

The ultra-Orthodox and the future of the People's Army

MAY 2023



Introduction

The question of ultra-Orthodox (UO) military exemption has been controversial and fiercely contested since the establishment of the State of Israel, striking at the heart of the religion-state issue and the inequality of the burden of service placed on a population in an almost constant state of war for 75 years. The current government-proposed military draft bill represents the latest attempt to successfully legislate the issue, against the background of the 1998-2017 High Court of Justice (Bagatz) rulings that existing exemption provisions were unconstitutional.

Yet with disagreement between the Finance and Defence Ministries, the temporary freezing of planned judicial reforms, and the imminent date for passing the budget, the government finds itself on the verge of a coalition crisis. This BICOM paper maps out the latest political debate and what could come next.

The ultra-Orthodox and military enlistment: What currently happens?

UO politicians have consistently opposed mass enlistment for their community with the argument that the community needs to prioritise learning Torah, and that serving in the IDF will culturally and religiously dilute their way of life.

UO men can defer service in the IDF.

Under the current system UO men who annually claim that they are learning in Yeshiva and that 'Torah is their profession' (*torato omanuto*) can defer service from the military draft until 26. At this age, they receive a permanent exemption after which they are allowed to enter the workplace. The vast majority of UO men claim this deferral. Of the approximately 11,000 UO who turned 18 in 2022, only 10 per cent were conscripted into the IDF.

This model provides several challenges – both economic, and to the principles of equality and the IDF as a people's army.

- **The UO sector in Israel is not maximising its economic potential.** [Recent analysis](#) shows that 44 per cent of the whole Israeli UO population were classed as living in poverty, compared with 22 per cent amongst the rest of the population. During the first three quarters of 2022, only 53 per cent of the male UO population participated in the Israeli workforce (compared with 80 per cent of UO women). The average monthly income of a UO household is NIS 14,121 (£3,360) compared with NIS 21,843 (£5,200) for the rest of Israeli households.
- **The integrity of the IDF's status as a "People's Army" relies on a model of conscription rather than volunteers.** Opponents of UO exemption – crossing the left-right spectrum – argue that allowing 90 per cent of a community to evade the burden of protecting the nation violates this integral principle and risks the very viability of the compulsory service model. Indeed, a system in which Israelis from across the economic and multi-ethnic divide serve to protect the nation is, as Chief of Staff Herzi Halevi said recently, the secret of the IDF's – and the nation's – strength. Currently, if the similarly exempt Israeli-Arab community is added to the UO, the percentage of the 18-year-old population conscripted each year is around 50 per cent. Some observers argue that such a situation gives the lie to the IDF being a true "People's Army". As former Director General of the Ministry of Defence Major-General Amir Eshel put it, "The IDF isn't really a people's army. It's a half-of-the-people's army."

- **Population growth is set to exacerbate this issue.** According to projections, the disproportionate increase in the UO population means that by 2050, 126,000 of the 241,000 Israelis reaching the age of 18, will neither enlist in the IDF nor perform other national service. Approximately 57 per cent of these will be UO.
- **The policy in which some Israelis are conscripted while others receive an exemption** based on ‘Torah study being their profession’ undermines the principle of equality which a 1998 High Court of Justice ruling declared was “the very soul of our entire constitutional regime.” While 10 per cent of UO 18-year-olds join the IDF, 88 per cent of students who graduate from Israeli state system schools enlist. The justices [declared](#) that such a situation “in which a significant portion of these individuals of service age do not risk their lives for the security of the State is very discriminatory, engendering deep feelings of exploitation amongst those who serve.”

A Political Crisis: Why now?

The current crisis is the result of the confluence of several political factors and timetables, all stemming from the fact that under the coalition agreement the government had committed to passing a new draft law before the budget.

Unless the budget is passed by the end of May, the government falls – Basic Law: Knesset determines that unless the budget is passed by the 31st March each year, the Knesset gets dissolved and new elections are called. Because the current government was sworn in in late December, the Knesset legal advisor extended this timeline for an additional two months.

The UO parties conditioned their support for the budget on Likud keeping commitments made in coalitional agreements. These included passing an

Override Clause as part of judicial reform and / or passing a Basic (quasi-constitutional) Law enshrining Torah study as an important value. Either option would have prevented the High Court of Justice from reviewing and subsequently rejecting legislation which provided the UO with an exemption from IDF service. But neither has happened. Moreover, with no formal version of any new bill having even been introduced to the Knesset, there is virtually no chance that it could receive the three readings necessary to become law (High Court of Justice interventions notwithstanding) prior to the budget deadline at the end of May.

