

THE FLOERSHEIMER INSTITUTE FOR POLICY STUDIES

**Draft Deferment for Yeshiva Students
A Policy Proposal**

Shahar Ilan

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Summary

The expectation that haredi (ultra-orthodox) men in Israel share equally in the burden of military service, or at least social service (known in Israel as national service, currently applicable to young religious women on a voluntary basis), is unquestionably correct and just, but it is not practical. Forced conscription is liable to cause a social rift and civil dissent that Israeli society can ill afford. Even the committee established by Prime Minister Ehud Barak, headed by retired Supreme Court Justice Tsevi Tal, to discuss the problem of the induction of yeshiva (theological seminary) students was not empowered to cancel the deferment. On the contrary, it was told to draft a bill that would permit it to continue. Consequently, for now we have to make do with trying to achieve two more practical goals:

- To integrate a significant proportion of haredi men into the labor market;
- To put an end to the situation in which the yeshivas serve as refuge for thousands of young haredim who do not study and to draft all the dropouts from the system.

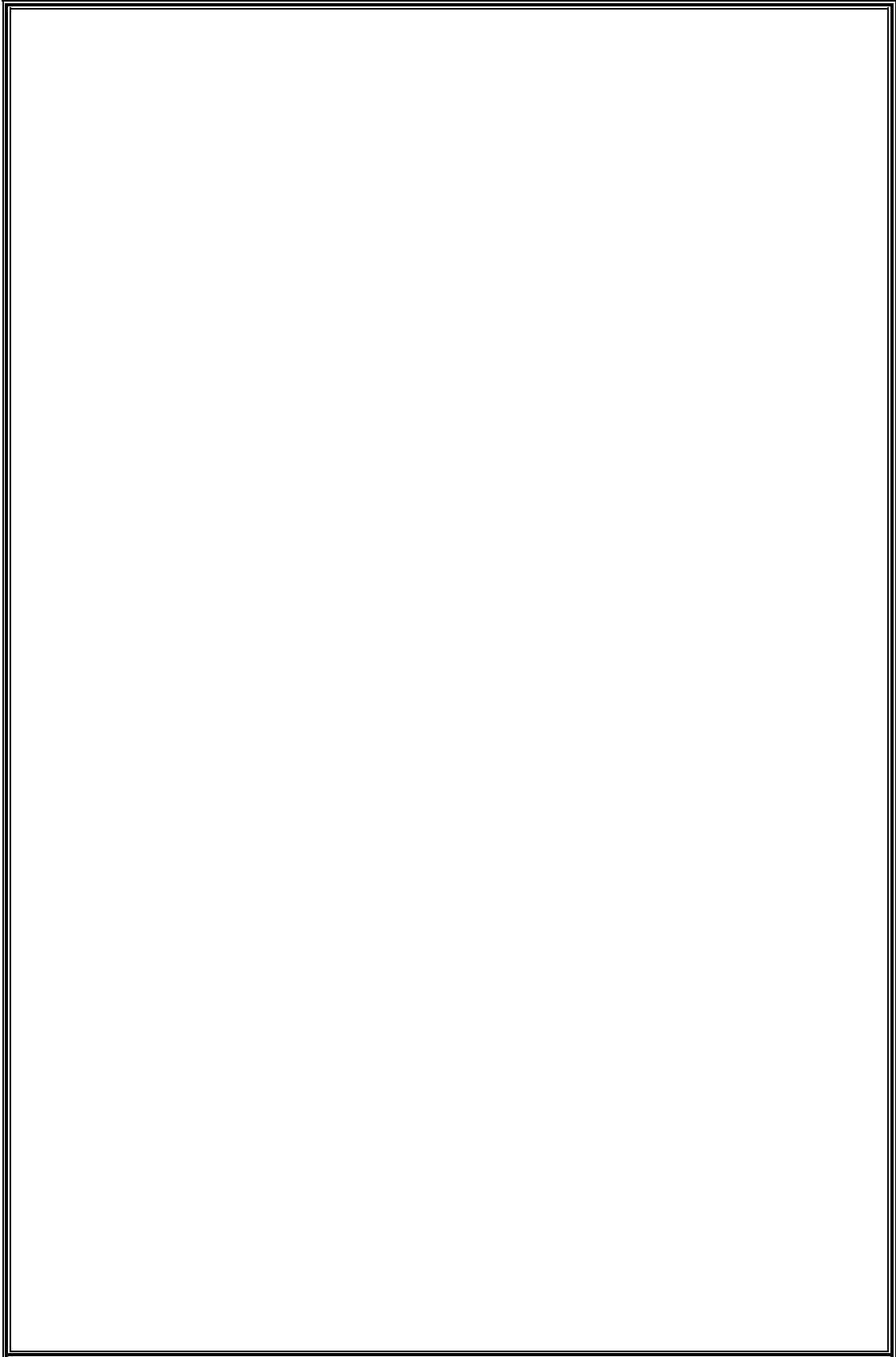
To accomplish these two objectives, various courses of development must be created that lead from the yeshiva through military or social service (and for older haredi men without such service) to the labor market. The package of measures and courses detailed in this policy paper focus on lowering the age of total exemption from military service to 24 and instituting social service for men. Although the coalition agreement also proposes lowering the age of exemption, it makes the exemption contingent on minimal military training. In order for the age reduction to be effective and to enable thousands of yeshiva students to enter the labor market, there must be no conditions whatsoever; in other words, yeshiva students (and other

men) should be deprived of the right to enlist after age 24.

