

# Fascinating Jewish history

Without the boring stuff (all contents copyrighted ©)

## Israel's Status Quo Agreement

For over sixty years, Israel's religious laws have been determined by the famous "status quo" agreement entered into before the state was founded. According to the agreement, certain religious basics became the undisputed directives of the new state. Yet despite its far-ranging influence, this agreement has little legal status and extreme secularists have always wanted to do away with it altogether.

### Early Agreements

Agreements between secular Zionists and religious Jews did not originate with the founding of the State of Israel. Back in 1917, when Palestine was preparing for the election of the Founding Assembly that would govern the country's Jews, the Torah community and many religious Jews of all camps opposed female suffrage. Religious Jews were the majority of the major towns of Yerushalayim, Chevron, Tzefas, and Teveriah, and Chaim Weitzman was afraid they might boycott the elections and create a political body of their own, which, Weitzman wrote, "cannot but have a negative effect on the negotiations between the Zionist Organization and the British Government, and on the opinion of politicians throughout the world."

Despite his virulent hatred of religious Jews, Ben Gurion compromised and religious voters were allowed to vote on behalf of eligible women in their homes.

In 1935, during the 19<sup>th</sup> Zionist Congress in Lucerne, there was danger that Mizrahi might leave the main Zionist Organization and unite with Ze'ev Jabotinsky's Revisionist party to create a separate Religious-Revisionist front. To keep Mizrahi in the fold, the Zionist Organization's Executive Committee made a generous gesture. It was decreed that all the hundreds of settlements belonging to their Keren Yayemet and Keren Hayesod funds must observe *Shabbos* and *kashrus*. Later, agreements were reached regarding the power of *beis dins*, public *Shabbos* observance, autonomous religious education, and more.

### The 1937 Letter

Best known of all was the Status Quo Letter of 1947. The United Nations Special Committee on Palestine had begun a fact-finding tour and was concerned that a secular State of Israel might hurt the religious population. Ben Gurion was also worried that Agudas Yisroel might damage the Zionist's position in the eyes of the outside world.

Moshe Prager (1909-1985, a Holocaust historian and writer who saved the Imrei Emes of Ger from Europe during World War II) arranged a meeting between Ben Gurion and Rav Yitzchok Meir Levine of Agudas Yisroel, which led to the penning of the famed "Status Quo Letter" of 1947. This is generally regarded as one of Status Quo's most important documents, although currently considered not as its only source, but as a culmination of an ongoing process of compromise. This important letter deserves to be presented in full:

"From: The Jewish Agency for Palestine, etc.

"To: The World Organization of Agudath Israel, etc., Jerusalem

"Dear Sirs,

"The Agency's Executive has learned from its chairman of your requests concerning guarantees on matters of matrimony, Shabbat, education, and kashrut in the Jewish state, once it is established in our days.

"As you were informed by the Chairman of the Executive, neither the Agency's Executive nor any other body in the country is authorized to determine the law of the Jewish state in advance. The establishment of the state requires the approval of the United Nations, and this is impossible unless freedom of conscience in the state is guaranteed to all its citizens, and unless it is clear that there is no intention of establishing a theocratic state. The Jewish state will also have non-Jewish citizens, Christians and Moslems, and, evidently, it will be necessary to ensure in advance full equal rights to all citizens and the absence of coercion or discrimination in matters of religion or in any other matter.

"We were satisfied to hear that you understand that there is no body authorized to determine in advance the constitution of the state, and that the state will be, in some spheres, free to determine its constitution and regime according to its citizens' wishes.

"Still, the Executive appreciates your demands, and is aware that these are matters that worry not only the members of Agudath Israel, but also many of the religious faithful in all Zionist parties or in no party, and it is sympathetic to your demands that the Agency's Executive inform you of its position regarding the issues you have brought up, and what it is willing to do, as far as its influence and directives reach, in order to fulfill your wishes regarding the said issues.

"The Agency's Executive has authorized the undersigned to formulate its position regarding the issues you have mentioned at the meeting. The position of the Agency's Executive is as follows:

"A. Shabbat. It is clear that Shabbat will be the legal day of rest in the Jewish state. Permission will naturally be given to Christians and to those practicing other religions to rest on their weekly day of rest.

