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UN Women - Global Gender Equality in Conflict

*The growing gender gap arising from the Israeli-
Palestinian conflict – a legal framework*

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Introduction

This paper reviews the connection between two fundamental phenomena in the Israeli society - the ongoing Israeli-Palestinian violent conflict and the disempowered status of women within the Israeli society.

The Israeli-Palestinian conflict has taken its toll on Israeli society for many years and especially at its peak during the second Intifada in the early 2000's. Its most significant damage was the loss of human lives, but there was also substantial damage to the social and economic security of the Israeli population. This damage is uneven amongst all sectors of society: the main victims of the deterioration of the security situation, the social domestic changes and the economic contraction are weaker sectors, predominantly women.

Thus, the research question guiding this paper wishes to formulate a legal framework to examine the growing gender gap arising from the Israeli-Palestinian conflict.

The paper is constructed of five parts: the first part will generally present the local conflict and its various characteristics, as a part of an era mostly characterized by new type of local conflicts all around the world, and will show the potential implications of the conflict on society in general and on women in particular. The second part will provide a close examination of the direct link between the conflict and two major implications - the changes in women's social status and the deterioration in their economic situation.

The third part will examine the legal aspect of the situation in Israel, and will review primary legislation and bills, government decisions and their application, and the implementation of customary international law. The last part will try and compare the current conflict and the social and economic gaps it has created, with another case of a conflict, in order to examine its legislative aspect and learn from it, if possible. The last part will relate to a normative question regarding the state's obligation towards improvement of women's status as a result of constitutional precedents set by the court.

The Israeli-Palestinian conflict: Defining the nature of local conflict and the gendered point of view

The Israeli-Palestinian conflict is one of the most prominent armed encounters of the 21st century, and it is usually perceived in literature as an ‘intractable conflict’. The roots of the conflict can be traced to the late 19th century, with the rise of national movements, including Zionism and Arab nationalism.¹ ‘Intractable conflicts’ are defined as long and enduring conflicts which, unlike short, violent outbreaks, sustain a comprehensive social and cultural structure encompassing all walks of life, and are transmitted through generations.² There are six main issues that currently constitute the core of the dispute between the parties: permanent borders, the status of the Palestinian refugees, control of the city of Jerusalem, the distribution of water resources, the Israeli settlements in the West Bank and the security arrangements between the parties.

Since October of 2000, the Israeli-Palestinian conflict has seen a new peak of violence with the outbreak of the Second Intifada (uprising). This wave of violence sealed the longest attempt to reach a final peace agreement between Israel and the Palestinians, known as the “Oslo Peace Process” (1993–2001). During the Second Intifada, the Israeli army undertook extensive military operations in Gaza and the West Bank, reoccupying areas which had been formerly passed to Palestinian rule. Simultaneously, Palestinians launched armed attacks against Israeli citizens living in the occupied territories and within the Green Line (Israel’s pre-1967 borders). These acts included suicide bombings, shoot-outs, stabbings, and Kassam rocket attacks. The beginning of 2002 (January–April) is considered to be the most violent period of the Second Intifada, as more than 15 suicide attacks were launched inside Israel by the Palestinians, and a massive military assault was conducted in the West Bank by Israel. In June 2002, Israel began to construct a separation wall along its contested border with the Palestinian Authority, designed to keep Palestinian suicide bombers out of Israel.

Mark Tessler, *A History of the Arab-Israeli Conflict* (Indianapolis: Indiana University Press, 1994),¹ 53-54.

Daniel Bar-Tal, *Living with The Conflict: Socio-Psychological Analysis of The Israeli-Jewish Society* (Jerusalem: Carmel 2007).²

Though the Second Intifada had never ended officially, since the beginning of 2005, there has been a decrease in the number of suicide attacks inside of Israel's borders.³

Due to the intensity of political violence during this time period and the overall disillusionment from the peace process, the Intifada is considered to be one of the most dramatic events in the recent history of the Israeli-Palestinian conflict.⁴ **Therefore, the period of time from the beginning of the millennium would be the main time frame which this paper will refer to, given the multitude of existing data on the one hand, and the exacerbation of the conflict and its effects that can be analyzed on the other hand.**

The collapse of the Oslo Peace Process and the escalation of the Israeli-Palestinian conflict during the Second Intifada created new forms of securitization and vulnerabilities that brought forth a set of competing and contradicting ideas about societal practices and norms relating to women's roles. Despite its local context, the cycle of violence in the region in 2000 through 2005 is also consistent with broader changes in patterns of global warfare, known as the "new wars", which are sometimes called low-intensity conflicts, and is mainly associated with the increasing asymmetrical conflicts between states and parties other than states, such as guerrilla squads, armed militias, terrorist groups, etcetera. A comparative case dealing with the burden of conflict on women will be discussed later in this paper.

In the Israeli case, the changes in the conflict's nature began to be apparent during the "First Intifada"(1987) and the Gulf War (1990) and peaked in the three rounds of violence that occurred in the first decade of the twenty-first century: The Second Intifada (2000-2005), the second Lebanon war (2006), and Operation Cast Lead (2008-2009). Those changes can be divided into four main areas: 1) a transition from traditional, face-to-face army combat to an army against non-state armed groups fighting, and subsequently, the expansion of the types of threats, 2) the rise in the importance of home front protection and resilience, 3) the development of new military technologies that reduce direct contact between combatants, and 4) the globalization of the protection of human rights, which includes the expansion of the principle of universal jurisdiction for violations of international law.⁵ Since "new wars" are

Ibid.³

Sarai Aharoni, *Internal variation in norm localization: Implementing Security Council Resolution 1325 in Israel*, *Social Politics* 21(1), 1-25 (2014).

Ibid.⁵

associated with the weakening of the state in the context of neoliberal economic forces and globalization, the normative and strategic challenges that emerged during this period resonate with larger tensions between global governance and state sovereignty.⁶

Armed conflicts affect the lives of people of both genders, but they affect women considerably more. Studies worldwide show that women's social, financial, and personal status is aggravated especially during periods of increasing political violence.⁷ As in similar conflict zones, long-term studies examining the direct influences of the conflict's changing nature on women, are uncommon.⁸ However, the effects of changes caused by the conflict on women in Israel can be identified in seven key areas: the continuous attacks against the civilian population, and women in particular; blurring the distinction between the military and civilian/home "front"; changes in the patterns of gender-based violence; aggravation of the economic situation of women in marginal groups; radicalization of gender stereotypes in the media discourse; a change of approach towards gender issues in the IDF; and legislation and determination of gender restrictive regulations.⁹ In particular, three of those areas are important in this paper's context, and I shall discuss them later in greater attention: (a) The combination of women being a part of the potential casualties population, and the fact that a large proportion of Jewish households have at least one member on active military service, including the reserve army, changes women's status in society; (b) for over a decade, and more intensely after 2000, the Israeli economy has undergone a neo-liberal shift. This entailed radical cut-downs in welfare and job benefits, growing levels of job insecurity, import of migrant labor and outsourcing of labor-intensive industries. The ongoing economic crisis has had differential effects on the civil population, with women in general being the main affected group;¹⁰ (c) the changes in public policy reflected in the Knesset's legislation and regulations that superficially seem as if they are aimed to improve women's status, though this argument can be refuted, as will be explained later in this paper.

Dalia Sachs, Amalia Saar and Sarai Aharoni, *How can I feel for others when I myself am beaten? The impact of the armed conflict on women in Israel*, *Sex Roles: A Journal of Research* (57), 593-606 (2007).

Hanna Herzog, *Gender perspective discourse on the occupation - sociological perspective*, in *The Effect of The Occupation On The Israeli Society* 350, 361 (Daniel Bar-Tal Itzhak Schnell Ed., 2013).

The Van Leer Jerusalem institute, *Women, Peace, and Security: United Nations Security Council Resolution 1325 in the Israeli Context* (in Hebrew) (2015), 39-40.

Ibid., at 40.⁹

Swirski et al, *Two Years Of Destructive Economic Policy: A Gender Perspective Of The State Budget Proposal* (Tel Aviv: Adva Center, 2004) (in Hebrew).

