

Judicial Diversity in Israel:
An Empirical Study of Judges, Lawyers and Law Students

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'I, Yael Levy Ariel, confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.'

ABSTRACT

Israel has witnessed both the judicialization of politics and growing criticism that the judiciary does not reflect the diversity of Israeli society. However, no comprehensive analysis of judicial diversity in Israel has existed. In addition, despite substantial changes in legal education and the legal profession in Israel in the past two decades, there has been no research into the demographics of Israeli lawyers and law students who make up the “pool” for future judicial appointments. These factors, along with recent proposals to reform the judicial selection procedure, form the background to this research, the aims of which are:

- (1) To provide the first comprehensive analysis of judicial diversity in Israel;
- (2) To provide the first study of diversity amongst Israeli lawyers and law students;
- (3) To explore perceptions of Israeli lawyers and law students regarding judicial diversity in Israel.

To achieve this, three large-scale quantitative empirical studies were carried out. The first study draws on publicly available information to profile the diversity of all judges in the general court system in Israel (covering over 700 judges). The other two studies surveyed lawyers and law students in Israel, profiling the diversity of each group and examining their views about the Israeli judiciary, judicial diversity in general and in Israel, as well as their interest in a judicial career.

The three studies therefore provide a unique insight into judicial diversity in Israel as it currently stands as well as the where it may be heading in the immediate and longer-term future. The thesis also places its findings within the continuing debate about judicial diversity in Israel, and it explores how judicial diversity in Israeli fits within the wider scholarship on judicial diversity worldwide.

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LIST OF ABBREVIATIONS

CBS	Central Bureau of Statistics (Israel)
CHE	Council for Higher Education (Israel)
FSU	Former Soviet Union
HCJ	High Court of Justice (Israel)
IDF	Israel Defence Forces
MK	Member of Knesset (the Israeli parliament)
MoJ	Minister of Justice

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CHAPTER 1: INTRODUCTION

JUDICIALIZATION AND JUDICIAL DIVERSITY IN THE ISRAELI CONTEXT

"So long as the [court system] duplicates its judges, it will keep losing its legitimacy amongst the public...I think that the members of this house...should act together to change the judicial nominations system, to break the wall that denies access from Sephardic Jews and Arabs, to enable adequate representation and thus create a consensus of support in the courts. Until then, I will keep asking: where is justice?"¹

"The Supreme Court does not represent the diversity of Israel's population. If it does not accept judges of different sectors...it will lose its legitimacy.... Arabs, Orthodox Jews and Olim [new Jewish immigrants] will always think the Supreme Court rules against them so long as they are not represented in it"²

This thesis investigates the state of judicial diversity in Israel. The composition of the judiciary is a critical issue of major significance in Israel. It has been such since the establishment of the state and is even more so since the late 1980s, following changes in the dynamics between the courts and the other branches of government. As the quotes above demonstrate, the Israeli courts system (and the Supreme Court in particular) is perceived as failing to represent the diverse composition of Israeli society. The politicians who made these statements have long retired, but their concerns continue to resonate in the political and public debate of Israel today.

In an age of significant change in the role of courts in society worldwide, the public debate about the demographics of judges is not unique to Israel. Numerous democracies have investigated the composition of their judiciaries, the leading in terms of scope and variety of research is the United States³, but examinations of the state of judicial diversity have

¹ Remarks by Knesset member (MK) David Azulai, an Orthodox Sephardic Jew, during a discussion in the Knesset on 3 February 1998 (quoted in: Menachem Mautner, 'Appointment of Judges to the Supreme Court in a Multicultural Society' (2003) 19 *Legal Research* 423, 429.

² Statement by Yuli Tamir, Minister of Education (then), in 29.6.2000, quoted by Mautner (n.1), 431-2.

³ The National Centre for State Courts routinely publishes statistics on judicial diversity in the 50 states ("Diversity of the Bench"). <http://www.judicialselection.us/> accessed 3 December 2016.

also been carried out in England and Wales⁴ and other common law jurisdictions⁵. Although there are obvious differences between jurisdictions in terms of their legal system, the structure of courts, the judicial nomination system and the composition of society, there are commonalities that characterise the study of judicial diversity: for instance, the composition of the judiciary and identification of sectors that may be under-represented in it (e.g. women, ethnic minorities); the factors that are likely to affect judicial diversity (e.g. the judicial selection process); and the possible links between the state of judicial diversity and way the judiciary is perceived. In that sense, Israel does not differ from other jurisdictions. However, several factors highlight the importance and uniqueness of judicial diversity in Israel.

Over the years and particularly in the past two decades, numerous concerns have been expressed about the composition of courts and under-representation of specific groups in the judiciary⁶. These concerns were accompanied in many cases by attempts to revise or reform the judicial appointments system, mainly by parliamentary bills that for various reasons have not resulted in any significant change in the selection system⁷. So while public debate makes an abundance of claims about the composition of the judiciary and flaws in the judicial selection procedure as well as proposals for change, the nominations procedure has not changed significantly since its establishment in 1953. This gap can be partially explained by the dominance of those who object to calls to reform the nomination system, mainly the judiciary and several political players. But another obstacle hindering change in judicial appointments has been the lack of solid, empirical research on judicial diversity in Israel. Israel has quite unique population dynamics, with a highly diverse (and divided) society consisting of a range of ethnic, religious and national groups that differ in numerous aspects, including their attitudes toward the courts and political institutions of Israel⁸. These are the critical factors that shape the discussion about judicial diversity in Israel and that underlie this study.

⁴ The Judicial Appointments Commission publishes a diversity strategy and monitors its performance on its website (in a specified statistical bulletin): <https://jac.judiciary.gov.uk/diversity-strategy>.

⁵ Cheryl Thomas, *Judicial Diversity in the United Kingdom and Other Jurisdictions* (The Commission for Judicial Appointments, 2005); Alan Paterson, Chris Paterson, *Guarding the Guardians? Towards an Independent, Accountable and Diverse Senior Judiciary* (Centre Forum and CPLS 2012) 52-63

⁶ Shimon Shetreet, *On Adjudication: Justice On Trial* (Miskal – Yedioth Ahronoth Books 2004), ch 9.

⁷ Mautner (n1); for a detailed review see chapter 2.

⁸ Menachem Mautner, *Law and the Culture of Israel* (OUP 2011).

This chapter outlines the theoretical and scholarly foundations of this thesis. It starts by explaining the circumstances in which the judicial diversity debate has gained recognition and importance in Israel. It focuses on the judicialization of politics in Israel, which changed the role of courts in society, making the judiciary a significant political player and prompting queries about its composition and selection methods. As part of the discussion of judicialization, specific focus is given to political and social processes that occurred in Israel and changed the role of courts as well as the perception and public interest in the composition of courts. The chapter also places these developments in Israel within the wider international development of the study of judges (Judicial Studies and Judicial Behaviouralism) and judicial diversity. Reasons why such scholarly research has not developed in Israel despite the continuing strong general interest in judges there are also explored. Finally, this chapter presents the aims and objectives of this thesis, as well as its organisation.

1.1 Judicialization of politics

In most democracies, courts are important agencies of the government and like other governmental institutions they interact with the political culture⁹. However, this was not always the case, at least not in its current intense form. The traditional view suggested that courts were isolated from the political process and impervious to external (including political) influences. Nevertheless, in the early twentieth century scholars (most notably in the US) began to argue that this view was naïve; courts are situated within the political process and judicial functioning carries inherent political elements¹⁰:

“The political jurist begins with what any fool could plainly see if his eyes were not beclouded by centuries of legal writing, that judges and courts are an integral part of government and politics ... and are, therefore, first and foremost political actors and agencies”¹¹.

This view has become more acceptable and common as the field of judicial studies gained greater influence and support, and the traditional prototype role of judges as rule-applicators has gradually faded away. Today, judicial intervention exists in almost every aspect of modern life. The number and types of decisions that democracies entrust to courts has increased substantially, to the point that “there is virtually no area of social life

⁹ Martin Edelman, *Courts, Politics and Culture in Israel* (University Press of Virginia 1994); Ran Hirschl, ‘The Judicialization of Mega-Politics and the Rise of Political Courts’ (2008) 11 *Annual Rev. of Political Science* 93.

¹⁰ Carlo Guarnieri and Patrizia Pederzoli, *The Power of Judges- a Comparative Study of Courts and Democracy* (Cheryl Thomas ed, OUP 2002) 5.

¹¹ Martin Shapiro, ‘Political Jurisprudence’ (1964) 52 *Kentucky Law Journal* 294, 296.

immune from public regulation, and thus no area can be excluded from judicial intervention”¹². Judges are now called upon to decide such a rich spectrum of issues this has created expectations that have inevitably changed the perception of their role¹³. This has led to the rise of the “*political judge model*”¹⁴, which sees the judge as an active figure, no longer merely “an executor of law” but rather the guardian of individual freedoms and protector against state coercion.

A large volume of scholarship exists on the changing role of courts in society, specifically the evolution of the judiciary from a dispute-resolution authority to a central institution in society, an equally powerful constitutional branch of the government¹⁵. This has been described in various terms, such as the increasing ‘judicialization of society’¹⁶, the global expansion of judicial power¹⁷ or juristocracy¹⁸. The increasing judicialization of society globally is believed to be a result of various factors (legal, social, cultural and political). Firstly, it is claimed, law is perceived in the western world as reflecting dominant social and political values. This contributed to the formation of law as a preferred method for dispute resolution, including the growing use of litigation to challenge governmental actions on the one hand, and as a resort for personal remedies on the other hand.¹⁹ In that respect, increased legislation regulating the rights of individuals (that correspondingly led to an increase in litigation against government services)²⁰, serves as another manifestation of the ability of law to empower people in disputes among themselves or with state agencies. Similarly, various social developments may be linked to the increasing judicialization of society, ranging from industrialization to the expansion of the welfare state and the development of “social rights”²¹. Judicialization of society was also enabled and promoted by the weakening of other branches of government. Increasingly courts

¹² Rachel A. Cichowski, ‘Introduction: Courts, Democracy and Governance’ (2006) 39 *Comparative Political Studies* 3.

¹³ Guarnieri & Pederzoli (n10) 8-10.

¹⁴ Ibid 4-13.

¹⁵ Shimon Shetreet, ‘Judging in Society: The Changing Role of Courts’ in Shimon Shetreet (ed), *The Role of Courts in Society* (Martinus Nijhoff Publishers 1988) ch 33, 467-487

¹⁶ In this field, different terms are often used to describe similar or related phenomena, thus judicialization may sometimes be discussed along ‘legalisation’, ‘juridicalisation’, etc. Shimon Shetreet, *Justice in Israel: A Study of the Israeli Judiciary* (Dordrecht 1994).

¹⁷ C. Neal Tate, Torbjörn Vallinder (eds) *The Global Expansion of Judicial Power* (NYUP 1995);

¹⁸ Ran Hirschl, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism* (Harvard UP 2004.); James Grant, ‘The Rise of Juristocracy’ (2010) 34 *The Wilson Quarterly* (1976-) 16.

¹⁹ Herbert Jacob and others, *Courts, Law, and Politics in Comparative Perspective* (Yale UP 1996) 5-6. Litigation had not only become more widespread, but also more complex, as collective procedures (e.g. class actions) created a “massification” of the law, Shetreet, *Justice in Israel* (n16) 176.

²⁰ Shetreet, *ibid*.

²¹ Guarnieri & Pederzoli (n10) 187

may be called upon to adjudicate on a variety of issues when other governmental branches have been unable or unwilling to act²². Alternatively other branches may intentionally shift the burden of decision to the courts to avoid the risk of paying a political price for unpopular decisions²³. However, it was not just the amount and variety of issues that were shifted to the courts to decide, but also their complexity and uncertainty (for instance in relation to terrorism)²⁴.

The judicialization of politics is a broad concept, but it usually refers to one of the following dimensions. First, it can be the expansion of the province of courts to determine public policy outcomes that previously had been set by the legislature or the executive branch²⁵. This is primarily through judicial review²⁶. Judicial review can take two forms. One focuses on the distribution of authority between the different branches of government and is relatively uncontroversial, being a legitimate exercise of the courts' prerogative to monitor the boundaries between institutions and authorities. The second form, substantive judicial review (or constitutional review), enables courts to overturn the actions of other branches of government if they conflict with the constitution and is inherently more controversial.

In addition to judicial review, judicialization can also mean "the infusion of judicial decision-making and of court-like procedures into political arenas where they did not previously reside"²⁷. This includes the spread of legal discourse, jargon, rules, and procedures into the political sphere and policy-making procedures²⁸. This form of judicialization is not straightforward, as it deals with the impact of courts on processes taking place *outside* the courts. Namely, it has to do with political actors and interest

²² Guarnieri & Pederzoli (ibid 160-161) explain that the scope for judicial intervention is somewhat limited in majoritarian regimes with a strong executive branch, and conversely more powerful in democracies where political power is not centralized. For the Israeli example of inefficient decision-making resulting in growing judicial intervention see: Itzhak Galnoor and Dana Blander *The Political System Of Israel*, vol 1 (Am Oved publishers 2013) 301-302

²³ Shetreet, *On Adjudication* (n6) 461-462; Assaf Meydani, *The Israeli Supreme Court and the Human Rights Revolution: Courts as Agenda Setters* (CUP 2011) 58-62. Meydani claims, that the less efficient the political system is in making policy decisions, the more likely the Supreme Court is to adopt an activist approach.

²⁴ In Israel, terrorism and security crises expanded the type of issues brought to the High Court of Justice and its practices of judicial review. Yigal Mersel, 'Judicial Review Of Counter-Terrorism Measures: The Israeli Model For The Role Of The Judiciary During The Terror Era, (2006) 38 *International Law and Politics* 67

²⁵ Tate and Vallinder (n17); Thomas, *Judicial diversity in the United Kingdom* (n.5) 21.

²⁶ John Ferejohn, 'Judicializing Politics, Politicizing Law' (2002) 65 *Law & Contemporary Problems* 41.

²⁷ Tate & Vallinder (n17) 13

²⁸ Ran Hirschl, 'The Judicialization of Politics' in Robert E. Goodin (ed), *The Oxford Handbook of political Science* (OUP 2011) 254-5

groups taking the possibility of judicial review (or the occurrence of past review) into account when considering political action. Similarly, judicialization may also mean the incorporation of judicial practices and conduct into non-judicial institutions²⁹. One example is reform in the administrative tribunals in Britain, where legislation in the late 1950s led to “more adjudication, less administration” (e.g., the duty to give reasons; and making the hearings open to the public)³⁰. The third aspect of judicialization is the reliance on courts to decide “mega politics”, i.e. core political controversies that “define (and often divide) whole polities”³¹. This has been claimed to be “arguably the most problematic type of judicialization from a constitutional theory standpoint”³², because it often meant that the courts were taking an active part- and sometimes leading-constitutional reforms³³. Finally, it is possible to describe the judicialization of politics as an example of a wider phenomenon, which was referred to by some as “the global expansion of judicial power”³⁴. To that, one can add the role of judges in extra-judicial activities, broadly divided into two types: first is the appointment of judges by the legislature or executive to run formal inquiries into major political issues³⁵. The second is the participation of judges in private activities (e.g. lectures, conferences). Both types may raise concerns about judges’ involvement in politics, the separation of powers and judicial independence.³⁶.

1.2 Judicialization of politics in Israel

“It is doubtful whether there is another political community in the world that its customs are subject to and affected from decisions of a judicial forum as much as the political community in Israel is affected by the court. And it is doubtful that any other legal forum in the world has such an intense involvement in the political, economic, social and media arenas in which it operates as the Supreme Court of Israel”³⁷.

²⁹ Tate and Vallinder (n.17) 16

³⁰ *ibid* 93

³¹ Hirschl, ‘The Judicialization of Politics’ (n.28) 255-257

³² Hirschl, *ibid*.

³³ Hirschl, *Towards Juristocracy* (n.18), says Israel's constitutional revolution is an example of this trend.

³⁴ Tate and Vallinder (n.17) 5

³⁵ In the UK, judges are appointed to chair commissions to investigate highly controversial affairs. Shimon Shetreet, *Judges on Trial: The Independence and Accountability of the English Judiciary* (2nd edn, CUP 2013) 243-271. In Israel this is usually done in the form of Commissions of Inquiry (e.g. to investigate wars) initiated either by the Knesset or the government. Galnoor and Blander (n.22) 320-343.

³⁶ Jonathan Lippman, ‘The Judge and Extrajudicial Conduct: Challenges, Lessons Learned, and a Proposed Framework for Assessing the Propriety of Pursuing Activities Beyond the Bench’ (2012) 33 *Cardozo L. Rev.* 1341.

³⁷ Yoav Dotan, ‘Preliminary Procedures And Constitutional Dilemmas Relating to The Role Of The State Advocacy In High Court Of Justice Litigation’ (2004) 7 *Law And Governance* 159, 161

The above quote reflects the growing power of Israeli courts in the past three decades. In the US, the correlation between law, courts and politics has been direct and profound by virtue of the Supreme Court's policymaking role and judicial review³⁸, but that has not always been the case in Israel. Legal historians define the early years of the Israeli courts system, and specifically 1948-1953, as the years in which the "Supreme Court brethren was formed"³⁹. Strong political considerations shaped the composition of the first Supreme Court panel, which was supposed to represent a variety of political parties and views⁴⁰ but at the same time be associated with the establishment⁴¹. Scholars claim that the government and Knesset were reluctant to accept a court decision that rendered an executive act void or exceeding authority⁴². The Supreme Court, in response, had to strengthen its status as an equally strong and authoritative branch of governance. Yet the Supreme Court's conduct in its first three decades is described as "the formalistic era", when the court, operating in a highly collectivist society under constant security threats, was relatively self-restrained especially in matters of security⁴³. However, in the absence of a constitution, the Supreme Court has inevitably become a central forum for public debate on matters of the state's identity⁴⁴ as well as political and public controversy⁴⁵. This judicial role was strengthened especially after the enactment of the Judges' Law, 1953, which regulated the status of judges and enshrined the principle of judicial

³⁸ Martin Shapiro, 'Juridicalization of Politics in the United States' (1994) 15 *International Political Science Review* 101. In contrast, UK courts have traditionally played a marginal role in political life, and law was perceived as clearly distinct from politics; Herbert M. Kritzer, 'Courts, Justice, and Politics in England' in *Courts, Law, and Politics in Comparative Perspective* (n.19) 81-177.

³⁹ Ron Harris and others, 'Israeli Legal History: Past and present' in Ron Harris and others (eds), *The History of Law in a Multi-Cultural Society (Israel 1917-1967)* (Ashgate Dartmouth Publishing 2002) 17; Daniel Friedman, *The Purse and the Sword: The Trials of the Israeli Legal Revolution* (Miskal – Yedioth Ahronoth Books 2013) 21-29.

⁴⁰ Nir Kedar, 'Ben-Gurion And The Struggle To Appoint A Sephardic Jew To The Israeli Supreme Court' (2003) 19 *Legal Research* 515; Natan Brun, 'A Judge In Distress: The Story Behind The Appointment Of Shneur Zalman Cheshin To The Supreme Court In 1948' (2006) 93 *Zmanim – History Quarterly* 82.

⁴¹ Pnina Lahav, 'Courage and Office: The Supreme Court in the First Decade of Its Existence' (1989) 14 *Tel-Aviv University Law Review* 479-501. Lahav claims that although the judges of the first panel were diverse in some ways (religious, secular, private lawyers, experienced judges, etc.) overall, their worldviews did not differ considerably. For a review of the court as part of the Zionist state, see: Pnina Lahav, 'The Supreme Court of Israel: Formative years, 1948–1955' (1990) 11 *Studies in Zionism* 45-66

⁴² Lahav, 'Courage and Office' (ibid) 486.

⁴³ Ibid 490-497.

⁴⁴ Elyakim Rubinstein, *Judges of the Land* (Schocken Publishing 1980); Eli Salzberger, Fania Oz-Salzberger, 'The German Tradition of the Israeli Supreme Court' (1998) 21 *Iyunei Mishpat* 259.

⁴⁵ Daphne Barak-Erez, *Milestone Judgments of the Israeli Supreme Court* (Ministry of Defence Publishing 2003) mentions landmark cases dealing with terror and warfare, gender equality, constitutional review, the definition of 'who is a Jew?', etc.

independence. Gradually, the court laid the liberal foundations of Israeli law and developed a legal discourse of individual rights, constitutionalism and the rule of law⁴⁶.

From the late 1970s, several socio-political, legal and cultural changes occurred in Israel, which contributed to the growing judicialization of politics. Along with the political upheaval of 1977 (when the Labour Party lost the national elections after almost 30 years of consecutive rule), growing social struggles⁴⁷ and the transformation of Israeli society from hegemony to multiculturalism, the Supreme Court also changed its doctrines. After many decades of legal formalism, during the 1980s a new jurisprudential era began, described as the “decline of formalism and the rise of values in Israeli law”⁴⁸. In essence, this refers not only to the court’s growing involvement in issues that had been traditionally considered non-justiciable, but also the changes in its reasoning⁴⁹ and self-perception: from a dispute-resolution institution, to a political institution that determines “the values that prevail in the country and the distribution of its material resources”⁵⁰. Several factors and doctrines, both inside the court and externally, have expedited the judicialization process during the 1980s and 1990s to the point that “[t]he judicialization of politics has probably proceeded further in Israel than in any other democratic country”⁵¹.

Internal factors

The Supreme Court of Israel⁵² in the first decades of its existence used both the standing and justiciability doctrines⁵³ to bar individuals and organizations from appealing political

⁴⁶ Lahav, (n41) 500-501 and other scholars view the *Kol Ha’am* case (HCJ 73/53 *Kol Ha’am v. Minister of Interior*, 7PD 871) as a defining moment in the formation of the court’s liberal approach. For a different view: David Kretzmer, ‘Fifty Years of Public Law in the Supreme Court - Human Rights’ (2000) 5 *Law and Governance* 297, 305.

⁴⁷ Inter alia, the secular-Orthodox debate, the Ashkenazi-Sephardic tension and of course the Israeli-Arab conflict.

⁴⁸ Mautner, *Law and the Culture of Israel*, (n.8) 75-99. For a dissenting view: Assaf Likhovski, ‘Some Remarks on Menachem Mautner’s *Law and Culture in Israel at the Beginning of the 21st Century*’ [A Book Review] (2011) 14 *Ha-Mishpat* 715.

⁴⁹ Mainly shifting from focusing on the language of legal norms to the purposive interpretation approach; Mautner, *ibid* 93

⁵⁰ *Ibid* 75

⁵¹ Martin Edelman, ‘Israel’ in Tate and Vallinder (eds.) *The Global Expansion of Judicial Power* (n.17) 403.

⁵² Yoram Shachar, ‘On the Structure of the Supreme Court of Israel (“Mishkan Ke’Mishpatu”)’ (2003) 19 *Bar-ilan Law Studies* 397; Yair Sagy, ‘The Missing Link: Legal Historical Institutionalism and the Israeli High Court of Justice’ (2014) 31 *Ariz. J. Int’l & Comp. Law* 703.

⁵³ Aharon Barak, *The Judge in a Democracy* (Princeton UP 2006). During Barak’s tenure as Chief Justice, the court accepted a liberal approach to examine standing (190-197) and justiciability (177-189).

or publically sensitive matters⁵⁴. However, over the years, and especially during the 1980s, the court adopted a liberal approach, narrowing the limitation on standing and expanded the issues it was willing to adjudicate⁵⁵.

Judicial review is perhaps the most prominent expression of judicialization of politics in Israel. Today, it is obvious that the courts are authorized to review the constitutionality of legislative acts of the Knesset and administrative decisions of the executive branch⁵⁶. However, this was not always the case. This authorization has not been officially granted by the parliament⁵⁷, but gradually the Supreme Court created a judicial bill of rights and developed a legal discourse of human rights⁵⁸, protecting rights it perceived as essential to maintain a substantive democracy (e.g. equality, freedom of speech).

A turning point in Israel's constitutional law came in 1992⁵⁹, when the Knesset enacted two basic laws dealing with human rights; Basic Law: Human Dignity and Liberty⁶⁰, and Basic Law: Freedom of Occupation⁶¹. These basic laws differed from their predecessors because they had special provisions protecting them from future changes⁶². In the 1995 *Mizrahi* case, the Supreme Court declared it had the power to invalidate Knesset legislation that does not meet the formal conditions or values incorporated in the Basic Laws⁶³. These developments were called the “**constitutional revolution**”, and significantly strengthened the Supreme Court's status and political significance⁶⁴. It has been argued that the “revolution” was actually an infringement of the separation of

⁵⁴ Shetreet *on Adjudication* (n.6) 464-473. Dotan (n.37) 163-164 claims that the low fees to file petitions increase the accessibility of the court.

⁵⁵ Dotan, *ibid* 163-164; Ze'ev Segal, *Standing in the High Court of Justice* (Papyrus 1994); Ruth Gavison, Mordechai Kremnitzer and Yoav Dotan, *Judicial Activism – For And Against: The Place of the High Court of Justice in Israeli Society* (Magnes 2000) 11-15.

⁵⁶ Barak (n.53) 229.

⁵⁷ Lahav, ‘Courage and Office’ (n.41).

⁵⁸ Kretzmer (n.46).

⁵⁹ Gideon Sapir, ‘The Israeli Constitutional Revolution – How did it Happen?’ (2008) *Bar-Ilan University Public Law and Legal Theory Working Paper No. 08-02*, 3. This article provided a thorough review of the preliminary parliamentary consultations that led to the enactment of the Basic Laws as a political compromise.

⁶⁰ S.H. 150 (1992). For an English translation see:

<http://knesset.gov.il/laws/special/eng/BasicLawLiberty.pdf>

⁶¹ [S.H.] 114 (1992). For an English translation see:

<http://knesset.gov.il/laws/special/eng/BasicLawOccupation.pdf>

⁶² Basic Law: Freedom of Occupation, s.7 (‘rigidity’). Also see: The Israel Democracy Institute ‘The History Of The Constitutional Process In Israel’ (2000) 30 *Parliament*, [here](#) (accessed 1 January 2016). Gideon Sapir, ‘The Supreme Court – Structure and Institutional Practices’ (2003) 2 *Bar-Ilan Law Studies* 387.

⁶³ CA 6821/93 *United Mizrahi Bank Ltd. v. Migdal Collective Vill.*, 49 (4) PD 221 [1995] (Isr.); Meydani (n.23) 103.

⁶⁴ Sapir (n.62) 387. The 1992 Basic Laws did not explicitly vest judicial review authority in the courts. However, since the Mizrahi case, the court has exercised this authority and dismissed various sections of legislation (most recent example would be HCJ 8665/14 *Desta v. The Knesset* (11.8.2015) in which the court disqualified Knesset legislation regarding the detention conditions of illegal immigrants).

powers and exceeded the authority of the court to a point that jeopardizes the court's legitimacy⁶⁵. Now whenever the court interprets the constitution it is perceived as taking sides in political controversies⁶⁶. Judicial activism is not unique to Israel⁶⁷ and is manifested in constitutional courts in other jurisdictions⁶⁸. Nevertheless, many regard the Israeli Supreme Court, especially in the Barak era⁶⁹, as "the most activist in the world"⁷⁰. Many Israeli scholars tend to agree that the overall approach of the Israeli judiciary and the Supreme Court in particular is indeed activist⁷¹; that it is no longer a dispute resolution forum, but rather an institution committed to law making and defending human rights and democracy⁷².

Scholars argue that the growing motivation of Israelis to turn to the court could be attributed to the rise of individualistic and liberal views amongst some sectors in the Israeli society, and especially elite groups (secular Jews, the press). Their goal was to make Israel a more secular, liberal and democratic state, and when this could not be achieved through political participation, they turned to the court. Furthermore, following the transition of Israel from hegemony to multiculturalism, the group of "former hegemonies" reacted with anxiety to the entrance of new players into the policy-making domain. It is argued that this is the catalyst for the far-reaching changes that occurred in the jurisprudence of the Supreme Court⁷³ and explains why the court's growing political involvement caused outrage in various sectors of society that did not identify themselves with the "liberal elite".

⁶⁵ Ruth Gavison, 'The Constitutional Revolution - A Description of Reality or Self-Fulfilling Prophecy?' (1996) 28 *Mishpatim Law Rev.* 21, 99. Richard A. Posner, *How Judges Think* (Harvard UP 2010) 368, strongly criticised Barak's conduct.

⁶⁶ Gavison, 'The Constitutional Revolution' (n65) 99-104; Shetreet, *On Adjudication* (n6) 558; Barak Medina, 'Four Myths about Judicial Review (In Response to Robert Bork's And Richard Posner's Criticism Of Aharon Barak's Judicial Activism)' (2007) 3 *Haifa University Interdisciplinary Law Review*, 399

⁶⁷ Omri Yadlin, 'Judicial Discretion and Judicial Activism as a Strategic Game' (2003) 19 *Bar-Ilan Law Studies* 665. Instead of 'judicial activism', suggests Yadlin, it should be looked at as an inevitable realistic approach.

⁶⁸ Tate and Vallinder (n17).

⁶⁹ Barak himself rejected the use of this term and placed himself in the middle of the activism-restraint spectrum. Aharon Barak, 'The Essence of Judicial Activism: On Worldviews about Law, Adjudication and Judicial Activism' (1993) 17 *Iyunei Mishpat* 475, 498.

⁷⁰ Mautner *Law and the culture of Israel* (n8) 55; Edelman, 'Israel' (n51) 407. For dissenting views, see Yadlin (n67) and Medina (n66).

⁷¹ Gavison, Kremnitzer and Dotan (n55). In this book, three different views regarding the desirability of judicial activism are presented, but it is widely accepted that the court is indeed activist.

⁷² See Aharon Barak, 'Forward: A Judge on Judging: The Role of A Supreme Court in A Democracy' (2002) 116 *Harvard Law Rev.* 16.

⁷³ Mautner *Law and the Culture of Israel* (n8) 127.

External factors

There are also external factors that strengthened the judicialization of politics. First, public and third-sector organizations (e.g. NGOs), disappointed with political and executive institutions, have found resort in the courts⁷⁴, encouraged by the court's approach to standing and justiciability. Second, Israeli has transformed into a litigious society, which prefers adjudication to any other form of dispute resolution⁷⁵. This is partially the result of Israel having the highest number of lawyers per capita and one of the highest litigation rates per capita in the world⁷⁶. A third factor has been the executive branch, intentionally shifting decision-making to the judiciary to avoid paying a political price for decision-making⁷⁷. It is relatively accepted that Israeli society and its political institutions are almost incapable of handling disputes by conventional non-judicial tools⁷⁸, and that the legislature and the executive branch avoid decisions on crucial matters (e.g. the constitution, relations between the religion and the state)⁷⁹. Additionally, recurrent cases of corruption, improper conduct and scandals led to a sharp decline in the public's trust in the Knesset and the government⁸⁰. Under such a democratic deficit⁸¹, groups in Israel disappointed with the elected policy-makers now prefer to opt out from politics⁸² and appeal to the Supreme Court as an alternative policy-maker⁸³. A fourth factor is the running of monitoring mechanisms (such as the State Comptroller) by current or retired judges⁸⁴ because they demonstrate "the infusion of judicial decision-making and of court like procedures into political arenas where they did not previously reside"⁸⁵.

⁷⁴ Dotan (n.37).

⁷⁵ Galnoor and Blander (n.22) 265.

⁷⁶ Neta Ziv, *Who Will Guard the Guardians of Law? Lawyers in Israel between the State, Market and Civil Society* (Bar-Ilan UP 2015) 78

⁷⁷ Shetreet *On Adjudication* (n.6) 462

⁷⁸ *ibid.*

⁷⁹ Eli Salzberger, 'Judicial Appointments and Promotions in Israel - Constitution, Law and Politics' in Kate Malleson, Peter Russell (eds), *Appointing Judges In The Age Of Judicial Power: Critical Perspectives from around the World* (Toronto UP 2005) 252.

⁸⁰ The most recent data show that only 40% of the public trust the government and 38% trust the Knesset, ranking them the least trusted institutions in Israel. See "Selected Data from the 2015 Social Survey: Public Confidence in Various Institutions, Bodies and Organizations" CBS Press release (10.7.2016). http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201619207 accessed 1 December 2016.

⁸¹ Galnoor and blander (n.22) 303-304

⁸² That is not to use common democratic forms of protest, such as demonstrations, petitions, and strikes.

⁸³ Shlomo Mizrahi and Assaf Meydani, 'Political Participation through the Judicial System: Exit, Voice and Quasi-exit in Israeli Society' (2003) *Israel Studies* 8 (2). Indiana UP 118.

⁸⁴ Shetreet (n.6) 511 points out in this capacity judges are called to decide and investigate highly political and controversial matters, which might lead to a decline in public's trust; Galnoor and Blander (n.22) 306

⁸⁵ Tate & Vallinder (n.17) 13

Similarly, Supreme Court justices have chaired numerous commissions of inquiry⁸⁶ that have investigated defining events in the history of the state of Israel.

1.3 Ramifications of judicialization in Israel

Gradually, as the expansion of the political significance of Israeli courts, and the Supreme Court in particular, into the policy domains of other branches grew, it became common to argue that a court should be held accountable to the democratic values it enforces, such as equality, fairness, transparency and diversity. Consequently, questions about the composition of the Supreme Court, the backgrounds of its judges and the nomination procedures have become increasingly common⁸⁷.

Attempts to restrict the judiciary

The transformation in the reciprocal relations between courts and the other branches of government in Israel naturally increased the tensions between them. In order to limit the court's political significance, in recent years policy makers and Knesset members have raised several reform proposals (the vast majority of which have not been adopted)⁸⁸. For example, several bills have proposed creating a Constitutional Court that would be separate from the main judicial system and exclusively authorized to review on constitutional matters⁸⁹. Other proposals sought to restrict matters the Supreme Court could deal with⁹⁰; to overturn the Court's decisions through legislation⁹¹; and to either increase the number of justices on the Supreme Court or change its composition to reflect the ethno-cultural composition of Israeli society⁹².

⁸⁶ Commissions are appointed either by the chief justice, based on the governments' request, or by the government. Shetreet (n6) 508-512.

⁸⁷ Sapir, 'The Israeli Supreme Court' (n62) 390

⁸⁸ However, although it has the ability to do this, the Knesset has not cancelled the Basic Laws and did not reverse the court's judicial review authority. Ori Aharonson, 'Why did the Knesset not cancel Basic Law: Human Dignity and Liberty? The status quo as an anti-majoritarian difficulty' 37 *Iuney Mishpat* (forthcoming)

⁸⁹ The first bill was submitted in 2003 by MK Eliezer Cohen and others (19.5.2003); subsequent versions were proposed in 2009 (Basic Law: a Constitutional Court, 1.4.2009); Yoav Dotan, 'Does Israel need a Constitutional Court?' (2000) 5 *Law and Governance* 117; Claude Klein, 'A Constitutional Court for Israel: Not as Terrible as It Sounds!' (2003) 19 *Bar-Ilan Law Studies* 497.

⁹⁰ Friedman (n39).

⁹¹ In H CJ 3872/93, *Mitrael v. Prime Minister and Minister of Religion*, 47(5) PD 485 the court invalidated the legislation banning the import of meat by private bodies as it contravened Basic Law: Freedom of Occupation. The Knesset in response passed new legislation to ban the import of meat.

⁹² Bill of Basic Law: Legislation (first reading), 19 March 2001, and Basic Law: The Judiciary (Amendment; Appointment of President of The Supreme Court, Vice President and Justices), 26 July 2000. The judiciary and its supporters had traditionally grasped such proposals as dangerous attempts to limit the independence of the judiciary -Yadlin (n67) 717.

Effect on trust in courts

Surveys conducted in Israel in the past 15 years clearly show a consistent decline in the public's trust in courts, although there is no consensus on the reasons for this decline. Representatives of the judicial system are confident that recurrent attacks about the court system led to the decline in public's trust. Some jurists suggest that this decline derives of the public's refusal to accept the constitutional revolution and accept the court's authority⁹³. It has been claimed that the court's growing involvement in public life and the judicialization of politics placed the judicial system in the eye of the storm, and damaged its professional and impartial image⁹⁴. Others believe that declining levels of trust are due to the Supreme Court judicial review decisions not being congruent with the preferences of large groups in the population⁹⁵. There is a perception that a Jewish-secular and liberal elite, well represented on the Court, has promoted a constitutional revolution that is detached from the values and preferences of the public. A critical view by former Minister of Justice, Prof. Daniel Friedman, claims that the Supreme Court has harmed the public's confidence in the entire judiciary, in this is part due to the Court's involvement in the judicial nominations procedure, which has creates the impression that judges are appointed by a small, closed group⁹⁶.

However, further research needs to be carried to map the factors that affect public trust in the courts in Israel. Most of the polls are partial, in the sense that they only ask the respondents to quantify their level of trust, and do not ask *why* they have little faith in courts. Therefore, the available data cannot do more than prompt speculation about what factors led to this large fall in the Israeli public's confidence in courts and whether it is indeed related to the composition of courts and the perception of judicial diversity⁹⁷.

Despite growing interest in it in the media and among policy makers in the question of the composition of the courts, for reasons presented in detail below, the issue of judicial diversity has not been the subject of detailed academic study in Israel. Any attempt to investigate the composition of the courts and its effects on its decision-making was

⁹³ Ze'ev Segal, 'A 15-year-old Constitutional Revolution' *Haaretz* (22.11.2010) <http://www.haaretz.com/a-15-year-old-constitutional-revolution-1.326009>.

⁹⁴ Yael Hadar, 'Israeli Public Confidence In Government Institutions In The Last Decade' (2009) 63 *Parliament* (The Israel Democracy Institute) ([here](#)).

⁹⁵ Yoav Dotan, "Judicial Review and Political Accountability: The Case of the High Court of Justice in Israel" (1998) 32 *Israel Law Rev* 448, 450

⁹⁶ Friedman (n.39) 344-348

⁹⁷ A steady and sharp decline indicates a problem as the ramifications of low level of trust in state institutions vary from a decline in voter turnout, disobedience with the law, etc. Hadar (n94).

immediately categorized as dangerous to the judiciary. The link between judicialization and judicial diversity seemed problematic, as it was usually made by politicians and jurists who rejected the Court's jurisprudential approach. Nevertheless, the growing power of courts in Israel has made the examination of their composition and the factors affecting it not only inevitable but also essential.

1.4 Study of judicial diversity

The interest in judicial diversity and its possible implications for judicial selection and case outcomes (judicial decision-making) is not new. The premise that judges are objective, impartial and impervious to external influences was critically explored during the second half of the 20th century, focusing on the factors that influence the adjudication process⁹⁸. Parallel to the growing political significance of courts (judicialization), the traditional view of the judiciary was undermined⁹⁹ and more specific models and approaches to judicial behaviour have emerged. In search of “true factors” that affect judicial behaviour, scholars have focused on judges themselves and their characteristics and attitudes as possible factors in the process of decision-making. Thus, the desirability of a diverse judiciary, and the implications diversity may have on case outcomes, were examined¹⁰⁰. However, the available literature is long on theory and shorter on evidence. While it is generally accepted that diversity matters, exactly what diversity is and how much of it is required are complex questions that have only partially been answered.

Diversity is a broad concept covered in a number of academic and policy-making disciplines¹⁰¹, including education, medicine, employment and policing¹⁰². Despite the increase in the number and scope of research, characterising judicial diversity is not an easy task, as the definition is both place-based and culture-based. According to Waldi, “[u]nderstanding diversity requires appreciation of and attention to context: to different practice settings and to different groups”¹⁰³. The nature of the judicial system, its political

⁹⁸ Lawrence Baum, *Judges and Their Audiences- A Perspective on Judicial Behavior* (Princeton UP 2006) 8; Thomas *Judicial Diversity in the UK* (n5) 20.

⁹⁹ For a review of the differences between the US and European perception of courts as political actors see: Britta Rehder, ‘What Is Political about Jurisprudence? Courts, Politics and Political Science in Europe and the United States’ (2007) Max Planck Institute for the Study of Societies, http://www.mpifg.de/pu/mpifg_dp/dp07-5.pdf accessed 1 January 2016.

¹⁰⁰ Especially in the US, less significantly in the UK (Thomas (n5) 21).

¹⁰¹ Thomas, *ibid* 18-19, 29-30

¹⁰² D.A.J Waddington, ‘Editorial’ (2015) 9 *Policing- a Journal of Policing and practice* 1.

¹⁰³ Eli Wald, ‘Primer on Diversity, Discrimination, and Equality in the Legal Profession or who is Responsible for Pursuing Diversity and Why’ (2011) 24 *Georgetown Journal of Legal Ethics* 1079, 1083.

context and the makeup of the society it serves are invariably different in different jurisdictions¹⁰⁴. Thus, the meaning and scope of ‘diversity’ varies according to the purpose of the investigation, the make-up of society and the presumptions regarding lack of diversity. For example, ethnic diversity is presumed to be more relevant in countries where ethnic minorities constitute a significant proportion of the population. In other countries, gender equality or professional background and expertise gain more focus.

However, despite the differences between nations, most research into judicial diversity looks at several common variables that ‘operationalize’ “diversity”. The main ones are gender (usually meaning the extent to which women are represented in the judiciary), and ethnicity and race. The less common factors are educational background, professional experience, age, disability, religion and sexual orientation¹⁰⁵. In the US, the political outlook of judges is highly relevant to the examination of judicial diversity, due to the political significance of the judiciary and the political nature of judicial appointments. In England and Wales the low numbers of women and ethnic minorities remained the focus of the judicial diversity debate from the 1990s to date¹⁰⁶, but examination of judicial diversity also included unique characteristics such as the differences between barristers and solicitors, socio-economic background, etc.¹⁰⁷. However, in Israel, as reviewed further in the following chapters, the judicial diversity debate focused mainly on nationality and religion, intra-Jewish ethnicity, level of religious observance and professional background of judges. Sexual orientation, political outlook and social class have not been the core of the claims about lack of diversity, either because they are less relevant (e.g. ‘class’) or because they are not known to the public (e.g. political views).

It is important not to assume that all under-represented sectors in the judiciary are similar and can be treated similarly for research or policy-making purposes. Women and ethnic minorities may both be under-represented in the judiciary, but this may well be for different reasons and therefore cannot necessarily be examined in exactly the same way¹⁰⁸. Similarly, viewing all ethnic minorities in one jurisdiction as a unified group may

¹⁰⁴ Thomas (n5) 18-19

¹⁰⁵ Cheryl Thomas, *Understanding Judicial Diversity: Research Report for the Advisory Panel on Judicial Diversity* (2009) <<https://www.laws.ucl.ac.uk/wp-content/uploads/2014/12/Understanding-Judicial-Diversity-FINAL3.pdf>> accessed 1 January 2016, 5.

¹⁰⁶ Thomas (n5) 17; Paterson and Paterson (n5) 35-37.

¹⁰⁷ The UK Advisory Panel Report, for example, focused on gender, ethnicity, disability, sexual orientation, geographical location, socio-economic background, and the differences between solicitors and barristers (The Report of the Advisory Panel on Judicial Diversity 2010).

¹⁰⁸ Mark S. Hurwitz, Drew Noble Lanier, ‘Explaining Judicial diversity: The Differential Ability of Women and Minorities to Attain Seats on State Supreme and Appellate Courts, (2003) 3 *State Politics & Policy Quarterly* 329.

create a misleading impression about the state of judicial diversity and any measures to address it¹⁰⁹. Finally, it is important to examine group representation in the judiciary in relation to other socio-demographic factors¹¹⁰.

1.5 Factors that systematically affect judicial diversity

Probably the most widely researched issue is the possible correlation between the judicial selection system and the state of judicial diversity, specifically whether the method of judicial appointments affect the relative success of women and minorities in attaining judicial posts¹¹¹. The interest in the nominations procedure and the composition of nominating committees is strongly related to the expansion of judicial power. The growing political significance of the courts “has been mirrored by an increased focus on the process of judicial appointments which has given rise to substantive reforms in many countries”¹¹². One area of interest has been the composition and diversity of nominating commissions. Some research has found that where the committee that nominates judges is ethnically or socially diverse, there is overall more diversity in the judiciary¹¹³. Another source of interest was the politics of the nominations procedure, for example, whether including non-politicians in those committees would necessarily mean that less political considerations are taken¹¹⁴.

The second systematic factor that was linked to judicial diversity was the nature of the judicial office and the judicial profession. That is, the structure of the judicial profession and how influential the various courts are in the process of selecting judges; and the perception of the judicial profession as enabling equal chances of career progression and providing decent working conditions for judges. An additional research area in this context is the level of courts where under-represented sectors manage to be appointed. Two important theoretical assumptions have been examined in relation to this. First is the “prestige theory”, which asserts that women and minorities are more likely to attain

¹⁰⁹ Thomas (n5) 19

¹¹⁰ Cheryl Thomas *Diversity and Fairness in the Jury System* (2007) Ministry of Justice Research Series 2/07; Cheryl Thomas, *Judicial Diversity and the Appointment of Deputy District Judges* (2006) the Commission for Judicial Appointments 5-6.

¹¹¹ Ibid.

¹¹² Paterson and Paterson (n5) 52

¹¹³ Thomas (n5) 40.

¹¹⁴ Ibid 40-41

judicial offices in less prestigious courts, and similarly, that there are fewer women and minorities in senior ranks and higher judicial positions¹¹⁵. The second is the “caring role effect”, in which women are most likely to attain judicial office in family and other “care” related posts that tend to be at lower levels of judiciary¹¹⁶.

The third factor affecting judicial diversity is the ‘pool’ for judicial appointments, with specific focus on the profile of applicants for judicial positions¹¹⁷, as well as the composition of the legal profession as a whole and those in legal education¹¹⁸. In many jurisdictions, this body of eligible jurists forms the pool from which judges are selected, and when lawyers are heterogeneous, it is more likely to expect that judges will be heterogeneous as well¹¹⁹. Therefore the extent to which the pool for judicial appointments is diverse is crucial to an understanding of judicial diversity¹²⁰. Studies in other jurisdictions have examined the career progression chances of women¹²¹ and ethnic minorities in the legal profession¹²², as well as previous experiences of discrimination at work¹²³, and their possible influences on the nature of the legal profession and barriers it may place. The interest in legal education in the context of judicial diversity involves several factors¹²⁴. The obvious one is the educational background of judges and senior lawyers (i.e. the schools and later on universities they attended)¹²⁵. Another aspect looks at the ethnic and gender composition of law schools, and the chances of students from these groups securing a training contract or other offers of employment, and the reasons for this (e.g. lack of contacts in the profession as a possible barrier)¹²⁶.

¹¹⁵ Hurwitz and Lanier (n108) found that this was not the reality in the US, with women and minorities more likely to be appointed to higher courts. However, there was strong evidence for this theory in many European countries and in the UK (Thomas (n5) 48).

¹¹⁶ Thomas, *Understanding Judicial Diversity* (n 105) 4. In the UK, this effect was apparent in all judicial divisions.

¹¹⁷ Thomas ‘Deputy District Judges’ (n110).

¹¹⁸ Thomas (n5) 49.

¹¹⁹ Rosaline Sullivan, *Barriers to the Legal Profession* (Legal Services Board 2010); Thomas, ‘Deputy District Judges’ (n 110) 21

¹²⁰ Thomas (n 5) 49

¹²¹ Pascoe Pleasence and Nigel J. Balmer, ‘Looking through the Glass Ceiling: Projecting Women’s Future Participation in the Solicitor’s Profession in England and Wales’ (2009) Available at SSRN: <https://ssrn.com/abstract=1434553>.

¹²² E.g. promotion, earnings etc. for both lawyers and trainees. Thomas (n5) 50-51

¹²³ Ibid.

¹²⁴ Ibid 53-54

¹²⁵ *The Educational Backgrounds Of The UK’s Top Solicitors, Barristers And Judges* Sutton Trust Briefing Note (2005); Joanne P Braithwaite, ‘Diversity Staff and the Dynamics of Diversity Policy-Making in Large Law Firms’ (2010) 13 *Legal Ethics* 141

¹²⁶ Thomas (n5) 54.

1.6 Justifications for judicial diversity¹²⁷

The democratic argument

One of the prominent justifications in favour of judicial diversity is what has been defined as the “democratic argument”. It suggests that “[d]iversity in the judiciary is ... part of the delivery of justice that is increasingly vital for the courts’ legitimacy in a diverse society’¹²⁸. This argument somewhat parallels the claim that an independent judiciary is an essential element in a democracy, and a diverse judiciary thus represents the very definition of democracy¹²⁹. In a democracy, adjudication is legitimised through a legitimate mechanism of selecting judges. Therefore, as Resnik points out, while the methodology of appointing judges may vary in different democracies, the process of appointing judges needs to be founded on democratic values¹³⁰, some of which are transparency, accountability and diversity. For example, the democratic argument served as the impetus for calls for reform in the appointment of American judges, especially in regards to US federal court life-tenured positions and were made in the name of equality¹³¹.

The ‘perception of fairness’ argument

“...a diverse judiciary signals the public acknowledgement of historically excluded communities and sends an invaluable message of inclusion”¹³²

The second justification for diversity is commonly referred to as the ‘fairness’ argument. It contends that diversity increases people’s confidence in courts. A diverse court is perceived as impartial and fair, as heterogeneity reflects the diversity between different sectors¹³³. Moreover, studies in the US demonstrated a link between diversity and the

¹²⁷ Different scholars might label the arguments for judicial diversity differently. Erika Rackley, *Women, Judging And The Judiciary: From Difference to Diversity* (Routledge 2013) 23-29, counts three categories: (1) the effect of diversity on the perception of the judiciary and its legitimacy; (2) diversity means giving all eligible individuals an equal chance to be selected to the judiciary; (3) diversity leads to better decision-making; Geoffrey Bindman, Karon Monaghan *Judicial Diversity: Accelerating Change* (2014) <http://ukscblog.com/wp-content/uploads/2014/11/Judicial-Diversity-Accelerating-Change.pdf>.

¹²⁸ Thomas (n5) 6; Brenda Hale, "The Appointment and Removal of Judges: Independence and Diversity" Speech to IAWJ Conference 2006, 1-2.

¹²⁹ Hale, *ibid*.

¹³⁰ While “principles of democracy do not mandate any particular method of choosing judges,” a “diverse judiciary is...an indispensable requirement of any democracy”. *Ibid*.

¹³¹ Judith Resnik, ‘Judicial Selection and Democratic Theory: Demand, Supply, and Life-Tenure’ (2005) 26 *Cardozo Law Review* 579

¹³² E. M. Chen, ‘The Judiciary, Diversity and Justice for all’ (2003) 91 *California Law Review* 1109, 1116-1117.

¹³³ E.g. “UK courts should ‘look like’ the UK”; Hale (n128) 2.

perception of fairness of the legal system among minority or disadvantaged groups¹³⁴. Similarly, a lack of judicial diversity can raise suspicion, especially in ethnic minority communities¹³⁵. This can be explained by the fact that these groups have traditionally been excluded from the justice system. In common with other institutions (e.g. the police), a negative perception of the justice system decreases the legitimacy of court decisions. Consequently, these groups are arguably less likely to respect the decisions of the courts that in their view (or objectively) fail to represent them¹³⁶. Indeed, some scholars assert that judicial diversity means giving all eligible individuals an equal chance to be selected to the judiciary¹³⁷. Moreover, in other instances it has been argued that the legal status of an unrepresentative judiciary is questionable, and judicial appointment procedures have been claimed to be violating anti-discrimination legislation¹³⁸.

