

First Draft – do not cite or quote without permission

## FROM NATIONALIZATION TO PRIVATIZATION: THE CASE OF THE ISRAELI DEFENSE FORCES

GUY SEIDMAN\*

### I. INTRODUCTION

Few military forces of any contemporary democracy enjoy greater public esteem and funding levels than the Israeli Defense Forces (*IDF*); fewer still perform as vast an array of non-military yet public oriented tasks as does the *IDF*. Yet as Israel is being transformed from welfare-state to a neo-liberal capitalist economy,<sup>1</sup> even the role of ‘the people’s army’ is being reevaluated.<sup>2</sup> For now, it has been up to the military to decide which of its military and public oriented tasks it will keep performing itself, and which of these should be more efficiently carried out by the [*civilian*] public, private, and non-profit sectors. To date, this process has taken place without significant loss of military oversight over privatized functions and with minimal public, political or judicial involvement in the process.<sup>3</sup>

---

\* Senior Lecturer (Ass’t Prof.), the Interdisciplinary Center Herzliya; LLB, LLM, Tel-Aviv University; LLM. SJD., Northwestern University; [gseidman@idc.ac.il](mailto:gseidman@idc.ac.il). This draft was prepared for the Patuxent Defense Forum, St. Mary’s College, MD., to be held April 9-10, 2008 on “The Privatization of National Defense.” I have tried to use English language, electronically available sources. **NB:** this is a first draft, written prior to the Maryland conference – a revised version, following the conference, is forthcoming.

<sup>1</sup> See, e.g., Yoav Peled “From Zionism to Capitalism: The Political Economy of the Neoliberal Warfare State in Israel” in J. Beinun and R. Stein, eds. *The Struggle for Sovereignty: Palestine and Israel, 1993-2005* (Stanford University Press) 38-53; Adam Hanieh “From State-Led Growth to Globalization: the Evolution of Israeli Capitalism” 32(4) *J. of Palestine Stud.* (2003) 5-21 (incorporating the Palestinian view); for a critical assessment see: <http://www.adva.org/categories.asp?lang=en&catID=1>; <http://stefanmikarlsson.blogspot.com/2006/03/israel-second-most-unequal-developed.html>; also see: Ira Sharkansky “Israeli Income Equality” 1(1) *Israel Studies* (1996) 306-314.

<sup>2</sup> See, e.g., Uri Ben-Eliezer “Post-Modern Armies and the Question of Peace and War: The Israeli Defense Forces in the ‘New Times’” 36 *Int. J. Middle East Stud.* (2004) 49-70 (evaluating the decline of the ‘nation-in-arms’ paradigm).

<sup>3</sup> This broad statement needs to be qualified in two regards: *first*, it applies in full to the territory over which Israeli law applies; the conditions in the territories militarily occupied by Israel since 1967 are somewhat different; more on this Part IV, *infra*. For the territorial distinctions see:

Yet this lack of public interest and oversight is unlikely to last much longer. The Israeli public is showing growing interest in the military's privatizations efforts and in the specifics of the defense budget and press reports are getting more numerous and detailed in recent years. More significantly – after years in which privatization has been relegated to op-ed columns, as a pure question of public policy, the lawyers are finally showing some interest: the Israeli Supreme Court is due to hand down its decision in a landmark prison-privatization case. At the very least, the Court is likely to draw out some guidelines to privatization of government functions in Israel. If the Court were to be brave, are actively regulate the privatization of national security functions, we can expect the privatization process in the military to become much more publicly debated, politically charged and overall more transparent.

The present paper will trace and evaluate the current state (*April 2008*) of the privatization process of military and national security functions in Israel. The paper goes into some historical detail of the origins of the military's wide roles in Israeli society. This is because I believe that the depth and width of tasks entrusted to the military may astonish the uninitiated reader – although they are familiar to anyone living in Israel. These extent of these tasks and the strong support of the military by the Israeli public suggests two initial evaluations: *first*, that in comparison to the conventions of civil-military borders in most democracies, Israel has both *nationalized* many tasks that would otherwise be carried out by the private or non-profit sectors, but also *militarized* them, entrusting their performance to the military rather than the civilian branches of government; hence the starting point for discussion in this paper and its title: the shift now occurring is from a baseline of nationalization – to privatization;<sup>4</sup> *second*, there is little public pressure on the military to divest its national tasks or privatize its operations

---

[http://en.wikipedia.org/wiki/Green\\_Line\\_\(Israel\)](http://en.wikipedia.org/wiki/Green_Line_(Israel)); *second*, there are many reports of Israeli individuals and corporations integrating well into the global market of military arms and services. This topic is *not covered in this paper*. See, e.g., P.W. Singer "Corporate Warriors: The Rise of the Privatized Military Industry and its Ramifications for International Security" 26 *International Security* (2001-2002) 186, 188, 213.

<sup>4</sup> I use these terms in their most conventional – if broad sense: nationalization, as referring to "[t]he act of bringing an industry under governmental control or ownership," and privatization, as meaning "[t]he act or process of converting a business or industry from governmental ownership or control to private enterprise." See: Black's Law Dictionary (8th ed. 2004). These facile definitions are generally good enough for lawyers; social scientists offer richer readings. See, e.g., Tony Prosser *Nationalized Industries and Public Control: Legal, Constitutional and Political Issues* (Blackwell, 1986); Bernardo Bortolotti and Domenico Siniscalco *The Problems of Privatization: An International Analysis* (Oxford U.P., 2004).

in any way; in some cases – notably military educational efforts for underprivileged youth – there is public pressure in the reverse direction. It seems that most privatization efforts now taking place are initiated by the military itself, and are the result of for budgetary constraints.

To give but a taste of what this paper is about let me note that besides maintaining a massive military force hundreds of thousands strong – in a standing army and in reserves<sup>5</sup> – until recent years Israel also funded an extensive national weapons industry, which made sense in a climate of national self-reliance. Furthermore, the military insisted on providing for itself most of the goods and services it needed. This sometimes meant having less qualified servicemen perform tasks that could more efficiently be provided by the private or non-profit sector – such as cooking as cooking, providing medical services serving in military museums or training mounted police horses. Most of these tasks have been privatized in recent years. But there are – or at least historically, were – many other tasks performed by Israeli servicemen and women, many of them contributed greatly to Israeli culture and economic development. To mention just two: *Galei Zahal*, the highly popular military radio station, has long been a hotbed for media talent; the IT services unit *Mamram* has served as a hotbed for Israel's successful civilian high-tech industry.<sup>6</sup> Both were vital – perhaps – in the early days of the nation; both could, in theory, be replaced by civilian services, freeing vital military resources; yes both are highly unlikely to be shut down, as military installations – indeed, as noted *infra*, efforts to shut down the military radio station have led to public outcry and been indefinitely shelved.

## II. TAKING UP THREE PARADIGMS AND SETTING UP ANOTHER

### 1. *The IDF's Role in Israeli Society: An Opening Statement*

Since Israel took its independence in 1948, the *IDF* has become without a doubt the most dominant instrument of government. Extensive literature across a wide range of

---

<sup>5</sup> A recent estimate suggests the numbers are about 168,000 persons in the standing armed forces and about 408,000 in the reserve forces. See: Economist Intelligence Unit Views Wire Israel - Israel: International relations and defence, November 2, 2007 [11/2/07 EIU VIEWSWIRE ISR. 68; 2007 WLNR 21679784]. For a comprehensive presentation of the Middle East military balance see: <http://home.uchicago.edu/~yshefi/ksst.pdf>.

<sup>6</sup> See: <http://en.wikipedia.org/wiki/MAMRAM>.

academic disciplines records and analyzes the *IDF*'s role in Israeli society. It indicates the centrality of the *IDF* in Israel, but also suggests a steady decline in the military's status. In Part II, I sketch three paradigmatic strands of analysis of *IDF* impact in Israeli society; then, in Part III, I will set up my preferred method of analysis. In more detail:

In the present section, I try to highlight some of the core social science insights regarding the *IDF*'s role in Israeli society. These suggest that as the Israeli population and economy grew and Israel's international status improved, the *IDF*'s position is less seminal and iconic than it was in 1948; yet it remains an enormously influential body, much more than the norm in other Western democracies. I begin with a general section, drawing key points from the studies of historians, sociologists, and political scientists regarding the *IDF*. I then note that public opinion polls show a continued and strong – if slightly declining – public support for the *IDF*; finally, I note the heavy burden of military expenditure on the Israeli economy and the centrality of the national defense budget (of which the *IDF* enjoys the lion share) in Israeli government expenditure.

In *Part III*, I present my legal-functionalist analysis of the issue. I pose what I consider to be the pertinent question: what tasks and functions is the *IDF* asked by the government and under I Israeli law to perform? How have these functions changed over the years? Which functions have been handed over to the private or non-profit ('third') sector? I discuss the changes in the functions that the *IDF* has been asked to perform in Israel. Since 1948, the military has been required to perform many national – and necessarily military – functions; in the sixty years that have passed, the *IDF* has ceased to perform some of those while others remain in its portfolio, under public and political pressures. In short - Part III examines whether the 'nationalized' function entrusted to the *IDF*'s are being privatized.

## 2. *Some Insights from the Social Sciences*

The *IDF* is one of the most significant institutions in Israeli society and it in past 60 years analysis of its role in Israeli society has received great attention in the social sciences. I will note that since its establishment in 1948, the *IDF* has been widely perceived as a vessel for efforts of social engineering of the new nation. Many of these efforts were intentional – based on the political ideologies of the founding fathers; others

were less manufactured, but still a necessary byproduct of the wide roles of the military and the wide mandatory conscription, which funnels most Israelis into this social 'clearing house.' Here are some of the main issues discussed in the literature.

The legitimacy of the military was never in question. Israel has been a country under a constant national security threats since its inception.<sup>7</sup> The military is viewed as an apparatus of survival, not merely a vehicle of national policy or patriotic pride.<sup>8</sup> The initial point is that it that a willful process was undertaken by which the *IDF* was founded and shaped as the unified, singular, military force of Israel and that the *IDF* was then used to help shape the 'new Israeli'<sup>9</sup> and advance government policies.