Several additional measures are proposed in this policy paper:

1. Establishing more haredi military units in addition to the already existing one and obtaining the support of the leading rabbis for inducting yeshiva dropouts into these units as a condition for an overall resolution of the problem;
2. Instituting a service track for men 20 years of age and older that combines military service with vocational training, funded by the Ministry of Labor and Social Affairs;
3. Instituting social service for yeshiva students as an alternative to military service.
4. Making yeshiva students aware that those with major health problems can obtain a total exemption from military service instead of a deferment;
5. Limiting eligibility for the draft-deferment arrangement to students enrolled in haredi yeshivas as of the date of their first induction notice;
6. Transferring the handling of the draft-deferment arrangement from the conscription offices to a new administration that would issue deferments and oversee compliance with the terms of the arrangement;
7. Imposing a minimum deterrent fine on yeshiva students who are convicted of working in violation of the terms of the arrangement;
8. Classifying draft evasion by means of a false declaration that one is a yeshiva student as an infamous crime;
9. Making work in contravention of the terms of the arrangement an offense for which a deterrent fine may be imposed even without a trial.

It is clear from the coalition agreements between One Israel (mainly the Labor party) and the two haredi parties - United Torah Judaism (UTJ) and Shas (with a largely Sephardic constituency), and from the guidelines set for the Tal Committee that the coalition intends to embed the draft-deferment arrangement in law. It is important to obtain the rabbis' consent to the various solutions before passing a law regularizing draft deferments. This is a good time to do so, because they feel that the yeshiva world is threatened. It is crucial that the law regularizing the draft deferment be passed for a trial period as a provisional measure, because once a permanent law is passed the haredi men will have no interest in cooperating with any arrangements the committee comes up with.



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Background

On August 23, 1999, Prime Minister and Defense Minister Ehud Barak appointed a public committee headed by retired Supreme Court Justice Tsevi Tal. The committee has three main objectives:

1. To draft a bill permitting the continuation of the draft-deferment arrangement for full-time yeshiva students;
2. To create courses and frameworks that would enable yeshiva dropouts and young haredi men who hang out in the streets (known as “shababniks”) to serve in the army;
3. To create conditions that would enable yeshiva students who do not want to continue their studies to enter the labor market.

The formation of the committee is the first step in implementing the coalition agreement between One Israel (Labor) and the two haredi parties (United Torah Judaism and Shas). It is the climax of a process that began in the past two years, when the public debate over draft deferments for yeshiva students changed from being a mere subject of debate to a problem requiring a solution.

Several articles published in *Ha'aretz* in 1996 and 1997 made the accelerated growth in the proportion of draft-deferment recipients, which began in the second half of the 1990s, public knowledge.¹ In late 1997, for the first time, the leader of one of the large political blocs, Labor MK Ehud Barak, put himself squarely behind the demand to draft a large fraction of the yeshiva students. Barak even submitted a bill calling for a quota of no more than 700 draft deferments for yeshiva students in each induction cohort. Several petitions to the High Court of Justice demanded that the arrangement be limited or eliminated. On December 9, 1998, an expanded panel of the High Court of Justice ruled that under the existing law the defense minister is not authorized to grant draft deferments to yeshiva students; however, it gave the Knesset a one-year grace period to regularize the matter in primary legislation. The Tal Committee is attempting to find a solution to the problem before the end of the time allotted by the High Court. This policy paper describes the dimensions of the problem and the damage that it causes and proposes several measures that may contribute to a solution.

The History of the Draft Deferment for Full-Time Yeshiva Students

The draft-deferment arrangement was instituted by Prime Minister David Ben-Gurion in the early days of the State at the insistence of the leaders of the haredi population. At the time approximately 400 yeshiva students received deferments. It was argued that the arrangement was essential for the preservation and rehabilitation of the yeshiva world that had been destroyed in the Holocaust. The deferment was one of the main causes of the rapid growth of haredi society, because it gave haredi youngsters a definite interest in remaining in the yeshivas until well into adulthood.

At the end of the 1950s, Shimon Peres, then–Deputy Defense Minister, introduced the stipulation that yeshiva students over age 25 would be drafted for only three months of reserve duty in a system known today as Stage 2 Basic Training. In the late 1960s, a quota was set whereby up to 800 yeshiva students could join the arrangement each year. Under the coalition agreement between Agudat Yisrael (later known as United Torah Judaism) and the Likud party in the first Begin government (1977), this quota was eliminated, and for the first time the newly religious were made eligible for draft deferment. As a result, during the first term of Likud rule the number of new deferments rose from 900 to 1,400 a year, an increase of 55 percent.

In 1988, a parliamentary commission headed by former Labor MK Menahem Hacoen recommended limiting draft deferment to six years, after which yeshiva students would be inducted for one year of service. According to the proposal, 200 top yeshiva students each year would receive a lifetime exemption from military service. The Unity Government, which then included both the Likud and the Labor parties, ignored the report.

In the first half of the 1990s, immigration from the former Soviet Union increased the size of the induction age-cohorts. As a result, the increase in the number of yeshiva students receiving draft deferment, as a percentage of the cohort, was fairly slow. Starting in 1995, however, a drastic change occurred in the trend and the share of draft-deferment recipients began to increase very rapidly.²

¹ See, inter alia, Shahar Ilan, “The Number of Haredim Receiving Draft Deferments . . .,” *Ha’aretz* (Nov. 24, 1996), p. A-1; Shahar Ilan, “*Ha’aretz* Investigation: Only a Few Dozen . . .” *Ha’aretz* (Feb. 23, 1997), p. A-1. [All sources cited are in Hebrew, unless otherwise noted.]

² Source of the historical survey: “A Brief History of the Exemption,” appendix to the draft of *Haredim 2000* (provisional title), a book that I am preparing for publication by Keter (hereafter: *Haredim 2000*).

