



ISRAEL

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Overview

Overall, the Israeli system, as formulated by law, reflects an attempt to accommodate religious as well as language diversity within the Israeli educational system, on the one hand, and to ensure that each pupil acquires some basic skills and internalizes a core of democratic values, on the other hand.

In recent years, however, there has been a controversy in Israel regarding the role of ultra-orthodox (Haredi) Jewish private schools. A dramatic increase was reported in the number of pupils attending these schools, rising from 7.6 percent of all Jewish pupils attending primary school in the 1989/1990 school year to 28.9 percent of all such pupils in 2010/2011. This increase can partly be attributed to a sharp increase in the funding of such schools, which in some cases is even greater than the funding granted to public schools (secular and religious). However, the substantial funding of Haredi schools was not accompanied by effective supervision of the curriculum taught in these schools.¹ In practice, most of these institutions do not teach the required core curriculum, nor do they teach subjects such as citizenship, which are aimed at the cultivation of democratic values.²

Private education in Israel, and more specifically Haredi education, fails to inculcate in its students the social and political norms that constitute the bedrock of democracy. Moreover, in contemporary 'knowledge society' it is also imperative that students acquire a broad set of academic skills that would enable them to contribute to the economy as adults. At least in so far as the Haredi education system is concerned, the State of Israel has failed to guarantee such an education. The central reason for this failure is the political power of the ultra-orthodox community which is employed to jealously protect ultra-orthodox schools from almost any form of state oversight despite generous state funding. As a result, the private school system in Israel (including to a lesser extent non-religious schools) is characterized by a unique combination of high public subsidies juxtaposed with exceptionally weak state accountability and control.

The structure of schooling

Schools in Israel are organized on the basis of the language in which teaching is conducted and on the basis of the distinction between public - including both secular and religious - and private schools. In school year 2009/2010, approximately 73 percent of all students in the State attended schools which teach in Hebrew, while approximately 27 percent attended schools which teach in Arabic.

59 percent of all Jewish students attend non-religious public schools and 18.4 percent of all Jewish students attend public religious schools (for 2010/2011). 99 percent of all Arab students attend public schools which teach in Arabic. Public schools are established and funded by the State or by local authorities and are subject to the curricula created by the State. Private schools are divided into "recognized" and "unrecognized" schools. A "recognized" private school is a school which meets certain standards set by the Minister of Education and receives public funding. "Recognized" Hebrew schools include the majority of the schools which serve the Israeli Haredi community, as well as ideological schools, such as those promoting humanist and anthroposophist education. The "recognized" Arab schools include a small number of Church schools, considered elite educational institutes, which are attended by Christian and Muslim students comprising less than one percent of all Arab students in Israel. The "unrecognized" private schools are exempt from any state curricular supervision and receive more limited state funding than recognized schools (55 percent of per pupil public funding). The unrecognized category is comprised of independent Haredi schools which in school year 2006/2007 were attended by some 7.4 percent of all Jewish students at the primary school level.³

As part of a reform in the education system, decided upon in 1968, most institutes of education have been divided into three levels: primary schools (grades 1-6); lower secondary schools (grades 7-9); and upper secondary schools (grades 10- 12). The central object of the reform in education was to promote integration and allow students from lower socio-economic backgrounds to attend lower secondary schools together with students from more affluent backgrounds.

In Israel, control of public schools and supervision over “recognized” private schools is conducted by the central government in collaboration with local authorities. In recent years, central government control has been reduced while local authorities have become increasingly involved in regulating the field of education. The bulk of funding for public schools is provided by state funds. Local authorities allocate plots for the construction of schools while the State finances the bulk of building expenses. In addition to this, some schools independently raise funds by means of non-profit organizations. The pedagogic arena is supposed to be the purview of the central government alone; however local authorities are gnawing at the central government’s authority in this area too. Nowadays, local authorities engage in a variety of affairs including the design of new modes of schooling, curriculum planning and development, research, supervision and educative evaluation. The area of teacher employment is jointly controlled. Most teachers in primary schools are employed by the central government, while most teachers in secondary schools are employed by the local authorities.