It is not a natural phenomenon that created the *IDF* as the single military agency of the nation but an act of will of Israel's first Prime Minister David Ben-Gurion. During the British mandate the Jewish population was highly organized but only in *voluntary* associations and along highly *ideological* lines. The same applied to the para-military defense forces, which were both semi-professional and sectarian.<sup>10</sup> Furthermore, the small Jewish population of the new nation expected to absorb an influx of immigrants, several times its size – Jews from all corners of the earth, bringing a huge diversity of language, socio-economic status, religious and social customs. Most immigrants came from non-democratic nations where Jews often did not enjoy full civil and political rights. One of the prime challenges of the newly established Israel was to create a united, democratic, free and independent people in the new nation. One of the prime tools was a single, national, military force that would provide the 'melting pot' and help create the 'new (and improved) Israeli.'

---

<sup>7</sup> Cf.: "Israel is the only democracy in the world that has been in a state of war since independence." (Yoram Peri, "The Arab-Israeli Conflict and Israeli Democracy," in Ehud Sprinzak and Larry Diamond (eds.), *Israeli Democracy under Stress* (Boulder, CO: Lynne Rienner Publishers, 1993), p. 343).

<sup>8</sup> Israel's first Prime Minister is often quoted as stating that if Israel was not willing to be a fighting nation, that it could not be a living nation, and certainly not an independent one. See, in detail: Alek D. Epstein and Michael Uritsky "Questioning the Role of Army in Nation-Building: The Development of Critical Discourse on Civil-Military Relations in Israel" in: Constantine P. Danopoulos, Dharendra Vajpeyi, Amir Bar-Or, eds. *Civil-Military Relations, Nation Building, and National Identity: Comparative Perspectives* (Westport, CT, 2004) 169 & fn. 3.

<sup>9</sup> On that see: Oz Almog, Haim Watzman *The Sabra: The Creation of the New Jew* (Berkeley, 2000).

<sup>10</sup> See: Amos Perlmutter *Military and Politics in Israel – Nation-Building and Role Expansion* (Frank Cass & Co. Ltd, 1969) 32-53.

*Step One* was to break down all pre-Independence militias – both those politically related to Ben-Gurion, and those of the opposition. In their stead came the *IDF*: an a-political, unitary-national, professional military under the control of the civilian political leadership.<sup>11</sup> This proved a traumatic process, conducted with brute force and great gusto by the Ben-Gurion, but leading to the brink of civil war.<sup>12</sup>

*Step Two* was to use the military as a major vehicle for implementing government policies. “The army was said to assist with immigrant absorption, act as a melting pot for Jewish ethnic groups, help conquer the wilderness, further settlement, educate for good citizenship and love of country, and foster culture.”<sup>13</sup> More of these functions – many of whom remain in effect today – see Part III, *infra*.

*Step three* was imbuing the expanded military roles with ideological content of social engineering. Explains Ben-Eliezer:

Ben-Gurion presented the army as an efficient instrument to forge a nation. However, he was speaking not of something technical but of something substantive. Turning a population into a nation through an army was intended to bring into being a nation of particular kind.<sup>14</sup>

Ben-Gurion himself wrote, that while “the primary function of the IDF has been to safeguard the state” –

... this is not its sole function. The army must also serve as *an educational and pioneering centre* for Israeli youth – for both those born here and newcomers. It is the duty of the army to educate a pioneer generation, health in body and spirit, courageous and loyal, which will unite the broken tribes and Diasporas to prepare itself to fulfill the historical tasks of the State of Israel through self-realization.<sup>15</sup>

---

<sup>11</sup> See, in detail – Perlmutter, id. at 54-55 and more generally: Yehuda Ben-Meir *Civil-Military Relations in Israel* (Columbia U. P., 1995).

<sup>12</sup> See, these useful entries: <http://en.wikipedia.org/wiki/Haganah>; <http://en.wikipedia.org/wiki/Palmach>; <http://en.wikipedia.org/wiki/Irgun>; [http://en.wikipedia.org/wiki/Altalena\\_Affair](http://en.wikipedia.org/wiki/Altalena_Affair). Perlmutter, id at 52-53; <http://www.israelnewsagency.com/israeldefenseforces120374.html>.

<sup>13</sup> See: Uri Ben-Eliezer *The Making of Israeli Militarism* (Indiana U.P., 1998) 195 & fn. 13. Ben-Eliezer is critical of Israeli military sociologists for describing “the many and varied functions of the Israeli army” and “its role expansion” in the civil sphere uncritically.

<sup>14</sup> Ben-Eliezer interprete this to mean a nation with a desire and ability to fight. See id. at 195.

<sup>15</sup> Cited at Perlmutter, id. at 66.

In 1949, these were bold words, and questions of the legitimacy of State efforts to engineer its electorate had to wait for recent decades. In the late 1960s, *Perlmutter* happily endorsed Ben-Gurion's vision.<sup>16</sup> More recent writers have been more skeptical. Let me provide some examples.

*Mandatory Universal Conscription*: The nascent Israeli established a mandatory and general conscription in Israel – for both men and women.<sup>17</sup> On its face, this has been maintained to the present, and given the general conscription scheme, the *IDF* can still claim to be 'the people's army.' While it is still the case that most of the [secular, Jewish] population of Israel has served in the *IDF*, there is very clear data suggesting that a rising percent of the population avoids military service.<sup>18</sup> What is perhaps more troubling is a growing public acceptance of non-performance of the national duty of service in *IDF* – and an occasion backlash at celebrities who have chosen not to serve in the military.<sup>19</sup>

*Upward Social Mobility*: Throughout Israel history, and notably so in recent years, given the Second Lebanese War and the Palestinian uprising, the *IDF* has been "perceived by the Israeli society as its defender and savior."<sup>20</sup> It is not surprising that the long term professional service in the *IDF* has become a good career choice for many people: Israeli society honors this particular form of public service, and beyond the public esteem – career soldiers are relatively well paid (much depending on their specific qualifications). Moreover, servicemen retire from the military when in their 40s, with a

---

<sup>16</sup> In his eyes – "time has vindicated Ben-Gurion

<sup>17</sup> For a general introduction to *IDF* conscription policies see: Guy Seidman, Eyal Nun "Women, the Military and The Court – Israel at 2001" 11 *S. Cal. Rev. L. & Women's Studies* (2001) 91-151.

<sup>18</sup> In principle, all citizens and permanent residents of Israel are required to serve in the *IDF* – two years in the case of women, and three years for men. With most of the non-Jewish population not conscripted and wide exemptions for religious and medical reasons, current data suggests that the nearly 28% of Israeli Jewish males – the most vital recruitment demographic sector – avoided conscription in 2007. See: <http://www.haaretz.com/hasen/spages/920973.html>; <http://www.haaretz.com/hasen/spages/811076.html>. By some accounts, under half of all Israeli youths complete the full term of their military service. The data regarding annual service in the reserves suggests an extreme division of the burden – hence the efforts to compensate reservists carrying out active duty. Cf. <http://www.haaretz.com/hasen/spages/922678.html>; <http://www.haaretz.com/hasen/spages/959649.html>.

<sup>19</sup> Particularly hard hit was the winner of the 2006 Israel *Idol* competition, signer Jacko Eizenberg, whose statements in support of non-service in the *IDF* have curtailed his budding career. See, in more detail, in: <http://www.haaretz.com/hasen/spages/912328.html>; <http://www.haaretz.com/hasen/spages/768764.html>; <http://www.israelity.com/?m=20060910>

<sup>20</sup> See: Epstein & Uritsky, id. at 179.

pension, and ready for a second career. Some retirees find it difficult to find a new civilian position – but many find positions valuing their first career in the *IDF*. Sociologists have researched recognized that the *IDF* has an important in the socialization process – especially of incorporating recruits from marginalized parts of Israeli society into the mainstream, and providing them with the opportunity to acquire skills, self-esteem and confidence.<sup>21</sup>

The *IDF* is a fairly meritocratic institution. It gives 18 year old recruits a fair chance to ‘be all they can be’, even if their extended family did not receive such a fair chance from the State.<sup>22</sup> The advantages of military service have not escaped interest groups and particular sections of Israeli society. Feminists have long realized that making women’s military service more meaningful than secretarial position and more equal to men’s positions would significantly advance concepts of gender equality in Israeli society. Similarly, the crackdown on sexual harassment in the *IDF* served as precursor to the toughening of standards in Israeli society in general.<sup>23</sup> Similarly, in recent decades the old Ashkenazi elites seem to have lost some of their zeal for military service, and other sectors,<sup>24</sup> most notably the religious–Zionist one, have been more highly motivated to serve in elite army units and move up the ranks.<sup>25</sup> Finally, the more distinguished the military career, the easier the *IDF* retiree’s placement in civilian work. Until recently, senior retired generals entered politics, and many of whom did well,<sup>26</sup> in recent years, in

---

<sup>21</sup> See: Yagil Levy “The Embedded Military: Why did the IDF Perform Effectively in Executing the Disengagement Plan?” 16(3) *Security Studies* (2007) 382-408.

<sup>22</sup> In the early years of Israel there were clearly “negative attitudes and stereotypes toward those who were ‘unproductive.’ These negative views fastened in particular on “Mizrahi” (“Oriental”) Jews--immigrants from Arab and Northern African countries. These immigrants were in general treated as primitive and uncivilized....” See: Sagit Mor “Between Charity, Welfare, and Warfare: A Disability Legal Studies Analysis of Privilege and Neglect in Israeli Disability Policy” 18 *Yale J.L. & Human.* (2006) 63, 99.

<sup>23</sup> See: Seidman & Nun, id. at pp.... ; Dafna N. Izraeli “Paradoxes of Women’s Service in the Israel Defense Forces” in: Daniel Maman, Eyal Ben-Ari, Zeev Rosenhek, eds. *Military, State, and Society in Israel: Theoretical & Comparative Perspectives* (Transaction Publishers, 2001) 203.

<sup>24</sup> Cf. Yagil Levi, Shlomo Mizrahi “Alternative Politics and the Transformation of Society Military Relations: The Israeli Experience” 40 *Administration & Society* (2008) 25, 27 (speaking of the dissolution, since the 1970s, of “the Israeli version of the republican contract” under which “the middle class, comprising mostly secular Ashkenazi Jews (Jews of European descent), has historically been successful in exchanging its military burden for social dominance.”