The social and economic status of women in Israel - and the conflict's impact through time

Studies conducted worldwide show that women's status is constantly aggravated during periods of increasing political violence. In such circumstances, the economic situation deteriorates usually to a state of recession, which harms the most vulnerable populations and women in particular. In the social aspect, this decline goes hand in hand with an increase in domestic violence and a substantial change in their status within the family unit and in society. While the issue of domestic violence was handled well by the government, mainly by legislation (with or without a direct contact to the occurrence of conflict, which according to the data, has increased the number of incidences¹¹), the other crucial consequence was not handled well, as will be discussed below.¹²

A team of researchers led by Dr. Sarai Aharoni and Dr. Dalia Sachs from "Woman to Woman" center in Haifa conducted a study from 2004-2005 to examine the impact of the armed conflict on women in Israel using gender theory, as well as the impact of the conflict on women's economic status, health, welfare and well-being.¹³ This study and its findings clearly show the positive relationship between women's exposure to violence and their increasing vulnerability. One major contribution of this study lies in lending empirical support to the theoretical argument that this paper is going to build upon, which is that any evaluation of the impact of the Israeli-Palestinian conflict on the civil population inside Israel must consider the specific life experiences of women.¹⁴

Economic recessions such as the one caused by the conflict, affect women severely for several reasons: 1) they are the majority among the poorest population in Israel, and therefore they are the largest group supported by state allowances and social services, which are the first to be cut, 2) the unemployment rate among them is higher in comparison to the general population, and 3) their obligation to motherhood and household necessities with or without the assistance of men makes it difficult for them

Dalia Sachs, Amalia Saar and Sarai Aharoni. "How can I feel for others when I myself am beaten?"¹¹ The impact of the armed conflict on women in Israel", *Sex Roles: A Journal of Research* (57):593-606, 604 (2007)

See *supra* note 8, at 47.¹²

Sachs, Dalia, Amalia Saar and Sarai Aharoni. (2007). "How can I feel for others when I myself am beaten? The impact of the armed conflict on women in Israel", *Sex Roles: A Journal of Research* (57) 593-606 (2007).
Ibid., at 604.¹⁴

to integrate in the labor market. Therefore, any reduction in social budgets and lack of structured support programs will continue to harm the status of women over time, more so than other populations.¹⁵ As will be explained and demonstrated in the next chapter, the economic recession prevailing in Israel during the Second Intifada was mainly caused by the changing needs of a country under a constant threat of terror. The recession was also partly due to the economic program implemented in the early 2000's by Benjamin Netanyahu, the Finance Minister, which included massive cuts, especially in social and welfare budgets such as the income support allowances and children's allowance, of which women are the main recipients.¹⁶

The economic damage is reflected in conclusive data about women in Israel, who carry most of the economic burden on their shoulders. According to the study mentioned above, 41.7% of the participating women reported that they were the primary caretakers of the children in their families, 7.2% reported being the primary caretakers of elderly parents, and 67.2% bore most of the tasks involved in maintaining a household. Despite each of the above, 64% of women were also functioning as income providers, of which 23% were sole income providers and 9.8% further defined themselves as secondary providers.¹⁷ Furthermore, economic difficulty is one of the most prominent sources of stress reported by women, especially women coming from a lower socio-economic background. As per the study, 38.8% of the women reported that their economic situation had deteriorated during the first four years of the Second Intifada, and 16% of women expressed concern about losing their homes due to debts or losing a source of income.¹⁸ Although women are over-represented in the circle of poverty and thus more vulnerable to an economic recession, the high percentage of women who reported their economic struggle shows that the damage created by the economic recession concerns not only the poorest women, but a much wider spectrum of women, including those that belong to the middle class.¹⁹

An ongoing review performed during the Second Intifada shows that women play an important role in maintaining the normative framework of life, especially in the family area.²⁰ The approach which distinguishes between masculine and feminine roles

Herzog, *supra* note 8, at 361.¹⁵

Swirski et al, *supra* note 11.¹⁶

Dalia Sachs, Amalia Saar and Sarai Aharoni, *Silent Witnesses: Women in the Israeli-Palestinian Conflict*, 27-29 (Isha l'Isha: Haifa, 2005) (in Hebrew).¹⁷

*Ibid.*¹⁸

*Ibid.*¹⁹

See *supra* note 8, at 50-51.²⁰

in society is accentuated in light of the security threat. Women are perceived as a steady rest for their surroundings and are expected to emotionally support man often sent to the front, while controlling their other obligations simultaneously. This expectation exists both when it comes to her husband during his reserve duty as well as when it comes to her male child during his compulsory military service²¹. To reiterate, most women are the primary caretakers of children; some are also primary caretakers of elderly or sick family members; and many do the majority of the housework. They still carry the multiple burdens of paid work, caretaking for children and the elderly, and providing emotional support for the family and the community. This reinforces the argument that their social role is changing in the light of the conflict.²²

All of the above has an immediate effect on women. As studies in health and trauma conducted on the matter of conflict zones show, the Israeli-Palestinian case demonstrates multiple connections between exposure to political violence and a sense of personal insecurity among women,²³ as well as higher rates of anxiety, depression, health problems, dysfunction and physical disability.²⁴

However, in contrast to the common belief mentioned in literature about women in conflict areas, which claims that military conflicts necessarily lead to a deeper and immediate gender inequality, the Israeli case shows that, despite the escalation nature of the conflict, the State of Israel in partnership with local women organizations managed to preserve some achievements in the field of women's equal rights, and they even managed to expand the areas of legislation and government intervention during this period, especially in the field of protection against gender-based violence.²⁵ Furthermore, despite its extent and the persistence of the Israeli-Palestinian conflict, and again, unlike other conflict areas, international, governmental and human rights organizations scarcely documented any cases of deliberate use of gender-based violence as means of harming the enemy as a part of the conflict in question.²⁶

Nevertheless, this surprising positive progress was made possible by a parallel process that has serious consequences for women in Israel – **the depoliticization of the**

See *supra* note 8, at 358.²¹

*Ibid.*²²

Eli Zommer, Avi Bleich (ed.), *Mental Health In The Shadow Of Terrorism: The Israeli Experience*,²³
(Tel Aviv: Ramot at Tel Aviv University, 2005).

Palmieri et al, *The Psychological Impact of the Israel-Hezbollah War on Jews and Arabs in Israel: The Impact of Risk and Resilience Factors*, *Social Science & Medicine* 6 (8), 1208-1216 (2008).

See *supra* note 8, at 53.²⁵

Elizabeth Jean Wood, *Armed Groups and Sexual Violence: When is Wartime Rape Rare?* *Politics & Society* 37 (1), 131-162 (2009).²⁶

feminist struggles, and its isolation from the issues directly concerning the Israeli-Palestinian conflict.²⁷ The perception of gender rights as a social-domestic matter, not as an issue related to the political reality, can be a result of the cumulative effect of historical changes that have occurred in Israel in the 1990s, which brought social change in the subject of gender equality. This process is also related to the neo-liberal effects and cultural turning point that occurred in the global feminist discourse, which then led to reducing the public debate about the political and socio-economic issues of equality for women.²⁸

The entry of women to civic and political positions, the establishment of governmental mechanisms for the advancement of women, a series of military reforms and expansion of women's organizations' activities, all signified a real change in civil discourse on the status and rights of women in Israel.²⁹ All of these examples occur above the surface, while ignoring the profound change in the situation of women in Israel due to the conflict.

The public debate in Israel about the social and gender effects of the conflict remains limited, and few policy tools have been created to deal with them. Why? The literature suggests three, system-level characteristics that should be taken into consideration when explaining this phenomenon. First, despite the escalation of political violence in the years following October 2000, the State of Israel continued to develop national mechanisms and pass laws promoting gender equality for female citizens. Second, when examining the exact scope of both state-centered policies and women's groups' activities, it appears that the adverse effects of political violence on Israeli and Palestinian women's lives were not thought of in the context of gender equality. Rather, gender equality was perceived particularly relevant to three areas of governance that do not intersect with national security: equal representation, motherhood/labor rights, and gender-based violence. Third, women's peace politics became marginal, and the historic link between feminism and the political left in Israel has been uncoupled.³⁰

Another reason for the state and society's disregarding the intense changes the nature of the conflict has brought and its impact on the civilian population is related to

See *supra* note 8, at 48.²⁷

See *supra* note 27.²⁸

See *supra* note 8, at 48-49.²⁹

See *supra* note 5, at 8-9.³⁰

the belief that has taken root amongst policymakers, military elite and the public, that due to the ongoing conflict, Israeli society developed a "national strength" or social resilience,³¹ thus enabling it to cope with the psychological and other consequences of the armed conflict over time.³²

It should be noted that the position of women and the impact of armed conflict on women is by no means entirely negative. Indeed, for many women it can be a time for empowerment as they take over roles traditionally performed by men.³³ However, these achievements are usually short-lived, and upon the end of conflict, many of these advantages are generally lost, since women tend to be excluded from peace building as well as reconstruction processes.³⁴

The legal framework

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Israel has been a state party to CEDAW since 1991.³⁵ Upon ratification, the State of Israel records reservations and a declaration, as follows:

"1. The State of Israel disagrees with Article 7 (b) of the Convention regarding the appointment of women to serve in the religious courts, where such appointment is prohibited by the laws of the religious communities in Israel. In addition, this article was implemented in its entirety in Israel, and it is evident that women participate prominently in public life in all their aspects.