The legal framework

The right to education received explicit recognition in the Declaration of the establishment of the State of Israel, 1948. However, this declaration is not a constitution. The Basic Law: Human Dignity and Liberty, Israel’s new partial constitutional bill of rights, does not explicitly protect the right to education. Recently the Supreme Court rejected attempts to interpret the constitutional right for Human Dignity in a broad manner so as to include protection of every person’s right to education.

The statutory arrangements in the field of education in Israel are complicated, and there appears to be a need to codify the State’s laws of education. The four principal statutory arrangements are the following:

The State Education Law, 1953 canceled partisan control of public education and established two central streams: secular public education (Jewish and Arab) and Jewish religious public education. Public education is education provided by the State on the basis of a curriculum approved by the Minister of Education. The law details

the objectives and values which Israeli public education is to realize, these include: teaching respect and patriotism, the realization of Jewish and Democratic values, ensuring human rights, respecting cultural differences, developing the student's personality, affording students with basic skills, developing critical and independent thought and enabling every student to enjoy equal opportunity.

The Compulsory Education Law, 1949 establishes that children between the ages of 3 to 18 (grade 12 inclusive) must attend an education institution. The law further states that students between the ages of 5-18 (grade 12 inclusive) are entitled to education free of charge. The State is responsible for the realization of the right to free education; however, the maintenance of schools is the joint responsibility of both the State and the local education authority.

The Schools Supervision Law, 1969 established conditions for the licensing and opening of schools in Israel. This Law enacted a supervisory regime which applies to the vast majority of schools in Israel. Its objective is to ensure that all schools, private ones included, provide an education that meets certain minimum standards set by the Ministry of Education.

The Education Ordinance, which was originally enacted during the British mandate, grants certain schools, which are not subject to the School Supervision Law, with somewhat more autonomy. Thus, for example, section 6 of the Ordinance determines that "the representatives of the Ministry of Education may at any reasonable time enter any school, with the exception of those which are not supported by the State and which were established or are operated by religious associations". In addition, it has been established that the Director-General of the Ministry of Education "may not require changes in the curriculum or in [these] school's internal management."

Freedom to establish non-state schools

The State Education Law grants parents an explicit right to determine which type of public school their child will attend. Moreover, in recent years courts have also emphasized parents' right to choose the school they find most appropriate for their children.

In Israel there is extensive liberty to establish non-government schools. The School Supervision Law conditions the opening of a school on receipt of a license from the Director-General of the Ministry of Education. In order for such a license to be issued, the Director-General must be persuaded that an adequate level of teaching will be maintained in accordance with curricular standards. To determine this, inspectors must conduct an examination of the following: The class schedule and timetable, the

quality of the teaching staff, the school structure and the school's financial viability. The law does not prohibit the establishment of a school for the purpose of financial profit.

The law does not place limits on the opening of schools by different religious, national or social groups and it maintains neutrality in its demands. This notwithstanding, the Minister is granted wide discretion with regards to the funding of schools and this has been the cause of discriminatory funding of schools associated with certain social groups. As demonstrated in research conducted by Shiffer (1998), the Haredi (private "recognized") education system in the State of Israel receives even more funding than public education. According to Shiffer, "the diverse branches of the Haredi education system are doubly advantaged: both because of the relatively low number of pupils in their classrooms, which allows for more personal attention to the needs of each student, and because they have more hours of teaching (both absolutely and relative to the number of students).

This state of affairs, which is a direct result of the increasing political power of Haredi parties in Israel, stands in contrast with the spirit of the statutes on education. In 2002, following petitions submitted to the Israeli Supreme Court in which petitioners argued that State funding was dispensed in a manner which discriminated against secular private schools vis-a-vis Haredi private schools, the Ministry of Education set up a committee chaired by Dr. Shoshani to examine the various methods of financing. The committee recommended that "recognized" private schools which teach the core curriculum and meet standards set by the Ministry of Education be allowed no more than 85 percent of the funding allocated to public schools, while "unrecognized" institutions which teach the core curriculum may receive no more than 60 percent of the funding allocated to public schools. The Minister of Education endorsed the committee's recommendations in full. A later blue ribbon commission – the *Dovrat* commission (2005) – recommended capping funding for recognized private schools at even a lower rate: 65 percent. Nonetheless, funding formulas did not fundamentally change and circa 2012 most recognized private schools receive 75 to 100 percent of public funding for public schools.