<sup>25</sup> This could have complex political and social ramifications – especially in politically charged scenarios such as the evacuation of Jewish settlements in the West-Bank. See, e.g.,

<sup>26</sup> See: Epstein & Uritsky, id. at 178.

vogue with the rest of society, generals choose management for their second career, and are well received in both public and private sectors.<sup>27</sup>

*The Melting Pot*: one of the most ambitious targets set for the military as a social agent was for it to serve as the melting pot of Israeli society. Nowadays, such an idea seems romantic, naïve, and probably offensive to current views of the liberal-democracy's role in society, or as jurists would call it – illegal and subject to judicial review.<sup>28</sup> But in the nation-building post World War II days, matters looked different.

Familiar since the early 20<sup>th</sup> century,<sup>29</sup> the 'melting pot' is a core ideological metaphor in the Zionist vision for the State of Israel. A nation mostly made up of Jewish immigrants from around the world Israel is a deeply splintered society, where disagreement is far more common than societal consensus.<sup>30</sup> In executing his 'melting pot' vision, Ben-Gurion relied much on the IDF. The *IDF* is the most trusted government agency. Israelis are willing to coalesce, unite and support the *IDF*. As such the *IDF* was

---

<sup>27</sup> Two prominent examples include the recently retired Chief of Staff, Lt. Gen. Dan Haluz: having resigned following the results of the Second Lebanese War, Haluz pursues a career in the corporate world; Maj. Gen. Shlomo Yanai's was appointed CEO of Israel's foremost corporation – TEVA, one of the world's top 20 pharmaceutical companies. See: 3/13/08 *Isr. Bus. Arena* [2008 WLNR 4960296]; 3/11/08 *Globes* [2008 WLNR 4753080].

<sup>28</sup> "A tenet of American mythology is the 'melting pot,' ... Under this view, America 'melts' immigrants into a single American culture. From a normative perspective, the American melting pot has two prongs: Americans must agree that immigrants can and should become Americans, and immigrants must agree to become Americans." (Liwen Mah "The Legal Profession Faces New Faces: How Lawyers' Profiesional Norms Should Change to Serve a Changing American Population" 93 *Cal. L. Rev.* (2005) 1721, 1733-1734.

<sup>29</sup> The 'melting pot' has been a familiar metaphor in the United States since the early 20<sup>th</sup> century, when it was advanced as an alternative to Anglo-conformity which placed high barriers before immigrants seeking assimilation into society. The term 'melting pot' came into general usage in 1908, after the premiere of Jewish-English playwright *Israel Zangwill's The Melting Pot*, which "envisioned a society in which immigrants and native-born Americans would interact with each other to produce a 'new man,' the 'American,' who was neither purely immigrant, nor native-born, but both." See: Milton Vickerman "Post-1965 Immigration and Assimilation: A Response to Randy Capps" 14 *Va. J. Soc. Pol'y & L.* (2007) 206, 214; [http://en.wikipedia.org/wiki/Melting\\_pot](http://en.wikipedia.org/wiki/Melting_pot).

<sup>30</sup> Cf.: "People in Israel disagree. They disagreed in the past; they have disagreed about the past. They disagree about the future; they will probably disagree in the future." See: Joshua Segev "Who Needs a Constitution? In Defense on the Non-Decision Constitution-Making Tactic in Israel" 70 *Alb. L. Rev.* (2007) 409, at 409 also see p. 440 (discussing the 'melting pot' in Israel).

the ideal vehicle of change – which would transform the eclectic bunch of people gathered in Israel into a homogenous nation state.<sup>31</sup>

The melting pot policy, as a coercive method, has ultimately failed,<sup>32</sup> and not only in Israel.<sup>33</sup> Israel retains enormous societal diversity – which is now treated under the banner of multiculturalism.<sup>34</sup> But I doubt this failure is the *IDF*'s. Indeed, the 'melting pot' policy has been successful in part – evidence from the wide denominators united the population of the Jewish state, making it a viable nation and a viable democratic state. The *IDF* clearly has some credit for that.<sup>35</sup> Although the *IDF* is clearly no longer a scared entity, immune to critique,<sup>36</sup> it is fair to view it is the last remaining real life 'melting pot' of the nation; a place where Israelis of all walks of life meet and cooperate in what is often a dangerous and always an unpaid service for the nation.

---

<sup>31</sup> Cf.: "Israel at age fifty is a polarized society....in the past, the ...(IDF) was hailed as a successful example of a 'citizens' army,' serving as a melting pot for immigrants from four corners of the Earth. The IDF was entrusted with a dual mission – military and social – helping to defend the nation while providing immigrants with a new social ethos and cultural identity.... No longer a 'scared cow', the IDF has become embroiled in the growing social, political, cultural and religious polarization." See: Yehuda Lukacs "Book Reviews: 'Israel, Palestine and the Arab-Israeli Conflict - The Scroll or the Sword?' by Stuart A. Cohen" 31(3) *Int'l J. of Middle East Stud.* (1999) 489-490. A decade later, this statement still rings true, although it seems that the *IDF* remains a major coalescing factor in Israel's divided society.

<sup>32</sup> On the failure of the 'melting pot' see: Asher Maoz "Religious Education in Israel" 83 *U. Det. Mercy L. Rev.* (2006) 679 (failure in public education); <http://www.aisraelstudies.org/syllabi/HL/Kimmerling-Major%20Controversies.pdf>; Moshe Lissak *The Mass Immigration in the Fifties: The Failure of the Melting Pot Policy* 58-62 (1999) (Hebrew).

<sup>33</sup> See: John B. Richardson "The Road to a Unified Peaceful Europe: Keynote Address" 1 *Loy. U. Chi. Int'l L. Rev.* (2004-2005) 5, 13 (failure in the EU); on the American experience see: Tamar Jacoby *Reinventing the Melting Pot: The New Immigrants and What it Means to Be American* (Basic Books, 2004).

<sup>34</sup> For the challenges of multiculturalism in Israel see: Eliezer Ben-Rafael "Mizrahi and Russian Challenges to Israel's Dominant Culture: Divergences and Convergences" 12(3) *Israel Studies* (2007) 68; Avraham Doron "Multiculturalism and the Erosion of Support for the Universalistic Welfare State: the Israeli Experience" 12(3) *Israel Studies* (2007) 92.

<sup>35</sup> To the extent that such a vision is still relevant in contemporary Israeli society, it is only in the military that people from every walk of life, national origin and socioeconomic position meet on equal footing, get more or less fair and equal treatment and are judged on the merits of their own abilities. See: Gorni, Yosef "Top of Form Bottom of Form: The 'Melting Pot' in Zionist Thought" 6(3) *Israel Studies* (2001) pp. 54-70; <http://www.azure.org.il/magazine/magazine.asp?id=11>; <http://www.ynet.co.il/english/articles/0,7340,L-3406650,00.html>; <http://www.kh-ua.org.il/crisisnew/aliyaartical2002/english/1006english.htm>.

<sup>36</sup> it has lost this status after the 1973 War. See: Yoram Peri "Intractable Conflict and the Media" 12(1) *Israel Studies* (2007) 79-102. Also see: <http://www.tau.ac.il/jcss/sa/v2n3p2.html>; for another mode of analysis see: [http://eprints.infodiv.unimelb.edu.au/archive/00002085/01/Israeli\\_Military\\_Fiction\\_Keren\\_Rubinstein.pdf](http://eprints.infodiv.unimelb.edu.au/archive/00002085/01/Israeli_Military_Fiction_Keren_Rubinstein.pdf).

### 3. *The IDF in Israeli Public Opinion*

One of the most observable manifestations of the status of the *IDF* in Israeli society is public opinion polls. It seems to me that the reasons for public support of the military, at least in Israel, are pretty obvious. It turns out that the *IDF* enjoys the highest approval ratings of any Israeli branch of government, at this at levels that are unusually high by international standards as well.

That has been the case since Independence as “the IDF” – as an eminent Israeli political scientist explained – “has long been associated with Israeli might, pride, and independence, and the army is often described as a major agency of integration and socialization for immigrants.”<sup>37</sup> Recent change, he notes, “has led to questioning many of the old assumptions”<sup>38</sup> about the IDF and its competency. That said, while the public may now – following the botched 2006 Second Lebanese War<sup>39</sup> and the long standoff with Gaza rocket-shooters<sup>40</sup> – have more realistic expectations of IDF military capabilities, the Israeli public nonetheless strongly supports the military and at much higher approval ratings than those enjoyed by other government agencies and public entities.

The Israel Democracy Institute’s 2007 poll suggests a major decline in public trust in public institutions across the board: support of Prime Minister Olmert was 21%,(compared with 43% in 2006);<sup>41</sup> a sex scandal in the mostly symbolic President’s mansion brought support down to 22%;<sup>42</sup> less dramatic decline was observed in public support of the Israeli Supreme Court (down from 68% to 61%), the Police (from 39% to 31%), and even the venerated IDF (down from 79% to 74%). Support for the Knesset

---

<sup>37</sup> See: Asher Arian “Israeli Public Opinion of National Security 2003” p.37 [available at: <http://mondrian.tau.ac.il/jcss/memoranda/memo67.pdf>].

<sup>38</sup> Arian, id.

<sup>39</sup> See: [http://en.wikipedia.org/wiki/2006\\_Israel-Lebanon\\_conflict](http://en.wikipedia.org/wiki/2006_Israel-Lebanon_conflict); <http://www.meforum.org/article/1686>. A government commission report was very critical of IDF action. See: <http://www.haaretz.com/hasen/spages/853705.html>; <http://www.haaretz.com/hasen/spages/854051.html>; [http://en.wikipedia.org/wiki/Winograd\\_Commission](http://en.wikipedia.org/wiki/Winograd_Commission).

<sup>40</sup> See, e.g., <http://www.forward.com/articles/12749/>.

<sup>41</sup> See: [http://en.wikipedia.org/wiki/Ehud\\_Olmert](http://en.wikipedia.org/wiki/Ehud_Olmert).

