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**GENDER EQUALITY IN THE ISRAELI DEFENSE FORCES- CONSTITUTIONAL ASPECTS OF THE
DIFFERENT COMPULSORY MILITARY SERVICE FOR MEN AND WOMEN AS PRESCRIBED BY
ISRAELI LEGISLATION.**

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Contents

I.	Introduction.....	4
II.	Israel's Constitutional Situation.....	7
	The constitutional revolution	8
	a) The Implications on Gender Equality	8
	b) Miller v. Minister of Defense (1995).....	9
III.	The Current Legal Situation.....	10
	The Israeli Security Service Law:.....	10
	a) The duration of service	10
	b) The positions open to women	10
	c) Women's exemption procedures.....	13
IV.	The Proposed Legislation.....	15
	1. Arguments supporting the legislation:	16
	a) The proposed legislation would increase women's motivation to apply for more meaningful and significant positions in the IDF.....	16
	b) The proposed legislation would lead to an increase in the number of high ranking female officers in the IDF:	18
	c) The proposed legislations would increase women's representation rates in key positions in the civilian life.	19
	d) The proposed legislation would benefit the IDF's operational needs:.....	19
	e) The proposed legislation would lower the current discrimination against men.....	20
	2. Arguments against the proposed legislation:	21
	a) The proposed legislation would inflict a financial loss on women.	21
	b) The proposed legislation would lead the further implementation of patriarchic norms among women, leading eventually to a more patriarchal society.	21

c) The proposed legislation is positive only if it accompanied by all other recommendations made in the Segev report.	22
d) The proposed legislation would lead to higher rates of fraudulent exemptions from military service.	22
e) The proposed legislation will harm the IDF's operational needs and readiness.	23
f) The proposed legislation violates women's rights as it postpones (and sometimes harms) their ability to become mothers.	23
V. Comparative Law	25
1. Norway.....	25
2. Compatibility with the Convention on the Elimination of all Forms of Discrimination Against Women.....	28
VI. Conclusions.....	30

I. Introduction

On May 14, 1948, David Ben-Gurion, then head of the Jewish Agency, proclaimed the establishment of the State of Israel. The very next day, a coalition of Arab states invaded the territory of the former British Mandate in Palestine and the 1948 Arab-Israeli war began. This was the first of many wars and military operations involving the State of Israel and which has set the first cornerstone in the construction of the Israeli discourse regarding security.

Israel's delicate national security situation is evident not only in the many wars it has fought during its relatively short existence, but also in the constant terror threats it faces. This has led Israel since its creation, and to this day, to implement compulsory military conscription for all (leaving aside a few minority groups), making it the first, and until very recently the only,¹ state to conscript women.² The decision to conscript all eligible citizens originated in the circumstances surrounding the creation of Israel which prescribed the need to take full advantage of all human resources available.³ The Israel Defense Forces' (hereinafter: "**the IDF**") advantage at the time was first and foremost a result of this massive conscription, which provided both soldiers for mandatory service and a wide basis of skilled and trained soldiers to be used as reservists when needed as well as on a regular basis.⁴

Nevertheless, this universal conscription had other purposes as well- it was also a measure aimed at the construction of a united society, helping to bring together and integrate the new citizens of this young state, coming from all over the world. It was a way of forming and shaping a new national identity.⁵ Therefore, since then and to this day, the IDF holds a special normative

¹ See section IV.

² Brigadier Yehudit Grisaro, former Advisor on Women's Issues to the Chief of Staff, The Service of Women- Current Status and Main Activities, February 2009, 2.

³ Roni Tiarjan, Different Aspects of the Motivation to Serve in the IDF, 47, 47. In: Meir Elran and Gabi Shefer (eds.), Military Service in Israel: Challenges, Alternatives and Meanings, INSS Memorandum 148, September 2015.

⁴ Dov Tamari, Putting the "People's Army" to the Test, 27,27. In: Elran and Shefer (n. 3).

⁵ Moshe Lissak, The Ethos of Security and the Myth of the Militarized Society, Democratic Culture vol. 4/5 2001, 187, 197.

meaning in Israel,⁶ it is a ticket into the Israeli society and those who are eligible but do not serve, are often viewed as having a moral and national deficiency.⁷

Moreover, due to this universal conscription and to the centrality of security in the Israeli day-to-day life,⁸ the IDF has an important and significant role in all aspects of life, including politics, economics, education and culture.⁹ One's military service often has great implications on the rest of his or her adult life.¹⁰ For example, Many employers take note of the experience one has accumulated during his\ her military service and career possibilities are often based upon the different skills one has gained during service. Furthermore, in the Israeli society there are many intersections and interactions between the IDF and the civil society, mostly in high ranking and important positions.¹¹ One's ability to reach those important positions paves the way for an easier admission to key positions in all fields of the civil society.

For all the above mentioned, it might seem that Israel's Security Service Law (hereinafter: **"The Service Law"**), which mandates compulsory military service for both men and women, prescribes women with equal opportunities. However, this is not the case, as The Service Law also dictates many differences between men's compulsory service and women's compulsory service. These differences originated in the desire to balance the IDF's operational needs and the will for equal opportunities on the one hand, and the social and cultural beliefs regarding gender on the other.¹² These differences are not the sole reason for Israel's lack of gender equality,¹³ but it is

⁶ Tiarjan (n. 3), 47.

⁷ Lissak (n. 5), 191.

⁸ Ibid, 187 and 198

⁹ Tamari (n. 4), 27; Tiarjan (n. 3), 47; IDF official website, available at: <http://www.idf.il/1585-he/Dover.aspx>.

¹⁰ Karmit Haber and Pnina Sharvit Baruch, Women's Service in the IDF: a Step in Which Direction?, IDI and INSS, June 2013, 11.

¹¹ Lissak (n. 5) 192 and 202.

¹² Brigadier Gila Kalifi Amir, former Advisor on Women's Issues to the Chief of Staff, Implementing Gender Mainstreaming- A New Strategy in the IDF to Promote Equal Opportunities, Maarachot 436, 28, 30.

¹³ See e.g: Efrat Aharoni, 6 Female Executives in 100 Firms, 06/19/2015, Globes. Available at: <http://www.globes.co.il/news/article.aspx?did=1001046046>; Ruthi Levi, 3 Female Bank Menagers in Israel but not One Female Head of directorate, The Marker, 03/08.2016. available at: <http://www.themarket.com/markets/1.2875617>; Similarity, the representation of women in the Israeli parliament is only 27.5 per-cent, see the Knesset's official website- https://www.knesset.gov.il/mk/heb/MKIndex_Current.asp?view=; women form only 25 per-cent of the Israeli supreme court- http://elyon1.court.gov.il/heb/cv/fe_html_out/menus/mnu_judges/mnu_jdgs_in_court_403.htm;

argued that they have a significant role in perpetuating them.¹⁴ As shall be elaborated on in the following chapter, Israel's constitutional situation is very ambiguous, yet the right to equality does enjoy a constitutional status, one which the current Service Law does not fully coincide with.¹⁵ Therefore, different initiatives, from both inside the IDF and out of it, have proposed to change the current situation and eliminate these differences.

Israel's constitutional situation and progress shall be described in the following chapter (Chapter II), then the main differences prescribed by The Service Law shall be described in chapter III. In chapter IV, the recent initiatives to change the current situation shall be presented and the arguments for and against them will be deliberated. In chapter V a comparative legal system shall be analyzed, focusing on the Norwegian army which has recently started to conscript women, and on Israel's compliance with the international Convention on the Elimination of all forms of Discrimination Against Women (hereinafter: "**CEDAW**"). Finally, chapter VI shall consist of a discussion and conclusions.

