The Haredi Exemption
April 2, 2024

Through an arrangement established during the founding of the state, Haredi men have enjoyed a de facto exemption from the mandatory IDF or non-military service requirement that legally applies to all Jewish Israeli citizens.

On multiple occasions, Israel's High Court has deemed this system illegal and discriminatory. After decades of political wrangling, the legal basis for perpetuating it has expired. With the issue of military service dominating the public discourse amid the Israel-Hamas war, this perennially explosive could have decisive implications not only for Israel's current government, but also the future of Israel's military, judiciary, and religion-and-state status quo.

Background: Mandatory Conscription in Israel

In 1949, the Knesset passed the Defense Service Law, which established military conscription and required that all Israeli citizens be drafted into the Israel Defense Forces or participate in national service from age 18. While additional legislation in subsequent decades modified the length of mandatory service and other procedural aspects of the draft, the system itself has otherwise remained largely unchanged.
Arab citizens of Israel typically do not serve in the military or partake in national service. The exemption for Israel's largest ethnic minority is not explicitly established through law, but rather is implemented through army directives. These directives have not applied to the Druze and Circassian communities, who do typically serve alongside their Jewish counterparts.

The Defense Service Law does provide explicit exemptions for religious, pregnant, and married women.

**The Exemption's Origins: 1948-1998**

Like many issues in Israel pertaining to religion and state, the exemption from military service enjoyed by Haredi men has its roots in the birth of the State of Israel. During Israel's 1948 War of Independence, Prime Minister David Ben-Gurion struck a deal with leaders of the Haredi community to exempt those whose full-time occupation was Torah study from mandatory military service.

This arrangement came to be known as *torato omanuto* (חראתו אומנותו), translating to “his Torah is his occupation,” and was implemented not through legislation, but rather through a Defense Ministry regulation. This mechanism allows Haredi men to “defer” their IDF service by studying in yeshiva from age 18 until they reach an established age at which the draft no longer applies. Legally, Haredim out of yeshiva were subject to the draft until age 40, although in practice they could leave yeshiva at age 30 and join the workforce without fear of conscription.

As a result of the Haredi community's high birthrate and its explosive growth relative to the rest of Jewish Israeli society, a system that initially allowed several hundred exemptions has now resulted in merely 69% of Jewish men and 59% of Jewish women actually being drafted (as of 2019). Under Prime Minister Menachem Begin's Likud government in 1977, the Knesset also removed the cap on the number of exemptions under *torato omanuto*. This status quo of Haredim not serving in the military while relying on disproportionate government subsidies has fostered significant resentment among non-Haredi Jews. It has also exacerbated the Haredi community's socioeconomic marginalization and high unemployment rates.

**The Rise and Fall of the Tal Law: 1998-2012**

In the landmark *Rubinstein v. The Minister of Defense* case of 1998, Israel's High Court of Justice ruled that the defense minister had no legal authority to exempt Haredi men from conscription and called on the Knesset to find a solution to the issue through legislation. In his majority opinion, Supreme Court President Aharon Barak argued that *torato omanuto* violated the principle of equality, and that “the current 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.”
In response to this ruling, Prime Minister Ehud Barak established a committee under the leadership of Supreme Court Judge Tzvi Tal to find a practical legal solution to allow the Haredi male draft exemption to endure. Based on the recommendations of the committee, the Knesset passed the so-called Tal Law in July 2002, implemented as a temporary measure that could be renewed by the Knesset every five years. The Tal Law permitted full-time yeshiva students to postpone their conscription into the IDF until age 23, after which they could choose to participate in a shortened, 16-month stint of IDF service; do a year of civilian national service; or continue studying full-time in yeshiva. The goal of this arrangement was to pave the way for Haredi men to join the workforce earlier and non-coercively encourage conscription among Haredim.

However, the Tal Law entirely fell short of changing the Haredi community’s paradigm of prolonged yeshiva study, as their strong ideological commitment to religious education and opposition to military service persisted and the incentives for choosing service proved insufficient. A very modest number of Haredim were opting to serve rather than continue their yeshiva studies, and thus the Tal Law merely provided a legislated path for the Haredim to shirk conscription. Given that the Tal Law in practice merely perpetuated inequality, in February 2012, the High Court ruled that the Tal Law was unconstitutional for violating Basic Law: Human Dignity, canceling the legislation as of August of that year.

**The Third and Fourth Netanyahu Governments: 2013-2019**

Following the January 2013 Knesset elections, Israel swore in its third Netanyahu government, which notably left the Haredi parties in the opposition. The government did include the ascendent new party of former journalist Yair Lapid, Yesh Atid, which ran on the promise of “sharing the burden” by eliminating the Haredi community’s draft exemption. Amid the elections and following the establishment of a ministerial committee led by Science and Technology Minister Yaakov Peri of Yesh Atid tasked with drafting legislation to address the Haredi draft exemption, the Supreme Court allowed the defense minister to continue issuing draft deferrals for yeshiva students on a temporary basis.