2. The State of Israel has reservations about Article 16 of the Convention, to the extent that the laws of personal status obligate the religious communities in Israel to not conform to the provisions of that article.

"Resilience - Fortitude, comes from the field of psychology and the study of human coping with ³¹ traumatic situations and natural disasters. The concept is a central component of defense strategy of many countries, and notes for the most part the developing the capabilities of the State and civilians to prevent and cope with terrorist activities". In Meir Elran, *Israel's National Resilience: the effects of the second Intifada on Israeli Society*, 16-17 (Tel Aviv: Tel Aviv University, 2006).

Dov Waxman, *Living with Terror, not Living in Terror: The Impact of Chronic Terrorism on Israeli Society*, 5 *Perspectives on Terrorism*, 4-26 (2011).

See *supra* note 8, at 29.³³

Judith Gardam and Hilary Charlesworth, *Protection of Women in Armed Conflict*, 22 *Human Rights Quarterly* (1), 148, 150 (2000).

See the Convention on the Elimination of all Forms of Discrimination Against Women Status at ³⁵ <https://goo.gl/6L5mCW>.

3. The State of Israel declares that it does not consider itself bound by paragraph 1 of Article 29 of the Convention, concerning the settlement of disputes."³⁶

In addition, Israel has not signed or ratified the Optional Protocol to the CEDAW from 2000. As a result of these reservations, the provisions of the CEDAW are not formally incorporated into Israeli domestic law, and therefore are not binding on Israel's national courts, although they do serve as guidelines.³⁷ In practice, all of the above are mainly reflected in women's inability to submit claims of violations of rights protected under the Convention, nor may the Committee initiate inquiries into situations of violations of women's rights. This reality distances Israel from a genuine legal obligation to improve the women's situation.

The United Nations' Resolution no. 1325 as "soft law" and its application in Israel

The Security Council adopted Resolution 1325 on October 31, 2000. The resolution defines the impact of armed conflict on women and girls in various fields such as domestic violence, denial of necessary services, poverty, under-representation, etc. The resolution reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, and in post-conflict reconstruction; it stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security. Resolution 1325 urges all actors to increase the participation of women and to incorporate gender perspectives in all United Nations peace and security efforts. It also calls on all parties to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, in situations of armed conflict. The resolution provides several important operational mandates with implications for Member States and the entities of the United Nations system.³⁸

In this paper, I shall argue that, according to Article 9 of the resolution,³⁹ stating that "The Security Council... calls upon all parties of armed conflict to respect

The reservations are presented, inter alia, on the UN WOMEN website, *available at* ³⁶ <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm> .
As presented in the ADALLAH legal center for Arab minority rights in Israel CEDAW monitoring ³⁷ report, *available at* <https://www.adalah.org/en/content/view/7516> .
What is U.N. Security Council Resolution 1325 and Why is it so Critical Today? (October 2010) ³⁸ https://www.usip.org/gender_peacebuilding/about_UNSCR_1325 .
Article 9 of the 1325 Resolution (2000) Adopted by the Security Council at its 4213th meeting, on ³⁹ 31 October 2000, *available at* <https://goo.gl/9PBbXo> .

fully the international law applicable to the rights and protection of women and girls, especially as civilians...", **Israel, as a party of an armed conflict, should embody the obligation to respect the rights of women, inter alia, by maintaining their economic and social status and not aggravating it.**

An examination of the Israeli case reveals the gradual development of four interpretations of Resolution 1325, some of which contradict each other, but only one seems to include a reference to the promotion of women's socio-economic rights and security in practice. According to Sarai Aharoni, different policy tools and directions of action are derived from each of the four interpretations. The following are the three other interpretations: the integration of women in decision-making, combining a variety of women in decision-making, and co-operation of civil society organizations in the process of negotiation. The fourth interpretation sees the resolution as a normative framework that enables the broadening of the concept of national and international security recognized by Resolution 1325, with the need to expand the concept of national security of Israel and to broaden the array of services provided to women in all areas of life; the interpretation especially seeks to recognize the need to maintain women's personal and economic security.⁴⁰ Reviewing the protocols of the monitoring of the implementation of UN Resolution 1325, parliamentary committees clearly show that the main interpretation that was adopted and applied by the Israeli decision makers was that which concerns equal representation of women in decision making and public positions.⁴¹ This interpretation was mainly reflected in the 2014 government resolution No. 2331. Resolution 2331 is considered to be the main mechanism for implementation of Resolution 1325 of the UN Security Council in Israel, and it is the only government decision that is directly attributable to the decision of the UN Security Council. Its purpose, as indicated in its title and elaborated in its content, is to promote gender equality, appropriate representation of women, and integration of gender perspective.⁴² The explanatory notes to the government's decision describe the UN Resolution 1325 and state that "dozens of countries have decided to implement Resolution 1325 through the adoption of the 'national action plan,'" and

See *supra* note 8, at 67. ⁴⁰

Research and Information Center of the Israeli Knesset, *UN Security Council of the United Nations* ⁴¹
Resolution No. 1325 and its implementation in legislation and government decisions in Israel
(December 23, 2015) <https://www.knesset.gov.il/mmm/data/pdf/m03722.pdf>.

Decision No. 2331 of the Israeli Government of December 14, 2014 ⁴²
<http://www.pmo.gov.il/Secretary/GovDecisions/2014/Pages/des2331.aspx>.

"considering the significant process was carried out among civil society organizations to promote women's rights, it is proposed to set up an inter-ministerial team to formulate a comprehensive action plan to promote gender equality in Israel...". It should be noted that, as of today, Israel does not appear in the list of countries where there is a national action plan, nor is it a country where this program is in preparation. Reviewing a proposal for such a plan written by several women's rights organizations and submitted to the government, does not include concrete suggestions for improving women's status or supporting women. However, it only includes the need to raise gender equality awareness among parliamentarians and a proposal to create a gender analysis for every bill or governmental decision.⁴³

The gap between the revolutionary rhetoric of Resolution 1325 and the actions taken by the Israeli decision makers, so as the Israeli legislation's focus on the issue of only numerical equal representation rather than on some more substantive aspects, can be explained in several possible ways.

First, the resolution has a limited legal status. It was adopted under Chapter 6 of the UN Charter, which deals with the settlement of disputes by peaceful means, rather than Chapter 7, which gives the Security Council extensive authority of action; therefore, Chapter 6 has no binding status, and is considered a "soft law" – a law whose application depends on the goodwill of states.⁴⁴ It may be most accurate to say that Resolution 1325 is a binding resolution – binding on all UN Member States under Article 25 of the UN Charter, but it is not a binding law that includes enforcement mechanisms and sanctions for failure to adhere to its provisions. Indeed, it contains no mention of accountability mechanisms, disciplinary actions, or monitoring and evaluative measures, nor does it even call for the creation of such devices. It does contain goals, commitments, and obligations, but it lacks the type of hard requirements that give laws teeth to deter and punish states and individuals who fail to abide by their terms.⁴⁵

Secondly, comparative studies dealing with the implementation of international norms to promote gender equality, such as those that arise from this resolution, show that although these norms have been adopted and have spread quite

The Van Leer Jerusalem institute, A Comprehensive Action Plan for the Application of United Nations Security Council Resolution 1325 (October 13, 2013) <https://goo.gl/x9f44R>.