¹⁴ Proposed Legislation Security Service Law (Equalizing all Sorting and Training process, as well as all the professional routes and promotion possibilities for women and men) 2016, the 20th Knesset, p/20/53196.

¹⁵ See section II.

II. Israel's Constitutional Situation.

Following United Nations General Assembly Resolution 181 (11/29/1947),¹⁶ which ended the British mandate over Palestine, the Jewish community in Palestine founded the National Council. On May 14th, 1948 the remaining British forces left Palestine in accordance with resolution 181. The members of the National Council met in Tel Aviv and declared the establishment of the State of Israel. the declaration stated:

“We hereby declare that, with effect from the moment of the termination of the Mandate being tonight, the eve of Sabbath, the 6th Iyar, 5708 (15th May, 1948), and until the establishment of the elected, regular authorities of the State **in accordance with the Constitution which shall be adopted by the Elected Constituent Assembly not later than the 1st October 1948**, the National Council shall act as a Provisional Council of State, and its executive organ [...] shall be the Provisional Government of the Jewish State, to be called "Israel"”.¹⁷

Nevertheless, the Constituent Assembly faced difficulty and controversy. The very next day after the declaration, the first Arab- Israeli war (1948) began and the writing of a constitution became a second priority as more urgent matters had to be dealt with. Additionally, at that point there was not yet an “Israeli society”. The young state of Israel comprised of the Jewish community already living in Israel and of many new Jewish immigrants coming from all over the world. Therefore, arguments were made that the constitution should not be immediate, that the Constituent Assembly should wait until Israel’s security situation is stable and the society is integrated and united. However, other arguments were also made, suggesting that a constitution would help to achieve those goals exactly.¹⁸

A compromise was found in the Harari Resolution (1950),¹⁹ which stated that the Israeli constitution shall be built chapter by chapter. These chapters will be known as “Basic Laws” which

¹⁶ United Nations General Assembly Resolution 181, November 29, 1947.

¹⁷ The Declaration of the Establishment of the State of Israel, May 14, 1948.

¹⁸ Constitution for Israel, The Knesset official site, available at: http://knesset.gov.il/constitution/ConstIntro_eng.htm.

¹⁹ Ibid; Harari Proposal Passes, Ending Prospects for an Israeli Constitution, Center for Israel Education, available at: <https://israeled.org/harari-proposal-constitution/>.

will eventually be combined to form Israel's constitution. Since then, Eleven Basic Laws have been enacted, dealing with two main issues: the powers of the governing bodies, and basic human rights.²⁰ However, the constituent work is not over and there are many issues of a constitutional nature which are not dealt with by the existing Basic Laws, and there is not yet a “conventional” united constitution.

The constitutional revolution

the Basic Law's normative ground became slightly clearer following the constitutional revolution of 1995- In the historic judgment known as Bank Hamizrachi,²¹ Chief Justice Aharon Barak stated that Basic Laws enjoy supremacy, granting the Israeli Supreme Court the ability to perform judicial review over new legislation.²²

a) The Implications on Gender Equality

Basic Law: Human Dignity and Liberty 1992 is often seen as Israel's bill of rights, despite the fact that the word “equality” is not mentioned in it even once. However, article 1 to Basic Law: Human Dignity and Liberty 1992 does state that “[...] *these rights* (i.e the right to human dignity and liberty) *shall be upheld in the spirit of the principles set forth in The Declaration of the Establishment of the State of Israel.*”²³ The Declaration of the Establishment of the State of Israel in turn states that: “*The State of Israel will maintain complete social and political equality for all its citizens, without distinction on the grounds of religion, race **or sex**”.*²⁴

Hence, despite the fact that the rights of equality and non-discrimination are not explicitly mentioned in Israel's “quasi constitution”, this “quasi constitution” is in fact interpreted as to

²⁰ Basic Law: The Knesset 1958; Basic Law: State Lands 1960; Basic Law: The President 1964; Basic Law: The Government 1968; Basic Law: The State Economy 1975; Basic Law: Israel Defense Forces 1976; Basic Law: Jerusalem 1980; Basic Law: The Judiciary 1984; Basic Law: The State Comptroller 1988; Basic Law: Human Dignity and Liberty 1992; Basic Law: Freedom of Occupation 1992.

²¹ 6821/93 Bank Mizrahi v. Migdal Cooperative Village [1995] IsrSC 49(4) 221, translated in [1995].

²² Ibid, see Chief Justice Aharon Barak's judgment.

²³ Basic Law: Human Dignity and Liberty 1992, article 1.

²⁴ The Declaration of the Establishment of the State of Israel (n. 17).

include those rights.²⁵ This has consistently been the case since the constitutional revolution, to the point where today equality is practically seen as a constitutional right.²⁶ This was most evidently apparent in the Alice Miller vs. minister of defense judgement from 1995.

b) Miller v. Minister of Defense (1995)

Alice Miller was a young Israeli woman with a clear passion for aviation, she had a civilian pilot's license and she was pursuing a degree in aerospace engineering. Theoretically, she was a suitable candidate for the air force's elite pilots course, but at the time, women could not apply to the course, so her potential was never put to the test. Alice Miller decides to petition to the Israeli Supreme Court, and in a historic judgment, the court deems the ban as unconstitutional.²⁷ The Alice Miller judgment changed the way equality generally, and gender equality specifically, are perceived in Israel. The judgment led to many changes both in and out of the IDF.²⁸

What was particularly interesting about the Alice Miller judgment was the IDF's reasoning. The IDF pointed to The Service Law and to the differences it prescribed between men and women, mainly regarding the duration of service, the duration of reserve duty and the possibilities for exemption from service (these shall be described in length in the following chapter). In light of those differences, the IDF argued that it is simply less beneficial to train women for certain positions in the IDF, including for the elite pilot's course. Eventually, the Supreme Court ruled to Miller's favor, noting that equality is a constitutional right and that as such, a potential financial loss is not a sufficient justification to harm it.²⁹ Despite this historic judgment and its clear conclusion, and while *de facto* many changes were made as a result, The Service Law itself remind the same.

²⁵ H.C. 6698/95, Aadel Ka'adan v. Israel Lands Administration, 54(1) P.D. 258- "Equality is among the fundamental principles of the State of Israel. [...] the state must honor and protect the fundamental right of every individual in the state to equal treatment"

²⁶ Ibid, HC 6427/02 Movement for Quality of Government v. Knesset (Dec. 12, 2005), Chief Justice Aharon Barak's judgment, section 36, Nevo Legal Database.

²⁷ HCJ 4541/94 Miller v. Minister of Defense, November 8, 1995, Nevo Legal Database.

²⁸ Neta Moshe, women's service in the IDF (presented to the Committee on the Status of Women and Gender Equality), the Knesset's research and information center, 05/16/2013, 3.

²⁹ HCJ Miller (n. 27), Justice Tal's judgment and Justice Dorner judgment, section 9.

III. The Current Legal Situation

The legal basis for this discussion is found in Israel's Security Service Law. The Service Law was enacted in 1986 (replacing two previous Laws on the subject from 1949 and 1959). Many different adjustments and changes were made over the years. Most recently, an amendment was made shortening compulsory service for men from 36 months to 32. Though this was indeed a step towards a more equal compulsory service for men and women, The Service Law still prescribes many gender-based differences. Some of those differences will be presented in this section.