Homeschooling

The Compulsory Education Law grants the Minister of Education authority to exempt children and parents from compulsory schooling for special reasons and in accordance with an instruction to be published in official records. According to the Director General of the Ministry of Education's 2002 directive, "the position of the Israeli education system is that the place of students of the compulsory education age is within the institutional educational framework. Educational authorities ought to

do everything possible to allocate a suitable learning environment for each student. Consequently, requests for home education will be approved only in most exceptional cases, where it can be proven beyond any doubt that the request for home education derives from a formulated outlook which rejects institutional education of any form, or where it can be so proven that there are extraordinary circumstances, unique and most exceptional, because of which a child is unable to attend a recognized educational institute”.

The authority to approve or deny home education is in the hands of the Director General. The permit is granted every year for one school year only. A child for whom home education was approved must meet the standards set by the educational system. Despite the stringent formal stand taken by the Director General, the Ministry of Education, in fact, approves the vast majority of requests. For example, in 2006/2007 the Ministry approved 155 requests and denied only 8. Moreover, according to some reports, the actual number of children in home schooling is significantly higher than the official figure.⁴

School choice not limited by family income

The 1968 reform in the Israeli education system was designed to integrate members of different social groups in lower secondary schools (grades 7-9). The initiators of the reform hoped to reduce social divisions, to lessen the alienation between members of different social and ethnic groups by means of the education system, and to weaken the correlation between students' socio- economic background and their educational achievements. This reform allowed poor families to have access to better public schools for their children, albeit not ones close to their homes.

In addition, the reform enabled children from poor families to attend a number of elite private schools (grades 7-9) without having to pay school fees (though the Ministry of Education itself does not pay for the extra school fee in private schools). However, the right to enter such schools is not dependent upon the free choice of the parents with low income but rather on a decision made by the Ministry of Education. Despite the fact that nearly 45 years have passed since the decision to integrate schools was made, researchers have contradictory opinions as to the contribution of integration to the reduction of rifts among different social groups. In any event, it was only applied to a relatively brief part (3 years) of the student's total years of schooling thus limiting its effectiveness.

Distinctive character

Consideration for the distinct cultural characteristics of the various religious and national communities in Israel does not end with the possibility of operating private schools: it is also expressed in the existence of diverse frameworks within public education itself.

As we pointed out before, public education itself gives expression to the distinct characteristics of two important minority groups in Israel. The State Education Law establishes Jewish-religious education as one of the forms of education founded and funded by the State. The law and the regulations enacted under it stipulate that the curricula for educational institutes of this form will be determined by the Minister of Education in agreement with the council of religious-state education: a council established by law. Thus the legislator guarantees the unique character of religious public schools.

The State Education Law also recognizes the distinct character of the Arab Israeli minority, which represents a fifth of the State's population. This law stipulates that "within non-Jewish educational institutes, curricula will be adapted to the conditions particular to such institutions". Regulations enacted in accordance with the law in 1996 establish an advisory council for Arab education, whose members are educators from the Arab sector. This council is charged with recommending to the Minister, inter alia, on the "formation of an educational policy...which will ensure the equal status of Arab Israeli citizens while giving due consideration to their linguistic and cultural distinction and their heritage". In this matter one should note that the State Education Law, as amended in 2000, asserts that one of the goals of public education is to "recognize the language, culture, history, heritage and unique tradition of the Arab population and other population groups in the State of Israel, and to recognize the equal rights of all Israeli citizens".

It appears therefore that insofar as public schools are concerned, consideration for the distinct character of Jewish-religious and Arab schools in Israel is manifested in three ways: First, the establishment of distinct educational institutions for each of the communities; Second, the formation of advisory councils including representatives of the minority groups. These councils are appointed to advise the Minister of Education in determining the educational policy and appropriate curriculum for these groups' schools. Third, the statutory assertion that curricula must be adapted to suit the distinctive characteristics of each of the communities.