See *supra* note 8, at 20.⁴⁴

Christy Fuijo, *From Soft to Hard Law: Moving Resolution 1325 on Women, Peace and Security Across the Spectrum*, 9 *Georgetown Journal of Gender and the Law* (1), 215-236 (2008).⁴⁵

rapidly and gained visibility and recognition, they may encompass different meanings, fit in with a variety of contexts, and be subject to framing by diverse actors.⁴⁶ In the Israeli case, such interpretation and framing is likely to be affected by local discourses on conflict resolution rooted by long-standing logics of aggression and militarism that are gender-blind and simultaneously buttress male domination.

Finally, the Israeli case exceeds to a certain extent the basic assumptions of Resolution 1325. From reviewing other cases around the world, the Israeli case indicates a significant relationship between the rates of military conflict and low economic development and gender equality, especially concerning political and social rights, protection against gender-based violence, access to education, health, and employment. Additionally, the fact that sex crimes are not part of the Military Operations Doctrine of the Israeli army (IDF),⁴⁷ and the participation of Jewish women in compulsory service, leads to the conclusion that some of the fundamental requirements listed in Resolution 1325 for protecting women and girls from sexual violence and the integration of women in fighting forces are irrelevant for the Israeli side of the conflict.⁴⁸

Reviewing the Israeli gender-promoting legislation from the year 2000

Despite the escalation of political violence in the years following October 2000, the State of Israel continued to develop national mechanisms and pass laws promoting gender equality for women citizens.⁴⁹

Examining the implementation of the gender agenda since 2000, as reflected in the Knesset's legislation patterns, debates of its Committee on the Status of Women and Gender Equality, allocation of budgets, High Court ruling, and the media coverage, it seems that issues relating to the status of women are still defined as a social, economic, and cultural interest; issues such as these are usually discussed outside of both the political and security contexts.⁵⁰ As for laws, in particular, reviewing the legislation

Aili Mari Tripp, *Introduction to Global Feminism: Transnational Women's Activism, Organizing and Human Rights*, 3-75 (New York: New York University Press, 2006).

Which is unsurprising considering the nature of the conflict, the geographical conditions and the proximity of Jewish Settlement and Palestine villages, and the relative regulation of the conflict by both sides.

See *supra* note 8, at 32.

Sarai Aharoni, *Women, Peace, and Security: United Nations Security Council Resolution 1325 in the Israeli Context*, Executive Summary (2015).

Sawsan Zaher, *Gender and Nationality in Judgment: Ruling of Women Judges in the Citizenship*

Law, Adalah's Newsletter, Volume 26, June 2006

<https://www.adalah.org/uploads/oldfiles/newsletter/heb/jun06/en1.pdf>.

process shows that, unlike other conflict zones, at a time of escalating regional conflict, the legislative action to promote gender equality was at its peak. Between 2000 and 2010, sixty-eight new laws were enacted addressing gender equality,⁵¹ dealing mainly with three key issues: women's equal representation in decision making; minimizing the wage gap between men and women by expanding protections to pregnant women and working parents; and eliminating various forms of gender-based violence.⁵²

A similar analysis of official press releases relating to women's status and issued by the Israeli Knesset from October 2000 to December 2005 (published during the Second Intifada) shows that, among all issues pertaining to the status of women in Israel, only some issues were considered by the legislature as particularly important: domestic violence, labor and welfare, reproductive rights, and trafficking in women.⁵³ It should be stressed that most discussions conducted by the Committee on the Status of Women revolving around issues related to the regional conflict mainly concerned the organizational processes relating to the service of women in the IDF and the police (the integration of women in combat roles, sexual harassment), and some in co-existence of Jewish women and Palestinian women.⁵⁴

The legislative and advocacy emphases, as described above, are mostly derived from the way members of the Knesset perceive the goals of the Committee on the Status of Women and Gender Equality, where most of the legislation and strategies were made. They thought that the Commission represents an area of consensus between representatives of different political parties and enables a symbolic and practical collaboration between them around a "generic subject" that everyone agrees upon. This created a situation in which, at times, the legislators acted in this matter, and especially around promoting women's social and economic rights as if there is an escalation in the conflict.⁵⁵

The perception that there should be a separation between the security and political situation and the activities to promote gender equality in Israel is evident in these reports produced by the Authority for the Advancement of the Status of Women in Israel and in the official documents submitted by the State of Israel to international

Legislation in the matter of Women equality in Israel, 2000-2010, The Authority for the
.Advancement of the Status of Women, Prime Minister's Office, 2011
<http://women.gov.il/WomenRights/Settlement/Pages/Legislation.aspx>.

See *supra* note 5, at 8-9.⁵²

*Ibid.*⁵³

See *supra* note 8, at 47-48.⁵⁴

*Ibid.*⁵⁵

institutions. For example, reading the report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), submitted by Israel in June 2005 to the UN committee, it is found that, although one of the clauses deals extensively with the reform of recruiting women to the military, the failure of the peace process, women's increasing exposure to terrorism, the effects of Israeli occupation and military operations in the West Bank and Gaza on civilians, or the involvement of local women in promoting peace, were absent from the report altogether.⁵⁶

These tendencies that shaped the response of legislators and governmental agencies can be partially explained by the conservative turn in the 2003 national elections when, for the first time in Israel's history, the majority of women law-makers represented the center-right political block.⁵⁷

Below I shall detail the government's decisions, bills and laws passed between the years of 2007-2014 relating the attempt to handle women's status and improve it.

Bill: Employment of Women Law Amendment - the right to be absent from work while on reserve duty of the spouse, 2007

This bill was brought for the Knesset's approval in a few versions, the earliest in 2007 and the latest in 2016. The Explanatory Notes mention that, allegedly, those who bear the burden of the reserve duty are men who are active service-members, but in fact, it is obvious that the wives of the soldiers bear the burden equally, as they are forced to comply with all of their prior obligations, such as their job, and in addition bear the burden of childcare alone, while their husbands are absent due to reserve service. It should be mentioned at this point that the period of reserve service can range from a few days to over a month.⁵⁸ During Operation Defensive Shield in 2002, a similar procedure was established by the Ministry of Defense, whereby any woman whose husband served in the reserves during the operation could be absent from work for at least an hour every day, in order to mitigate their additional tasks' execution. Therefore, this bill seeks to regulate the practice mentioned above, by law, and allowing employers

See *supra* note 8, at 49. ⁵⁶

See *supra* note 4, at 8. ⁵⁷

The Reserve Service Law, Section 3, 2008 ⁵⁸

http://www.milum.aka.idf.il/Sip_Storage/FILES/2/1752.pdf.

to be able to demand and receive compensation for this absence through national insurance, similar to the current payment arrangement applied in practice for the reservists themselves.⁵⁹

Although this bill seems to reflect a core issue in the space between conflict and women, and despite the occurrence of significant security incidents, it was rejected repeatedly over the last decade. In 2016, a final version of the bill passed the preliminary approval of the Knesset, but up until this day, it hasn't been officially approved.

Gender Implications Act legislation (Legislative Amendments), 2007

In 2007, Amendment No. 6 to the Women's Equal Rights Law was approved. This amendment added a new section to the law, which requires The Authority for the Advancement of the Status of Women to submit its official opinion paper analyzing the gender implications of any bill enacted by the legislature and any secondary legislation that will be submitted to a committee or consultation by a government official. It should be noted that the explanatory notes suggest there could be gender aspects in every bill. This examination may reveal to the legislature the gender implications of the legislation that, in a preliminary review and without the necessary attention, may seem as if they do not exist.⁶⁰ In 2010, sixty-nine such reviews were filed by the authority, and between 2013-2014, as many as two hundred and sixty-six such opinions were filed. Most reviews engaged with subjects such as prenuptial agreements, calculations of maternity benefits for freelancers, guardianship, and tax deductions.⁶¹

The Budget Law, 2000-2010

Review of the Literature which examines the state budget between 2004 and 2016 from a gender perspective, indicates a continuing trend of a negative impact on women as a

Employment of Women Law Amendment - the right to be absent from work due to a spouse's
reserve duty (2007) www.knesset.gov.il/privatelaw/data/19/1161.rtf.