Initially in many jurisdictions, the justice-system tended to dissociate itself from the “diversity discourse”, to oppose calls to increase judicial diversity or to claim that no change was needed because diversity would “evolve” over time¹³⁹. Strong objections to amend the appointment system have been made on the grounds that this would inevitably impair the professional quality of the judiciary (often named the *merit debate*¹⁴⁰). Paradoxically, the same arguments that are raised in favour of diversity (legitimacy, fairness and public confidence in courts) are used in attempt to counter proposals to introduce diversity to the bench. However, this view may be discounted. First, there is little evidence to support the claim that time heals social injustices and there may actually be a need for tipping points for such changes to occur¹⁴¹. Thus, it may be better to address claims about the lack of diversity proactively, as this could strengthen public trust in the nominations procedure and consequently in the judiciary¹⁴². Secondly, increasing the pool from which eligible judges are drawn does not necessarily conflict with the process of choosing the best individuals from within that pool¹⁴³. Furthermore, in light of the use

¹³⁴ Thomas (n5) 55-57.

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ Rackley, n.127.

¹³⁸ Ibid 64

¹³⁹ Hale (n128) 9. On the challenge that diversity places in terms of balancing between judicial independence and judicial accountability see also J.A. Wynn and E.P. Mazur “Judicial diversity: Where Independence and Accountability Meet” (2003) 67 *Albany Law Review* 775.

¹⁴⁰ Hale (n128) 8; Thomas (n5) 66

¹⁴¹ Malcolm Gladwell, *The Tipping Point: How Little Things Can Make a Big Difference* (Little, Brown and Co. 2000).

¹⁴² Resnik (n131) 589.

¹⁴³ Ibid.

of ‘merit’ as an exclusive criterion for judicial selection, one wonders what ‘merit’ actually means¹⁴⁴. Is diversity necessarily a secondary consideration subject to ‘merit’? Some scholars assert that diversity is actually integral to merit because it increases the legitimacy of courts and promotes impartiality of the judiciary¹⁴⁵.

The judicial diversity effects argument

The view of diversity as an inherent part of a democratic and fair appointment procedure, and integral to judiciaries in democracies, is becoming increasingly accepted. However, while the two arguments in favour of judicial diversity are theoretically grounded and logical, the possible effects and benefits of diversity are yet to be comprehensively clear¹⁴⁶. Research into the potential effects of judicial diversity focused on two main policy issues¹⁴⁷: the effect of judicial diversity on the perception of the fairness of courts and the possible effects on judicial decision-making¹⁴⁸.

The link between judicial diversity and the perception of fairness of courts was mainly investigated in the US, which prioritised it as a key policy-making issue¹⁴⁹. These studies showed that judicial diversity could promote public confidence in the courts¹⁵⁰, and that lack of diversity in courts compounds suspicion amongst ethnic minority communities. Similarly, ethnic minority defendants were found to be troubled by the lack of non-white judges and court staff¹⁵¹. One of the dangers to a judiciary that is perceived as not diverse is that its legitimacy may be undermined: “A judiciary exercising significant power in a democracy whose own composition reflects an apparent lack of fairness runs the serious risk of undermining its own authority”¹⁵².

Many studies have empirically examined the influence of judicial diversity on judicial decision-making and case outcomes¹⁵³. Most research has been carried out in the US and

¹⁴⁴ E.g. to discriminate minorities on the grounds of not having enough qualifications. Thomas (n5) 60.

¹⁴⁵ Ibid, 61-62, 68-69.

¹⁴⁶ Rosemary Hunter, ‘More than Just a Different Face? Judicial diversity and Decision-making’ *Current Legal Problems* 1.

¹⁴⁷ Thomas (n5) 35

¹⁴⁸ Ibid, 55

¹⁴⁹ Ibid.

¹⁵⁰ Ibid, 56

¹⁵¹ Ibid, 57

¹⁵² Paterson and Paterson (n5) 13

¹⁵³ Thomas (n5) 57

has focused on race, ethnicity and gender¹⁵⁴. Research in this field traditionally examined the extent to which judges' beliefs and attitudes affect their decision-making¹⁵⁵. However, studies that are more recent extended this approach and explored how background characteristics of other judges influence voting behaviour of panel judges. For instance, Cameron and Cummings examined heterogeneity in the composition of three-judge panels of the US Courts of Appeal in affirmative action cases, and found that increasing racial diversity on the panels substantially changed the voting behaviour of other judges on the panel¹⁵⁶. This *diversity effect* suggests that different judicial perspectives broaden judicial views and may change the final decision¹⁵⁷. Cameron and Cummings see this effect as the 'strongest argument in favour of diversity in the courts: social legitimacy'¹⁵⁸. In more than one way, this taps into the "democratic argument", which holds that democratic institutions in heterogeneous societies should reflect the make-up of society. Thus, not only does diversity have an intrinsic value, but it also has extrinsic implications that must be taken into account¹⁵⁹.

Similar research by Sunstein on the importance of dissent, and the tendency to conform, has shown how the political and ideological views held by judges affect court outcomes. In fact, when judges' views are diverse case outcomes are more likely to follow what both statutory law and precedent require¹⁶⁰. Posner, on the other hand, asserted that increasing judicial diversity was likely to result in more dissent, less adherence to precedents and consequently less legal certainty¹⁶¹. But most commentators have stressed that the availability of a greater range of perspectives on the bench will improve the quality of judicial diversity by making a difference to what courts do¹⁶². "Judicial disagreement is not merely anticipated or tolerated but instead is positively facilitated in common law systems due to its having a recognised value", hence emphasizes the importance of achieving diversity in the appointment of judges¹⁶³.

¹⁵⁴ Hunter (n146) 4 concludes the effect of gender is confined to feminist judges; compare: Sally Jane Kenney, *Gender and Justice: Why Women in the Judiciary Really Matter* (Routledge 2013).

¹⁵⁵ Thomas (n5) 58

¹⁵⁶ Charles M Cameron and Craig Cummings, 'Diversity and Judicial Decision-Making: Evidence from Affirmative Action Cases in the Federal Courts of Appeal 1971-1999' (2003) *Columbia Law Review* 5.

¹⁵⁷ *ibid.*

¹⁵⁸ *Ibid* 28

¹⁵⁹ Thomas (n5) 57-58

¹⁶⁰ Cass Sunstein, *Why Societies Need Dissent* (Harvard UP 2003) 167; Baum (n98) 4; Hunter (n146) 9.

¹⁶¹ n65, 256.

¹⁶² Alan Paterson, "The Scottish judicial appointments board: new wine in old bottles" in *Appointing Judges in an Age of Judicial Power: Critical Perspectives from around the World* .A, Malleon, K (ed.) & Russell, P (ed.) 2006, Toronto, Canada, pp. 13-38

¹⁶³ Andrew Lynch 'Nothing to be Frightened of: Judicial Diversity and Disagreement', Staff Research Seminar, Faculty of Law, University College London, 14 October 2014

In addition to the main arguments in favour of judicial diversity, other factors and effects have also been linked, empirically or theoretically, with greater diversity. Two arguments that share similar rationale are **the “business case” for diversity** and the argument that diversity is the realization of the idea of **utilitarian exploitation of all existing talent**. The business case for diversity focuses on the commercial advantages of diversity, and asserts that diversity has been linked to improved organisational performance¹⁶⁴. Whilst the business case for diversity has been raised primarily with relation to greater diversity in the legal profession, it is also linked (albeit indirectly) to judicial diversity, because the legal profession forms the pool of potential applicants for judicial appointment¹⁶⁵. Similarly, the utilitarian use of all available talent argument also focuses on the benefits that greater diversity carries to professions and organisations. Diversity, arguably, contributes to maximizing the ‘talent pool’, as a recent report by the SRA states: “Removing the barriers that some groups face to entering, and progressing within, the profession [...] maximises the chances of getting and retaining the best people for each role”¹⁶⁶.

The provision of **role models** is another argument that links between the judiciary and the pool of potential applicants. It asserts that diversity on the bench, mainly the existence of women and ethnic minority judges, provides a role model for new entrants to the profession¹⁶⁷. Similarly, lack of such role models might be perceived as a barrier that deters lawyers from considering a judicial career.

1.7 Study of judicial diversity in Israel

Israel serves as a strong candidate for a case study of judicial diversity for a number of reasons. The diverse character of Israeli society and the social and political changes it has undergone since its establishment, the central role of courts, and recent calls to reform the judicial selection procedures all elevate the significance of judicial diversity in Israel. The quotes that opened this thesis illustrate how unrepresentative the judiciary is perceived to be. However, detailed research into the make-up of the Israeli judiciary has not been carried out yet. There have also not been any empirical studies in Israel that examine the factors that systematically affect judicial diversity (nominations procedure, the ‘pool’ of

¹⁶⁴ *The Business Case for Diversity* Solicitors Regulation Authority (2018)
<file:///C:/Users/yaell/Downloads/The%20business%20case%20for%20diversity.pdf>

¹⁶⁵ Thomas, n.5, 52

¹⁶⁶ SRA report, n.164, p.6

¹⁶⁷ Paterson, n162, 31

from which Israeli lawyers are selected). Therefore, at this stage most claims about judicial diversity are mostly anecdotal.

The lack of hard evidence about judicial diversity in Israel stems from two factors: (1) the general refusal of the Israel judiciary to cooperate with research on judges, and (2) the traditional lack of interest amongst Israeli academics in the empirical study of the judiciary. Surprisingly, the liberal elite (including the senior judiciary) that supports and promotes liberal values such as equal representation has strongly objected to attempts to examine the composition of the judicial system or to assess the ability of the judicial selection method to promote diversity. For these reasons, the need for comprehensive empirical investigation of the composition of the Israeli judiciary is clear. This research therefore aims to be the first to comprehensively examine the state of judicial diversity in Israel using a wide range of variables and encompassing all judges in the general court system in Israel. This thesis also examines the 'pool' for future judicial appointments, that is the populations of Israeli lawyers and law students, in order to provide insights into the diversity of the pool, as well as perceptions and views of members of the pool on judicial diversity.

1.8 Does judicial diversity in Israel present a liberal paradox?

It is widely agreed that Israeli judiciary is indispensable in protecting Israeli democracy and defending liberal values. However, some scholars believe that this very characteristic of the Israeli judiciary means it should not be diversified in a way that might jeopardize its ethos. Mautner¹⁶⁸ thinks that because Israel is a multi-cultural society the Supreme Court's composition should include representatives of all main cultural groups, but only as long as they are committed to the continuation of the liberal tradition embodied in the court's rulings. This reflects the general high level of respect many have towards the judiciary as a key player in Israel's democratic process, The Supreme Court in particular is seen as the watchdog of Israeli democracy:

“Israel inherited the legal system of a colonial regime - the British Mandate. Most of its founders lacked democratic traditions in their countries of origin. It has been in a constant state of war since its establishment...The Supreme Court of Israel, together with other legal

¹⁶⁸ Mautner (n1).

institutions [...] managed to construct important features of Israel's democracy and to protect others"¹⁶⁹

Salzberger also claims that the composition of the Supreme Court (i.e. Jewish German jurists or those educated in the Anglo-American legal system) and the judicial selection procedure have jointly created an independent and liberal court, and a unique Israeli liberal tradition¹⁷⁰. The fact that this Court does not reflect the composition of Israeli society and consists of justices with very similar characteristics and worldviews¹⁷¹, is not reviewed as problematic at all by some. On the contrary, this lack of diversity is actually valued as one of the sources of the Israeli Supreme Court's power and a crucial factor in creating the Court's liberal tradition.

Those views reveal a fascinating paradox in relation to judicial diversity in Israel that has perhaps not been seen in other jurisdictions: in order to defend the liberal ethos of the Israeli Supreme Court and strengthen or maintain its role as defender of democracy, it is necessary (according to some) to refrain from diversifying the judiciary. Amongst those who hold this view, recognition of the value of judicial diversity, generally a liberal concept based on principles of equality and fairness, in Israel might be detrimental to the liberal tradition of the Israeli judiciary.

In Israel the reality is that the majority of reform proposals concerning the Supreme Court and the judicial nominations procedure which argue for greater diversity have been made by either right-wing or religious Knesset or government members. Although in the first years of statehood, some left wing representatives opposed the formation of a judicial nominations committee that gives advantage to professionals and judges over the Knesset¹⁷², in the last decades representatives of the opposite political spectrum almost exclusively raised these claims. This is the first component of the liberal paradox of judicial diversity in Israel: politicians of left parties, associated with liberalism in their worldview and actions, refrain from criticising the composition of courts¹⁷³ because they

¹⁶⁹ Salzberger, 'Judicial Appointments and Promotions in Israel' (n79) 241.

¹⁷⁰ Ibid, 243; Oz-Salzberger and Salzberger (n44) 15-79.

¹⁷¹ Saltzberger (n79) 246 describes how the MoJ (then) admitted in an interview after his retirement "he preferred Yekkes [i.e. German-speaking Jews YLA] in the legal establishment because they were honest and law-abiding". This is a disturbing view that shows Ashkenazi Jews of German origin were given preference in the appointments system.

¹⁷² Kedar (n40).

¹⁷³ An exception to this trend is Prof. Yuli Tamir of the Labour Party (n1).

do not want to give ammunition to the non-liberal political camp. Respectively, right-wing and/or religious MK's¹⁷⁴ try repeatedly to change the composition of the judicial nominations committee, in part to increase judicial diversity, which is generally thought to be a liberal concept¹⁷⁵. In addition, some criticisms of the lack of judicial diversity have been made by politicians who actually reject the supremacy of law over religion.

Similarly, although the Israeli judiciary is recognised as more liberal than the other branches of government¹⁷⁶ and is often associated with left-wing views on prominent and controversial public issues in Israel (i.e. the peace process, security, human rights and the relation between religion and the state)¹⁷⁷, it has not embraced the diversity argument for itself. The liberal approach of the Israeli Supreme Court led it to create a judicial bill of rights, to expand and develop concepts of equality and enforce standards of transparency and good governance on virtually all administrative and political institutions in Israel (elected and non-elected). Nevertheless, paradoxically, the concept of judicial diversity, which one could argue is a democratic, liberal concept in its essence, has been either ignored by the judiciary, discounted as an inappropriate attempt to weaken the judiciary¹⁷⁸, or judges have simply claimed that the judiciary is already diverse and nothing needs to be done. The question arises, however, why would a court that is perceived by itself and by so many others as a progressive, independent and liberal institution, object to the idea of judicial diversity so strongly?

In considering this paradox one has to confront the reality that diversifying the judiciary in Israel may well introduce judges of non-liberal backgrounds into the judiciary. The Supreme Court's liberal approach to the interpretation of Israeli law has developed over

¹⁷⁴ A prominent exception is Prof. Daniel Friedman, who was not affiliated with any political party when appointed MoJ in 2007, and tried to pass several reforms regarding the nominations procedure. Friedman is well known for his criticism of the judicial activism and constitutional revolution doctrine of the Supreme Court, and his reforms were labelled as attempts to diminish the power of courts and their independence by intervening with the nominations procedure.

¹⁷⁵ Yael Levy-Ariel, 'It is time to Increase Judicial Diversity, Your Honor' (2015) 29 *The Lawyer- Israel Bar Association's Review* 90-95 <http://www.dmag.co.il/pub/israelbar/israelbar.html> accessed 1 November 2016. Not all proponents of reform to the nominations procedure were interested in a weak, powerless court. Some of them were actually supporters of the court and highly familiar with the legal system, driven by concerns about diversity and public trust.

¹⁷⁶ Saltzberger (n79) 250

¹⁷⁷ Ibid.

¹⁷⁸ Ibid, 255: "we witness a delegitimizing campaign against the legal establishment, one symptom of which is the mounting calls to change the selection process of judges".

many years, and its leaders have closely guarded this character and reputation. In the early years, the liberal tradition of the courts stood in sharp contrast to the eastern-European political style that characterised the government and other political institutions in Israel, and which “had distinct anti-liberal elements”¹⁷⁹. Today, other ‘non-liberal’ forces threaten the hegemony of the Court (e.g. Orthodox Jews). Thus, in order to maintain the Supreme Court’s liberalism, it has been argued that only judges who are committed to liberal values or conform to the judiciary’s liberal approach should be appointed.

The objection of Israeli liberals to the idea of judicial diversity in an attempt to stop non-liberal groups from endangering the Courts’ independence and liberal legacy is not entirely unique. It resembled some of the challenges liberals worldwide face given the rise of multiculturalism; one of them is “how should liberal states treat non-liberal cultural groups?”¹⁸⁰ Thus, although liberal decision-makers are thought to be more likely to appoint under-represented groups to the judiciary because they are more aware of issues of fairness, equality and diversity¹⁸¹, in Israel this has not necessarily been the case.

In these respects, judicial diversity in Israel presents a timely and challenging prospect for research. In contrast to most other jurisdictions where judicial diversity has been seen as a liberal policy issue, in Israel liberal ideas have been used to reject calls for greater judicial diversity. At the same time, there has been little detailed study of diversity in the judiciary, legal profession and law students in Israel, and much of the public and scholarly debate about judicial diversity in Israel is based on little more than anecdotal and unsubstantiated claims about representation in the current judiciary and those who form the pool for future judicial appointments.

1.9 Thesis aims and organisation

The purpose of this research is to address the key issues arising in the context of judicial diversity in Israel that have not been investigated in previous research. The questions this study focuses on are:

¹⁷⁹ Ibid, 247

¹⁸⁰ Menachem Mautner, ‘From "Honor" to "Dignity": How Should a Liberal State Treat Non-Liberal Cultural Groups?’ (2008) 9 *Theoretical Inquiries L.* 609

¹⁸¹ Hurwitz and Lanier (n108).

- What is the current composition of the Israeli judiciary in terms of the background characteristics of judges?
- To what extent does the judiciary represent Israeli society?
- To what extent do Israeli lawyers and law students have the same demographic characteristics as judges?
- How do lawyers and law students in Israel perceive judicial diversity?
- What factors affect lawyers and law students when considering a future judicial career?

The aims of this thesis are:

- (1) To provide the first comprehensive analysis of judicial diversity in Israel, encompassing all judges in all courts in the main courts system, examining their background characteristics based on a large number of variables;
- (2) To compare the state of judicial diversity in Israel to the pool for current and future judicial appointments (lawyers and law students in Israel), and in doing so:
 - a) To provide the first analysis of diversity of lawyers and law students in Israel;
 - b) To explore perceptions of Israeli lawyers and law students regarding judicial diversity in Israel.
 - c) To examine the possible motivations and barriers to choosing the legal profession and considering a judicial career

This chapter laid the foundations to understanding why judicial diversity matters, and how the interest in it is linked to the judicialization of politics, with specific focus on Israel. Chapter 2 presents the characteristics and structure of the Israeli judiciary, including the judicial nomination system, and also covers the legal profession and education in Israel. Chapter 3 reviews what was known about judicial diversity in Israel prior to this study and where this research fits within the existing study of the judiciary in Israel. Chapter 4 provides a brief outline of the complex demographics of Israeli society, including the population dynamics and the main social and cultural conflicts that may be relevant to judicial diversity. Chapter 5 sets out the empirical research methods used in this study. Chapter 6 presents the results of the Judges Study, setting out the background characteristics of all judges in the main courts system in Israel. Chapters 7 and 8 presents the results of the Lawyer Survey and Law Student Survey, respectively, which together explore the diversity of the 'pool' for judicial appointments in Israel. Chapter 9 summarizes the main findings of the previous chapters and discusses them in relation to

the main themes underlying this thesis: judicial diversity and its relationship to judicialization, liberalism and the justifications for diversity, the possible effects of diversity (or its lack thereof) and the factors that may affect judicial diversity (e.g. the 'pool'). It ends with policy-making recommendations, as well as suggestions for future research on judicial diversity in Israel.

CHAPTER 2: THE ISRAELI JUDICIARY, LEGAL PROFESSION AND LEGAL EDUCATION

The previous chapter introduced the aims of this research and the reasons for conducting an empirical study on judicial diversity in Israel. The purpose of this chapter is to present the Israeli judicial system, covering the circumstances of its establishment, its structure and its position in Israel's political system. The chapter then outlines the system for judicial appointments, including reform proposals, as well as key aspects of the “pool” for judicial appointments: the Israeli legal profession and legal education. This provides the essential background to examining judicial diversity in Israel.

2.1 Historic background

Today Israeli law mostly consists of Knesset legislation¹⁸², however it is deeply rooted in an amalgam of legal systems from foreign rulers, and therefore comprises a mosaic of laws whose origins lie in English common law, Ottoman and religious legal systems¹⁸³. Moreover, examining the years preceding the establishment of the state of Israel reveals invaluable insights into the formation of Israel's political (including judicial) institutions. Political scientists and historians argue that the mechanisms used by Jewish communities in the diaspora¹⁸⁴ to regulate their affairs generated the knowledge and political traditions that were required to establish the Zionist movement and later on the political institutions of Israel¹⁸⁵. In addition, The British Mandate government in mandatory Palestine (1917-1948) allowed the Arab and Jewish communities to have their own organizations regulating internal affairs¹⁸⁶. Thus, the institutions of the Zionist movement and the Yishuv¹⁸⁷ (the Jewish community during the 19th century and until the formation of the state of Israel in 1948) laid the foundations of the modern Israeli political system¹⁸⁸. The "Assembly of Representatives of the Knesset, Israel's parliament" was established in

¹⁸² Mostly following the enactment of the Foundations of Law Act 5740—1980. Aaron Kirschenbaum, “The Foundations of Law statute: Reality and Expectations” (1986) 11 *TAU Law Review* 117; compare: Aharon Barak, ‘The Foundations of Law Act and the Heritage of Israel’ (1987) *Yearbook of the Institute for Research in Jewish law* 265-283.

¹⁸³ Assaf Likhovski, ‘Between Two Worlds: The Mandate Legal Tradition in the State of Israel’, in Yehoshua Ben-Arieh (ed), *Jerusalem during the British Mandate* (Yad Izhak Ben-Zvi 2003) 251-295.

¹⁸⁴ The term ‘Diaspora’ (or ‘exile’) describes the dispersion of Jews out of the land of Israel into various countries and continents.

¹⁸⁵ Shlomo Avineri, ‘The Historical Roots of Israeli Democracy’ (1987) 6 *Shofar* 6 1–6.

¹⁸⁶ Lev Luis Grinberg, ‘The Crisis of Statehood: A Weak State and Strong Political Institutions in Israel’ (1993) 5 *Journal of Theoretical Politics* 89-107.

¹⁸⁷ Na'ama Sheffi, ‘Yishuv Intellectuals and the Approaching Holocaust’ (1996) 20 *Kesher* 6e–10e

¹⁸⁸ Shlomo Avineri, “The Origins and Challenges of Israeli Democracy” *Haaretz* (23.9.2014)

http://www.haaretz.co.il/opinions/_premium-1.2442073 accessed 1 September 2016; Galnoor and Blander (n22) 23-30, 25-26.

1920.¹⁸⁹ The National Council was responsible for education, local government, welfare, and security of the Jewish community¹⁹⁰, but not a legal system (covered under the British mandate¹⁹¹). Thus, when the state was declared in 1948, the transition to sovereignty was not very difficult¹⁹².

The legacy of British rule in the region was a crucial factor in the emergence of the political system in Israel¹⁹³ and the establishment of the judiciary in particular¹⁹⁴. The state of Israel adopted the structure¹⁹⁵ of the courts system that had been established by the British Mandate¹⁹⁶ and several principles of the English legal system (e.g. the principle of the independence of the judiciary)¹⁹⁷. The common law had a major influence on the development of the Israeli legal system¹⁹⁸, mainly by virtue of the King's Order in Council, 1922, which gave the courts in Mandatory Palestine the liberty to apply English law to resolve lacunas¹⁹⁹.

The other pre-state factor in the formation of Israel's political institutions is the **Partition plan** ("Resolution 181")²⁰⁰, adopted by the UN General Assembly on 29 November 1947. The resolution recommended the creation of independent Arab and Jewish states and termination of the British Mandate. The Plan was accepted by most of the Jewish public and leadership, but the Arab Higher Committee in Mandatory Palestine and the Arab

¹⁸⁹ 'The Elected Assembly', in The Knesset Lexicon (http://main.knesset.gov.il/About/Lexicon/Pages/asefat_niv.aspx)

¹⁹⁰ Avineri (n188).

¹⁹¹ Justice Dr Elyakim Rubinstein, "Judges in Jerusalem", 60 Years to the Supreme Court: What Was the Political and Personal Process That Led to the Establishment of the First Supreme Court?" (2008) lecture at the Israel Democracy Institute.

¹⁹² Galnoor and Blander (n22) 23.

¹⁹³ An attempt to adopt the model of the British civil service was not successful; however, other independent bodies (e.g. the State Comptroller, Governor of the Bank of Israel and the Supervisor of Banks) as well as governmental units (the Central Bureau of Statistics, the Post Office etc.) owe their existence to the British Mandate. *Ibid*, 24

¹⁹⁴ Aharon Barak, 'Some Reflections on the Israeli Legal System and Its Judiciary' (2002) 6 *Electronic Journal of Comparative Law* <http://www.ejcl.org/61/art61-1.html> accessed 1 January 2016. Natan Brun, *Judges and Jurists in the Land of Israel: Between Kushta and Jerusalem, 1900-1930* (Magnes 2008).

¹⁹⁵ Salzberger, "Judicial Appointments and Promotions in Israel" (n79) 244; Shachar (n52).

¹⁹⁶ Harris and others, *The History of Law in a Multi-Cultural Society* (n 39) 6

¹⁹⁷ Shimon Shetreet and Sophie Turenne' *Judges on Trial: The Independence and Accountability of the English Judiciary* (CUP 2013). For a review of the 'Anglicization' (the replacement of Ottoman law with the English legal system) of the law of Israel see Mautner *Law and the Culture of Israel* (n 8) 35-38

¹⁹⁸ E.g. the doctrine of estoppel, the doctrine of binding precedent. Aharon Barak, "Israeli Legal System – Tradition and Culture" (1992) 40 *Hapraklit* 197-209; Even in the 2000's 43% of the citations that Israeli Supreme Court justices referred to in their rulings were to English law: Yoram Shachar, "The Supreme Court's Scope of Reliable Sources, 1950-2004" (2008) 50 *Ha'praklit* 29.

¹⁹⁹ Section 46 of the King's order. Suzie Navot, *The Constitution of Israel: A Contextual Analysis* (Hart Publishing 2014) 1-5.

²⁰⁰ "Resolution 181 (II) - Future Government of Palestine"

(<http://domino.un.org/unispal.nsf/0/7f0af2bd897689b785256c330061d253>); Ruth Gavizon (Ed.), *60 Years to the November 29th 1947 Resolution: The Partition Resolution and the Controversy Around it - Sources and Reflections* (Metzilah 2009).

League rejected it²⁰¹. Consequently, the plan did not fully materialize, a violent conflict emerged and turned into the 1948 war. Nevertheless, the Mandate was terminated and the state of Israel was declared on 14 May 1948²⁰². Resolution 181 set the foundation for a democratic form of governance in Israel²⁰³. The Declaration of Independence of Israel²⁰⁴ was generally in line with resolution 181²⁰⁵ and committed Israel to establish transitional institutions, a government and a constitution²⁰⁶. The Provisional State Council's first act of legislation in 1948, the Law and Administration Ordinance²⁰⁷, defined the separation of duties between the governmental branches. Importantly, the Ordinance determined that the law that governed Israel prior to the establishment of the state would remain in effect, subject to future laws and changes. This meant not only that the court system established by the British Mandate would continue to operate, but also that the legal concepts and underlying values of the British legal system were retained, to an extent.

2.2 Israeli Judiciary and separation of powers

The theory of the separation of powers is the defining principle of the governmental structure in Israel. As classically defined by Montesquieu, it demands total separation between the three branches of the government: the legislature, the executive and the judiciary²⁰⁸. In contemporary times, this theory is viewed as founded on (a) a recognized distinction between the different branches and (b) the view that every branch must have some discretion in fulfilling its functions without being interfered with by another branch²⁰⁹. It is important to note the connections between the branches and the restrictions they impose on each other²¹⁰. This separation guarantees the judiciary's independence, but as is the case in other countries and governmental systems, absolute separation is impossible to achieve²¹¹. A more flexible approach is the 'Doctrine of Checks and

²⁰¹ For further details of the Palestinian standing on the partition plan, see: Nazir Majali, "The Position of the Arab mission to the Partition Plan: Crime and Punishment", in: Ruth Gavizon (ed), *60 Years to the November 29th 1947 Resolution* (ibid) 69-75; Mustafa Kahaba, "The Palestinians and the Partition Plan", ibid 60-68

²⁰² Gavizon, ibid 14, 81

²⁰³ Galnoor and Blander (n.22) 35

²⁰⁴ Israel Ministry of Foreign Affairs "The Declaration of the Establishment of the State of Israel" [here](#) (accessed 1 December 2016).

²⁰⁵ i.e. committing to a democratic country and preserving fundamental rights of minorities, announcing the establishment of the constitution, etc.

²⁰⁶ Galnoor (n 22) 38; Yoram Shachar, "Israel as a Two-parent State: The Hebrew Yishuv and the Zionist Movement in the Declaration of Independence" (2007) 98 *Zmanim: A Historical Quarterly* 45-32

²⁰⁷ Law and Administration Ordinance, 5708-1948, 1 L.S.I. 7 (1948) (Isr.).

²⁰⁸ Shetreet, *On Adjudication* (n6) 337; Barak, *The Judge in a Democracy* (n.53) 35-51.

²⁰⁹ Barak, ibid 37-40

²¹⁰ Ibid, 36

²¹¹ Ibid, 37; Shetreet (n.6) 354

Balances', which aims to allow an effective and proper functioning of the authorities by restricting and balancing their powers²¹².

Israel is a parliamentary democracy, meaning the sovereignty of the people is expressed through the Knesset, which consists of 120 members and is elected by the public in general, national, direct, equal, confidential and proportional elections²¹³. In the absence of a constitution, the Knesset is arguably omnipotent. However, in practice the Basic Laws, the courts and the separation of powers restrain its powers²¹⁴. Particularly, the Knesset is subject to judicial review by the Supreme Court. In its first years, the Knesset was characterized by clear boundaries between political parties, however the Knesset has gradually changed and become much more critical in its approach towards the government²¹⁵. Frequent political changes in the 1980s and 1990s weakened the Knesset²¹⁶, and there has been a sharp decline in the public trust²¹⁷.

The Government²¹⁸, headed by the Prime Minister, stands at the top of the executive branch and administers the state. It has broad jurisdiction and authorities, specifically the exclusive power to enforce the law, to determine and execute policy and to operate its binding mechanisms (e.g. the police, the armed forces etc.).²¹⁹ Similar to the UK, the executive branch in Israel is accountable to parliament. By virtue of its judicial review of government's actions, ethical conduct of ministers and administrative measures, the courts set important standards for the operation of the executive branch. But numerous court proceedings challenging government powers have at times been seen as infringing the separation of powers.

2.3 Structure and powers of the Israeli judiciary

Structurally, Israel has a hierarchical three-tier General Courts system, and a parallel system of Specialized Courts (Labour, Military and Religious courts) with unique

²¹² Amnon Rubinstein and Barak Medina, *The Constitutional Law of the State of Israel* (6th edn, 2005) 127-129

²¹³ Basic Law: The Knesset (1958), article 4.

²¹⁴ Galnoor (n.22) 156

²¹⁵ *Ibid* 157-159.

²¹⁶ Shlomo Swirski, Ami Fraenkel, "The Role Of The Knesset In The Budget-Making Process: A Critical Analysis And Proposal For Reform" (2000) *Adva Centre- Information On Equality And Social Justice In Israel*, <http://adva.org/wp-content/uploads/2014/09/The-Role-of-the-Knesset.pdf> (accessed 1 September 2016)

²¹⁷ In 2014, the Knesset was at the bottom of the scale of trusted institutions, with only 35.2% of Jews and 36.3% of Arabs trusting it 'very much' or 'quite a lot' (Tamar Herman, *The Israel Democracy Index 2014* (abridged index in English): http://en.idi.org.il/media/3823043/democracy_index_2014_Eng.pdf accessed 1 September 2016, 38-39.

²¹⁸ Basic Law: The Government (5761-2001)

²¹⁹ Galnoor (n.22) 209.

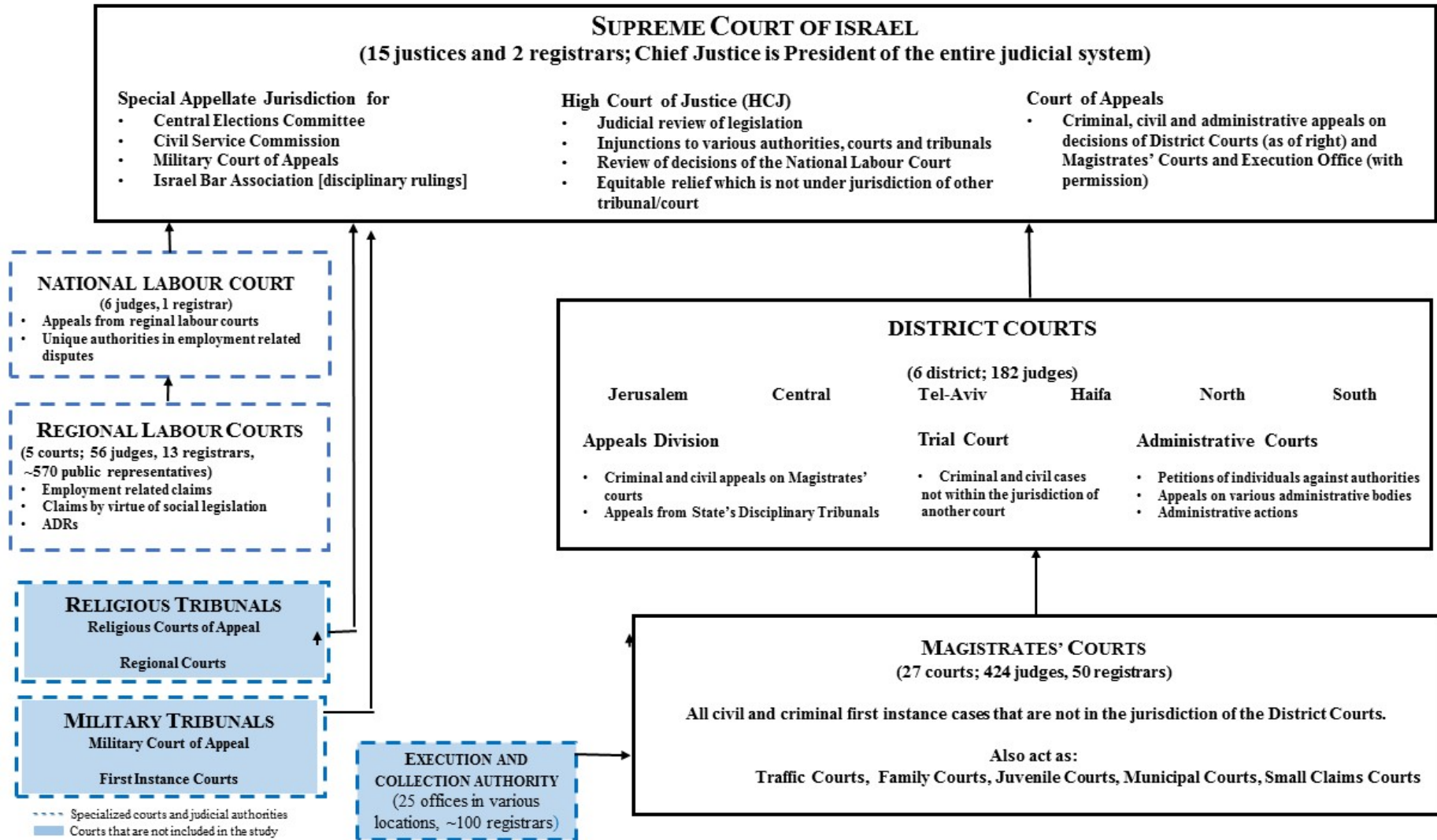
jurisdictions. The General Courts system is divided to three instances²²⁰: the *Supreme Court*, the *District Courts*, and *Magistrate's Courts*²²¹. The Figure below shows the arrangement of courts, each court's jurisdiction and number of judges.

Figure 1. Structure of the courts system in Israel²²² [following page]

²²⁰ Basic Law: The Judiciary 5748-1984; The Courts Law [Consolidated Version], 5744-1984.

²²¹ S.1.(a) Basic Law: The Judiciary.

²²² In this figure, the General Courts system is in black outline and Specialized Courts are in blue. Of the Specialized Courts, only Labour Courts are covered in this thesis. Data on the number of judges and registrars in each court relies on the Judicial System's Annual Report, 2014. As explained in Chapter 5, these numbers vary slightly from the total number of judges covered in this thesis.



At the head of the Supreme Court and the entire judicial system stands the President of the Supreme Court (Chief Justice). The Supreme Court jurisdiction is divided in two: (1) as the final and highest court of appeal in the General Courts system; (2) as the authority to adjudicate administrative matters in its capacity as the High Court of Justice (HCJ)²²³. Immediately below the Supreme Court are the six District Courts, whose dual authority is as first instance trial courts²²⁴ and as an appellate court (on appeals from Magistrate's Court). The Magistrate's Courts are trial courts, authorised to adjudicate civil and criminal cases. Some Magistrate's Courts have been empowered²²⁵ to sit as Family Courts²²⁶, Juvenile Courts²²⁷, Municipal Courts²²⁸ and Minor Claims Courts²²⁹, and to rule on traffic matters²³⁰.

The Specialised Courts significantly differ from the General Courts (and from each other) in their composition, jurisdiction, procedures and appointments²³¹. However, they do have some common characteristics: each of them comprises an independent judicial system with its own administration, judges, and two judicial instances (trial and appeal). Usually, there is no right of appeal to the Supreme Court, but a petition to the HCJ can challenge decisions of specialized appellate courts²³². In addition, unlike the General Courts system that has no non-professional (lay) judges, in Specialized Courts laypeople either handle the entire procedure (religious courts) or sit alongside judges.

The General Courts' jurisdiction is geographically divided into six districts (see Figure 1). Magistrate's Courts and District Courts have jurisdiction over the geographical area they are situated in, whilst the Supreme Court's authority includes the entire area of Israel²³³. The courts are administratively subordinated to the Minister of Justice but professionally subject to the Chief Justice. For many years, the judicial system was

²²³ Basic Law: The Judiciary, s.15(c), 15(d);

²²⁴ For all matters beyond the jurisdiction of the Magistrate's Court, and in administrative matters (by virtue of the Administrative Affairs Courts Law, 2000) in specified disputes between citizens and administrative authorities.

²²⁵ S.1, Basic Law: The Judiciary; Shetreet (n.6)105-109

²²⁶ The Family Courts Act, 1995; The Courts Law, s.51(5)

²²⁷ The Juvenile Law (Trial, Punishment and Modes of Treatment), 1971

²²⁸ The Courts Law, s.54

²²⁹ Ibid, s.59

²³⁰ Shetreet (n.6) 129

²³¹ For a detailed review see **Appendix 1**.

²³² Shetreet (n.6) 118.

²³³ Ibid 109. Chapter 6 below presents a detailed review of the geographical distribution of all the General Courts.

immune to external criticism or monitoring²³⁴. However, alongside a general growing demand for transparency in Israel public life, it has become accepted that the judiciary should be monitored to an extent. In addition to parliamentary discussions about judges and judicial decision-making and a growing interest of Israeli media in courts²³⁵, the Ombudsman of the Israeli Judiciary was established in 2002, in order to improve the service supplied by the judiciary, and investigate complaints regarding judges' conduct²³⁶.

2.4 Inter-relations between the judiciary and the other branches²³⁷

Although the courts are authorized to adjudicate disputes and issue orders that bind the executive branch, de facto the latter has the final say (by virtue of its authority to execute courts' rulings)²³⁸. On several occasions, the executive branch used its authority to prevent the implementation or execution of court judgements²³⁹. In addition, several factors may generate tension between the judiciary and the Knesset. For example, by controlling the terms of office of judges (e.g. salary) and being involved in the Judicial Nominations Committee, the Knesset can potentially influence the judges' independence and the composition of the judiciary²⁴⁰. However, the focus of most tension between the three branches is the "constitutional revolution", which not only strengthened the courts but also developed and complicated relations between the judiciary and the Knesset²⁴¹. Some scholars even perceived it as an attempt of the elite (represented by the court) to force values and morals on the public despite the explicit provisions of the legislature²⁴².

²³⁴ Ibid 308-313; According to Friedman (n.39) 340-348, so long as the courts had limited political power, there was no interest in monitoring them. However, their growing political significance and the decline in public trust led to calls to monitor them.

²³⁵ Shetreet (n.6) 314-319.

²³⁶ Ombudsman of the Israeli Judiciary (official English website)

<http://index.justice.gov.il/En/Units/OmbudsmanIsraeliJudiciary/Pages/Main.aspx>

²³⁷ Other institutions that are not part of the three branches but have important roles in Israel are the President of Israel, State Comptroller, Attorney General and National Inquiry Commissions. Over the years, and with the growing judicialization of politics, the importance and impact of the monitoring bodies have intensified significantly. See Galnoor (n22) Chapter 7.

²³⁸ Shetreet (n.6) 355

²³⁹ Ibid 362-374; A very recent example of an attempt to override the court was is the government's conduct regarding the temporary detention facility of illegal residents. In this case, the HCJ decided to annul key clauses in the law and forced the government to close the detention facility. However, subsequent government decisions have not implemented the court's ruling and two more petitions were submitted to the HCJ which heavily criticized the other branches for their conduct in this case (*Desta* (n64).

²⁴⁰ Shetreet (n.6) 423-438.

²⁴¹ Dotan, 'Does Israel need a Constitutional Court?' (n.89) 191 shows that prior to the "constitutional revolution" the Knesset seemed more 'obedient' to court rulings; Sapir, 'The Israeli constitutional revolution' (n59) 4

²⁴² Sapir (ibid) 5; Gavison (n65).

Thus, in several cases, the Knesset's response to court rulings regarding the constitutionality of legislation was to amend the Basic Laws to 'bypass' the court²⁴³. The tension between the branches is also apparent from several legislative attempts to regulate the type of matters the Supreme Court can adjudicate²⁴⁴. Many of the speakers against the Supreme Court were religious or Orthodox Jews that felt the Court, which was predominantly secular, was using its powers to change the status quo contrary to the views of the public²⁴⁵. At the same time, a growing number of petitions in political matters were submitted to the Supreme Court by MK's', making the Court an arena to resolve disagreements that would normally be discussed in the Knesset²⁴⁶.

2.5 Appointment of judges in Israel

The procedure for selection and nomination of judges has frequently been called into question in Israel, usually coinciding with periods of tension between the judiciary and the other branches²⁴⁷. Nevertheless, in general the appointment procedure has not significantly changed since the 1950s. This section describes the nominations body and its procedures. It then reviews common claims that have been raised against the judicial nominations system in Israel, which directly relate to judicial diversity.

Applicants for judicial posts in the General Courts system must be Israeli citizens, registered (or eligible to be registered) as members of the Bar and have experience in the legal profession for varying periods in at least one of three specified manners: as a lawyer, in a recognized judicial or another legal position, or as a law teacher in a listed high education institution²⁴⁸. Thus, eligible candidates for the Magistrates' Courts must have worked in the legal profession for at least five years (of which at least 2 years in Israel) in one of the positions mentioned (i.e. as a lawyer, in a judicial or legal position or as a law teacher)²⁴⁹. Eligible candidates for the District Courts must have been either Magistrates Court judges for at least four years or practiced the profession in the various

²⁴³ *Meatrael* (n.91); Rivka Weill, "Sui Generis? The Hybrid Israeli Constitutional Experience" (2009), Working Paper, 39 <http://law.huji.ac.il/upload/Weil_Experience.pdf>; Dotan (n.89)193

²⁴⁴ Assaf Meydani, Shlomo Mizrahi, "The Relations between the Supreme Court and the Knesset In Light Of the Steps Theory (From Problem to Solution)" in Hani Zubida, David Mekelberg (eds), *The Israeli Political System: Between Governance and Collapse* (the Israeli Political Science Association 2008) 109-163.

²⁴⁵ Dotan (n.89)196

²⁴⁶ Friedman (n39)110-115; Mautner goes further to say that petitions to the H CJ were mainly made by left-wing MKs who used the Supreme Court to influence public opinion (*Law And The Culture Of Israel* (n8) 143-144).

²⁴⁷ Yael Cohen-Rimer, "The judicial Nominations Procedure in Israel: it Works, Do not touch it!" (2012) 72 *Parliament* Israel Democracy institute ([here](#)).

²⁴⁸ s.4 The Courts Law.

²⁴⁹ The Courts Law, s.4. Shetreet (n6) 282, believes the required length of experience should be longer.

forms mentioned for no less than seven years (of which at least three years in Israel).²⁵⁰ Eligible candidates for the Supreme Court are those who either served as District Court judges for five years, or have practiced the profession for ten years (of which at least five years in Israel)²⁵¹.

In practice, most Magistrates' Court judges are selected from private and public legal practitioners²⁵², District Court judges are likely to be Magistrates who have been promoted or senior prosecutors (or other senior lawyers in state legal offices). Supreme Court justices are either promoted District Court judges (often Presidents) or are very senior legal civil servants (e.g. the Attorney General) or, rarely, senior academics²⁵³. Thus, the Israeli judiciary is a "professional"²⁵⁴ judiciary where judges are experienced legal professionals whose judicial position is a second or third career, not a "bureaucratic" judiciary found in most continental jurisdictions where judges enter a career judiciary at a very early age,²⁵⁵.

Judicial Nominations/Selection Committee²⁵⁶

For several years after the establishment of the state, the procedure for appointing judges was handled by politicians in the absence of legislation on the matter²⁵⁷. This changed in 1953 with the enactment of the Judges Act, which set the mechanism for selection and promotion of judges in Israel and was subsequently affirmed in Basic Law: The Judiciary (1984)²⁵⁸. The appointment of most judges²⁵⁹ is done by the Judges' Selection Committee (hereinafter: **"the Committee"**)²⁶⁰. The Law requires that the legislature, executive and judiciary are all represented in the Committee. The Committee consists of nine members: the Chief Justice of the Israeli Supreme Court; two other Supreme Court justices; the MoJ

²⁵⁰ The Courts Law, s3.

²⁵¹ The Courts Law, s.2. Also, for the Supreme Court only, a person that does not meet the criteria regarding the length of practice, can be appointed if they are "outstanding jurists".

²⁵² Salzberger, "Judicial Appointments and Promotions in Israel" (n.79) 249

²⁵³ Article 2(2)(c) and 2(3) in the Courts Law. An academic who was recently appointed to the Supreme Court is Daphne Barak-Erez, a law professor appointed in 2012. Friedman thought such appointments should be restricted to very rare cases (n 39) 187.

²⁵⁴ Guarnieri & Pederzoli (n 10) 66-68.

²⁵⁵ Saltzberger (n 79) 254. There is some resemblance to the continental system: for example, lack of juries, role of the MoJ as the top administrator of the judicial system and the selection process of judges led by professionals.

²⁵⁶ The terms 'Nominations Committee; and 'Selection Committee' are both commonly used in the legal and public discourse, therefore they are alternately used in this thesis.

²⁵⁷ Nir Kedar, "Democracy and Judicial Autonomy in Israel's Early Years" (2010) 15 *Israel Studies* 25–46. However, no evidence was found to show that politicians ever interfered with judicial work.

²⁵⁸ Also translates as Basic Law: The Judicature (38 L.S.I. 101)

²⁵⁹ Including the Supreme Court, District, Magistrate's, Labour and Traffic Courts. Different committees decide appointments to Religious and Military Courts.

²⁶⁰ S.6 in the Courts Law.

and another minister; two Knesset members (usually one from the coalition and one from the opposition) and two representatives of the Israeli Bar Association²⁶¹. The composition of the Committee, therefore, guarantees a majority of lawyers over politicians (five judges and Bar members, compared with four MK's and government ministers): Kedar argues that the committee "is largely shielded from political-factional influences because jurists are ensured a structured majority within it"²⁶², while Salzberger points out that the three Supreme Court justices have an advantage in the Committee as they constitute the largest single group²⁶³. The Committee is responsible for the appointment and promotion of all judges in the General Courts but not appointments to Specialised Courts²⁶⁴ or Presidents of courts²⁶⁵.

The Judiciary Rules (Judges' Nomination Committee Procedural Regulations), 1984 list the main characteristics required from each candidate. They include: knowledge and skills in several areas of law; being articulate generally and in writing; efficiency (including management skills and punctuality); authority; judicial character, integrity, wisdom and motivation.²⁶⁶ The rules do not include provisions on how the Committee should consider these characteristics, nor does it define a vision regarding the desired character or composition of the judiciary. This means there is no stipulation regarding diversity as a consideration in the appointment process.

The selection procedure starts in applications submitted to the Courts Manager by interested candidates²⁶⁷. In the application they are required to provide personal details, refer to their professional legal experience and provide names of people with whom they have been in touch over the past years in various schemes (e.g. during the military service, in the academia) as well as names of judges and lawyers that can provide references for the applicant²⁶⁸. The application and the accompanying documents are then sent to

²⁶¹ S.4, Basic Law: The Judiciary

²⁶² Kedar (n.257) 27

²⁶³ Salzberger (n79) 248

²⁶⁴ **Appendix 1.**

²⁶⁵ The MoJ, subject to the approval of the Chief Justice, appoints Presidents of courts. Street believes this should be changed so that the Committee also appoints Presidents.

²⁶⁶ S.11a

²⁶⁷ Rule 2, Judiciary Rules (Procedures of the Judges' Selection Committee), 1984. For the forms see: The Courts Administration "A Request to be appointed as a Judge", http://elyon1.court.gov.il/heb/forms/bakasha_leminyu_shofet.pdf.

²⁶⁸ The Courts Administration, Directive 5-09 "The procedure for handling applications for judicial positions" (6.7.2009), <http://elyon1.court.gov.il/heb/haba/menahel/doc/08435509.pdf>; Yasmin Gueta, Efrat Noiman "The Path to a Judicial Position", *TheMarker* (15.2.2016) <http://www.themarker.com/law/1.2851297>. The exact number of recommendations required in support of the application is not clear, as it was not listed in the Regulations. The directive mentions that applicants are required to provide at least eight names of referees (section 1) but then notes that after receiving six

various checks, and the referees are requested at this stage to provide confidential references regarding the applicant. Provided they meet the eligibility criteria, pass the security and medical background checks (e.g. criminal record) and received at least six appropriate recommendations²⁶⁹, the Manager invites them to an interview by a sub-committee (comprising three members of the Nominations Committee, i.e. a Supreme Court judge (as chair of the sub-committee), an MK and a Bar representative). If the sub-committee decides to promote the candidate, the next step in the application process is a one-week evaluation course for judicial applicants, led by a three judges and two psychologists (as of 2016, a representative of the Bar joined the course's evaluation team). The course is considered intense, and only a third of the participants successfully pass it²⁷⁰. The successful applicants then go back to the sub-committee for review and final decision regarding their inclusion in the official database of judicial applicants. Then, when a judicial position needs to be filled, the applicant's name may be brought forward (according to the Courts Law, the MoJ, the Chief Justice or three Committee members may suggest an applicant)²⁷¹. The Committee then chooses an eligible candidate for a judicial position by a majority decision²⁷² and recommends him or her to the President of Israel, who in turn formally appoints the judge²⁷³.