The Israeli Security Service Law:

a) The duration of service

According to the Israeli Service Law, men are conscripted for up to 32 months if they are between the ages of 18 to 26. If they are between the ages of 27 to 29, or if they are either physicians or dentists, they are conscripted for a mandatory period of 26 months. Finally, if they are physicians or dentists between the ages of 35 to 38 they can be recruited for 14 months.³⁰ Hence, a man can face conscription if he is over 18 years old, and until he is 29 years old (and if he is a physician or a dentist- until he is 38 years old). Women on the other hand, are only conscripted for a compulsory service of up to 24 months if they are between the ages of 18 and 26. If they are either physicians or dentists they may also be recruited when they are between the ages of 27 and 34. A female physician or dentist between the ages of 35 and 38 could also be recruited but only for a period of 12 months.³¹

It is thus clear that under the Israeli Security Service Law, there are differences between men and women. The differences are evident both in the length of service and in the age after which a person can no longer be drafted.

b) The positions open to women

³⁰ Israeli Service Law, 1986, art 15.

³¹ Ibid, art 16.

Article 16 to the Israeli Security Service Law indicates that a woman would have equal rights to that of a man in applying to any position in the IDF. However, article 16(b) indicates that preventing a woman from applying to a certain position would not be considered as a violation of her rights if it is necessary in light of the position's characteristics and requirements.³² According to IDF's official data, as of 2012, 92 per-cent of all positions in the IDF are open for women.³³ The remaining 8 per-cent are mainly in combat units, due to objective physical differences making women unable to fulfill the needs required for those positions (or at least making the grand majority of women unable, to the extent that the cost of making the required adjustments for the service of women in these positions, exceeds the benefits from the small portion of women who would indeed be able and willing the fulfill the requirements).³⁴ It should be noted that not all combat units are closed to women, some are open to both men and women (mainly the Home Front Command Search and Rescue Unit and the Caracal Battalion).

Some of the positions that are now open for women, including in the said units, require long training and therefore require anyone who applies for them to commit for a minimum service period. For example, combat positions usually require an eight-month long training, after which, it would still often take a soldier some more time until he or she are fully accustomed to their new surrounding and can be productive soldiers. Therefore, a compulsory service of only two years in such positions would result in a short productivity period, making it unprofitable for the army to invest so much time, effort and money in their training. Thus, a minimum of three years is usually required for those units. Men are conscripted for three years anyway, making them indifferent to the time criterion. Women however, are conscripted for only two years. Therefore, a woman who would like to apply for such positions would have to volunteer for one more year.³⁵

Accordingly, article 16(c) to the Israeli Security Service Law specifies that if a woman choses to volunteer for a position which requires longer service length, then her rights and

³² Israeli Security Service Law, art 16.

³³ Major General Orna barbivay, former head of the IDF's Manpower Directorate, Protocol 121 from a meeting of the Knesset's Committee on the Status of Women and Gender Equality, 12/27/2011), 6. This is an improvement when compared to the 1970's when 44 per-cent of positions were closed to women. See: Pnina Sharvit Baruch, What is the Appropriate Model for Women's service in the IDF, 59, 60. In: Elran and Shefer (n. 3).

³⁴ Major General Avi Zamir, former head of the IDF's Manpower Directorate, Protocol 16 of the Knesset's Committee on the Status of Women and Gender Equality, 07/22/2009, 14; Sharvit Baruch (n. 33), 64.

³⁵ Major General Barbivay (n. 33) 8.

obligations would be equal to those of a man in the same position.³⁶ Meaning that during that extra year, a woman will continue to receive a basic salary, which is equal to that of a man during his compulsory service (usually about 1,600 NIS per month, equal to 425 U.S. Dollars). As a comparison, a woman choosing to serve in other positions, which do not require her to volunteer for an extra year, would often have the choice of signing in and staying in the IDF for longer than the mandatory period. If she chooses to do so, her salary would increase dramatically once she exceeds her mandatory time (currently two years). As one would expect, this deters many women from volunteering to such positions³⁷ and despite some improvement in the last few decades, women still form only about 4 per-cent of the combat sector.³⁸

Even within the positions which do not require a woman to volunteer for an extra year, men's longer service length can still be seen as a disadvantage for women. Take a soldier in an intelligence unit for example- the soldier will receive the same training and would fulfill the same duties, regardless of gender. However, a man in this position would have the possibility to take more courses, learn more roles and even change positions within the unit. A woman on the other hand, due to her short service, would not enjoy the same opportunities. She would therefore be less experienced and less skilled than most male soldiers in her unit.

Accordingly, women are less likely to be eligible for more challenging and important roles. Evidently, while women do constitute 48 per-cent of low ranking officers (Second Lieutenants),³⁹ their percentage drops when climbing up the ranking ladder: Out of all Captains in the IDF, 24.8 per-cent are women; out of all Majors, 23 per-cent are women; out of all Lieutenant Colonels, 12.5 per-cent are women and out of all Colonels, only 4 per-cent are women.⁴⁰

³⁶ Israeli Security Service Law, art 16(c); It should be noted that there are specific positions which require a service period longer than three years (for example, specific positions in the Intelligence Directorate or as pilots in the air force). Both men and women applying for those positions must agree to the required service period. However, any time exceeding three years is considered as a professional route- after crossing the three-year mark, the soldiers are paid more and enjoy social rights as employees.

³⁷ Brigadier-General (Res.) Yitzhak Brik, IDF's Ombudsman, Protocol 19 of the Knesset's Committee on the Status of Women and Gender Equality, 10/29/2013, 16; Haber and Sharvit Baruch (n. 10), 15.

³⁸ Major General Barbivay (n. 33), 6.

³⁹ Ibid, 9.

⁴⁰ Brigadier Grisaro (n. 2), 16; Major General Barbivay (n. 33), 11.

c) Women's exemption procedures

The Israeli Security Service Law indicates that both men and women can be exempt from military service on the bases of leading a “religious life-style”. However, there are great differences between the procedure a woman must go through in order to be legally exempt and the process a man has to go through.⁴¹ A man leading a religious life style would have to go through the first few stages of recruitment, then file an official request to the Ministry of Defense requesting to defer his military service. He would have to prove that he is studying in a Yeshiva (an approved Rabbinical (Jewish Orthodox) educational institution) for at least 45 hours per week and that he does not have any other occupation. This information must also be verified by the head of the Yeshiva, which itself must be included in a specific list of Yeshivas authorized by the Ministry of Defense. If the request is approved, the man would then have a year-long deferral from the army and he would have to renew it every year until he is 26 years old (at which time he would be exempt from service).⁴²

Exemption from service for women is very different - according to article 40(a) of The Service Law, a woman would have to **declare herself** as: 1) unable to serve for religious reasons 2) keeping Kosher (Orthodox Jewish dietary rules) both in her home and out of it 3) not driving during Shabbat (the Sabbath). After declaring herself as such in front of a civil or a Rabbinical judge, the woman is completely exempt from service, without a need to verify her declaration or to renew it.⁴³ Moreover, while Article 42 of the Service Law indicates that an IDF officer can order a re-examination of an approved exemption (if he\she has a reason to suspect that they were obtained by deception or fraud), Article 42(e) of the Service Law specifies that this does not include exemptions granted under Article 40, meaning those granted to religious women.⁴⁴ Correspondingly, 42 per-cent of women do not serve in the IDF and 35 per-cent of all eligible women do not serve based on a religious declaration under article 40 of the Service Law.⁴⁵ However, it is unknown how many of those 35 per-cent falsely or inaccurately declared themselves

⁴¹ See e.g- Major General Zamir (n. 34), 7.