<sup>42</sup> Down from 67% in 2006. The election of veteran politician and Nobel laureate Shimon Peres is likely to change this record in coming years. [http://en.wikipedia.org/wiki/Shimon\\_Peret](http://en.wikipedia.org/wiki/Shimon_Peret).

remained unchanged at a troubling 30%, while the media saw a small rise in support – up to 45% (from 44% in 2006).<sup>43</sup> These changes may reflect the tumultuous recent years, but they indicate a steady decline in Israeli governmentability and consequently in public faith in civic institutions.<sup>44</sup>

The poll, however, suggests that the *IDF* retains its position as the most trusted public institution in Israeli; its figures are in decline – but less so than the general trend of public distrust of its government. The 2007 survey found that the Israeli public still trusts the *IDF*. Despite the poor outcome of the Second Lebanese war only 13% of Israeli support cuts in the defense;<sup>45</sup> this may have to do with popular acknowledgment of the defense threats that Israeli faces, and less with the competence of the generals at the helm. It is interesting to note that public opinion polls in the United States come up with very similar results: while public opinion polls show a decline in popular confidence in the political institutions,<sup>46</sup> over recent years the military has not only sustained but actually gained public trust while other institutions – including most of the federal government, scientists and even organized religion – have seen diminishing support.<sup>47</sup>

#### 4. *The Cost*

Another topic that has been extensively covered in both academic and popular literature concerns the extensive cost of maintaining Israeli defense. This question is as old as the Jewish Zionist settlement in Ottoman Palestine in the late 19<sup>th</sup> century – and as

---

<sup>43</sup> See: <http://www.idi.org.il/english/article.asp?id=31052007141057>.

<sup>44</sup> For discussion of the major changes that took place in Israeli politics and public governance since the 1980s see: Asher Arian *Politics In Israel: The Second Republic* (CQ Press; 2<sup>nd</sup> Rev Ed edition, 2001); Asher Arian, David Nachmias, Ruth Amir *Executive Governance in Israel* (Palgrave Macmillan, 2002).

<sup>45</sup> *Id.* *IDI* report. Also see: <http://www.meforum.org/article/1686>.

<sup>46</sup> See, extensively, in: Susan J. Pharr, Robert D. Putnam, eds. *Disaffected Democracies* (Princeton, University Press, 2000); also: <http://strategis.ic.gc.ca/pics/oz/thomas.pdf>.

<sup>47</sup> See: David C. King, Zachary Karabell *The Generation of Trust: Public Confidence in the U.S. Military Since Vietnam* (AEI Press, 2002) 4 (suggesting a rise in public support of the military from 27% in 1971 to 44% in 2001; medicine suffered a decline from 61% to 32% in that period, and the executive and Congress hover around the 20% mark). But *cf.* <http://people.reed.edu/~gronkep/docs/MIDW2001.pdf>. For similar data in post-communist societies see: <http://www.u.arizona.edu/~mishler/TRUST100.pdf>. For public opinion in Britain see: Paul Dixon “Britain’s ‘Vietnam syndrome’? Public opinion and British military intervention from Palestine to Yugoslavia,” 26 *Rev. of Int’l Stud.* (2000) 99-121.

political.<sup>48</sup> The crux of the Israeli-Palestinian dispute is over the legitimacy of Jewish return to the land of Israel and the establishment of a national *Jewish* state in *any part* of the territory that has been mostly under Muslim governance since the 7<sup>th</sup> century AD.<sup>49</sup> As the Jewish settlement in Palestine increased in size and strength, and gained international legitimacy, so did Arab efforts to physically disrupt and violently dismantle the setting up of a “national home for the Jewish people”<sup>50</sup> in Palestine. Arab non-acceptance of the United-Nations Resolution of November 1947 terminating the British mandate<sup>51</sup> has led to the non-establishment of a Palestinian State and the contested establishment of a Jewish State. The War of Independence was followed by a period spate of war every several years, and by extensive acts of terror within Israeli territory.

Setting my nutshell account of politics and history aside,<sup>52</sup> it is clear that the Jewish population of Palestine, later the State of Israel – in its present, not-fully settled borders – has always been under a physical threat and in need of an effective defense force. Hence, the needs to spend moneys of setting up, maintaining and providing for a defense force. From relatively humble beginnings – the 1946 budget of the Haganah,<sup>53</sup> was under £400,000, and its membership was around 45,000, or about 7% of the Jewish population.<sup>54</sup> Over Six decades of confrontation, brought the number way, way up.

The classic treatment of the subject is that of Prof. Yaacov Lifshitz.<sup>55</sup> He notes that at the turn of the 21<sup>st</sup> century, Israel’s defense expenditures were about 20 times as high – in real terms – as they had been in the early 1950s. Yet the important question is

---

<sup>48</sup> In his seminal work, Perlmutter traces Jewish attempts at establishing self-defense forces in Palestine to the end of the 19<sup>th</sup> century (see: *Perlmutter*, id. chapters 1-3, covering 1897-1948). A significant more recent contribution is Ben-Eliezer’s book of 1998. Also see: <http://en.wikipedia.org/wiki/Hashomer>; <http://www.israel-mfa.gov.il/mfa/history/modern%20history/centenary%20of%20zionism/from%20hashomer%20to%20the%20israel%20defense%20forces>.

<sup>49</sup> See: [http://en.wikipedia.org/wiki/History\\_of\\_Islam](http://en.wikipedia.org/wiki/History_of_Islam); <http://en.wikipedia.org/wiki/Palestine>.

<sup>50</sup> To use the terms of the *Balfour Declaration* of 1917, a British Government “declaration of sympathy with Jewish Zionist aspirations,” which received international sanction when included in the terms of the Palestine Mandate handed to Britain by the Council of the League of Nations following World War I. See: [http://en.wikipedia.org/wiki/Balfour\\_Declaration\\_of\\_1917](http://en.wikipedia.org/wiki/Balfour_Declaration_of_1917); <http://www.yale.edu/lawweb/avalon/mideast/palmanda.htm>.

<sup>51</sup> See: <http://domino.un.org/UNISPAL.NSF/181c4bf00c44e5fd85256cef0073c4267f0af2bd897689b785256c330061d253!OpenDocument>.

<sup>52</sup> For one of many accounts see: Clive Jones *Israel: Challenges to Identity, Democracy and the State* (Routledge, 2001).

<sup>53</sup> See: <http://en.wikipedia.org/wiki/Haganah>.

<sup>54</sup> See: Perlmutter, id. at 49.

<sup>55</sup> See: Yaacov Lifshitz *The Economics of Producing Defense: Illustrated by the Israeli Case* (Kluwer, 2003).

how much a burden are these expenditures on the national purse? It turns out that the defense expenditure is always high in Israel – but its fluctuations when measured as part of the Israeli Gross Domestic Product have been extreme, and they depended on Israel’s economic situation (size to the entire pie), its foreign relations with world powers (willing to provide financial aid and weapons), with its neighbors (wars and military occupation have a price, peace has its premium) and similar factors.<sup>56</sup> What is quite clear is that the mid-1980s, defense expenditure has been in decline as part of GDP and in the mid-1990s the burden of defense expenditure has returned to pre-1967 (The Six Day War) levels.<sup>57</sup> Israel’s defense budget of ca. \$10 billion (2004) was the 12<sup>th</sup> highest in the world – similar to those of Canada, Turkey and Australia, but Israel is probably right at the top at per-capita spending. While most Western countries spend 2-3 percent of their GDP on defense – that rate is 9 percent in Israel (2003)<sup>58</sup>.

Based on the data from the Israeli Central Bureau of Statistics and Israel’s Central bank, Prof. Lifschitz provides interesting information. He find that the share that defense expenditure took of total public expenditure was 20.8% in 1960, then rose to 42.6% in 1970 before dropping to 29.4% in 1980, 22.1% in 1990 and a mere 15.8% in 2001.<sup>59</sup> The outbreak of the Second Palestinian Intifada in 2000 brought a 16 percent increase in defense expenditure between 2000 and 2002. The expenditure was reduced by 11 percent in 2003-2004, as the conflict became less intense, but rose again in 2005 with the construction of the defense fence and Israel’s disengagement from Gaza.<sup>60</sup>

---

<sup>56</sup> For detailed analysis see: Lifshitz, id. at pp. ...

<sup>57</sup> See: Yaacov Lifshitz, id at section 10.1, chapter 4 (cite). Also see: Michael D. Ward, Alex Mintz “Dynamics of Military Spending in Israel: A Computer Simulation” 31(1) *J. Conflict Resolution* (1987) 86-105. Cf. Ben-Eliezer (2004 article, id. at pp. 52, 53) noting that “Israeli society has been undergoing a process of change since the second half of the 1980s. Above all, this has been an economic change”.... [A] neo liberal culture of popularity ratings began to develop, marked by personal choice, marketing commercialization and competition. The emphasis on private consumption intersected with post-materialist values that revolved around the needs, liberties, desires and body of the individual.” Also: Alex Mintz, Michael D. Ward “The Evolution of Israel’s Military Expenditures: 1960-1983” 41(3) *W. Pol. Q.* (1988) 489-507.

<sup>58</sup> See: Zalman F. Shiffer “The Debate over the Defense Budget in Israel” 12(1) *Israel Studies* (2007) 193, 195; <http://www.wisegEEK.com/what-countries-have-the-highest-military-expenditures.htm>.

<sup>59</sup> See: Lifschitz, id. at p. 98 (table 6.6).

<sup>60</sup> See: Shiffer, id. at 196; [http://en.wikipedia.org/wiki/Al-Aqsa\\_Intifada](http://en.wikipedia.org/wiki/Al-Aqsa_Intifada).

Lifschitz shows a similar pattern – up to 2001 – with the measure of defense consumption (D-C) as part of Israel’s gross domestic product and total national resources:

**Table 1:**<sup>61</sup>

Year	D-C as % of GDP	D-C as % of Total Resources: Direct Defense Imports	
		Included	Not Included
1950	8.9	7.1	
1955	7.7	5.6	
1960	7.9	6.0	4.6
1966	10.2	7.6	5.2
1970	25.1	16.7	9.8
1975	32.1	19.8	11.0
1980	23.0	14.4	9.1
1986	15.8	10.3	7.4
1990	13.8	9.5	7.2
1995	9.7	6.6	5.3
2001	9.4	6.5	5.0

The pattern is interesting. It seems to verify my impression that except in times of armed conflict – such as the Second Lebanese War and the Second Palestinian uprising – the Israeli public is unwilling to entertain increase in defense expenditure. Indeed, while the Israeli economy has been on the road to recovery since the 1990s, the Israeli public has come to expect to spend an even *decreasing* part of Israel nicely *increasing* grow national product on the *IDF*.<sup>62</sup> Since the 1990s it has been a common phenomenon to see reports of *IDF* requests for budget increases and accounts of *IDF* cost cutting schemes. Clearly, the military was not getting anywhere as much money as they need. This has led to public criticism of the military: is the *IDF* wasteful? Has the *IDF* cut in the wrong places such as the training of reserve units and emergency stocks? Has the number of personnel and their salaries gone too high?<sup>63</sup>

<sup>61</sup> See: Lifschitz, id. at p. 94 (table 6.3).