The Dimensions of Draft Deferment

These are the figures: Draft deferment was granted to 7.8 percent of the 1998 induction cohort, or approximately to 3,150 yeshiva students according to the author's calculations. In 1995, only 6.4 percent of the cohort, i.e., about 2,700 students, had received draft deferment. Altogether, the number of draft-deferment recipients aged 18–41 comes to about 31,000 and is increasing each year by an average of 1,700. If the present growth rate continues, there will be more than 34,000 full-time yeshiva students by the end of the year 2000 and 40,000 - a figure equal to an entire induction cohort - by the end of 2003.³

The prevalent estimate is that 20–25 percent of draft-deferment recipients in each cohort do not actually study in yeshivas, but rather work on the “black market” or become “shababniks.” They thereby violate the principal condition of the draft-deferment arrangement, which states: “I hereby declare that the Torah is my vocation and that I do not work or engage in any work or business, either for pay or otherwise.”

Today yeshiva students renew their draft deferment once or twice a year (depending on their age). Only at age 41 do they receive a total exemption. Those with five children are exempted at age 35. Anyone who wants to leave the yeshiva and go to work in his twenties must do four months of Stage 2 Basic Training.

Despite the term “draft deferment” and the need to renew deferment every year, this is really not a deferment but an exemption. Hardly any of the haredi men who receive draft deferment ever perform ordinary compulsory service. According to data from the Yisraeli Commission, 48 percent of haredi draft-deferment recipients - almost half - will remain in the yeshiva for the next 23 years, until age 41. Another 22 percent will obtain exemptions before age 41, and about 30 percent - fewer than one-third - will be drafted for a few months (Stage 2).⁴

The rise in the percentage of draft-deferment recipients cannot be explained without mention of the tremendous increase in enrollment in the Shas school system and the wave of newly religious Shas

³ The calculation of the number of deferments was made by multiplying the percentage of deferment recipients by the number of 18-year-old Jewish and Druze men in that year, as reported in the *Statistical Abstract of Israel*. In recent years each percentage point has been equal to about 400 potential recruits. Source of the data presented here: *Haredim 2000*.

⁴ Report of the Committee to Review the Procedures, Criteria, and Supervision Methods of the Draft-Deferment Arrangement for Full-Time Yeshiva Students, headed by Haim Yisraeli, aide to the Defense Minister (August 1999), p. 12 (hereafter: Yisraeli Committee Report).

supporters. Each student who enters the Shas school system switches from a track leading to military service and work to a track of yeshiva life. It should be kept in mind that the Shas school system is fairly new, and very few of its graduates have reached the age of military service. Hence the current increase is just the tip of the iceberg; the share of draft-deferment recipients can be expected to reach 10 percent of the induction cohort soon. The percentage of Sephardi recipients of draft deferment can be expected to rise steadily.

The Legal Situation

The draft deferment in effect since independence was based on a clause in the Defense Service Law:

6. The Defense Minister may issue an order, if he sees fit to do so for reasons pertaining to the size of the regular or reserve forces of the Israel Defense Forces or for reasons pertaining to educational, security-related settlement, or national-economic needs, or for family or other reasons . . .

(3) If a person of military age or a person designated for defense service who is not of military age requests an order deferring, for a period stated therein, the date on which he is to appear under this law for registration, medical examination, or defense service . . .⁵

The wording of the law is very unclear and suffers in particular from impossible syntax. In plain Hebrew, the law authorizes the Defense Minister to issue an order deferring the date on which a potential soldier is to appear for service for a variety of reasons, including “other reasons.” Until late 1998, this was the basis for the deferment of yeshiva students.

On December 9, 1998, the High Court of Justice ruled that under the existing law the defense minister is not empowered to grant a deferment to yeshiva students, and consequently the draft deferment given to full-time yeshiva students is not legal. According to the High Court, if the Knesset wishes to continue the present arrangement, it must anchor it in primary legislation. The Court gave the Knesset 12 months to regularize the issue.

⁵ Defense Service Law (Consolidate Version) 5746-1986, paragraph 36.

The Coalition Agreement and the Tal Committee

The coalition agreement with United Torah Judaism stipulates that as soon as the Barak government is formed a committee of jurists will be appointed “to draft an appropriate legal arrangement regarding the induction of yeshiva students.” The agreement stated explicitly that the coalition intends to anchor the present arrangement in law:

Because there is no intention whatsoever to prevent yeshiva students from continuing their studies, the Defense Service Law (Consolidated Version) 5746-1986 will have to be amended in such a way as to include full-time yeshiva studies among the reasons for which the defense minister, at his discretion, may exempt from service or defer the service of a person of military age.

It was also stated that “the deferment or exemption may relate to any number of yeshiva students.” In other words, there will be no quota for draft-deferment recipients. Prime Minister Ehud Barak thus finally retreated from his bill that would have set a quota of 700 yeshiva students to be exempted from military service.

The coalition agreement sets a recommended but nonbinding timetable. “In the first stage the committee will be instructed to propose the wording of the said amendment to the Prime Minister within three months, so that the Government can prevent a situation in which service is deferred without authorization or in violation of the law.” It was expected that the draft bill would be submitted to the Prime Minister in early November 1999, so that it could be passed by December 8, before the date set by the High Court. However, the wording permits the Government, if necessary, to ask the High Court for more time to complete the legislation.⁶

In fact, the committee was not formed until August 23, 1999, i.e., two months late. The Shinui and Meretz (liberal-secular parties) factions criticized the composition of the committee, alleging that all its members are religious or traditional and none represents the opponents of the deferment system. The Prime Minister’s Office announced that Barak had instructed the committee to

propose appropriate legislation on the matter to legally empower the defense minister to use his discretion in various aspects of the problem, including granting draft deferments and/or exemptions, whichever is appropriate, to yeshiva students who study exclusively, because the date set by the High Court for the termination

⁶ “The Agreement with the UTJ Faction,” *Ha’aretz* (July 6, 1999), p. A-10 (hereafter: “The Agreement”).

of the present arrangement, which has been in existence for about 50 years, is early December of this year.