⁴² Israeli Security Service Law, art 22b- 22c

⁴³ Ibid, art 40

⁴⁴ Ibid, art 42(e).

⁴⁵ Major General Barbivay (n. 33).

as leading a religious life-style in order to evade military service. A recent proposed legislation offers to abrogate article 42(e) thus exposing women's religious exemptions to re-examination.⁴⁶

Additionally, the Israeli Security Service Law also exempts married women from mandatory service and exempts mothers and pregnant women from both mandatory service and reserve duty.⁴⁷ Men cannot be exempt based on marriage or fatherhood.

⁴⁶ Proposed legislation- Israeli Security Service Law (re-examination of religious exemptions based on fraud), 2016. The 20th Knesset, p/20/3494.

⁴⁷ Israeli Security Service Law, art 39; Brigadier Grisaro (n. 2), 29.

IV. The Proposed Legislation

Considering the differences described in the previous section, former head of the IDF's Personnel Directorate, Major General Elazar Stern, appointed a special committee in 2007. The committee was headed by reserve Major General Yehuda Segev and its purpose was to provide practical recommendations to decrease, and eventually eliminate, gender inequalities in the IDF. The committee's final report (hereinafter: the Segev report) included (but was not limited to) the following recommendations:⁴⁸

1. The committee's main recommendation was to adopt the principle of "the right person at the right place"- abandoning classifications and differences based on gender and implementing a "position oriented" classification system. Meaning that there will not be a different service length for men and women but a different service length for secretaries and combat soldiers, whether men or women.
2. As a completing element, the committee also recommended equalizing the length of obligatory military service for both men and women. Meaning that **any soldier** (whether male or female) serving for more than 32 months would be classified as one who has exceeded his or her mandatory service and is therefore entitled to increased salaries and other social benefits.
3. Equalizing all training and sorting processes.
4. Changing The Service Law which currently enables women to avoid military service much more easily than men.⁴⁹
5. Setting quantitative goals for female representation in high ranking positions (Lieutenant Colonel to Brigadier)

The Segev report was presented to the Chief of General Staff at the time (the highest ranking officer in the IDF), Lieutenant General Gabi Ashkenazi, and approved by him with only a few minor changes.⁵⁰ Nevertheless, many of its recommendations are still unimplemented to

⁴⁸ For further explanation regarding the committee's work, focus and research methods, see Major General Segev's explanation in Protocol 16 of the Knesset's Committee on the Status of Women and Gender Equality, 07/22/2009, 11; Neta Moshe (n. 28), 4; Brigadier Grisaro (n. 2), 27; Pnina Sharvit Baruch, Extending Women's service in the IDF- Pros and Cons. Mabat Al 497, INSS, 12/15/2013, 1; Haber and Sharvit Baruch (n. 10), 13-15.

⁴⁹ See n. 46.

⁵⁰ Major General Zamir (n. 34), 3; Moshe (n. 48), 4.

date,⁵¹ despite a formal letter which was written by 19 reserve Major Generals and sent to the Chief of General Staff, urging him to fully implement the Segev report.⁵² Nonetheless, many different IDF officials have argued for the implementation of the first and second recommendations, submitting that such a change would not only be a step in the right direction towards a more gender equal army, but would also provide great benefits for the IDF.⁵³

In accordance with the Segev report's conclusions, some proposed legislations were presented to the Israeli Parliament (the Knesset), aiming for more gender equality in the IDF. Some of those proposals suggested a gradual process consisting of two stages. In the first stage, men's mandatory service will be shortened to 32 months (instead of 36). Additionally, women's mandatory service will increase to 28 months (instead of 24). As a second stage, the mandatory service will be adjusted again so to reach the final goal of a 30-month-long conscription for all, regardless of gender.

The first step of the first stage was recently approved by the Knesset and men drafted after July 2015, can expect a 32-month long service as a default.⁵⁴ However, the second part of the first stage (extending women's service), has triggered objections and disagreements. The Knesset's Committee on the Status of Women and Gender Equality held a special meeting discussing a proposed legislation for this matter. During the meeting, many different views were heard, some of them presenting the main arguments for and against the proposed legislation and shall be discussed in the following section.

1. Arguments supporting the legislation:

a) **The proposed legislation would increase women's motivation to apply for more meaningful and significant positions in the IDF.**

⁵¹ Ibid; Sharvit Baruch (n. 48), 1.

⁵² Amos Harel, Top IDF Officers Urge Barak to Fight Religious Discrimination of Women, 14/11/2011, <http://www.haaretz.com/top-idf-officers-urge-barak-to-fight-religious-discrimination-of-women-1.395402>; Haber and Sharvit Baruch (n. 10), 17.

⁵³ Brigadier Gadi Agmon, former head of IDF's Planning and Personnel Division, Protocol 19 of the Knesset's Committee on the Status of Women and Gender Equality, 10/29/2013, 2.

⁵⁴ Tal Lev-Ram and Sefi Ovadia, The Ministry of Defense and the IDF to Shorten Military Service by 4 Months, 05/06/2013, GLZ. Available at: <http://glz.co.il/1138-17354-he/Galatz.aspx>.

Currently, 92 per-cent of all positions are open to both men and women.⁵⁵ Nevertheless, out of those 92 per-cent, many positions are still considered “manly” and the number of women serving in them is very low, despite some improvement in recent years.⁵⁶ Those positions are often meaningful and important positions in the combat\combat-support sectors. It is argued that the main reason for the low representation of women in those positions is the fact that they include a long training and therefore require a minimum service length which usually exceeds the current obligatory service length for women. Thus, in order to enroll for those positions, women have to volunteer.⁵⁷ For Example, following the Alice Miller judgment, women **can** apply to the air force pilot’s course. However, in order to do so they would still need to volunteer for an extended service length.

Those supporting the proposed legislation claim that if there was not a question of volunteering, then women would be more inclined to try applying for those positions.⁵⁸ Furthermore, as presented earlier, currently, the option of volunteering for an extended service is not financially-appealing for women since they have other, higher paid, options.⁵⁹ If the proposed legislation would be approved and implemented, than most women would not have to face this dilemma since their new extended service length would be sufficient for most positions and would not require them to further volunteer.⁶⁰ Moreover, in positions that would still require more than 28 months, the financial loss would still be decreased (though not diminished) since soldiers will receive higher salaries and other social benefits in an earlier stage (after 32 months and not 36).⁶¹

Simultaneously, as men’s service length was shortened, the quantity of soldiers in “manly” positions have decreased, many vacancies were created and there is a “vacuum” which could, and should, be filled by women.⁶² Due to Israel’s ongoing conflicts, these vacant positions are not

⁵⁵ See section 2.b

⁵⁶ Brigadier Grisaro (n. 2), 7; Moshe (n. 48), 3; Sharvit Baruch (n. 33), 61.

⁵⁷ See section 2.b.

⁵⁸ Sharvit Baruch (n. 33), 62.

⁵⁹ Ibid.

⁶⁰ Brigadier-General (Res.) Brik (n. 37), 16.

⁶¹ Moshe (n. 48), 4.

⁶² Brigadier Agmon (n. 53), 6; Sharvit Baruch (n. 48), 1.