<sup>62</sup> See: [http://www.cbs.gov.il/shnaton58/diag/14\\_01.pdf](http://www.cbs.gov.il/shnaton58/diag/14_01.pdf). A recent special report on Israel in the Economist beings as follows: “FOR a country with so many wars, Israel still has an economy with the power to astonish. Having taken a beating during the *intifada*, GDP growth per person has stayed above 3% for the past four years, well above the rich-country average ... despite the costs of the 2005 Gaza pull-out and the 2006 Lebanon war.” (See: Miracles and mirages - A strong economy built on weak fundamentals, *The Economist*, Apr. 3<sup>rd</sup> 2008.

<sup>63</sup> See, e.g., <http://www.haaretz.com/hasen/pages/ArticleContent.jhtml?itemNo=804051>; <http://www.jinsa.org/articles/articles.html/function/view/categoryid/154/documentid/674/history/3,2360,654,154,674>; <http://www.haaretz.com/hasen/pages/864973.html>; <http://www.merip.org/mero/mero101106.html>; <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=334667&contrassID=2&subContrassID=3&sbSubContrassID=0&listSrc=>

Whatever the correct answer, I found the commotion around the defense budget revelatory, given my functionalist interest. Defense budgets are notoriously opaque. There is little data on what the military is actually doing with the moneys at its disposal. The public debate, complemented but reports by the Comptroller General, shed light onto military spending. Moreover, I find it especially revealing to observe the *IDF's* own suggestions for privatization of its assets and roles. These suggestions reveal not only which function are, in the military's own view, the least economically efficient, but they also reveal which functions do not have the support any lobby – military or civilian. Salary cuts and the abolition of educational programs are unlikely. Turning a military base into a civilian housing project, privatizing catering services, there are win-win projects for the military and civilian Israel and are likely to proceed successfully.

### III. ENTER: THE FUNCTIONALIST APPROACH

#### 1. *IDF's Role in Israeli Society: Take Two*

In *Part II*, I outlined the classic accounts of the *IDF's* role in Israeli society. Social scientists focus on the impact of the *IDF* on the lives of Israelis; pollsters note that the *IDF* enjoys public trust and sympathy – differentiating the ‘people army’ from the general public malaise towards public institutions (a sentiment broadly shared in Western democracies); finally, economists study the fiscal burden of the military on Israeli economy throughout the nation's history.

As a formalist and a legal-positivist, it seems to me that all three accounts describe the phenomenon, but fail to explain it in full. The current generation of social scientists criticize the mostly descriptive nature of the elder colleagues' accounts of the social processes that concern the military, and often present a normative view of these processes, describing them as variably ‘good’ or ‘bad.’ What is missing is a clear and comprehensive description of the precise roles the *IDF* carries out, the classification of such roles into clear categories, and a viable theoretical account explaining how these tasks came to be within the *IDF's* mandate, and why they have remained there to date.

In the remainder of this paper I will try to make a contribution in that direction. I focus on what I find to be the single most important question here: what the precise roles with which the *IDF* is entrusted are, how these functions have changed over the years, and what is the legal basis is for placing very broad public-oriented tasks on the military. Discussion in the remainder of *Part III* moves from the simpler, clearer cases, to the ones where information is limited, the processes ongoing and the dilemmas more complex.

## 2. *IDF Functions: Three Clarifications*

### (a) **The Legal Side**

Is the *IDF* legally authorized to operate non-military operations? Under Israeli law the answer is clearly in the affirmative. One of the foremost principles of public law and an expression of a robust *rule of law* principle is that a public body must be able to point to a valid legal authorization for any act it wishes to make.<sup>64</sup> In this respect, the young nation maintained good legal standards as the *IDF* was set up by some of the earliest legislation passed by the young State of Israel shortly after David Ben-Gurion proclaimed its independence on May 14th, 1948.

Section 18 of the *Law and Administration Ordinance*,<sup>65</sup> authorized the provisional government to establish land, air and naval armed forces, which shall have the authority to do all lawful and necessary acts for defense of the nation. Section 18 is still in force today. Neither section 18 nor the later statutes setting up the *IDF* have actually specified what service for the national security actually means. Some might have expected that by the mid-1990s the question would be moot – either settled by custom, or made redundant as the *IDF* narrowed conscript services to core military activities – but the reverse is true.<sup>66</sup> Legal doubt were raised, in a rare move, the Knesset amended the historical ordinance expanding its language in order to ensure that it legally serve as a firm basis for

---

<sup>64</sup> See, e.g., “an administrative agency’s action is valid only if it can be traced to a statutory grant of authority” (Kevin M. Stack “The Statutory President” 90 *Iowa L. Rev.* (2005) 539, 570. Also see: <http://www.law.nyu.edu/clppt/program2005/readings/legallegit2.pdf>.

<sup>65</sup> No. 1 of 5708-1948, issued on May 19<sup>th</sup>, 1948 – five days after Independence Day. See: <http://www.geocities.com/savepalestinnow/israelaws/fulltext/lawandadministrationord.htm>.

<sup>66</sup> This is explicitly spelled out in the bill proposal [Defense Service Act Proposal (Amendment no. 8) 1994, 5755].

the national – but not immediately military – roles that the *IDF* is expected to carry out. The language of section 18 now states that the armed forces are empowered to conduct all lawful and necessary actions not only for the protection of the nation – but also for the attention of its defensive and national targets. The complementing amendment to the statute regulating military service made it clear that besides serving in ‘regular’ military units, a conscripted *IDF* soldier may be required to serve in the Israeli Police,<sup>67</sup> or, more significantly, perform her duties within a “recognized service.” Such service, which must be in an official decree by the Minister of Defense, with the approval of the Israeli Government and the Knesset’s Foreign Affairs and Defense Committee, may include any of the following:

- (1) Service in a military unit within the Ministry of Defense or the Prime Minister’s office (but outside the *IDF*) whose prime purpose is the security of the state and its residents.
- (2) Service in a military unit located in another government office or in a public entity yet under the supervision of a government ministry, whose purpose is a national-security target in one of the following areas: immigration absorption; education; health; homeland security or voluntary actions for *IDF* soldiers.

Beside the required public oversight, the broad second category is subject to too further restrictions: *first*, that the Minister of Defense must be convinced that should such action not be carried out by *IDF* servicemen the national / security aim cannot be properly attained, and that serviceman must agree to such service;<sup>68</sup> and *second*, that Conscripts have the legal right to refuse to volunteer to such a service, although their ability to do so in-fact is questionable; it is also likely that service in small military unit in a purely civilian setting is more attractive than many forms of ‘regular’ military service.

What all of this means is that the *IDF* can – and does – set up small military units within hospitals, some educational facilities etc., where soldiers perform some functions.

---

<sup>67</sup> My translation to the current section 24A of the Defense Service Act, 1986, 5746 L.S.I. 116, (1986), added by the Defense Service Act (Amendment no. 7 and Temporary Orders)(service in the Police and Recognized Service) 1995, 5755. The section expanded the long established authority to place conscripts in the Israeli Police’s Border Patrol unit.

<sup>68</sup> My translation to the current section 26A of the Defense Service Act, 1986, 5746 L.S.I. 116, (1986), added by the Defense Service Act (Amendment no. 7 and Temporary Orders)(service in the Police and Recognized Service) 1995, 5755.

In hospitals they ensure that wounded servicemen receive medical care, are in touch with their families and colleagues; in field schools, they provide educational services to both soldiers and the general public.

Let me end this part saying that one of the most problematic economic public policy concerns of this statutory authorization is that the Ministry of Defense will use the cheap manpower at its disposal (conscripts do not receive proper wages<sup>69</sup>) not in order to solve market failures – for example setting up a military-teachers' unit, where civilian teachers are unavailable – but in order to counteract the free market, and lower market prices: it is cheaper to use unqualified, unpaid, short term working servicemen as nurses, rather than hire long-term for pay employees.<sup>70</sup>

### **(b) The Inevitable Creation of a Government Super-Agent?**

On Independence Day, May 14, 1948, Israel's Jewish population was 665,000.<sup>71</sup> In under a year, over 210,000 Jews immigrated from over 50 countries to Israel; by the end of 1950, the total population was 1.37 million, of whom 1.2 million (87%) were Jews.<sup>72</sup> Most immigrants were Holocaust refugees and Jews from Arab countries who brought little capital with them. Faced with empty warehouses and severed commercial links as the British departed, and ravaged by a brutal War of Independence, the new nation suffered through a decade long austerity regime on food and many vital goods.<sup>73</sup> The *IDF* became an essential and indispensable tool in governing the new nation: on the one hand,

---

<sup>69</sup> See: <http://www.country-data.com/cgi-bin/query/r-6846.html>; the idea of paying conscripts minimum wages and turning the 'volunteer' army into a for-pay service has been raised in recent years; see: <http://www.haaretz.com/hasen/spages/971206.html>; <http://www.haaretz.com/hasen/spages/969302.html>.

<sup>70</sup> I discussed this issue in more detail in my book *The Right to Conscript and the Authority to Recruit* (Perlstein-Ginnosar, 1996)(Hebrew) pp.

<sup>71</sup> In 1944 the population of the British ruled Palestine was ca. 1.2 million of whom 554,000 (32.6%) were Jews. In May 1948, the population of the new of Israel was 787,000, of whom 665,000 (84.5%) were Jews; See: [http://www1.cbs.gov.il/shnaton57/st02\\_01.pdf](http://www1.cbs.gov.il/shnaton57/st02_01.pdf).

<sup>72</sup> The current figure is about 7 million in population, of whom 76% are Jews. See: CBS, id.; Clarmont Skrine "Economic Development in Israel" 117 *Geog. J.* (1951) 307, 308.