In the committee's writ of appointment, its members were asked to ensure that "the said exemption or deferment could apply to all yeshiva students with no limit, because there is no intention whatsoever to prevent yeshiva students from continuing their studies, subject to the law."

According to the communiqué issued by the Prime Minister's Office:

The committee was also asked to consider and make recommendations for developing frameworks and courses for service by some of the haredi population, including the haredi Nahal and relevant training programs, and to consider the possibility of lowering the age of exemption, so that those members of the haredi population who wish to enter the work force may do so.⁷

The Damage: Four Billion Sheqels a Year

The obvious damage caused by the draft-deferment arrangement is the inequality it creates between Jewish youths. This inequality is manifested not only in the fact that most young men devote three years of their lives to serving their country, while haredi men spend those same years studying. There is also the simple fact that military service involves mortal peril. In any case, there is no doubt that the inequality felt by the young conscripts harms morale in the IDF.

This feeling is exacerbated by the knowledge that many of the draft-deferment recipients do not study at all; instead, they take advantage of the arrangement to evade the draft. The yeshivas permit them to remain on the rolls in order to save them “from the negative influences of the secular army” and to increase the budgets that they receive from the Religious Affairs Ministry.

The haredim correctly argue that the army does not need them when they are inducted for a brief period, without motivation, after age 25. However, one must not conclude from this that the army does not need them at all. It could enlarge the induction groups and make excellent use of them if they were drafted for three years at age 18 with high motivation. The sharp increase in the percentage of deferment recipients halted the growth of the induction groups. But there is no doubt that the deferments given to haredim make life more difficult for reserve soldiers, as it imposes a much greater burden on them. Every young man who joins the haredi military unit (Nahal) saves 18 terms of reserve duty a year.⁸

In recent years, awareness of the economic damage caused by the draft-deferment arrangement has increased. The arrangement essentially forces those yeshiva students who would rather stop studying to continue to do so in order not to be drafted and is responsible for creating the haredi scholastic

⁷ “Committee Formed on the Draft Deferment for Yeshiva Students,” *Yated Ne’eman* (Aug. 26, 1999), pp. 1, 4 (hereafter: “Committee Formed”).

⁸ Amos Harel, “Criticism in the Defense System,” *Ha’aretz* (July 1, 1999), p. A-3.

society in which two-thirds of the men study rather than support their families. This phenomenon is unparalleled anywhere in the world.⁹ Through this arrangement, the army has involuntarily become the jailer of yeshiva students in the service of the yeshiva deans.

Finance Ministry economists estimate the damage to the economy caused by the yeshiva students' nonparticipation at NIS 3.5 billion a year (NIS 4 billion if we take into account the rise in the consumer-price index since the calculation was made).¹⁰ Students who work do so clandestinely, so as not to be caught, and as a result much of the haredi economy takes place "under the table."

The Limitations: Coercion Won't Help

The basic assumption of this policy paper is that there is no point in even considering forced conscription of the yeshiva students, or, to use the Prime Minister's term, "dispatching MPs to the yeshivas." First of all, it is not certain that a consensus can be found in Israeli society for such an extreme measure, which can certainly be viewed as an infringement of the yeshiva students' freedom of religion. Second, it is liable to bring about the most severe societal rift in Israeli history and to lead to riots and civil disobedience. Third, it would be completely ineffective. In haredi society, the legitimacy of refusing to serve is so great that the threat of imprisonment would be no deterrent at all. A person who went to jail would be considered a hero who is "sanctifying God's name". Fear of jail would be greatly mitigated by the fact that it would be massive group imprisonment. It is doubtful whether Israel would be willing to be portrayed by world public opinion as the jailer of thousands of conscientious objectors.

In the past, haredi leaders, including Rabbi Eliezer Menachem Shach, the leader of Degel Hatorah (haredi party), threatened mass emigration by yeshiva students. When the haredi representatives realized that extreme secular spokespersons would welcome such a move, they abandoned the threat and settled for threatening to go to jail and detention camps *en masse*.

What this means is that, in the foreseeable future, the haredim will not agree to a quota on draft deferments, as Barak's bill proposed. True, a quota of 800 students was set in 1968 and rescinded in

⁹ See Eli Berman and Ruth Klinov, *Human Capital Investment and Nonparticipation: Evidence from a Sample with Infinite Horizons (or: Jewish Father Stops Going to Work), Draft* (Jerusalem: Maurice Falk Institute for Economic Research in Israel, May 1997) (in English); Dr. Momi Dahan, *The Haredi Population and the Local Authority*, Part 1: "Income Distribution in Jerusalem" (Jerusalem: Jerusalem Institute for Israel Studies, 1998).

¹⁰ Sever Plocker, "Ne'eman: I'll Put an End to the Parasitism of the Yeshiva Students," *Yedioth Ahronoth* weekend magazine (Aug. 29, 1997).

1977 in the coalition agreement between the Likud and Agudat Yisrael (haredi party) in the first Begin government. At the time, however, many more haredim served in the army and the norm that regards young men who serve in the army as “second-rate” was not yet so firmly entrenched in haredi society. A demand for a quota today would be perceived by the yeshiva deans as forcing them to decide which young men to “send to apostasy.” From the Zionist perspective this perception seems distorted, but it is how haredi society sees the matter.