For comparison, for many years judicial appointments in England and Wales operated in an 'old politics style' which involved the Lord Chancellor advised by a small number of senior judges who hold secret consultations, and were characterised by 'stability, secrecy and informality'²⁷⁴. However, in the early 21st century, in part due to growing complaints of lack of judicial diversity, it was decided to shift the judicial appointment model into one that is based on the recommendations of an independent committee, the Judicial Appointments Commission (JAC). The JAC is "responsible for identifying candidates for judicial office in courts and tribunals in England and Wales (...). It manages a long and highly formalised selection process involving advertising, short-listing, interviews, and

detailed references the candidate will be invited to an interview. However, the form itself notes 8-10 references are needed.

²⁶⁹ This may be viewed as a barrier to potential applicants who have no previous connections with judges. See similar discussion in the UK about requirements that judicial applicants are 'known' to the senior judiciary and how it disadvantages minorities and women who lack these networks (Thomas, *Judicial diversity in the UK* (n5) 65).

²⁷⁰ Gueta and Noiman (n268).

²⁷¹ S.7

²⁷² Except for the appointment of judges to the Supreme Court, which requires a special majority of seven Committee members (s.7(c) of the Courts Law).

²⁷³ De facto, the President serves as a "rubber stamp" in the appointment process, Saltzberger (n79) 248.

²⁷⁴ Gee, Graham, Robert Hazell, Kate Malleon, and Patrick O'Brien. *The Politics of Judicial Independence in the UK's Changing Constitution*. (CUP 2015), 159-160

... presentations”²⁷⁵. Unlike the Israeli nomination commission, which is chaired by the MoJ, the JAC operates at “arm’s length from, but within a strategic framework set by, the Ministry of Justice”²⁷⁶. It consists of 15 commissioners: the chairman (a lay member); 6 judicial members; 2 professional members (holding legal qualifications); 5 lay members and one non-legally qualified judicial member²⁷⁷. The selection procedure has some similarities to the Israeli one: application stage, shortlisting (including qualifying tests and other assessments), selection day for shortlisted candidates (similarly to the course for candidates in Israel, this day involves interviews, role play and presentations), then statutory consultation and a decision followed by a recommendation to the appointing authority²⁷⁸.

Confidentiality and lack of transparency

Members of the Committee operate under a confidentiality rule²⁷⁹. Moreover, by law the Committee's deliberations (including any information about applicants) are privileged and not published for public review. Until recently, the lists of applicants were not published either²⁸⁰. However, following concerns about lack of transparency, in 2008 it was decided to keep protocol (minutes) of the Committee’s meetings and decisions²⁸¹, but to publish the protocol only when a specific request is made and based on the exclusive discretion of the committee. Recently several protocols have been uploaded to the judiciary’s website²⁸² and the Committee’s announcements (e.g. approved nominations) are uploaded more often. Examination of the protocols and the decisions reveals that they do not provide information regarding the dynamics in the Committee, or the considerations made in reviewing applications. The protocols focus instead on the technical aspects of the meetings (e.g. attendees, list of candidates, results of the voting). The privilege on applicants’ personal information dictates that the protocols do not refer to the qualities of candidates or reflect the discussion about them in the Committee²⁸³. Consequently, the protocols do not shed light on the extent to which diversity is taken

²⁷⁵ Ibid, p.163. The authors describe how despite initially being a recommending body, the changing dynamics between the heads of the judiciary and the Ministry of Justice on the one hand, and the JAC on the other, have significantly shaped judicial appointments in the past decade.

²⁷⁶ Ibid, p.165; also see: “Framework Document: Ministry of Justice and the Judicial Appointment Commission” https://jac.judiciary.gov.uk/sites/default/files/sync/about_the_jac/jac-moj-framework-2012.pdf

²⁷⁷ <https://jac.judiciary.gov.uk/commissioners>

²⁷⁸ <https://jac.judiciary.gov.uk/overview-selection-process>

²⁷⁹ Rule 15. Shetreet (n6, 273-4) describes the attempts to challenge this duty at the HCJ.

²⁸⁰ Rule 15 the Judiciary’s Rules

²⁸¹ Rule 12 the Judiciary's Rules.

²⁸² <http://elyon1.court.gov.il/heb/judge/protocol.htm>. The protocols are from 2013-2016.

²⁸³ The minutes omit those discussions and leave only the technical aspects and the final decision.

into account in the nominations procedure. Knesset reform proposals, media publications and statements made by policy-makers remain the main source of information regarding the Committee's deliberations and diversity.

In addition, it has recently been published that a sub-committee, consisting of two retired judges, operates as a 'preliminary screening' panel that examines applications of judges who are candidates for promotion. The restricted panel's activity or authority are not regulated by law, and its existence (let alone mode of operation) is not fully known to the public, or even to all members of the Nominations Committee²⁸⁴. The criteria upon which it reviews the applications is unclear, but it is known that the panel may interview candidates, read previous court decisions they wrote, interview others and gather additional information. Judges who are not approved by this small advisory panel are not brought by the Chief Justice before the Nominations Committee. This policy has been recently challenged in a petition to the District Court, but the petition was rejected²⁸⁵. However, recently (perhaps following the petition) the Chief Justice started to present the Nominations Committee with a brief summary of the information gathered by the advisory panel.

Registrars and Specialized Court judges

The Courts Act authorises the Supreme Court President, subject to the approval of the MoJ, to appoint judges or those eligible to be Magistrate's Court judges, as registrars in the Supreme Court, district courts and magistrate's courts²⁸⁶. The registrars' main duty is to review and screen claims, appeals and petitions at a preliminary stage. They have several judicial, procedural and technical powers²⁸⁷, and they form an important part of the court system²⁸⁸. Judges in the Specialized Courts (e.g. Labour, Military and Religious courts and tribunals) are appointed via a nominations committee consisting of professionals and politicians (see **Appendix 1**). Labour courts judges, for example, are appointed according to the same procedure²⁸⁹ and by an almost identical panel as General

²⁸⁴ Revital Hovel "A secret committee rules out the promotion of judges without legal authority" Haaretz (18.8.2015) <https://www.haaretz.co.il/news/law/.premium-1.2709989>.

²⁸⁵ Administrative appeal 29791-03/17 *Movement for Governance and Democracy v The supervisor on the implementation of the Freedom of Information Law in the Courts Administration* (6.12.2017). An appeal was filed with the Supreme Court and is now pending discussion ([here](#)).

²⁸⁶ S.84 the Courts Law.

²⁸⁷ Shetreet (n6) 130-131

²⁸⁸ For further details see chapter 5.

²⁸⁹ And required to meet the eligibility criteria of District Judges.

Court judges, however the law determines that in addition to the MoJ, the Minister of Economy and Industry also serve on the Committee²⁹⁰. However, the composition of the nominating committee changes significantly when judges are appointed to Religious and Military Courts²⁹¹. Moreover, the eligibility criteria are entirely different, as the judges in these courts usually have no legal education. These conditions substantially influence the composition of some courts (for example, religious courts are entirely dominated by men, most military courts judges are likely Jewish, etc.²⁹²), and therefore they fall outside the scope of this thesis (discussed further in Chapter 5).

2.6 Calls for reform of judicial appointments

Most Israeli scholars and senior judges have traditionally valued the appointment system as reliable and trustworthy and have even suggested it is one of the best methods in the world in securing judicial independence and freedom from political influences²⁹³. However, in the last two decades, the appointment system has come under increasing criticism²⁹⁴, with some scholars and politicians now openly calling for the role of the judiciary to be restrained in appointing judges²⁹⁵. The controversy over judicial diversity in Israel is directly related to these calls for reform.

Israeli politicians have shown continuing interest in judicial diversity matters (e.g. the background characteristics of judges, and the composition and procedures of the Committee that selects judges). At times, criticism, concerns and actual bills were directly linked to the nominations procedure; on other occasions, the parliamentary attempts at reform were part of wider attempts to weaken the courts. The most important or controversial claims and bills are discussed briefly below²⁹⁶.

²⁹⁰ S.4 in the Labour Courts Act, 1969;

²⁹¹ The nominating committee for religious courts consists of two officials in the relevant courts system, two 'judges' of those courts, two MKs affiliated with the relevant religious group and two lawyers.

Appendix 1

²⁹² Friedman (n.39) 441-2 elaborates on the significant differences between the regular Nominations Committee and that of the Specialized Courts (where the Committee as well as the applicants are strictly religious or Orthodox men).

²⁹³ Rubinstein and Medina (n.212) 334. For a brief review of the unique Israeli model, see: Paterson and Paterson (n5) 58.

²⁹⁴ The Knesset Research and Information Centre *Judges' Appointment – A Comparative Research* (2001) 4.

²⁹⁵ *Ibid.*, 4-5; Mautner (n.1) 427-431.

²⁹⁶ *Ibid.*, 424-427

Calls to change the Supreme Court

The claim of politicians that the Supreme Court represents the Israeli elite (e.g. Ashkenazi, Liberal/left-wing, secular men) and that other groups (namely women, Arabs, Sephardic and religious Jews) are significantly underrepresented has been increasingly heard since the 1990s²⁹⁷. The rationale behind the interest in the composition of courts is that the growing involvement of the courts in controversial issues makes the backgrounds and views of judges, as well as their selection process, an important issue and a fundamental component in shaping the public's trust in the judiciary. Of particular concern is the image of the Court as an institution that acts for the benefit of certain sectors of the population²⁹⁸, and the wider concern that the court system as a whole is an exclusive "members'-only club". Both concerns have exacerbated the decline in public trust in courts in Israel²⁹⁹. While the Supreme Court is still one of the trusted institutions of the state, this trust is steadily declining³⁰⁰. Barak-Erez argues that the desire to preserve public confidence in the court system is important if the system wishes its decisions to be followed and viewed as accepted norms and codes of behaviour³⁰¹. According to scholars, this decline in public trust in courts in Israel exists because of growing feelings of alienation amongst minority groups, who tend to assume that the justice-system and the Supreme Court in particular do not represent them³⁰².

Other criticisms focus on the political significance of judges and their excessive power in the nominations process. Israeli critics of the judiciary have claimed that, in most western democracies, the role of the judiciary in the appointment procedure is limited, with power to select judges vested in elected representatives. In Israel, however, not only are judges fully involved in the appointment procedure, but also they are extremely active in the types and scope of cases they are willing to adjudicate³⁰³. The current Israeli MoJ, Ayelet Shaked, argued only several weeks prior to being appointed that "Only in Israel, judges

²⁹⁷Ibid, 427-434 for several examples of criticism from MKs. Most of the criticism was in the form of public pronouncements in Knesset committees or plenary, but some matured into bills.

²⁹⁸ M. Mautner, *The Decline of Formalism and the Rise of Values in Israeli Law* (1993)

²⁹⁹ Friedman (n39) 345

³⁰⁰ Ibid, 124; compare Gad Barzilai, Efraim Ya'ar-Tuchman and Ze'ev Segal, *The Israeli Supreme Court in the View Of the Israeli Public* (Papyrus 1994); Mark Schon "Survey: The Public Contentment Of The Judiciary In Israel – The Lowest In Recent Nine Years" *Calcalist* (19.11.2009) <http://www.calcalist.co.il/local/articles/0,7340,L-3368093,00.html>

³⁰¹ Barak-Erez (n.45) 123.

³⁰² Ibid.

³⁰³ Yitzhak Klein and Moshe Koppel, 'Towards Balance: The Powers of government authorities in Israel and the Judicial Appointment Method' (2003) *The Israel Policy Centre* 16. The authors claim that in other countries, the degree of judicial involvement in the appointment process declines in inverse proportion to the level of judicial activism.

appoint themselves and the court invalidates laws"³⁰⁴. Although these claims may not be borne in the reality of judicial appointments in other democracies, they maintain a certain level of "truth" in Israel that governs the public debate over judicial selection. Former Israeli MoJ, Freidman, argued that a series of appointment rounds and debates damaged the public perception of courts:

"...the entire affair, which gained vast media coverage, severely hurt the Supreme Court. It turned out, that the appointments struggles in the Supreme Court are political, in all the ugliness that characterizes such battles.... The impression was even worse following a series of statements [according to which] the Supreme Court justices are a 'family', and therefore it is impossible to accept a new member without the consent of all other family members"³⁰⁵.

In addition, the number of justices on the Israeli Supreme Court has not grown in accordance with the number of cases coming to the Court³⁰⁶. Shetreet claims that the existing Justices do not want to expand the Court despite the burden of work and concerns about possible damage to the services given to the public by the court. Traditionally, the Supreme Court has objected to attempts to increase the number of justices set by law (currently 15) because it did not want the Court to lose its unique character³⁰⁷.

Calls for change to the judiciary's composition

It is often claimed that a selective hegemonic group of "nation builders" has the monopoly over key political and social power positions in Israel. This group consists primarily of Ashkenazi Jews from certain cultural and ideological backgrounds³⁰⁸. The first panel of the Supreme Court, for example, was comprised solely of Ashkenazi men³⁰⁹. It was almost 15 years before the first Sephardic Jew was nominated to the Supreme Court³¹⁰, three decades for the first woman to join, and fifty-six years for the first Arab judge to do so³¹¹.

³⁰⁴ Naomie Levitzki, "Threatening the Supreme Court", *Haaretz* (27.4.2015) <http://www.haaretz.co.il/opinions/.premium-1.2622170>.

³⁰⁵ Friedman (n39, 190-191) referring to the controversy regarding the failure to appoint Professor Nili Cohen to the Supreme Court in 2002.

³⁰⁶ Shetreet (n6) 292.

³⁰⁷ Moshe Gorali "Adding Justices To The Supreme Court: Small Politics, Big Change " *Calcalist* (9.11.2016) <http://www.calcalist.co.il/articles/0,7340,L-3701385,00.html>

³⁰⁸ Ran Hirschl, 'The Political Origins of Judicial Empowerment through Constitutionalization: Lessons From Four Constitutional Revolutions' (2000) 25 *Law & Social Inquiry* 91-149.

³⁰⁹ Brun, 'A Judge in Distress' (n40).

³¹⁰ Kedar, 'Ben-Gurion and the Struggle to Appoint a Sephardi Justice' (n40).

³¹¹ Salim Joubran, a Christian Arab, was appointed in 2004 (in 1999 an Arabic judge was serving as an acting judge but did not retain a permanent position).

In the 1950s senior politicians had already proposed moves to diversify the Supreme Court, aiming to enhance social cohesion and contribute to the legitimacy of the legal system³¹². In response, the judiciary opposed the idea of imposing diversity or assigning designated seats to judges from specific backgrounds. The then Chief Justice claimed that pre-assigning seats based on gender, ethnicity or religion would not only be contrary to the principle of equality, but also detrimental to the legitimacy of the judiciary. Nevertheless, a “silent practice” of “designated-seats”³¹³ for Sephardic Jews, religious Jews, women and Arabs has developed, which is not formally endorsed by law and is confined to the Israeli Supreme Court³¹⁴. The secrecy surrounding the appointment process impedes the identification of cases in which this practice was adopted. What is clear is that this practice has not ended claims about under-representation within the judiciary.

In addition to concerns over the Supreme Court’s homogenous composition, claims have also been made about the Court’s western-liberal agenda, which promotes the interests of the elite and where distinct social groups appear to be excluded and unrepresented by the judiciary. The growing attention to the composition of courts may also be related to cultural and political changes³¹⁵. In 1977, after 30 years in power, the centre-left Mapai party lost the election to the right-wing Likud party. Over time other social and political groups (e.g. Sephardic Jews, religious Jews, etc.) also started to gain political power. It is claimed that, in response, the old Ashkenazi, liberal elite acted to transform the Supreme Court into a super-authority that is representative of its worldviews.

Another frequently heard claim is of nepotism in the judiciary. Kinship ties between judges in Israel, as well as family ties or close friendships and professional partnerships between judges and interns, legal assistants and even state advocates, have been commonly seen in the judiciary and gave rise to criticism about the nominations procedure³¹⁶. Today, information about direct family ties within the judiciary is published on the judiciary’s website³¹⁷. However, in the past, the public has not been made aware

³¹² Kedar (n40) 521

³¹³ Michael Birnhack, David Gussarsky, “Designated Chairs, Minority Views and Judicial Pluralism” (1999) 22 *Tel-Aviv University Law Review* 499-542

³¹⁴ *Ibid*, 503

³¹⁵ Mautner (n1) 426

³¹⁶ Mautner, *ibid*; Bill: The Courts Law (Amendment – Restrictions on The Appointment of Family Relatives), 2016-5776; Hen Ma’anit “There Are Judges in Jerusalem (And Their Children Are State Advocates)” *Globes* (22.7.2016) <http://www.globes.co.il/news/article.aspx?did=1001141247>. The journalist reviews some of the famous cases of family ties between judges, but also mentions that the criticism over a nepotistic appointment procedure was, in many cases, not substantive.

³¹⁷ <http://elyon1.court.gov.il/heb/rashut/family.htm>.

of these ties³¹⁸, and the common perception remains that the appointment mechanism is based on social relations and acquaintances. These practices were strongly criticized³¹⁹ as detrimental to the concept of fairness³²⁰, and therefore the Judicial Selection committee recently decided it would not recommend appointing family members of sitting judges except in exceptional circumstances, and it imposed stricter rules, including that children of Supreme Court justices would not be appointed to a judicial position during their parent's' tenure³²¹.

Calls to change the Judicial Nominations Committee and its procedures

Over the last decade, criticism has mainly focused on appointment procedures and the composition of the Judicial Nominations Committee³²². Some asserted that the nomination procedure ought to be revised so that public representatives (e.g. academics) are added to the Committee³²³. This, they argue, would diversify the committee without undue political influence. Other politicians have sought to increase parliament's influence within the Nominations Committee³²⁴. The most common argument is that appointing judges solely on professional considerations is inappropriate, given the involvement of courts in politics and judicial review³²⁵. This issue was particularly popular during the term of the eighteenth Knesset (2009-2013), when the Committee was 'under attack' by bills designed to change its composition and mode of action³²⁶. Most notable of these were a bill suggesting public hearings for Supreme Court candidates in the Knesset³²⁷, and the proposal to change the composition of the Committee to ensure that the head of the Bar Association would be appointed as one of two representatives of the Bar

³¹⁸ Dan Lahav, *Limitations on Justiceships of Judges in Family Relationships* (2001) Knesset Research and Information Centre.

³¹⁹ Mautner (n1) 455-460, stresses that the appointments are worthy, but should have been done with awareness to the public view.

³²⁰ E.g. Son of former Supreme Court Judge chosen over a female Judge as President Of District Court; Tomer Zarhin "Sepi Alon Was Appointed As President Of District Court Be'er-Sheva" *Haaretz* (9.09.2009) (<http://www.haaretz.co.il/hasite/spages/1113328.html>).

³²¹ Minutes of the meeting of the Judicial Selection Committee (15.12.2015) <http://www.justice.gov.il/About/SaarHaMeshpatim/VadaLebchiratShoftim/15122015.pdf>

³²² Cohen-Rimer (n247).

³²³ "Reforming the Judges' Appointment System – A Position Paper" (2007) 319 *Senat* <http://www.senat.org.il/hebrew/attachments/article/337/319f.pdf>

³²⁴ Mautner (n1) 427-434.

³²⁵ *Ibid.*

³²⁶ For a critical review of the recent reform proposals see: Cohen-Rimer (n247).

³²⁷ The Courts Act Bill (Amendment - Transparency In The Process Of Appointing Judges To The Supreme Court And The Appointment Of President And Vice-President To The Supreme Court), 2011. Shetreet (n6, 294), does not object to the idea of publically examining the worldviews of a candidate to the Supreme Court because this may contribute to public trust in the judiciary and the appointment procedure.

(allegedly in order to influence the appointment of Supreme Court judges³²⁸). A statement made by MK Gideon Saa'r indicates the rationale behind the proposal to have public hearings for SC appointments:

“The hearing is one of the ways to achieve heterogeneity of world-views, and transparency of the nominations to the Supreme Court. The concept that judgement is a merely objective profession is obsolete.... Therefore, it is important that diverse morals be reflected in the Supreme Court.... Conservatives, i.e. religious Jews, Olim and [Likkud voters] feel like their perceptions are not represented in the Supreme Court. A public hearing and greater transparency would decrease the hostility and alienation towards the Supreme Court and the rule of law amongst those groups”.³²⁹

Eventually, none of the bills passed. Several leading researchers have warned that calls for a change in the composition of the Supreme Court stem from a desire to weaken the judiciary, and characterized the speakers in favour of diversity as political nationalist extremists³³⁰. There have even been calls to alter the judicial appointments system by introducing quotas for under-represented sectors³³¹.

2.7 Instituted reforms

Several important amendments to the Nominations Committee's practices did eventually pass. The Courts Act was amended in 2008 to require a special majority of seven (out of 9) Committee members in order to appoint Supreme Court justices³³². This was done (as officially stated in the explanatory notes³³³) in light of the importance and unique status of the Supreme Court and its jurisdiction. However, it is clear that an additional motivation was the desire to mitigate the impact of Supreme Court justices in choosing their future colleagues. Additionally, it was decided to limit the period of tenure of Presidents and Vice-Presidents of the Supreme Court, District Courts and Magistrates Courts, purportedly in order to prevent stagnation and infuse 'new' blood' into the

³²⁸ A summary of the more recent proposals (2011-2012) –The Association for Civil Rights in Israel, 'Monitoring Anti-democratic legislation' <http://www.acri.org.il/he/?p=1231>. Additional bills proposed to change the method of selecting judges to secret national elections, and to increase the number of Supreme Court justices to 18 to increase representation (i.e. diversity) in court.

³²⁹ MK Gideon Saa'r in: Moshe Gorali "want to be a Supreme Court judge? Tell us the values you stand for" *TheMarker* (30.4.2003) <http://www.haaretz.co.il/misc/1.878825>.

³³⁰ Menachem Hofnong, "Who is Really Deprived?" *Haaretz* (2.08.2009) <http://www.haaretz.co.il/hasite/spages/1104565.html?more=1>.

³³¹ Yuval Elbasha, 'Who Should Appoint Judges And Who Is Eligible To Be A Judge?' (2012) 72 *Parliament (The Israel Democracy Institute)* [here](#).

³³² S.7(c) the Courts Law.

³³³ Bill –The Courts Law (Amendment No. 51, special majority for the appointment of Supreme Court judges), 2008.

system³³⁴. Another important amendment passed in 2014 inserted (though not explicitly) an element of gender diversity into the Committee, when it was determined that each body in the Committee would have at least one woman amongst its representative groups (i.e. at least one woman of the three judges, at least one woman from the Bar etc.)³³⁵.

Zamir committee

In 2000, following mounting criticism of the courts, their composition and the nominations process, the Committee nominated a subcommittee (headed by then Supreme Court Vice-President, Yitzhak Zamir) to re-examine judicial appointment procedures³³⁶. Zamir Committee was composed of three members: a judge (Zamir), a law professor (Amnon Rubinstein) and the then President of the Bar (Yuri Guy-Ron)³³⁷.

In its 2001 report, the Zamir Committee reviewed the various recommendations and calls for reform of the Israeli judiciary, including claims about under-representation of religious Jews, Sephardic Jews, Arabs, new immigrants and others³³⁸. It also reviewed various ideas about changing the composition of the Nominations Committee and embedding mechanisms to guarantee “democratic-values” and ensure representation of minority-groups³³⁹. Nonetheless, the Zamir Committee did not accept any of these, arguing that representativeness is compulsory in elected institutions but not in the judiciary whose role is to interpret the law as objectively and professionally as possible³⁴⁰. It expressed the view that the courts are strictly professional³⁴¹, and it asserted that a litigant’s basic right is to have its case adjudicated by judges that are appointed on the merits of their qualifications and not because they represent a certain sector. Finally, it argued that it would be practically impossible for a small institution like the Supreme Court to be representative of all social sectors³⁴².

³³⁴ S.8(b) and 9(b) to the Courts Law

³³⁵ Ibid, Article 6(3a).

³³⁶ *The Report of the Committee for the Examination of Judicial Selection in Israel* (March 2001)

³³⁷ All were Jewish Ashkenazi men of the same background; a similar claim was raised in a journalistic review of the under-representation of Sephardic Jews in the judiciary (Arik Weiss, “White Lie”, *Ma’ariv* (2.11.2007).

³³⁸ Zamir report (n336) 26.

³³⁹ Ibid 13.

³⁴⁰ Ibid 12-13

³⁴¹ Mautner (n1) 432

³⁴² Zamir report 13-14. The latter argument seems weak, as it does not explain why larger courts in Israel are under-representative.

Instead, the Zamir Committee embraced the concept of a “socially reflective” rather than representative judiciary³⁴³:

“The idea that the composition of the judiciary in general, and the Supreme Court especially, should represent the composition of the population is not accepted... Representativeness is appropriate for elected bodies, whose role is to set policy in local or national affairs, like the Knesset [...], but it does not suit a professional body like the court. The court’s main duty is to interpret and implement the law objectively... and not to represent a specific sector.... [H]owever, the principle of ‘mirroring’ the composition of the population is found in various countries and international organizations. According to this principle, the Court, although it should be first and foremost a professional body, should also reflect society, if possible...[in other words] the court should be ‘reflective’ rather than ‘representative’ “³⁴⁴

Although it did not define what ‘reflection’ actually is and how it should be measured, the Zamir Committee claimed “social reflection” already existed in practice in the judicial appointment procedure and it was merely re-affirming it³⁴⁵. Not all agreed³⁴⁶. The Zamir Committee also went as far as concluding that the Israeli judiciary was more socially reflective than judiciaries in other jurisdictions. Despite not presenting any empirical evidence to support this³⁴⁷, it claimed that Sephardic and religious Jews are not under-represented in the judiciary and that there had been continuous improvement over time as far as Arabs and immigrants are concerned³⁴⁸, that there was no “significant problem with regards to these issues.” Lacking neither the evidence nor a clear operationalization for the concept of “social-reflection,” Zamir Committee de facto ignored these problems³⁴⁹. What it did recommended was that the Nominations Committee officially

³⁴³ Ibid 15. Of course, the term ‘reflective’ in relation to the judiciary is not unique to the Zamir committee; compare: “A judiciary which is visibly more reflective of society will enhance public confidence” (The Advisory Panel report, 2010 (n107), p.4).

³⁴⁴ Ibid 26.

³⁴⁵ It stressed that reflectiveness should be given weight, only subject to the professional and personal level of the judicial applicant. Ibid 28.

³⁴⁶ Shetreet (n6, 290-291) argues that the committee missed an important opportunity to adequately deal with the criticism on lack of diversity. While he agrees that the principle of representativeness is inappropriate in the judicial context, as it may create a politicization of the courts and endanger their independence, he argues that Zamir Committee should have expressed clear support for the “reflective judiciary” principle and its justifications, instead of determining that it had already existed.

³⁴⁷ Unless there had been a systematic collection of data from all courts by the Committee, but its findings remained confidential and there was no indication of this in the official report.

³⁴⁸ It asserted that data on Jewish ethnicity or religiosity could not be obtained from the Courts’ Administration, and that anyway it would be unworthy to categorize judges based on those parameters. (Zamir report (n336) para 29).

³⁴⁹ It only mentioned representation of women and Arabs in the judiciary (43% and 4% respectively); Ibid 14.

adopt the reflectiveness as a criteria for appointment, but it asserted at the same time that it had already been part of the nominations procedure³⁵⁰.

It should be noted that the terms ‘socially reflective’ and ‘representative’ often overlap in the discussion about judicial diversity in Israel. As mentioned, it is unclear what their exact definition is and what are the differences between a ‘representative’ and a ‘reflective’ judiciary in this context. It might be that acknowledging that the judiciary should be reflective imposes a less binding standard of diversity compared to determining the judiciary should be representative of society (as further discussed in section 2.8 below).

Outcomes of Zamir Committee: judicial training and transparency

The Zamir Committee did make some important recommendations regarding judicial appointments, specifically about transparency and judicial training³⁵¹. It recommended that while the Nominations Committee’s deliberations should remain confidential, it proposed that the names of the candidates on the Committee’s agenda be published 21 days before its deliberations³⁵². Similarly, it recommended that a sub-committee (comprising three members of the Nominations Committee) should hold interviews with the candidates prior to presenting their names to the Committee for decision³⁵³. As discussed earlier, this sub-committee operates today and is considered central to the appointment process.

Another important change was the creation of a ‘Course for the Evaluation of Judicial Candidates’, which was established following the recommendation of the Zamir Committee and has been running for 15 years now. During this 7-day course, judicial applicants are observed and evaluated by a team of three judges and two psychologists, who then draft a recommendation for the Committee that forms an essential part in its decision whether to appoint the applicant³⁵⁴. The judiciary sees it as the best (and even unique in the world) evaluation tool for selecting judicial applicants. The course has not been without criticism, with some feeling that because it is not regulated by law and has

³⁵⁰ Mautner (n1) 433, wrote in this context that the Zamir Committee was “rocking between its professional approach towards the judiciary and widespread recognition that the Supreme Court plays a clear political role”.

³⁵¹ It also supported the idea of an Ombudsman to examine complaints about judges’ conduct, and this institution was established a year later.

³⁵² Salzberger (n79) 22.

³⁵³ *ibid.*

³⁵⁴ See the guidelines for applicants on the judiciary’s website:

http://elyon1.court.gov.il/heb/forms/bakasha_leminyu_shofet.pdf). Note: the course is not aimed for District and Supreme Court applicants; (Shetreet (n6) 296; the Zamir report (n336) 52-54

developed as a practice run by the courts' system, it therefore is not subject to any form of supervision. Additionally, judges play an exclusive role in the actual evaluation of applicants, while the other bodies that are represented in the Committee (but not in the evaluating team) are not in a position to question them³⁵⁵. Some lawyers who have taken the course have complained that two-thirds of the participants fail and that the evaluation team does not explain its decision. In addition, they claimed that preference is given to lawyers who have worked in the public sector, especially in the courts and the State Advocacy³⁵⁶. Consequently, the Bar has been asked to participate in the course, and in January 2016 it was confirmed that a Bar representative would sit as an equal partner (not an observer) in the evaluation course for a pilot of two courses³⁵⁷.

2.8 Resistance to change

Many Israeli scholars are confident that the Israeli judicial selection system is one of the best in the world (or at the very least it operates well and does not require any modifications). Distinguished scholars who regularly criticise political institutions and their practices do not see flaws in a judicial appointment mechanism that for years has been operating under the cloak of secrecy, despite the great influence it holds over who becomes judges in almost all courts in Israel. For some the fact that all three branches of government (and the Bar) are represented in the Nominations Committee means there is no need to examine it further:

“Our experience shows that the independence of the committee is guaranteed by its unique composition. The committee’s decisions are always substantive and free of political considerations, thus leading to the appointment of highly professional judges, independent of political bodies. In fact only a few countries have such a satisfactory arrangement in a pivotal matter...”³⁵⁸

Without information about how the Committee actually operates, one wonders how the authors could be so confident that the decisions of the committee were always

³⁵⁵ Tova Tzimuki “For The First Time: Not Just Judges To Screen Judicial Applicants” *Ynet* (23.8.2015) <http://www.ynet.co.il/articles/0,7340,L-4693630,00.html>

³⁵⁶ Anat Ro’ee “Graduates of the Judicial Training Course Claim: The Course Dynamics Contradicts Independent Thinking” *Calcalist* (16.8.2015) <http://www.calcalist.co.il/local/articles/0,7340,L-3666995,00.html>. In addition, MK Koren, a member of the Nominations Committee, claimed that a psychologist from the team that manages the judicial selection course was discriminating against Sephardic Jewish applicants. Hen Ma'anit "A Psychologist in charge Of the Judicial Selection Course Discriminates Sephardic Applicants", *Globes* (9.5.2016) <http://www.globes.co.il/news/article.aspx?did=1001123257>.

³⁵⁷ This was stated in a letter from the Chief Justice, Miriam Naor, to the president of the Bar (21.1.2016), as published on the Bar’s website: http://www.israelbar.org.il/UploadFiles/judge_selection_letter.pdf

³⁵⁸ Rubinstein and Medina (n.212) 131.

professional and devoid of political considerations. Other scholars, feeling that the judiciary was under attack because of its activism, see queries or reform proposals regarding its composition as attempts to restrain the courts and the rule of law, and to change the balance between the branches and promote narrow political interests. Such reforms are therefore perceived as dangerous to the professional level of the courts and public trust in them³⁵⁹. This reflects a wider academic reluctance to criticize the “constitutional revolution”³⁶⁰. It is claimed that this is based on the fact that many Israeli senior academics are part of a group who promoted the enactment of the 1992 Basic Laws and their far-reaching interpretation by the courts, and whose cultural, political and legal hegemony has come under attack in recent decades. This group may also have no interest in writing about judicial diversity, because its findings may better serve groups that oppose the growing power of courts (e.g. Orthodox Jews) or claim its composition should reflect Israeli society to a greater extent.

Traditionally, the judiciary itself and the Supreme Court in particular, strongly objected to the idea of a representative or diverse judiciary³⁶¹. In the earlier decades of the state, the judiciary enjoyed an unsullied reputation and soaring rates of public trust. Additionally, public awareness of concepts like accountability, legitimacy and transparency was not well developed, and therefore the judiciary was not criticised for its substantial influence in the appointment procedure, its homogenous composition or its objection to adding judges of various backgrounds to the bench. The views of senior judges were clear: diversity is not a legitimate consideration in the appointment procedure, and the interest in judges’ backgrounds is “a delicate matter that may amount to an invasion of privacy”³⁶². Israel’s Supreme Court Chief Justice, Dorit Beinisch, expressed some of the most common arguments against diversity:

“The Supreme Court is not a representative body. Unlike the Knesset and the government, the court is not an elected body. Indeed, what is called 'mirroring' of the public should be held in the composition of the Supreme Court, but the reflection does not imply representation. Representation is not suitable to a distinct professional body designed to objectively and independently express the values of society. Public

³⁵⁹ Cohen-Rimer (n247).

³⁶⁰ Gideon Sapir, ‘Between Liberalism and Multiculturalism: Review of "law and Culture in Israel at the Beginning of the 21st Century" by Menachem Mautner’ (2010) 26 *Bar-ilan Law Studies* 311–40.

³⁶¹ Salzberger (n.79) 249

³⁶² Zaltzberger and Oz-Zaltzberger (n44).

Confidence in courts will not be achieved from it being a representative body and perhaps on the contrary”³⁶³.

Nonetheless, the interest in the composition of the Israeli courts has continued to grow, and the stronger the Court has become, the more interest there has been to investigate its judges, their decision-making and their appointment mechanism.

Interestingly, the concept of diversity is no stranger to the legal and public spheres in Israel. In 2000, when the legislature amended the Civil Service Law (Appointments) 1959, it adopted a form of affirmative action policy, which requires that “proper expression” should be given to the representation of the following groups amongst employees in the civil service: both sexes; people with disabilities; members of the Arab population (including Druze and Circassian); and people who were born in Ethiopia. Moreover, Israeli courts have been expanding concepts of equality, adequate representation and constitutional rights to institutions across the public sector. One might ask why a similar acknowledgement should not be extended to the process for judicial nominations³⁶⁴. Should a committee that is exclusively authorised to select, promote and dismiss judges, and therefore shapes the current and future judiciary of Israel, also have to take similar issues into consideration? Moreover, Beinisch’s statement also echoes the distinction made by the Zamir committee between a ‘representative’ and a ‘reflective’ judiciary, as reviewed in section 2.7 above. Thus, Beinisch accepts the terms ‘social reflection’ or ‘mirroring’ in the judicial context, but rejects the assertion that the judiciary should be representative of society. Of course, the terminology of a ‘reflective’ judiciary is not unique to Israel, but the opposition to the term ‘representative’ may indicate that the judiciary is exempt from the binding meaning of the legal term ‘(adequate) representation’. Instead, it may reiterate the assumption that the term ‘a reflective judiciary’ sets a vague criteria for diversity that, according to Beinisch, is more suitable for the judiciary.

³⁶³ Beinisch’s speech in judges’ inauguration ceremony is quoted in: Tomer Zarhin, “Beinisch: The Supreme Court is not a Representative Body, It Is Only Meant to Reflect” *Haaretz* (2.1.2012) <http://www.haaretz.co.il/news/law/1.1607342>.

³⁶⁴ In fact, the Civil Service Law as well as the Attorney General’s Directive which followed the amendment to the law, did not exclude the judicial system from the applicability of the law (see: The Attorney General Directive no. 1.1503 “Adequate Representation to Certain Sectors” (2003) <http://www.justice.gov.il/Units/YoezMespai/HanchayotNew/Seven/1.1503.pdf> [Hebrew]). In comparison, judicial nominations had already been brought within the scope of the Sex Discrimination Act and the Race Relations Act in some European Directives; see Thomas (n5) 63-66.

Another argument that is commonly used is that Israeli judiciary is actually diverse enough and can no longer be seen as homogenous. Former Chief Justice Asher Grunis, claimed in 2012 that the composition of the Supreme Court reflected Israeli society³⁶⁵. Unlike Grunis's statement, which was confined to the Supreme Court, other scholars such as Salzberger have gone as far as to claim that the entire Israeli judiciary was diverse and proves that the appointments procedure operates well:

“in comparison to other countries, the composition of the courts in Israel, including the highest court, has always been more heterogeneous from the perspective of ethnic origins, gender, and religious beliefs”³⁶⁶.

What is true is that the Israeli Supreme Court today is perhaps the most diverse it has ever been in several aspects (e.g. Jewish ethnicity, religiosity)³⁶⁷. However, this does not mean that it is diverse in all key respects, nor does it mean that the entire judiciary is diverse and reflects Israeli society. In his claim, Saltzberger does not rely on actual data regarding the entire judiciary, but rather on the round of appointments in 2004 in which two women, an Arab and an Orthodox Jew were appointed to the Supreme Court. As progressive as this may be, it cannot be inferred that the entire judiciary is diverse or that the nominations procedure is flawless.

2.9 The “Pool” for judicial appointments

In Israel, as in many jurisdictions, the legal profession and legal education provide the pool for judicial appointments, and therefore the composition and demographics of lawyers and law students are directly related to judicial diversity³⁶⁸. As with judicial diversity, the importance of and justifications for diversity in the legal profession and legal education³⁶⁹ have until recently been mainly studied in the US, with specific emphasis on women and people of colour³⁷⁰. In addition, diversity in the legal profession and legal education can be important not just because of its potential contribution to a

³⁶⁵ Yuval Yoaz “Grunis: The Composition of the Supreme Court reflects Israeli society”, *Globes* (31.5.2012) <http://www.globes.co.il/news/article.aspx?did=1000753266>

³⁶⁶ Salzberger (n79) 250

³⁶⁷ Goor Megido “From Tunisian To Rehavia: Mazuz Was Sworn In As A Judge At The Supreme Court” *Globes* (10.11.2014) <http://www.globes.co.il/news/article.aspx?did=1000985271>.

³⁶⁸ Thomas, ‘*Judicial Diversity in the UK*’ (n5) 31.

³⁶⁹ Gary Orfield and Dean Whitla, ‘Diversity and Legal Education: Student Experiences in Leading Law Schools’ (1999) UCLA: The Civil Rights Project.

³⁷⁰ Wald (n103) differentiated between various domains of the legal profession and how diversity should be assessed in them.

diverse judiciary, but also for several other reasons³⁷¹ (including the business argument for diversity) which may not be as relevant for the judiciary³⁷².

Legal profession in Israel

Israeli lawyers play an important role in the legal system, the public debate and socio-political activity³⁷³. Moreover, as seen earlier, one of the eligibility criteria for judicial appointments is that applicants be registered (or eligible to be registered) as members of the Israeli Bar and have experience in the profession for varying lengths of time. It is clear, therefore, that in Israel the existing population of registered lawyers serves as an important pool from which judges are appointed and should be examined when discussing issues of judicial diversity.

The legal profession in Israel is a uniquely strong and centralized professional association³⁷⁴. As with the judicial system, the legal profession in Israel was also formed during the British Mandate and was influenced by the English legal tradition³⁷⁵. Although the distinction between solicitors and barristers was not adopted, other aspects of the emerging legal profession in Israel were regulated by Mandate ordinances³⁷⁶. In the first years of statehood, the main values of the young state were contradictory to the core values of the legal profession. The state relied on collectivist solidarity, which was especially expressed through agriculture, security and defence, and redemption of lands³⁷⁷. Lawyers (and judges, as reviewed before) did not easily blend with this ethos, and unlike today, when lawyers are found in key positions in the Civil Service, the Knesset and the government, in the past they were not involved in the political and public spheres³⁷⁸.

Over the years, however, the status of the legal profession has changed substantially, in parallel with the strengthening of the courts and the enactment of the Israeli Bar Association Law in 1961³⁷⁹ ("the Bar Law"). According to the Bar Law, the purpose of

³⁷¹ Eric H. Jr Holder, "The Importance of Diversity in the Legal Profession" (2002) 23 *Cardozo Law Review* 2241-2252, claims that diversity in the profession is part of the struggle for equality in America.

³⁷² Thomas (n.5) 52; Wald (n103).

³⁷³ Gad Barzilay, "The Ambivalent Language of Lawyers in Israel: Liberal Politics, Economic Liberalism, Silence and Dissent" (2010) 15 *HaMishpat* 195.

³⁷⁴ Ziv (n.76) 6; Eli Salzberger, "The Israeli Jurists Conspiracy – On the Israeli Bar and its Allies" (2001) 32 *Mishpatim* 45-95.

³⁷⁵ Ziv (n.76) 51

³⁷⁶ *ibid* 53

³⁷⁷ *ibid* 59; Lahav (n.41) 482

³⁷⁸ Ziv (n.76) 60

³⁷⁹ The Bar Association Law, 5721-1961

the Bar is to incorporate all lawyers in Israel and to assure the standard and integrity of the legal profession. Membership is mandatory and is a pre-requisite to practicing law in Israel³⁸⁰. The Bar has several statutory functions, the main ones being to register, supervise and hold examinations for legal interns; to license new lawyers; and to take disciplinary measures against lawyers and legal interns. The most senior position in the bar is that of the Bar President, who is elected every four years. The law also clearly states that only lawyers are authorised to represent clients in judicial bodies and to draft legal opinions and documents.³⁸¹ Given the extensive power conferred on the Bar by The Bar Law, some scholars describe the Bar as a guild that strives to limit the number of its member, is almost impervious to external revision and is highly autonomous in a manner unprecedented in comparison to other professions in Israel (e.g. medicine) or to legal professional associations in other countries³⁸².

In order to qualify as a lawyer in Israel, one must take an undergraduate degree in Laws (LL.B.), which may be obtained either in universities (where candidates must meet high admission criteria) or colleges (with somewhat lower admission criteria but where tuition fees may be significantly higher). Upon successful completion of studies, a one-year compulsory internship period ('staj') is required. After completing the staj, candidates who wish to become lawyers must take the Bar examination, and are accepted as members of the Bar if they pass. In most cases, professional legal training usually lasts 4.5 years, of which 3.5 are dedicated to the LL.B., and the remainder is for the internship period.

Since the mid-1990s, following the opening of several new law schools, the number of lawyers in Israel has grown dramatically. Data show that between 1968 and 2005, it accelerated by 1,552%, compared to a 246% growth rate in the general population³⁸³. The average annual number of law graduates that were admitted to the Bar between 1948 and 1994 was 337, but this swelled into more than 2,500 newly qualified members each year between 1995 and 2011³⁸⁴. Israel already has one of the highest rates of lawyers per capita in the world, with an estimated ratio of one lawyer per 146³⁸⁵-150 people³⁸⁶, and

³⁸⁰ Israel Bar Association – General Information (http://www.israelbar.org.il/english_inner.asp?pgId=103336&catId=372); Ziv (n76) 18

³⁸¹ Ziv (n76) 65

³⁸² Salzberger (n374) 47-62.

³⁸³ Ziv (n76) claims that the acceleration in the number of lawyers is not unique to Israel (243).

³⁸⁴ Limor Zer-Gutman, 'Effects of the acceleration in the number of lawyers in Israel' (2012) 19 *International Journal of the Legal Profession* 247, 248-249

³⁸⁵ Moshe Bar Niv, Ran Lachman and Revital Altberger, 'The Increase in the Number of Israeli lawyers: Responses and Ramifications' (2014) 20 *HaMishpat* 73.

³⁸⁶ Compared with one per 252 persons in the United States; Zohar Shahar Levi "BDI: The Number of Lawyers in Israel - One per 150 Persons" *Calcalist* (25.5.2014)

it is expected that by 2021 there will be some 80,000 lawyers in Israel. Recent studies linked the rise in the number of lawyers with a series of changes that occurred in the legal profession and education including the growing number of lawyers who take an LL.M.³⁸⁷ and the increase in the number of lawyers who leave the legal profession. Opponents of the growth in the number of lawyers claim it has damaged the professional level and ethical conduct of the legal profession, with considerable fluctuation in the number of disciplinary inquiries opened by the Bar against its members; however a recent study did not find evidence to support these claims³⁸⁸.

Legal education in Israel

The first legal education institution was opened in Mandatory Palestine in 1920 by the British commission³⁸⁹. Following the establishment of the state of Israel, the law faculty at the Hebrew University was established in 1949³⁹⁰, and its law school has since been one of the most influential institutions in the legal culture in Israel³⁹¹. In subsequent years, Tel-Aviv University, Bar-Ilan and Haifa Universities opened law faculties. Yet until recently, the Hebrew and Tel-Aviv Universities were the main generators of senior judges and civil servants³⁹². The relatively small number of law faculties and students, along with their homogenous composition (consisting mostly of Jewish Ashkenazi men)³⁹³, gave these institutions a rarefied image, and they were often referred to as ‘ivory towers’, symbolizing how law and legal professionals (including judges) are detached from the people³⁹⁴. However, the image of legal education in Israel changed dramatically in the 1990s as new law schools were opened in colleges, and the number of law students grew exponentially. Today there are 65 higher-education institutions in Israel (8

(<http://www.calcalist.co.il/local/articles/0,7340,L-3631984,00.html>); Ziv (n76) 78, claims that this ratio is the highest in the western world.

³⁸⁷ Zer-Gutman (n384) 251 believes that the rise in the number of LL.M. holders resulted from lawyers being either unable to find a job in the legal profession or under the impression that an advanced legal degree would enhance their career prospects.

³⁸⁸ Ibid 67. There was no significant increase in the number of complaints submitted to the Ethics Committee.

³⁸⁹ Assaf Likhovski, ‘Colonialism, Nationalism and Legal Education: The Case of Mandatory Palestine’ in Ron Harris and others (eds) *The History of Law in a Multicultural Society* (n39) 75

³⁹⁰ Assaf Likhovski, ‘Law Studies at the Hebrew University during the Mandate’ in H. Lavski and others (eds), *History of the Hebrew University of Jerusalem: the Consolidation and Growth* (Magnes Press 2005) 543.

³⁹¹ Salzberger (n79) 247

³⁹² Shachar, ‘On The Structure of the Supreme Court’ (n52) 407

³⁹³ *ibid* 408; Eyal Katvan, ‘The ‘overcrowding the profession’ argument and the professional melting pot’ (2012) 19 (2-3) *International Journal of the Legal Profession* 301, 304 quotes the Director General of the MoJ who said in 1969: “Israel is a country of immigration and absorption. The restrictions [on entry to the profession] will hurt working people, immigrants, and members of the oriental communities, and will turn lawyering into a profession of the elite”.

³⁹⁴ Katvan, *ibid*; Shachar (n52).

universities and 55 budgeted and non-budgeted academic colleges)³⁹⁵, and there are law schools 14 of these (4 in universities and 10 in colleges³⁹⁶). Today, the vast majority of students and degree recipients in law are college students³⁹⁷. In 2011, 8.5% of all undergraduate students in Israel studied law³⁹⁸ (4% of university undergraduate students and 15% of undergraduate students in colleges).

As the number of law colleges grew, and accordingly thousands of new lawyers joined the profession, the Bar intensified its actions and rhetoric against law colleges, and took various measures to try to influence legal education. The Bar's actions included recurrent calls to extend the internship term³⁹⁹; several harsh statements against law schools in colleges⁴⁰⁰; and significantly increasing the degree of difficulty in the qualification exams⁴⁰¹, when data show that college graduates are more likely to fail the Bar exams⁴⁰². However, several scholars claim that the fear of saturating the profession is not new at all and goes back to the pre-state period⁴⁰³. Moreover, the significant increase in the numbers of law students and lawyers is not unique to Israel, but is rather a common phenomenon in many western countries⁴⁰⁴. The diversity issue, perhaps surprisingly, has not drawn much attention within the general controversy over legal education and the legal profession, but the few exceptions to that are discussed in the next chapter.

This chapter has outlined the structure of the Israeli judiciary, its judicial selection process and recent debates over reforming the judicial selection system. It also outlined important information about the two key elements of the pool for future judicial appointment: the Israeli legal profession and legal education. These issues relate directly to the current state

³⁹⁵ Budgeted colleges are subsidized by the state, meaning their tuition fees are very similar to those of universities.

³⁹⁶ Two colleges are located in the periphery of Israel: Zefat Academic College in the north and Sapir College in the south. A list of Israeli academic institutions offering law degrees is provided in chapter 5.

³⁹⁷ CBS *Higher Education In Israel 2009* (2012)

http://www.cbs.gov.il/publications12/1475_haskhala_gvoaha08_09/pdf/h_print.pdf, 32

³⁹⁸ CBS *Statistical Abstract Of Israel 2012* 459

³⁹⁹ This resulted in an actual extension to 18 months as of September 2016.

⁴⁰⁰ Hen Ma'anit, "The President of the Bar: Reduce College Tuition Fees" *Globes* (15.12.2015)

<http://www.globes.co.il/news/article.aspx?did=1001088540>; Katvan (n393) 306.

⁴⁰¹ In the most recent exam, (October 2016) there was only a 30% pass rate, with exceptionally low pass rates for colleges. The President of the Bar said that this was due to the low academic level of colleges (Bennie Talker, "The Colleges Should Be Soul-Searching" *Arutz Sheva* (3.11.2016)

<http://www.inn.co.il/News/News.aspx/332829>.

⁴⁰² Anat Ro'ee, "20 Years To Law Colleges In Israel" *Calcalist* (21.10.2010)

<http://www.calcalist.co.il/local/articles/0,7340,L-3421268,00.html>

⁴⁰³ Katvan (n393) 303-304.