<sup>73</sup> Over 6,000 – ca. 1% of the Jewish population in May 1948 – died during the War of Independence; the highest casualty rate in any of Israel's wars; the figure is close to the British casualty rate for World War II, and over three times the rate of American rate during that war. On food shortages at the British departure see: <http://domino.un.org/UNISPAL.NSF/bdd57d15a29f428d85256c3800701fc4/344af88c0dc78f17802564950035b63e!OpenDocument>; more generally - see: Guy Seidman "Unexceptional, for once: Austerity and Food Rationing in Israel – 1939-1959" (unpublished manuscript); [http://en.wikipedia.org/wiki/1948\\_Arab-Israeli\\_War](http://en.wikipedia.org/wiki/1948_Arab-Israeli_War); [http://en.wikipedia.org/wiki/World\\_War\\_II\\_casualties](http://en.wikipedia.org/wiki/World_War_II_casualties).

the challenges were really enormous: a long and bloody war, an acute food and housing shortage, an influx of immigrants in need of absorption by a nucleic group of pre-independence settlers, very little cash in the coffers and limited international support; on the other hand, a government intent on fully addressing the nations' needs in the name of the '*mamlachtiut*,' i.e., *statism*, action principle –

[i]nvoked by the state's leaders in order to transfer most function – which in the pre-state era were carried out by voluntary bodies, usually attached to political parties – to state responsibility and control. The state would thereby concentrate the bulk of power in its hands, and become a 'strong state.'<sup>74</sup>

The *IDF* was formally established May 26, 1948 by the Ordinance on the Israel Defense Force....

There are many reasons why Ben-Gurion's government used the *IDF* as their super-agency in implementing *mamlachtiut*. True, this was a matter of policy: the socialist, collective-thinking, nation-building regime of Prime Minister Ben-Gurion intentionally used the military service as a tool in shaping the 'new' Israeli and used the military as tool in implementing the central government's agenda in very complicated economic times.<sup>75</sup> While using the *IDF* perhaps helped legitimate and popularize Ben-Gurion's agenda there seems to be a simpler and more pragmatic reason at play: the military was perhaps the single most useful agent at the disposal of the civilian government of nascent Israel. Being made up of unpaid yet well organized conscripts, it proved a relatively disciplined, cheap, practical tool to carry out government policies. Noted Nachmias and Sened:

The institutional endowment bequeathed by the Israeli founding elite was not designed for an accountable and effective government. Provisional governing institutions and arrangements were adapted in haste, as a temporary expedient reflecting the pre-state institutional order as well as the lowest common denominator of consensus, in order to meet the pressing exigencies of national

---

<sup>74</sup> See: Ben-Eliezer, id. Book, at 193. On *mamlachtiut* also see: Alan Dowty "Zionism's Greatest Conceit" 3(1) *Israel Studies* (1998) 1-23; more generally: Ilan Peleg *Democratizing the Hegemonic State: Political Transformation in the Age of Identity* (Cambridge U. P., 2007).

<sup>75</sup> Controversial historian Ilan Pappé succinctly summarizes the situation as follows: "the army became the hammer and anvil forging national entity." (See: Ilan Pappé "Donning the Uniform – The Military and the Media in Israel" 223 *Middle East Report* (2002) 46.

security, massive immigration and state building.<sup>76</sup>

The flight of the British mandatory regime left a depleted government machine. Many of the senior civil servants who were British departed for home; many of the local Arabs who had served the administration were also gone from the former Palestine. The number of Jews who served the mandatory administration was small. Thus, of the 29,000 permanent employees and 9,500 temporary ones, about 85% had left. About 5,200 Jewish employees were left manning the stations: 4,500 government clerks and 700 police officers.<sup>77</sup> These numbers were insufficient, and it was clear that the new government would need at least 8,000 employees. It seemed obvious that the Jewish workers of the mandatory administration, with their experience in the ways of government, would be essential, but as co-workers with the British regime, they were viewed suspiciously.<sup>78</sup> Most of the employees faced a vetting process, and some were let go.<sup>79</sup> New employees were then recruited from all available sources, especially the main pre-independence Zionist organization, whose leadership now took office in all branches of government.<sup>80</sup> These, however were not enough, and in the formative years of the nation the *IDF* was involved in all national tasks, physically as well as ideologically. “The army was said to contribute to absorption of immigrants, educate for good citizenship and patriotism, and foster culture. *IDF* engineering units were used to construct and maintain many of the camps, which housed a large number of new immigrants who arrived in the early

---

<sup>76</sup> See: David Nachmias, Itai Sened “Governance and Public Policy” in: David Nachmias, Gila Menachem, eds. *Public Policy in Israel* (Frank Cass, 2002) 3, 5.

<sup>77</sup> See: Nathan Brun “The ‘Purifications Committees’ for Jewish Officials of the British Mandate during the formation of the New Administration of Israel”, in: Mordechai Bar-On, Meir Chazan *Citizens at War: Studies on the Civilian Society during the Israeli War of Independence* (2006, in Hebrew) 45, 46.

<sup>78</sup> The new regime had an ambivalent attitude towards the Jewish workers of the mandate: on the one hand, their work experience was valued, and throughout the years of British rule great efforts were made to place Jewish employees in the foreign regime; on the other hand, the workers were viewed with suspicion – as perhaps ‘over-cooperative’ with the British, disloyal to the Zionist movement, perhaps even corrupt. See: Brun, id. at 46-47.

<sup>79</sup> Purging committees examined 4,255 employees; 84% were of them approved for continued work in the Israeli government; a warning flag was raised in the case of 9% of them, and the committees recommended firing 279 (7%) of the workers. The rate was especially high among police officers –the committees recommended firing 30% (!) of the 400 persons brought before it. See: Brun, id. at 67, 69.

<sup>80</sup> See: [http://en.wikipedia.org/wiki/Zionism#Zionist\\_institutions\\_and\\_organizations](http://en.wikipedia.org/wiki/Zionism#Zionist_institutions_and_organizations) (Zionist institutions and organizations).

1950s.”<sup>81</sup> I think it is fair to say that while the *IDF* still carries out some national functions it is no longer used as a principal contractor for the public sectors.

### (c) The National-Security Complex: Drawing the Borders

This paper deals with the *IDF*, and various developments which I identify as an effort to narrow the military’s broad mandate, possibly as part of a privatization process. Yet the military is only one agency, albeit the dominant one, in Israel’s national security complex. There are three other major security agencies operating in Israel, and they are not dealt with in the present paper.<sup>82</sup> Another major prong is the Israeli weapons industry. While the industry is not a direct part of the *IDF* and for the most part it has never been directly under *IDF* control, its story is of interest here for three reasons:

*First*, most of the Israeli weapons industry was at some point government owned, and some of it still is; set up principally to supply the *IDF*, this industry is considered, together with the *IDF*, as part of a single *military-industrial* complex.<sup>83</sup>

*Second*, the massive domestic weapons industry was principally developed so as to provide for the *IDF*. In recent years, partially because of this dependence on the *IDF* as one major client, many of the arms industries found themselves in severe economic hardship.<sup>84</sup> The path to solvency for many of these firms went through privatization and

---

<sup>81</sup> See: Epstein & Uritsky, id. at 169. As one researcher observer noted - “the distinction between ‘civilian’ and ‘military’ as two different sectors of the population becomes diluted.” (See: E. O. Schild “On the Meaning of Military Service in Israel” in: Michael Curtis, Mordecai S. Chertoff, eds. *Israel: Social Structure and Change* (Transaction Books, 1973) 421.

<sup>82</sup> They are the Israeli Police and Israeli Prison Services, the General Security Services (GSS) and the Mossad – roughly the equivalent of the United States’ FBI and CIA. See: <http://www.police.gov.il/english/default.asp>; [http://en.wikipedia.org/wiki/Israel\\_Prison\\_Service](http://en.wikipedia.org/wiki/Israel_Prison_Service); [http://en.wikipedia.org/wiki/Shin\\_Bet](http://en.wikipedia.org/wiki/Shin_Bet); <http://en.wikipedia.org/wiki/Mossad>.

<sup>83</sup> In a more optimistic era for the Israeli arms industry, Prof. Mintz wrote: “A vast military-industrial sector has been developing steadily in Israel. Since 1967, it has been the fastest-growing sector in the country and now accounts for about one-fourth of all industrial workers in Israel.... It is responsible for the manufacture of a first-line main battle tank (the Merkava), an advanced fighter plane (the Kfir), and sophisticated missiles (e.g., the Gabriel, Shafrir, and Python).” See: Alex Mintz “The Military-Industrial Complex: American Concepts and Israeli Realities” 29(4) *J. Conflict Resolution* (1985) 623-639. Also see: Larry Lockwood “Israel’s Expanding Arms Industry” 1(4) *J. Palestine Stud.* (1972) 73-91. For an overview of the industry: <http://www.globalsecurity.org/military/world/israel/industry.htm>.

<sup>84</sup> See discussion in: Sharon Sadeh “Israel’s Beleaguered Defense Industry” [available at: <http://meria.idc.ac.il/journal/2001/issue1/jv5n1a5.html>].

the development of alternative markets to the *IDF* – more exportation (under tight Ministry of Defense control) and the development of civilian products.<sup>85</sup>

*Third*, the massive Israeli weapons industry demonstrates the principle of self-reliance, most noticeable in matters of national security – the effort to acquire the know-how and the capability to manufacture all the products that the *IDF* may need. This was necessitated given the embargoes on weapons sales to which Israel was subject over the years – but this self-reliance was never complete. American political pressure quashed the budding fighter-plane industry and American generosity in armament shipment saved the day during the 1973 Yom Kippur War.<sup>86</sup> Much the same sentiment applies within the *IDF* itself – an effort to provide all services in-house: catering, law, medicine, car mechanics, electricians, a wide range of courses etc. In 1948, this all began as a necessity. Yet given the budget and human resource constraints and the availability of private services at better quality and lower price – *IDF* insistence on keeping such in-house services in matters not at core of its activity simply does not make sense.