See *supra* note 5, at 19.⁶⁰

The Civil Service Commission - The Prime Minister's Office, The Report of the Committee for the
Advancement of Women in the Civil Service (2014)
<http://www.pmo.gov.il/Secretary/Documents/women080614.pdf>.

part of the budget cuts made by the government annually,⁶² and due to the absence of balancing budgetary transfers in their favor.⁶³

In September 2001, a year after the outbreak of the Second Intifada, the Israeli government had begun taking a series of economic measures severely harming the labor market, including wages and employment rate, the pension insurance system, the social security network, the legal protection of employees in education, health, and welfare.⁶⁴ These economic measures were allegedly a comment to the decline in state tax revenues resulting from the contraction of the economic activity. The contraction, in turn, was the result of two main factors, the Second Intifada and the global recession (including the fall of the high-tech industry). Over time, the Intifada has become a dominant factor in the economic recession; while other parts of the world had begun to grow again, Israel continued to deteriorate. A number of trends can be identified in the budget laws throughout the years:

1. Social services: There has been a trend of reducing health services basket, cutting the budget of the Ministry of Health, Ministry of Education and Ministry of Housing, and cut rent subsidies grants.

2. Employment: The frequent budget cuts hit one of the main sources of employment in Israel, the public service. Women account for about two-thirds of all those employed by the state and are the main "victims" of those cuts.

3. Social Safety Net: The cut of the "social safety net" is mainly focused on two fundamental allowances – the income support allowance and the unemployment benefits. Women constitute about 65% of recipients of the income supplement support system. This high rate can be attributed to multiple factors, including the fact that women are responsible for childcare and elderly family members in need, low wages that women earn in the labor market, and their longer life expectancy.

4. Ministry of Health: There have been reductions in the budget of the Ministry of Health, both in the treatment providing services, and the research and development area. The Ministry of Health's budget is very significant for women for several reasons: (1)

The Adva Center Reports - The State Budget analysis in a Gender Lens: [2006](#), [2005](#), [2004](#), [2007](#),⁶² [2008](#), [2011-2012](#)

Sylvia Fogel-Viseu, *if it's so good then why is't so bad? Gender aspects of neo-liberalism in the labor market in Israel*, Israel's society and economy: a historical perspective and contemporary, 183, 184 (2005) (In Hebrew).⁶³

The Israel Democracy Institute report: Macroeconomic policy for 2002 to 2003 - Summary and Recommendations (In Hebrew) <https://www.idi.org.il/events/6753>.⁶⁴

more than 70% of those employed in the health sector are women, (2) women use the health services more often than men, due to their longer life expectancy and because they suffer more matters connected with reproduction, and (3) women are the main caregivers of children in the family, which makes them interact more frequently with the system.

5. Defense Budgets: Upon the outbreak of the Second Intifada, the defense budgets were in decline. Since then, the budget only tendentiously continued to grow each year, compared to other ministries whose budgets were cut transversely. In August 2006, the Defense Ministry demanded to increase its budget, and the government has set up a committee headed by David Brodet, whose purpose was to examine the particular application as well as the defense budget and its needs in general. The result: Brodet Committee recommended a cumulative addition of 46 billion ILS to the budget of the Ministry deployed over 10 years – an average of 6.4 billion per year. Therefore, it is not surprising that during most of the past decade, the defense expenditures per capita reduced the expense of the social services' budgets.⁶⁵

Resolution 2084 of the government: the adoption of the Commission's recommendations for gender analysis of the state budget in Israel, 2014

In this decision, the government adopted the recommendations of the Commission for gender analysis of the state's budget. The committee submitted its report in November 2014 to the Minister of Finance. According to the report, "gender budgeting" means the implementation of the gender aspect in all budgeting processes, starting from its design, through setting its goals, the assigning of various expense and tax policy, up to examining the performance of the budget after its implementation. The main recommendation in the report is to sustain gender examination for the entire state budget, both in terms of government revenues and in terms of costs, in a perennial process. The report mentions that the gender perspective on the state budget will allow policy makers to improve the allocation of the budget in a way that will suit the women's actual needs.⁶⁶

Such a report was first assigned in 2014,⁶⁷ and it presented data indicating the weakness of women in every area reviewed such as employment, wages and

See *supra* note 62, on the 2008 report. ⁶⁵

See *supra* note 5, at 20.⁶⁶

The Report of the Committee for the Gender Examination of the State Budget in Israel (2013) ⁶⁷
<http://mof.gov.il/Committees/MigdaritCommittee/committeeReport.pdf>.

representation in higher education, all of which correspond to the data presented in this work at an earlier stage. However, future reports may improve the budget allocation in a way that will promote women's status regarding the fact that the budget analysis presented above refers to the period of time prior to this government decision, and therefore will allow the government to focus on specific areas related to women's needs and generate an appropriate response for them.

National priority areas – a governmental decision implemented by the Economic Efficiency Law, 2009⁶⁸

On December 2009, the Israeli government approved Decision No. 1060, entitled “Defining Towns and Areas with National Priority.” The decision classifies various regions in Israel and settlements in the occupied West Bank as National Priority Areas (NPAs). The decision designated the areas to be classified as NPAs based on four criteria: a combined index defining periphery areas together with socioeconomic cluster; the level of security threat; distance from an international border; and whether a community has been established within the previous five years. The decision did not specify which communities were to receive the budget benefits, but instead, it designated broad regions as NPAs, leaving the task of allocating specific budgetary allowances to the government and individual ministers. Thus, the decision distinguishes between the definition of an area as an NPA and whether a specific town in this area will receive additional budget allocations. In addition, the following fields were marked out for NPA benefits: education, including higher education; housing and urban development; employment; engineering infrastructure; and culture and sport. However, the government did not specify the components of these benefits.⁶⁹

Regarding each of the four categories for which the law offered support, women may be counted for all (economic, social, and geographic periphery). adding that to their extra burden as was mentioned before, and the worsening of their condition and struggles due to the conflict, this law should have treated women in particular as a sub-group and devote special care to women in national priority areas. It is unclear why the

Government Decision No. 667 of 04.08.2013, defining towns and regions as national priority areas ⁶⁸

<http://www.pmo.gov.il/about/Projects/Documents/667.pdf>.

Adalah - The Legal Center for the Arab Minority Rights in Israel, A Position Paper on the Israeli ⁶⁹

government's new Decision Classifying Communities as National Priority Areas, (February 2010)

<https://goo.gl/t1MgXr> .

law does not include any specific reference in their matter what so ever, a disregard which may indicate a lack of awareness on the part of the decision makers to the state of women, and the profound implications they experience as a result of the conflict.

A Comparative Law review - the Northern Ireland conflict vs. the Israeli-Palestinian conflict

This comparison is made in order to examine the Israeli legal situation as presented in the previous section, especially the government's awareness and operating range in its actions to reduce the effects of conflict on women. The comparison may enlighten the Israeli case in a different light, positive or negative one, as a result of its success in dealing with the situation, in relation to other cases.

Review of literature shows that the comparison between the Israeli-Palestinian conflict and the conflict in Northern Ireland is not uncommon. Both the Northern Irish case and the Israel-Palestinian case share similar analytical comparators such as: double minority problems; siege mentality of the dominant community; partition of land; segregation of the opposing communities; and security issues, to name a few.⁷⁰

The Northern Ireland conflict was a long historical conflict, culminating in a thirty-year (1968-1998) bout of political violence, low intensity armed conflict and political deadlock within the six north-eastern counties of Ireland that formed part of the United Kingdom of Great Britain and Northern Ireland. It was a complex conflict with multiple armed and political actors. It included an armed insurgency against the state by elements of the Catholic or nationalist population, principally waged by the Provisional Irish Republican Army (IRA), though it also included other republican factions, with the aim of creating a united, independent Ireland.⁷¹

During the "worst of the Troubles" in Northern Ireland, from the late 1960s until the Good Friday agreement in 1998, paramilitary groups from both sides carried out deadly attacks against each other, British troops and innocent civilians. The conflict brought with it bombings, murders, torture and cruel punishments. In 1998 political

John Doyle, *Irish Nationalism and the Israel-Palestinian conflict* (Dublin City University, 2007), ⁷⁰
<http://doras.dcu.ie/2137/1/2007-2.pdf> ; Nirit Anderman, "How the Irish View the Israel-Palestinian Conflict" **HAARETZ Website** (October 19, 2012) <https://goo.gl/tPxMg9> .