⁴⁰⁴ For various articles reviewing this trend, see: Too Many Lawyers? *International Journal of the Legal Profession*, vol.19:2-3 (special edition), 2012

of and continuing debate in Israel over judicial diversity, which is discussed in more fully in the following chapter.

CHAPTER 3: JUDICIAL (AND LEGAL) DIVERSITY IN ISRAEL

Israel serves as a strong candidate for a case study of judicial diversity for a number of reasons. The diverse character of Israeli society, the central role of courts in Israeli politics and society as well as recent calls to reform the judicial selection procedures, all elevate the significance of judicial diversity in Israel. Yet despite the fact that the issue is prominent on the public agenda in Israel, there is a significant lack of empirical research on the matter. The growing awareness of the importance of judicial studies in Israel has produced several empirical legal studies, which investigate links between judicial decision-making and background characteristics, external influences and judicial dynamics⁴⁰⁵. But detailed and robust research into the make-up of the entire Israeli judiciary has not been carried out yet. The lack of hard evidence stems from two factors: (1) the refusal of the judiciary to cooperate with research on judges and (2) the traditional lack of interest amongst Israeli academics in the empirical study of the judiciary.

This chapter presents the main themes and characteristics of the current study of judicial diversity in Israel and the factors that led to its limited scope, despite great public interest in the composition of Israeli courts. It reviews the few empirical studies on the judiciary in Israel, which mainly focused on the possible links between background characteristics of judges and their decision-making or on individual aspects of judicial diversity such as the representation of the Arab sector in the judiciary. Therefore, this chapter reviews the existing research in order to ascertain what is already known about judicial diversity in Israel and what needs to be further examined. It also reviews what is known about the diversity of the “pool” for judicial appointments in Israel amongst Israeli lawyers and law students.

3.1 Existing research in Israel on the judiciary and judicial diversity

Over the years, a substantial body of research has developed about the role the Supreme Court has played in Israel⁴⁰⁶. Yet despite the deep interest in courts in Israel, and their reciprocal relations with the other branches of government in Israel, very few scholars have investigated the make-up of the judiciary and the interactions between the judiciary and Israeli society. In a jurisdiction where, arguably, “everything is justiciable”⁴⁰⁷, one

⁴⁰⁵ As further discussed below in chapter 3.1

⁴⁰⁶ Meydani, *The Israeli Supreme Court* (n.23).

⁴⁰⁷ This statement is attributed to former Supreme Court President, Aharon Barak: “...I regard the doctrine of non-justiciability or ‘political questions’ with considerable wariness [...]”, *The Judge in a Democracy* (n.53) 177-8.

would expect that such an analysis would have been undertaken at some point. Yet for years legal academic research in Israel has refrained from critically examining the reality of the judicial decision-making process, the judicial appointments procedure and the background characteristics of Israeli judges. These have, until recently, remained the province of journalists⁴⁰⁸, social activists⁴⁰⁹ and politicians⁴¹⁰. This now seems to be gradually changing, and recently some Israeli scholars have begun to publish research drawn from the field of judicial studies (also known as judicial behaviouralism⁴¹¹). The studies that are most relevant to this thesis are reviewed briefly below, focusing on their possible contribution to the understanding of judicial diversity in Israel.

“Judicial diversity” in Hebrew?

The fact that there is no comparable word in Hebrew to the English term ‘judicial diversity’ perhaps exemplifies the overall paucity of research in this area. The few studies in Hebrew that have dealt with this topic used alternative concepts (e.g. ‘the reflective judiciary’⁴¹²) that arguably do not capture the full meaning of the term. This may also indicate that the empirical study of the judiciary (judicial studies) has yet to really develop in Israel. The author of this thesis consulted the Academy of the Hebrew Language regarding the proper translation of the terms “judicial diversity” and “judicial studies”. The Academy approved the term that the author suggested for judicial diversity (‘מגוון שיפוטי’), and suggested a new term for ‘judicial’ (‘שופטות’)⁴¹³. These terms have now been used in an article published in the Israeli Bar journal⁴¹⁴, but it is too early to tell whether they will be adopted in future academic discourse about judicial diversity.

Research on judicial nominations and links to judicial diversity

Several Israel scholars have examined the extent to which the government and the Knesset were involved in appointing Supreme Court judges in the early years of the state. Kedar claims that the political-factional considerations were ‘negligible’ in the appointments process and mainly concerned the extent to which appointers sought to

⁴⁰⁸ Nomi Levitski, *The Supremes: Inside the Supreme Court* (The New Library 2006).

⁴⁰⁹ Sikkuy– The Association for the Advancement of Civic Equality *Adequate Representation of Arab Citizens in the Israeli Justice-System* (2008).

⁴¹⁰ As seen in chapter 2.

⁴¹¹ Nancy Maveety, *The Pioneers of Judicial Behaviour* (University of Michigan Press 2002), for the origins of judicial studies and judicial behaviouralism (in the US).

⁴¹² Shetreet (n.6) 284

⁴¹³ Pers. Comm (email) with the Academy of the Hebrew Language (5.3.2015 and 8.3.2015).

⁴¹⁴ Levy Ariel (n.175)

achieve a politically balanced composition in the Supreme Court, representing most of the political parties at that time⁴¹⁵:

“[The] understanding, shared by the entire Israeli elite, stat[ed] a need for the highest government institutions to be staffed not only by honest professionals but also to somehow reflect the political centre of Israeli society. This system of appointments reflected a suitable balance between the principles of democracy and judicial autonomy”⁴¹⁶.

Politicians’ acknowledgement of the importance of diversity of political affiliations on the bench, in addition to professional qualifications and integrity, is evident elsewhere⁴¹⁷.

More important to this thesis is the first evidence of a struggle to attain ethnic diversity in the Supreme Court. As early as the 1950s, and prior to the establishment of the Judicial Nominations Committee, Prime Minister David Ben-Gurion was convinced that appointing a Sephardic judge to the Supreme Court (which was then entirely dominated by Jewish Ashkenazi men) would enhance social cohesion and contribute to the legitimacy of the legal system⁴¹⁸:

“Ben-Gurion was guided in this struggle by...primarily his desire to strengthen the feelings of solidarity, belongingness, and responsibility for Israeli society among non-Ashkenazi ethnic groups. ‘There must be a sentiment of a nation’, he claimed, ‘the [Israeli] people must feel that it is their [Supreme] court, I am surprised that the judges do not feel this’”⁴¹⁹.

Quite strikingly, at such an early stage of statehood, when judicial diversity was not even a conceptual notion in Israel, Ben-Gurion (who was not considered a liberal), was already rationalising diversity in a way that resembles current justifications for judicial diversity (e.g. perception of fairness)⁴²⁰. However, the judiciary rejected the idea that various ethnic groups in the Jewish sector should be represented in the Supreme Court, and specifically attempted to block the appointment of a Sephardic justice⁴²¹. Eventually, the first Sephardic justice was appointed to the Supreme Court in 1962, 14 years after the establishment of Israel. Similarly, at the end of the 1970s, the right-wing PM, Menachem

⁴¹⁵ Kedar (n.257) 30.

⁴¹⁶ Ibid 31

⁴¹⁷ Saltzberger (n.79) 246.

⁴¹⁸ Kedar, “Ben-Gurion and the Struggle to Appoint a Sephardi Justice (n40) 521

⁴¹⁹ Kedar (n.257) 35

⁴²⁰ *ibid*, *ibid*; compare: Saltzberger (n79) 249-50.

⁴²¹ Rubinstein, *Judges of the Land* (n.44) 150, presents the letter sent from the President of the Supreme Court to the MoJ. He also mentions that the Sephardic applicant himself refused to be appointed based on his ethnic affiliation and insisted it would be made based on his skills and experience (153).

Begin, wanted an Arab judge to be appointed to the Supreme Court⁴²², but this did not happen until 2004. While this state of affairs was criticised by a small number of researchers⁴²³, others did not think that the dominance of Ashkenazi men in the judiciary, or the pivotal influence the judiciary had in the Nominations Committee, were problematic:

“The judges in the Committee, who almost always voted en bloc after consultation with their fellow judges, were generous in appointing Sephardic, Orthodox and Arab judges to the lower courts, but insisted that appointment to the Supreme Court should be based solely on merit⁴²⁴”.

This reveals two important aspects related to judicial diversity in Israel. First, it shows that, already in the early years of statehood, political leaders believed diversity of the bench was desirable and were concerned about the lack of diversity in the Supreme Court. Second, it demonstrates how policy-makers were more concerned about diversity than judges. Specifically, it shows how judges strongly objected to attempts to ‘diversify’ the judiciary, and were taking measures to directly influence the appointment procedure⁴²⁵.

Research on diversity and judicial decision-making

Israeli academics (mostly jurists, but also criminologists and scholars from other fields) have been interested in the possible links between nationality and ethnicity (of judges, lawyers and parties) on the judicial process. Of specific interest has been the effect that ethnicity and/or nationality may have on case outcomes, with special emphasis on comparisons between Jews and Arabs and the extent of judicial biases to the detriment of Arabs⁴²⁶. A number of studies have found negative correlations between the ethnicity and nationality of defendants and the punishments received in the criminal justice

⁴²² Ibid 157

⁴²³ Shetreet (n6)

⁴²⁴ Salzberger (n79) 250. One wonders why exactly it was “generous” of the judges in the Committee to appoint Arabs, Sephardic and orthodox Jews, and why (in the name of merit) they were only allowed in lower courts and not the Supreme Court.

⁴²⁵ Brun’s articles show the attempts of judges to prevent the appointment of specific judges using intrigue, pressure on decision-makers and even gossip. See: Nathan Brun, “The Lost Honour of Supreme Court Justice Gad Frumkin” (2003) 101 *Cathedra* 151–90 (part 1); 102 *Cathedra* 159–86 (part 2); Nathan Brun “The Secret Document on the Judges: Another Look at the Establishment of the Israeli Judicial System in 1948” (2005) 115 *Cathedra* 195–216; “A Judge in Distress” (n.40).

⁴²⁶ Giora Rahav, Yoram Rabin & Eppi Yuchtman-Yaar “Disparities between Jews and Arabs in the Israeli Criminal Justice System” (2015) 13 *Ohio State Journal of Criminal Law* 233. The focus on Arabs seems only natural, given the complex relations between Jews and Arabs in Israel, and the disproportionate number of Arab prisoners (40% of criminal prisoners are Arabs, while they only constitute 20% of the total population).

process⁴²⁷. Then from the 2000s, Israeli scholars began to look at the background of other participants in the judicial process, including judges⁴²⁸. An empirical-legal study found that judges may be influenced from stereotypical perceptions of Arabs, which may be exacerbated when judicial decision-making is done under time and data constraints (in initial remand proceedings)⁴²⁹. A recent study tests the ethnicity-based panel effects in criminal appeals in Israel⁴³⁰. Drawing from the existing literature and research (mainly in the US and Israel) about the extent to which judicial outcomes depend on judges' identities⁴³¹, and specifically the impact of racial composition of appellate courts⁴³², the authors examine the impact of panels' ethnic composition on the outcome of criminal mitigation appeals of defendants from different ethnic origins in Israel. They found that Arab defendants' appeal chances are higher when the appeal panel that reviews their requests to mitigate punishment includes an Arab judge (compared with all-Jewish panels).

⁴²⁷ For example, a study in the 1980s examined differences in punishment policy in criminal cases between Arab and Jewish defendants in Magistrates' Courts (Muhammad Salim Haj-Yichie, Giora Rahav and Meir Teichman, "Magistrate's Courts and Their Functioning with Minorities In Israel" (1994) 4 *Israel Journal of Criminal Justice* 157). Rahav found that Jews of Sephardic origin were sentenced more severely than Ashkenazi new immigrants, and Israeli-born defendants (Giora Rahav, "Ethnic origin and disposition of delinquents in Israel" (1980) 4 *Journal of Comparative and Applied Criminal Justice* 63-74). In 2014, research conducted at the Israeli Bar's request revealed that Arab defendants are not only significantly more likely to be convicted compared to Jews in identical offenses, but they are also sentenced to longer periods of imprisonment (Rahav, Rabin and Yaar (n 426). Other studies found somewhat conflicting results: for example, that juveniles of minority groups involved in anti-social behaviour were treated more severely (compared to Jews) by the police and the Probation Service, but more leniently in Juvenile Courts. Haj-Yichie and others (n 427).

⁴²⁸ Amy Wolf *The Effect Of Lawyer's Ethnicity On Judicial Decision-Making*, a seminar paper presented at Bar-Ilan University's Advanced Legal Writing Workshop (2015); Gideon Fishman, Arye Rattner, and Hagit Turjeman, "Sentencing Outcomes in a Multinational Society: When Judges, Defendants and Victims Can Be either Arabs or Jews" (2006) 3 *European Journal of Criminology* 69-84. This research found that Arab defendants are more likely than Jews to be sentenced to prison in violence offences, by both Jewish and Arab judges. However, Arab judges tend to mitigate the penalty when the victim is Arab (78-81). Oren Gazal-Eyal, Nochi (Nechama) Politis, "Specialization or Generalization? The Effect of Judicial Specialization on Proceedings and Decisions" (2014) 44 *Mishpatim* 891-931.

⁴²⁹ Oren Gazal-Eyal and others, "Arabs and Jews in Remand Procedures" (2008) 38 *Mishpatim Law Review* (vol. 3) 627; Oren Gazal-Ayal and Raanan Sulitzeanu-Kenan, "Let My People Go: Ethnic In-Group Bias in Judicial Decisions - Evidence from a Randomized Natural Experiment" (2010) 7 *Journal of Empirical Legal Studies* 403. For a similar recent study see: Chemi Ben Noon, "Cognitive Biases and Judicial Decisions – Intuition and Systematic Thinking In the Judicial Work" (2016) 5 *Sha'arei Mishpat Review* 177-242

⁴³⁰ Guy Grossman and others, "Descriptive Representation and Judicial Outcomes in Multi-ethnic Societies" (2015) 60 *American Journal of Political Science* 44.

⁴³¹ Fishman, Rattner and Turjeman (n428); Theodor Eisenberg, Talia Fisher and Issi Rosen-Zvi, "Group Decision Making on Appellate Panels: Presiding Justice and Opinion Justice Influence in the Israel Supreme Court" (2013) 19 *Psychology, Public Policy, and Law* 282–96.

⁴³² Lee Epstein and Jack Knight "Reconsidering Judicial Preferences" (2013) 16 *Annual Review of Political Science* 11–31.

An important study about gender and law by Bogush and Don-Yichyee examined the possible effects of gender on female judges, lawyers and complainants in Israeli courts⁴³³. This large-scale, multi-method study found that female judges in Magistrates' and District Courts tend to be lenient with male sex offenders. The authors hypothesized that women in senior positions tend to adapt "manly" patterns in resolving issues that concern other women, or adopt stricter policies against female litigants. Similar conclusions were made in some of the research mentioned above, which tried to understand why Arab judges might be stricter with Arab than non-Arab defendants⁴³⁴.

A further study of judicial decision-making focused on the designated seats in the Supreme Court (e.g. the Sephardic chair, the religious chair, etc.), and it examined whether the 'seat' of the judge influences their decision-making patterns and specifically their tendency to write a minority opinion⁴³⁵. The authors did not find any correlation between the position of the judge and unique judicial opinions (i.e., dissenting views). But they maintain that, given the importance of dissent, the 'legal pluralism' concept underlying judicial diversity is justified regardless of the judicial outcome⁴³⁶.

Research about the make-up of the Israeli judiciary

Even though no empirical investigation of the composition of the entire Israeli judiciary has been conducted to date, several studies provide important (albeit partial or out-of-date) information on the composition of the judicial system in Israel. Rubinstein's book, *Judges of the Land*, examined the establishment and the first decades of the Israeli Supreme Court⁴³⁷. Alongside the historical review of the formation of the legal system, Rubinstein provides a portfolio of all 25 Supreme Court justices serving in the years 1949-1978, including essential background on the nominations procedure and the official and non-official considerations that governed the process. The justices' background characteristics examined were: age, country of birth, legal education and previous positions. Another investigated aspect is 'related considerations in the appointment of

⁴³³ Rina Bogush and Rachel Don-Yichyee, *Gender and Law – Discrimination against Women in the Israeli Court System* (Jerusalem Institute For Israeli Research 1999). The study focused on criminal and family law cases, and involved several methods, e.g. court rulings analysis, observations in courtrooms, off-the-record interviews with judges and critical textual analysis of rape cases.

⁴³⁴ Fishman et al (n428).

⁴³⁵ Birnhack & Gussarsky (n313).

⁴³⁶ The research examined rulings between 1986-1994 and defined "unique opinions" as dissenting opinions.

⁴³⁷ Rubinstein, *Judges of the Land* (n44). Rubinstein was appointed the Vice President of the Supreme Court in 2015.

judges'⁴³⁸. Professional experience was primary in the appointments procedure, but, Rubinstein claims that unlike the ethnic, national⁴³⁹ and gender considerations, which seemed controversial and infringed the professional ethos of the judiciary, there was general consent that there should be a religious judge in the Supreme Court in order to interpret Jewish and Hebrew law⁴⁴⁰. Salzberger's article from 2000 provides a later review of biographies of Israeli Supreme Court justices, in which he investigates the personal and collective history of the Supreme Court over its first 50 years, focusing on country of birth, legal education, religiosity, gender, previous judicial experience and other characteristics of 25 justices.⁴⁴¹ Shetreet looked at the broader picture of women and Arab representation in the judiciary in the 1990s. For example, he found that in 1992 only 25% of all judges were women, but in 1998 this figure reached 40% (in lower courts their proportion was even higher)⁴⁴². Additionally, Shetreet provided evidence that Arabs were under-represented in the judiciary, finding that in 1989 only seven judges were Arabs (2%) although Arabs formed 18% of the general population. More recent research has focused on Arabs in Israeli judiciary, and examined what the judicial system and the other branches have done to increase Arab representation on the bench⁴⁴³.

In addition to the very few academic studies of judicial diversity in Israel, there have been several journalistic investigations of specific aspects of diversity. In 2007, *Ma'ariv*, a daily newspaper in Israel, published a report according to which only 10% of judges in District Courts and the Supreme Court were Sephardic⁴⁴⁴. The article interviewed academics and former senior judges (including Yitzhak Zamir, chair of the Zamir committee) and criticized the judicial system's ongoing refusal to investigate why Sephardic Jews are so overwhelmingly under-represented. A TV documentary broadcasted in 2013 reported similar figures about Sephardic Jews in the senior judiciary and again highlighted the system's reluctance to elaborate on judges' intra-ethnic origin⁴⁴⁵. More recently, *Haaretz*, another daily newspaper, published a report about the

⁴³⁸ Ibid 147

⁴³⁹ Rubinstein (ibid, 157) describes how the first right-wing prime minister, Menachem Begin, had suggested to appoint an Arab to the Supreme Court in order to strengthen the sense of equality amongst the Arab sector, and how this suggestion was criticized.

⁴⁴⁰ Ibid 155; Kedar (n257) 34.

⁴⁴¹ Eli M. Salzberger "the Israeli Supreme Court at 50 Years: Between Hedgehog and Fox" (2000) 16 *Bar-Ilan Law Studies* 141-159

⁴⁴² Shetreet (n6) 285.

⁴⁴³ Guy Luria, "Appointment of Arab Judges to the courts of Israel" (2015) 16 *Law and Governance* 306-315

⁴⁴⁴ Weiss (n337)

⁴⁴⁵ Amnon Levi "The True Face of the Ethnic Demon", Episode 3 (13.10.2013) (<http://docu.nana10.co.il/Article/?ArticleID=998673>)

background and homogeneity of interns in the Supreme Court⁴⁴⁶. The review, based on data obtained from the courts, found that the “typical” Supreme Court intern is a Jewish male who graduated from either the Hebrew University or Tel-Aviv University. Only five interns (out of some 220 examined) were Arabs⁴⁴⁷, and there were hardly any interns from peripheral areas.⁴⁴⁸.

The relatively small number of studies on judicial diversity or on topics that may be related to judicial diversity has nonetheless contributed to the knowledge of the dynamics of the judicial appointment procedure and its development over the years, as well as the composition of the Supreme Court over time, and most notably, the possible links between certain judicial background features (e.g. gender) and case outcomes. However, despite this contribution, most studies have often been either very small-scaled or focused on a single background characteristic⁴⁴⁹, or specific types of cases and procedures⁴⁵⁰. Shetreet’s data, for example, refers only to Arabs and women, and is not up to date. Similarly, Rubinstein’s book is from 1980 and does not reflect the transformations in Israeli society and the judiciary. Also, the tendency of some studies to focus on the Supreme Court and skip the rest of the judiciary presents a very limited picture of judicial diversity in Israel; the Supreme Court is too small and too exceptional to extrapolate its diversity to all of the Israeli judiciary. The reality is that the majority of Israeli judges sit in lower courts. Lower courts, it has been argued, better represent “everyday judging” and provide a broader perspective on judicial attitude⁴⁵¹. Additionally, a significant proportion of these articles researched the Supreme Court historically, focusing on its composition in the early years of the state⁴⁵² and the political considerations behind judicial appointments. Very little has been written on the actual make-up of the Supreme Court to date. Even less has been written on the composition of the entire judiciary.

⁴⁴⁶ Revital Hovel, “The Supreme Court’s Preferred Intern: a Jewish Male, Graduate of the Hebrew or Tel-Aviv Universities”, *Haaretz* (29.6.2015) <http://www.haaretz.co.il/news/law/.premium-1.2670988>.

⁴⁴⁷ There was no data regarding gender or Jewish ethnicity distribution. It also lacks any information regarding the number of Arabs amongst the general law student population, how many Arab applicants there were, etc.

⁴⁴⁸ In addition to the figures, the report quotes a former senior official in the legal system, who claims that the findings illuminate the Supreme Court’s “double standard”. The official argued that, even if the Supreme Court is not obliged to consider affirmative action, the Court should be leading on this proactively and serve as an example to other institutions.

⁴⁴⁹ Galit Goldman “Appointing Justices to the Supreme Court: Is there a preference for Ashkenazi over Sephardic applicants?” (2012) A seminar paper in the course “Politics and Governance in Israel”, Tel-Aviv University.

⁴⁵⁰ Gazal-Eyal and others, “Arabs and Jews in Remand Procedures” (n429); Gazal-Ayal and Sulitzeanu-Kenan, “Let My People Go” (n429)

⁴⁵¹ Hazel Genn, *Judging Civil Justice* (CUP 2009) 131-137

⁴⁵² Lahav, ‘Courage and office’ (n41); Zaltzberger and Oz-Zaltzberger (n44)

3.2 Approaches to studying judicial diversity in Israel

Furthermore, almost all the existing research about the composition of the Israeli judiciary is qualitative, and mainly based on interviews with retired judges, biographies of specific justices⁴⁵³, memoirs, documents from the state's archives, etc. Although these studies are insightful, the lack of large-scale quantitative or empirical research means there is no accepted database or baseline information on judicial diversity in Israel. Moreover, this lack of a robust quantitative approach seems to have contributed to a lack of fact-based academic and public debate about judicial diversity, a topic that has been traditionally too reliant on anecdotes rather than solid data. While the empirical work that has been conducted in recent years advanced the knowledge about possible links between background characteristics and case outcomes, it naturally focuses on only one background characteristic (mostly ethnicity), and does not aim to provide a broad picture of the state of judicial diversity in Israel (encompassing key factors such as educational background, professional experience, religious affiliation, etc.).

Despite the dramatic decline in the level of public confidence in courts, there has also been no attempt to explore whether this decline may be associated with perceptions about judicial diversity. Public trust in the judiciary is often used in the debate about the make-up of Israeli society but inevitably without supporting evidence. On the one hand, the judiciary uses it to claim that the diversity debate and the calls to change the nominations process would decrease public trust in courts. On the other hand, some sectors in Israeli society argue that their lack of representation in the judiciary contributes to the decline in public's trust. If public trust is a solid justification for prompting diversity, research should presumably focus on sectors in which the confidence rates in the judicial system are significantly low⁴⁵⁴. Yet no data on how both sides reached their conclusions could be found⁴⁵⁵.

Finally, there has not been an in-depth investigation of the pool from which judges are appointed and almost no reflection on how the significant changes legal education and

⁴⁵³ Nomi Levitzki *Your Honor, Aharon Barak- Biography* (Keter Publishing 2001); Pnina Lahav, *Judgment in Jerusalem: Chief Justice Simon Agranat and the Zionist Century* (University of California Press 1997)

⁴⁵⁴ The recent CBS social survey found that in 2015, only 58% of the general public in Israel trust the court system to a large or some extent. The level of trust decreases however for Arabs (50%), orthodox Jews (22%) and new immigrants (53% for USSR and 43% for Ethiopian Jews). 'Selected Data from the 2015 Social Survey' (n80).

⁴⁵⁵ Although there are substantial studies about public trust in state's institutions, including the judiciary. See previous chapters.

the legal profession may be related to judicial diversity. The massive growth in the number of lawyers, specifically the inclusion of thousands of lawyers from sectors that were not represented in the profession until recently, provide fertile ground for research about the make-up of the legal profession and how this is or may in future affect the composition of the judiciary. Instead, discourse about legal education and legal practitioners in Israel seems to be focused on all other aspects (e.g. measures taken by the Bar to limit the number of lawyers) instead of diversity.

Overlooked groups

Sephardic Jews, religious and Orthodox Jews, new immigrants- all seem to have been overlooked in previous research of judicial diversity in Israel. It could be because it is methodologically easier to examine Arabs and women (e.g., the variables are easy to operationalize, the data collection is more straightforward in comparison with Jewish ethnicity for instance). Israeli law acknowledges the principle of adequate representation, equality and affirmative action of women, Arabs, Ethiopian Jews and, in some cases, people with disabilities. Concerning Sephardic Jews, however, legal research requires “ingenuity and creativity”, because:

“With regard to Mizrahim [i.e.- Sephardic Jews], Israeli law appears to have been blind.... [F]ormally they have been treated as equal; any discrimination was justified on the basis of merit.”⁴⁵⁶

Lahav and other scholars point to manner in which prejudice against Mizrahim influenced law. Such insights, although are not exclusively or directly related to judicial diversity, may provide an interesting explanation as to why research about background characteristics of judges may have ignored intra-Jewish ethnicity⁴⁵⁷.

While research about Arabs and women in the judicial process, the judiciary and the legal profession is highly relevant, there are other important groups that should not be overlooked in understanding judicial diversity in Israel. This is a common issue in other jurisdictions as well: “it is important to caution against thinking that ethnic diversity is a

⁴⁵⁶ Pnina Lahav, ‘A Jewish State ... to Be Known as the State of Israel: Notes on Israeli Legal Historiography’ (2001) 19 *Law & Hist. Rev.* 387, 414; Compare: Thomas (n5) 66, on how merit has been used in denying appointment as pretence for discrimination.

⁴⁵⁷ There are several scholarly references to Sephardic Jews in the context of judicial studies, but they are very limited in scope (referring anecdotally to Supreme Court justices) and focus on the historical functioning of the “designated Sephardic justice” rather than on the current state of affairs. Lahav, *ibid* 413-417; Kedar, “Ben Gurion and the struggle to appoint the first Sephardic justice” (n 40); Rubinstein, *Judges Of The Land* (n44) 148-154; Biton shows how generally Israeli law ignored the discrimination of Sephardic Jews even when it was willing to acknowledge discrimination of other sectors - Yifat Biton, “Mizrahim and the Law: ‘Nothing’ as ‘Something’” (2011) 41 *Mishpatim Law Review* 315-377.

unified concept...viewing all ethnic minorities as a single group can often create a very misleading picture...”⁴⁵⁸. Thus, in Israel, it would seem incorrect to examine “Arabs” without reference to the unique and different sub-groups within this sector. Similarly, a very distinct picture about gender may emerge when cross-referencing gender with ethnicity, professional background, career progression, etc. This thesis has the specific aim of understanding judicial diversity in Israel in this richer context.

3.2 Israeli judges’ reluctance to take part in academic research

An important factor underlying the lack of academic research on judicial diversity is the secrecy that is associated with the nominations procedure. However, additional practices in the judiciary have contributed to the lack of research into judicial diversity. Scholars have criticized the judiciary’s tendency to conceal its practices and work procedures from the public’s eye⁴⁵⁹. This policy means that, for example, the procedures for assigning judges to panels, the ethical and managerial norms of decision-making and ruling between panel members⁴⁶⁰, were never a matter for public debate or revision.

Specifically, the judiciary’s disinclination to participate in academic research and particularly to provide background information about judges has made research on judicial diversity very difficult. Although there is no law in place to forbid Israeli judges from participating in interviews or completing questionnaires as part of academic research, in practice Israeli Judges have refrained from doing so⁴⁶¹. The Courts Administration almost always denies such requests from researchers, based on the concern that participation of judges in research would jeopardize their unique professional status. The principles that shape judges’ work, it is claimed, are objectivity, independence and neutrality, and these are not consistent with exposing the personal views of judges to the public (even anonymously).

⁴⁵⁸ Thomas (n.5) 19, referring to studies in the US examining the differences between African-Americans and Hispanics in attaining judicial office.

⁴⁵⁹ Shachar (n.52) 410.

⁴⁶⁰ *ibid.*

⁴⁶¹ In principle, section 34 of the Judges’ Ethics Rules 2007 states, that: “subject to the approval of the President of the Supreme Court, a judge may reply, either orally or in writing, to questions or questionnaires addressed to him for research purposes relating to his judicial work”. In practice, however, it seems that very rarely such an approval is granted by the Chief Justice. Additionally, in 2009, the MoJ, Prof. Friedman, appointed a special committee to examine the accessibility of court decisions to academic research. However, shortly after the government had disbanded the initiative was shelved. (<http://elyon1.court.gov.il/heb/veadot/academic.pdf>).

This approach was challenged in the Supreme Court, but was not overturned⁴⁶². The Supreme Court ruled that presenting judges' personal views, in any form, might impair public trust in courts; everything judges have to say is found in their written decisions, which are available to the general public, so there is no need to interview or distribute questionnaires to judges⁴⁶³. Scholars argued that this decision reinforced two idealised models of judges: the "transparent judge", who disconnects from his or her private and subjective "self" in reaching decisions and responds solely on the basis of jurisprudence; and the "professional judge" ethos, according to which judges are impartial and resistant to external influences⁴⁶⁴. As in many other jurisdictions, the Israeli legal system puts significant efforts into 'hiding' judges behind clear, objective legal conceptions⁴⁶⁵, and portraying them as nothing but servants of the law whose personal characteristics are irrelevant⁴⁶⁶. Consequently, any attempt to discuss the biography, gender, religion, nationality or world-view of judges is regarded as inappropriate. Scholars who criticise this policy of the judiciary say it is "puzzling" as it implies that in order to maintain the judiciary's objectivity and the public's trust in courts, it is essential to hide information from the public, when in fact public trust is derived from transparency and facts⁴⁶⁷.

Despite the judiciary's reluctance to participate in academic research, a number of journalists have managed to investigate the work of judges. Nomi Levitski, an Israeli journalist, wrote one of the most comprehensive non-academic reviews of the Supreme Court⁴⁶⁸; it examines the transformation in the Court's status over the years and relies on extensive investigative journalistic research, including (mostly anonymous) interviews. The book focuses on biographies and life experiences of several justices, and suggests they are correlated with their decision-making. It also demonstrated a range of external

⁴⁶² HJC 2491/02 *Ben-Ari v. Judge Dan Arbel, the Director of the Courts* (1.8.2002).

http://www.psakdin.co.il/fileprint.asp?filename=/sada/private/ver_bolq.htm. In this petition, a research student asked the HCJ to issue an injunction to the director of the courts to explain his refusal to allow the petitioner to interview judges or send them questionnaires. The court rejected the petition, claiming that just as judges should not be expressing their personal views in their decision-making, so too it is unacceptable to present personal views of judges in interviews and the like.

⁴⁶³ Similar rationalization was used in another decision, according to which a judge should not be summoned to testify in court because of the need to defend the standing of the judiciary and ensure the public's trust prevails over the parties' right to cross-examination (LCA 3202/03 *The people v. Yossef*, 58 (3) PD 541 [2003])

⁴⁶⁴ Issachar (Issi) Rozen-Tzvi, "'Are Judges Human?' – Establishing the Judge's Figure in light of Disqualification Rules" (2005) 8 *Law and Governance* 49-118.

⁴⁶⁵ Judges' personalities are hidden in various ways (e.g. using plural form - "we"- or third person singular - "the court" - when writing decisions). Ibid 56

⁴⁶⁶ "The hidden judge syndrome" – Ibid.

⁴⁶⁷ Shetreet, *On Adjudication* (n6) 321-323.

⁴⁶⁸ Levitski, *The Supremes* (n.408)

and internal influences on the Court, including the complex relations between the justices themselves (“peer effects”).

Anat Peleg, another journalist recently wrote a book⁴⁶⁹ about the complex interrelations between Israeli courts and the media. It investigates how media coverage of courts may influence judicial decision-making, by examining references to the media in judicial rulings, and by interviewing almost 100 professionals, 30 of which were judges⁴⁷⁰. Half of the judges were retired at the time of the interview, and the remainder agreed to participate anonymously⁴⁷¹. There have also been a small number of judicial biographies, written by either journalists⁴⁷² or academics⁴⁷³. However, only a limited number of them managed to obtain direct access to judges, usually after years of painstaking efforts and networking with senior officials⁴⁷⁴, and most of the time the judges that agreed to be interviewed were retired and therefore not expected to conform to the system’s restrictions⁴⁷⁵.

3.3 Diversity of Israeli lawyers and law students

The explanatory notes to the bill that reformed legal education in Israel in the 1990s stated: "The composition of students at law faculties is disturbingly homogenous. Only ten students from disadvantaged and development towns and only two Arab candidates were accepted to one of the faculties"⁴⁷⁶. Enabling colleges to award law degree accelerated the number of lawyers in Israel and allowed members of groups that were until then almost unseen at the Bar to enter the profession⁴⁷⁷. Some have claimed that the growth in the number of lawyers in Israel transformed the legal profession from a

⁴⁶⁹ Anat Peleg, *Open Doors: The Effect of the Media on Israeli Law* (Matar 2012).

⁴⁷⁰ A similar research method was used in other research that Peleg conducted: Bryna Bogoch and Anat Peleg, ‘Silence is no Longer Golden: Media, Public Relations and the Judiciary in Israel’ (2014) 4 *Oñati Socio-Legal Series*.

⁴⁷¹ Peleg explained how she managed to interview judges despite the restrictions: “When it turned out I would not be given an official approval from the courts’ administration, I carefully contacted several judges and explained why my research was important, and they trusted me and even referred me to more judges..”. Ido Baum “Judges Are Afraid Of The Media” *TheMarker* (17.2.2012) <http://www.themarker.com/law/1.1644082>

⁴⁷² Levitski, ‘Your Honor, Aharon Barak’ (n.453).

⁴⁷³ Pnina Lahav, ‘Chief Justice Simon Agranat’ (n.453).

⁴⁷⁴ Levitski, for example, convinced the justices to cooperate with her by “going from one to another...”. However, not everyone can simply walk the hallways of the Supreme Court and approach its justices to discuss controversial issues. Yuval Yoaz "Specialized In The Supreme Court" *Haaretz* (6.12.2006) <http://www.haaretz.co.il/misc/1.1528939>

⁴⁷⁵ Aley Mishpat (the College of Law and Business review), volume 7 (2009).

⁴⁷⁶ Anat Ro’ee, "The Law Colleges' Money-Making Machine Is Looking for New Customers" *Calcalist* (4.11.2015) <http://www.calcalist.co.il/local/articles/0,7340,L-3672637,00.html>.

⁴⁷⁷ Yuval Elbashan in Gilad Shalmor “Is the legal market in Israel really flooded with lawyers?” *Channel 2 News* (4 November 2015) http://www.mako.co.il/news-channel2/Channel-2-Newscast-q4_2015/Article-0438259d114d051004.htm; Katvan (n.393) 305.

monolithic group into a diverse profession, with more young Arabs and Orthodox Jews, gays, women joining the Bar and making their unique voice heard⁴⁷⁸. However, similar to the debate about judicial diversity, the discussion about the legal profession and legal education has relied more on contentions than on facts⁴⁷⁹. This section presents the limited data that are available about diversity in the legal profession and in legal education, and highlights the diversity-related matters that are yet to be empirically examined for both groups.

Lawyers

The Israeli Bar has not released official information on the demographics of its members⁴⁸⁰, except for occasional reports on gender distribution and the educational background of lawyers⁴⁸¹. Nevertheless, scholars have used alternative indicators to explore the demographic changes to the Bar. Surveys conducted among lawyers and law students in Israel recently provide some information about the demographic differences between college and university law students and graduates, and affirm the common perception that there are significant gaps between them⁴⁸². For instance, college students are older and have more previous academic and professional experience, compared with university students⁴⁸³. Moreover, substantially more college law students are the children of parents with no academic degrees compared to law students at universities; this may suggest that colleges did break the strong links between parents' education and children's chances of gaining an academic degree⁴⁸⁴.

Research that relies on secondary data sources claims that since the law colleges opened, the number of Arabs, Jewish immigrants from the former USSR and Ethiopia, Orthodox Jews and residents of the peripheral districts of Israel have significantly increased in both law schools and the profession⁴⁸⁵. Other important patterns are the growth in the number of women in the profession, estimated in 45% in 2013 (a trend that started in the 1980s

⁴⁷⁸ Ziv (n76) 81

⁴⁷⁹ Zer-Gutman (n.384) 248

⁴⁸⁰ *ibid* 56, claims that the Bar does not collect data on the nationality of its members. However, the author of this thesis could not find any data that was publically available on other variables either (e.g. Jewish ethnicity, religiosity).

⁴⁸¹ However the Bar raised concerns regarding the nomination procedure and the lack of judicial diversity, as seen in Chapter 2.

⁴⁸² Katvan (n.393) 306 refers to two surveys he conducted in 2010-2011, one with law students from two colleges and one university, and the other with lawyers in Israel.

⁴⁸³ *Ibid* 307.

⁴⁸⁴ *Ibid* 309

⁴⁸⁵ Zer-Gutman (n.384) relies on data from previous studies, statements made by Deans of law colleges, the press and inferential conclusions.

and therefore cannot be exclusively attributed to law colleges)⁴⁸⁶ and the “rejuvenation of the profession” so that today the majority of lawyers in Israel are less than 40 years of age⁴⁸⁷.

According to CBS data, almost 93% of registered lawyers in Israel are Jewish⁴⁸⁸. This is similar to data found in another governmental report showing that 8.8% of lawyers in Israel in 2005 were Arabs⁴⁸⁹. Data obtained from the Civil Service Commission confirm that 8.6% of lawyers in the civil service are Arabs⁴⁹⁰. A different report, however, contested that while some 15% of Israeli lawyers are Arabs⁴⁹¹, in the Ministry of Justice (which includes the Attorney’s office, the Public Defender’s Office and other legal offices), only 5% of the employees are Arabs⁴⁹². This could be meaningful in terms of judicial diversity because the common presumption is that most judges are appointed from the public sector (an assumption that will be tested in this thesis). The proportion of Arabs in the legal profession is therefore not entirely clear but likely to be smaller than their share of the population (20%). Specific concerns have been expressed about the low number of Muslim Arabs and Arab women in the legal profession (and the judiciary)⁴⁹³. Some have speculated that Arab lawyers prefer to stay in the legal profession and refrain from applying to judicial positions due to financial reasons⁴⁹⁴. However, there are no current figures on the number of Arabs in the legal profession⁴⁹⁵ or any barriers they may face in their legal career.

Not one reliable report was found to have data on the intra-Jewish ethnic attribution of registered lawyers. In 2014, the Bar formed a special forum for Haredi lawyers⁴⁹⁶, but it did not provide data on the number of Orthodox Jews amongst its members (or on any matter related to religiosity).

⁴⁸⁶ Ibid 57

⁴⁸⁷ Ibid, *ibid*.

⁴⁸⁸ CBS *Labour Force Survey 2011 (publication 1504)* (2012), table 2.17 “Employed Persons and Employees, By Occupation (Minor Group - Two Digits), Population Group and Sex”. On Table 2.1 (employed persons and employees, by industry, population group and sex) (p.5) – lawyers and notary services are numbered at 44,400, thereof Jews – 41,400 (~93%).

⁴⁸⁹ Ministry of Industry and Trade *Lawyers In Israel – Characteristics And Employment In The Last Decade* (2005)

⁴⁹⁰ Personal communication (2.6.2015).

⁴⁹¹ The Sikkuy Report (n.409) 5

⁴⁹² Ibid 3

⁴⁹³ Sausan Zahar, Adv., “Female Arab Judges In Israeli Courts: An Analysis of Gender and Ethnicity” (2015):

http://www.israelbar.org.il/article_inner.asp?pgId=21930&catId=2217

⁴⁹⁴ Luria (n.443).

⁴⁹⁵ As seen below, there were, however, analyses on the number of Arabs in the judiciary.

⁴⁹⁶ The Bar Press Release “For the First Time: an Orthodox Forum in the Bar” (8.6.2014)

http://www.israelbar.org.il/article_inner.asp?pgid=196271&catid=6

Unlike religion and ethnicity amongst Israeli lawyers, the case of gender distribution in the legal profession in Israel has been investigated before, and there are relatively up-to-date data, as well as some research, that shed light on the status of women lawyers in Israel today, including in the judiciary. Almost half of currently active lawyers in Israel are women. However, although 50% of associates in the top 100 law firms in Israel are women, men still dominate the senior levels (partners) in those firms where more than 75% are male⁴⁹⁷. Moreover, only 10% of the heads or founders of the law firms were women. However, figures are substantially different in the public sector; the high proportion and successful progression of women lawyers in prosecutorial and judicial roles in Israel are rooted in the history of the legal profession in Israel, and even in the pre-state years, as reviewed in existing literature⁴⁹⁸. Today, women advocates make up almost 70% in the State Advocacy, with a distinct majority of women in the highest income ranks⁴⁹⁹.

Law students

The data on the demographics of law students is a bit clearer than for lawyers. The Council for Higher Education (CHE) and the CBS collect and publish data on socio-demographic characteristics of students. However, there are some limitations (for example, no data are collected on Jewish ethnicity other than for new immigrants), and in some cases data refer only to some of the academic institutions and not all.

In 2010/11, almost 85% of undergraduate students in universities, academic colleges and colleges of education in Israel were Jewish, and 12.1% were Arabs (almost double their rate in 1990, but still lower than their 20% share in the total population)⁵⁰⁰. For law students in particular, 93% of law students at universities are Jewish while only 6.3% are

⁴⁹⁷ This piece of data is quite similar to what was found regarding women's participation in the solicitors' profession in England and Wales, Pleasence and Balmer (n.121).

⁴⁹⁸ Eyal Katvan, "No More 'Window Dressing': The Entry of Women into Prosecutorial and Judicial Roles Prior to and Following the Establishment of the State of Israel" (2010) 32 *Tel-Aviv University Law Review* [Hebrew]; Eyal Katvan, "The Entry and Integration of Women into Judicial Positions in Israel" in: Schultz, Ulrike, and Gisela Shaw, eds. *Gender and Judging*. Bloomsbury Publishing, 2013. Katvan reviews the historical roots of the 'feminisation of the legal profession in Israel', leading to the high proportion of women in the judiciary.

⁴⁹⁹ These figures have recently been reaffirmed in a report from 2016, showing that 65% of public prosecutors in Israel are women, and that 75% of Heads of the Prosecution service are women; see: . CEPEJ, Report On "European Judicial Systems – Edition 2016 (2014 Data): Efficiency and Quality of Justice" ([here](#)), 137-140. In the UK, women accounted for 48% of solicitors employed in commerce/industry, 57% of Crown Prosecution Service solicitors and 62% of local government solicitors, Sullivan (n.119) 12.

⁵⁰⁰ CBS (n.398) 460. In colleges of education, Arabs make up 26.3% of all students

Arabs. In colleges, the ratio is slightly different, with 91.7% of LL.B. students are Jewish and 7.3% are Arabs. Within the Arab group, Muslim Arabs are significantly under-represented in higher education and specifically in law degrees, whereas Druze are slightly under-represented, and Christian Arabs are found in law schools in larger proportions than their representation in the population.

Regarding intra-Jewish ethnicity in 2009, 43% of Jewish undergraduate degree recipients were born in Israel with 25.5% of Sephardic origin and 30.8% of Ashkenazi descent⁵⁰¹. The most recent data on law schools are from in 2006-7 and only cover university law schools: 48% of law students were Israeli-born, with 23.5% of Sephardic origin and 29.2% Ashkenazi⁵⁰². Prima facie, this is a marginal difference between the groups, and only slightly different to the distribution in the Jewish population. However, these data only refer to university students. Data on college law students by origin could not be found.

In the early years of the Israeli state, few women graduated from law schools, but today the proportion of female law students has grown to more than 50% on both undergraduate and graduate degree courses⁵⁰³. However, only a quarter of law faculty staff members are women, with even fewer women Law Deans.

Table 1 summarizes the limited data regarding diversity in the legal profession and education⁵⁰⁴.

⁵⁰¹ CBS *Higher Education in Israel 2009* (n.397) 47

⁵⁰² CBS “Students at Universities, by degree, population group, religion, origin and field of study (table 17)”, 105-6

⁵⁰³ For further details see chapter 8.

⁵⁰⁴ Some further official data are presented in Chapters 7 and 8 where they are relevant to the demographics of lawyers and law students that participated in two surveys for this thesis.

Table 1. Representation in legal education and the legal profession in Israel⁵⁰⁵

	General Undergraduate Population (universities & colleges)	LL.B. Students/Recipients in Israel	Qualified Lawyers in Israel	Total in Israeli Population
Women	57% ⁵⁰⁶	50% ⁵⁰⁷	43%	51%
Arabs	15% (in universities ⁵⁰⁸)	8.5% (in universities)	9% - 15% ⁵⁰⁹	20%
Arab subgroups				
Muslim ⁵¹⁰ (Inc. Bedouins)	11.5%	6.4%	n/a	~18%
Christian ⁵¹¹	2%	2.6%	n/a	2%
Druze ⁵¹²	1.6%	1.3%	n/a	1.6%
Jews	86%	92%	93%	75%
Jewish subgroups				
Ashkenazi	30%	28%	n/a	33%
Sephardic	24%	18.8%	n/a	25-27%
Ethiopian Jews	0.4%	n/a		1.4%
Israeli-born	46%	54%	n/a	40%
Religious		n/a		~10%
Ultra-Orthodox		n/a		~9%

⁵⁰⁵ Data were obtained from various sources published in recent years. Where possible, reference was made to the most updated data.

⁵⁰⁶ As of 2014-15 (CBS 'table 8.55 First Degree Students in Universities, Academic Colleges and Colleges of Education, By Field Of Study' (27.9.2016)).

⁵⁰⁷ CHE "Table 2: Students in High Education Institutions (Universities, Academic Colleges and Teacher Training Colleges) by degree and field, 1990-2013" (personal communication).

⁵⁰⁸ As of 2015, CBS "table 2.15 First-Degree Students at Universities, By Sex, Age, Population Group and Field Of Study".

⁵⁰⁹ Different figures appear in the CBS and the Sikkuy Report (n409).

⁵¹⁰ CBS "The Moslem Population in Israel (Muslim Students, 2012-13) 15.10.2013

(http://www.cbs.gov.il/www/publications/desc_exp/ahrab_education.pdf). Of the total 26,800 Muslim students in Israel in 2012-13, 84.5% were undergraduates students, and specifically 4.5% were law students (n=1,019). Compare: Muslim students comprised only 7.5% of all first degree recipients in 2014-15 CBS "The Moslem Population in Israel" (12.9.2016)

http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201611279.

⁵¹¹ That figure refers to the general representation of Christians in the population of all students in Israel, as well as their proportion amongst undergraduate students (CBS Christmas 2015 - Christians in Israel (23.12.2015) http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201511346. In 2014-2015 there were some 4,900 Christian undergraduate students in Israel, of which 8.6% were law students. Hence, their proportion of the total population of law students that year is 2.6%.

⁵¹² CBS "The Druze Population of Israel (Druze students in higher education in 2012-13)".

http://www.cbs.gov.il/www/publications/desc_exp/druzim.pdf. Of the total 3,800 Druze students in this year, 5.4% were law students (n=205) and 81.7% were undergraduate students. The total number of undergraduate students that year was 190,810, therefore the proportion of Druze undergraduates was 1.6% (see: Council for Higher Education, *Higher Education System in Israel- 2014* (here).

Lack of data on diversity in the legal profession and education

In recent years there have been some quantitative studies about the legal profession and, to a lesser extent, legal education in Israel. For example, surveys were conducted to investigate lawyers' views about overcrowding of the profession⁵¹³; others referred to socio-demographic characteristics of lawyers as drivers for working in the legal profession, and explored views about the future of the profession⁵¹⁴.

But a large number of issues remain completely unexplored, and some methodological issues have hampered empirical research in this area. The Bar does not collect and/or publish data about the background of its members. Additionally, the bodies that do publish data (e.g. CBS, CHE) do not collect data about all relevant variables (e.g. Jewish ethnicity). Statements made about the diversification of the legal profession and law school education following the opening of law colleges were not all made based on comprehensive empirical analysis. A survey of law students included 300 participants from three law schools⁵¹⁵ and focused on first and second-year LL.B. students only. Some lawyers' surveys had larger sample sizes⁵¹⁶ but either did not collect data on socio-demographic characteristics⁵¹⁷, or had very few variables that can contribute to the discussion about judicial diversity⁵¹⁸. Thus, despite the significant transformations the legal profession and education have undergone since the 1990s, the composition of the pool for judicial appointment is not completely clear at present due to a lack of sufficient data.

Therefore, in addition to a comprehensive analysis of the composition of the Israeli judiciary, this thesis takes a closer look at diversity in law schools and legal profession in Israel. It aims to examine not only the demographics of these populations, but also the perception and views on the judiciary and on judicial diversity in particular amongst those who may become the next generation of judges in Israel.⁵¹⁹

This chapter discussed the limited development of judicial studies and studies about judicial diversity in Israel. It reviewed the existing data on judicial diversity, as well as

⁵¹³ Bar Niv and others (n.385).

⁵¹⁴ Katvan (n.393).

⁵¹⁵ Ibid

⁵¹⁶ For example, in the survey described in Bar Niv's article (n385) almost 2,900 lawyers participated.

⁵¹⁷ Ibid. The authors mention, under "background characteristics", gender and professional seniority.

⁵¹⁸ Katvan (n.393)

⁵¹⁹ For a study about the factors that motivate or deter senior legal practitioners to consider applying for a position in high courts in the UK, see: Hazel Genn *The attractiveness of senior judicial appointment to highly qualified practitioners- Report to the Judicial Executive Board* (2008) Judicial Communications Officer.

data on diversity within the pool for judicial appointments: the legal profession and law students. It showed how the public and scholarly debate on judicial diversity has not matured into an evidence-based discussion. These factors emphasize the need for an up-to-date, empirical study of judicial diversity in the entire judiciary as well as an investigation of diversity in the pool for future judicial appointments. This thesis aims to provide that in-depth, large-scale research into judicial diversity in Israel, covering judges, lawyers and law students.