“unneeded”. History has showed that the need for personnel is often a determining factor in expending women’s roles in the army.⁶³

The accumulative effect of the above-mentioned changes would eventually lead to a decrease in the number of women serving in “traditional” female positions and an increase in their representation rate in all other positions, including those which are often regarded as more important and meaningful.⁶⁴

b) The proposed legislation would lead to an increase in the number of high ranking female officers in the IDF:

Currently, more than half of the low-ranking officers in the IDF (second and first lieutenant) are females.⁶⁵ Sadly, when climbing up the ranking ladder, the percentage of women drops dramatically.⁶⁶ The argument is made that, as a result of argument a), more women will serve in “meaningful positions”, i.e. positions which hold actual implications and ramifications on Israel’s security situation. These positions are often more challenging and are usually highly desired by Israeli citizens facing conscription. Therefore, the pool of qualified worthy women, able and willing to climb up the ranking ladder will increase.⁶⁷ Thus, enlarging the number of high ranking women officers from the bottom up.⁶⁸

Moreover, women’s motivation to serve and contribute is understandably affected by the way they are viewed and treated by the IDF. Women will be more motivated to take a meaningful part in the IDF if they feel valued and appreciated, this is often expressed by the positions they can occupy and their ability to reach high-ranking important positions. The existence of high-ranking

⁶³ Mady Wechsler Segal, Women’s Military Roles Cross-Nationally, Past, Present, and Future. *Gender & Society*, vol. 9 no. 6, December 1995, 757, 760.

⁶⁴ Brigadier Agmon (n. 53), 2.

⁶⁵ Brigadier Grisaro (n. 2), 13; Sharvit Baruch (n. 33), 61.

⁶⁶ *Ibid*; See section 2.b.

⁶⁷ Major General barbivay (n. 33), 11.

⁶⁸ Brigadier-General (Res.) Brik (n. 37), 24.

women officers will generate more motivation as it will demonstrate to women their promotion possibilities and provide them with a goal to aspire to.⁶⁹

c) The proposed legislations would increase women's representation rates in key positions in the civilian life.

The combination of the first and second arguments will eventually lead to more experienced, motivated and skilled women in the civil community and in the labor market. Leading both to an improvement in their own sense of self- fulfillment and to their ability to contribute more to their society.⁷⁰ Due to the centrality of the IDF and of the military service in the day-to-day life in Israel,⁷¹ this change would hopefully lead to larger representation rates for women in key positions in all fields of life, thus improving gender equality not only within the IDF, but also out of it.⁷²

d) The proposed legislation would benefit the IDF's operational needs:

The IDF has always been perceived as a "people's army" enabling it to choose the best people for each position, thus providing it with a great advantage when compared to volunteers-based armies.⁷³ The IDF's ability to "pick and choose" is depended on its accessibility to a large pool of eligible soldiers. The argument is made that by extending the service length, women would not have to volunteer in order to serve in important units, this would lead to higher application rates, thereby enlarging the pool of worthy soldiers willing to serve in these units. At the same time, the number of people serving in overmanned professions will decrease, saving precious resources.⁷⁴ Moreover, equalizing the length of service would benefit the IDF's as it would implement the value of equality for all, one of the IDF's fundamental principles which the soldiers are sworn to

⁶⁹ Sharvit Baruch (n. 33), 67.

⁷⁰ Brigadier-General (Res.) Brik (n. 37), 11.

⁷¹ See section I.

⁷² Ibid; Pnina Sharvit Baruch (n. 48), 1.

⁷³ Major General (ret.) Giora Eiland, IDF's Manpower Perception, 15, 16. In: Elran and Shefer (n. 3); Tamari (n. 4), 27.

⁷⁴ Major General Barbivay (n. 33), 22.

protect.⁷⁵ Such an implementation would strengthen the IDF's moral basis and the soldiers' motivation.

However, this argument might best apply to the main recommendation made in the Segev report - adopting "the right person in the right place" principle and initiating a "position oriented" service length model. The argument could be made in support of the proposed legislation to the extent that the legislation is viewed as only the first step towards the full implementation of Segev's main recommendation.

e) The proposed legislation would lower the current discrimination against men.

Though this is not a common argument, it is nevertheless an important one. Men in Israel are discriminated against not only because they serve longer than women, but also because they continue to be required to perform reserve military duties for much longer than women, and they are not exempt from military service when they marry or become parents.⁷⁶ Moreover, leaving aside a few exceptions, men with good physical abilities are usually obliged to serve in combat positions, therefore having a more strenuous service than most women.

Extending the obligatory service for women would not only decrease the difference between men and women length wise, it would also decrease the workload on men during their service. First because more women would be re-directed into combat positions and fewer men would have to serve in those positions.⁷⁷ Second, because this re-direction also entails a more equal share of the workload for reserve duty - as more women would be skilled and trained to fill more positions, they could also be called in for reserve duty, thus leading to a more proportional distribution of work and decreasing the days per year a man would typically serve in reserve duty.⁷⁸

⁷⁵ Haber and Sharvit Baruch (n. 10), 9; IDF official website- <http://www.idf.il/1585-he/Dover.aspx>.

⁷⁶ See section 2.3; the Israeli Security Service Law; Moshe (n. 48), 4.

⁷⁷ Brigadier Agmon (n. 53), 2.

⁷⁸ Brigadier Aharon Haliva, A Minority within a Minority- Women's Reserve Duty Service, Maarachot 437, June 2011, 34, 35.

2. Arguments against the proposed legislation:

a) **The proposed legislation would inflict a financial loss on women.**

Women in the IDF currently serve mainly in administrative\secretarial positions⁷⁹ in which they do not contribute greatly and many of them are in fact not operationally needed.⁸⁰ Obligating them to serve for four more months would result not only in more unnecessary human resources, but would also further postpone the women's entrance to the civilian labor market, thus imposing a financial loss on them. In other words, if the proposed legislation will pass, women will lose 4 months of potential work in the civilian sphere and instead would have to continue serving in the IDF. Hence, a woman who could have earned an average income of about 5,000 NIS per month during those 4 months (the average income in Israel), will only earn 400 (+\-) NIS per month (the military salary for a secretary).⁸¹

b) **The proposed legislation would lead the further implementation of patriarchic norms among women, leading eventually to a more patriarchal society.**

Military organizations generally, and the IDF specifically, are often very chauvinist, patriarchal systems.⁸² Armies (IDF included) are often regarded as a "men club", where all major decisions are still made almost exclusively by men.⁸³ Requiring women to stay in such a system for longer would possibly result in further implementation of those patriarchal norms. Women leave the army with a weaker perception of gender equality and are less confident in their abilities and strengths as they are taught that women are only qualified to perform simple tasks and cannot bear the responsibility of important, and sometimes curtail, decisions. Simultaneously, men learn that a

⁷⁹ Brigadier Grisaro (n. 2), 6.

⁸⁰ Knesset Member Merav Michaeli, Protocol 19 of the Knesset's Committee on the Status of Women and Gender Equality, 10/29/2013, 34.

⁸¹ Lawyer Mike Blass, Protocol 19 of the Knesset's Committee on the Status of Women and Gender Equality, 10/29/2013, 4.

⁸² Sharvit Baruch (n. 48), 1; Major Yael Topel, Head of Research Division in the Women's Issues Directorate, What Has Changed Between 2004 and 2011, in: Haliva, A Minority within a Minority (n. 78), 39.