Ostensibly, one might consider enforcing the conscription of yeshiva students by indirect means, i.e., not by forcibly dragging young men into the army, but by imposing sanctions on those who do not serve. Former minister Rafael Eitan, for instance, proposed denying the right to vote to anyone who did not perform military service or some alternative form of social service. The main problem with this proposal is that in a democratic country, and especially one whose democracy is so fragile, one has to be very careful before starting to deprive citizens and population groups of the right to vote. Moreover, it is an impractical suggestion. Any attempt to deny rights to anyone who has not served in the army will encounter the opposition not only of the haredim, but also of the Arab parties, which are an important component of the left-wing bloc. Even if the bill excludes Arab youngsters, the Arab parties would see it (justifiably) as a dangerous precedent. Obviously, then, both direct and indirect forcible conscription of yeshiva students are impractical.

Certain economic forms of pressure might be effective: for example, a substantial reduction in assistance to haredi *kollel* (theological seminaries for married men) students who have not served in the army and a substantial increase in assistance to *kollel* students who have served (this, of course, means genuine service lasting two to three years, and not the four-month Stage 2 Basic Training now done by most of the haredim who serve). Another possibility would be denying eligibility for government mortgages and other housing benefits to those who have not performed social or military service. Such a carrot-and-stick system might encourage *kollel* students to terminate their studies in order to serve in the army. Presumably, some of them would not return to their studies. However, in the present political constellation, so long as the votes of haredi parties are crucial to the advancement of the peace process, such a proposal has no chance of passing.¹¹

¹¹ For further information on the history of proposals for solving the deferment problem, see: Yehezkel Cohen, *Conscription as It Should Be* (Jerusalem: Ne’emanei Torah Va’avoda and the Religious Kibbutz Movement, 1993/94), pp. 25–40; report of the subcommittee of the Foreign Affairs and Defense Committee on reconsidering the draft exemption given to yeshiva students, headed by then - MK Menahem Hacohen, *The Knesset - Conclusions of Committees* (Jerusalem, July 27, 1988); Shahrar Ilan, “The Yeshiva Students Will Not Be Drafted,” *Ha’aretz* (Sept. 8, 1997), p. B-2; Shahrar Ilan, “The Black Berets,” *Ha’aretz*, part of the series “Haredim 98” (Mar. 9, 1998), p. B-3.

Measures Proposed

This policy paper does not contain a proposal for a comprehensive solution of the problem, but rather a series of measures that can provide partial answers to various aspects of it. Taken together, implementation of the measures can help achieve two objectives stated at the beginning of this paper: the entry of large numbers of haredim into the labor market and the conscription of yeshiva dropouts.

Ad-Hoc Ordinance

Many, if not all, of the measures proposed depend on the overt or tacit consent of the spiritual leaders of the haredi parties. Experience proves that one cannot rely on the rabbis' good will. Their fear of being accused of harming the yeshivas and driving students away from their studies is stronger than anything else. For example, all the rational reasons for establishing the haredi Nahal (military unit), including the fact that it would rehabilitate youngsters who hung out in the streets, were not effective. The unit was formed only in direct response to the High Court ruling that the defense minister is not empowered to issue the draft deferments.

The negative reaction by the haredim to Prime Minister Barak's instruction to the Tal Committee to seek frameworks and courses for the conscription of some haredi men should be viewed with great concern. This response was expressed in particularly sharp terms in *Yated Ne'eman*, the newspaper of Degel Hatorah:

It should be noted that United Torah Judaism was astonished by the inclusion of these issues in the committee's work. UTJ has no part in this and is not involved in these matters at all. . . . As the leading rabbis instructed at the time, the sole issue that should be regularized is the legal enshrinement of the deferment of the service of the full-time yeshiva and kollel students, in the wake of the High Court ruling in the matter. Therefore, the inclusion of discussions of "frameworks and courses" in the work of the committee, which includes haredi representatives, is pointless. The haredi representatives on the committee have nothing to do with these matters and have no interest in them. . . . Haredi Jewry does not support any initiative aimed at encouraging students to abandon their studies. . . .¹²

¹² "Committee Formed."

Given this background, it is crucial to obtain the rabbis' consent for the various measures before a law regularizing the draft deferment is enacted. The period until the passage of the law is a good time to act, because the rabbis feel that the yeshiva world is in danger. Once the arrangement is anchored in law the haredim will have no interest in modifying it.

Therefore, *it is also extremely crucial that the law regularizing the draft deferment be passed for a trial period as an ad-hoc ordinance, i.e., a law that is in effect for a limited time only.* If a permanent law is passed, the haredi population will have no interest in cooperating with arrangements that the committee comes up with. The need to reconfirm the law in a few years will serve as a means for the government to pressure the haredi rabbis to cooperate.

Separate Haredi Military Units

The first haredi Nahal group, with approximately 30 soldiers, has already completed its basic training and begun guard duties in the Jordan Valley.¹³ A second group, comprising about 60 men, was inducted in late August. The haredi Nahal is thus becoming a fact, but the haredi establishment regards the unit as a stepson of the yeshiva system. The leading rabbis' consent to the haredi Nahal is manifested in the fact that they are merely expressing bitter opposition to the initiative instead of actively frustrating it.

As part of a general resolution of the issue of the conscription of yeshiva students, the haredim can be expected to change their attitude. General statements such as "Whoever does not study has to serve" are not enough, since they are completely insincere. We should insist that the leading rabbis issue an explicit instruction, or at least a sincere call, for the "shababniks" and other yeshiva dropouts to join units like the haredi Nahal.