CHAPTER 4: UNDERSTANDING DIVERSITY IN ISRAEL

This chapter reviews the main population trends and diversity of Israeli society, focusing on several population groups that are key both to the understanding of Israel's population and to contextualize claims about lack of judicial diversity. The first section reviews the latest data regarding Israel's population. The chapter then reviews some of the conceptual and practical challenges relating to the analysis of socio-demographic trends in Israel.

4.1 Diversity of Israeli society

While concerns about the judiciary in Israel failing to reflect the heterogeneity of Israeli society have been expressed frequently, there is little coherent and robust evidence to support these claims⁵²⁰. This chapter provides essential background on demographic trends and multiculturalism in Israeli society, placing this empirical study in a meaningful context. This review of Israeli society focuses on three main areas that are the key variables that arise when diversity is discussed in Israel: ethnicity, nationality/religion and gender.

The definition of Israel as a Jewish and democratic state, and its establishment as the homeland for Jews following the Holocaust, have created inherent tensions between Jews and non-Jews in Israel⁵²¹. Some groups in the Arab minority in Israel express feelings of alienation from the state of Israel and its nationality-based definition⁵²². Conflicts also characterise the relationships between different Jewish communities, with each group determined to leave its impression on the formation of the state's identity⁵²³. These intra-Jewish tensions can be attributed to the great spectrum of religious observance and conflicting world-views (e.g. liberalism versus conservatism) as well as to the large-scale immigration of Jewish people to Israel, in a relatively short period, from many different countries and cultures⁵²⁴. Furthermore, the Jewish ultra-Orthodox community (Haredim) rejects Zionism and/or other forms of Jewish nationality, and has until recently not

⁵²⁰ As seen in Chapter 2, claims about lack of diversity are usually jointly heard with wider arguments regarding the appointment procedures of judges; Mautner (n.1).

⁵²¹ The conflict refers both to Arabs that are Israeli citizens and Arabs who are not citizens but reside in Israeli territories or territories under dispute (e.g. Palestinians living in territories that were appended to Israel after the Six Days War).

⁵²² Those feelings have not once resulted in violent resistance to the state see: State Commission of Inquiry to Clarify Conflicts between Security Forces and Civilians in October 2000 – Final Report (2003).

⁵²³ Gad Barzilai, *Communities and Law: Politics and Cultures of Legal Identities* (University of Michigan Press 2003) 13.

⁵²⁴ Arie Kizel, *The New Mizrahi Narrative in Israel* (Resling 2014)

integrated into Israeli society (in terms of participation in military service, higher education and the job market⁵²⁵). These conflicting feelings are also translated into views regarding the legitimacy of the state and its institutions, and particularly the legitimacy of the legal system and its decision-making authority.

Examining Israel's population not only presents the complex inter-relations between the various groups that make up this society, but also highlights a link between Israel's changing society and transformations in its legal culture (i.e. the judicialization of politics and the change in the Supreme Court's perception of its role⁵²⁶). These trends should be understood in the context of wider political and social changes that have occurred in Israel since the late 1970s, namely the political upheaval of 1977, when the Labour party (Mapai/Avoda) lost the national elections after almost 30 years of consecutive rule, and the emergence of new social groups thereafter⁵²⁷. This has been described as the decline of the cultural and political hegemony that characterised Israel for several decades and the transition to a multi-cultural society⁵²⁸. The judicial system has not been immune to the challenges this new social reality has brought with it. In particular, calls from politicians and policymakers were made to take diversity into consideration when determining the makeup of the judiciary⁵²⁹. These opinions, and similar calls from minority groups in Israeli society, echo some of the major arguments in favour of judicial diversity that can be found in the existing literature⁵³⁰. They also emphasize the importance of diversity when discussing the judiciary, and the need to understand Israeli society as part of the judicial diversity debate.

Within the social and political reality of Israel, concepts of nationality, religion and ethnicity often overlap and conflict with each other. Being a national home for Jews on the one hand and a democratic state on the other hand generates confusion, both on the conceptual and practical level⁵³¹. The issue of the status of the Palestinian-Arabs that reside in the territories appended to Israel after the 1967 war adds to the underlying difficulty. Can the Arab citizens of Israel be called "Israelis" or does this concept only

⁵²⁵ Barzilai (n.523) 209.

⁵²⁶ Menachem Mautner, "The Decline of Formalism and the Rise of Values in Israeli Law" (1993) 17 *Tel Aviv U. L. Rev.* 503

⁵²⁷ Mautner, *Law and the Culture of Israel* (n.8)

⁵²⁸ Mautner (n1) 425; Tamar Hermann and Ephraim Yaar-Yuchtman, "Unfortunate Misplacement: Israeli-Jewish Public Perceptions of Israel in the Middle East" in David Tal (ed), *Israeli Identity: Between Orient and Occident* (Routledge 2013) 51.

⁵²⁹ See chapter 2.

⁵³⁰ See chapter 1

⁵³¹ Uzi Rebhun, Gilad Malach and Ruth Gavison, *Demographic trends in Israel* (2009) Metzilah Center for Zionist, Jewish, Liberal and Humanist Thought.

describe Jewish citizens?⁵³² What is the correlation between the religious and the national aspects of the term “Jewish”? Who can be defined as a Jew at all, for the purposes of registration, marriage, etc.?

Yet these difficult questions have not remained the exclusive province of academics. Politicians have often failed to bridge the gap between the cultural-universal views and the secular-national ones, and, as seen in chapter 2, Israel does not have a constitution, or other binding definition of the society’s core values. Consequently, the courts have been asked, on many occasions, to determine some of these defining questions⁵³³.

4.2 Data Resources on Israel’s Population

The Israeli Central Bureau of Statistics (CBS), an autonomous unit within the Prime Minister’s Office, is the main body to collect and analyse statistical information regarding the state and its population in terms of wellbeing, health, economics, etc. One of the main publications of the CBS is the *Population Census*, which claims to provide the “fullest and most reliable picture of the country’s population and its characteristics”⁵³⁴. The census has been conducted six times since 1948, most recently in 2008-2009. Along with more recent notifications and publications by the CBS, the census forms the main foundation for data about population dynamics in Israel.

There are advantages and disadvantages in using CBS data. Although it is a reliable, regularly updated and comprehensive data source, which is widely used in research on population trends in Israel, useful nuances are inevitably lost, given the size of the investigated population and the need to provide unified publications. This is particularly relevant where multi-layered issues, such as socio-demographic characteristics and ethnic identity, are concerned. For instance, defining nationality and religion (i.e. differentiating between Jews and Muslims) is rather straightforward and relies on reports from the Ministry of Interior; but collecting data about Jewish ethnicity, for example, is far more complicated. In census data the CBS defines a “Sephardic Jew” as someone whose father was born in a specified country, thus excluding those who opt to define themselves as Sephardic Jews regardless of their fathers’ birthplace or who have mixed heritage

⁵³² Yoav Peled, Gershon Shafir *Being Israeli: The Dynamics of Multiple Citizenship* (Tel-Aviv UP 2005)

⁵³³ Justice Yitzhak Engelrad, in his dissenting view in the Supreme Court decision of *Na’amat v. Minister of the Interior* (HJC 5070/95, 20.2.2002).

⁵³⁴ CBS “Population Census – What Is The Population Census?”

http://www.cbs.gov.il/census/census/pnimi_sub_page_e.html?id_topic=1&id_subtopic=1

parents⁵³⁵. In different CBS reports, however, the self-determination of participants, rather than the place of birth of their parents, is used to generate data. This inevitably gives rise to different pictures of the society's demographics. However, in the absence of a more robust data source, CBS data is primarily used in this research with additional data sources utilized where relevant. In addition, CBS data is also used when trying to analyse the current composition of the Israeli judiciary (by measuring the extent to which the judiciary reflects Israeli society), as well as the composition of the legal profession and legal education in Israel.

4.3 Main Population Groups in Israel

Recent data shows that there are some 8.4 million inhabitants in Israel⁵³⁶. This figure includes Israeli citizens as well as permanent residents who are not citizens. The latter are subject to all the obligations and duties of citizens, and enjoy most citizens' rights (including social benefits, freedom of movement and employment). However, permanent residents are not given Israeli passports; they cannot vote or be elected to the Israeli parliament, and they are not eligible to serve in certain public positions that require citizenship as a pre-condition (including judicial posts)⁵³⁷.

As Table 2 shows, According to official data relating to 2015, **Jews** form the majority group in Israel: Of the total population, 6.3 million are Jews (75%), and 1.75 million are **Arabs** (20.7% of the total population)⁵³⁸. The remainder (some 370,000 people) is classified as "others". This includes non-Arab Christians, members of other religious groups⁵³⁹ and those non-classified by religion in the Ministry of Interior's registry. It should be noted that this population evaluation does not include migrant workers, refugees and illegal aliens⁵⁴⁰.

⁵³⁵ Talia Sagiv, *On The Fault Line: Israelis Of Mixed Ethnicity* (Hakibutz Hameuchad 2014)

⁵³⁶ CBS "table B/1.- Population, By Population Group" (<http://www.cbs.gov.il/publications16/yarhon1016/pdf/b1.pdf>).

⁵³⁷ Although permanent residents are entitled to apply for citizenship, the majority does not do so, for a variety of reasons. Israel Democracy Institute "Who is a Citizen in Israel?" (2010) *67 Parliament* <http://www.idi.org.il>.

⁵³⁸ The figure of 1.75 million Arabs includes permanent residents. However, Palestinians that are not Israeli citizens or residents (i.e. those that reside either in the disputed territories or in Palestinian authority's municipalities) are not counted by the CBS as part of Israel's population (Evegenia Bystrov, Arnon Soffer *Israel: Demography 2012-2030 – On the Way to a Religious State* (Chaikin Chair in Geostrategy, University of Haifa 2012) 17

⁵³⁹ Samaritans, Maronites, Armenians, Circassians and other.

⁵⁴⁰ Totalling at 183,000 (see CBS Table B/1 (n.536).

Table 2: Main Israeli Population Groups by religion/ nationality (2015)

Population Group	Share of total population in Israel	Sub-categories	
Jews	75%	Jewish Ethnicity ⁵⁴¹	
		Sub-group	% of Jewish population
		Middle-east, Asia and Africa (Sephardic) ⁵⁴²	25%
		Europe, America and former USSR (Ashkenazi) ⁵⁴³	31%
		Israelis born to an Israeli-born father ('Sabra')	44%
Arabs	20.7%	Legal status	
		Israeli citizens	84%
		Permanent residents	16%
		Religious distribution	
		Sub-group	% of Arab population
		Muslims (including Bedouins)	83%
		Christians	7.9%
		Druze	8.2%
Others	4.3%		

⁵⁴¹ According to father's /own place of birth.

⁵⁴² Including Ethiopian Jews.

⁵⁴³ Including Jews from former USSR.

4.4 Intra-Jewish Ethnicity

The Jewish community in Israel has been extremely heterogenic in its demographic and cultural composition. Israel encounters constant immigration from the diaspora, which has profoundly influenced its social and cultural dynamics⁵⁴⁴. Millions of immigrants arrived in Israel from a variety of states to create a challenging mosaic of social, religious and ethnic sub-groups. The dramatic growth in population size (from 872,000 inhabitants in 1948, to more than 8 million today) is one of the most distinctive population trends in Israel⁵⁴⁵. At the same time social and cultural gaps have emerged, along with feelings of alienation and claims of ethnic discrimination and the exclusion of certain groups from key positions in the state, including the judiciary⁵⁴⁶.

When discussing the Jewish population of Israel, the CBS refrains from categorizing Jews by ethnic groups, but rather focuses on origin by continent of birth (in fact, the CBS does not even use the term 'ethnicity' or "Eda" - Jewish ethnic group - in its publications). To that end, the CBS differentiates between **continent of birth** (where the subject was born) and **continent of origin**, which refers to father's place of birth. For example, someone born in Israel is defined as Sabra (Israeli-born) for purposes of "continent of birth". But if that person's father was born in Africa, s/he will be defined as "Africa" for continent of origin. If the father was also born in Israel, than the person would be defined as "Sabra" for both continent of origin and continent of birth.

In terms of continent of birth, according to the CBS data⁵⁴⁷, in 2015 the total population of Jews in Israel was 6,334,500, of whom 4.8 million (76%) were born in Israel. In terms of continent of origin, the largest group in the Jewish community is that of Jews born in Israel to an Israel-born father ("Sabra") with 45% of the total Jewish population; 31% (nearly 2 million) of Israeli Jews originate from **Europe-America**⁵⁴⁸; 14% (890,000)

⁵⁴⁴ According to the Law of Return, 1950-5710 (SH 51), every Jew has the right to immigrate to Israel and be given citizenship. Moreover, children/grandchildren or spouses of Jews are also entitled to that right.

⁵⁴⁵ Yifat Holzman-Gazit, "Mass Immigration, Housing Supply and Supreme-Court Jurisprudence of land expropriation in early statehood", in Ron Harris and others (eds) *The History of Law in a Multicultural Society* (n39)

⁵⁴⁶ Norma Gurovich and Eilat Cohen-Kastro "Ultra-Orthodox Jews: Geographic Distribution and Demographic, Social and Economic Characteristics of the Ultra-Orthodox Jewish Population in Israel 1996-2001" (2004) CBS 11;

⁵⁴⁷ CBS "Table 2.9 - Jews, By Continent of Origin, Continent of Birth & Period of Immigration" (1.9.2016) http://www.cbs.gov.il/shnaton67/st02_09.pdf.

⁵⁴⁸ This group has grown significantly following the large-scale immigration of Jews from the former USSR mainly in the years 1989-1995.

originated in **Africa** (including Ethiopian Jews) and 11% (almost 700,000) originated in **Asia** (including the Middle-East).

Figure 2 and Figure 3 demonstrate the differences between the Israeli population based on continent of birth and continent of origin:

Figure 2. Jews in Israel by continent of birth (2015)

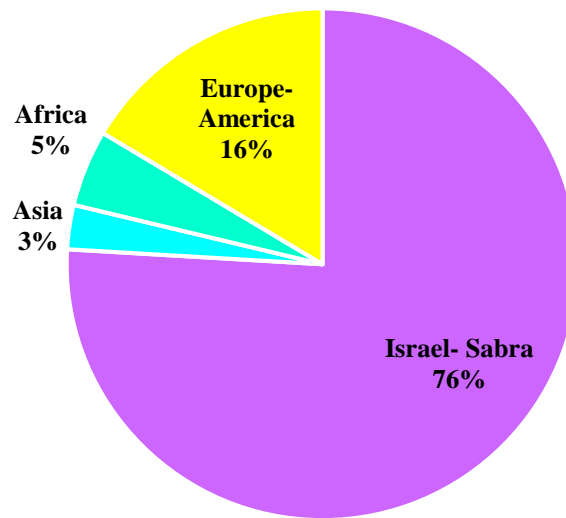
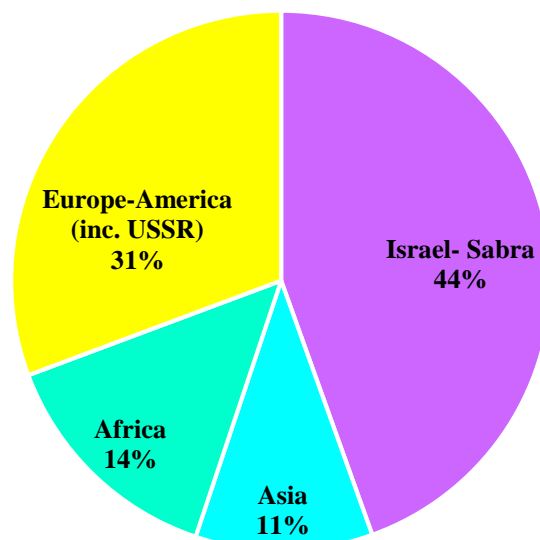


Figure 3: Jews in Israel by continent of origin (2015)



As much as the geographic origin is important, it is inaccurate to discuss Jewish ethnicity in Israel without referring to socio-cultural definitions. As seen in previous chapters, one of the claims about lack of judicial diversity in Israel has focused on the Jewish ethnic group of judges, due to the claimed over-representation of Ashkenazi Jews amongst judges. Jews from North and South America, Europe and some regions of the former Soviet Union are defined as “**Ashkenazi**” Jews, whereas Jews who originated from Africa, Asia and the Caucasus (and the Muslim republics of the former USSR) are **Sephardic** Jews (also known as 'Mizrahim'). Ethiopian Jews, though originally from Africa, are usually regarded as separate from Sephardic Jews⁵⁴⁹. Table 3 summarizes the data regarding Jewish ethnicity, according to the CBS classification, as well as using categories that the CBS refrains from using in its publications:

⁵⁴⁹ This may be due to the unique characteristics of this community. Over the years it adopted some religious rituals and traditions that differ from other Jewish communities. Other factors that may differentiate this group are the rather late stage of immigration to Israel (in the late 1980s and 90s); see below for further discussion.

Table 3. Israeli Jews by continent of origin, continent of birth and ethnic groups ('Eda')⁵⁵⁰

Group	Origin	Number in Group	% in Group	% of total Jewish population in Israel
Jews Born in Israel	Father born in Israel	2,820,30,	59%	45%
	Father born in Asia + Africa (Sephardic)	1,086,000	23%	17%
	Father born in Europe-America (Inc. former USSR) (Ashkenazi)	903,700	19%	14%
	Total Jews born in Israel	4,810,100	100%	76%
Jews Born outside Israel	Asia+ Africa (Sephardic)	483,900	32%	8%
	Europe-America (Inc. former USSR) (Ashkenazi)	1,040,600	68%	16%
	Total- Jews born outside Israel	1,524,500	100%	24%
All Jews in Israel	Israel (Sabra)	2,820,300	45%	100%
	Ashkenazi	1,944,300	31%	
	Sephardic	1,569,900	25%	
	Total	6,334,500	100%	

Table 3 shows, that Sephardic Jews form almost 25% of the Jewish population, whereas 31% are Ashkenazi⁵⁵¹. This seems, prima facie, a peripheral difference. However, claims of discrimination against Sephardic Jews have been heard in Israel since the 1960s. Beginning at the time of several defining political and national events as well as the emergence of critical studies and the multiculturalism debate⁵⁵², these claims of discrimination have reached a crescendo. Essentially, the claim is that a selective hegemonic group of “nation builders” (mainly Ashkenazi, secular men, politically associated with the Avoda/labour movement⁵⁵³) has had the monopoly of key political

⁵⁵⁰ Based on data in the CBS "Table 2.9" (n547).

⁵⁵¹ Moshe Sikron, *Demography: Israel's Population - Patterns and Trends* (Noa Rozen ed, Magnes 2004)

⁵⁵² Referred to by some as “the critical Mizrahi discourse” – see Sami Shalom Chetrit, *Intra-Jewish Conflict in Israel – White Jews, Black Jews* (Routledge Studies in Middle Eastern Politics 2010)

⁵⁵³ Mautner (n1) 425-6.

and social power positions in Israel, and that Sephardic Jews have been excluded from the public arena, including the media, legal system, governmental companies and academia.⁵⁵⁴. Examples of the under-representation of Sephardic Jews are numerous. During Israel's 68 years of existence there has not been one Sephardic Prime Minister; there were only two Sephardic Presidents and only a few Sephardic Supreme Court justices; only one university in Israel had a Sephardic president, etc.⁵⁵⁵. While the gaps between Sephardic and Ashkenazi Jews have significantly narrowed over the years, there is still evidence of inequality in education and employment⁵⁵⁶.

However, many in Israel tend to underestimate the 'Jewish-ethnicity conflict'. In fact, investigations of the subject or raising claims about discrimination against Sephardic Jews have been often referred to as "pulling the ethnic genie out of the bottle". Scholars have claimed that when they write about the topic they are described as "trouble makers"⁵⁵⁷. Many times, the lack of data or an inability to distinguish between the various ethnic groups in Israel due to intermarriage or other reasons has been used as a pretext to ignore the issue. This was the case with Zamir Committee, which discounted claims about under-representation of Sephardic Jews in the judiciary based on a "general impression". In some cases, the argument is that the intermarriages between various Jewish groups, the reduced gaps between groups and the growing representation of Sephardic Jews in elite positions have rendered the intra-Jewish ethnicity debate irrelevant⁵⁵⁸. For instance, in personal correspondence with the author of this thesis, a representative of the CBS stated that the CBS does produce some publications on Jewish ethnicity but "because this issue is less relevant than before (especially for the younger population), there are fewer and fewer publications on the matter"⁵⁵⁹.

Moreover, the tendency of the legal system in Israel to ignore discrimination on grounds of ethnic origin, especially against Sephardic Jews (despite the general willingness to

⁵⁵⁴ Aziza Kazum, "Western Culture, Ethnic Labels and Social Introversion: Ethnic Inequality in Israel" (1999) *Israeli Sociology* 385.

⁵⁵⁵ A prominent example from recent years would be a decision by the Bank of Israel's Committee for Planning Banknotes, Coins and Commemorative Coins that did not choose any Sephardic Jews to appear on the new set of notes. The committee's chair (a former Supreme Court justice) said that dealing with Jewish-ethnicity is "funny" and that the committee did not look at ethnic origin because it would have been "stupid" and "meaningless" as this is a non-issue in contemporary Israel. Roi Mandel and Brit Peretz, "The Judge that chose the notes is defending himself" *Ynet* (28.4.2013) www.ynet.co.il/articles/0,7340,L-4373239,00.html

⁵⁵⁶ Sammy Smooha, 'Class, interethnic and national divisions and democracy in Israel' in Uri Ram (ed), *Israeli Society: Critical Perspectives* (Brerot 1993) 172-202.

⁵⁵⁷ Yossi Dahan, in Weiss (n.337)

⁵⁵⁸ Israel Blechman, "On The Ethnic Composition Of Faculty Members In The Israeli Research Universities" (2008) 33 *Theory and Criticism* 191

⁵⁵⁹ pers comm: email correspondence (10.9.2015)

admit and address discrimination against Arabs, gays, immigrants and women) was recently identified and examined by Israeli scholars. The main argument is that even when Sephardic Jews have tried to use the legal tools available to fight discrimination, the courts have been reluctant to acknowledge their claims and have sometimes refused to admit that there was indeed a Sephardic “group” that could be discriminated against⁵⁶⁰. In light of these findings, as well as claims of under-representation of Sephardic Jews in the judiciary⁵⁶¹, this thesis examines intra Jewish ethnicity as an important diversity-related variable.

More recently, issues of integration and multi-culturalism have arisen from the immigration to Israel (‘Aliyah’) of people from Ethiopia and the former Soviet Union (FSU)⁵⁶². The **Jewish-Ethiopian** community is some 138,000 members strong (~1.7% of the total Jewish population)⁵⁶³. For various reasons, the integration of this community into Israeli society has been complex. For example, the rates of unemployment, juvenile delinquency and domestic violence, are all higher amongst this community than in the broader society⁵⁶⁴. Furthermore, overcoming stereotypes based on skin colour was described as another hardship affecting the integration of Ethiopians Jews in Israel⁵⁶⁵. Nevertheless, the number of Ethiopian students in universities and colleges is consistently growing, although they still constitute only 1% of the entire student population and they are not found in large numbers in law degrees⁵⁶⁶.

The Jewish-Russian community is much larger than the Ethiopian, and amounts to some 1 million members (15% of the Jewish population in Israel) who arrived in Israel mostly after the collapse of the Iron Curtain⁵⁶⁷. By virtue of its magnitude, in addition to

⁵⁶⁰ Biton, “Mizrahim and the Law” (n 457); Yifat Biton, “The Nature of Discrimination: Mizrahim in Israel between Visible and Invisible” (2011) 4 *Ma’asei Mishpat Review* 75-92.

⁵⁶¹ Merav Aloush-Levron, Yifat Biton “Mizrahim In The Supreme Court – A Necessary Repair Of Inequality” *Ynet* (20.11.2011) <http://www.ynet.co.il/articles/0,7340,L-4150349,00.html>

⁵⁶² Referred to in this thesis as either FSU or former USSR.

⁵⁶³ CBS “The Ethiopian Population in Israel (press release)”, (9.11.2015): http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201511302http://www.cbs.gov.il/hodaot2011n/11_11_301e.pdf

⁵⁶⁴ Myers-JDC-Brookdale Institute *Towards the Full Integration of Ethiopian-Israelis: A Progress Report*, (<http://brookdale.jdc.org.il/Uploads/dbsAttachedFiles/Towards-the-Full-Integration-of-Ethiopian-Israelis-April-2011.pdf>). *The Ethiopian-Israeli Population: Facts and Figures 2012* (Myers, JDC and Brookdale Institute publication 2012) <http://brookdale.jdc.org.il/Uploads/dbsAttachedFiles/Myers-JDC-Brookdale-Institute-Facts-and-Figures-on-Ethiopian-Israelis-June-2012.pdf>

⁵⁶⁵ Task Force To Eradicate Racism Against Ethiopian Jews - Final Report (July 2016) (<http://www.justice.gov.il/Publications/Articles/Documents/ReportEradicateRacism.pdf>). The taskforce was established by the government.

⁵⁶⁶ CBS press release (n563) 8

⁵⁶⁷ CBS, *The Population of Immigrants from Former Soviet Union – Demographic Trends (1990-2001)* (2006) http://www1.cbs.gov.il/www/publications/migration_ussr01/pdf/h_print.pdf.

intrinsically distinct characteristics (e.g. exceptionally high levels of educational attainment), the Jewish Russian community has enjoyed a reasonably successful integration into Israeli society⁵⁶⁸. However, one important characteristic of this group is the large number of non-Jewish members (almost 28%⁵⁶⁹). Some of these are defined as Christians and most were not classified by religion upon their arrival to Israel⁵⁷⁰. As seen further below, both Ethiopian and FSU Jews have been claimed to be under-represented in the judiciary, and therefore the examination of judicial diversity in this thesis will assess the validity of these claims.

Several issues pose difficulties in examining intra-Jewish ethnicity. The first is the issue of mixed ethnic ancestry and inter-group marriage, which “blurs” the definition of ethnic origin. According to recent research, in the last three decades there has been a large growth in the number of inter-group (mixed origins) marriages within the Jewish population⁵⁷¹. However, scholars claim that the growing rate of intermarriages has not contributed to decreasing the social gaps between these two ethnic groups⁵⁷². Nevertheless, the difficulty of assessing ethnic distribution, especially when discussing equal representation and social representation, remains.

Additionally, some of the data-collection methods of the CBS create further difficulties. As mentioned, when classifying Jews by ethnic origin, the CBS distinguishes between Israel-born and those born abroad. Regarding the latter, the CBS only collects data on the father’s ethnic origin and not, for example, the father’s father or the mother’s origin, which would provide a different picture. Thus, for instance, those born in Israel whose father was also born in Israel are defined as “Israelis”, and their further ethnic origin is not assessed. This creates difficulties for researchers who wish to examine and define the ethnicity of the population that was born in recent decades to parents who were born in Israel. In other words, even though second and third generations of immigrants might continue to identify themselves with their ethnic ancestry, for the purposes of the CBS they are only defined as Israelis, and their further ethnicity is overlooked.

One possible solution to amend this anomaly would be to ask Israelis to define themselves in terms of ethnic origins, rather than ascribing identity according to an inflexible

⁵⁶⁸ Asher Arian, Michael Philippov, Anna Knafelman *Auditing Israeli Democracy 2009 – Twenty Years of Immigration from the Soviet Union* (The Israel Democracy Institute, 2009) www.idi.org.il/media/212581/madad_2009_hebrew.pdf

⁵⁶⁹ CBS (n567) 5

⁵⁷⁰ Most of them came to Israel by virtue of the Law of Return as a result of family ties to Jews.

⁵⁷¹ Sagiv (n.535)

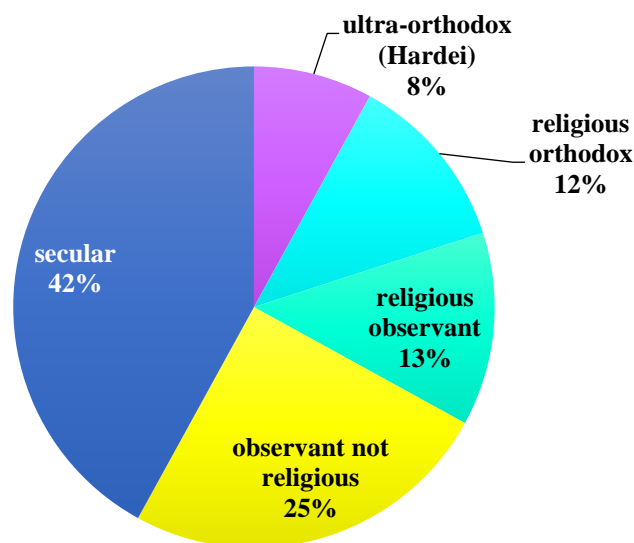
⁵⁷² Ibid.

formula. Findings from the CBS's Social Survey (2008)⁵⁷³ show significant differences between how Israelis defined their origin, and how they are categorized by the CBS; for example, whilst the CBS counts 25% of Israeli Jews as originated from Asia or Africa, only 7% of survey participants described themselves as such. It seems essential, therefore, to take this complexity into account when dealing with the issue of Jewish ethnicity in this thesis.

4.5 Jewish Religiosity

The Jewish society in Israel today is made up of observant and non-observant Jews, comprising a wide spectrum from the ultra-Orthodox ("Haredim) to religious-Zionist Jews and to those who regard themselves as secular. However, as is the case with Jewish ethnicity, the differences between them are not clear-cut and mainly rely on self-definition. There is also no exhaustive definition of who is an ultra-Orthodox Jew, nor an official database to determine the level of religiousness of Israeli citizens.

Figure 4. Israeli Jews by self-definition of religiosity



The data in Figure 4 is based on self-definition of religiosity⁵⁷⁴. Despite the multiple categories, it would be safe to say that the majority of Jews in Israel observe the Jewish tradition to some extent. The importance of religiosity goes beyond theology; it is strongly

⁵⁷³ CBS "Social Survey 2008 - How Do the Jews in Israel Define Their Origin? (Press release)" (17 June 2009) http://www1.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=200919122.

⁵⁷⁴ CBS "Social Survey 2009: The Jewish Population: The Place Of Religion In The Public Life Of Israel" (17.11.2011) http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201119012

linked with political views, perceptions of the state, and specifically views on the role of courts and the level of trust in them:

“...The level of Jewish religiosity is consistently linked to the distinctions between different sectors of the Israeli population -ethnic groups, classes separated by education and income - as well as to positions on issues such as democracy, the Law of Return, ‘Who is a Jew,’ and the status of women”⁵⁷⁵.

There is no clear information on the number of **ultra-Orthodox Jews** in Israel, and the figures differ greatly depending on the method of examination (the approximated number ranges from 280,000 to almost 1 million)⁵⁷⁶. Regardless of its size and separatist nature, the Haredim have a substantial impact on public life, mainly through participation in the parliamentary coalition. Yet despite their significant political influence, the Haredim remain segregated in many other aspects of public life. Most notably, this group has been exempt from military service and therefore does not participate in one of the most important duties of an Israeli citizen. Traditionally, Hardeim did not attend higher education institutions, which may explain the low estimates of Orthodox lawyers, despite a gradual change in the past 15 years⁵⁷⁷. Furthermore, the court system, and especially the Supreme Court, has traditionally been regarded by this sector as illegitimate and anti-religious⁵⁷⁸. However, most recent data show that in the past three years there have been some 9,000 Hardei students in colleges and universities each year, including in law schools⁵⁷⁹.

The situation for other religious groups is, in many ways, different⁵⁸⁰. One of the most important of these is commonly referred to as **religious-Zionist Jews**. This group divides into many sub-groups, but can be generally described as successfully integrated into society, mainly thanks to its participation in military service, high numbers of academics, dominance in the labour force, and their visibility in the media and popular culture. Although not hostile to state institutions, some communities within this group treat the

⁵⁷⁵Israel Democracy Institute, “A Portrait of Israeli Jews: Beliefs, Observance and Values of Israeli Jews” (2012) https://en.idi.org.il/media/1351622/GuttmanAviChaiReport2012_EngFinal.pdf

⁵⁷⁶CBS Report *Measurement and Estimates of the Population of Ultra-Orthodox Jews* (March 2011); Gurovich and Cohen-Kastro (n.546)

⁵⁷⁷ Today more Haredim attend universities and colleges, some of which operate special degree programs for Haredi students. See: Assaf Malhi, Bezalel Cohen, Dan Kaufman, *Attitudes And Barriers In Relation To Higher Education Amongst The Hardei Community* (The Jerusalem Institute For Israel Studies 2008)

⁵⁷⁸ Yedidya Shtern “The Hardeim And The Law” (16.3.2016) http://www.idi.org.il/מפגשים-ומאמרים/haredi_and_law/

⁵⁷⁹ CBS "Higher Education in Israel - Selected Data for 2015/16 On the Occasion of the Beginning of the New Academic Year", p.7

⁵⁸⁰ This group is estimated to have 700,000 members, almost 15% of the Jewish population and 10% of the entire population in Israel.

court system with wariness, especially when the court is perceived as “too liberal” or secular, and when it deals with matters of state and religion. Given the claims about under-representation of religious Jews in the Israeli judiciary, this study will examine the level of religious observance of Jewish judges as one of the measures of judicial diversity.

4.6 Arabs

The Arab population in Israel consists of three main religious sub-groups: Muslims, Druze and Christians. There are 1.48 million **Muslims** in Israel (18% of the entire population) and they form the largest sub-group within the Arab group⁵⁸¹. This group has been experiencing internal transformations, mainly as a result of the collision between cultural tradition and modern daily life⁵⁸². The very low rate of women participating in the labour force (24%; lower than any other religious group) is an example of the somewhat conservative character of this group. In 2014-2015, only 7.3% of all recipients of academic degrees in Israel were Muslim, and law is not considered a popular field amongst them. The **Bedouins** are a sub-group of Muslims, but are distinguished in various ways, including their forms of residence, their religious rituals and their relations with the Israeli state (for example many Bedouins volunteer to do military service in the IDF⁵⁸³). In addition to high crime rates, tensions between religious and secular members, the Bedouin population is ranked last in the socio-economic rating in Israel, with high rates of unemployment and very low rates of higher or any education⁵⁸⁴, especially amongst women. Two recent appointments of Bedouins to senior positions in Israel (Professor Alian Al-Karnawi as President of an academic college in Israel, and Judge Nasir Abu-Taha as a District Court judge) were described as achievements that would hopefully enhance the advancement of this community⁵⁸⁵.

There are some 166,000 **Christians** in Israel (2% of the total population)⁵⁸⁶. The vast majority of them are Arabs (79%)⁵⁸⁷. Christian-Arabs have recently been reported as

⁵⁸¹ CBS “The Moslem Population in Israel” (n.510)

⁵⁸² The Knesset Research and Information Centre (2006) *Discrimination against Arabs in Employment and Workplace*.

⁵⁸³ Unlike Jews and Druze, Bedouins (and all other Arabs) are not obligated by law to serve in the army. However, as opposed to Muslims and Christian Arabs, a growing number of Bedouins do choose to undertake military service.

⁵⁸⁴ Bedouins in the State of Israel (Knesset, Lexicon of terms) at: http://knesset.gov.il/lexicon/eng/bedouim_eng.htm

⁵⁸⁵ Talila Neshet “For the first time in Israel: a Bedouin was appointed as president of an academic institute” *Haaretz* (19.6.2012) <http://www.haaretz.co.il/news/education/1.1735471>

⁵⁸⁶ CBS “Christians in Israel” (n.511).

⁵⁸⁷ The remainder are Christians that immigrated to Israel with their Jewish family relatives by virtue of the Law of Return, mostly during the 1990s in the immigration waves from the former Soviet Union.

having the highest success rates in matriculation examinations, both in the general population and amongst all Arabs⁵⁸⁸. Christians make up 2% of all students in academic institutions in Israel, and they are represented in law schools in similar numbers.

As of 2015, the **Druze** population in Israel was counted as totalling some 138,000 people (1.6% of the total population, and 8% of the Arab group)⁵⁸⁹. Their religion, inter-relations with the Arab world and identification with the Israeli state (including participation in military service) make this a unique group. In fact, the very inclusion of the Druze within the “Arab” group may be questionable. Nevertheless, there are similarities to other minority groups in Israel (for instance, low rate of labour force participation amongst Druze women), but also some unexpected figures: for instance, the representation of women amongst students for a bachelor’s degree in Israel is higher in the Druze group than in the Jewish one (64.1% compared with 57.5% respectively). Overall, their share of the total student population in academic institutions is in line with their representation in the population (1.5%) with only a small number studying law.

Relations between the Arab minority and the Jewish majority, as well as the political institutions of Israel (and the justice-system in particular) have been fragile over the years and were influenced by the Israel-Arab conflict and claims of inequality towards the Arab citizens of Israel⁵⁹⁰. Arabic is an official language in Israel, Arabs are represented in parliament and there is formal equality for all citizens. However, it is quite clear that state funds are not distributed equally between Jewish and Arab authorities⁵⁹¹, nor is equal opportunity given in the job market⁵⁹². Consequently, feelings of foreignness and distrust amongst the Arab population are high and have been strengthened by discrimination experienced in many aspects of life⁵⁹³.

In an attempt to eradicate discrimination with regard to employment, the Civil Service Law (Appointments) has been revised to include a stipulation that “appropriate representation” should be given to different sectors – including Arabs – when making appointments to governmental offices. Similarly, a Parliamentary Inquiry Committee was

⁵⁸⁸ CBS (n.511).

⁵⁸⁹ CBS “The Druze population of Israel (press release)” (24.4.2016)
http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201611119

⁵⁹⁰ Ron Shapira, ‘Time for Sulcha’ (2006) 48 *Hapraklit* 433, 447

⁵⁹¹ Barzilai (n.523) 97-147.

⁵⁹² The Knesset Research and Information Centre (2002) *The Judicial Treatment Of Groups In The Population*

⁵⁹³ The Knesset, *Discrimination Against Arabs* (n582)

established⁵⁹⁴, as well as “The Authority for the Economic Development of the Arab, Druze and Circassian Sectors”, in order to maximize the economic potential of these communities⁵⁹⁵. In the judicial context, one justice of the Supreme Court is an Arab (Salim Joubran) and an Arab representative was elected for the first time in 2011 as the Bar's representative to the Judicial Nominations Committee⁵⁹⁶. The Arab group in Israel is very dynamic and a key factor for judicial diversity in Israel, and is investigated in detail in this thesis.

4.7 Gender

In 2014, there were 3,042,900 women over 15 years of age in Israel, slightly more than men⁵⁹⁷. The average number of live births for Israeli women is three, significantly higher than in other OECD countries (1.71). The percentage of women participating in the labour force amounts to 59.1% (comparing to 69.3% for men)⁵⁹⁸. Since the establishment of the state and by virtue of the declaration of independence, women formally enjoy all rights and share most of the same duties as men (including military service for Jewish women). Yet, as with many other democracies, this formal equality does not always materialize into actual equality. Some of the most important milestones in the battle for gender equality in Israel have occurred in the H CJ, with defining cases relating to equal representation for women in government corporations, the right of women to be elected to religion departments in local councils, and women's right to serve as combat pilots in the IDF.⁵⁹⁹

The last decade has witnessed a significant rise in the number of employed professional women in Israel with an academic background, as well as in the number of women in management positions. However, women still dominate “traditional” fields of occupation, mainly education, health, welfare and nursing, which are characterized by a relatively low wage. There is also a significant gender pay gap, which exceeds 30%. In higher education institutions, 56.7% of all students are women, and they constitute more

⁵⁹⁴“Parliamentary Inquiry Committee on the Integration of Arab Employees in the Public Sector”

http://www.knesset.gov.il/committees/eng/ParInqCommittees_eng.asp

⁵⁹⁵Prime Minister's Office

<http://www.pmo.gov.il/English/PrimeMinistersOffice/DivisionsAndAuthorities/Pages/AuthorityfortheEconomicDevelopment.aspx>

⁵⁹⁶ Adv. Khaled Zoabi

⁵⁹⁷ CBS “International Women's Day 2016” (6.3.2016)

http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201611055

⁵⁹⁸For secular Jewish women, the numbers are even higher and show 80% participation rate, compared to only 28% amongst Arab women.

⁵⁹⁹ Barak-Erez (n.45) 40-47. Israel is the only country in the world to apply compulsory conscription in the army to women.

than half of the graduates with second and third degrees in Israel⁶⁰⁰. Of law students, the numbers of women and men are equally distributed. According to recent publications, women constitute 46% of all Israeli lawyers. The issue of female representation in the Israeli judiciary will be a key focus of this study.

This chapter provided key background information on the demographics of Israeli society. This information is critical to any assessment of the extent to which the Israeli judiciary, legal profession and law students reflect the complex make up of Israel's society. It also forms the background to understanding the approach and methods used in this study to analyse judicial and legal diversity in Israel, which is set out in the following chapter.

⁶⁰⁰ CBS 'Israel Compared to OECD Countries Selected Data from the publication' Society in Israel No. 2" http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=200923233. Again, numbers are even higher in the Arab sector – 67% of all Arab students are women.

CHAPTER 5: RESEARCH METHODS

This chapter explains the research methods and analytical approach that were used in the empirical designs of this study. It is divided in two parts. The first part outlines how the empirical analysis mapping the current state of judicial diversity in Israel was carried out, the second part outlines how the two surveys with Israeli lawyers and law students (the “pool” for judicial appointments) were conducted and analysed.

Part One: Mapping Judicial Diversity in Israel

5.1 Research approach

A key aim of this thesis is to produce an extensive, up-to-date profile of the composition of the Israeli judiciary. It does so by collecting and analysing information on the background characteristics of judges in all courts in Israel’s General Courts system⁶⁰¹, using a range of measures and variables that represent the key socio-demographic features of Israel’s population. Over the years, presumptions, claims and speculations about the extent to which the judiciary in Israel is representative of Israeli society have been made. Some claims were supported by limited evidence (e.g. regarding the number of women or Arabs in courts), but most claims about the diversity of the Israeli judiciary have not been substantiated by reliable empirical evidence. This is due in part to the lack of official data on either the judiciary or the “pool” from which judges are usually selected (Israeli lawyers). Also, the few previous studies on this issue have focussed only on the Israeli Supreme Court, excluding the rest of the court system. There are over 700 judges in the Israeli judiciary, and the Supreme Court’s 15 justices make up only 2% of the entire judiciary. A reliable picture of the state of judicial diversity in Israel, therefore, requires an assessment of diversity across the entire judiciary.

Based on the unique characteristics of Israeli society and the claims about the lack of diversity in the judiciary, it was decided to focus on two main topics. The first is **representation**, i.e. the extent to which certain population groups and sectors are represented in the current composition of Israeli judges. The second theme is **progression**, i.e. the extent to which different groups manage to attain offices in various courts, positions and seniority levels in the Israeli judiciary.

⁶⁰¹ For details about courts that are not included in this research see “Research Population” below

Two obvious variables to examine in Israel are **religion and ethnicity**. It is important to note the way this study handled ethnicity and religion, concepts that sometimes overlap in the discourse about Israeli society. As previously reviewed, Israeli society is characterised by ethnic, religious and nationality-related conflicts. A pivotal one is the relationship between the Jewish majority and the Arab minority in Israel. In this context, there are several complexities when trying to statistically examine them because some of the definitions are either ambiguous or controversial. For example, Judaism, in the Israeli context, is considered both a religion and nationality (as distinct from citizenship, which is “Israeli”)⁶⁰². Therefore, when examining population trends in Israel, Jews can be compared to other nationalities (e.g. Arabs) but also to other religious groups (e.g. Muslims, Christians). Furthermore, sub-groups within the Jewish majority (that differ in level of religious observance, ethnic origins etc.) as well as within the Arab minority (which is divided by both religion and nationality factors) require careful consideration.

Therefore, when talking about ethnicity and nationality in this study, it includes the distinction between Jews and Arabs (Christian, Muslim and Druze) as well as the distinctions between different Jewish ethnic groups. The latter specifically relate to the claims about over-representation of Ashkenazi Jews amongst judges compared with Sephardic Jews and members of recent Jewish migration communities (Ethiopian Jews and former USSR Jews that immigrated to Israel in the early 1990s). Another source of tension in society, which gave rise to claims about the lack of judicial diversity, is the representation of religious and ultra-Orthodox Jews in the judiciary.

Gender has also been a main factor in the discussion about judicial diversity in Israel, and one of the only factors about which some reliable data have been published⁶⁰³. Although the number of women in the judiciary has increased in recent years, it is questionable whether women progress to higher courts and senior positions in the courts system as often as their male colleagues.

⁶⁰² The Israeli authorities have traditionally separated citizenship (i.e. ‘Israeli’) from nationality and religious/ethnic categories. The separation and definition have become an important arena for legal, social and public debate. Ruth E Gavison, *The Law of Return at Sixty Years: History, Ideology, Justification* (Metzilah Center 2011); Yedidia Stern, “There Is No Israeli Nationality” (2014) 22 *The Lawyer* 60-61; the latest decision of the Supreme Court in this matter affirmed the differences between nationality, religion and citizenship: CA 8573/08 *Uzi Ornan et al. v. The Minister of Interior et al.*, (2.10.2013).

⁶⁰³ E.g. Shetreet (n.6); Katvan (n498)

Professional and academic background have been claimed to have an important effect on nominations and promotion of judges. There is some evidence to indicate that substantial numbers of judges were state prosecutors or advocates in the court system prior to being appointed to the judiciary and this has resulted in a homogeneous make-up of the judiciary⁶⁰⁴. A similar claim is that Israeli judges are mostly graduates of two leading universities⁶⁰⁵. This research, therefore, examines the legal education of current judges⁶⁰⁶. Finally, claims about nepotism in the Israeli judiciary are assessed by examining the number of judges with family ties to other judges⁶⁰⁷.

5.2 Research questions

In relation to these factors, this study attempted to answer the following questions:

Ethnic and religious backgrounds of judges:

- 1) Are Ashkenazi Jews over-represented in the judiciary? What is the proportion of Sephardic Jews and recent Jewish immigrants in the judiciary?
- 2) What is the proportion of non-Jews amongst Israeli judges? Are Arabs under-represented in the judiciary? Are there any differences between different religious groups within the Arab minority? (e.g. Christians, Muslims).
- 3) What is the proportion of religious and Orthodox Jews amongst judges?

Representation and progression of women and ethnic groups in the judiciary:

- 4) Are women and men equally represented in the judiciary?
- 5) Are women and certain ethnic groups (e.g. Arabs) concentrated in lower judicial positions, and/or in courts that are considered less prestigious?
- 6) To what extent do women and ethnic minorities manage to attain senior positions in the judiciary?
- 7) Are female judges concentrated in specific courts?

⁶⁰⁴ Yuval Yoaz "When the Judge Is a Former Prosecutor, No Wonder There Are Hardly Any Acquittals" *Haaretz* (29.10.2007) <http://www.haaretz.co.il/misc/1.1453591>, according to which a fifth of all judges worked for the State Advocacy prior to being appointed; Shachar, "On the Structure of the Supreme Court (n52) 406; Friedman (n39) 199.

⁶⁰⁵ These claims mostly focused on the Israeli Supreme Court. Salzberger, "The Israeli Supreme Court at 50 years" (n.441) 153; Shachar (n.52) 407

⁶⁰⁶ Given that colleges only opened law schools in the mid-1990s, judges drawn from this pool are more likely to have been appointed fairly recently and could therefore be expected to be seen more often in lower courts.

⁶⁰⁷ Ma'anit (n316) reviews several examples of judicial appointment of family relatives and the public criticism that followed; based on this the Nominations Committee recently set strict rules regarding the appointment of relatives. For more details, see chapter 2.

Professional, educational and family background of serving judges:

- 8) Are most judges graduates of Hebrew University and Tel-Aviv University?
- 9) How many judges graduated from Israeli law colleges?
- 10) What proportion of judges come from the private sector?
- 11) Are lawyers from the courts system or the State Attorney over-represented in the judiciary?
- 12) How many judges have family ties to the judiciary?

Data were also collected on a wide range of additional variables, including judges' non-legal education, age and number of years in the legal profession prior to appointment.

5.3 Methodology

Data Sources

Practical difficulties emerge when trying to conduct research on judges in Israel, mainly because of three factors: the lack of previous research; the fact that the judicial system either does not collect and/or publish official data on judges' backgrounds⁶⁰⁸; and the reluctance of officials (including judges) to publically address the diversity issue.

Conducting interviews with or administering questionnaires to a sample of judges would be a credible approach to gather evidence on their demographic background, or their attitudes towards various issues. However, surveying sitting judges is usually not feasible in Israel⁶⁰⁹, since judges rarely participate in academic research. Moreover, because this research aims to provide a full picture of diversity in the Israeli judiciary, interviews with a selection of judges could not provide a clear picture of the actual state of diversity in the court system. Therefore, data on judges for this thesis had to be obtained through the biographical information (curriculum vitae) of sitting judges provided on the official website of the Judicial Authority (the Webpage)⁶¹⁰. The Webpage was used as the primary data source for this part of the research; it is the official resource for judges' CVs, it provides a range of information about Israeli judges and it is updated frequently.

⁶⁰⁸ It is also the case that even in jurisdictions such as England and Wales where official statistics are published, ethnicity is not always straightforward because there can sometimes be a relatively high level of unknown ethnicity. See, for example, *Judicial Diversity Statistics 2016: Judicial Office Statistics Bulletin* (2016); Rackley, *Women, Judging and the Judiciary* (n.127) 10.

⁶⁰⁹ Chapter 4 presented two relatively recent publications that involved anonymous interviews with retired and, in very few cases, serving judges.

⁶¹⁰ <http://www.court.gov.il/heb/home.htm>

There are, however, several limitations to the data available on the Webpage. First, CV data are not consistent for all judges, with some judges revealing more information on their CVs than others⁶¹¹. In an official response to an inquiry made by the author, the supervisor of the Freedom of Information Act in the Israeli courts system asserted that the outline of judges' CVs is generally similar but not necessarily identical⁶¹². Second, the CVs do not explicitly cover some variables that are key to the examination of judicial diversity in Israel; in particular, judges do not explicitly disclose their ethnicity, nationality and level of religious observance. Thus, for instance, no Arab judges directly state they are Arab or what religious group they relate to, and Jewish judges do not affiliate themselves with an ethnic group (Eda).

It became clear that some data would need to be collected either by deduction from the CVs⁶¹³ or obtained elsewhere. Therefore, multiple publically available sources of information on judges were also used to collect data not specified in the CVs (covered in more detail below). These complementary sources included secondary analysis reports⁶¹⁴, media publications around appointments of judges or meetings of the Nominations Committee⁶¹⁵ and manual web searches in designated websites⁶¹⁶. Despite this, in some cases information remained unavailable.

Research population and sampling

The immediate research population for this study should logically be all serving judges in Israel. However, there are various types of judges across different courts and even within the same court, and (as discussed in Chapter 2) Specialised Religious, Military and

⁶¹¹ For instance, compare between these two profiles of judges:

(http://elyon1.court.gov.il/heb/cv/fe_html_out/judges/k_hayim/208153958.htm)

(http://elyon1.court.gov.il/heb/cv/fe_html_out/judges/k_hayim/163238942.htm).