⁸³ Sharvit Baruch (n. 48), 1.

woman's job is to serve and cater to them while they handle the important issues. Therefore, the proposed legislation would only result in deepening and increasing these misconceptions and would thus deepen gender inequality in the Israeli society.⁸⁴

c) The proposed legislation is positive only if it accompanied by all other recommendations made in the Segev report.

The Segev's report recommended equalizing **all** aspects of service. Equalizing only the duration of service without attending to all other aspects would result in further violating women's rights.⁸⁵ Increasing only their time in the army without increasing the quantity and quality of their possible positions is meaningless and would only result in larger numbers of unneeded and unhappy womanpower.⁸⁶

d) The proposed legislation would lead to higher rates of fraudulent exemptions from military service.

Relating to the above-mentioned critique, women are currently exempt from service more easily than men,⁸⁷ and the legislation would result in even larger numbers of fraudulent evasions. Implementing only the recommendation regarding the duration of service, without attending to the need to change The Service Law regarding exemption, would eventually lead to a situation where women, facing an even longer service length, will turn to the easy option of a fraud based religious statement, thus avoiding their military service all together. therefore, the argument is made that the

⁸⁴ Knesset Member Merav Michaeli, Protocol 19 of the Knesset's Committee on the Status of Women and Gender Equality, 10/29/2013, 34. Proposed Legislation Security Service Law (Equalizing all Sorting and Training process, as well as all the professional routes and promotion possibilities for women and men) 2016, the 20th Knesset, p/20/53196.

⁸⁵ Sharon Cherkesky, Government Relations Manager at WIZO, Protocol 19 of the Knesset's Committee on the Status of Women and Gender Equality, 10/29/2013, 27; Sharvit Baruch (n. 48), 1.

⁸⁶ Knesset Member Merav Michaeli, Protocol 19 of the Knesset's Committee on the Status of Women and Gender Equality, 10/29/2013, 34.

⁸⁷ See section II. c.

proposed legislation will lead to a situation where most women don't serve at all, further increasing the differences between men and women in the Israeli society.⁸⁸

e) The proposed legislation will harm the IDF's operational needs and readiness.

The main argument made in this regard is that the proposed legislation will harm the IDF's operational needs since it will lead to a shortage of needed human resources in the combat sector (since men will serve only 32 months instead of 36). However, some have also argued that the proposed legislation would harm the IDF since the presence of women weakens the army, it distracts and confuses men, making it difficult for them to do their job protecting Israel. This is especially true regarding religious men who are unwilling or uncomfortable serving side by side with women.

Furthermore, some also argue that women are inherently weaker than men, they are unfit to participate in combat and thus should not replace men in the battlefield. The argument is made that Israel's national security situation does not enable it to take such risks in the name of gender equality. The IDF's main and most important role is to protect Israel, it should therefore be left out of all unrelated social and political discussions.⁸⁹

f) The proposed legislation violates women's rights as it postpones (and sometimes harms) their ability to become mothers.

The last argument made against the proposed legislation is not a popular one among Knesset members, but it is one which has nevertheless been stated. according to this argument, Women's natural duty is to be mothers and attend to their families. Therefore, extending their military service will further postpone their ability to start a family. Furthermore, the desire to use this proposed legislation as a means for increasing women's participation in combat positions is ill-placed, since

⁸⁸ Lawyer Mike Blass, Protocol 19 of the Knesset's Committee on the Status of Women and Gender Equality, 10/29/2013, 4.

⁸⁹ Shulamit Melamed, Chanel 7 director, Protocol 121 from a meeting of the Knesset's Committee on the Status of Women and Gender Equality, 12/27/2011), p. 22.

women in those positions are allegedly in high risk of developing different health complications leading to futility.⁹⁰

⁹⁰ Gil Ronen, head of the Lobby for the Israeli Family, Protocol 121 from a meeting of the Knesset's Committee on the Status of Women and Gender Equality, 12/27/2011), 34. However, it should be noted that in the same meeting, the said argument was criticized for relying on unscientific researches and was not headed by qualified physicians.

V. Comparative Law

1. Norway

While there are many armies which recruit women on a voluntary basis,⁹¹ there are barely any which conscript women for mandatory service in the same manner as they conscript men. In fact, until recently Israel was the only one to do so consistently, both in times of peace and in times of war. But as of summer, 2015, Israel is no longer an isolated case.

In 2013, the Norwegian parliament voted almost unanimously to pass a law applying military conscription to both sexes,⁹² making Norway the first NATO state to conscript women.⁹³ Even more remarkable was the fact that Norway has decided to do so in time of peace,⁹⁴ without a strong operational need to enlarge its available human resources. However, operational needs were still a crucial component in Norway's decision- Norwegian officials were quoted saying that one aim of this surprising move was to enlarge the pool of young recruits from which the Norwegian Armed Forces could choose the most motivated and the best suited soldiers.⁹⁵ Nevertheless, it also originated in the idea that rights and duties should be the same for all citizens, regardless of gender.⁹⁶

⁹¹ See e.g: Rebekah Ratcliffe, Women in the Military: Around the World, *The Guardian*, 08/12/2011. Available at: <https://www.theguardian.com/uk/2011/dec/08/women-in-military-around-world>; Helena Carreiras, *Gender and the Military- Women in the Armed Forces of Western Democracies*. Routledge 2006, 101; M. C. Devilbiss, *Women and Military Service*, Air University Press, 1990.

⁹² Norway Introduces Compulsory Military Service for Women, *The Straits Times*, 08/25/2016. At: <http://www.straitstimes.com/world/europe/norway-introduces-compulsory-military-service-for-women-bunking-them-in-mixed-dorms>.

⁹³ Neal Baker, Sisters in Arms- Norway Becomes First NATO Country to Introduce Compulsory Military Service for All Women, *The Sun*, 08/25/2016. At: <https://www.thesun.co.uk/news/1671862/norway-becomes-first-nato-country-to-introduce-compulsory-military-service-for-all-women-to-recruit-more-talent/>.

⁹⁴ Norway Extends Mandatory Military Service to Women, *DW*, 06/14/2013. At: <http://www.dw.com/en/norway-extends-mandatory-military-service-to-women/a-16884242>.

⁹⁵ Norway Introduces Compulsory Military Service for Women (n. 92); Baker (n. 93); Norway Extends Mandatory Military Service to Women (n. 94); Elisabeth Braw, Norway's Gender-Neutral Draft, June 23, 2016, *War on the Rocks*. At: <https://warontherocks.com/2016/06/norways-gender-neutral-draft/>; *Globalsecurity.org*. at: <http://www.globalsecurity.org/military/world/europe/no-personnel.htm>

⁹⁶ Norwegian Armed Forces official website, at: <https://forsvaret.no/en/newsroom/news-stories/female-conscription>; Norway Extends Mandatory Military Service to Women (n. 94); *Globalsecurity.org*. at: <http://www.globalsecurity.org/military/world/europe/no-personnel.htm>

Prior to the new Law, which came into force July 2015 and applies to women born in the year 1997 and after,⁹⁷ Norway's Armed Forces consisted about 10,000 soldiers, roughly 10 percent of whom were female volunteers.⁹⁸ The soldiers are chosen each year for a year-long service from around 60,000 people in the designated age group.⁹⁹ The new Law provides the army with a much bigger group to choose from, as the number of soldiers that are eventually chosen stayed relatively the same.¹⁰⁰

While this is indeed an exceptional step, an important disclaimer is worth noting - as can be indicated in the above-mentioned numbers, not all eligible citizens join the armed forces. Due to Norway's relatively calm national security situation, not all men and women are needed. Therefore, it is very unlikely for someone who is unwilling to serve in the army, to be forced to do so (as one criterion in the selection of soldiers is their motivation to serve).¹⁰¹ Norway is indeed a NATO country and even shares borders with Russia, a geographical circumstance that has once made it more prone to threats and instability. However, since the end of the cold war, it seems that this is no longer the case,¹⁰² and Norway's Armed Forces' current missions mostly consist of aid to international missions abroad.¹⁰³

The Norwegian move is almost unsurprising when considering Norway's approach to gender equality generally. Norway has always been on the forefront of gender equality initiatives in Europe. In 2003, it implemented a quota for female board members, requiring that they make at

⁹⁷ Ibid; Braw (n. 95).