Insofar as private schools are concerned, it appears that the Israeli legislator seeks to balance between the desire to maintain the private schools' unique characteristics and the need to ensure that such schools provide their students with a worthy education. The degree to which the Ministry of Education interferes with the autonomy of private schools is a derivative of the aforementioned distinction established in the law between "recognized" and between "unrecognized" private schools.

In compliance with the State Education Regulations (Recognized Institutions) 1953, an educational institute will not be declared as a recognized institute of education unless “the institution implements the core curriculum”. The core curriculum consists of a set of subjects which each educational institute is required to teach a set number of hours. The regulations stipulate that “the core curriculum in a recognized institute will be 75 percent of the total school hours in an official institute of education; however the Minister may authorize proportions other than these”. The regulations also establish a supervisory mechanism to ensure that this requirement is met.

However, in the “recognized” educational institutes serving the Haredi community there is a very large gap between what is required by law and that which occurs in practice. The Ministry of Education’s inspectors charged with supervising Haredi education are themselves Haredi and seek to reduce supervision over Haredi institutes as much as possible. The problem is most acute in boys’ classes in the Haredi community’s secondary schools. While primary Haredi education includes arithmetic and Hebrew studies, Haredi secondary schools for boys only teach religious studies.⁵ As Shelhav and Friedman clarify, one of the central goals of Haredi education is to prevent children’s exposure to other lifestyles and simultaneously to present the modern secular lifestyle as the essence of evil. The Haredi population feels threatened by the modern world around it and is haunted by fear that its younger members might elect to cross the lines and join secular society. This constant sense of threat is the main reason for the almost complete absence of general studies from the curriculum of Haredi boys’ secondary schools.

The political system’s lackadaisical attitude to enforcing “recognized” schools’ legal obligation to teach at least 75 percent of the curriculum taught in public schools stems, for the most part, from the political clout of Haredi parties in Israel. Instead of balancing between the preservation of the distinctive character of the Haredi community and the requirement that “recognized” schools provide their students with an education sufficient to afford them equal opportunity, the State opted to give the first interest decisive preference over the latter. The Israeli High Court of Justice, nevertheless, took a very different position from that of the government. In one decision for recognized private primary schools⁶ and a different ruling applied to secondary schools,⁷ the Court decreed that the introduction and implementation of a state approved core curriculum constitutes a prerequisite for public funding. These controversial rulings spurred the Haredi political parties into action. Haredi parties tend to be kingmakers in Israeli politics something that affords them considerable political clout. In 2008, the Haredi parties managed to pass legislation that explicitly enabled the continuation of public funding, albeit at a reduced 60 percent level, for secondary level ultra- orthodox schools that taught only religious subjects and failed to adopt a state approved core curriculum.⁸

Although the majority of ultra-orthodox children study in recognized private schools, a sizable minority of primary school children (over 50,000) study in “unrecognized”

educational institutions that enjoy an even greater degree of autonomy than the recognized schools. These institutions are sometimes called “exempt” institutions because the Minister of Education has exempted the parents of children attending such schools from the obligation to send their children to a public or “recognized” private schools. “Unrecognized” schools receive proportionately less financial support than “recognized” institutes (55 percent of public school funding compared to 75-100 percent), and their curricula are in practice exempt from the supervision of the Ministry of Education.

From the above one can deduce that Israeli law tends to relate the degree of supervision over private schools to the extent to which the State funds education in such schools. As the proportion of financing which a school receives from public funds increases so too does the Ministry of Education’s authority to intervene in setting the school’s curriculum. However, as described above, insofar as the Israeli Haredi community’s private schools are concerned, this principle is not put into practice. These schools receive funding, in some instances greater than private education institutes; however their curricula are not subject to effective supervision.