To be successful, the haredi Nahal will have to pass two tests: First, an entire battalion and then a brigade of haredi soldiers must be formed. This is not an impossible task. If just 20 percent of each haredi induction cohort, i.e., about 600 men, are inducted, there can be a battalion within a year and a brigade in three years. The second test will be the incorporation of haredi courses in other units, too. If there is a haredi Nahal battalion, there is ostensibly no reason why there cannot also be an armored battalion and an engineering battalion.

¹³ The haredi press is critical of the widespread Sabbath desecration entailed by these assignments. One should view with concern the fact that even security tasks, which involve a definite danger to life, are no longer regarded by the haredim as justifying desecration of the Sabbath.

If induction courses for haredim become well established, we may be able to hope for a normative change in haredi society in the long term—but only in the long term. Currently, going to work at a young age or performing military service are embarrassing deviations from the norm and evidence of failure. If military service and work become a legitimate track in haredi society, many more yeshiva students will choose it of their own free will.

Socially, conscription of the haredi “shababniks” means inducting large numbers of young men who have been ostracized by their families. Sometimes induction may improve the relationship between the soldier and his family, because he has returned to a framework, and a distinctly religious framework at that. Sometimes induction exacerbates the rift. The IDF should be prepared to have to deal with dozens of soldiers who, for all practical purposes, have no homes or families to return to when on furlough; this may involve setting up a system of adoptive families from the religious sector or ensure other means of preserving a connection with these soldiers. It may be worth considering the formation of an association of friends of the haredi Nahal, which would give the initiative civilian support.

Military Service with Vocational Training

During the 1998 summer session of the Knesset, a forum of senior Knesset members, known as the “Ramon Forum” (headed by Labor MK Haim Ramon) drew up a proposal to solve the problem of the conscription of yeshiva students. One of the ideas raised was the conscription of men aged 21 and above for service that would include vocational training.

It would seem to be in the country’s interest to have a service track that enables haredi men to return to civilian life equipped with a skill they could exploit to support their families. In fact, however, the initiative entails a major difficulty. Presumably, haredim aged 21–24, some of them married and fathers of children, would not serve three years, but only one to two years. It would not be worth the army’s while to invest in their vocational training - e.g., in computers or electronics - for such a short term of service.

This problem must not lead to rejection of the idea. In recent years the Ministry of Labor and Social Affairs has justifiably invested large sums in vocational training for haredim. It is doubtful whether the State budget contains many more profitable investments. *The Defense Ministry and the Ministry of Labor and Social Affairs should collaborate in a project of military service and vocational training funded by the Ministry of Labor and Social Affairs.*

Social Service for Men

Social service should be instituted for men, irrespective of the problem of the yeshiva students. In the past, social service was exclusively for young women of the national-religious sector; in recent years, however, secular and Arab women have also joined. A situation in which women who cannot serve for religious, national, or medical reasons are offered a reasonable substitute, but men are not, is a clear case of gender discrimination and leads to the astonishing forfeiture of thousands of potential volunteers. Any man aged 18 or above whose services the IDF has waived should be permitted to perform social service under terms identical to those of young women.

True, social service cannot be a solution for 18-year-old haredi men who do not want to serve in the army, because there cannot be discrimination between youngsters of the same age and all 18-year-olds should be inducted. However, if there are special courses for men aged 21 and above, such as military service combined with vocational training, there is no reason not to offer men who leave the yeshivas at this age an alternative track of two years of social service. Such service has a great advantage for the haredi men, as it permits them to be in a protected haredi environment at least at night. Social service, too, may be combined with vocational training, which would give the haredi men a trade.¹⁴

If it is decided to institute social service for haredi men, it will be necessary to keep in mind that the haredi school systems (especially that of Shas) and haredi cultural and youth organizations are heavily involved in persuading other Jews to become religious. Haredi social service, if established, must not become a pool of people who persuade others to become religious, and volunteers should not be sent to such organizations. The haredi men will still be left with scores of important options, including hospitals, non-profit paramedical organizations such as Yad Sarah and Ezer Mi-Tzion, the Civil Guard, Magen David Adom (Israel's "Red Cross" equivalent), assistance for the elderly, special education, work with haredi "shababniks", Ginzach Kiddush Hashem (the haredi version of Yad Vashem – the holocaust memorial museum), traffic-safety instruction for children, and assistance in the rabbinical-court secretariats.

Social and military service by haredim can have social significance greatly exceeding the direct contribution made by the volunteers and conscripts. Today the secular population comes into contact

with haredim primarily on religious occasions (when haredim circumcise their children, register them for marriage, officiate at weddings, or bury the dead) or in attempts to persuade secular Jews to become religious. Encounters with haredim in circumstances involving aid and assistance may help reduce the tension in Israeli society and enhance the image of the haredi population.

Lowering the Age of Exemption from Military Service

The most important and most easily implemented solution to the problem created by the present conscription arrangement is to lower the age of exemption for yeshiva students to 24. In other words, yeshiva students should be denied the right to enlist after age 24. The IDF would thereby be spared the need to train older *kollel* students. The economy would profit doubly, because about half of the yeshiva and *kollel* students in the draft-deferment arrangement would no longer be in it and could enter the labor market and also because the State would save large sums of money that are now spent on supporting these students and financing their studies. For example, students with three or more children who are not working are entitled to an income-maintenance allowance from the Religious Affairs Ministry. Lowering the age of exemption might save most of the income-maintenance budget, which stood at NIS 118 million in 1999.