⁹⁸ Ibid; Norway Extends Mandatory Military Service to Women (n. 94).

⁹⁹ 19-35 years of age for compulsory military service. In wartime, 16 and older can be conscripted too. They face 1-year of obligatory service followed by 4-5 refresher training periods through ages 35-60, totaling 18 months. See: CIA World Factbook, at: <https://www.cia.gov/library/publications/the-world-factbook/fields/2024.html#no>; Norway Introduces Compulsory Military Service for Women (n. 95); Baker (n. 93); Norway Extends Mandatory Military Service to Women (n. 94).

¹⁰⁰ Globalsecurity.org. at: <http://www.globalsecurity.org/military/world/europe/no-personnel.htm>.

¹⁰¹ Norway Introduces Compulsory Military Service for Women (n. 95).

¹⁰² Though some uncertainties arose during the recent Russian- Ukrainian conflict over the Crimean Peninsula. See e.g: Lydia Tomkiw, Russia-Norway Conflict? Defenses Being Modernized Amid Russian Arctic Military Buildup, International Business Times, 10/01/2015. Available at: <http://www.ibtimes.com/russia-norway-conflict-defenses-being-modernized-amid-russian-arctic-military-buildup-2123382>.

¹⁰³ See the Norwegian Armed Forces official website, at: https://forsvaret.no/en/exercise-and-operations?pk_campaign=ForsideknapperEN&pk_kwd=excercise-operations-topp.

least 40 per-cent of board seats in all public limited companies.¹⁰⁴ However, regarding the new conscription Law, it is a matter of time before one could safely determine that it is not a mere political lip service, and that it does indeed lead to an increase in the representation rate of women in the Norwegian Armed Forces. This is due to the fact that while Norway's operational requirements have not dramatically changed, and the number of needed soldiers did not increase substantially, Norwegian officials simultaneously argued that all standards for recruits will remain the same.¹⁰⁵ This could be a practical obstacle for women when applying to join the armed forces.

Nonetheless, Unlike Israel, Norway poses no restrictions or limitations on women's possibility to serve in any position.¹⁰⁶ There is nothing preventing a woman from applying to any position, but she would still have to meet all the standards and requirements, just as a male soldier would. This is also supported by the Norwegian constitution, according to which "*every citizen of the State is equally bound to serve in the defense of the Country.*" The Norwegian constitution also explicitly states that all citizens are equal and that unreasonable discrimination is forbidden.¹⁰⁷ For almost 40 years Norway's female soldiers were all volunteers,¹⁰⁸ and it could be seen that during that time this mechanism has not prevented women from reaching high ranking positions (while it could be argued that it has prevented **more** women from reaching those positions). For example, in 1995 Norway was the first country to have a female submarine commander and a Norwegian general was the first female peace-keeping commander.¹⁰⁹

Like Israel, serving in the Norwegian National Army is also often viewed as a jumpstart to one's adult life and military service is seen as a personal accomplishment highly valued in the job market.¹¹⁰ Norway's decision to conscript women could potentially lead to a larger portion of

¹⁰⁴ Norway Extends Mandatory Military Service to Women (n. 94); Carreiras (n. 91), 107.

¹⁰⁵ Baker (n. 93); Braw (n. 95).

¹⁰⁶ Ibid; Carreiras (n. 91), 107.

¹⁰⁷ Constitution of the Kingdom of Norway 1814, as amended to 2015, art. 119 and 98. Available at: <http://constitutions.unwomen.org/en/countries/europe/norway?provisioncategory=b21e8a4f9df246429cf4e8746437e5ac>, and at: https://www.constituteproject.org/constitution/Norway_2015?lang=en.

¹⁰⁸ Norway Introduces Compulsory Military Service for Women (n. 95); Baker (n. 93).

¹⁰⁹ Braw (n. 95); Carreiras (n. 91), 107.

¹¹⁰ Norway Introduces Compulsory Military Service for Women (n. 92); Braw (n. 95).

women who enjoy this jumpstart (and who would not have enjoyed it without the new legislation as they would not have volunteered to begin with), but it remains to be seen to what extent.

2. Compatibility with the Convention on the Elimination of all Forms of Discrimination Against Women

Israel has been a state party to CEDAW since 1991 and has ratified it aside two reservations and one declaration,¹¹¹ all of which do not concern the following articles of CEDAW:

a) Article 1 to CEDAW states that:

*“the term ‘discrimination against women’ shall mean **any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women [...] of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field**”.*¹¹²

b) Correspondingly, article 2 to clarifies that state parties shall embody the principle of equality in their constitutions or in other appropriate legislation. Additionally, they shall also modify or abolish existing laws and practices which constitute discrimination against women.¹¹³

c) Article 3 adds that state parties shall ensure the full development and advancement of women.¹¹⁴

Considering what has been presented in this paper thus far, it is evident that Israel is not in full compliance with the demands and requirements set forth in CEDAW.¹¹⁵ As presented in chapters III and IV, the current situation (under which women are conscripted for a shorter military service

¹¹¹ see: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#EndDec.

¹¹² Convention on the Elimination of all Forms of Discrimination Against Women, art. 1.

¹¹³ Ibid, art. 2.

¹¹⁴ Ibid, art. 3.

¹¹⁵ It should be noted that 5 state party’s reports were made concerning Israel, aside a few minor notes (see e.g. report A/60/38(SUPP) at section 226; report CEDAW/C/ISR/CO/3 at section 6; and report A/52/38/REV.1(SUPP) at section 31) neither one dealt with the issue at hand. See: <http://www.ohchr.org/EN/HRBodies/CEDAW/pages/cedawindex.aspx>.

than men) leads to *de facto* discrimination against women in all spheres of life, hence both during their service in the IDF and after it, in their civilian life.

As shown in chapter II, Israel's constitution is not a "traditional" one and is not complete. While there are a number of laws and regulations in Israel which aim at ensuring equality between genders, it is still questionable whether they are sufficient to indeed ensure such equality and whether they fulfill the requirements of CEDAW.¹¹⁶

¹¹⁶ See e.g. Employment of Women Law, 1954; Women's Equal Rights Law, 1951.

