civil rights and religious freedom in the context of competing national identities, leading to calls for reforms that uphold both Jewish values and democratic principles (Ganz, 2021).

Uncodified Constitution

A major obstacle to democracy is the fact that Israel is among the few modern countries that have no formal constitution. Israel is one of five countries with an "uncodified constitution" - made up of rules found from various documents without a single document or written constitution (the other countries include Canada, United Kingdom, New Zealand, and Saudi Arabia). Although the fundamental laws of Israel are considered equivalent to a constitution, the situation is more complex than in other countries since Israel defines itself as a Jewish state that provides democratic rights to its Jewish, Muslim, and Christian citizens. Israel is unique in the role of immigrants and minorities since it is considered to belong to the entire 'Jewish People' of the world, and citizenship is based on religion (for example, Kimmerling, 2001; Kingsbury, 2020).

Although the constitution was intended to be written in the first years of statehood, all political attempts to have a formally written constitution failed, and the country works with a system of fundamental laws and rights, which enjoy semi-constitutional status (Ettinger and Leon (2018). The inability to establish an agreed constitutional document representing the nature and goals of the Jewish state results from the disagreement between religious and secular leaders. As explained by Freisel (2024), these divisions resulted from the failure of the secular pioneers to create a unified and ethnic society. In contrast, the ultra-Orthodox, which seek to distance themselves from state institutions and modern culture, have successfully enforced religious identity on society, state intuitions, and public life. Over the years, the conflict was not resolved, and the fear of increased religious-secular tensions resulted in the transfer of the conflict to the political arena. This transition had an extreme impact on religious parties as they took advantage of the divided electoral system.

Without a formal constitution, the interplay between religious and political spheres has been governed by a historical agreement known as the "religious status quo." This arrangement signifies a political understanding between secular and religious factions, committing not to alter communal arrangements regarding religious matters in a largely secular society. The status quo model recognizes the primacy of religious demands in specific domains, reflecting a societal and political compromise rather than a principled decision. This model continues to wield influence in Israeli society today, underscoring the conflicting identities of the secular and religious communities. Its unique structure safeguards religious freedom while rejecting the complete separation of religion and state (Ettinger & Leon, 2018). The persistence of the religious status quo exemplifies the ideology conflict between the secular majority and the ultra-Orthodox minority regarding the role of religion in society, encapsulated in the decision to maintain a comprehensive political compromise rather than making a definitive choice.

The reference to the compromise on the religious status quo during Israel's political system illustrates the intersection of academic research and practical politics. In the face of challenges related to state-building and the absorption of new immigrants, policymakers prioritized maintaining stability and cohesion by giving minimal attention to contentious religious issues (Zandberg, 2018). This historical example underscores how real-world political considerations can shape decision-making processes, often in alignment with the insights provided by academic research.

The tension surrounding the ideology of a Jewish state reflects deeper divisions and debates about the country's historical legacy, future direction, and the rights and status of its diverse population (Leon, 2014). Although the notion of a Jewish state is central to its founding principles and national identity, the interpretation of this concept varies widely among different segments of Israeli society. This conflict emphasizes the importance of maintaining Jewish cultural and religious traditions, preserving Hebrew as the national language, and ensuring a Jewish majority population. Others see it as inclusive of Israel's diverse population, including Arab citizens, and advocate for a more secular understanding of the state's Jewish identity (Kimmerling, 2001).

The ultra-Orthodox community illustrates the tension between religious traditionalism and modernity. This deeply devout group, committed to upholding traditional values like gender segregation, faces the dilemma of integrating

into mainstream society while remaining faithful to its religious principles. Entrenched traditions deeply influence fundamental aspects of life within the Haredi community, such as attire, education, marriage customs, and language usage. The ultra-Orthodoxy's separate network of schools, reliance on taxpayer-funded support, and enforcement of a public status quo further fuel tensions with the secular majority (Shalev, 2019).

Historically, the community has resisted secular communication channels, avoiding mediums like radio, television, and computers. However, despite their resistance to certain technological advancements, the Haredi community has struggled to resist the pervasive influence of the internet and mobile phones. The need to interact with the modern world, especially concerning living conditions, healthcare, social welfare, and income, has compelled Haredi leaders to navigate a delicate balance between adopting elements of contemporary society and preserving their unique way of life. This delicate balance has resulted in intriguing contradictions, such as Haredi political factions participating in government alliances despite the religious divergence of the community from the secular majority (Sharabi, 2014).

Israel's first Prime Minister, David Ben-Gurion, established the religious status quo and aimed to address the broader tension between civil and Jewish religious law through various measures. These included designating Shabbat as the official day of rest, aligning family law with Jewish law, ensuring government-supported institutions adhered to kosher standards, and granting the ultra-Orthodox community autonomy over its educational institutions. However, these compromises have presented challenges, such as the lack of public transportation on Shabbat, disproportionately affecting those without cars. Issues like marriage and divorce were subject to Orthodox Jewish law, affecting inter-faith and same-sex couples. Additionally, the exemption of young ultra-Orthodox individuals from military service has exacerbated existing disparities (Goldstein, 2022).

In Israel's history of coalition governments and the absence of a parliamentary majority for any single political party, ultra-Orthodox parties hold significant sway in coalition-building and party politics, leveraging a level of political power that surpasses their numerical size. Fisher (2016) argues that fundamentalist movements participating in secular political systems can attain prominent positions, enabling them to impose extreme ideologies on society. In the case of Israeli Haredi, Fisher observes that as fundamentalists accrue more political power, their inclination to advance their religious agenda intensifies. While Haredi parties primarily focus on sectorial concerns and exhibit limited interest in external political matters, they wield substantial political support, consistently participating in nearly every government. Their strategic use of power extends to influencing legislation on issues related to religion, state affairs, and budgets (Shalev, 2019). Consequently, attempts to change the established status quo governing religious practices face formidable challenges.

Religion continues to wield significant influence in Israeli politics due to the deeply rooted religious convictions prevalent among the ultra-Orthodox community. Initially confined to religious circles with shared objectives and met with secular indifference, religious involvement in politics has gradually evolved into a politicized compromise known as the status quo, enabling the government to navigate between secular and religious interests (Ben-Porat, 2013). Within this compromised framework, religion exerts a pervasive influence across both public and private spheres of Israeli society. Illustrated by religious underpinnings, the Basic Law of Return underscores the central role of Jewish faith in determining citizenship. Religious courts, holding a monopoly over personal status matters, and imposing religious constraints contribute to tensions with secular segments. Additionally, the ultra-Orthodox community's distinct school network, reliance on state funding, and insistence on upholding a religious status quo further exacerbate divisions with the secular majority (Shinar, 2021).

The different conceptions of religious and nationalistic affiliations have been integral to Israeli society since its inception. Religion has been a cornerstone of Jewish identity and continues to hold significance. Jewish religious traditions, laws, and beliefs influence Israeli society, culture, and governance. For many Israelis, their religious identity is central to their sense of self and community. This religious ideology encompasses various denominations within Judaism, including Orthodox, Conservative, and Reform Judaism, each with its practices and interpretations of Jewish law (Ami, 2022).

Conclusion

The connection of politics and religion in Israel presents a complex and evolving landscape characterized by competing ideologies, diverse societal demands, and ongoing tensions between religious observance and democratic values. As the state navigates these challenges, the ongoing dialogue between religious and secular factions remains essential to fostering a more inclusive and cohesive society that respects the rights and identities of all its citizens while preserving its unique Jewish character. The delicate balance between maintaining a Jewish state and ensuring the rights and freedoms of all individuals will shape the future of Israel's democracy and societal cohesion.

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