⁶¹² Pers. Comm (20.10.2014). According to the letter, this is the format for judges' CVs: "born in...arrived at Israel in... high school...military service, academic studies, internship, legal qualification, professional legal experience, date of appointment, and sometimes there is information about professional literature the judge has written. CVs of retired judges, however, are not presented according to a set format, and some information about them is missing. The courts system sees great importance [in the issue of judges' CVs on the website] and is working regularly to complete the missing data".

⁶¹³ Gazal-Ayal and Sulitzeanu-Kenan (n429) 18. The researchers were convinced that the ethnic identification of judges based on the information on the Webpage was "highly reliable", but when in doubt they had to "contact people who knew the judge in question".

⁶¹⁴ The Israeli Courts System (2010) *Semi-annual Report*; Oz Almog, Sharon Hornstein "Patterns of Law, Justice and Delinquency among Israeli Arabs" *People- Israel: Your Guide to Israeli Society* (Samuel Neaman Institute for Advanced Studies in Science and Technology)

<http://www.peopleil.org/ArticleFiles/7819/7819.pdf>; for 2008: 6.9%; the Sikkuy report (n.409).

⁶¹⁵ Some media reports include valuable information on the backgrounds of judges. See for example Hen Ma'anit, "Kaboub is aspiring to reach the high court" *Globes* (20.3.2016)

<http://www.globes.co.il/news/article.aspx?did=1001111403>. But there will always a reliability issue to consider with media reports.

⁶¹⁶ For instance, "Beit Hatfutsot, the Museum of the Jewish People" (<http://www.bh.org.il/>).

Labour Courts operate alongside the General Courts system. There are similarities and differences in the appointment procedure, selection criteria, legal background and diversity of judges between the General Courts and Specialised Courts.

The research includes all judges in the General Courts system, the main court system with the largest number of judges and widest jurisdiction. To determine which judges and courts outside the General Courts system should also be included in this research, the following criteria were considered:

- 1) legislation that governs court administration and conduct;
- 2) procedure for appointing judges and their eligibility criteria;
- 3) appointing body and the selection committee;
- 4) composition of the court;
- 5) availability of data on the judges.

Based on this, the study encompasses:

- All judges in the General Law Courts of Israel: the Supreme Court, District Courts and Magistrates Courts (including their special jurisdiction, e.g. family courts),
- All judges in Labour Courts (one national and five regional courts),
- All registrars in the abovementioned courts.

Although Labour Courts are part of the Specialized Court system and have a unique jurisdiction, they form an integral part of the judicial system, and their judges' CVs appear on the same Webpage along with judges from the General Courts. Registrars are an important component of the Israeli judiciary and serve in all courts in the General Courts system as well as Labour Courts. They are appointed by the Chief Justice with the approval of the MoJ, and must meet the appointment criteria for Magistrate's Courts judges⁶¹⁷. In Magistrate's Courts, there are also senior registrars who are appointed by the Judicial Nominations Committee⁶¹⁸. In some cases, individuals can be both judges and registrars (e.g. a registrar of the Supreme Court and a Magistrate's Court judge), and many judges serve as registrars before being appointed to the judiciary. The Webpage includes registrars and judges (including Labour Court judges) on the CV page⁶¹⁹.

⁶¹⁷ The Courts Law, s.84

⁶¹⁸ The Courts Law, s.84a(a)(1)

⁶¹⁹ However, some judicial reports tend to differentiate between judges and registrars, or omit registrars from the general count of judges.

The study does not include: Religious Courts; Military Courts; the Authority for Enforcement and Collection⁶²⁰ and other specialised ex-judicial tribunals⁶²¹. This is mainly because those courts have separate management systems and legislation governing their operation and jurisdiction, as well as a distinct appointment procedure⁶²² and eligibility criteria⁶²³.

The next step was to quantify the number of judges in each court comprising the research population. The judiciary is a dynamic system in which judges are promoted, appointed or retire during the year. Therefore, the total number of judges fluctuates during different times in any one year. Reports are published sporadically, but with inconsistencies. In this research, in order to avoid inaccuracies, judges that appeared on the CV webpage were used as the research population (and sampling frame), and the number of posted biographies was used as the total number of judges. A judge that serves in two courts was counted only once⁶²⁴. As Table 4 shows, the number of judges with CVs on the judiciary webpage in November 2015 almost entirely matches the number of judges in the judiciary's 2015 annual report⁶²⁵.

⁶²⁰ This authority is separated from the General Courts system. It only has registrars, who are appointed by a different committee (**Appendix 1**). This excludes the registrars of the Authority from this research; however, they may need to be considered in future research (see Chapter 9).

⁶²¹ Including disciplinary tribunals in the civil service and dozens of appeals committees and quasi-judicial hearings between the citizens and public authorities (Shetreet (n.6)).

⁶²² Shetreet (n.6) 131.

⁶²³ Religious courts rely on religious laws, have almost only men as judges, do not require legal education, etc. Regulations for Rabbinical Judges (Training Conditions and Arrangements), 1955 (s.1). Similarly, because of the religious and ethnic composition of the population of army personnel, it is plausible to assume that almost all military judges are Jewish. In addition, information about judges from special courts (except for Labour Courts) cannot be found on the Webpage or elsewhere, which makes them almost impossible to investigate independently.

⁶²⁴ The assignment of these judges to courts was according to their permanent position. For example, judges that were permanently in Magistrate's Courts, but in a temporary position as registrars in District Courts were counted as 'judges' in 'Magistrate' Courts for the purpose of this study. The judicial post was considered the default position.

⁶²⁵ *The Israeli Judiciary- 2015* (<http://elyon1.court.gov.il/heb/haba/dochot/doc/shnati2015.pdf>). The data are of 31.12.2015. This report includes judges from the Supreme Court, District Courts, Magistrates Courts and Labour Courts, i.e. exactly the same courts included in this study.

Table 4: Estimated number of judges and registrars in Israel

Source	Judges	Registrars	Total
This study (based on CVs) (November 2015)	652	73	725
The Judiciary's Annual Report 2015	666	61	727

At the time of this research, 725 presiding judges were listed on the official CV Webpage and data on all of them were collected. Thus, all judges from the Supreme Court, District Courts, Magistrates' Courts and Labour Courts were included⁶²⁶, as seen in Table 5 below.

Table 5. Research population based on the structure of the Israeli Judiciary

Division		Number of judges and registrars ⁶²⁷	% of the total research population
Supreme Court		17	2.3%
District Courts		180	24.8%
Magistrates' courts	Magistrates' - general	343	47.3%
	Family	65	9%
	Traffic	28	3.9%
	Juvenile	16	2.2%
	Total Magistrates'	452	62.3%
Labour Courts	National Labour court	10	1.4%
	Regional Labour courts	64	8.8%
	Total Labour	74	10.2%
Courts Management⁶²⁸		2	0.3%
Total		725	100%

⁶²⁶ A previous version of this study by the author from 2010, which is referred to in specific places in this thesis, applied a stratified random sampling method to Magistrate's Courts (and sampled 40% of all judges in this court). At that time 474 judges (67%) of the entire Israeli judiciary were analysed.

⁶²⁷ The term 'judge' in this table and this chapter refers to the total number of judges and registrars in all seniority levels. When the difference between the various positions is meaningful, they are referred to distinctively.

⁶²⁸ Given the very small number of judges in the courts management, they are not referred to in the rest of this thesis, as they are marginal to the analysis.

Operationalization of “diversity”

In empirical legal research, operationalizing concepts and evaluating the measures taken by validity, reliability, etc., is not simple⁶²⁹. Diversity in the judicial context can mean many things, and many variables are key to the characterisation of Israeli judges. However, previous studies tended to focus on a few core variables (gender, ethnicity, race⁶³⁰, educational background and professional experience). Specifically, it has been argued that analysis of the success of ethnic minorities and women to attain judicial positions should include a wider range of variables in order to point to factors that are influential on their appointment chances⁶³¹. Hence, it is important not just to look at ethnicity and gender but also to examine a wider range of variables and their possible interaction with ethnicity and gender, in order to assess the representation of different groups in the judiciary.

Because this research aims to create the first extensive profile of the Israeli judiciary, an expansive approach was applied and data on as many variables as possible were gathered. The importance of collecting as much data as resources and time allow has been highlighted in empirical legal research generally⁶³², and it is especially relevant to this research as it is attempting to create a new detailed database for analysing judicial diversity in Israel. In addition to the obvious variables of gender, age, ethnicity, etc., this study also included data on military service, professional experience, place of internship, non-legal academic degrees, and place of birth outside of Israel. Overall, data on 25 variables were collected (Table 6), including variables and courts that have been overlooked in previous research. As mentioned in section 1.4 above, some variables that are relevant to the judicial diversity debate in other jurisdictions, such as sexual orientation, political outlook or social class, were not examined in this thesis, because they are either less relevant to the characteristics of Israeli society or not commonly mentioned in the context of lack of diversity in the Israeli judiciary.

⁶²⁹ Lee Epstein and Andrew D. Martin, ‘Quantitative Approaches To Empirical Legal Research’ in Peter Cane and Herbert M. Kritzer (eds), *The Oxford Handbook of Empirical Legal Research* (OUP 2010) 908

⁶³⁰ As mentioned earlier, some concepts regarding population groups might overlap. Jewish, for example, refers to both religion and nationality, and there are also various ethnic groups within the Jewish sector. “Ethnicity” might therefore refer to the differences between Arabs and Jews, but also describe the various ethnic groups in the Jewish community. This study attempted to differentiate between the concepts as much as possible to avoid misunderstandings.

⁶³¹ Thomas (n5) 5

⁶³² “basing inferences on more data rather than less is always preferable” (Epstein and Martin (n629) 910)

Table 6. Background Characteristics of Presiding Judges –Variables and tactics to obtain information

	Variable and categories	How was the information obtained?	
1.	Name	Directly from CV	
2.	Gender		
3.	Date of birth		
4.	Division (current position)		
5.	District (current position)		
6.	Current position in court (e.g. judge, registrar)		
7.	Nationality/Ethnicity (i.e. Jewish, Arabic)	Indirect	Name Media reports
8.	Religion (e.g. Jewish, Muslim, Christian etc.)	Indirect	Name Secondary education Media reports Military service
9.	Level of religiosity (e.g. Orthodox)	Indirect	Secondary education Appearance and religious symbols Media reports
10.	Jewish Ethnic group (i.e. Sephardic/Ashkenazi etc.)	Indirect	Surname Country of birth other than Israel Media reports
11.	LL.B. (including the type and name of academic institution if the degree was obtained in Israel).	Directly from CV	
12.	LL.M. (including the type and name of academic institution if the degree was obtained in Israel)	Directly from CV	
13.	PhD (if in Laws)		

14.	Place of Internship I	Directly from CV	
15.	Place of Internship II (where applicable) ⁶³³		
16.	Place of Internship III (where applicable)		
17.	Military service/ National Service		
18.	Professional legal experience prior to judicial appointment		
19.	Years of practice before first judicial appointment (based on year of admission to the Bar and date of first appointment to the judiciary)		
20.	Date of appointment to current position		
21.	Non-legal education – undergraduate		
22.	Non-legal education – graduate		
23.	Place of birth other than Israel		
24.	Known family ties to other judges		The judiciary's Webpage ⁶³⁴
25.	Other		Directly from CV

⁶³³ Until 1994, the compulsory internship duration was two years and it was customary to divide the period between two separate offices (e.g. a court during the first year, and a private firm in the second); therefore older judges would be more likely to list two places of internship, and accordingly younger judges will have usually interned in one place.

⁶³⁴ <http://elyon1.court.gov.il/heb/rashut/family.htm>

Cross –referencing and data validation

Whilst the majority of variables are straightforward and could be gathered from the judges' CVs, the CVs did not reveal information on every variable, and some variables were more problematic to assess. The website does not directly provide data on the following:

- **Nationality** (there is no explicit differentiation between Jews, Arabs and others);
- **Ethnicity** (for Jews, clearly determining the Jewish ethnic origin; for Arabs, differentiating between Druze, Christian, Bedouin and Muslim);
- **Religion and religiosity** (judges refrain from clearly stating their religious attribution or level of observance).

Furthermore, this information is not released to the public regularly (or at all) and cannot be verified directly with judges themselves. It was therefore necessary to look for alternative means of assessing these factors. The approach chosen was to examine:

- Further background information available in the CV (surname, place of birth, educational background, etc.)
- External religious or ethnic symbols or characteristics if available in judges' photos (e.g. head cover, skullcap).
- Further examination of additional external resources

Nationality, i.e. the distinction between Jews and Arabs, was normally determined by the forename and surname of judges. This was, overall, straightforward; however, in very few cases of judges with names that may be either Jewish or Arab, advanced measures had to be applied. This included, for example, categorizing judges based on their educational background (e.g. attended an Arabic-speaking high school) or residential environment in the past (if provided)⁶³⁵. A similar approach was used in previous studies in Israel of defendants⁶³⁶ and judges⁶³⁷, where the researchers did not have access to

⁶³⁵ The classification of judges by place of residence was done based on common knowledge, and/or the CBS data about composition of localities by population groups. See for example: CBS, Statistical Abstract of Israel 2015, "Table 2.16 localities (1) and population, by district, sub-district, religion and population group".

⁶³⁶ Rahav and others, "Disparities between Jews and Arabs in the Criminal Law System" (n426).

⁶³⁷ Gazal-Ayal and Sulitzeanu-Kenan (n429) 18. In this study, judges were classified as Arabs or Jews based on their names and biographic information on the Court System's website. However, when they were unsure, the authors verified judges' ethnic identity by contacting people who knew the judge in question.

official data on nationality and differentiated between Jews and Arabs by their surname and place of residence.

The distribution of judges to different **religious groups** was mainly relevant to the various sub-groups within the Arab minority. The distinction was complicated, as Druze, Muslim (including Bedouin) and Christian Arabs often have similar names. However, some sub-groups have their own distinct residential communities, educational institutions and sometimes names (e.g. an Arab judge named Mohammed is most likely a Muslim)⁶³⁸. Additionally, information about military service can also assist in differentiating between members of the Arab community: any Arab judge that mentions their military service in their CV is highly likely to be Druze (or, more rarely, Bedouin)⁶³⁹. External web resources were used as cross-referencing and data validation tools to finalise the categorization, or in cases where the information on the CV was not enough to determine the religious group⁶⁴⁰. If the data could not be validated, however, the judge was classified as “Arab-other”.

There are many claims about lack of representation of religious Jews in the judiciary⁶⁴¹. In order to ascertain **level of religiosity** amongst Jewish judges, a combination of two components was used. First, the judge’s photo was useful in some cases to identify judges’ religious background based on their appearance⁶⁴². For example, Jewish religious men usually wear a Yarmulke (skullcap)⁶⁴³, and women wear some form of a head cover; therefore judges who clearly appeared to have worn these in their official photo were classified as ‘religious’. Second, inferences were drawn from other details that judges provided. For example, male judges that disclosed they were educated in Jewish religious institutes in their childhood or attended a *Hesder Yeshiva* (a program combining military service with Torah studies) are likely to be religious or observing Jews. For female judges, an *Ulpana* (an educational institution for religious girls) and national service (rather than

⁶³⁸ Oz Almog "Forenames in the Israeli Arab community" (20.4.2009) *People- Your Guide to Israeli Society* (<http://www.peopleil.org/details.aspx?itemID=7858>).

⁶³⁹ Out of the Arab minority, only those groups which volunteer (Bedouin) or are drafted into military service.

⁶⁴⁰ For example, “The First Bedouin Judge to Be Appointed to a District Court” *Channel 2 News* (25.11.2011) <http://www.mako.co.il/news-law/legal/Article-2a9ed0873fad331017.htm>; Sikkuy Report, (n 409).

⁶⁴¹ There were no claims about under-representation of observant judges of different religions.

⁶⁴² As long as the photo provided was of decent quality.

⁶⁴³ Religious and orthodox Jewish men usually grow long beards, but that is not necessarily unique to them as some secular judges also have long beards. Therefore, the beard was only a strengthening indication in cases where the judge had other religious indications.

military service) may also be evidence of religious observance⁶⁴⁴. External data resources such as media reports were also used (mostly relevant to senior judges who attract media attention). However, in light of the difficulties of ascertaining the level of religious observance with a high level of confidence, an auxiliary category was created to include those judges with religious background that did not have clear outward signs and could not be safely referred to as “religious”. Thus, the 3 categories for religiousness were: religious, with religious background and Jewish without sign of religiousness. The latter included all judges without visible indication of observance, without information regarding religious educational background, or where external data could not establish their religiousness.

One of the most difficult variables to identify was the **ethnic origin** of Jewish judges. The traditional distinction between different Jewish ethnic groups (‘Eda’) is made by country of birth of either the person in question or their father. Table 7 shows one common way of classifying Jewish ethnicity by country of birth.

⁶⁴⁴ This method is of course not straightforward and poses some difficulties. For instance, not all religious men wear Yarmulke, not all women wear head cover, though they might still define themselves as religious. In addition, some judges seem to have practiced their religion in the past (as children and adolescents) according to their biographies, but do not seem to do so today.

Table 7. Categorization of Jewish ethnicity by country of birth

Country	Categorised in this research as:
Afghanistan	Sephardic
Algeria	Sephardic
Argentina	Ashkenazi
Armenia	Ashkenazi
Australia	Ashkenazi
Austria	Ashkenazi
Azerbaijan	USSR*
Bahamas	Ashkenazi
Belarus	USSR
Belgium	Ashkenazi
Brazil	Ashkenazi
Bulgaria	Sephardic
Britain	Ashkenazi
Canada	Ashkenazi
Chile	Ashkenazi
China	Sephardic
Colombia	Ashkenazi
Czech Republic	Ashkenazi
Denmark	Ashkenazi
Egypt	Sephardic
Ethiopia	Ethiopian
France	Ashkenazi**
Georgia	USSR*
Germany	Ashkenazi
Greece	Sephardic**
Hungary	Ashkenazi
India	Sephardic
Iran	Sephardic
Iraq	Sephardic
Israel	Sabra
Italy	Ashkenazi**
Kirgizstan	USSR*
Latvia	Ashkenazi
Lebanon	Sephardic
Libya	Sephardic
Lithuania	Ashkenazi
Mexico	Ashkenazi
Moldova	Ashkenazi
Morocco	Sephardic
Netherlands	Ashkenazi
Norway	Ashkenazi

Poland	Ashkenazi
Romania	Ashkenazi
Russia	USSR
Seychelles	Sephardic**
Slovakia	Ashkenazi
South Africa	Ashkenazi
Spain	Sephardic
Sweden	Ashkenazi
Switzerland	Ashkenazi
Syria	Sephardic
Tunisia	Sephardic
Turkey	Sephardic
UK	Ashkenazi
Ukraine	USSR
Uruguay	Ashkenazi
USA	Ashkenazi
Uzbekistan	USSR*
Yemen	Sephardic
Zimbabwe	Ashkenazi

* Muslim states of the former USSR are categorized in this research in line with the CBS definitions as USSR or Ashkenazi although Jewish immigrants from these countries are commonly viewed as Sephardic/ Mizrahi.

** The named category applied in this study is commonly used but not exclusive. Thus, for example, Jews born in France can be either Ashkenazi or Sephardic, depending on their origin.

Overall, it is agreed that Jews from Europe, North America and the former USSR are considered Ashkenazi, while Jews from North Africa, the Middle East and Asia are Sephardic or Mizrahi (i.e. Eastern). Jews who were born in Israel to an Israeli-born father are defined as Sabra (i.e. Israeli-born without distinct ethnicity). However, there is a lack of official data on the distribution of Israel-born Jews to various ethnic groups. The CBS collects data on Jews' origin, and analyses the data by dividing Jews by continent of origin (Europe-America, Africa and Asia⁶⁴⁵) but does not use the terms Ashkenazi or Sephardic. Oddly enough, official bodies in Israel do not consistently collect information on the ethnicity of Jews, even though they have data about population groups, religion, gender, etc. For various reasons, as Israeli scholars have noted, Jewish-ethnicity is perceived by official bodies as a non-issue despite its significant presence in the public debate⁶⁴⁶. This approach results in inconsistent data about Jewish ethnicity, and presents challenges to examining the background of judges (as well as lawyers and law students) against the general population.

Neither the CBS approach nor the division in Table 7 are exclusive and unequivocal. There are countries or areas for which the classification is less clear. For example, Jews from Greece, the Balkans and from the Muslim countries of the former USSR are regarded as Sephardic by some and as Ashkenazi by others. Jews from France, North and South America are likely to be Ashkenazi but may also be immigrants from middle-eastern countries, which would normally classify them as Sephardic. Ethiopian Jews that have immigrated to Israel during the 1980s and 1990s are a distinct ethnic group (Eda).

In addition, the official classifications do not reflect the growing rate of ethnic intermarriages between Jews in Israel, even though it is estimated that 1 in 5 Jewish Israelis is born to a family of mixed ethnic origin (multi-ethnic)⁶⁴⁷. Because the CBS classification (by father) does not consider the mother's ethnic origin when determining the Eda, the concept of multi-ethnicity is not found in CBS publications. Moreover, collecting data on father's country of birth but not on grandfather's raises a problem when investigating ethnicity of those who were born in Israel and according to official

⁶⁴⁵ In most of its analyses, it refers to Jews' continent of origin according to the following rule of thumb: for persons born in Israel it displays their father's continent of birth, for persons born abroad it shows their own continent of birth. CBS *Israel Abstract*, 2015, table 2.6 "Jews, by continent of origin, sex and age".

⁶⁴⁶ Biton (n457); Blechmen (n558); in private email correspondence, a CBS official mentioned that Jewish ethnicity is no longer considered an important issue; hence, the CBS does not collect data on the ethnic origin anymore (see more details in chapter 4).

⁶⁴⁷ Sagiv, '*Israelis of Mixed Ethnicity*' (n.535)15; Barbara S. Okun and Orna Khait-Marely, "The impact Of Intermarriage on Ethnic Stratification: Jews in Israel" (2010) 28 *Research in Social Stratification and Mobility* 375-394.

publications are categorised as Sabra, disconnected from the common ethnic categories. Jews who were born in Israel now form the majority of Israeli habitants, yet their ethnic origin is not acknowledged by the CBS's definitions⁶⁴⁸. Thus, self-definition is necessary, especially in light of intermarriages; but without direct access to judges to allow them to self-identify their ethnic origins, it is impossible to obtain self-definitions.

The Approach to data collection in complex variables and its possible limitations

As clearly evident from the above sections about the operationalization of diversity in this research and data validation tactics (including in Table 6), some diversity variables were harder than orders to collect data on. This research adopted an expansive definition of diversity, despite the lack of published data on some of the aspects relating to judicial diversity. Although it is believed that such an expansive approach is essential- perhaps inevitable- in a study that aims to create, for the first time, a profile of the Israeli judiciary, it nonetheless has limitations that need to be considered and understood.

As shown in Table 6, twelve diversity variables were directly available from the CV's and the data on them are considered **highly reliable**: name, gender, date of birth (when provided), the division and district of the current judicial position, the judge's legal and non-legal higher education, the professional background, military service, years of practice prior to the first appointment to the judiciary and the country of birth. Other variables- mainly nationality and religion- were not directly available from the CV's but could be verified and cross-examined with other sources and can therefore be considered **reliable**.

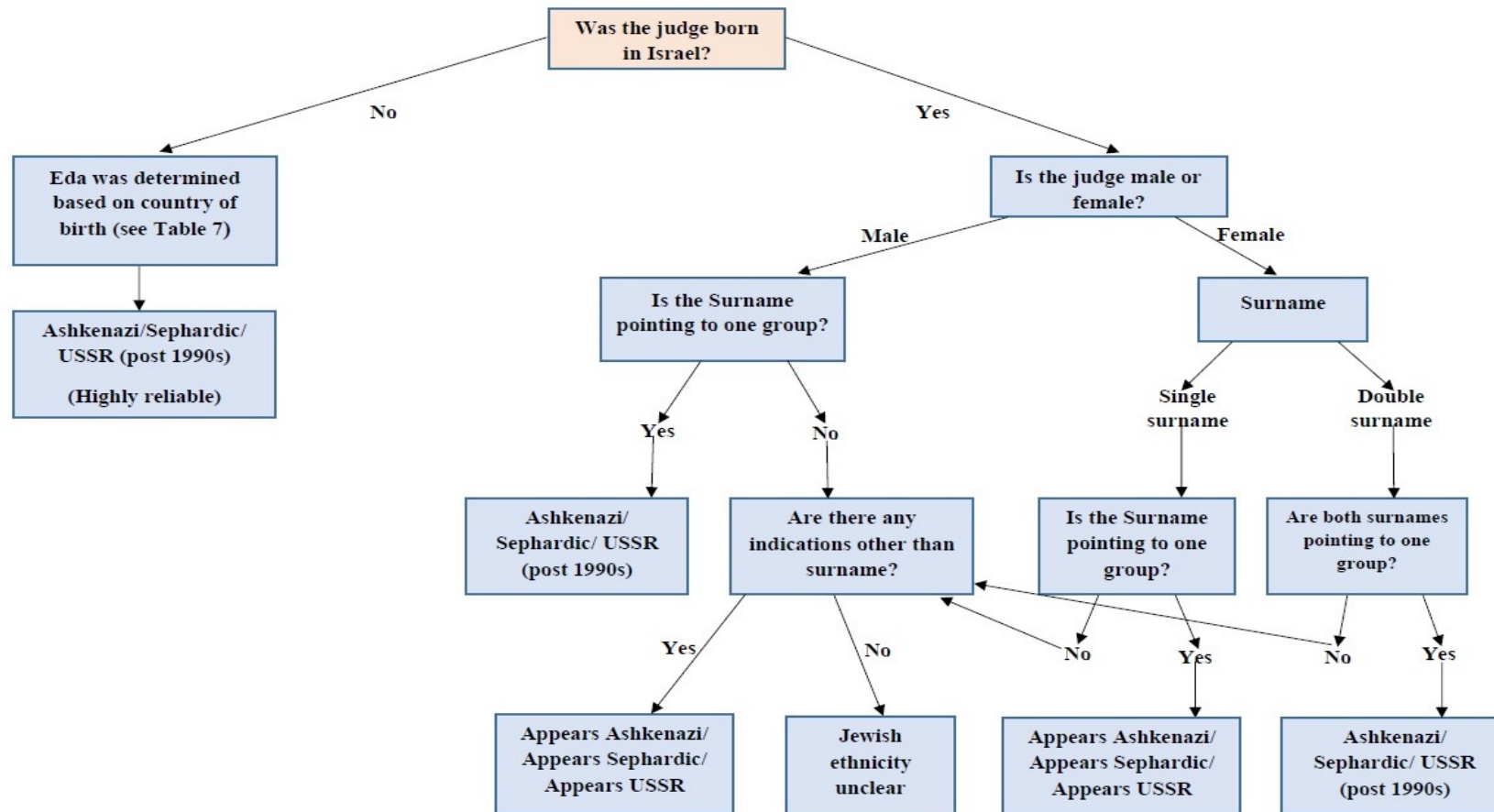
However, 'Jewish ethnicity' and 'level of religiosity' were harder to gather data about, and the classification of judges based on these complex variables was done carefully, and wherever possible, with reference to external reliable sources. Therefore, caution needs to be exercised when interpreting the findings in relation to these variables. For example, the classification of Jewish judges by ethnicity was very complex, because judges do not specify their ethnic affiliation with one Eda or another⁶⁴⁹. One option could have been simply not to examine the Jewish ethnicity of judges. But as Jewish ethnicity is a much-discussed issue in relation to judicial diversity, it was important to at least try to

⁶⁴⁸ If a person was born in Israel to an Israeli-born father, they are classified as "Sabra", that is with no affiliation to a Jewish ethnic group, although they may well be affiliated to an ethnic group based on their grandfather's place of birth.

⁶⁴⁹ Other researchers that tried to obtain data about Jewish ethnicity from the Judicial Nominations Committee were refused. Anat Georgi, "It Would Take 99 Years to Reach Equality between Sephardic and Ashkenazi Jews", *TheMarker* (25.3.2013) <http://www.themarker.com/news/1.1976460>.

investigate this aspect of judicial diversity by researching publicly available information on members of the Israeli judiciary. This had to be done indirectly through a combination of details from judicial CVs and/or from external resources. Figure 5 below illustrates how this extrapolation from existing information occurred.

Figure 5. Determining Jewish judges' ethnic group in this study



Some Jewish judges were born outside Israel, which provided essential information regarding their ethnic origin⁶⁵⁰. Other judges have a distinct surname that is typical of certain ethnic origins (based on common knowledge as well as websites that analyse Jewish ethnicity by surnames⁶⁵¹). This approach was used in a previous study of academics in Israel that tried to overcome the lack of ethnicity data⁶⁵². However, this approach does not capture multi-ethnicity, as it focuses on an element that is normally inherited from the father (surname) and excludes the mother's ethnic affiliation. In addition, although this method is reliable for male judges, it could be problematic with female judges because Israeli women do not always keep their maiden name after marriage. Another obstacle with surnames is that many judges carry a Hebraized surname, which is neutral to ethnicity⁶⁵³. For these, unless place of birth outside Israel was indicated, other measures had to be taken in account to code ethnic origin⁶⁵⁴. However, in many cases, there were no reliable indicators and the judge was identified as "Jewish, ethnicity unclear".

Statistical analysis

This study examined the extent to which certain population groups and sectors are represented in the current composition of Israeli judges. Comparison is made with several relevant populations: lawyers in Israel (the current pool for judicial appointments), as well as law students (who form the future pool) and the general population⁶⁵⁵. However, official data for some populations are either partial or unavailable. This research is the first to try to map the diversity of the Israeli judiciary, as well as the diversity of the legal profession and law students in Israel. Thus, reference to the broader aspects of representation was often complex and in some cases- impossible. Instead, cautious references were made to elements that had some data to support them (e.g. the gender

⁶⁵⁰ For instance, a judge who stated he had been born in Syria was classified Sephardic.

⁶⁵¹ A reliable source for Jewish genealogy is "Beit Hatfutsot, the Museum of the Jewish People" <http://www.bh.org.il/database-articles.aspx?55484>.

⁶⁵² Blechman (n558)

⁶⁵³ Converting traditional Jewish surnames into Hebrew names became a social norm in the early years of Israel. Gideon Turi, "Hebraized Surnames in Israel as A 'Cultural Translation': A Skeletal Exercise in the Semiotics of Culture", in Nurit Gertz (ed.), *Vantage Point: Culture and Society in Israel* (Open University Press 1988) 152-171.

⁶⁵⁴ Media reports, for example: Nir Har-Zahav "Four New Candidates – Sephardic" *Arutz Sheva* (24.11.2011) <http://www.inn.co.il/News/News.aspx/229194>.

⁶⁵⁵ For instance, if there are only 10% female judges and 90% male judges, this suggests disproportionality, but also significant under-representation of women compared with almost 50% of lawyers being women, and a 50-50 ratio in the general population.

distribution in the legal profession), or to specific groups within the relevant populations (e.g. lawyers in the civil service).

In terms of statistical measures, because the main goal is to summarize the data collected about judges, measures of central tendency (e.g. mean, median, percentages) are used in order to describe the distribution of the different variables⁶⁵⁶. Where applicable, the findings of this research are compared to previous findings or to similar data in other jurisdictions or in other legal arenas in Israel itself⁶⁵⁷.

Interactions between variables

This research also measures how diversity variables interact and whether the links between them are statistically significant. This analysis may contribute, for example, to an understanding of gender-specific issues (e.g., the “glass ceiling effect”). Because there are 25 variables in the dataset, the number of potential combinations and cross-tabulations is very large. However, this thesis focused on the interaction and intersection of variables that are either considered highly important in Israel (e.g. ethnicity, nationality) or have been highlighted in the judicial literature as being significant (e.g. gender). When the relation between two variables was explored (e.g. between gender and position in court) a chi-squared test was used, with adjusted standardised Pearson residuals (referred to as PR) also used to indicate which specific cells may cause the “lack of fit”.⁶⁵⁸ Thus, a significant chi-squared test might indicate differences between groups (e.g. Jews and Arab judges), and Pearson residuals are used to establish which individual groups are making a particularly important contribution to the overall significant result.

Part Two: Methodology in the Lawyer and Law Student Surveys

5.4 Objectives

Research in other jurisdictions has demonstrated the link between judicial diversity and the diversity of the pool of applicants (or potential applicants)⁶⁵⁹. Although lessons and evidence from other jurisdictions suggest that diversity of the population of legal

⁶⁵⁶ Epstein and Martin (n629) 912

⁶⁵⁷ This study did not employ non-probability sampling, but it can nevertheless use descriptive inferences from the general population or other populations, as it encompassed all judges in the General Courts system.

⁶⁵⁸ Pearson residuals with absolute scores in excess of two or 3 indicate that the lack of fit for a particular cell is making an important contribution to an overall significant chi-squared test. Alan Agresti, *Categorical Data Analysis* (3rd edn, Wiley 2003)

⁶⁵⁹ Regarding the UK: Thomas (n5) 31, 49; Hurwitz and Lanier (n108) 333.

professionals and law students does not always translate into a diverse judiciary⁶⁶⁰, a diverse judiciary is arguably less likely to exist without a diverse pool of applicants. In Israel, the immediate pool of potential applicants for judicial posts is that of practising Israeli lawyers (registered members of the Israeli Bar)⁶⁶¹. As well as lawyers, law students are also an important group to consider in terms of the diversity of the judicial pool because many of them would eventually take the Bar exams and practice the profession, and they are therefore potential future applicants for judicial appointments⁶⁶².

The second part of the research set out to explore the demographics and views of Israeli lawyers and law students on the legal profession, judges, the judicial system, judicial appointments and judicial diversity. By collecting personal background data on the survey participants, the study provides an insight to the demographics of lawyers and law students in Israel, compared with the general population as well as the judiciary. By also including an attitude survey for each group, this enabled an examination of the differences and similarities in lawyers and law student views on the core issues of this research. All of this helped to assess whether there are any trends that may influence the future pool for judicial appointments⁶⁶³.

The objectives of the survey element of the research were:

1. To assess the attitudes and perceptions of lawyers and law students on:
 - (a) Israeli society, nationality, ethnicity and self-definition;
 - (b) the legal profession and legal education;
 - (c) the judicial system;
 - (d) diversity in legal education, the legal profession and the judiciary, including what should be done about judicial diversity in Israel.
2. To map the demographics of the current pool and future pool of applicants for judicial appointments and:
 - (a) identify factors in the lawyer and law student populations which may be related to diversity in the Israeli judiciary (e.g. under-representation of certain groups in the legal profession and legal education);

⁶⁶⁰ Lee Epstein, Jack Knight and Andrew D. Martin, "The Norm of Prior Judicial Experience and Its Consequences for Career Diversity on the U.S. Supreme Court" (2003) 91 *California Law Review* 903–65; Wald (n103); Holder (n371).

⁶⁶¹ Due to the eligibility criteria requiring applicants to be, inter alia, members of the Bar (The Courts Law, Article B: Competence).

⁶⁶² The importance of law students to the pool for future judicial appointments has also been examined in other jurisdictions; for example: Thomas (n5) 53-54.

⁶⁶³ Compare: Sullivan, *Barriers to the Legal Profession* (n119)

- (b) highlight the similarities and/or differences between lawyers, law students and the demographics of judges in Israel;
3. To examine the possible links between the background of lawyers and law students, and their career plans, their views of Israeli judiciary and perceptions regarding judicial diversity in Israel;
4. To identify possible barriers or incentives among lawyers and law students to consider a future judicial career.

5.5 The questionnaires

Using online survey methodology in this research

Given the main objectives of this part of the research, it was important to choose a methodological tool that would provide a large amount of data for quantitative analysis. A survey, therefore, was the best method as it enables the systematic gathering of information and statistical analysis of a range of variables relevant to this research⁶⁶⁴ (e.g. background characteristics, views and perceptions)⁶⁶⁵. The decision to conduct a large-scale quantitative study and not, for example, a qualitative study, was also a result of the lack of existing data on the subject matter. In the absence of previous research and established datasets in Israel, it seemed essential to gather baseline information that would provide solid answers to the research questions, and to assist future studies in this field.

An online survey was used for both populations⁶⁶⁶. Web surveys are used in a wide range of disciplines and are considered a highly convenient research tool, which enables the creation and delivery of surveys to participants in an “expeditious manner... [and] produce results in synchronous time”⁶⁶⁷. Moreover, owing to the nature of this research (e.g. dealing with controversial, political or socially-charged issues), it was likely that respondents would be more willing to participate in an anonymous survey at their own convenience⁶⁶⁸. Choosing an online survey rather than hard copy or mail questionnaires was also favoured for technical and cost-efficiency reasons. Performing the survey online obviates the need for the researcher to be present in Israel or to hire people to personally

⁶⁶⁴ Robert M. Groves and others, *Survey Methodology* (2nd edn, Wiley 2009), p. 2.

⁶⁶⁵ Elizabeth A. Buchanan and Erin E. Hvizdak, “Online Survey Tools: Ethical and Methodological Concerns of Human Research Ethics Committees” (2009) 4 *Journal of Empirical Research on Human Research Ethics* 37-48, 37

⁶⁶⁶ For a review of the strengths and weaknesses of web surveys see: Mick p. Couper, ‘Web surveys: A review of issues and approaches’ (2000) 64 *The Public Opinion Quarterly* 464-494.

⁶⁶⁷ *Ibid.*

⁶⁶⁸ Bobby Duffy and other, “Comparing Data from Online and Face-To-Face Surveys” (2005) 47 *International Journal of Market Research* 618-619.

supervise the distribution of surveys⁶⁶⁹. Moreover, it is easier to distribute a survey to a large number of participating institutions and individuals at the same time using an online method rather than hard copies⁶⁷⁰. Finally, this kind of project relies largely on the good will and active collaboration of institutions that do not necessarily have a direct or immediate benefit in its results. It was important, therefore, not to create unnecessary or excessive burdens on the participating institutions (e.g. to ask the Bar or law schools to distribute hard copies and collect them following completion)⁶⁷¹. Using an online survey simply required the participating institutions to send a brief message by email to reach a maximum number of lawyers and students with a direct link to the survey. This increased the number of law students and lawyers that could potentially be invited to participate in the survey. And because both lawyers and law students regularly use the internet⁶⁷², online distribution of the survey would likely increase the sampling frame⁶⁷³ (i.e. the target group that has a chance to be included in the sample).

Online surveys are not without drawbacks⁶⁷⁴. They may have coverage and nonresponse problems⁶⁷⁵, as participants in web surveys interact with the survey using their own devices and must have access to the Internet⁶⁷⁶. Nevertheless, this was not a major concern in this study, given that using the Internet is an important component in the daily routines of both lawyers and law students⁶⁷⁷. Using an online survey is therefore an appropriate tool in this study and is in line with the target population's proficiency and availability. However, other response issues that are typical to online surveys were taken into account. General mistrust of the internet and online surveys⁶⁷⁸, reluctance to share opinions in a "non-traditional environment" and perception of online surveys as spam and privacy concerns are just some of the factors that may affect response rates⁶⁷⁹. Therefore, in addition to choosing a secure survey tool that would guarantee the safe collection and

⁶⁶⁹ When performing multinational research, the key advantages of online surveys (i.e. greater speed and lower cost) are especially meaningful. Ibid 617.

⁶⁷⁰ Groves and others (n664) 158.

⁶⁷¹ Norman M. Bradburn, Seymour Sudman and Brian Wansink, *Asking Questions: The Definitive Guide to Questionnaire Design - For Market Research, Political Polls, and Social and Health Questionnaires* (Wiley 2004) (table 10.1).

⁶⁷² All law schools in Israel communicate with their students using the internet, either by emails to distributions lists, using web tools (e.g. Moodle) and in some cases new media as well. Lawyers in private firms as well as the public sectors also use the Internet as a pivotal working tool.

⁶⁷³ Groves and others (n664) 71.

⁶⁷⁴ Ibid, 384; Buchanan and Hvizdak (n665).

⁶⁷⁵ Buchanan and Hvizdak (n665) 38).

⁶⁷⁶ Groves and others (n664) 157-158.

⁶⁷⁷ However, older lawyers may be reluctant to respond to a survey via computer (compare: Ibid, 158).

⁶⁷⁸ Similarly, Couper (n666, 465) mentions the "over surveying effect", meaning people today are bombarded with survey invitations which may cause them to ignore the survey.

⁶⁷⁹ Buchanan and Hvizdak (n665) 38-39.

storage of survey data and confidentiality of participants, it was decided to draft a relatively detailed introduction to the survey that would provide a clear and sound explanation of the purpose of the research, its author and the confidentiality guaranteed to participants (see **Appendix 2** and **Appendix 3**). Additionally, in order to increase reliability, it was important to distribute the survey using official and credible organisations such as universities and the Israeli Bar.

Language

The official language(s) of the state have not been regulated in comprehensive or constitutional laws in Israel. Instead, it is governed by legislation enacted by the British Mandate⁶⁸⁰ that has subsequently been interpreted by other laws and court rulings. Hebrew is the de facto principal official language in Israel, whereas the status of Arabic is less clear. Arabic is officially recognized in certain important areas such as government documents⁶⁸¹, and enjoys recognition above that usually granted to languages of national minorities in other democratic states⁶⁸². However, Arabic does not have the official status that Hebrew enjoys. In short, Hebrew is the primary language in Israel, and Arabic has an official status to an extent that is not equal to Hebrew.

This survey was conducted only in Hebrew. Law students and lawyers in Israel need to demonstrate a good command of Hebrew in order to be admitted to the LL.B. program in Israeli academic institutions⁶⁸³, to register as interns⁶⁸⁴ and to successfully sit the Israeli Bar Association qualification exams, which are held in Hebrew⁶⁸⁵. Given the sensitive nature of some of the issues that the questionnaire addresses (nationality, religion, ethnic and other diversity in the Israeli judiciary), one could argue that the survey could have

⁶⁸⁰ Article 82 of the King's Order-in-Council ("Official Languages").

⁶⁸¹ The state is obliged to publish all its orders, advertisements and official papers in Arabic, and Arabic is found on postal stamps, banknotes and identity cards. However, several court rulings had to strengthen the status of Arabic and its use by official authorities (HCJ 4112/99 *Adalah and Association for Civil Rights in Israel v. Tel-Aviv Yaffo Municipality et. Al.*, 56(5) PD 393 (25.7.2002)).

⁶⁸² Alexander Jacobson, "The Status of the Hebrew and Arabic Languages in Israel", The Metzilah Centre for Zionist, Jewish, Liberal and Humanist Thought (2014); Aviad Bakshi "Is Arabic an Official Language in Israel?" *The Institute For Zionist Strategies* (November 2011) <http://izsvideo.org/papers/bakshi2011.pdf>.

⁶⁸³ Elana Shohamy, Bernard Spolsky and Abdel Rahman Mara'i "The Teaching of Hebrew in the Arabic-speaking Sector", Language Policy Research Centre (Bar-Ilan University, 1996) <http://www.lprc.org.il/lprc/generalPage.aspx?pageID=MinistryofEducation2>. In addition, admission to most universities is based on the combined result of the matriculation certificate and the Psychometric Entrance Test (PET), which even though it may be taken in Arabic, some universities still request candidates to take a Hebrew Proficiency Test.

⁶⁸⁴ section 1, The Bar Association Rules (Knowledge of Hebrew and Exam fees in Hebrew, the laws of the State of Israel and Practical Courses), 1962 ("Proof of Knowledge of Hebrew").

⁶⁸⁵ Section 3(c) of The Bar Association Regulations (Procedures of Exams in Israeli law and Practical Courses), 1962).

provided participants with a language option, including Arabic and other commonly-used languages in Israel (e.g. Russian, English). However, as the survey's target group (Israeli law students and lawyers) should all be literate in Hebrew, and given the technical complications of running the survey in multiple languages, it was decided to only run the survey in Hebrew⁶⁸⁶. (See **Appendices 2 and 3** for an English translation of both surveys.)

Survey composition

The majority of questions were identical in both the Lawyer and Law Student Surveys. The Law Student Survey was slightly shorter (60 questions) than the Lawyer Survey (69 questions). Both surveys comprised a brief introduction followed by four sections.

Section 1: Legal education and the legal profession. This section asked about the educational institution where the survey participant studied law, qualifications (legal and non-legal), professional expertise and current employment (for lawyers). Additionally, this section attempted to map the motivations of lawyers and law students to choose law and their future career plans, including judicial office. Participants were also asked whether they had any immediate family in the legal profession and in the judiciary⁶⁸⁷.

Section 2: Judicial decision-making, the judiciary and judges. This section primarily consisted of rating-scale questions, asking participants to indicate the extent to which they agree with statements regarding judicial decision-making, the Israeli judiciary, selection process, etc. Other questions examined the extent to which respondents felt that specific population groups are represented in the judiciary (e.g. women, Muslim Arabs, Sephardic Jews). The section ended with the key question "Do you think something should be done about judicial diversity in Israel?" and explored views on possible ways to increase diversity or arguments against judicial diversity⁶⁸⁸. The questions were presented in as balanced a way as possible, in order to avoid biased responses⁶⁸⁹. In addition, because the terms "diversity" and "judicial diversity" are not common in legal discourse in Israel, this section (and the introduction to the survey) tried to explain them clearly.

Section 3: Nationality, Society and Population. This section dealt with fundamental topics on the public agenda in Israel (i.e. self-definition and collectivism, identification

⁶⁸⁶ Future research should consider conducting the surveys in Hebrew and Arabic to examine differences in the participation rates and response patterns of Arab-speaking students.

⁶⁸⁷ This question addressed the common claims of nepotism in the judiciary and the profession.

⁶⁸⁸ Based on the arguments for and against judicial diversity as presented in Chapter 1.

⁶⁸⁹ For the caveats of using "loaded" words and politically charged issues in questionnaires, see Bradburn, SSudman and Wasnik (n671) 5-8.

with the state, trust in political institution). Some questions were based on existing polls⁶⁹⁰, and their purpose was not only to see if lawyers and law students possess similar views to that of the public⁶⁹¹, but also to see how these views might be related to perceptions of judicial diversity or plans for a judicial career⁶⁹². Similarly, it sought to examine whether respondents' previous experiences of discrimination could be related to perceptions of the legal profession, the judiciary and diversity.

Section 4: Personal Background. This section addressed a wide range of personal variables in order to collect as much data as possible on the backgrounds of participants while still protecting their anonymity. Alongside more straightforward matters (e.g. gender, country of birth, age group), complicated questions about self-definition (of ethnic or religious affiliation) were presented.

Software

UCL's online survey tool, Opinio, was used to conduct this survey⁶⁹³. Opinio is freely available to UCL researchers, is generally thought to be reliable and provides several reporting functions, which made it preferable to other web-based survey tools. UCL's E-Learning Environments (ELE) also provided technical support with the survey administration, which was valuable given some of the complexities and challenges⁶⁹⁴ that arose in running the survey in Hebrew. The surveys ran for 10 weeks between August and October 2014⁶⁹⁵. Specific setting was used to avoid multiple submissions (using cookies and IP address identification⁶⁹⁶).

⁶⁹⁰ E.g. Tamar Herman *The Israeli Democracy Index 2013* (the Israel Democracy Institute, 2013) (<http://en.idi.org.il/media/2726731/2013-Democracy-Index-Main-Findings.pdf>).

⁶⁹¹ Hadar (n94)

⁶⁹² As mentioned in Chapter 1, lack of judicial diversity affects the public's trust in courts, especially amongst ethnic minority groups. This survey therefore aims to examine whether similar trends occur amongst lawyers and law students from various ethnic and minority groups in Israel.

⁶⁹⁴ ELE and Opinio's user guide indicate that surveys can be conducted in Hebrew. However, there are issues in doing so. For example, Hebrew is written from right-to-left, but Opinio's default design is left-to-right. In addition, Opinio could only generate reports and summaries in the HTML format for this survey, because it was in Hebrew. In order to conduct more advanced analysis the reports had to be manually converted to SPSS format.

⁶⁹⁵ During that period, there were several outages (initiated by ELE) when the surveys were unavailable to respondents for relatively short intervals of time.

⁶⁹⁶ Groves and others (n.664) 384.

Pilot / testing stage

In order to test the design of the survey, the performance of Opinio and the clarity of the questions, a pilot of the survey was conducted with a small sample of Israeli lawyers and law students. A request to participate in the pilot was sent to nine lawyers and three law students that were personally known to the author in a professional capacity. The pilot survey was also sent to two family members of the author, who do not have any legal background. In total, eight of the 14 individuals took part in the pilot; six of these participants were lawyers and 2 were also law research students (as well as qualified lawyer). The Pilot Group forms a reasonably diverse sample of Israeli society and the population of legal professionals in terms of gender, professional background, level of Jewish religious observance and ethnicity (see Table 8). Unfortunately, the Israeli-Arab law student and lawyer to whom the request was sent did not respond to the pilot request.

Table 8. Participants of the Survey Piloting stage

Pilot Participant	Legal Background	Gender	Ethnicity	Position/sector
A	Lawyer	Female	Ashkenazi Jew	Legal assistant to a senior district judge, former associate in a private law firm
B	Lawyer	Female	Sephardic Jew	Lawyer in District Attorney's Office
C	Lawyer	Male	Sephardic Jew	Partner, private firm
D	Lawyer	Male	Sephardic Jew	Partner, private firm
E	Lawyer	Male	Mixed Jewish origin	Self-Employed lawyer and university lecturer
F	Lawyer	Male	Ashkenazi (religious) Jew	Lawyer at NGO
G	Lawyer & student	Female	Mixed Jewish origin	PhD student, former prosecution lawyer
H	Lawyer & student	Female	Sephardic Jew	PhD student, former lawyer at NGO

All respondents were asked to take the online survey and then answer five questions about their experience with the research. Most respondents said the survey was clear. Some however, said that the design of the matrix questions made them hard to understand. Therefore, where possible and given Opinio's limited interface and design options, amendments were carried out. Participants were also asked to comment about the length of the survey and whether it had any missing or unnecessary questions. Some respondents

thought it was overly long, but also mentioned there were no questions that should be removed.⁶⁹⁷ Similarly, whilst there were several comments about questions or statements that may be added to the survey, these could all be accommodated by the “other: please specify” option in many questions. Nevertheless, several comments or suggestions by pilot participants were insightful and led to minor changes in the wording of some questions⁶⁹⁸.

5.6 Sampling

Target population⁶⁹⁹

The surveys targeted two populations: (1) all Israeli lawyers and (2) all law students in Israel. The former is defined as lawyers who are Israeli citizens and registered members of the Bar. This includes lawyers of all levels of seniority and experience in the profession, from the public and the private sector and all types of professional specialization. The second group is law students who attend law faculties in higher education institutions in Israel. Similar to lawyers, this group is viewed broadly and includes students of all years and all degree levels in laws (e.g. LL.B., LL.M., research degrees and special schemes such as executive programmes), including universities and academic colleges. In the absence of reliable, existing statistics on the target populations, it was necessary to create a dataset with as many lawyers and students as possible. Therefore, when determining the sampling frames, a broad approach to the terms “Israeli lawyers” and “Israeli law students” was applied, in order to produce a valid and reliable profile of the demographics of those populations and their views of judicial diversity and other related matters⁷⁰⁰.