VI. Conclusions

The ability to fight and lead wars has until very recently been considered an exclusively male domain.¹¹⁷ Women would usually take part in combat only if there was an unusual need for human resources and even then, they were mostly only a temporary replacement, serving in supporting positions so men could become available for combat. When the war was over, women would usually leave the armed forces and go back to their traditional domestic sphere. Their contribution to the war effort would often be forgotten.¹¹⁸

In recent years, however, this phenomenon has gone through significant changes. While only a handful of countries conscript women (and even fewer do so in times of peace), most countries recruit women on a voluntary basis and many of them take positive actions to increase their numbers and enhance their options and possibilities.¹¹⁹ These changes are possible due to cultural and social transformations but are also the result of technological improvements and developments, which have a twofold effect- *First*, they enable the creation of smaller and more sophisticated weapons, thus minimizing the importance of physical differences between men and women on the battlefield. *Second*, they change the battlefield itself, turning it to one which is largely based on cyber warfare, once again making physical differences irrelevant.¹²⁰

These changes are apparent also in the IDF,¹²¹ and while there is an increase in the number of women serving in important positions, with direct influence on the development and outcome of war, it seems that this has not changed the discourse regarding the role of women in war. While female soldiers in the IDF often occupy meaningful positions in the intelligence unit for example, their contribution to the Israeli war effort is still downplayed and forgotten as they do not engage in direct combat.¹²²

¹¹⁷ Carreiras (n. 91), 1.

¹¹⁸ Ibid; Segal (n. 63), 760-61.

¹¹⁹ Carreiras (n. 91), 98-106.

¹²⁰ Segal (n. 63), 763; Sharvit Baruch (n. 48), 1; Haber and Sharvit Baruch (n. 10), 23.

¹²¹ Brigadier-General (Res.) Brik (n. 37), 19; in 2001 only one per-cent of technical positions in the IDF were occupied by female soldiers, compared to 17 per-cent in 2013. See: Haber and Sharvit Baruch (n. 10), 24.

¹²² See the words of Knesset Member Ayelet Shaked, former chairwoman of the Knesset's Committee on the Status of Women and Gender Equality, stating that: "women are not the same. Eventually, the men occupy the forefront of

This is of course a result of the cultural discourse regarding the role of women in the Israeli society. The IDF and the Israeli Knesset are not the only one to blame, it is an outcome of education and, to a great extent, of religious norms which dictate many aspects of the Israeli day-to-day life.¹²³ In the educational aspect, the differences between men and women are sometimes very blunt - when preparing pupils for their military service, some high schools choose to teach young women how to be secretaries while teaching young men how to be good combat soldiers.¹²⁴ However, even when the differences are not so blunt, they still exist, for example in the low number of girls who chose to take mathematic\ scientific\ technologic courses in high school.¹²⁵ A girl who did not take certain courses in high school would not be eligible to apply to certain positions in the IDF (or would be at a great disadvantage compared to others). These differences are influenced by the Israeli discourse regarding the relative roles of men and women, and this discourse is in turn influenced by the delicate Israeli Security situation which has resulted in a militarized society that often choses to put security first and egalitarian values second.

The proposed Israeli legislation and the new Norwegian Law are similar in the sense that they both rest on two main rationales- benefiting the armies' operational needs by enlarging the pool of available human resources, and enhancing gender equality by eliminating current differences between men and women. In her 1995 article, Mady Wechsler Segal presented a theory of variables that affect the degree and nature of women's participation in the armed forces. She specified that there are three main variables which may sometimes pull in opposite directions:

the army, the core fields. That is how it should be and that is how it should stay". See: Protocol 19 of the Knesset's Committee on the Status of Women and Gender Equality, 10/29/2013, 13.

¹²³ It is beyond the scope of this paper to fully discuss the importance of religious norms in the Israeli society generally and in the IDF specifically. It should be noted however that these norms often lead (whether intentionally or unintentionally) to the exclusion of women from different positions and frameworks in the IDF. For further reading see: Haber and Sharvit Baruch (n. 10), 17; Harel (n. 52); Sigal Oppenheim Shachar, Resolution 1325- Are Women in Combat Good for Security and Equality? 10/13/2013. At: <http://www.onlife.co.il>.

¹²⁴ See e.g the outline of the preparation programs made by "Orgad Yeadim", a company hired by the ministry of education to prepare high school students for their military service. Among other things, one could find lectures such as: "common difficulties for the young recruits: men-taking orders from a female commander; women- sexual harassments" or "the secretarial work" for women and "being a fighter" for men. See: <http://www.orgady.co.il/>.

¹²⁵ Rina Bar Tal, CEO of Israel's Women Network, Protocol 121 from a meeting of the Knesset's Committee on the Status of Women and Gender Equality, 12/27/2011), 27.

military needs, social structures and culture.¹²⁶ When looking at Israel and Norway, it is apparent that while they share similarities in the social structure variable,¹²⁷ they differ greatly in military needs and culture. Israel faces a shaky national security situation but is influenced by cultural and religious views which tend to restrict women to the domestic sphere. Norway on the other hand, enjoys a stable national security situation but is influenced by liberal views which support egalitarian values.

Segal submits in her article that military needs are the most important factor in women's military involvement,¹²⁸ and this could perhaps explain the fact that Israel started the conscription of women much earlier than Norway, even prior to Norway's decision to allow women to volunteer to the armed forces. Nevertheless, it seems that military needs can only go so far. The full and complete integration of women to the armed forces could only be possible by accepting the egalitarian perspective that rights and duties should be equal to all, regardless of gender. otherwise, men can always be conscripted for longer or reserved for the most important positions, thus preserving the gender gap and perpetuating the differences between men and women, both in the armed forces and in the civil society.

The Israeli proposed legislation is therefore a step in the right direction towards a more gender-equal society and towards a fuller compliance with CEDAW. However, it is not, and could not, be enough. To truly make a change in the Israeli society it seems that the next step must be the further acceptance and implementation of the Segev report and to fully and clearly include equality as a constitutional right in an Israeli Base Law. the full implementation of the Segev report has already been suggested to the Knesset in a proposed legislation written by Knesset members Merav Michaeli and Rachel Azaria.¹²⁹ However, there are still no evident steps to expressly include

¹²⁶ Segal (n. 63), 758; in a later article, Segal and other proposed a fourth variable- a political variable. See: Darlene Iskra, Stephen Trainor, Marcia Leithauser and Mady Wechsler Segal, Women's Participation in Armed Forces Cross-Nationally: Expanding Segal's Model. *Current Sociology*, September 2002, Vol. 50(5): 771-797.

¹²⁷ This refers to demographic patterns, Labor force and economic characteristics, and family structures. While there are some obvious differences, Israel and Norway both have relatively low percentage of unemployment (according to Segal, high rates of unemployment result in a ready supply of men to serve in the armed forces and therefore few opportunities for women). Segal (n. 63), 766-7; see: Moti Basok, Israeli Unemployment in a 33-year low, *The Marker* 06/23/2016. At: <http://www.themarker.com/news/1.2985225>; Norway Unemployment Rate 1997-2017, *Trading Economics*. At: <http://www.tradingeconomics.com/norway/unemployment-rate>.

¹²⁸ Segal (n. 63), 759.

¹²⁹ Proposed Legislation Security Service Law (Equalizing all Sorting and Training process, as well as all the professional routes and promotion possibilities for women and men) 2016, the 20th Knesset, p/20/53196.

the right to equality in a Basic Law. While it is true equality is nevertheless perceived as a constitutional right (despite the fact that it is not explicitly mentioned in the Basic Laws), I believe that its expressed inclusion in the Basic Laws is of outmost importance since constitutions have an educational rule and the ability to affect and shape societies' norms and standards. it seems that in Israel those are the main obstacles in the way of the progress of gender equality. Therefore, declaring equality as a constitutional right might be a symbolic act but one which could potentially have practical implications. Furthermore, such an inclusion would better implement Israel's responsibilities under CEDAW.