### 3. *Divesting: The Military Goes on a [Semi-Voluntary] Diet*

#### (a) **Timeline**

It is difficult to identify the precise moment when the military began considering divestment of its functions – and their possible privatization, but most records point to the early 1990s, during the tenure of Lt. Gen. Ehud Barak – late Prime Minister and current opposition leader – as *IDF* Chief of Staff (1991-1995).<sup>87</sup> Several processes convinced the *IDF* that a new military strategy was in order: the massive *IDF* had trouble policing mutinous civilians during the First Palestinian uprising (1987-1993); the end of the cold

---

<sup>85</sup> See, e.g., the partial privatization of the *Israel Weapon Industries* [<http://www.israel-weapon.com/> - about us section; [http://en.wikipedia.org/wiki/Israel\\_Military\\_Industries](http://en.wikipedia.org/wiki/Israel_Military_Industries)]; on the product diversification of the Israeli Aerospace Industries: <http://www.iai.co.il/Templates/Homepage/Homepage.aspx?lang=EN>; [http://en.wikipedia.org/wiki/Israel\\_Aerospace\\_Industries](http://en.wikipedia.org/wiki/Israel_Aerospace_Industries). For a useful introduction see: Anne Rosenzweig “Weapons of Self-Destruction: The Challenges and Strategies of Israel’s Defense Industry” 3 *Yale Israel Journal* (2004) ...

<sup>86</sup> See, generally, [http://en.wikipedia.org/wiki/History\\_of\\_the\\_Israel\\_Defense\\_Forces](http://en.wikipedia.org/wiki/History_of_the_Israel_Defense_Forces); [http://en.wikipedia.org/wiki/IAI\\_Lavi](http://en.wikipedia.org/wiki/IAI_Lavi).

<sup>87</sup> Only two of Israel’s 19 *IDF* Chief’s of Staff rose to the Prime-Minister position – Barak, and Yitzhak Rabin – although many served in high public offices. See: [http://en.wikipedia.org/wiki/Ehud\\_Barak](http://en.wikipedia.org/wiki/Ehud_Barak); <http://en.wikipedia.org/wiki/Ramatkal>.

war, suggested a possible end to super-power meddling in the Middle East and finally, the [First] Gulf War indicated that future wars would be based on technological skill and remote-control operations carried out by specialists.<sup>88</sup> Add to this the continued decline in military budget as part of GDP, an economic crunch in Israel, and pressure on the military to reduce its burden on the national budget, and the result is clear – the *IDF* itself needs to consider ways to improve its performance, while remaining on budget.

### (b) Human Resources

The *IDF* high command envisioned a new model for the military; a much smaller, highly professional, mission-oriented military force. Chief of Staff Barak stated his vision in two famous expressions; in the first, he described his vision for a “small, smart army”; in the second, he clearly stated that to achieve this goal “anything that does not shoot will be cut off,” basically vowing to disband the *IDF*’s traditional welfare functions.<sup>89</sup> What this meant was spending more money on technology, and changing its human resources profile basing it on highly professional, long term serving soldiers.<sup>90</sup>

What Barak did not take into account was that while this vision of *IDF* personnel made sense – it ran against both a legal infrastructure and decades of national tradition holding the *IDF* as ‘the people’s army,’ and operating in the nation’s broad interests. The attempt to go against the grain of the *IDF*’s social identity and the base of public support of it would prove unsuccessful. This the required the *IDF* high command to find other, less explicit, ways to achieve their tasks of budget increase and a better, more focused, use of personnel. Here are some remarks on my understanding of the process.

One of the difficulties the *IDF* faced was that of effective use of the personnel at its disposal. With the growing population of Israel, the pool of available recruits was rising.<sup>91</sup> There were, however, pressures to downsize the *IDF*, and claims of ineffective

---

<sup>88</sup> See: Ben-Eliezer, 2004 article, *id.* at pp. 55; [http://en.wikipedia.org/wiki/First\\_Intifada](http://en.wikipedia.org/wiki/First_Intifada).

<sup>89</sup> See: Ben-Eliezer, 2004 article, *id.* at pp. 55-56; Pappé, *id.* at 47.

<sup>90</sup> For a useful overview see: Alvin Z. Rubinstein “Israelis Ponder Their Long-Term Security” 45(2) *Orbis* (2001) 259-280.

<sup>91</sup> An official number of *IDF* recruits is not available – but a statistical assessment is possible. For example, the number of Jewish men and women in the 20-24 age group has risen from 66,000 in late 1948, to over 120,000 in 1955, over 258,000 in 1970, over 304,000 in 1990, and over 424,000 in 2006 – of whom 216,000 were men and over 208,000 women. See: [http://www.cbs.gov.il/shnaton58/st02\\_21x.pdf](http://www.cbs.gov.il/shnaton58/st02_21x.pdf).

use of recruits, only a small part of whom served in actual combat positions. One option could be to reduce the number of recruits; another would be to make the draft even more inclusive – by drafting Arab Israelis – and instituting a national service, of which service in the IDF would be merely one option, while many other social services would enjoy the benefit of cheap, young, labor. Both solutions proved difficult to implement.<sup>92</sup>

*IDF* efforts in the early 1990s to whittle down the number of recruits were faced with strong public opposition, as military service is considered in Israel a major socialization opportunity, especially so for the less qualified of the recruits, precisely the ones the *IDF* had little use for. Thus, while the *IDF* found it relatively easy to shed thousands of jobs of the salaried, professional military,<sup>93</sup> it could not significantly raise its admission standards for the mass volunteer army; furthermore, as I have written elsewhere, bowing to public pressure, it *IDF* not only enlists people who have not completed a high-school education or have insufficient language skills in Hebrew – it actually conducts special educational programs to give them, in effect, a ‘second change’ within the more demanding confines of military pressures to complete their education and serve industriously in the *IDF*.<sup>94</sup>

With legal change in the draft unlikely, even the *IDF* was wary of a sharp decline in the percent of recruited Israelis. There were four main difficulties: *first*, a declining rate of recruits would raise arguments about an unfair distribution of the burden among Israelis – already a major issue regarding the *IDF*’s policy of calling only a small portion of the reserves for active duty. *Second*, there is the possibility of an effect analogous to aerodynamic stalling: a decline in recruitment rate might fragment the social legitimacy of the draft which depends greatly on the sense of a ‘shared’ country wide mission; if not ‘everyone’ partakes – why should anyone? *Third*, the *IDF* is worried about the increased

---

<sup>92</sup> On national service see: <http://www.ianys.utas.edu.au/proceedings/2000/index.html> (Reuven Gal); <http://www.haaretz.com/hasen/pages/895372.html>.

<sup>93</sup> The *IDF* has done so several times in recent decades. See, e.g., Arie O’Sullivan “Sword of Damocles Hanging over Professional Soldiers” -1/2/04 *Jerusalem Post* 3 [2004 WLNR 243999] (“The *IDF* is undergoing a personnel revolution ... as it downsized [its permanent forces] by 15 percent.... According to the plan, the army will gradually do away with the concept of retiring early to pursue a second career by extending the retirement age to 55.”)

<sup>94</sup> The most famous program – but by no means the only one – is named after its founder *IDF* Chief of Staff Rafael “Raful” Eitan, and it remains viable to date. See: <http://www.kokhavivpublications.com/2004/israel/11/0411230946.html>; Epstein & Uritsky, id. at 169.

social acceptance of draft-dodging;<sup>95</sup> *finally*, the *IDF* is well aware that a replacement of the general draft with an all volunteer military service, it is unlikely to enjoy the wealth and depth of talent, and the high motivation of Israeli youth that it currently enjoys.

It is this final aspect – maintaining control of the highest caliber personnel while making the best use of the available talent – that explains *IDF* policies since the mid-1990s; it also signals the end to our discussion at the present paper: the *IDF* has resigned to the ‘nationalization’ of the draft – its comprehensive nature, based on societal concepts of fairness, not on economic efficiency mean that privatization – and the creation of an all-professional army is unlikely in the near future.<sup>96</sup> Yet it also means that the *IDF* must find a way to occupy the masses of young recruits. The policy chosen by the *IDF* in order to make the most effective use of the human resources at *IDF* disposal is to maintain full control over the recruitment policy; employ servicemen and women at the military tasks they are best suited to carry out, and using any surplus personnel in carrying national tasks – either within the military, or outside of it. This would explain several processes that have caught the public’s attention: *first*, in the past decade servicewomen have been placed at a much wider variety of military positions; *second*, this explains the 1995 statutory amendments concerning service in the Police and Recognized Service mentioned earlier. *In summary*: the *IDF* carries on the near-universal draft, cherry picks personnel, and leaves a fair number of (low cost to employ) soldiers for other national-oriented tasks, effectively creating a mixed ‘people’s army’ – ‘national service’ model.

### (c) Physical Resources

The British mandate (1920-1948) transformed the territory of Palestine from a backwater, scarcely populated, county of the Ottoman Empire, to a modern British protectorate. Much of the infrastructure serving Israel to this day were built and operated during the mandate: roads, airports, power plants, railroads, police-stations etc. During the final years of the mandate, the British invested heavily in military infrastructure – at

---

<sup>95</sup> Nothing that Draft Dodging Remains a Minority Phenomenon, Prof. Stuart Cohen has recently accused then *IDF* of cynical use of a possible decline in recruitment to legitimate its budget demands by creating a false crisis. See: <http://www.biu.ac.il/Besa/perspectives33.html> (July 2007).

<sup>96</sup> Although the dream is still alive: cf.: <http://www.defense-update.com/2005/12/should-israel-afford-professional-army.html>; <http://www.israelforum.com/board/showthread.php?t=5852>; <http://www.haaretz.com/hasen/spages/950203.html>.

first this had to do with World War II, and later it was the result of the escalating Israeli-Arab dispute, in which the British found themselves caught.<sup>97</sup> After independence, much of the extensive military infrastructure left by the British came to serve the *IDF*, as its bases, airfields, training grounds, etc. As many Israelis know, many of these installations still serve the *IDF*, and it sometimes seems that they have been preserved in the shape they were when the last British soldier left Palestine in May 1948. As Israel became more densely populated many of the military installations – now lying in prime locations – seemed underutilized, and the suggestion was made to the military to evacuate some of the lands on which its old bases lie, in return for cash money added to its budget, or the development of new and improved military bases. In a perfect world, there would not need to be a cash incentive, since the lands do not belong to the *IDF*, but are merely put at its disposal by the nation, through the government. But in the real world, incentives beget cooperation. The ongoing process I describe here is one whereby military facilities are converted into civilian-public or private sector ownership. The government plan from the early 1990s called for the ‘voluntary evacuation’ of over 120 military installations, at a cost of 14 billion NIS (\$ 4 billion) and an expected gain of 26 billion NIS (\$7.4 billion) for the state. 20,000 acres were to be made available for residential building.<sup>98</sup> The process is still ongoing – many Israelis will have noted the partial evacuation of a major army base within Tel-Aviv which allowed for the complete urban redevelopment of the area, as well as the building of new housing for the military units and various government ministries, and the erection of private offices.<sup>99</sup> While this process of de-militarization of lands is highly visible to the public it is peripheral to this paper. The reason is that the

---

<sup>97</sup> See, especially, Ronen Shamir *The Colonies of Law: Colonialism, Zionism, and Law in Early mandate Palestine* (Cambridge U. P., 1999) 8-9; Wm. Roger Louis *The British Empire in the Middle East, 1945-1951: Arab Nationalism, the United States, and Postwar Imperialism* (Oxford U. P., 1986) 10-11; and see, more generally: Tom Segev *One Palestine, Complete: Jews and Arabs Under the British Mandate* (Metropolitan Books; 2000); [http://en.wikipedia.org/wiki/British\\_Mandate\\_of\\_Palestine](http://en.wikipedia.org/wiki/British_Mandate_of_Palestine).