⁶⁹⁷ It was agreed, however, to remove the progress bar, which respondents felt reinforced the lengthiness of the survey and could lead to participants abandoning the survey. A progress bar is a common graphical tool in online surveys that visualises the progression of participants in the survey (i.e. how much have they left for completion). The effect of this tool on survey participants is not entirely clear; Richard D. Yentes and others, ‘Effects of survey progress bars on data quality and enjoyment’ (2012) Poster presented at the 27th annual meeting of the Society for Industrial and Organizational Psychologists, San Diego, CA http://www.jwilliamstoughton.com/conference_papers/Yentes_et_al_SIO12.pdf.

⁶⁹⁸ E.g. the inclusion of an NGO category in the question that dealt with legal work experience.

⁶⁹⁹ “The target population is the group of elements for which the survey investigator wants to make inferences by using the sample statistics. Groves and others (n.664) 69-70

⁷⁰⁰ On the importance of collecting as much data as resources and time allow, and on as many observations (or respondents) as possible, in order to make reliable and valid inferences, see Epstein and Martin (n.660) 910

Frame population: Lawyers' Survey

According to the Israeli Bar, in 2014 (the year the survey was distributed) there were 56,578 qualified lawyers registered as members of the Bar⁷⁰¹. However, other sources suggest that there are more than 63,000 lawyers in Israel, but only approximately 50,000 of them pay the Bar membership fees and are therefore eligible to practice the profession⁷⁰². On either measure, Israel has one of the highest rates of lawyers per capita in the world, with an estimated ratio of one lawyer per 150 people⁷⁰³. For the purposes of this research, the target group of the Lawyers Survey is registered members of the Bar.

The Bar's website does not specify a department that conducts research or collects data about Israeli lawyers. Therefore, an initial contact with the Israeli Bar was made using the online enquiry form asking if the Bar would facilitate the distribution of the Lawyer Survey⁷⁰⁴. The enquiry was forwarded to the Bar's Vice-President along with a full version of the Lawyer Survey and a summary of the research. The request was then forwarded to the CEO. After some delays, the Bar agreed to include a message about and link to the survey in its weekly newsletter and on its website. This request to the Bar occurred during a period of significant tensions between the Bar and the court system, mainly surrounding the Bar's controversial decision to resume surveying lawyers for feedback on judges. The Judges' Feedback Form is a survey to be filled in by lawyers, where they are asked to evaluate the performance of judges. In response, the Courts Administration announced that it would cease any relations with the Bar. Eventually, the survey was distributed in November 2014 and its results were presented in January 2015.⁷⁰⁵ It is not clear whether this had any effect on the Bar's willingness to facilitate this research. Because this research deals with judicial diversity and appointment, it may be that it was perceived as a potentially additional source of tension between the Bar and the courts, which the Bar wanted to minimise.

⁷⁰¹ "96 newly qualified lawyers joined the 56,482 members of the Bar" The Israel Bar Association, Messages from the Bar's Spokesman ship (7.9.2014)

(http://www.israelbar.org.il/article_inner.asp?pgid=198587&catid=6)

⁷⁰² Hila Raz, "2090 Lawyers Were Qualified Tonight; The Number Of Lawyers In Israel Crossed 63,000", *TheMarker* (14.6.2012) (<http://www.themarker.com/law/1.1731947>)

⁷⁰³ Zohar Shahar Levi "BDI: the number of lawyers in Israel - one per 150 persons" *Calcalist* (25.5.2014) (<http://www.calcalist.co.il/local/articles/0,7340,L-3631984,00.html>); Ziv (n.76) 9.

⁷⁰⁴ 'Comments and Suggestions' section (<http://www.israelbar.org.il/reaction.asp>) (sent May 2014).

⁷⁰⁵ Yasmin Gueta, "Despite the Courts' Administration's Objection: The Bar Resumes the Judges' Feedback" *TheMarker* (26.6.2014) <http://www.themarker.com/law/1.2359786>.

The Bar's website has over 4,000 visits a day (on average)⁷⁰⁶, and it provides various services and has "established itself among [Bar] members and the general public, as a useful, effective and important source of information"⁷⁰⁷. Specifically, the website is the main platform for posting messages from the Bar's press office. Updates and posts are also included in the newsletters sent to lawyers via the Bar's email distribution list. At the time of this survey, this distribution list included some 37-38,000 lawyers that had provided the Bar with their email addresses and consent to be sent emails⁷⁰⁸. The Bar Vice President agreed to place a message about the Lawyer Survey on the Bar's website and in the weekly online newsletter to lawyers. Therefore, for the purpose of this research, the sampling frame should be the population of lawyers who receive online mailings from the Bar.

On 14 August 2014, the Bar posted the notice about the Lawyer Survey on its website, under the "posts and updates" section⁷⁰⁹. It was not possible to know how many people viewed this message on the website⁷¹⁰. Two weeks later, a notice was included in the weekly newsletter⁷¹¹. Following a relatively low response rate, the author requested and the Bar subsequently agreed to include the message again in the newsletter sent on 11 September 2014⁷¹². However, when this did not produce a substantially higher response rate, additional steps were taken to reach the target population using a distribution list from one of Israel's leading legal online databases (details below).

Frame population: Law Student Survey

It is not entirely clear how many law students were enrolled in Israel at the time of the survey. According to media publications, there were 20,000 LL.B. students in the academic year 2013/14 in 14 higher education institutions in Israel: four universities and

⁷⁰⁶ Israel Bar Association *Annual Report – Review By The VP (2012-2013)*
http://www.israelbar.org.il/UploadFiles/activity_report_2013_site.pdf, p.5

⁷⁰⁷ *ibid*, p.21

⁷⁰⁸ The Bar estimated that of the 38,000 lawyers who receive the newsletter, 20-30% actually open it (pers. comm). The number of lawyers who view the Bar's website is harder to estimate, and additionally the public can also access the Bar's website. Either way, the sampling frame (i.e. lawyers included in the Bar's mailing list) amounts to 63-70% of the entire lawyers' population. As far as is known, this sampling frame should be fairly representative of the entire lawyers' population.

⁷⁰⁹ http://www.israelbar.org.il/article_inner.asp?pgid=197990&catid=1138 (14.8.2014)

⁷¹⁰ Personal communication (27.8.2014). However, the numbers of people who took the survey at the time when the message was posted is detailed below.

⁷¹¹ The Bar News – Issue No. 14, Thursday 28 August 2014 ("Posts And Updates")
http://www.israelbar.org.il/alonim_art.asp?catId=4843

⁷¹² The Bar News – Issue No. 16, Thursday 11 September 2014 ("Posts and Updates")
http://www.israelbar.org.il/alonim_art.asp?catId=4848. For a visual of the notifications on the Bar's website, see **Appendix 4**.

ten academic colleges⁷¹³. However, data from the Council for Higher Education in Israel (CHE)⁷¹⁴ show that there were 18,750 law students in Israel (5,219 in universities and 13,531 in academic colleges). Of these, 15,959 students were registered for an LL.B., 2,536 for a Master's degree and 255 were doctorate students in law. Given the relatively high number of law students and institutions, the best way to target the entire population of law students was through a direct appeal to all law schools in Israel. These include the following 4 universities and 10 colleges:

Universities:

- Haifa University
- Bar-Ilan University
- Tel Aviv university
- Hebrew University (Jerusalem)

Academic Colleges:

- Inter Disciplinary College (IDC) Herzliya
- Ono Academic College
- Netanya Academic College
- College Of Management
- Sha'arei Mishpat College
- Centre Of Law And Business (Ramat Gan)
- Peres Academic Centre
- Carmel Academic Centre
- Sapir College
- Zefat Academic College

The strategy was to gain the cooperation of the Deans of all Law Schools by asking them to distribute the Law Student Survey to all their registered law students. Deans have full access to the entire student email list in their institutions, and it is reasonable to assume that most law students would be likely to open an email sent to them by the Law School Dean or on the Dean's behalf. An email request was sent in May 2014 to all fourteen Deans of Law in Israel (see English translation in **Appendix 5**). The email (in Hebrew) summarised the research and outlined the request to distribute the survey to all law students in their faculty.

⁷¹³ Hila Raz, Yasmin Gueta "Do not study law?" *TheMarker* (10.10.2013) <http://www.themarker.com/law/1.2137098>.

⁷¹⁴ Council for Higher Education, "Students in Institutions of Higher Education (Universities, Academic colleges and Teacher training colleges) by Degree and Field of Study", table 2 (personal communications); Council for Higher Education "Selected data for the opening of the academic year 2013/2014" (10.10.2013) ([here](#))

Four Deans responded to the first email, and following a further request two weeks later, four more Deans replied⁷¹⁵. Additional reminders were sent to the remaining six Deans during August. Eventually 12 out of the possible 14 law faculties agreed to participate. The coverage of the target population therefore lacks two law faculties (IDC Herzliya and Ono Academic College). IDC is one of the first academic colleges in Israel and has operated a law school for some twenty years. Ono Academic College is estimated to have the highest number of law students compared to all other law faculties⁷¹⁶. In recent years, it opened two unique campuses for Orthodox-Jewish students. Both colleges are located in the central district of Israel and are not state-budgeted, meaning they charge high tuition fees. Given their student populations, these are two law colleges whose participation would have been valuable. But without their participation in the survey, the sample frame still encompassed 70% of the entire target population, comprising 14,000 law students. The entire sampling frame was then invited to take part in the survey (that is, all law students from the 12 participating institutions), meaning that in this research the sample and the sampling frame overlap.

To facilitate the survey distribution for each institution, an email was sent to the faculty administrators, with suggested instructions and a survey invitation to students (see English translation in **Appendix 6**)⁷¹⁷. All participating institutions were also asked to send a reminder to students 2-3 weeks after the first email had been sent, and this helped to increase the number of participants. The survey was open for just over two months and closed on 31 October 2014. All participating institutions were subsequently asked to provide information about the population of law students in their institute to help assess the sample frame. Most institutions were not able to fully comply with this request, due to either resource issues or a desire not to disclose information about their students.

5.7 Survey responses

Background

The surveys were launched in early August 2014, when several important events occurred in Israel that may have had a bearing on the survey response rate. The first factor was the

⁷¹⁵ Some Deans decided to participate immediately, while others forwarded the request to their legal advisor or their institution's Ethics Committee, or asked to receive further information and documents (e.g. the questionnaire, the author's CV, etc.).

⁷¹⁶ Ro'ee (n.476).

⁷¹⁷ Most institutions sent the request to their students using the exact wording the author had suggested, but others made minor variations. For example, one Dean added a personal note encouraging students to participate; another mentioned that the author was an alumna of the faculty. In another university, students were told that the survey was not compulsory.

launch of operation “Protective Edge” (8 July-26 August 2014), which meant the survey was distributed in the midst of the war. The immediate effect was that most academic institutions and large numbers of lawyers were in the missile firing range. Some faculties (mainly in the south of Israel) had to temporarily close down. Additionally, some 15,000 students were recruited to serve in the reserves during the operation, meaning that if there were law students from participating institutions amongst them, their ability to respond to the survey could well have been affected⁷¹⁸.

More generally, lawyers in the affected districts of Israel may have been less available to check their work emails, and even the Bar and the courts system had special communications arrangements in place for the duration of the operation⁷¹⁹. The conflict also caused increased inner tensions in Israel, which escalated into riots, demonstrations and heated debates in the Knesset and the media⁷²⁰. This may have influenced some of the participants of the survey, especially when approaching questions regarding the state of Israel, their self-identification, etc.⁷²¹. A separate but important additional background factor was the tension between the courts system and the Israeli Bar at the time (described above) following the Bar’s decision to resume the process of providing feedback on judges⁷²². It is important to note, however, that while the above-mentioned factors may have affected the response to the survey (i.e. the scope of responses or content) they did not seem to have influenced the sampling frame. In addition, the effect of the unusual security situation was mitigated to an extent by the fact that each population received two reminders or messages regarding the survey and could presumably participate once the security situation stabilised (that is, when the second messages were sent in September and October 2014).

⁷¹⁸ Moran Regev, “30% of reservists in Protective Edge – students”, *Ynet* (24.7.2014) <http://www.ynet.co.il/articles/0,7340,L-4549353,00.html>; on the effect of armed conflicts on survey participation: William G Axinn, Dirgha J. Ghimire, and Nathalie E. Williams, “Collecting Survey Data during Armed Conflict” (2012) 28 *Journal of Official Statistics* 153-171

⁷¹⁹ Special facilitations for registration of interns in September 2014 (http://www.israelbar.org.il/article_inner.asp?pgId=197666&catId=87); a request to lawyers to refrain from taking execution proceedings throughout Israel, in light of the general reserve draft (http://www.israelbar.org.il/article_inner.asp?pgId=197359&catId=1138)).

⁷²⁰ Anat Kurz and Shlomo Brom (eds), *The Lessons of Operation Protective Edge* (Institute for National Security Studies 2014).

⁷²¹ See Nadia Hilou, Itamar Radai, and Manal Hreib, “Operation Protective Edge: Implications for Jewish-Arab Relations in Israel”, in *The Lessons of Operation Protective Edge* (*ibid*). Also, see the Bar’s National Ethics Commission’s special notice from 15 July 2014, http://www.israelbar.org.il/article_inner.asp?pgId=197263&catId=1138).

⁷²² Revital Hovel, “Despite The Opposition Of Grunis: The Bar Returns The Judges’ Feedback”, *Haaretz* (26.6.2014) <http://www.haaretz.co.il/news/law/1.2359887>

Responses to the Lawyer Survey

Shortly after an invitation to take the survey had been placed on the electronic noticeboard on the Bar's website and included in the newsletter, the response rate was low (only 31 lawyers had completed the survey). Another notice about the survey appeared in the following Bar newsletter, after which a small increase in the number of participants was observed. After pursuing additional ways to distribute the survey through the Bar were examined that did not materialize⁷²³, Israel's leading online legal databases were contacted to explore whether they could provide an effective means of reaching out to Israeli lawyers. These websites usually have thousands of subscribers, and almost every legal professional in Israel requires routine access to at least one database in order to perform legal research, review updates, etc. Also, subscribers and users of these databases are likely to be a wide range of practicing lawyers (in terms of areas of legal expertise, type of workplace), contact with subscribers is via emails to distribution lists, and several databases comply with the anti-spam regulations in Israel⁷²⁴.

After contacting numerous databases and websites⁷²⁵, Nevo was selected to distribute the survey⁷²⁶. Nevo is a legal database containing case law from all courts and tribunals in Israel, as well as legislative updates, pleadings, a wide range of legal literature, and is the official publisher of the judgments of the Israeli Supreme Court. Its distribution mailing list consists of 33,000 people, the vast majority of whom are lawyers but there are also judges, universities and professional libraries⁷²⁷. Nevo does not have an accurate profile of its subscribers, but they claim that it represents the population of lawyers in Israel.⁷²⁸

A special advertisement was created to fit the requirements and layout of Nevo (see Figure 6). The survey was sent on 23 October, around 9am (Israel time) following the recommendation of Nevo⁷²⁹. It was sent to 33,637 recipients.

⁷²³ The Presidents of the districts of the Bar were asked to send the survey to their district's members, assuming that lawyers might be more likely to open an email from their district council rather than a general email from the Bar. However, none of the Presidents agreed to distribute the survey.

⁷²⁴ Telecommunications Act (Telephone and Broadcast) (Amendment No. 40), 2008.

⁷²⁵ **Nevo** (<http://www.nevo.co.il/>); **Proguides** (<http://www.martindale.co.il/Search.aspx?Lang=en-US>); **Takdin** (<http://www.takdin.co.il/>); **Lawdata** (<http://www.lawdata.co.il/lawdata/startDefault.asp?swKnisa=&swExIP=>) and **Psakdin** (<http://www.psakdin.co.il/>).

⁷²⁶ Psakdin's response and quote were also reasonable, but they responded quite late, at which stage the survey had already been sent by Nevo.

⁷²⁷ Emails are sent to subscribers, former subscribers or those that signed-up for updates without a subscription.

⁷²⁸ This information is displayed on Nevo's homepage.

⁷²⁹ Their experience shows that emails that are sent earlier in the day are more likely to attract the attention of the recipients. Pers.comm

Figure 6. Poster invitation sent to Nevo's distribution list requesting lawyers to take the survey (Hebrew)

מיהם שופטי המחר של ישראל?

סקר מקוון לעורכי/ות דין

- האם חשוב שהרכב מערכת השפיטה ישקף את הרכב האוכלוסייה?
- האם יש קשר בין מאפייני הרקע של השופט/ת לבין תהליך קבלת ההחלטות השיפוטי?
- האם בקרב השופטים בישראל כיום יש ייצוג הולם לנשים, מזרחים, ערבים, דתיים וכיו"ב?
- האם ראוי לפעול להגדלת המגוון האנושי של השופטים בישראל, ואם כן - כיצד?
- כיצד קשור המצב במערכת השפיטה למגוון האנושי בקרב עורכי-הדין בישראל?

בשאלות אלו ועוד עוסק הסקר שלפניך, המהווה חלק ממחקר אקדמי על מגוון אנושי (diversity) במקצוע עריכת הדין ובמערכת השפיטה בישראל.

בהיותך עו"ד הנך חלק מהמאגר הפוטנציאלי למינוי שופטי העתיד של ישראל. לפיכך, השתתפותך במחקר זה תתרום רבות להצלחתו. מילוי הסקר נעשה באנונימיות מוחלטת.

להשתתפות בסקר נא ללחוץ על הקישור:
[סקר לעורכי/ות דין](#)

עורכת המחקר היא חברת לשכת עורכי-הדין בישראל ומוסמכת לעריכת-דין באנגליה. המחקר נערך במכון ללימודי השפיטה בפקולטה למשפטים, אוניברסיטת לונדון (University College London).
לפרטים נוספים או שאלות בנוגע למחקר, ניתן לפנות בדוא"ל: yael.ariel.09@ucl.ac.uk

UCL
UCL JUDICIAL INSTITUTE

The total number of Nevo recipients who opened the link to the survey was 887⁷³⁰, when the survey closed the number of stored responses was 742, the number of usable responses was 671 and the number of fully completed responses was 384. As discussed further in chapter 7 below, the calculation of the response rate is not straightforward. The response rate should be measured against the total number of lawyers who were invited to the survey, however, the latter figure cannot be verified due to the possible overlaps and/or gaps between the various distributions lists used to maximize the response to the survey⁷³¹.

Table 9. Lawyers Survey Responses

Sender	Means of communication	Date	No. of Responses following distribution	
			Responses	Useable Responses
Israeli Bar	Notice on the Bar's website	14.8.2014	51	31
	1 st notice in the Bar's newsletter	28.8.2014		
	2 nd notice in the Bar's newsletter	11.9.2014	111	70
Nevo	Email with poster to Nevo's distribution list	23.10.2014	742	671
Total		2.11.2014	742	671

While using Nevo clearly increased the exposure of Israeli lawyers to the survey, the possible effects regarding both coverage and response should be considered. Firstly, as mentioned, Nevo does not analyse data regarding its subscribers and/or email recipients, therefore it is hard to know if they have specific or unique characteristics. Also, being a paid database, some lawyers may not be able to afford a subscription. The coverage is therefore not ideal, and in future research it would be better to approach the target population using several databases and/or other tools the Bar possesses to approach its members (e.g. a specified email sent to the distribution list). However, it is felt that the

⁷³⁰ This figure was presented to the author 10 days after the survey had been sent. Nevo claimed they could not know how many people opened the email, but that the number of clicks was actually twice as high as their average. Pers.comm (email 2.11.2014).

⁷³¹ There are some 38,000 recipients to the Bar's newsletter, and 4,000 daily visits to the Bar's website; Nevo's distribution list covers over 33,600 recipients. How many lawyers appear on both lists? How many of the listed recipients actually received the survey notification by email? In the lack of a comprehensive emailing list for the sample frame, it was impossible to answer these questions, but it is possible to estimate with caution that the response rate was approximately 2%, as shown further in chapter 7.1.1.

Lawyer Survey did produce a reasonable sample of useable responses, given the circumstances and the need to comply with anti-spam laws in Israel.

Responses to Law Student Survey

On 26 August 2014, approximately two weeks after the survey had been launched in 10 institutions, there were 1,350 stored responses and 750 completed responses on Opinio. In late October 2014, when the survey closed, the numbers had increased significantly, with 2,163 stored responses and 1,176 completed responses. It means that an additional 730 students took the survey after the reminder had been sent, and the average increase in the numbers of participants in institutions following the reminder was 42%. The average participation rate in universities (20%) was slightly higher than in colleges (18%). The highest number of participants was at the Hebrew University (17.1%; n=332) whereas the institution with the highest rate of participation compared to the faculty's size was Peres Academic College, where 31% (n=103) of students took the survey. Table 10 displays the distribution of students who participated in the survey and indicated their institution's name (n=1,935).

Table 10. Summary of response rate in participating law faculties

Educational institution	Estimated Number of students ⁷³²			Participated in the survey		Response rate within institution	% of all responses in the survey
	All law	LL.B.	LL.M.	After 1 st email	Total Responses		
Universities							
Haifa Uni.	1000	800	200	89	112	11.3%	5.8%
Tel-Aviv Uni.	1600	-	-	156	243	15.1%	12.5%
Hebrew Uni.	1460	-	-	266	332	23.3%	17.1%
Bar-Ilan Uni.	800	-	-	157	236	30.2%	12.2%
Colleges							
College of Management	983	948	35	32	45	4.5%	2.3%
Netanya Academic College	1400	-	-	81	117	8.0%	6%
Sha'arei Mishpat College	1468	1468	0	186	258	18.0%	13.3%
Centre of Law and Business	1140	1140	0	145	213	19.1%	11%
Carmel Academic Centre	900	900	0	111	175	19.8%	9%
Sapir College	255	255	0	32	54	21.0%	2.8%
Zefat Academic College	190	190	0	32	47	25.3%	2.4%
Peres Academic Centre	332	332	0	92	103	31.2%	5.3%
Total	11,528			1,411	1,935	16.8%	99.7%⁷³³

⁷³² Where possible, data was obtained directly from the faculties. Otherwise, an estimation was made based on either official data (e.g. CHE) or the. Also, not all institutions offer an LL.M. program. Those that offer but did not provide data were labelled (-), while those who do not offer were labelled (0). Only universities offer law research degrees but neither of them provided data regarding their research students.

⁷³³ The remainder were participants who ticked 'other' or names of academic institutions that did not partake in this study.

CHAPTER 6: THE REALITY OF JUDICIAL DIVERSITY IN ISRAEL

This chapter presents the findings of the first large-scale quantitative analysis of the demographic profiles of the 725 judges that make up the judiciary of the general courts, labour courts and registrars in Israel. The results of this study are the core of this thesis, as they answer one of its key questions: What is the state of judicial diversity in Israel today? The findings in this chapter provide important answers to questions about the composition of the Israeli judiciary; questions that have been part of the public debate for several decades but until now have not been adequately answered. These findings on the current state of judicial diversity in Israeli also provide the necessary baseline information to understand how judicial diversity might develop in Israel in the future⁷³⁴. That issue will be explored in Chapters 7 and 8, which present findings on the makeup and attitudes of Israel lawyers and law students, who form the pool for future judicial appointments.

Key diversity factors

6.1 Gender⁷³⁵

The first significant finding is that women judges are a majority in the Israeli judicial system: 52% of all Israeli judges are women and 48% are men⁷³⁶. Based on a comparative report about European judicial systems from 2016, this finding places Israel just above the average percentage of women judges in the 42 countries listed (51%)⁷³⁷. In England and Wales, for example, 25.2% of judges in courts are female⁷³⁸.

⁷³⁴ Full details of the statistical analyses carried out for this chapter are found in **Appendix 7** (including chi-square results and adjusted Pearson residuals).

⁷³⁵ In 2015, women comprised 50.4% of the population in Israel (CBS “Table 2.19 - Population, by population group, religion, age and sex, district and sub-district – average 2015” (1.9.2016)).

⁷³⁶ As a comparison, in 1992 only 25% of all judges were women and, according to Zamir report (n.336), in 2001 the proportion of women was 43% (para 29).

⁷³⁷ Israel is included in this report but as it is based on 2014 data, the proportion of women was 51%, less than in this study (see CEPEJ report (2016), n.499, p.101-102). The proportion of women is close to that in the Netherlands (56%) but smaller than in France (62%) and Romania (74%); compare: Thomas (n.5) 91-97.

⁷³⁸ Women make up 43.8% in UK tribunals but a large proportion of tribunal members are not legally trained. 2015 Judicial Diversity Statistics *Judicial Office Statistics Bulletin* (30.7.2015) https://www.judiciary.gov.uk/wp-content/uploads/2015/07/judicial_diversity_statistics_20151.pdf.

However, when cross-analysing judges' gender and type of court in which they serve, highly significant differences appear between men and women. As seen in Table 11, there are two main trends concerning gender: first, the higher the court the fewer women judges, and second, a significantly high concentration of female judges is found in Specialized Courts (e.g. Family Courts, Juvenile Courts). These trends provide some evidence that the "prestige effect" and the "caring role effect" exist in the positioning of female judges in Israel.

Table 11. Gender distribution of judges by type of court/division

Court	Division	Gender %		Number
		Male	Female	
Supreme Court		71%	29%	17 ⁷³⁹
District		57%	43%	181
Labour courts	Regional	33%	67%	64
	National	43%	57%	7
	<i>Total labour</i>	<i>34%</i>	<i>66%</i>	<i>71</i>
Magistrates courts	General	48%	52%	343
	Family	37%	63%	64
	Juvenile	29%	71%	17
	Traffic	46%	54%	28
	<i>Total magistrates</i>	<i>45%</i>	<i>55%</i>	<i>452</i>
Total		48%	52%	725

Prestige theory

Looking at all the courts included in this study (Table 11), the highest proportion of female judges is found in Labour Courts (66%), which are part of the Specialized Court system. In the Israeli three-tiered General Courts system, the highest proportion of female judges is found in the lowest judicial division: the Magistrates Courts⁷⁴⁰. This is the only division that mirrors the overall gender distribution in Israeli courts, and even exceeds it with 55% of all Magistrates judges being female⁷⁴¹. However, in District Courts, the percentage of women judges falls to 43%, and drops even further to 29% in the Supreme Court⁷⁴². Therefore, female representation at the higher levels of the judiciary is lower

⁷³⁹ This number consists of 15 justices and 2 registrars.

⁷⁴⁰ This is similar to other jurisdictions where the overall number of women in the judiciary is high, but men still dominate the more prestigious and powerful courts (Rackley (n.127) 20).

⁷⁴¹ This is probably due to the fact that almost all Israeli judges sit in Magistrate's Courts.

⁷⁴² In 2015, there were four women justices in the Supreme Court, including the President Miriam Naor, and one registrar. This compares with the UK where only 1 out of 12 justices on the Supreme Court is a

than their representation in the judiciary as a whole, as well as what is known regarding the proportion of women in the legal profession and amongst law students. Nevertheless, the presence of women in high courts in Israel is quite similar to the situation in other influential institutions in Israel (e.g. women make up 27% of Knesset Members⁷⁴³). The exception to that trend is Labour Courts⁷⁴⁴, in which the majority of judges are women in both the regional courts and the National Labour Court⁷⁴⁵, although their proportion in the lower division (Regional Labour Courts) is higher than that of the National Labour Court (67% compared with 57%, respectively).

In addition to the cross examination of gender with the type and level of court, another important aspect of judicial “prestige” is the seniority that women manage to attain in the judiciary. According to data published in the Israeli press in 2011, women were not only the majority of judges, but also held various key positions in the judicial system⁷⁴⁶. However, Israeli feminist scholars have claimed that despite the growing number of women in the judiciary overall, they are still relegated to stereotypical legal areas, such as family law and conflict resolution in the workplace⁷⁴⁷, and do not constitute the majority in higher courts. This study examined the type of position that women judges held in Israeli courts in November 2015 (Figure 7). The findings present a mixed picture of the position of Israeli women judges, which provides some evidence that the advancement of women in the Israeli judiciary is still limited to lower courts and junior positions, but only to some extent⁷⁴⁸.

woman; CEPEJ report (n.737) 330; Yasmin Gueta, “Who Needs A Woman in the Supreme Court?” *TheMarker* (24.08.2014) <http://www.themarker.com/law/1.2413695>.

⁷⁴³Current Knesset Members of the 20th Knesset – Women Knesset Members https://www.knesset.gov.il/mk/eng/mkindex_current_eng.asp?view=3

⁷⁴⁴ Compare: Frances Raday, “Women in Law in Israel: A Study of the Relationship between Professional Integration and Feminism” (1996) 12 *Georgia State University Law Review* 525, 526. In the 1990s women were already the majority of judges in Regional Labour Courts and Traffic Courts, says Raday.

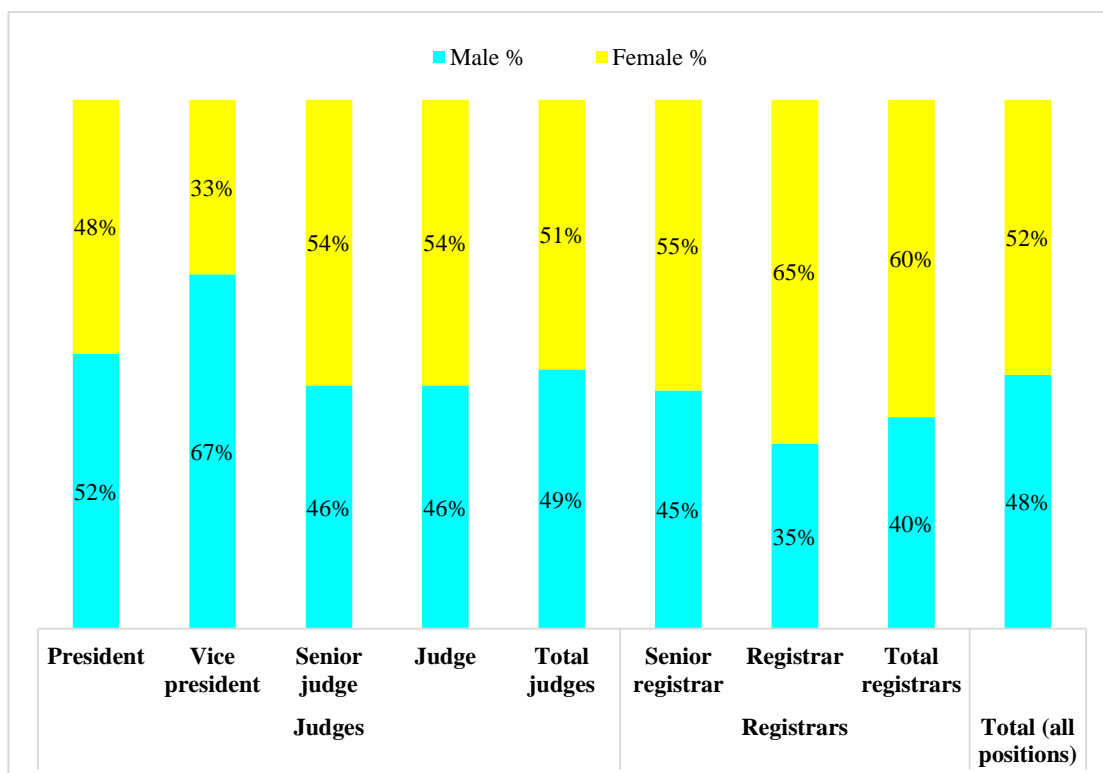
⁷⁴⁵ However, according to some, the concentration of women in Labour Courts is an indication of “tracking” women to specific areas of law, including conflict resolution in the workplace (Orit Kamir, “The Women Took over the Judiciary? A Journalistic Misleading” (2008) *Women’s Parliament* http://womenparliament.com/article_page1fa6.html?id=367&scid=83).

⁷⁴⁶ Ella Levi-Vinriv, “Are Women Discriminated in the Legal Profession and the Academia?” *Globes* (08.3.2011) <http://www.globes.co.il/news/article.aspx?did=1000628341>. The judicial system received a prize from the Civil Service Commission for those figures.

⁷⁴⁷ Similar claims were made in other jurisdictions. Women who specialize in family law, for example, were often told that this field is “not sufficiently prestigious for high judicial appointment”- see Kenney, Sally Jane. *Gender and justice: Why women in the judiciary really matter*. Routledge, 2013, p.25

⁷⁴⁸ As with the distribution by type of court, the differences between men and women in positioning in courts were statistically significant, mainly given the disproportionate number of men as Vice-presidents of courts and the high proportion of women as judges and registrars.

Figure 7. Gender distribution of judges by position in courts



As Figure 7 shows, women have the highest representation in the most junior position in the judiciary (registrars), and men are still a majority in the most senior positions. There are twice as many male Vice-Presidents of courts (67%) as female Vice-Presidents (33%) in Israel, and men make up a majority of Presidents of courts (52%). However, there are more female (54%) than male (46%) Senior Judges⁷⁴⁹, and numerous women hold key positions in the judiciary, including the most senior position in the Israeli judiciary: Chief Justice (President) of the Israeli Supreme Court, a post currently held by Miriam Naor.

Looking more specifically at seniority, a cross analysis of the type of court with seniority of the judicial position reveals that even in some courts where there are overall more female than male judges, there are fewer women than men in senior positions (Table 12). For example, in Magistrate's Courts, where 58% of judges are women, only 35% of Vice-

⁷⁴⁹ The position 'senior judge' is relatively new in the Israeli judicial system. A procedure published by the Courts Administration detailing the criteria for appointing senior judges suggests, that judges are appointed to this position based on the length of time they served in the court. However, often senior judges are presidents and vice-presidents of courts whose appointment has expired and automatically become 'senior judges'. Moreover, senior judges can only be Magistrates, District or Labour court judges (see: Procedure instructions of the Director of Courts (no. 6-09) "criteria for appointment of a senior judge" <http://elyon1.court.gov.il/heb/aba/menahel/doc/03306510.pdf>). However, this procedure was criticized for granting the status of a "senior judge" to judges as a means of promoting them and raising their salaries without being defined as "vice-presidents", see: Anat Ro'ee "judges receive an addition of thousands of shekels a month - without being promoted" *Calcalist* (14.6.2009) <https://www.calcalist.co.il/local/articles/0,7340,L-3304885,00.html>.

Presidents are women; and in the National Labour Court, the President is a man, while 60% of all judges are women. In Regional Labour Courts, however, 80% of Presidents are female and women comprise 67% of all judges in Regional Labour Courts.

Table 12: Female representation in the Israeli judiciary by court and position

	Supreme Court		District		Labour-National		Labour-Regional		Magistrates (including family, traffic and juvenile)		Total % of women in this position	
	N	%	N	%	N	%	N	%	N	%	N	%
Registrar	1	50%	8	73%	0	0% ⁷⁵⁰	11	79%	3	43%	23	66%
Senior registrar ⁷⁵¹	n/a		1	100%	n/a		n/a		20	54%	21	55%
Judge	3	30%	58	44%	3	75%	25	64%	184	58%	273	54%
Senior judge	n/a		6	50%	n/a		2	67%	19	54%	27	54%
Vice president	0	0%	4	22%	1	100%	2	40%	17	35%	24	33%
President	1	100%	1	17%	0	0%	4	80%	4	57%	10	48%
Total % of women in this court	5	29%	78	43%	4	57%	44	67%	247	55%	378	52%

It is notable how few women serve as Presidents of District Courts, with only one of the possible six Presidents being a woman (17%)⁷⁵². This proportion is not only lower than the overall proportion of women as Presidents of courts (48%) but also low in relation to the overall proportion of women in District Courts (43%). In an earlier version of this study conducted by the author in 2010, four of the six (68%) District Court Presidents were women. So in less than five years, the representation of women in the key role of

⁷⁵⁰ There is only one registrar in this court, a male (Kamel Abou Kaoud). He appears as a judge on the CV but serves as a registrar in this court; he was therefore counted as registrar. There were no female registrars.

⁷⁵¹ Except for unusual circumstances, Senior Registrars are only found in Magistrate's Courts (see Chapter 5).

⁷⁵² In 2016 this changed even further, with the appointment of a male judge as the President of Tel-Aviv District Court, leaving no women as Presidents in District Courts.

District Court President had changed substantially⁷⁵³. This reflects how a few appointments can substantially change the gender balance at this level of the Israeli judiciary, given the small number of Presidents in the District Courts (6).

The caring role effect

A common claim in the study of judicial diversity worldwide is that women judges tend to be concentrated in parts of the judiciary that deal with issues concerning women, such as family and juvenile courts. These courts may be seen as more related to women's caring characteristics (i.e. conflict resolution in domestic and family matters, juvenile delinquency.)⁷⁵⁴. Table 11 indicates that this caring role effect exists in Israeli courts, with women constituting 63% of all judges in Family Courts, and 71% of all Juvenile Courts judges. These are much higher proportions of female representation than in other courts in the Israeli judicial system. The number of women judges in Labour Courts is also very high (66%). This statistically significant figure does not seem to relate to either the prestige theory or the caring role effect, as judges appointed to Regional and the National Labour Courts need to meet the criteria for District Court judges (i.e. be more experienced than Magistrate's Court judges where Family and Juvenile Courts are located). This could reflect similar trends found in other jurisdictions where women have attained fuller representation in the judiciary and there is little evidence any longer of the caring role and the prestige effect.⁷⁵⁵

6.2 Nationality/religion

The public discourse over nationality and nationalism in Israel usually refers to the inter-relations between the Jewish and Arab citizens of Israel. However, because of the potential overlap between nationality and religion, such discussion also relates to the relations between different religious groups in Israel, and therefore the two elements (nationality and religion) are discussed jointly here.

⁷⁵³ Three female Presidents of District Courts retired since the 2010 study and were subsequently succeeded by men. Compare: regression trends regarding the representation of women in senior positions and higher courts in other jurisdictions (e.g. Canada) (Rackley (n127) 22).

⁷⁵⁴ Kamir (n745) claims that the high concentration of women in Family, Labour and Juvenile courts is indicative of the marginalization of women to areas stereotyped as feminine fields; Thomas, *'Understanding Judicial Diversity'* (n.105) 3).

⁷⁵⁵ Thomas, *ibid* 9-10.

The judiciary does not publish data about the religious identification of serving judges, nor do judges mention this clearly in their CVs⁷⁵⁶. However, the representation of the Arab minority in the composition of Israeli judiciary has been one of the only issues to be addressed in previous research on the judiciary as well as by Zamir committee. In 2001, the Zamir Report stated that only 4% of judges in Israel were Arabs⁷⁵⁷. Later publications showed different figures, with the most recent publication stating that the figure is 7.7%. This is to be compared with nearly 21% of the general population in Israel being Arabs. While these earlier reports found that Arabs are under-represented in the judiciary, the exact nature of the under-represented was not clear. For instance, are there differences between various religious groups within the Arab minority, and how does this relate to their representation in the legal profession and in law school populations?

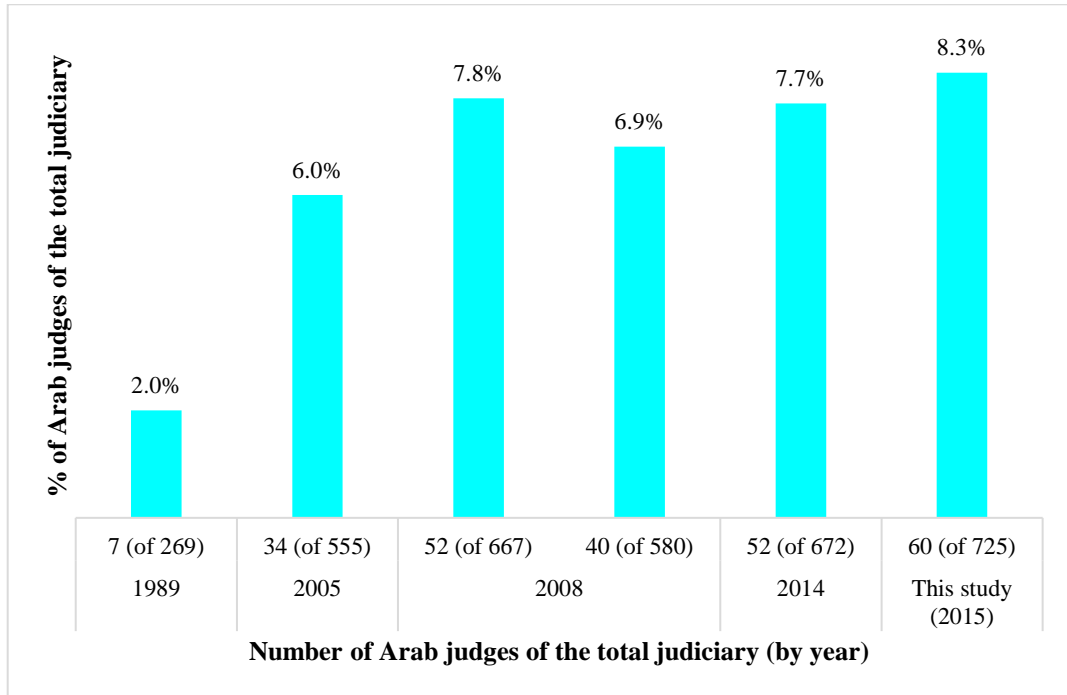
The current research found that 91.7% of judges in Israel are Jewish, with the remainder 8.3% being Arabs (this amounts to 60 judges that are Muslim, Christian and Druze)⁷⁵⁸. This ratio is not representative of the overall distribution of these groups in the Israeli population, where 76% are Jewish, 24% are 'others', of which the vast majority are Arabs. Figure 8 illustrates how the representation of Arab judges found in this study compares with findings in other reports on Arab representation in the judiciary over the last decade.

⁷⁵⁶ However, email correspondence with the Knesset's Research Unit confirmed that data about religious and ethnic affiliation is indeed provided to the courts system by judicial candidates using the application forms (pers.comm 16.12.2015).

⁷⁵⁷ However, it is not entirely clear which data underpinned this conclusion.

⁷⁵⁸ Two Bedouin judges were counted as Muslim; for judges of possibly mixed religious background, it is impossible to tell whether some of the judges are either Jews or Arabs. Similarly, if a judge with an Arab name is actually of mixed origin (e.g. a Jewish mother and an Arab father) it could not be determined in this study.

Figure 8. Arab representation in the Israeli judiciary (1989-2015)⁷⁵⁹



These figures suggest that the number of Arabs in the Israeli judiciary has quadrupled since the late 1980s (when there were only single numbers of Arab judges) and has grown steadily (but slowly) in the past decade. However, Arabs are still significantly under-represented in the Israeli judiciary in relation to their proportion in the general population. It is hard to contextualize this finding in relation to the legal profession because, as seen earlier, the proportion of Arabs in the legal profession is not clear or regularly updated. According to government data from 2005, almost 9% of lawyers in Israel were Arabs, but a report from 2008 claimed that their proportion has increased to 15%⁷⁶⁰.

Arab judges by religious group

Studies on judicial diversity in other jurisdictions have emphasised the dangers in looking at ethnic minorities as a unified group, overlooking their unique characteristics. Unlike previous publications in Israel, this study examines the representation of the Arab minority in the judiciary by more detailed sub-groups⁷⁶¹.

⁷⁵⁹ The data for **1989** – Shetreet (n.6) 286; for **2005** – Hornstein and Almog (n 614); for **2008**: 6.9%: presented in a Knesset discussion about integration of Arabs in the public service (Revital Hovel, “New Research: 7.7% Of Israeli Judges Are Arabs, Despite The Judiciary’s Promise To Integrate Them” *Haaretz* (2.6.2015) www.haaretz.co.il/news/law/.premium-1.2649879; 7.8%: the Sikkuy report (n.409) 2; **2014**: Luria (n.443).

⁷⁶⁰ See Chapter 3, comparing the Sikkuy report (n.409) with official government and CBS data.

⁷⁶¹ Distinguishing between judges based on sub-groups in the Arab sector was not easy. Some factors were used as indicators; for example, military service implied that the judge is likely to be Druze, or a Christian (church-managed) high school implied that the judge was Christian. However, this is not clear-cut, as there are Arabs who serve in the IDF and there are non-Christian students in church schools etc.

The Arab group in Israel consists of several sub-groups that differ from each other in their religious affiliation, ethnic self-definition and other factors. However, in this research project identifying which of various religious groups Arab judges belonged to was not straightforward. The simple cases were where judges had a distinct name: for example, Mohammed (Muslim) or William (Christian). In some other cases, the judge's religious affiliation was published in the media, but this mostly covered senior Arab judges (e.g. Justice Joubran of the Supreme Court, a Christian Arab). However, some Arab names are "neutral" and do not point to a certain religious group⁷⁶². In these cases, other data were taken into consideration, including the judge's secondary education, their place of residence⁷⁶³ and military service. However, this approach did not always clarify religious affiliation. For instance, nine of the 60 Arab judges gained their secondary education in church schools in Israel⁷⁶⁴. Yet this cannot necessarily be used to conclude their level of religious observance, as non-Christians attend these schools too. In any case it would be hard to determine whether they practice their faith or not in the absence of any other data to validate religious observance (e.g. traditional religious dress). Therefore, as with the classification of Jews to various ethnic groups or levels of religiousness, some caution needs to be exercised when interpreting the findings of this study on the distribution to religious sub-groups within the Arab group in the Israeli judiciary. The findings do differ from other reports on this issue⁷⁶⁵.

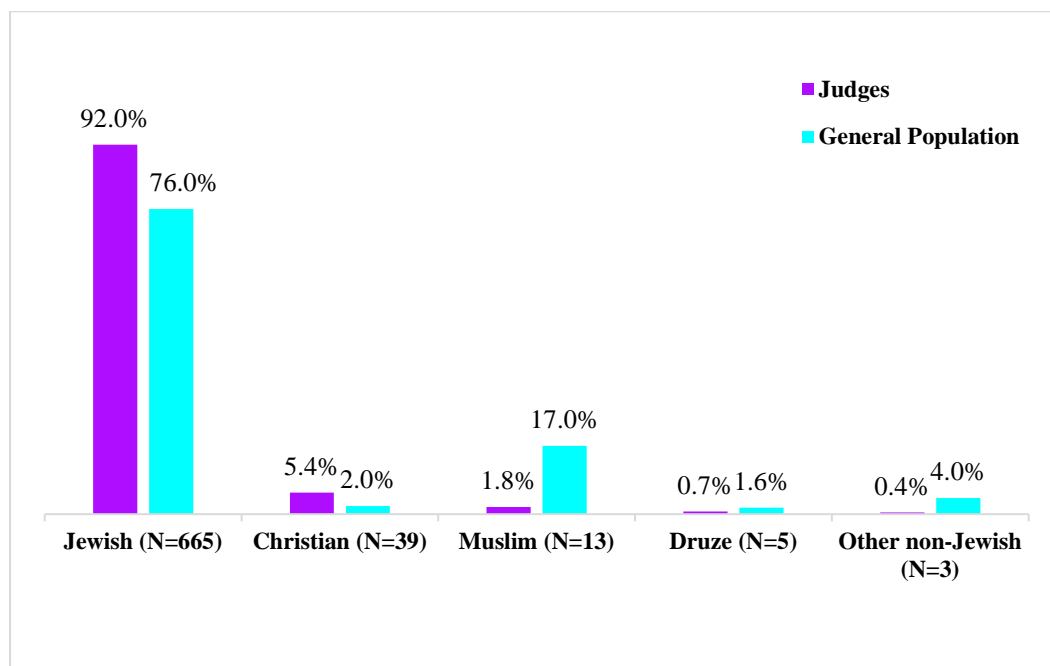
⁷⁶² Almog, 'Forenames in the Arab population in Israel' (n.638).

⁷⁶³ The CBS publishes profiles on almost all towns, villages and other forms of residence in Israel. Thus, for example, a judge born and raised in Daburiyya, where 99.7% of residents are Muslim, is most likely a Muslim.

⁷⁶⁴ St. Joseph School and the Baptist School, both in Nazareth.

⁷⁶⁵ Data from the Knesset's Research Unit (pers.comm 15.12.2015) claimed that 92.1% of judges are Jewish, 2.8% Christian, 4% Muslim and 1% Druze. This data relies on the judicial system's records, but it refers to there being only 667 judges. Also, in both cases Christians are well-represented in the judiciary while Muslim Arabs are under-represented.

Figure 9. Representation of Israeli judges by religious group⁷⁶⁶



In line with concerns raised in the past about the low number of Muslim judges in the Israeli judiciary⁷⁶⁷, this research found that less than 2% of judges in Israel are Muslim⁷⁶⁸. Specifically within the Muslim group, there are two Bedouin judges in the entire judiciary: this represents 0.2% of the judiciary compared to an estimated 2.75% of the total population⁷⁶⁹. The proportion of Druze judges (0.7% or 5 judges) is also smaller than the Druze representation in the general population (1.6%). However, the proportion of Christian Arab judges identified in this research (5.4%) is almost three times higher than their share of the total Israeli population (2%), and the only Arab justice in the Israeli Supreme Court is Christian. This over-representation of Christians in the judiciary is

⁷⁶⁶ Data on the general population rely on the CBS reports; “Arab other” refers to judges who are clearly Arabs, but could not be affiliated with a specific religious group (i.e. Arab name but no other indication to suggest a specific category). A more cautious estimation calculated 30 Christian Arab judges (4.2% of the entire judiciary); yet that would only increase the proportion of “Arab other” and still mean there are twice more Christian judges than their proportion in the general population.

⁷⁶⁷ Yuval Yoaz, “A committee is trying to find Muslim candidates for justiceships” *Haaretz* (4.2.2006) <http://www.haaretz.co.il/hasite/spages/678742.html>; figures for 2005 according to which one third of all Arab judges, and only 2% of all judges in 2005, were Muslim (Almog, n.614).

⁷⁶⁸ It should be mentioned however, that a journalistic review presented an opposite situation, claiming that of the 52 Arab judges, 27 are Muslims, 18 Christians and 7 Druze. Hovel (n.759).

⁷⁶⁹ It is not entirely clear how many Bedouins are in Israel due to the large number of Bedouin living in illegal or unregulated settlements. A report from 2016 claims that there were 231,000 Bedouins (2.75% of the general population). Myers-JCD- Brookdale, *The Bedouins in Israel: Facts and Figures* (2016) <http://brookdaleheb.jdc.org.il/?CategoryID=390&ArticleID=2096>

consistent with this community's over-representation in higher education and key positions in Israel⁷⁷⁰.

Prestige effect

Cross-analysis of nationality with the judges' court showed no statistically significant findings. However, Table 13 shows that Arab judges constitute almost 10% of all judges in all Magistrates Courts (including Family, Juvenile and Traffic Courts). Overall, 73% of all Arab judges preside in Magistrates Courts. However, it appears that the proportion of Arab judges in Family Courts (less than 5%) is significantly smaller than their representation in other Specialized Courts as well as in the general Magistrates Courts. Furthermore, in higher courts the proportion of Arabs decreases. There are only 7% of Arab judges in Labour Courts⁷⁷¹, and 6% in District Courts.