Decisions about admitting pupils

Registration for public schools is generally done in accordance with registration areas and not on the basis of academic achievements. Consequently, such schools cannot select their pupils. Private schools, quite differently, including those receiving varying degrees of state support, enjoy more autonomy in selecting their pupils. Such schools are permitted to pick candidates on the basis of academic achievements and/or their compatibility with the school’s religious or ideological outlook. It is interesting, however, to note that a few private religious schools are willing to accept students of other religions. Thus, for example, church schools, considered the most elite educational institutions in the Israeli Arab sector, accept many Muslim pupils.

Private schools’ wide discretion with regards to admissions is limited by the Pupils Rights’ Law, 2000. This law prohibits educational institutions from exercising discrimination in student admittance or in class makeup on the basis of ethnic-group, socio-economic background or for reason of political outlook. The law defines the prohibition on discrimination as a criminal offense. Moreover, in accordance with the Schools Supervision Law, the Director General of the Ministry of Education is authorized to issue a closing order against a school which acts in breach of this prohibition.

According to the letter of the law, this stipulation applies to public schools, and to private “recognized” schools, but not to “unrecognized” schools. However, it would seem that these latter institutions are subject to the Prohibition on Discrimination in

Products and Services Law, 2000, which includes a prohibition on discrimination in the provision of educational services. It should be noted that under Israeli law the principle of anti-discrimination does not only apply to the State. This principle also applies indirectly to private entities providing a service to the public.

In practice, discrimination in pupil admissions is an issue for numerous Haredi private schools. Most notably, in 2009, the High Court of Justice ruled that a Haredi girls' school in the town of Immanuel actively segregated *Ashkenazi* (Jews of European descent) from *Sephardic* (Eastern descent) pupils and that segregation violated the principle of equality. The Court ordered the school to desegregate. However, *Ashkenazi* parents were unwilling to send their children to the integrated school. The Court determined that the parents' refusal constituted contempt of court and ordered to incarcerate the parents for a period of two weeks. The Haredi leadership viewed the Court ruling as a direct attack on the Haredi education system's autonomy and staged a massive protest. Ultimately, the Court agreed to a compromise that enabled the opening of a new "exempt" private school that would admit the children of those parents that objected to desegregation.⁹

Decisions about staff

The Israeli Equal Employment Opportunities Law, 1988 prohibits discrimination in admission to work on the basis of sex, race, nationality, ethnicity, sexual preference, religion and other reasons. The applicability of the principle of equality is qualified by a provision which permits discrimination "if it is necessitated by the nature and essence of the task or position". Israeli courts have not yet been called upon to rule whether an educational institution may select staff on the basis of religious or philosophical concordance with the goals and outlook the school seeks to promote.

However, the State Education Law, 1953 specifically stipulates that the "council for public-religious education may, for religious reasons alone, cancel the appointment or continued service of a principal, inspector or teacher in a public-religious institution." In other words, to the extent that Jewish religious public education is concerned, concordance with the religious outlook of the school may be a prerequisite for staff employment. In practice, religious Jewish public schools require teachers and administrative staff members to attend the school in modest attire and require male staff to wear a yarmulke (traditional skullcap).

Accountability for school quality

In Israel a two-fold method is used to hold schools accountable for academic and other outcomes. First, the State operates a system of supervision over educational establishments in accordance with the School Supervision Law, 1969 and the Education Ordinance. Under this system, Ministry of Education inspectors' are authorized to enter any school and inspect it and to demand and receive any information from the school principal which may be required for the purpose of supervising the school. According to the provisions of the Education Ordinance, a school principal must, inter alia, "supply the inspector appointed to supervise the institution with any information he requests"; and the principal of the school and its teachers "must co-operate with the inspector supervising the institute, heed to his advice and follow his instructions". The School Supervision Law also stipulates that "Curriculum, school books, supplementary literature, teaching- aids and the school's educational achievements will be subject to the Ministry of Education's supervision and adapted to the general provisions practiced in schools of such type". This supervisory system focuses upon the 'the input' of schooling (staff qualifications and resources).