In March 2014, the coalition succeeded in passing legislation requiring the IDF to draft a percentage of draft-age Haredi men that increased each year. If the quota of 60% was not met by 2017, all eligible Haredi men would be required to enlist and would face criminal penalties for not doing so. For those first three years, the quotas were not to be enforced with penalties.

That delay in the imposition of sanctions proved to be consequential. The establishment of Netanyahu’s fourth government in May 2015 saw the return of the Haredi parties to power. Months later, the new government passed legislation amending the 2014 law by removing criminal penalties entirely and slowing the imposition of the quotas until 2020.
The High Court took action on the issue once again in September 2017, when it struck down the 2014 law for perpetuating inequality between Haredim and non-Haredi Jews. Once again, contrary to the law’s original intention, it had failed to result in any meaningful increase in the number of Haredim enlisting. The court granted the government one year to pass a new law addressing the Haredi draft, during which the defense minister could continue issuing deferrals to Haredi men. The fall of Netanyahu’s fourth government in late 2018 began a series of five Knesset elections in less than four years, during which the court repeatedly issued extensions to allow the status quo to continue amid the political instability. The Haredi draft issue served as a primary catalyst of this political crisis: erstwhile Netanyahu ally Avigdor Liberman’s staunch opposition to a Haredi draft exemption put him at odds with Netanyahu’s Haredi partners, blocking Netanyahu from forming a government after the April 2019 elections and launching the series of subsequent elections.

A Frozen Status Quo: 2019-2023

From the 2017 court decision until July 31, 2023, the court’s extensions temporarily allowed the defense minister to continue exempting Haredi men from service. This temporary system required Haredi men to defer the draft by remaining in yeshiva until age 26, after which they would be permanently exempt from service.

While the Bennett-Lapid government was in power and Likud and the Haredi parties sat in the opposition, the Knesset passed the first reading of a Haredi draft bill introduced by Defense Minister Benny Gantz, which sought to lower the exemption age to 21 to allow Haredim to join the workforce earlier. Gantz framed this legislation as the first step in a more comprehensive plan that would ultimately require all Israeli citizens, including both Arabs and Haredim, to perform national, if not military, service. The bill was not ultimately passed into law as it did not come up for additional Knesset votes.

With the return of Netanyahu’s right-wing and Haredi bloc to power in late 2022, the Haredi parties’ desire to secure a decisive victory in the fight against mandatory conscription served as a primary impetus for the judicial overhaul. In particular, the Haredi leaders saw passing an override clause, which would allow the Knesset to re-legislate laws struck down by the High Court, as essential to ensuring the durability of a permanent draft exemption for Haredi men.

In April 2023, the Netanyahu government reportedly planned to advance a draft bill that would lower the exemption age from 26, where it currently sits, to 23, meaning that Haredim would have the option to leave yeshiva and join the workforce earlier without fear of being drafted. As a consolation for non-Haredi Jews, the government would also move to reduce the term of service for those who do serve to two years (men typically serve 32 months), increase benefits for conscripts, and raise salaries for those who serve beyond the minimum two-year term.
The government did not manage to pass a draft law before the (invalidated) 2014 law expired on June 30. With the court-approved temporary extension also set to expire on July 31, on June 25, the cabinet ordered Defense Minister Galant not to conscript Haredim until April 1, 2024—effectively the same mechanism that the court had ruled illegal back in 1998, but instead instituted as a temporary measure. In the meantime, the government committed to legislating a draft law in the Knesset's winter session before the April deadline.

It is important to note, however, that the government’s planned solution to the Haredi draft issue likely would not have withstood judicial scrutiny as it would once again preserve the unequal system struck down in 1998, 2012, and 2017. The override clause proposed as part of the judicial overhaul would have solved this problem by allowing the Knesset to overrule the court with a simple majority. Once that element of the judicial overhaul was paused, the government then planned to pass Basic Law: Torah Study, which would enshrine Torah study as a core value of the state and supersede the court’s argument that the exemption is unequal.

Israel at War: 2023-2024

As Israel reeled from Hamas’ October 7 attack and the war in Gaza began, hot-button political issues like the Haredi draft exemption and the judicial overhaul quickly dropped from popular discourse. But they endured as fault lines in Israeli society, even if temporarily obscured by wartime social unity.

Israel quickly mobilized hundreds of thousands of reservists and entered the longest and most intensive war it has faced since 1948. With the war putting a significant strain on the IDF’s existing manpower, the army announced a plan in early February to increase the length of service for conscripts and reservists. The plan generated backlash from across the political spectrum as it highlighted the unequal burden placed on non-Haredi Jewish Israelis, bringing the issue of the Haredi exemption back to the fore.