The Court deadline for the Knesset to legislate on the issue is due to expire at the end of July. Following years of governmental instability and several rounds of elections, the Court gave the government until the end of July 2023 to pass new legislation. Should this not occur (or should the Court refuse to grant a further extension or declare unconstitutional any new law passed), then the exemption would be considered void and members of the UO community would be required to accept conscription or face the legal consequences of refusal.

Government Proposed Legislation

The bill currently advanced by the government formalises the exemption and lowers the age at which UO could be considered permanently exempt to either 21 or 23. In parallel, those Israelis who do serve would receive a significant increase in compensation for their service – together with possible housing incentives and / or help with university tuition – while those in non-combat army roles would be allowed to serve for a shorter time.

Proponents argue this makes economic sense. The Finance Ministry’s priority is to increase the number of UO who are economically independent and to decrease the

Historical Context

In 1948, David Ben Gurion struck a deal with the UO community to exempt from service a capped number whose full-time occupation was Torah study. At the time, the torato omanuto principle was never enshrined in law, but rather in a Defence Ministry regulation. Given the much smaller UO population, the exemption applied only to 400 Yeshiva students.

With the election of Menachem Begin as Prime Minister in 1977, the cap was removed and all Yeshiva students were able to avail themselves of the exemption.

In the late 1990s, the Supreme Court began a series of interventions on the issue. In a 1998 ruling *Rubinstein v. The Minister of Defense*, the court, under the leadership of Aharon Barak, ruled that exemption was discriminatory and violated the principle of equality. It subsequently ordered that suitable legislation be explored to remedy the status quo. In 2012, the Court similarly ruled unconstitutional the Tal Law, the first attempt at a legislative solution which, although designed to encourage greater UO participation, left the process largely voluntary, resulting in ongoing low rates of service.

The 2013 Netanyahu government – which did not comprise UO parties – passed legislation requiring an annually increasing percentage of UO men to be drafted. This was encouraged by coalition partners Naftali Bennett and Yair Lapid. Between 2012–14, partly as a result of reduced budgets, the amount of UO students studying in Yeshiva declined by 8 per cent.

The 2015 UO parties' return to power led to new legislation undercutting the previous policy, which in turn was once again struck down by the court. An increase in budgets for yeshiva students led to 10 per cent increase in the number of students. In 2017, the court ruled the new legislation unconstitutional and demanded the government make changes that respect the principle of equality.

During the Bennett-Lapid government, Defence Minister Gantz succeeded in passing, on a first reading, a bill lowering the age of exemption to 21. The bill, whose progress collapsed along with the government, also provided for the eventual drafting of the majority of the UO into the IDF, with the quota for those obliged to serve rising each year.

community's reliance on state subsidy – currently considerable. The lower age for exemption allows an earlier end to Yeshiva studies (without the fear of being enlisted in the IDF) and, consequently, a potential earlier entry to the job market and the wider economy.

Based on this logic, **it is economically vital to reduce the age sufficiently to enable UO men to consider a professional future** prior to getting married and starting a family (typically between 21 and 23). Leaving the Yeshiva at 26, as at present, makes it difficult for them to viably consider vocational or academic training, further limiting their chances of productive employment.

The government hopes that providing greater financial remuneration for combat soldiers will help balance the unequal nature of army service being proposed, thus potentially preventing the High Court of Justice from overruling the legislation as it has done in the past.

A debate remains over the suitable age to set full exemptions. While the IDF in principle accepts the reduction of the exemption age, it opposes the Finance Ministry's preference for 21, believing it undermines any potential incentive for joining the army. The current situation (deferral until 26 and then exemption) creates a potential avenue for UO men for whom the Yeshiva is not an attractive option – enlisting in the IDF for 3 years allows them to enter the work force and earn a living at 21 after finishing service. Such an option provides a route to a professional path relatively early in life denied to UO men who defer service and remain in Yeshiva until 26. However, if new legislation reduces the exemption age to 21, there is no incentive for such a person to enlist. They could simply remain in Yeshiva until 21, and still enter the job market at the same age.