<sup>98</sup> See: <http://www.pmo.gov.il/PMO/Archive/mazkir/2004/02/Spokesman9212.htm>; <http://www.haaretz.co.il/hasite/pages/ShArtPE.jhtml?itemNo=735068&contrassID=2&subContrassID=10&sbSubContrassID=0> (Hebrew); <http://new.haaretz.co.il/hasite/pages/ShArtPE.jhtml?itemNo=589899&contrassID=2&subContrassID=6&sbSubContrassID=0>.

<sup>99</sup> On ‘Drom Hakiria’ project see: <http://www.emporis.com/en/wm/cx/?id=soustreetrnkirya-telavivyaffo>; [http://en.wikipedia.org/wiki/Sarona,\\_Palestine](http://en.wikipedia.org/wiki/Sarona,_Palestine);

shrinkage of *IDF* land assets has little to do with the actual functioning of the military and the employment of discretion in matters of national security. We move on, then.

#### 4. *If It Don't Shoot – It's Not for the Military to do*

##### (a) Introduction

As I had noted earlier, since the early 1990s, the mindset of the *IDF's* top echelon has been that the military must focus on what its core function – military defend the nation. In the present section I discuss the two main paths that the *IDF* has taken in pursuing this basic insight: trying to divest its non-military roles; privatizations auxiliary functions of the military, which the private sector can more provide at the same or better quality and efficiency, and at lower cost.

##### (b) National – But Not Military Duties

As noted *supra*, there are an undisclosed number of enlisted *IDF* soldiers who are carrying out their service in furthering of national – but not directly military – functions. Also, the *IDF* has made an effort to divest itself of some of the non-military functions that it has been expected to carry out. The *IDF's* success has been mixed. Here are several prominent examples.

**GALEI ZAHAL:** the *IDF* has its own radio station. That in of itself is not unheard of: many armies, not least the US Military have set up radio stations as propaganda vessels or for the entertainment of the troops.<sup>100</sup> Yet this is not the case: *Galei Zahal* speaks not only to soldiers but to the entire population. It provides news, entertainment and commentary, much as the public-civilian and private radio stations do. *Galei Zahal* reporters are allowed to behave as free journalists – not as deferential soldiers; station operators – many aged 18 to 21 – are, in principle, free to interview any person and play the any piece of music<sup>101</sup> Irritated *IDF* Chiefs of Staff have tried to shut the radio station down several times, and in theory, with an abundance of radio stations,

<sup>100</sup> See, e.g., Gerd Horten *Radio Goes to War: The Cultural Politics of Propaganda during World War II* (U. Cal. Press, 2002); Philip M. Taylor *British Propaganda in the Twentieth Century* (Edinburgh U. P, 2001).

<sup>101</sup> See, e.g., Cara Greenberg “Israeli Pop Finds A Harder Edge for Its Voice” 4/18/93 N.Y. Times 226 [1993 WLNR 3355682]

this should have been an internal military issue. But the public support of *Galei Zahal* has been such that it remains and under funded hot-bed of young talent for Israeli media; indeed, many of Israel's top talent are its alumni.<sup>102</sup>

**NAHAL:** The term is the acronym for 'fighting pioneer youth.' It sounds like an unpleasant cross between youth movement and militia, but it was something completely else. It actually designates the cross between Zionist ideas of settlement in tough terrains so as to salvage – or conquer – the homeland, and the understanding that the military has the ability to place people in areas unprepared for civilian settlement – where people will need gainful employment, housing for families and the accompanying social services. Indeed, in its original form of 1949, the Defense Service Act specifically stated (in section 6(f) that the first 12 months of all male and female recruits would be dedicated to agricultural training.<sup>103</sup> Needless to say, the section was soon amended – but for many years thereafter, a small number of men and women were volunteered to form settlements where no man and woman have gone before,<sup>104</sup> and many of these were later 'civillianized' as the jargon goes, so as to form viable civilian settlements.<sup>105</sup> In recent years, the Nahal has reverted mostly into a regular infantry division, as settlement has effectively been shut down in 2001.<sup>106</sup>

### TO BE EXPANDED

---

<sup>102</sup> Star journalist Thomas Friedman provided the following account of the station, over 20 years ago. Nothing a politically sensitive statement by a *Galei Zahal* broadcaster, for which he was mildly sanctioned, Friedman notes – "Probably only in Israel would someone get off so lightly after having done such a thing on the army's own radio station. But maybe that is why the Israeli Army radio, known in Hebrew as *Galei Zahal*, which means Airwaves of the Army, has become so popular with Israelis. It is a little bit unpredictable, a little bit sassy, a little bit funny, and as comfortable on the forward edges of journalism and music as it is on the battlefield. Audiences Are Won Over. With lots of youthful energy and a shoestring budget best exemplified by the broken blue bathtub filled with dirt and a scrawny plant that is used to "decorate" the lobby of its studios in Jaffa, the station has been running away with the audiences of the big Government-owned radio, Voice of Israel." (See: Thomas L. Friedman "Jaffa Journal; Israel Tunes In in Force to Its Tuned-In Soldiers," 10/26/87 NYT A4 [1987 WLNR 1000021].

<sup>103</sup> The Defense Service Act, 1949, 5709 L.S.I. 271 (1949).

<sup>104</sup> Ben-Eliezer, id. (book, at 208) find the NAHAL an expression of the militarization of settlement. "If something of a civilian image was attached to Nahal – in the soldiers' dress, their lax discipline, the informal, communal relations within their units – and if the army made no effort to reverse such tendencies, the goal was clear: a penetration of the military into society. For beneath Nahal's civilian markins was a military unit prepared for war."

<sup>105</sup> See: Perlmutter, id. at 72-73;

<sup>106</sup> See more information in: <http://en.wikipedia.org/wiki/Nahal>;

## 5. *Current Dilemmas*

### **(a) Introduction**

It is this, penultimate section of this paper, which gave me the impetus to write on this topic – I sincerely apologize that the draft of this section is very rudimentary. Like many Israelis and as observer of *IDF* policies I too have noticed that without announcing any new policy, the *IDF* has started privatizing many of the services that it has, until recent years, provided itself. It is for us to figure out what the mindset of the military is, and try to understand where this process may end. I examine two issues in this section: manifestations of privatization in the military in its actions in Israel – and its activities in the territories of Judea and Samaria.

### **(b) Privatization Within Israel**

Over a decade ago, the *IDF* announced that at some of its main bases, it would no longer provide its own catering – denigrated and disliked by generations of servicemen – and would allow commercial actors to work with the bases. Until that time, army bases were a sanctuary of the modern world – with little political, commercial or otherwise civilian allowed entry. Now there would be Burger King and McDonalds branches available to soldiers. As time went on, it turned out that the military was willing to allow more and more private contractors to provide non-discretionary services for its units. The difficulty in recruiting MDs to military service resulted in expanded use of civilian facilities.

**TO BE COMPLETED**

### **(c) Privatization In the Territories**

**TO BE COMPLETED**

## LEGAL AFTERTHOUGHTS

The Israeli Supreme Court has long been considered one of the most activists in the world, with a penchant and a propensity for making legal many of the most highly contested matters of public policy. The Court regularly reviews issues within the main fault-line of Israeli public policy – the national security debate. The Court has shown itself is willing to hear cases on vital matters relating to national security.<sup>107</sup> It is this line of cases that has won the Court great acclaim (and criticism) both domestically and internationally.<sup>108</sup> In opposition, the Israeli Supreme Court has been reluctant to review matters of social-economic policy; it is unlikely that the Court is coy about reviewing controversial issues; it is more likely that it is unwilling to make rulings on social policy matters such social and economic rights, whose costs is limitless. Yet this reluctance means that many economic policies are made with little public debate; the Court's willingness to review such matters as privatization in Israel in general<sup>109</sup> and in the *IDF*, in particular, may not necessarily lead to judicial intervention – but it will surely elucidate the policy currently taken by the *IDF*. In the absence of a public debate and oversight, much of the analysis of this paper has been educated guesswork – an attempt to peel off *IDF* privatization policies one step at a time. At present, the Israeli Supreme Court is delaying its decision in a landmark prison privatization case, challenging the possibility of transferring core sovereign powers to private hands. Once it rules, its decision may well be a wake-up call for the *IDF* as well, and I call on the military to make a clear pronouncement regarding its privatization policy – that of the present, and that of the years to come.

---

<sup>107</sup> See, e.g., Guy Seidman “Judicial Administrative Review in Times of Discontent: the Israel Supreme Court and the Palestinian Uprising” [available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=856307](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=856307)].

<sup>108</sup> Conservative professor-judges Robert Bork and Richard Posner have sharply criticized the expansive view of the judicial role expressed by Israeli Supreme Court (until 2006) Aharon Barak. See: Barak Medina “Four Myths of Judicial Review: A Response to Richard Posner’s Critique of Aharon Barak’s Judicial Activism” 49 *Harv. Int’l L.J. Online* 1 (2007).

<sup>109</sup> Cf. Daphne Barak-Erez “Applying Administrative Law to Privatization in Israel” Israeli Reports to the XVI International Congress on Comparative Law (2006) 47-68 [Available at: <http://www.tau.ac.il/law/barakerez/articals/privatization-administrativelaw.pdf>].