

The Erosion of the Status Quo in the Relations Between Religion & State in Israel

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ABSTRACT

The “status quo” is a buzzword that describes the relationship between religion and state in Israel; its history is the history of that relationship. The status quo comprises a complex network of de jure and de facto arrangements in various areas of life where Judaism and the state meet, tangle, or clash. The term is such a convenient way to describe the situation that many coalition agreements over the years have employed it to define the relationship in question and the new Government’s commitment to preserve it.

Religion and state intersect in many areas. The present study focuses on the key topics that are traditionally included in the status quo—Shabbat, marriage and divorce, conversion, and kashrut—mainly because of the magnitude of their implications for life in Israel and for the country’s relations with Diaspora Jewry; but also because they were part of the status quo when it first crystallized on the eve of independence.

The nexus of arrangements that compose the status quo emerged when the state was born and in its early years. They have undergone constant erosion and modification since then, for several reasons: changes in

Israeli society and its regnant values, changes in the composition of the population, the activism of the Supreme Court, the efforts of civil society organizations to promote religious pluralism, and the nonreligious sector's increasing awareness of the nature of the religious services it is asked or forced to consume.

These factors erode the current arrangements and affect the Jewish character of the state as reflected in concrete provisions. What is more, they reduce the relations between religion and state to near-chaos. On the one hand, court rulings and the situation on the ground are wearing away the old arrangement and creating islands of regulation within a sea of non-regulation or inconsistent regulation. On the other hand, the legislature and political system lack the power to come up new arrangements. The combination intensifies the fundamental and most important question in this domain: in what way is the Jewish state Jewish?

The direction of the change is not always the same or obvious. In some cases, the initial arrangement has been modified in favor of secularism; in others, it has shifted to be more conservative and religious. But one thing has remained the same: for the past 70 years issues of religion and state have stood at the center of the political and public debate in Israel. Because of the balance of political power when the state was born, as well as today, these matters generate repeated coalition crises and from time to time threaten to bring down the Government. What is more, the numerical balance of power between the religious and secular has not changed dramatically over the years; today, as then, one or several religious parties hold the key to putting together a Government. This is why the battle between different sectors over the nature of the Israeli public space in matters of religion and state continues to be waged along more or less the same lines as 70 years ago.

In response to all this, and out of an understanding of the importance of dispelling the tension between the sectors of Israeli society, there have been repeated efforts, in both the social arena (by means of social compacts) and the political arena, to arrive at a new arrangement. While the social compacts have garnered broad public support, the political expression of their content has been limited. In any case, given the traditional veto by the religious and ultra-Orthodox and the objections by rabbis of most Orthodox currents to any concessions or changes in the status quo, the normative changes in these domains remain extremely limited and the dead-end about arrangements remains as it has always been.

The present study is the first to include the full history of the status quo in the key issues of state and religion relations in Israel and highlights its impotence. Various explanations are offered for the erosion of the status quo, especially the changing values of Israeli society and judicial activism. The attempts to come up with a new arrangement for the relations between religion and state are described, along with their failure, due in part to the obstacles erected by rabbis every time the possibility of achieving something in this domain has appeared. A key argument is that the eroded status quo should be supplanted by new and coherent arrangements. The study also looks at the policy followed by the Supreme Court and concludes that its rulings have almost always been coerced and handed down only after the politicians failed to resolve the concrete issues brought to its attention. Consequently the study asks whether there is any benefit in the attempts to legislate religion-state relations—that is, the feasibility of enforcing such arrangements—and whether there is any point to the informal attempts at regulation. The conclusion is that they are of limited use.

As a possible conclusion, I assert that we should hold on only to the essential core of arrangements for religion-state relations and find other

ways to express the Jewishness of the state, more flexible than regulations and legislation. Only the bare minimum of regulations to preserve the Jewishness of the country should be left to legislation, while efforts are made through other channels, public and educational, to consolidate the broadest possible identity, which will express the Jewishness of Israel on the ethical, cultural, and educational planes.



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