Responses

Critics see attempts to better compensate those who will continue to serve as marking the transition of the IDF away from its citizen-army

model towards a more 'professional' army. At a recent press conference, Benny Gantz and Gadi Eisenkot – both former IDF Chiefs of Staff as well as members of the Knesset opposition – said: “This will not be the people's army (tzava ha'am), this will be Army Ltd (tzava ba'am).”

The military draft issue may feature more prominently in the ongoing battle by the protest movement against the government's policies – which are currently focused on judicial reforms. A leader of the movement recently declared: “The days in which one side serves the state and also bankrolls the yeshivas – while also trying to establish a Halachic dictatorship – are over.”

Gantz and Eisenkot have proposed their own alternative plan called “Israeli Service” according to which the IDF would annually be able to choose those it wants for military service from Israel's Jewish and male Druze populations. Those not chosen will be required to consent to assignment by the Service Directorate to national service in fields such as first aid and rescue, or volunteering in welfare or inner-community organisations. This would allow members of all different groups in Israeli society – secular, national-religious, UO and Arab to serve their communities – and the country – in some way. The previous Bennett-Lapid, government, in which Gantz was Defence Minister also sought to lower the age of formal exemption, while also setting an annual quota for UO to enlist.

What's Next?

The current situation has created extreme tension between Netanyahu and his UO coalition partners, in what has until now been a longstanding stable political alliance.

With approval of the budget due by the end of May, and judicial reforms on hold, it is near-impossible for any bill to be passed in the next few weeks that is acceptable to the UO. Moreover, absent a new Basic Law on Torah study or an override clause – both unlikely in the immediate term – any bill along the lines of the one currently floated by the government would almost certainly be

overturned by the court on grounds of equality and discrimination.

In light of this, Shas is prepared to postpone the military draft bill. The party believes it to be important to have any such legislation gain broad support, including from the Defence Ministry, which will help it withstand the scrutiny of the Court if and when it is challenged.

There is a reported split within UTJ over the way forward. The UO magazine *Mishpacha* quoted UTJ Chairman Yitzhak Goldknopf (head of Agudah) saying that the prime minister had been told that the Council of Torah Sages has instructed the party to leave the governing coalition if the military draft bill were not passed before the approval of the state budget. Another UO news site, *Kikar Hashabbat*, published comments by Meir Porush (also of Agudah) who questioned why his party even signed a coalition deal with Netanyahu. "How long does Netanyahu want to look ridiculous?" he asked. "He can't say 'I can't.' You can't? So don't be prime minister... Go home."

Sources in Degel Hatorah meanwhile have reportedly expressed understanding of the complicated nature of the timing. "Despite the fact that the military draft issue is the very heart of our agenda, one has to act judiciously and responsibly. There has been no clear decision on this. The possibility of pushing off the military draft bill will be tabled for discussion with our spiritual leadership, as well as among members of our [Knesset] faction."

Netanyahu may seek to play for time by trying to placate his UO partners with additional budgetary promises. Channel 12 News recently reported that 5 billion NIS (£1.12bn) are due to be distributed to UO institutions, including an allocation of 1.8 billion NIS (£430m) to yeshivas in the course of the current year, around 300 million NIS (£71m) to teaching staff in recognised but unofficial schools, including UO schools. In 2024, this is due to increase to almost NIS 900 million (£215m). These allocations, which the government did not

authorise in the framework of the state budget, will need to be submitted to the Knesset for approval. There is concern inside the Likud that these concessions will be highly unpopular even among their supporters, amplified in the context of the rising cost of living.

It would not be the first time Netanyahu has sought to pacify these parties. Before the November 2022 elections, Netanyahu committed to fund UO schools regardless of whether they teach the so-called core curriculum. Then Prime Minister Lapid responded that such a move was "endangering the futures of hundreds of thousands of ultra-Orthodox in the job market and their ability to make a living... without thinking twice."

The government may subsequently seek an extension from the High Court of Justice to legislate a draft law. If the government succeeds in passing the budget with UO support (end of May), it may then seek an extension for passing new legislation regarding UO not being drafted.

Even if the current crisis gets resolved, the long-term challenge of Israelis sharing the burden will remain. In the current political and societal constellation, there is no plan that would satisfy the UO preference for Torah study instead of army service, the High Court of Justice's emphasis on equality, and the public sentiment that UO receiving an exemption from army service is unfair.



Britain Israel Communications and Research Centre

www.bicom.org.uk

Copyright © Britain Israel Communications
and Research Centre 2023

For more information please contact:

Richard Pater
richardp@bicom.org.uk