"B. Kashrut. All means should be pursued to ensure that every state-run kitchen for the use of Jews serve kosher food.

"C. Marital Law. All the members of the Executive appreciate the seriousness of the problem and the grave difficulties pertaining to it, and all the bodies represented in the Agency's Executive will do whatever possible to satisfy the deep need of the religiously observant in this matter, lest the House of Israel be divided in two.

"D. Education. Full autonomy will be guaranteed to every education network (incidentally, this policy already exists in the Zionist Federation and Knesset Yisroel) and the state will not infringe on the religious philosophy or the religious conscience of any part of the Jewish people. The state will naturally determine the minimum requirement of compulsory studies in Hebrew language, history, science, and so forth, and will supervise this minimum, but will allow full independence to each network to educate according to its outlook and will avoid any injury to the religious conscience.

"Sincerely,

"On behalf of the Jewish Agency Executive, D. Ben-Gurion, Rabbi Y.L. Fishman, Y. Grinboim."

### **Anchored in Law**

After the founding of the state, a number of laws gave certain main premises of the Status Quo a solid legal standing. These included the Kosher Food for Soldiers Ordinance of 1948 that guaranteed kosher food for Jewish soldiers and the Hours of Work and Rest Law of 1951 that recognized *Shabbos* as the official day of rest. The Rabbinical Courts Jurisdiction (Marriage and Divorce) Law of 1953 gave *beis din* control over Jewish marriages and divorces, and the State Education Law of that same year recognized the autonomy of religious schools outside the regular framework of public schools, legalizing the existence of *chadorim* and *yeshivah ketanos* and making them eligible for government funding.

Other elements of the Status Quo were anchored not in law but by policy decisions. These included the policy to serve kosher foods in government institutions (besides the army where it was law), and the ban against public transport on *Shabbos* except where it was very prevalent before the founding of the state. This is why Chaifa has always had public busses running on *Shabbos* and *Yom Tov*.

In the early years of the state, items added to the Status Quo agreement included the exemption of *bnei Torah* from military service, based on Ben Gurion's prior agreement to this effect in 1948. This too was also anchored in law, leading to the Supreme Court's

demand that the exemption be formulated as an official law. This is the root of today's Tal Law debacle. Raising and trading pork was also outlawed.

During the first few decades of Israel's existence, the general public was more accepting of the Status Quo for a number of reasons. First, the Labor Party, which had promulgated the Status Quo, was the ruling party until Menachem Begin's Likud Party won the elections in 1977. Secondly, in those times most Jews were more traditional than nowadays, and thirdly, the populace was more interested in achieving national unity. Also, courts were less inclined than today to challenge the rules and regulations the Status Quo engendered.

Nowadays, with a world that is less religious and traditional, Israelis too feel less inclined to be bound by the Status Quo agreement, and the immigration of about a million people from the former USSR, hundreds of thousands of them not Jewish, did not improve the situation. In addition, courts have demanded that important regulative schemes such as army exemption for *bnei Torah* require proper legislation, leading to the Tal Committee fiasco of the past few years. The courts have also demanded a tightening up of criteria in government allocation of funding to *yeshivos* and *kollels*.

There is great pressure to open businesses on *Shabbos*, and movie theaters operate on *Shabbos* almost everywhere. As a result of such pressure, a 2008 court ruling declared that although a 1977 law forbids the displaying of *chometz* on *Pesach* in Jewish areas, displaying *chometz* in a store is not considered public. Another threat against the Status Quo is the possibility that Israel might decide to draft a full constitution whose tenets conflict with items of the Status Quo, claiming that they are discriminatory, for example, and create further erosion of its principles.

However, to some extent secularists too regard the Status Quo as a useful tool to resist initiatives coming from the religious side. Although less powerful than it used to be, the Status Quo agreement is likely to influence Israel's affairs for a long time to come.

(Uri Ben-Tzvi, "The History of the Power of Israel's Religious Political Parties." Daphne Barak-Erez, "Law and Religion under the Status Quo Model: Between Past Compromises and Constant Change," *Cordozo Law Review*. vol. 30:6)

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