The haredim have already agreed to a lower age of exemption, and this consent was anchored in the coalition agreement with UTJ:

The IDF will examine methods of and conditions for developing appropriate frameworks and courses of IDF service for some members of the haredi population, such as lowering the age of exemption from military service for a large proportion of the yeshiva students to age 24–25, so as to enable men who so choose to enter the work force, receiving minimal military training in appropriate courses (e.g., field companies and Stage 2 Training), all in accordance with the army's possibilities and needs.¹⁵

The One Israel negotiating team was not able to complete the task, however. Consequently, the agreement states that the exemption would remain contingent on a few months of military service. Such service will be of no benefit to the IDF and will cause students to remain in the yeshivas and

¹⁴ The Community Centers Corporation drew up a plan in late 1998 for national service for yeshiva students. According to the proposal, the haredim would continue to live at home and would be placed only in institutions with appropriate conditions for haredim. They would be completely separated from young women doing social service.

¹⁵ "The Agreement," Ha'aretz (July 6, 1999), p.B-10.

work underground, because most of them will be deterred even by the prospect of minimal military training. Any attempt to require men with families and children to perform a few months of military service in a secular military environment will force them to remain in the yeshivas. As a result, the taxpayer will continue to support huge numbers of students instead of enabling them to support themselves.

There is only one way to put a large number of haredi yeshiva students in the labor market, and that is to exempt them in their mid-twenties from all military service. *The idea of basic and other training should be dropped and they should be given total exemptions.*

Dissemination of Information about Medical Examinations

The IDF does not conduct medical examinations of yeshiva students who request draft deferment, on the assumption that they are not going to serve anyway. This policy causes great harm to the economy. Close to 5 percent of each induction cohort receives medical exemptions. If the IDF were to grant total exemptions to yeshiva students who are eligible for health reasons, 150 potential workers would be added to the economy each year.

One can certainly understand why the IDF is not interested in investing effort and resources in examining 3,000 young men a year just to find 150 who cannot serve. The solution must be to distribute information sheets to yeshiva students, instructing them to request an examination and a total exemption from military service if there are medical grounds that justify it.

Determining Date for a Draft Deferment: The First Draft Notice

The principle guiding the haredim in the negotiations is that no one who studies in a yeshiva should be drafted. However, the coalition agreements that the haredim negotiated in the Begin era stipulated that haredi yeshiva students are not the only ones eligible for draft deferments; also eligible are graduates of national-religious institutions who switch to haredi yeshivas and secular Jews who become religious. In other words, scores and perhaps hundreds of youngsters each year can become haredim at age 18 and obtain a draft deferment. This encourages secular young men to become religious and the national-religious to become haredi. A young man who wants a deferment should have to be in an advanced yeshiva that is recognized for the purposes of the deferment arrangement by the date of his first draft notice. Anyone who decides to become haredi after this date should be required to serve in the army. Experience shows that people can become religious even in the army.

Draft-Deferment Administration

It is no secret that the IDF is not inclined to deal with the draft-deferment arrangement and is even less eager to oversee and enforce it. This, it seems, is one reason why the Yisraeli Commission, made up of people from the defense system, spent three years composing a short document (only 20 pages) with very mild recommendations for increasing supervision of yeshiva students and enforcement of the arrangement. The task should have taken no more than three months, and even this is a very generous estimate. For three more years, the report lay buried deep in a drawer at the Defense Ministry, and only a petition to the High Court of Justice, filed by MKs Amnon Rubinstein and Haim Oron of Meretz, extracted it from there. Less than a year after one of the report's main recommendations was instituted, the IDF decided to rescind it. This was a requirement that yeshiva students up to age 25 report to the conscription office twice a year instead of just once. Sources in the IDF explained that the recommendation was rescinded due to lessons learned from implementation of the report, despite the short period of time that had elapsed. All of these facts attest clearly to the IDF's lack of interest in overseeing and enforcing the arrangement.

Indeed, the IDF's lack of interest is perfectly rational. The IDF is supposed to deal with soldiers and potential soldiers. The conscription offices have to deal with draft deferments because of the polite fiction that it is really a draft deferment and not a permanent exemption. In fact, both the Hacoheh Committee and the High Court justices have stated forcefully that it is a full-fledged permanent exemption. Handling of the deferment should be transferred from the conscription offices to an administration operating within the Defense Ministry. Yeshiva students who wish to enlist would be referred back to the conscription offices.¹⁶

Supervision and enforcement of the deferment arrangement are not deterrents. The army, which has given up on the haredim anyway, has no interest in expending the effort required to enforce the terms of the arrangement, and indeed, it does not make the effort. It transfers just a few dozen cases a year to the detective agency that it employs.

¹⁶ The Hacoheh Commission wrote: "The argument that those released from the yeshivas eventually reach the IDF and that this is merely a draft deferment is not true and does not reflect reality." In his opinion on the deferment arrangement in December 1998, Chief Justice Barak wrote that it is a "deferment of service that becomes an exemption." Justice Mishael Heshin added, in his comments on the same ruling: "One conclusion is called for, namely, that yeshiva students essentially receive an *automatic* deferment-exemption [emphasis in original] provided that they are full-time students." He also wrote that "the deferments have essentially become exemptions in advance." (See *Amnon Rubinstein et al. v. Ministry of Defense*, H CJ 3267/97, Ruling, pp. 14, 59, 61.)

The law-enforcement system, too - the police, the State Attorney's Office, and the courts - have other priorities, and they do not treat draft evasion very seriously. The most severe penalty ever imposed in a case that reached a court was a four-month suspended sentence. It should be remembered that this is an offense that cannot possibly be repeated. The highest fine ever imposed was NIS 1,000.¹⁷

It is therefore proposed that the new administration deal not only with the draft-deferment arrangement, but also oversee its implementation by employing its own inspectors or hiring private detective agencies. The inspectors from the army or the administration should be authorized to conduct raids and to demand that young men who are working identify themselves. One should take into account the norm of covering for each other (the prohibition on informing) that prevails in haredi society. The inspectors will not receive the help of random witnesses and will therefore have to work in pairs so as to make it difficult to challenge their testimony in court.