Second, the State administers standard tests which examine the output of every educational institution. These tests include the matriculation exams: success in these exams is also a condition of admission in to higher education. Additionally, the State conducts various exams (including international exams) to assess the achievements of school students well before graduation. In the early 2000s, the Ministry of Education established general standardized tests (*Meitzav*) for three grade levels. These tests are administered in all schools apart from Haredi schools for boys.¹⁰ In 2011, however, one group of ultra-orthodox schools agreed to administer 'culturally sensitive' standardized testing. Still, circa 2012, most Haredi schools do not administer these obligatory tests. International exams (e.g., PISA) are conducted on a regular basis in Israeli schools.¹¹ Private schools appear to have a high refusal rate (for participation) making comparisons of exam results across sectors methodologically problematic.

It should be noted that the State does not examine (and is not capable of assessing) the degree to which students in private schools, both recognized and unrecognized, internalize democratic values. Consequently, the degree to which private schools are held accountable for the teaching of democratic values is very limited to the point of non-existence.

Teaching of values

The 2000 amendment to the State Education Law details the goals of public education, and, inter alia, lists the following values:

- To bestow the principles stated in the Declaration of the Establishment of the State of Israel and the values of the State of Israel as a Jewish Democratic State and to develop an attitude of respect for human rights, basic liberties, democratic values, obedience to the law, the culture and outlook of others, and to educate to strive for peace and tolerance in relations between peoples and between nations;
- To educate a person to love humanity, to love his people and his country, to be a loyal citizen of the State of Israel, who honors his parents and family, his heritage, his cultural identity and his language;
- To encourage involvement in Israeli social life, a will to accept tasks and to fulfill them with dedication and responsibility, a desire for mutual aid, contribution to the community, voluntarism and to strive for social justice in the State of Israel;
- To develop an attitude of respect and responsibility for the natural environment and a connection to the land, its views and animal and plant life;
- To recognize the unique language, culture, history, heritage and tradition of the Arab population and other population groups in the State of Israel, and to recognize the equal rights of all citizens of the State of Israel.

Section 28 of the School Supervision Law, 1969 states that the supervision of schools, including private schools subject to the law, is intended to ensure that education in those institutions is based on the above principles detailed in the State Education law. The law further states that schools' curriculum, school books, supplementary literature, teaching aids and educational achievements will be subject to the supervision of the Minister of Education and will be adapted to the general provisions practiced in schools of such type. These provisions in effect place a legal obligation upon private schools to teach the same values as taught in public education establishments. Additionally, section 32 of the Supervision Law grants the Director General of the Ministry of Education authority to close down a school if "incitement against the State is practiced or tolerated within the school."

The State Education (Recognized Institutions) Regulations, 1953 determine that one of the conditions for the recognition of an educational institute is that the institute implements the Core Curriculum".

Following petitions to the Israeli Supreme Court, the Ministry of Education established a

core curriculum for primary education. As mentioned before, the implementation of the core curriculum is a precondition for obtaining high levels of state funding. It should be noted, however, that the core curriculum for primary education, as established in 2003, focuses on traditional educational content and does not obligate “recognized” private educational institutions and “unrecognized” institutions to teach subjects of a more value orientated nature, such as civics. The core curriculum defines the teaching of democratic values in primary education as “recommended” and not as an obligation or a condition for recognition or funding.

From a legal perspective there is therefore tension between the provisions of the School Supervision Law, which obligates all schools subject to the Ministry of Education’s supervision to act in accordance with the values stated in the State Education Law, and between the practical reality as exemplified in the core curriculum of the Ministry of Education which, for the time being, does not in fact obligate schools supported by the State to teach such values.

Endnotes

¹ Shiffer, 1998; Zehavi, 2011

² Shiffer, 1998; Zehavi, 2011

³ Israel Central Bureau of Statistics, 2011; Vurgan, 2007a

⁴ Vurgan, 2007b

⁵ Schwartz, 2000; Shiffer 1998; Zehavi, 2011

⁶ HCJ 2751/99 2000

⁷ 10296/02 2004; 4805/07

⁸ Zehavi, 2011

⁹ Almog and Perry-Hazan, 2012

¹⁰ Zehavi, 2011

¹¹ Velmer, 2011

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