With April 1 (expiration date of the cabinet decision preserving the Haredi exemption) fast approaching, it soon became clear that this issue could pose an existential threat to Netanyahu’s government. Enshrining the Haredi draft exemption has been the Haredi parties’ highest political priority since the government was sworn in. But with wartime solidarity dominating the political and Israeli society rallying around the IDF, coalition lawmakers who once had no qualms enabling the Haredi exemption were starting to change their tone. Defense Minister Yoav Galant called to end the exemption and announced he would only support legislation on the draft accepted by Benny Gantz and Gadi Eisenkot, centrist lawmakers from the opposition who joined the cabinet at the start of the war. Other Likud MKs have also expressed opposition to preserving the status quo. Reflecting a shift in how this issue is being discussed in Israel’s religious Zionist community, Finance Minister Bezalel Smotrich also declared it “essential” that the Haredim contribute more to the country’s security.
In late February, the High Court ordered the state to respond to petitions against the temporary government resolution from June 2023 that preserved the Haredi exemption. The state affirmed that it would submit a statement on planned legislation to address the issue by March 24 and acknowledged that if it failed to put forward a bill, the Haredim would be subjected to the draft on April 1.

With the Haredi draft exemption having become a divisive political issue even within the government, the coalition scrambled to put forward a bill. The proposal reportedly backed by Prime Minister Netanyahu would have established (yet unspecified) quotas for conscripting yeshiva graduates to be eventually enforced by financial (rather than criminal) sanctions. It also would have raised the exemption age from 26 to 35—in contrast to the government's 2023 plan to lower the exemption age—arguably in order to encourage Haredim to enlist by requiring nine additional years of yeshiva study as the alternative. Attorney General Gali Baharav-Miara warned that she would be unable to defend the proposal in court.

With the Finance Ministry predicting that raising the exemption age would cost the Israeli economy $28.5 billion over the next decade, Prime Minister Netanyahu ultimately backed down from this element of the proposed bill. Nevertheless, the government failed to agree on a bill in time to meet the High Court's deadline to respond to the petitions (postponed by High Court by three days to March 27). Had the government been able to put forward a credible bill by that deadline, the court could have allowed the government to push the April 1 expiration date back by several months to give the Knesset time to pass a draft law upon returning from its Passover recess.

Instead, on March 27, the High Court issued an interim order that froze government funding for yeshivot that do not send their students to the army as of April 1. The announcement was met with condemnation from Haredi leaders and escalated concerns within the government that a failure to preserve the draft exemption could prompt the Haredi parties to quit the coalition and trigger elections.

On March 31, Baharav-Miara affirmed that the Defense Ministry and Education Ministry must begin working to draft Haredi men the following day, once the interim government regulation exempting them expires. She also warned the government not to try circumventing the March 27 High Court order by finding alternative methods for funding yeshivot whose students do not enlist.

**Looking Forward**

As of April 1, 63,000 Haredi yeshiva students are now subject to the draft. But their enlistment is not necessarily imminent. The Defense Ministry may not immediately opt to enforce the draft in practice. While the military police will likely not immediately pursue draft-eligible Haredi men, it is possible that they could be arrested for draft-dodging when encountering law enforcement in
other contexts. Meanwhile, Attorney General Gali Baharav-Miara informed the government that it must be prepared by the end of the month to inform the High Court of steps it is taking to begin drafting Haredi men.

The yeshiva funding freeze has also taken effect, although the full impact will not be felt immediately. Yeshivot will no longer receive per-student funding for students who became eligible for the draft after the exemption law expired in June 2023, since those students were never issued official draft deferrals. As other yeshiva students’ yearly deferrals expire, they too will be subject to the draft and their corresponding yeshiva funding will be cut. This will ultimately lead to a ban on government funding for 1,257 yeshivot and partial cuts for hundreds more.

While Haredi politicians have continually expressed that an end to their draft exemption would imperil their support for Netanyahu’s government, they have sought to project political stability in the wake of April 1. Contrary to some initial signals from the community, the Haredi parties do not immediately intend to leave the government and trigger elections, given the likelihood that such an outcome would relegate them to the opposition for the foreseeable future. Meanwhile, Netanyahu has reportedly promised them that he would advance a draft law that is acceptable to both them and the attorney general within 30 days and that the Knesset will pass it, even if opposed by Defense Minister Galant.

Yet when the Knesset returns from Passover recess in May, this issue will continue to pose an existential threat to Netanyahu’s government. Galant is not the only member of Likud who would be opposed to re-legislating the Haredi exemption. With more Israelis once again taking to the streets to protest the government, the public pressure against such a concession to the Haredim will be considerable. It will be a formidable challenge for Netanyahu, politically weaker and more unpopular than ever, to appease everyone his political future depends on.

The draft exemption enjoyed by Haredi men has long been a political lightning rod. For most of 2023, it served as a rallying cry for protestors against the judicial overhaul associated with Israel’s secular, liberal mainstream. But October 7 highlighted the tremendous security challenges facing the IDF like never before, including a lack of manpower. Amid the war in Gaza, many traditional allies of the Haredim on the political right have begun to call this status quo into question. It remains to be seen how much longer the Haredi community can resist the mounting political pressure to take up the burden borne by the rest of Israeli Jews.