John Dorney, "The Northern Ireland Conflict 1968-1998 - An Overview" *The Irish Story* (February 9, 2015) ⁷¹
<https://goo.gl/tR9Xpj> .

leaders from the Protestant and Catholic factions, along with officials from London, signed a peace agreement on Good Friday, later known as "The Good Friday accords".⁷²

To be sure, drawing analogies between these conflicts is fraught with difficulties. Northern Ireland and Israel/Palestine stand worlds apart in terms of the disparate scale of military and paramilitary violence as well as the unique historical conditions and geopolitical influences that have been brought to bear on these cases of protracted ethno-national conflict.⁷³ Unlike Israel, the Northern Ireland conflict is identified with a high rate of sexual based violence, and a large scope of sexual and gender-based assaults. More importantly, the Northern Ireland conflict has ended in an official peace agreement between the belligerents, a condition Israel and the Palestinians seem to be years away from.⁷⁴

As in the Israeli case, gender analyses of women's condition during the conflict and in the years afterward shows that women carried most of the burden, both economically and socially. This conflict affected women directly, personally and adversely especially in the 1960's and 1970's, both because of economic decline but also with the concomitant rise in violence due to the troubles.⁷⁵ According to a secondary analysis of a nationally representative population survey conducted in 1997, right before the conflict was officially ended, women were more likely (than men) to have significant psychological effects as a result of the conflict, and there was a clear association with their representation in the population of lower socio-economic status.⁷⁶ Women were also most likely to bear the burdens of rearing children alone, to be in the low paid and unofficial labor market, to have less disposable income and, when married, to have less share of and less control over family incomes.⁷⁷

There are different elements to examine in order to compare the Northern Ireland government's conduct in this matter to that of Israel, such as: the reference level

Wilson Dizard, "Northern Ireland hears an echo of itself in Israeli-Palestinian conflict" Aljazeera America (July 31, 2014) <https://goo.gl/LU42Eu> .

See Doyle, *supra* note 70. ⁷³

Dr Ruth McAlister, *Sexual Violence in Conflict Societies: Lessons for Ireland* (2015) available at <http://uir.ulster.ac.uk/34231/1/Final%20report%20formatted%202.pdf> .

Kristen P. Williams and Joyce P. Kaufman, *Women, the State, and War: A Comparative Perspective on Citizenship and Nationalism*, 157-158 (Maryland: Lexington Books, 2007). ⁷⁵

Dermot O'Reilly and Stevenson M., *Mental health in Northern Ireland: have "the Troubles" made it worse?* 57 *Journal of Epidemiology & Community Health* 488-492 (2003). ⁷⁶

Eilish Rooney, *Women's Equality In Northern Ireland's Transition: Intersectionality In Theory And Place*, 14 *Feminist Legal Studies* (3) 353, 354 (2006). ⁷⁷

of the government to women situation and the creation of appropriate and suitable solutions, budgetary actions taken in relation to the needs arising from the conflict and its implementation of international law such as the Resolution 1325.⁷⁸ This can mainly be done by reviewing bills, laws and government decisions, as was conducted in the previous section. The comprehensive review of the legal situation in Israel earlier presented, examined the various components listed above and showed an ambivalent picture in relation to the Israeli's government functioning in this matter.

The comparison will focus on the legislative acts the Northern Ireland government has taken in order to improve women's situation, during the peak of the conflict, and the years after it ended.

1. Reviewing **the budget acts** for the years 2000-2003, shows neither a special reference to women in general, nor a reference to the general population who might have grown special needs as a result of the recently ending conflict.⁷⁹

2. The parliament has passed several laws which ultimately benefit women, though there is no indication that there is a binding connection between the enacting of the laws and the status of women in post conflict times. **Several examples of these laws are as follows:**

a.) **The 1976 Sex Discrimination (Northern Ireland) Order** - Prohibits direct and indirect discrimination, harassment or victimization on the grounds of sex, marital or civil partnership status, family status, gender reassignment and maternity or pregnancy. It covers conduct of employers, employment agencies, trade unions and training/qualifications bodies. It protects employees, office holders, partnerships and contract workers.

b.) **The 1985 Equal Pay (Amendment) Act** - Allows women to be paid the same as men for work of equal value.

c.) **The 1986 Combat Poverty Agency Act** - The Combat Poverty Act is tasked to examine the nature, causes and extent of poverty and to advice on policies and the promoting of national action plans to overcome poverty.

As examined in this study in relation to the Israeli-Palestinian conflict.⁷⁸
Northern Ireland Budget (No. 2) Act (2001), CHAPTER 16 *available at* ⁷⁹
http://www.legislation.gov.uk/nia/2001/16/pdfs/nia_20010016_en.pdf ; Northern Ireland Budget (No.
2) Act (2002), CHAPTER 7 *available at*
;http://www.legislation.gov.uk/nia/2002/7/pdfs/nia_20020007_en.pdf

d.) **The 1998 "Good Friday" agreement** - While not specific to women, The Agreement text stated that all cultures were valuable and worthy of respect. With specific reference to women, The Agreement recognized as a human right, “the right of women to full and equal political participation” as well as the right of [all] individuals to “pursue democratically national and political aspirations”.⁸⁰

e.) **The 1977 Social Security Order, and The 1980 Social Security (Benefit) (Married Women and Widows (Special Provisions) (Amendment) Regulations⁸¹** - Increased women's benefits and provisions.

f.) **The 2002 UK Sex Discrimination (Election Candidates) Act and The 2003 Employment Equality (Sexual Orientation) Regulations** - The Sex Discrimination Act permits, but does not require, political parties in Northern Ireland to adopt, as a temporary provision, positive discrimination measures for women candidates for election.⁸² The Regulations make it unlawful for employers and others to discriminate on grounds of sexual orientation in the areas of: employment and vocational training, including further and higher education.⁸³

Another important review is to the implementation of the UN 1325 Resolution. In 2014 the UK government launched the UK National Action Plan on Women, Peace and Security 2014-2017: Country-Level Implementation Plan. Yet the British government does not agree that the conflict in Northern Ireland meets the definition of ‘armed conflict’ as defined under international law, which they consider essential for implementing UN Security Council Resolution 1325. As such, the UK government has deemed Security Council Resolution 1325 on Women, Peace and Security not applicable to Northern Ireland.⁸⁴ The unique positioning of Northern Ireland as part of

Women's Rights: Northern Ireland Good Friday Agreement, Strand Three: Rights, Safeguards and Equality of Opportunity, Peace Accords Matrix *available at*

<https://peaceaccords.nd.edu/provision/womens-rights-northern-ireland-good-friday-agreement>.

The Social Security (Women's Class 2 Contributions) Order (Northern Ireland) 1977, *available at*⁸¹ http://www.legislation.gov.uk/nisr/1977/10/pdfs/nisr_19770010_en.pdf; The Social Security (Benefit) (Married Women and Widows. Special Provisions) (Amendment) Regulations (Northern Ireland) 1980, *available at* http://www.legislation.gov.uk/nisr/1980/271/pdfs/nisr_19800271_en.pdf.

Katherine Side, Women's Civil and Political Citizenship in the Post-Good Friday Agreement Period in Northern Ireland (September 2007) *available at* <https://www.qub.ac.uk/cawp/research/KSIDE%20PAPER.pdf>.

#1661 Employment and Training Sexual Orientation Discrimination The Employment Equality (Sexual Orientation) Regulations (2003), *available at* http://www.legislation.gov.uk/ukxi/2003/1661/pdfs/ukxi_20031661_en.pdf.

"CEDAW Discusses the Implementation Of UNSCR 1325 In The United Kingdom" Women's International League For Peace And Freedom (July 31, 2013) <https://goo.gl/oQR721>.

the United Kingdom but also closely linked to Ireland brings to light both the challenges and the innovation potential arising out of implementation processes of UNSCR 1325 at the official state and community levels, if they are to be implemented.⁸⁵

A normative discussion – the government's legal obligation towards women in court

In 1992, the Israeli Knesset adopted two Basic Laws dealing with human rights: Basic Law: Human Dignity and Liberty, and Basic Law: Freedom of Occupation. These two Basic Laws that grant explicit constitutional protection of human rights. With the passage of those two laws, the power of the Israeli judiciary has expanded dramatically to include the ability to strike down Knesset legislation that in the Supreme Court's opinion violates normative human rights guarantees.⁸⁶

In 2003, the Judiciary had the opportunity to discuss the boundaries of the Basic Law: Human Dignity. In that year, a record year during the second Intifada, an appeal was filed to the Supreme Court by the Association for Civil Rights, the "movement for Poverty Fighting" and the "Commitment to Peace and Social Justice" movement, together with two civilians who sought to sue the government for the cuts in the income supplement benefits it carried out that year as part of the Emergency Economic Plan. A majority of six, against the dissenting opinion of Judge Edmond Levy, dismissed the appeal. However, the importance of this decision is the Supreme Court's recognition of the constitutional right to live a dignified life, the state's duty to provide its citizens this right, and the authority of the court to impose this obligation on the state.⁸⁷ During the three years of the hearing, this verdict has undergone many changes. First, a composition of three judges led by Justice Dalia Dorner in January 2004 issued a court order requiring the state to set a standard for what 'maintaining human dignity' is. After the retirement of Judge Dorner, a different composition of judges focused on the original demand of the petitioners – and required the State to justify its actions and to explain why the cuts in income support do not violate the petitioners' constitutional rights.