In this context, it should be noted that even the Religious Affairs Ministry has already privatized its Yeshiva Department. Supervision of the yeshivas has been transferred to four outside accounting offices. Management of lists of students has been transferred to the Tim computer company. There is no reason why the defense system should not act similarly.

Deferment Fee

One of the main reasons for the neglect of supervision and enforcement of the draft-deferment arrangement is the lack of resources. The security system has more important things to invest in. In such a case, however, obtaining the resources does not have to be a problem. It is astonishing that draft deferment is a service provided for free; there is not even a fee to cover the complex bureaucratic procedures and the supervision of the terms of the arrangement. A driver's license costs hundreds of sheqels, vehicle registration costs hundreds of sheqels, and draft deferment is provided for free. Thus the deferments are themselves part of the enormous system of subsidizing yeshiva students. Moreover, for several years now the State has financed the activity of the Committee of Yeshivas (the organization that takes care of the deferments for the haredim) from the budget of the

¹⁷ See Yisraeli Committee Report and State Comptroller's Report no. 48 for 1997, "Arrangements for Deferring the Induction of Yeshiva Students into the Defense Service," p. 1003.

Religious Affairs Ministry. In 1998 alone, The sum of half a million sheqels was transferred to the committee. So far the Finance Ministry has invested millions of sheqels in this matter.¹⁸

In other words, the State is financing the deferment system, even though it has no interest in its existence. If 31,000 recipients of draft deferment were to pay a fee of about NIS 100 a year apiece, they would provide more than NIS 3 million to finance the deferment and supervision system. If the age of total exemption is lowered to 24 as planned, this sum will be halved, but the activity will also decrease accordingly.

Sanctions

Presumably, if the State Attorney's Office were to handle violations of the Sabbath closure law (a statutory day of rest), every such case would be stuck in the queue for a long time and many files would be closed for "lack of public interest." The State Attorney's Office has more serious problems to deal with. But cases involving Sabbath work are taken directly to the courts by a prosecutor employed by the Ministry of Labor and Social Affairs. The enforcement body - either the Defense Ministry or the administration on its behalf - should be permitted to employ its own prosecutors to file suit quickly against draft evaders.

The Yisraeli Commission considered a proposal to prosecute anyone caught violating the terms of the deferment arrangement in military courts. The assumption was that these courts would treat the evasion offense very seriously, as it does AWOL cases or desertion, unlike the civil courts, which treat it lightly. The commission rejected the proposal on the grounds that it would be effective but is too extreme. The truth, of course, is that such a measure would have caused a huge political storm.¹⁹

When discussing the issue of punishment, we have to distinguish between the offense of violating the terms of the arrangement (through one-time work) and the offense of evading the draft by means of a false declaration by a person who does not study at all. Today the State is very lenient with both types of offenses. A person who is caught committing the serious offense of evasion will at most be tried and given a very light sentence; someone caught for a less serious offense such as holding a temporary job gets off scot-free. In contrast, a person who is caught committing a traffic or parking violation is automatically punished.

¹⁸ "Public Institutions Supported by the Religious Affairs Ministry" (1998), "Liaison and Coordination Services with Government Ministries," *Yalkut Hapirsumim* 4747 (May 5, 1999), p. 3015.

¹⁹ Yisraeli Committee Report, p. 10.

Three punishment-related changes in the law are proposed:

- The law should stipulate that anyone convicted of violating the terms of the draft-deferment arrangement under aggravated circumstances is to be deemed to have committed an *infamous crime*, with all the resultant implications regarding civil-service positions and elected executive positions. This measure may deter young haredim who are involved in public affairs from blatant breeches of the terms of the arrangement.
- The law should stipulate (or empower the defense minister to stipulate) a minimum deterrent fine for anyone convicted in court of violating the deferment terms. Yeshiva students would know that violating the terms of the arrangement not only would not boost their income, but would also jeopardize it.
- The enforcement mechanism - either the IDF or the administration - should be authorized to impose deterrent fines, without a trial, on *kollel* students who are caught working. The fines would be equal to one month's salary. Such fines would make the penalty immediate and would make work in contravention of the terms of the arrangement unprofitable. As is customary with this type of fine, *kollel* students can ask for a trial but would then risk a more severe penalty.

It should be acknowledged that even the measures proposed here regarding penalties would be hard to implement. Given the lack of motivation displayed by the State of Israel to enforce the draft-deferment arrangement and find evaders, this may very well be an unsolvable problem. Moreover, even if the penalties imposed for these offenses are made much more severe, it will be impossible to overcome the backlog in the courts. The delay in hearing cases would severely impair the effectiveness of the deterrence. •

A Question of Price

There is no doubt that the willingness expressed in this policy paper to exempt most yeshiva students from all military service will enrage many people. My response is that, to the best of my understanding, there is no chance of inducting the vast majority of haredi yeshiva students. I do not deny that even if the haredim do not actually serve, the fact that they are not officially exempted from service has ethical and moral significance. The obligation of military service is a value in Israel and should remain so. The question is what is the price. In order to continue to imprint the mark of Cain on the haredim as draft dodgers, Israeli society is paying billions in the loss of members of the

work force, lost GNP, allocations to yeshivas, and allocations and discounts to *kollel* students. In my eyes, this is too high a price to pay and the benefits do not justify it.