Melanie Hoewer, UNSCR 1325 In Northern Ireland: Opportunities, Challenges and Complexities ⁸⁵ (October 2, 2012) available at <https://goo.gl/P9qqGm> .

Hillel Neuer, *Aharon Barak's Revolution*, 3 Tchelet journal (1998) available at ⁸⁶ <http://www.daat.ac.il/daat/ezrachut/english/hillel.htm>

HCJ 366/03 Commitment to Peace and Social Justice v Minister of Finance et al (unpublished, ⁸⁷ 12.12.2005)

With regards to this paper, it is crucial to understand the State's response to the petition, and its position regarding the right to live in dignity. The State's main argument concluded: "The right to live in dignity, enshrined in the Basic Law: Human Dignity and Liberty, produces the State's obligation, which is to protect the dignity of a person only against a situation of severe shortage. In other words, the duty of the State is to prevent a person from living in degrading physical conditions, and in this case, that duty was not breached. In general, the income supplement benefits are an assistance and support tool for the disadvantaged, and it does not stand alone...(among a range of benefits provided by the state). In order to determine whether this specific aid fulfills its duty of enabling dignified life, one must examine all of the services provided by the state. Therefore, it can be concluded that a reduction in the rate of the benefit is not a violation of human dignity. This reduction was carried out due to a necessity in the State budget cuts, and incorporates other measures. The Income supplement benefits are not the only guarantee of human dignity, and therefore do not lead to a constitutional right violation." The issue of the right to live in dignity as a constitutional right appears in other Supreme Court rulings,⁸⁸ such as the *Manor v. the Minister of Finance* case, which dealt with the relationship between the right to social security and the right to live with dignity, as it assumes the last overlaps with the core of the right to social security and that its implementation is mainly through the Budgetary support from the government.⁸⁹

The core concept examined in this paper relates directly to the issue of the right to live in dignity, and in particular the state's commitment towards women's status as required by Article 9 of the UN 1325 resolution.⁹⁰ Hence, in view of the above, and in light of the apparent trend of the State to shirk its responsibility toward its citizens' standard of living, one would expect the predictable response of the State to a hypothetical petition one could file against the State's failure to stand for its obligations towards women and their social and economic advancement by law and in practice.

See, i.e, HCJ 161/94 Elijah Itri v State of Israel, Standard-94 (1), 1283 (1994); Labour Court (national) 04-265 follower Simon v National Insurance Institute (unpublished, 1.9 1997); HCJ 890/99 Hallamish v National Insurance Institute, PD her (1), 421 (2000).
HCJ 5578/02 Manor v Minister of Finance, PD Net (1) 729 (2004).⁸⁹

See *supra* note 39.⁹⁰

Summary and conclusions

This paper has tried to point out the legal framework of the connection between two fundamental phenomena in the Israeli society – the ongoing Israeli-Palestinian violent conflict and the weakened status of women within the Israeli society.

The first part asked to review the background of the conflict and how it affects women as a whole. It suggests that, while examining the conflict, one should pay attention to the conflict's changing nature through time and understand that time has changed not only the way the conflict is reflected and viewed, but also its possible consequences and effects.

The second part asked to review in detail the relationship between conflict and its consequences for women. This suggests that the characteristics of the current conflict, and especially the blurring of the distinctions between the battlefield and home front and between combatants and civilians, have clear, gendered aspects. These consequences are expressed in drastic change in the status of women in society in which they live and in the country in general, in the deterioration of their economic circumstances, and as generally, in times of conflict, they carry a double burden – first, by their affiliation to the economic, social, and geographic periphery, in addition to the inequality they suffer from as women, which is then aggravated due to the conflict. This burden on their shoulders can only grow heavier due to lack of government's involvement and acts, and the limited public debate in Israel about the social and gender effects of the conflict. It is important to mention that this conflict has no official solution in sight, and that Israel is consistently entering violent confrontation every few year, facts that only emphasize the urgent need for recognition of those effects and immediate solutions.

The third part examined the legal aspect of the situation in Israel, and reviewed primary legislation and bills, government decisions and their application, and the implementation of customary international law. This part clearly shows that the Israeli legislators follow the trend of the depoliticization of the feminist struggles and its isolation from the issues directly concerning the Israeli-Palestinian conflict. The clear image that shows two far away poles can't be any clearer – while ostensibly the State managed to preserve some achievements in the field of women's equal rights, and they even managed to expand the areas of legislation and government intervention, the data analyzed through a gender perspective shows that almost none of these actions actually

contributed to the improvement of women's status for the short or the long run. This is also the situation regarding the implementation of international norms in the form of UN 1325 Resolution – the Israeli government's narrow interpretation did not reflect the immediate and long-term challenges in promoting gender equality at the national level and did not give satisfactory expression to the other interpretations of Resolution 1325. The government must immediately act in two parallel paths: the first is to better understand the real effects of the conflict of women, their immediate needs and struggles and create a legislation that would constitute a solution to the existing problems based on a thorough study of the gaps reflected in the existing legislation. The second is to formulate an NAP in order to implement the 1325 Resolution. The government has announced this action in 2014, but has not made a concrete step towards fulfilling it. The announcement should be translated into practical action that will lead to the establishment of an authorized government body in which civil society organizations have advisory status.

The fourth part compared the Israeli-Palestinian conflict, and the social and economic gap it created, with the Northern Ireland case, in order to examine its legislative aspect. Unfortunately, despite the similarities between the two cases, it appears that there is no real conclusion from the way things were handled in this case. Northern Ireland is struggling to this day to recognize the profound implications of the conflict that took place on its territory, and as a result, is unable to provide adequate solutions to the needs that resulted from it. The last part sought to deal with the normative question regarding the State's obligation towards an improvement of women's status. Here we are faced with some food for thought: The question of the right to a dignified life established itself in Supreme Court rulings and is a convenient starting point for future claims relating the lack of proper care given by the State, to women effected by the conflict.

Bibliography

Adalah - The Legal Center for the Arab Minority Rights in Israel, A Position Paper on the Israeli government's new Decision Classifying Communities as National Priority Areas, (February 2010). <https://goo.gl/t1MgXr>

Aili Mari Tripp, Introduction to Global Feminism: Transnational Women's Activism, Organizing and Human Rights, 3-75 (New York: New York University Press, 2006).

Article 9 of the 1325 Resolution (2000) Adopted by the Security Council at its 4213th meeting, on 31 October 2000, available at <https://goo.gl/9PBbXo>

Budget (No. 2) Act (2002), CHAPTER 7 available at http://www.legislation.gov.uk/nia/2002/7/pdfs/nia_20020007_en.pdf

CEDAW monitoring report, available at <https://www.adalah.org/en/content/view/7516>

“CEDAW Discusses the Implementation Of UNSCR 1325 In The United Kingdom”, Women's International League For Peace And Freedom (July 31, 2013). <https://goo.gl/oQR721>

Christy Fuijo, From Soft to Hard Law: Moving Resolution 1325 on Women, Peace and Security Across the Spectrum, 9 Georgetown Journal of Gender and the Law (1), 215-236 (2008).

Convention on the Elimination of all Forms of Discrimination Against Women Status at <https://goo.gl/6L5mCW>

Dalia Sachs, Amalia Saar and Sarai Aharoni, How can I feel for others when I myself am beaten? The impact of the armed conflict on women in Israel, Sex Roles: A Journal of Research (57), 593-606 (2007).

Dalia Sachs, Amalia Saar and Sarai Aharoni, Silent Witnesses: Women in the Israeli-Palestinian Conflict, 27-29 (Isha l'Isha: Haifa, 2005) (in Hebrew).

Dalia Sachs, Amalia Saar and Sarai Aharoni. “How can I feel for others when I myself am beaten? The impact of the armed conflict on women in Israel”, Sex Roles: A Journal of Research (57):593-606, 604 (2007).

Daniel Bar-Tal, Living with The Conflict: Socio-Psychological Analysis of The Israeli-Jewish Society (Jerusalem: Carmel 2007).

Decision No. 2331 of the Israeli Government of December 14, 2014 <http://www.pmo.gov.il/Secretary/GovDecisions/2014/Pages/des2331.aspx>

Dermot O'Reilly and Stevenson M., Mental health in Northern Ireland: have “the Troubles” made it worse? Journal of Epidemiology & Community Health 488-492 (2003).

Dov Waxman, Living with Terror, not Living in Terror: The Impact of Chronic Terrorism on Israeli Society, 5 Perspectives on Terrorism, 4-26 (2011).

- Dr Ruth McAlister, *Sexual Violence in Conflict Societies: Lessons for Ireland* (2015) available at <http://uir.ulster.ac.uk/34231/1/Final%20report%20formatted%202.pdf>
- Eilish Rooney, *Women's Equality In Northern Ireland's Transition: Intersectionality In Theory And Place*, 14 *Feminist Legal Studies* (3) 353, 354 (2006).
- Eli Zommer, Avi Bleich (ed.), *Mental Health In The Shadow Of Terrorism: The Israeli Experience*, (Tel Aviv: Ramot at Tel Aviv University, 2005).
- Elizabeth Jean Wood, *Armed Groups and Sexual Violence: When is Wartime Rape Rare?* *Politics & Society* 37 (1), 131-162 (2009).
- Employment of Women Law Amendment - the right to be absent from work due to a spouse's reserve duty* (2007) www.knesset.gov.il/privatelaw/data/19/1161.rtf
- Employment and Training Sexual Orientation Discrimination The Employment Equality (Sexual Orientation) Regulations* (2003), available at http://www.legislation.gov.uk/uksi/2003/1661/pdfs/uksi_20031661_en.pdf
- Government Decision No. 667 of 04.08.2013, defining towns and regions as national priority areas <http://www.pmo.gov.il/about/Projects/Documents/667.pdf>
- Hanna Herzog, *gender perspective discourse on the occupation - sociological perspective*, in *The Effect of The Occupation On The Israeli Society* 350, 361 (Daniel Bar-Tal Itzhak Schnell Ed., 2013).
- Hillel Neuer, *Aharon Barak's Revolution*, 3 *Tchelet Journal* (1998) available at <http://www.daat.ac.il/daat/ezrachut/english/hillel.htm>
- John Dorney, "The Northern Ireland Conflict 1968-1998 - An Overview" *The Irish Story* (February 9, 2015). <https://goo.gl/tR9Xpj>
- John Doyle, *Irish Nationalism and the Israel-Palestinian conflict* (Dublin City University, 2007), <http://doras.dcu.ie/2137/1/2007-2.pdf>
- Judith Gardam and Hilary Charlesworth, *Protection of Women in Armed Conflict*, 22 *Human Rights Quarterly* (1), 148, 150 (2000).
- Katherine Side, *Women's Civil and Political Citizenship in the Post-Good Friday Agreement Period in Northern Ireland* (September 2007) available at <https://www.qub.ac.uk/cawp/research/KSIDE%20PAPER.pdf>
- Kristen P. Williams and Joyce P. Kaufman, *Women, the State, and War: A Comparative Perspective on Citizenship and Nationalism*, 157-158 (Maryland: Lexington Books, 2007).
- Legislation in the matter of Women equality in Israel, 2000-2010*, The Authority for the Advancement of the Status of Women, Prime Minister's Office, 2011. <http://women.gov.il/WomenRights/Settlement/Pages/Legislation.aspx>
- Mark Tessler, *A History of the Arab-Israeli Conflict* (Indianapolis: Indiana University Press, 1994).

Meir Elran, Israel's National Resilience: the effects of the second Intifada on Israeli Society, 16-17 (Tel Aviv: Tel Aviv University, 2006).

Melanie Hoewer, UNSCR 1325 In Northern Ireland: Opportunities, Challenges and Complexities (October 2, 2012) available at <https://goo.gl/P9qqGm>

Nirit Anderman, "How the Irish View the Israel-Palestinian Conflict" HAARETZ Website (October 19, 2012). <https://goo.gl/tPxMg9>

Northern Ireland Budget (No. 2) Act (2001), CHAPTER 16 available at http://www.legislation.gov.uk/nia/2001/16/pdfs/nia_20010016_en.pdf ; Northern Ireland

Palmieri et al, The Psychological Impact of the Israel–Hezbollah War on Jews and Arabs in Israel: The Impact of Risk and Resilience Factors, Social Science & Medicine 6 (8), 1208-1216 (2008).

Research and Information Center of the Israeli Knesset, UN Security Council of the United Nations Resolution No. 1325 and its implementation in legislation and government decisions in Israel (December 23, 2015) <https://www.knesset.gov.il/mmm/data/pdf/m03722.pdf>

Sachs, Dalia, Amalia Saar and Sarai Aharoni. (2007). “How can I feel for others when I myself am beaten? The impact of the armed conflict on women in Israel”, Sex Roles: A Journal of Research (57) 593-606 (2007).

Sarai Aharoni, Internal variation in norm localization: Implementing Security Council\ Resolution 1325 in Israel, Social Politics 21(1), 1-25 (2014).

Sarai Aharoni, Women, Peace, and Security: United Nations Security Council Resolution 1325 in the Israeli Context, Executive Summary (2015).

Sawsan Zaher, Gender and Nationality in Judgment: Ruling of Women Judges in the Citizenship Law, Adalah's Newsletter, Volume 26, June 2006.
<https://www.adalah.org/uploads/oldfiles/newsletter/heb/jun06/en1.pdf>

Swirski et al, Two Years Of Destructive Economic Policy: A Gender Perspective Of The State Budget Proposal (Tel Aviv: Adva Center, 2004) (in Hebrew).

Sylvia Fogel-Viseu, if it's so good then why is't so bad? Gender aspects of neo-liberalism in the labor market in Israel, Israel's society and economy: a historical perspective and contemporary, 183, 184 (2005) (In Hebrew).

The Adva Center Reports - The State Budget analysis in a Gender Lens: 2006, 2005, 2004, 2007, 2008, 2011-2012.

The Civil Service Commission - The Prime Minister's Office, The Report of the Committee for the Advancement of Women in the Civil Service (2014).
<http://www.pmo.gov.il/Secretary/Documents/women080614.pdf>

The Report of the Committee for the Gender Examination of the State Budget in Israel (2013). <http://mof.gov.il/Committees/MigdaritCommittee/committeeReport.pdf>

The Reserve Service Law, Section 3, 2008.

http://www.miluum.aka.idf.il/Sip_Storage/FILES/2/1752.pdf

The Social Security (Women's Class 2 Contributions) Order (Northern Ireland) 1977, available at http://www.legislation.gov.uk/nisr/1977/10/pdfs/nisr_19770010_en.pdf

The Social Security (Benefit) (Married Women and Widows. Special Provisions) (Amendment) Regulations (Northern Ireland) 1980, available at http://www.legislation.gov.uk/nisr/1980/271/pdfs/nisr_19800271_en.pdf

The Van Leer Jerusalem institute, A Comprehensive Action Plan for the Application of United Nations Security Council Resolution 1325 (October 13, 2013). <https://goo.gl/x9f44R>

The Van Leer Jerusalem institute, Women, Peace, and Security: United Nations Security Council Resolution 1325 in the Israeli Context (in Hebrew) (2015), 39-40.

The Israel Democracy Institute report: Macroeconomic policy for 2002 to 2003 - Summary and Recommendations (In Hebrew) <https://www.idi.org.il/events/6753>

UN WOMEN website, available at <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>

What is U.N. Security Council Resolution 1325 and Why is it so Critical Today? (October 2010). https://www.usip.org/gender_peacebuilding/about_UNSCR_1325

Wilson Dizard, "Northern Ireland hears an echo of itself in Israeli-Palestinian conflict" Aljazeera America (July 31, 2014). <https://goo.gl/LU42Eu>

Women's Rights: Northern Ireland Good Friday Agreement, Strand Three: Rights, Safeguards and Equality of Opportunity, Peace Accords Matrix available at: <https://peaceaccords.nd.edu/provision/womens-rights-northern-ireland-good-friday-agreement>