Table 13. Arab representation in the judiciary by type of court

Division	Category	Arab judges	
		N	%
Supreme Court		1	6%
District Courts		10	5.5%
Labour Courts	Regional	4	6%
	National	1	14%
	<i>Total Labour</i>	5	7%
Magistrates' Courts	General	36	10.5%
	Family	3	4.7%
	Juvenile	2	12%
	Traffic	3	11%
	<i>Total Magistrates'</i>	44	9.8%
Total- all courts		60	8.3%

Furthermore, there were no statistically significant differences between Jews and non-Jews regarding the seniority of positions in courts. Whilst 12% of registrars and senior registrars are Arabs, and two thirds of Arabs in the judiciary are judges, there are five Arab Senior Judges (10% of all senior judges), 6 Arab Vice-Presidents of courts (1

⁷⁷⁰ See discussion in Chapter 4.

⁷⁷¹ In the National Labour Court, there is one Arab registrar

Muslim, 4 Christians and 2 Druze), and one Arab President of a court. In addition, examination of Arab judges' position in courts and the type of court they serve in reveals that the most diverse distribution in terms of positioning of Arab judges is seen in Magistrates Courts, where Arabs are found in all ranks (except for registrars) from Senior Registrars to Presidents (See Table 14).

Table 14. Arab representation in the judiciary by position in courts

	Magistrates' (including family, traffic and juvenile)	District	Labour-Regional	Labour-National	Supreme Court	Total % of Arabs in this position
Registrar	0%	0%	14%	100%*	0%	8.3%
Senior registrar	13.5%	0%	n/a	n/a	n/a	13%
Judge	9.1%	6%	5.1%	0%	7.7%	7.9%
Senior judge	11.4%	8.3%	0%	n/a	n/a	10%
Vice president	10.4%	5.5%	0%	0%	0%	8.2%
President	14.3%	0%	0%	0%	0%	4.8%
Total % of Arabs in this court	9.8%	5.5%	6%	14.3%	6%	8.3%

*n=1

Therefore, the prestige theory is only partially supported by this study's findings for Arab judges. While there are clearly fewer Arab judges than Jewish judges in high courts or as presidents of courts, in some cases they hold senior positions in higher proportions to their representation in the judiciary, especially as senior judges and vice-presidents of courts.

Unlike the court and nationality analysis, cross-analysis of the geographical location of courts and nationality of judges was highly significant. Specifically, Arab judges preside in significantly larger proportion to their representation in the national population in two districts: North, where they constitute nearly 36% of all judges in the district, and Haifa (18.5%). This trend is not necessarily restricted to lower courts in those districts. In the Nazareth District Court (part of the Northern district), five of 15 judges (33%)⁷⁷² are Arabs. These figures are not only significantly higher than the proportion of Arabs in the

⁷⁷² In Haifa's District Court, however, only three of 31 judges are Arabs (9.7%)

judiciary overall, but also substantially exceeding Arab representation in the national population. However, the high level of Arab representation in the courts based in these areas is in line with the high density of Arabs in the northern part of Israel: 44% of Israeli Arabs reside in the Northern District and constitute 53% of the population there⁷⁷³. In other districts, especially in Tel-Aviv and Central districts, there are far fewer Arab judges. Jerusalem and South districts also have small numbers of Arab judges.

6.3 Military service

Unlike the general IDF recruitment rate, which stands at about 50% of the population of conscripts, 637 of 725 (88%) judges served either in the IDF or in national service. The high proportion of judges with military service may be related to the fact that most judges are Jewish and not Orthodox, meaning they are not part of the population groups that have traditionally been exempt from service. The remainder of judges without military service either did not serve or did not provide information about military service in their CV. As expected, the vast majority of Jewish (94.3%) judges served in the Army. As far as this information is available, all Druze judges served in the military, compared with only three non-Druze Arab judges. In practice (though never regulated by law), Israeli Arabs have been traditionally exempt from military service. The exemption includes Bedouins, though in this community many volunteer to the IDF. Druze men, however, are not exempt from service.

6.4 Jewish ethnicity

As mentioned earlier, since Israeli judges do not provide their ethnicity or mention their parents' country of birth, additional indicators had to be examined in order to make an assessment of ethnicity. When the judges' country of birth other than Israel was provided or when male judges had a definitive surname, the classification was distinct for either Ashkenazi or Sephardic (or USSR⁷⁷⁴). For women, when they had a double surname and both components were definitive, the above classification was also used. However, when male judges had no distinctive surname, or when women had a distinct surname but it could not be assumed that this was their maiden name, the categorisation used was "appears to be [Sephardic/Ashkenazi]". Moreover, Jewish judges that could not be

⁷⁷³ CBS "The Arab Population in Israel 2008" http://www.cbs.gov.il/www/statistical/arab_pop08e.pdf

⁷⁷⁴ The latter relates only to judges who were born in the former USSR and immigrated to Israel in the 1990s.

categorised (e.g. women with mixed double surnames, Hebraised surnames, etc.) were labelled as ethnicity “unknown”.

Jewish ethnicity of judges by their country of birth only

Israeli Judges do not provide data on their father’s country of birth, which makes the comparison to official statistics about ethnic origin complicated⁷⁷⁵. While some 76% of all Jews in Israel were born in Israel⁷⁷⁶, 578 Jewish judges (87%) stated they were born in Israel. Of the remaining Jewish judges, 78 mentioned a country of birth other than Israel⁷⁷⁷: 55 (70%) are Ashkenazi (e.g. born in Romania, Poland etc.)⁷⁷⁸ and 22 (28%) are Sephardic (i.e. born in Asia or Africa). Prima facie, Ashkenazi judges are significantly over-represented amongst judges who were not born in Israel⁷⁷⁹. However, when compared with official statistics about the population of Israeli Jews who were not born in Israel, Ashkenazi's are only slightly over-represented amongst judges (71% compared with 68% of the general population of Israeli Jews born outside Israel). Moreover, when measured against the entire Jewish population (the majority of which was born in Israel), the differences between Ashkenazi's and Sephardic look marginal (Figure 10).

⁷⁷⁵ The Knesset’s Research Unit informed the author that data about judges’ parents’ country of birth is unavailable in the courts system. Pers.comm

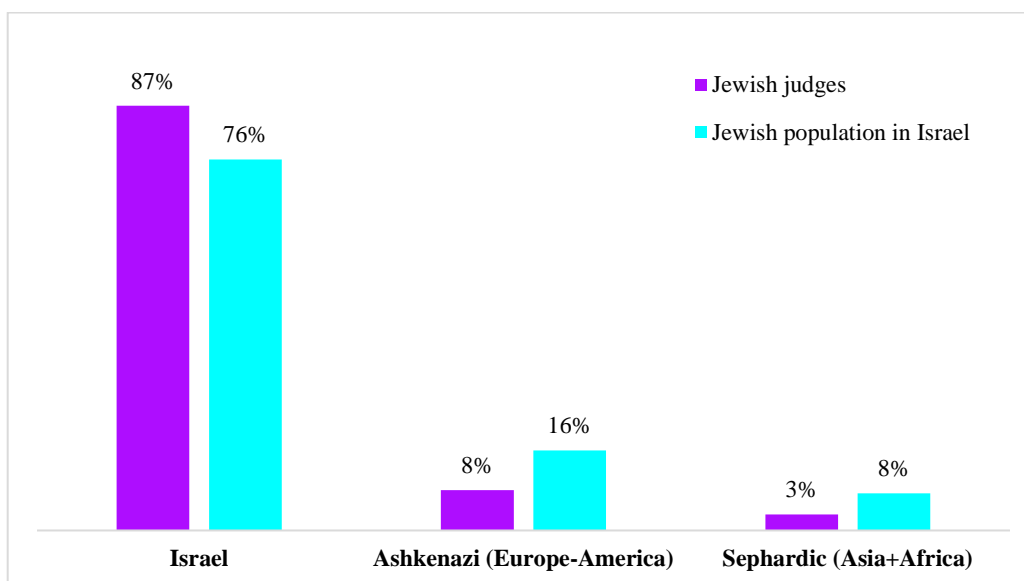
⁷⁷⁶ Some 4.8 million Israeli Jews were born in Israel (http://www.cbs.gov.il/shnaton67/st02_09.pdf)

⁷⁷⁷ Nine judges did not mention their country of birth and one judge’s country of birth could not be classified by ethnicity.

⁷⁷⁸ Seven judges were born in the former USSR, but since all of them immigrated to Israel during the 1970s they cannot be classified as new immigrants. As explained above, the classification is estimated and may be wrong when it comes to countries that cannot be exclusively associated with one Eda or another.

⁷⁷⁹ As mentioned earlier, it is estimated that 28% of the Israeli population is Sephardic and 33% is Ashkenazi.

Figure 10. Jewish judges' ethnicity by country of birth compared with the Jewish population



Two caveats should be mentioned in this context. First, the data regarding the general population relies on CBS publications, which do not categorize Jews by ethnic group but rather by country of birth (for example, the CBS does not use the terms Ashkenazi or Sephardic but rather “Europe-America”, etc.). Second, and more importantly, the category “Europe-America” includes some 900,000 people that immigrated to Israel in the 1990s from the former USSR, of which some 600,000 were Jews⁷⁸⁰. Therefore, without this community, Ashkenazi Jews born outside Israel would make-up 33% of all Jews born abroad, not 68%.

Nevertheless, amongst Israeli judges, not one judge was found to have immigrated to Israel in the 1990s. Therefore, the Ashkenazi group of judges born outside Israel does not necessarily reflect the composition of Israeli Jews born outside Israel, as it consists of Jews that in most cases immigrated to Israel before the 1990s. The share of the former USSR immigrant population of the total population of Israel has grown since the beginning of the wave of immigration in 1990, and today they make-up some 15% of the entire Jewish population in Israel⁷⁸¹. Yet, as seen below, this is not reflected in the current composition of the Israeli judiciary. The lack of Ethiopian Jews and Jews from former

⁷⁸⁰ CBS (n567) 11, 16.

⁷⁸¹ Ibid

USSR amongst judges has been discussed recently in the Judicial Nominations Committee⁷⁸² and is evident in this study⁷⁸³.

Jewish ethnicity by country of birth and other factors

As Jewish ethnic origin is dependent on several factors, the analysis of Jewish ethnicity of judges cannot rely solely on a review of the judges born outside Israel. An examination of all Israeli judges based on additional factors was performed. But as the examination of judges' ethnic origin conducted in this research could not be identical to the methods used by the CBS to record ethnicity, there are limitations in the extent to which direct comparisons can be made between this study's findings and the CBS figures. Table 15 shows this study's estimated Jewish-ethnic distribution amongst judges. Almost two thirds (64%) of the entire judiciary appear to be Ashkenazi Jews. A small proportion (15%) of judges are either Sephardic or likely to be Sephardic⁷⁸⁴. However, the high number of judges that could not be classified (20%) demonstrates the difficulty in determining Jewish ethnicity without direct access to judges' personal data.

Table 15: Jewish ethnicity of Israeli Jewish judges (by external factors and country of birth other than Israel)⁷⁸⁵

Jewish ethnic group (Eda)	Count	% of Jewish judges
Ashkenazi	175	26.3%
Appears to be Ashkenazi	251	37.8%
Sephardic	40	6%
Appears to be Sephardic	64	9.6%
Unclear	135	20.3%
Total	665	100%

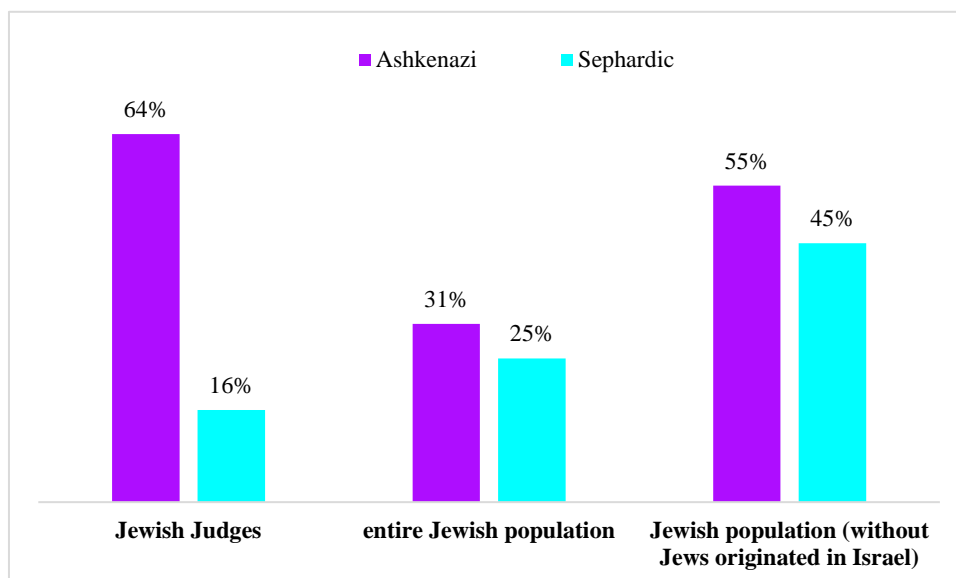
⁷⁸² Tova Tzimuki, "MK Ilatov Demands Urgent Hearing: New Immigrants Are Excluded From the Nominations Procedure", *Yedioth Ahronoth*, (30.11.2015) 18. This study, however, found only four judges who were born in the USSR, and all of them arrived in Israeli during the 1960s and 70s, so they cannot be regarded as part of the USSR community in Israel that immigrated after the fall of the USSR.

⁷⁸³ The situation changed in September 2016 with the appointment of the first Ethiopian Jewish judges to Israeli courts (Yair Altman, "2 Female Lawyers Appointed As Israel's First Ethiopian Judges", *Israel Hayom* (30.9.2016) http://www.israelhayom.com/site/newsletter_article.php?id=36853). However, this study relies on data that was collected up to November 2015.

⁷⁸⁴ A previous version of this study from 2010 found only one Sephardic judge in the Supreme Court (5%); however, the appointment of Justice Uri Shoham in 2012 and later Justice Meni Mazuz doubled the number of Sephardic justices on this court.

⁷⁸⁵ Where country of birth other than Israel was provided, this made the classification of Jewish ethnic groups easier. However, when the judge was born in Israel other indicators were used, for instance, surname, publications about the judge's ethnicity (mostly relevant to high profile senior judges). When indicators were strong (i.e., birthplace that can be easily categorized, distinct surname for men), the classification was more definitive. However when the indicators were weaker, the judge was either classified as "appears to be" or "not clear".

Figure 11. Jewish ethnicity of judges compared with Israeli population



The proportion of Sephardic judges appears substantially lower than estimates of their representation in the wider Israeli population, while the Ashkenazi sector is over-represented in the judiciary in relation to their representation in the wider population. Comparison to the general Jewish population is not straightforward. The CBS counts Jews by their own and their father’s country of birth, but judges cannot be classified in the same way because there is a lack of data on judges’ parental place of birth. Nevertheless, Figure 11 shows how the study’s findings compare with official data on the origin of Jews in Israel⁷⁸⁶. This study’s findings support claims made by politicians and activists about the lack of representation of non-Ashkenazi Jews in the judiciary.

Prestige effect

The possible existence of a prestige effect amongst Jewish judges was also examined by a cross-analysis of the ethnic affiliation of Jewish judges, the court in which they serve and the type of position they hold in the judiciary. As Table 18 and Table 17 below show, Ashkenazi Jews are over-represented in the highest courts and in senior judicial positions across the Israeli judiciary.

⁷⁸⁶ In this figure for judges, “appears to be” was counted jointly with Ashkenazi/Sephardic (accordingly).

Table 16. Israeli judges' Jewish ethnicity and type of court

Division	Category	Ashkenazi	Sephardic	Jewish-unknown
Magistrates	Regular	58%	19%	23%
	Family	54%	26%	20%
	Traffic	80%	8%	12%
	Juvenile	73%	0%	27%
	<i>Total</i>	59%	18%	22%
District		71%	12%	17%
Labour	Regional	68%	10%	23%
	National	83%	17%	0%
	<i>Total</i>	69%	10%	21%
Supreme Court		81%	12%	6%
Total		64%	16%	20%

Ashkenazi Jews are over-represented at the senior levels of the court system in relation to their representation in the judiciary as whole, while Sephardic Jews are under-representation at all main court levels except Magistrates Courts, and have their highest representation in the Family Division of the Magistrates Courts. These findings are in line with a journalistic article that examined the ethnic composition of Israeli judges in 2007, and found that only 10% of judges in District Courts and in the Supreme Court were Sephardic Jews⁷⁸⁷. In this study, the largest proportion of Ashkenazi Jews is found in the Supreme Court (81%). Until 2012, only five of the total of 82 Supreme Court justices appointed since the establishment of the Court were Sephardic (6%). Over the years, significant gaps (sometimes of over a decade) have occurred between the appointment of one Sephardic judge and that of another. Until 2014, when Justice Meni Mazuz was appointed to join Justice Uri Shoham, two Sephardic justices had never served in the Supreme Court at the same time.

As Table 17 shows, Ashkenazi Jews also hold the majority of senior judicial positions in almost all judicial posts, and the differences between them and Sephardic judges were statistically significant⁷⁸⁸.

⁷⁸⁷ Weiss (n337) reviewed all 155 judges in these courts (referring to them as 'senior judges') and, in the absence of official data, determined ethnicity by their surname and other biographic information (e.g. country of birth).

⁷⁸⁸ The chi-square result of the cross-tabulation between Jewish ethnicity and type of court and position in court was significant when only Jewish judges were examined (using both a wide definition of ethnicity including USSR, and a narrower approach including only Ashkenazi, Sephardic and unknown). When similar analyses were run on the entire dataset (including non-Jews), the results were not significant, probably due to the number of categories.

Table 17. Jewish judges' ethnicity and position in court

Judicial Position	Ashkenazi	Sephardic	Jewish – ethnicity unknown
Registrar	51%	15%	33%
Senior registrar	42%	18%	39%
Judge	66%	14%	20%
Senior judge	55%	24%	20%
Vice president	70%	18%	12%
President	75%	20%	5%
Total	64%	16%	20%

Ashkenazi Jews are over-represented amongst Vice-Presidents (70%) and Presidents (75%) of courts in relation to their overall representation in the Israeli judiciary (64%). In contrast, Sephardic judges are most strongly represented amongst Senior Registrars (18%), Senior Judges (24%) and Vice-Presidents (18%) in relation to their overall representation in the judiciary (16%). It is important to note that the proportion of “unknowns” is large in almost all categories, and therefore some caution needs to be exercised in interpreting these results. Finally, a correlation that may be related to prestige is the one between Jewish ethnicity of judges and the geographical district in which they preside. Sephardic judges are highly more likely than Ashkenazi judges to serve in courts in the Southern district of Israel, which is generally seen as a socially and culturally peripheral area within Israel.

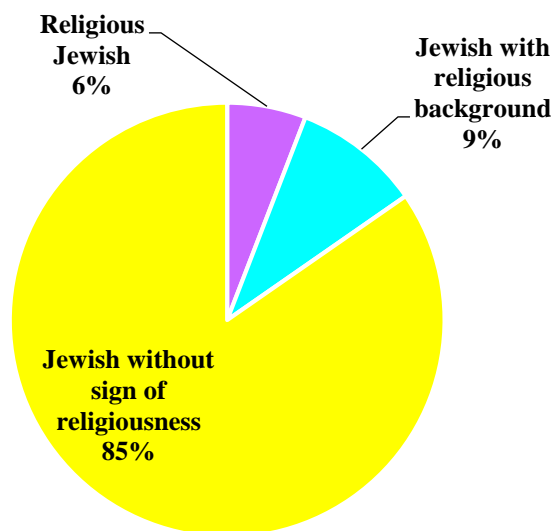
6.5 Religious observance (amongst Jews)

The research attempted to examine Jewish “religiousness” amongst the judiciary because of claims within Israel that the courts are “too liberal and secular” and do not reflect the Jewish religious and Orthodox sector of Israeli society. The challenges in ascertaining the religious observance of Jewish judges have been explained earlier alongside the methods used to attempt such identification in this study. Given these limitations, Figure 12 shows that 15% of Jewish judges appear to either practice their faith or have Jewish religious background (e.g. attended state-religious educational institutions)⁷⁸⁹. This is close to the proportion of Jews in the Israeli population (20%) that says it is religious (including ultra-Orthodox). If only those judges who are clearly religious are considered (6%), this suggest an under-representation of actively religious Jews amongst the Israeli judiciary

⁷⁸⁹ In most cases, these judges did not have any external characteristics that implied they were practicing their faith, but they did gain a religious education and even higher education of this kind.

in relation to their representation in the wider Israeli population (20%) and the 38% who define themselves as “traditional” in religious observance. However, three Supreme Court justices are identified as religious Jews (17%)⁷⁹⁰, which suggests that claims of this court being too secular may no longer be true. No Orthodox Jews (Haredi) were identified in the judiciary, but it should be remembered that they are absent from the pool for judicial appointments for reasons explained earlier⁷⁹¹.

Figure 12. Israeli Jewish judges by religious observance



6.6. Relationship between gender and ethnicity/nationality

Even though there are more women than men in the Israeli judiciary, the results of this research have already shown that women are yet to attain senior positions in the court system, especially in the high courts, in equal proportion to men. It has also been claimed that it is harder for women from ethnic minority groups to break the “glass ceiling” in Israel and that most women in senior positions in Israel are Ashkenazi rather than Sephardic Jews, Jewish rather than Arab, etc.⁷⁹². To explore the legitimacy of these claims, the relationship between nationality, ethnicity and gender in the Israeli judiciary was examined. Broadly looking at nationality, 361 (95%) of all female judges are Jewish, which is higher than the proportion of Jews in the entire judiciary. When broken down to

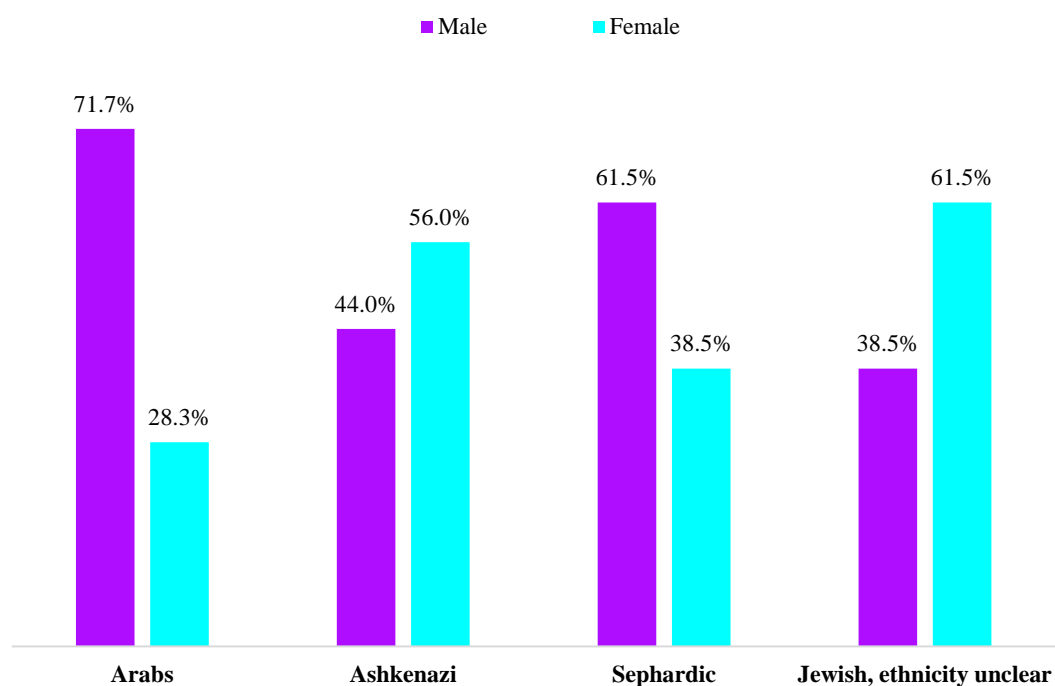
⁷⁹⁰ Elyakim Rubinstein, Nil Hendel and Noam Solberg.

⁷⁹¹ Haredi Jews rarely gain higher education degrees, and therefore do not meet any of the criteria to be admitted to law schools or the Israeli Bar. Only in the last decade have specific LL.B. programs been launched for this community. Their rejection of the authority of the courts system is another obstacle. For an extensive analysis, see: Michael Keren and Gad Barzilai *Position Paper no.9: Integration of Peripheral Groups into Society and Politics– the Haredim in Israel* (The Israel Democracy Institute 1998); Daniel Freidman, “Appointment of Judges and the Issue of Appointing Haredi Judges to the General Law Courts” (1997) 7 *Ha-Mishpat* 6

⁷⁹² e.g. Yifat Bitton (n.457) 459

various population groups, the gaps between men and women in the same ethnic category becomes clearer:

Figure 13. Gender and ethnicity/nationality of Israeli judges



The findings presented in Figure 13 suggest that, despite women comprising a larger proportion of the judiciary than men in Israel, there are significant gender gaps between different ethnic groups in the Israeli judiciary. Women are particularly poorly represented amongst judges from groups or sectors that are already under-represented in the judiciary (i.e. Arabs, Sephardic Jews). The most substantial differences between men and women are found amongst Arab judges, where there are 2.5 times more men than women.

Figure 14. Gender and religion of Israeli judges

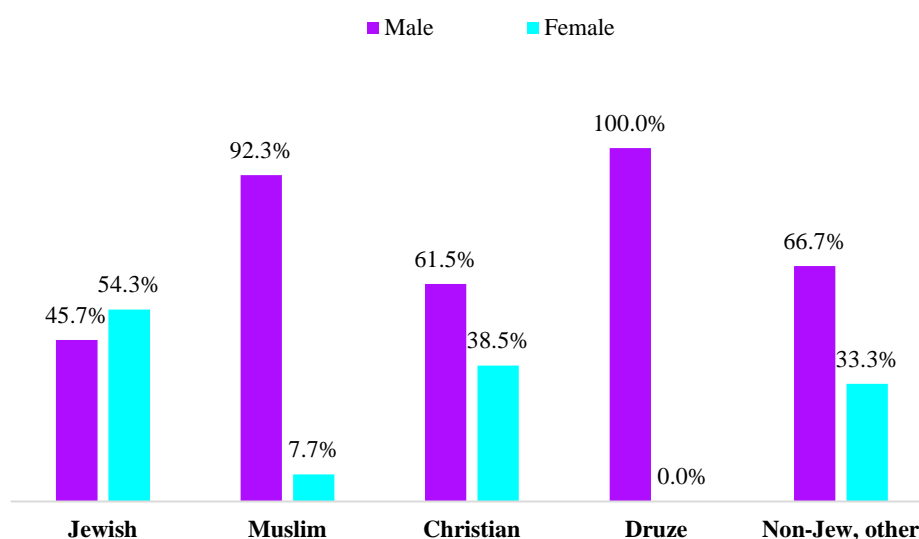


Figure 14 shows the gender distribution of Israeli judges by their religious group. This analysis was also statistically significant, with the most prominent findings relating to Jewish and Muslim judges. While women make up the majority of Jewish judges (54%), Muslim judges are almost all male (92%). Although no female Druze or Bedouin judges were identified, the proportion of women amongst Christian judges (39%) is much higher compared to other Arab groups (8% of Muslim judges are female and 0% of Druze judges are female). The findings reflect the complexity of women's status in the Arab community in Israel. While there are a growing number of Arab women who gain higher education degrees, there are still low rates of Arab women in the workplace⁷⁹³. Similar data was presented in a recent report by an Arab female lawyer, who called for greater representation of Arabs and specifically Arab women in the legal profession and the judiciary⁷⁹⁴.

Amongst Jewish judges, although there are more female (54%) than male (46%) judges, there was an uneven distribution of gender within the Jewish groups. There are significantly more female than male judges amongst Ashkenazi judges and Jewish judges

⁷⁹³ Hornstein and Almog (n.614)

⁷⁹⁴ Sausan (n.493) found that six judges and two registrars (out of 612 judges) were Arab women, i.e. 1.3%.

whose ethnicity could not be determined, but in the Sephardic group there are 1.6 more male than female judges.

6.7 Age

In examining judicial age it is important to note that the compulsory retirement age for all judges in General Courts system and Labour Courts in Israel is 70⁷⁹⁵. Overall, the mean age of judges who provided data on their date of birth (n=530)⁷⁹⁶ is 50.35 and the median is 48 years (s.d.=8.29), with the youngest judges being 36 years old and the oldest being 70 years old. Male judges are, on average, almost six years older than female judges, which is a statistically significant difference. A factor that may partially explain the age differences between male and female judges in Israel is military service; men are required to serve 3 years, while women's average service is two years. This may also help to explain why most women start their academic studies at a younger age than men in Israel.

There were no statistically significant differences in age between the various ethnic and religious groups in the judiciary. The average age for Jewish judges was 50.5 (SD=8.29), and for non-Jews: 48.5 (SD=8.1). Furthermore, it appears that the mean age at the time of the first judicial appointment was 41 (SD=6.0, n=531), the youngest judge to be appointed was 28 years old and the oldest 62 (mode: 39). Statistically significant differences were also found between Jews and Arabs regarding the age when joining the judiciary, with Arab judges being 37.8 years old on average, and Jewish judges 41.3 (t=4.238, p=0.011). This may be partially due to the fact that most Jewish judges serve in the IDF and therefore start their legal career a few years later than Arab judges who do not serve in the IDF.

6.8 Academic Background

LL.B.

Almost all serving Israeli judges (95%) obtained their LL.B. in Israel⁷⁹⁷. Those who studied abroad attended mostly UK law schools. Of those who studied in Israel, almost

⁷⁹⁵ s.13, the Courts Law; s.8(a) the Labour Courts Law.

⁷⁹⁶ Half of the female judges (n=190) did not provide their date of birth, and they make-up 97% of the missing values in this category.

⁷⁹⁷ Twenty-nine judges studied abroad, and seven judges did not provide data regarding their LLB.

all (90% or 620 judges) are university graduates, and only 10% (69 judges) are college graduates⁷⁹⁸. This is opposite to the trend in the legal profession and legal education today, in which the majority of lawyers are college graduates and the majority of law students attend colleges⁷⁹⁹. However, it reflects the fact that Israeli judges are appointed from amongst senior and experienced legal practitioners, who would have been more likely to have obtained their law degrees before law colleges came into existence (in the 1990s).

Nevertheless, when the educational background of Israeli judges is examined, signs of diversity emerge. For many years the Israeli judiciary appeared to be almost entirely made up of graduates from the Hebrew University and Tel-Aviv University⁸⁰⁰, and this remains a commonly held view about Israeli judges. This study, however, shows that 10% of the current judiciary in Israel have graduated from colleges⁸⁰¹, and amongst university graduates there is now representation from a much wider variety of universities in Israel, although the two thirds of judges (67%) are still Hebrew University or Tel-Aviv University graduates⁸⁰²:

⁷⁹⁸ When calculated against all serving judges (not just those who studied in Israel), the number of college graduates amounts to 15%, compared with only 3% college graduates found in the 2010 study.

⁷⁹⁹ The data for lawyers relies on the Bar; in 2011, almost 40% of higher education students in Israel were in colleges, and almost 80% of law students attended colleges. CBS, 'Higher Education in Israel - Selected Data for the New Academic Year 2012/13' (21.10.2012)

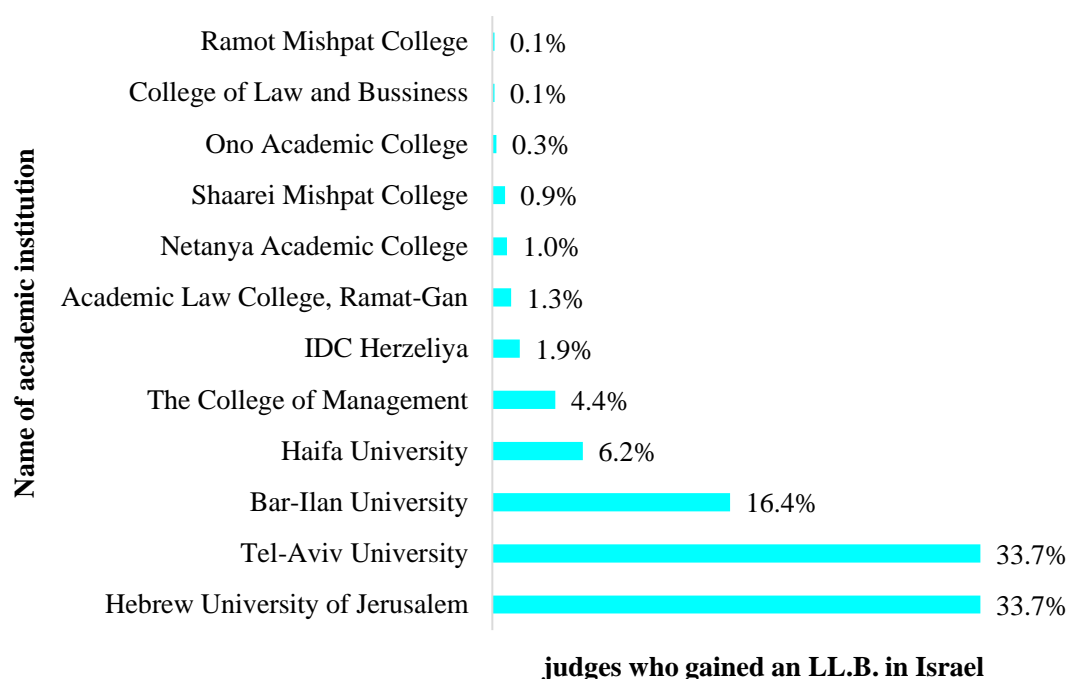
http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201206276

⁸⁰⁰ Compare: 81% of judges in the High Court and Court of Appeal in England and Wales have Oxbridge degrees (Thomas n5 49).

⁸⁰¹ In the 2010 study, only 3% of judges were college graduates.

⁸⁰² In the 2010 study, 46% of judges were Hebrew University graduates compared to a third from TAU.

Figure 15. Academic institution in Israel where judges gained their LL.B.



Amongst the 10% of Israeli judges that graduated from Israeli colleges, the most prominent institution is the College of Management with 30 judges (4.4% of all judges and 43% of judges who graduated from a college), followed by IDC Herzlyia (1.9% of all judges and 19% of judges who graduated from a college). This reflects the established status of these institutions and the fact that they have been operating law degree programmes for more than two decades.

When cross-analysing the type of academic institution and gender of judges, no significant results were found⁸⁰³. Similarly, there were no statistically significant differences between Jewish and Arab judges or between the various religious groups in the judiciary in relation to where they obtained their LLB. However, the type of academic institution judges attended was found to be strongly correlated with three other variables: Jewish ethnicity, position in court and type of court. Even though Ashkenazi and Sephardic judges were most likely to be university graduates, only 5% of Ashkenazi judges were college graduates compared with 15% of Sephardic judges. In addition, the

⁸⁰³ All the analyses in this section is confined to judges who studied in Israel and provided information on their LL.B. When analysis was run with judges who studied abroad or did not provide any information, the results were skewed by these other categories, so the analysis presented here only includes judges who graduated in Israel.

positioning and seniority of judges correlated with the institution they attended. No college-graduates served as Senior Judges or Vice-Presidents of courts, but they are highly more likely to be Registrars or Senior Registrars than were university graduates⁸⁰⁴. Finally, the higher one goes up the judicial hierarchy, the fewer college graduates are found in the higher courts. Thus, 80% of all college-graduate judges serve in Magistrate's Courts, there is only one college-graduate judge in the District Courts and none in the Supreme Court. The largest proportion of college graduates was found in Traffic Courts (24%) followed by Family Courts (19.3%) and Regional Labour Courts (16.4%). The positioning of college-graduate judges in lower or less prestigious courts can be partially attributed to the fact that the first graduates of law colleges joined the legal profession in the mid-1990s and are likely to be amongst the younger and less experienced members of the judiciary⁸⁰⁵.

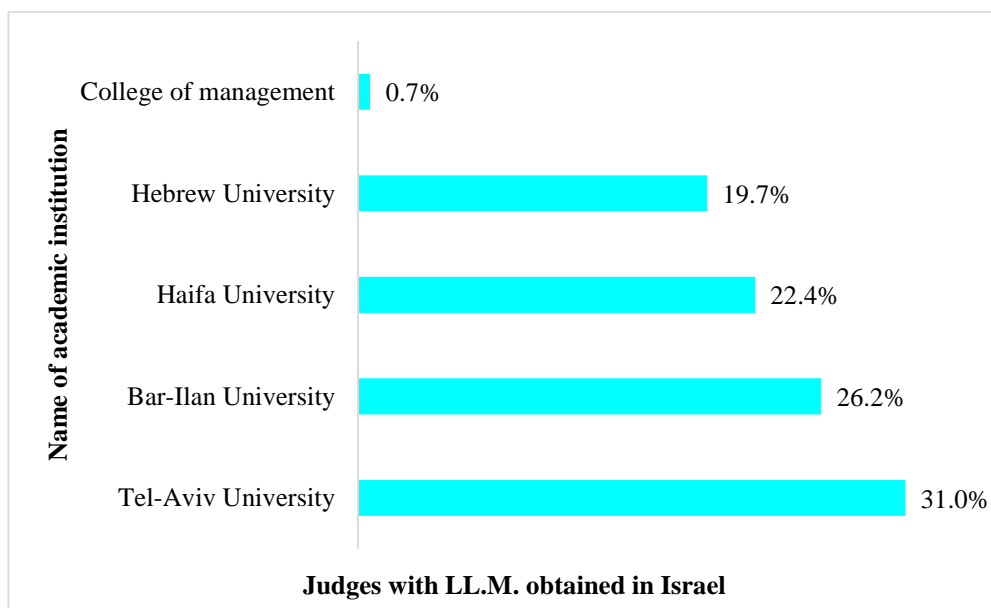
LL.M.

Almost 45% of serving judges in Israel (323 of 725) indicated on their CVs that they had gained an LL.M., of which 91% (294) were obtained in Israel and 7% (22) were obtained abroad (mostly in the US and UK). Almost all judges (99%) with an Israeli LL.M. gained it at a university rather than a college, reflecting the fact that most colleges in Israel do not offer LL.M. programmes. As Figure 16 shows, the largest proportion of judges with an LL.M. obtained it from Tel-Aviv University (31%). (Only 26 serving judges (4%) had a PhD in law, predominately through Israeli universities.)

⁸⁰⁴ 26% of registrars are college graduates.

⁸⁰⁵ Judges are appointed to their first judicial post (Magistrates Courts usually) after at least 10-15 years have elapsed since the end date of their studies, and for higher instances the number grows accordingly (Freidman n791, 7). Therefore, it makes sense to see few college graduates in lower courts, but one would probably expect to see growing numbers of them in the near future, as they would be much more dominant in the "pool".

Figure 16. Judges with an Israeli LL.M. by academic institution



Extra-legal education

In Israel, law students are not required to take courses or degrees in extra-legal subjects, and this has prompted some concerns about the educational uniformity of Israeli judges⁸⁰⁶. However, this study found that 17% of serving judges (121 judges) had a non-legal higher education background⁸⁰⁷. No patterns emerge in terms of academic field, and there is good representation from natural sciences, social sciences and humanities). The growing interdisciplinary nature of legal education and the popularity of academic programmes combining law and other fields is discussed in more detail in Chapters 7 and 8, and it seems that Israeli judges reflect this trend to some extent.

6.9 Professional background

Internship

Until twenty years ago, law graduates were required to undertake two years of internship prior to sitting the Bar exams, whereas today they are only obliged to undertake a one

⁸⁰⁶ Mordechai Heller, “Appointment of Judges – The Solution To The Supreme Court Crisis” (1999) 8 *Tchelet* 54

⁸⁰⁷ Some judges provided information about studies but did not clarify whether they actually graduated with a degree in the subject; others mentioned they had an undergraduate degree but did not specify a subject.

year internship⁸⁰⁸. Data were available on 580 of the 725 judges (80%) in the study⁸⁰⁹. Reflecting the change in the internship rule, most judges were identified as having one place of internship, but over a third (39% or 227) of judges were identified as having undertaken more than one internship. Table 18 below outlines the places and sectors where judges received their training as interns.

Table 18: Israeli judges' place of legal internship

Law Sector		First/only internship		Second internship	
		N	% ⁸¹⁰	N	%
Private		226	40%	149	65.7%
Public	Courts	223	39%	33	14.5%
	State attorney	88	15%	33	14.5%
	IDF	11	2%	4	1.8%
	Police	3	0.5%	1	0.4%
	Government offices	6	1%	3	1.3%
	Public- other	13	2%	4	1.8%
	Total public	344	60%	78	34.3%
Total		570	100%	227	100%

Amongst first internships, almost two-thirds (60%) interned in the public sector, with the vast majority (39%) interning in the courts, (39 judges or 7% interned in the Supreme Court). However, a substantial proportion (40%) interned in private firms. This contradicts the prevalent view that most Israeli judges were prosecutors for the State's Attorney before becoming judges. In fact, this research shows that 15% of judges interned in the State Attorney's offices. This proportion may seem high to some⁸¹¹, but it is significantly lower than the proportion of judges who interned in the private sector (40% as single internship, 65.7% as second internship).

⁸⁰⁸ This has recently changed with the decision to extend the internship to 18 months. Zohar Shachar Levy, "It's Final: Legal Internship Is Extended from One Year to a Year and a Half", *Calcalist* (2.2.2016) (<http://www.calcalist.co.il/local/articles/0,7340,L-3680063,00.html>). The change takes effect from September 2016.

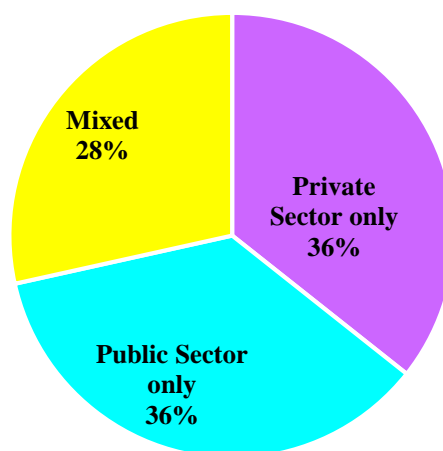
⁸⁰⁹ 155 judges did not provide any information regarding internship.

⁸¹⁰ The percentage is calculated against the relevant category, e.g. percentage of judges who reported doing this internship.

⁸¹¹ See data in Chapter 5 on the claimed over-representation of prosecutors in the judiciary.

As some judges undertook only one internship while others had more than one internship, a combined assessment of internship background was carried out. Figure 17 illustrates the findings for all judicial internships according to whether judges undertook internships (1) in the private sector only, (2) in the public sector only or (3) in a combination of the private and public sectors⁸¹². The results show there is no significant difference between the categories, and an almost equal proportion of judges interned in the public sector, the private sector or both.

Figure 17. Israeli judges' internship experience by legal sector

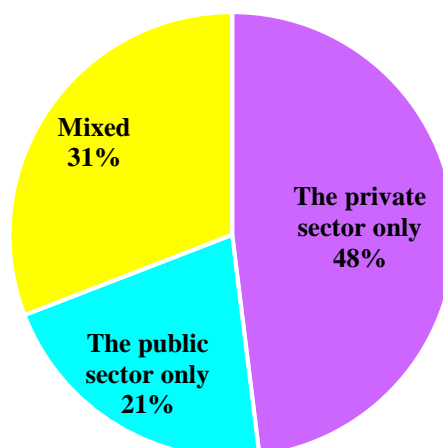


Areas of legal practice

Israeli law requires that applicants for judicial office must have practised law for a certain period to be eligible to apply for a judicial position. Figure 18 displays the results for 719 judges where information existed on their professional experience as lawyers prior to being appointed to the judiciary. The categorisation is “public sector only”, “private sector only” and “mixed background”. The results run counter to the common assumption that public sector lawyers dominate the Israeli judiciary. The single largest proportion of serving judges in Israel (48%) have practised in the private sector only. Only a fifth (21%) had practised solely in the public sector, and almost a third (31%) had practice experience in both the private and public sectors. Unfortunately, it is not possible to compare these figures against the distribution of lawyers in these sectors in the legal profession, as such data do not currently exist for the Israeli Bar.

⁸¹² The first two categories refer to judges who did either one internship or two, while the latter is by definition for those who interned in more than one place.

Figure 18. Israeli judges' legal practice experience by sector

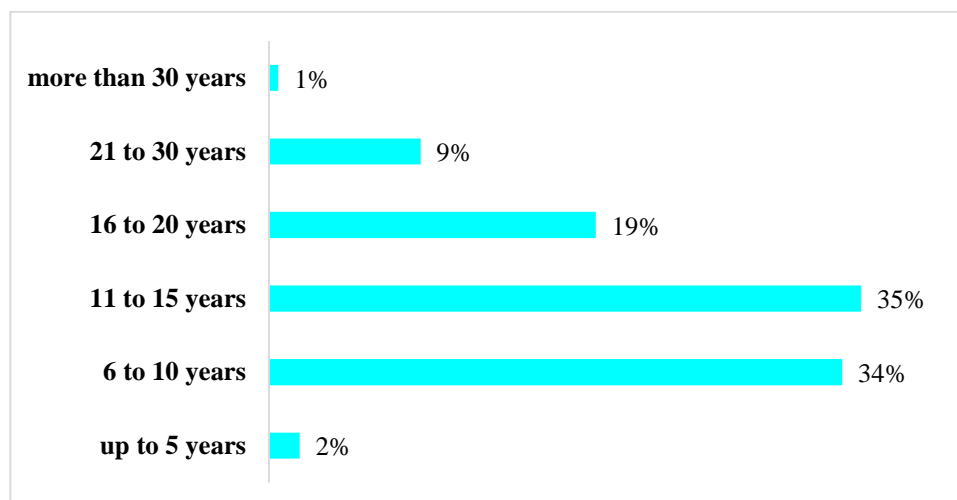


Legal practice experience

On average, it took judges 13.1 years of professional practice (s.d.=5.4), before they were first appointed to the judiciary⁸¹³. Over a third (36%) or 255 of 711 judges who reported relevant data had ten years of experience or less when appointed to the judiciary. However, the experience range is wide, with some judges having only gained five years prior to their first appointment, and others reaching the bench after 30 years of practice. This may be a result of the differences between judicial posts in terms of the eligibility criteria: judicial appointments to the District Courts require a minimum of 10 years legal practice experience, while for Magistrate's Courts it is only 5 years.

⁸¹³ This research counts years of professional practice from the year in which the judge was admitted to the Israeli Bar.

Figure 19. Israeli judges' years in practice prior to first judicial appointment



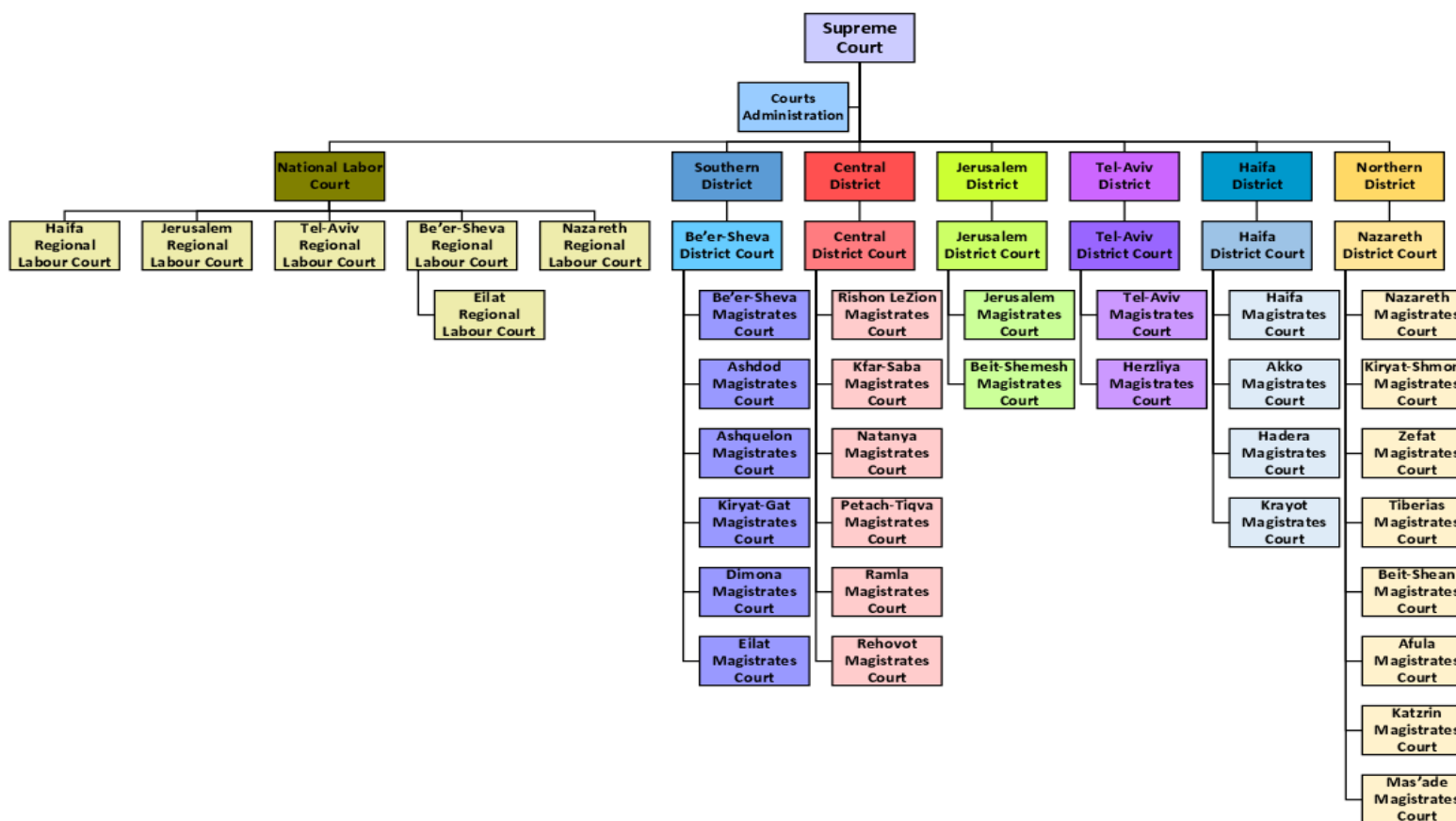
There was no statistically significant difference between men and women in terms of years of practice prior to appointment ($t=1.557$, $p =0.124$), although the average period of practice before appointment for male judges (13.4 years) was slightly longer than female judges (12.8 years). However, the average number of years of practice for non-Jewish judges (12.1 years) was significantly lower than Jewish judges (13.2 years). Cross analysis of the type of court with the range of years of professional experience prior to being appointed to the judiciary did not reveal any substantial difference, other than a concentration of judges with 6-10 years of experience in Regional Labour Courts, which is in line with the requirement to have practised law for at least seven years to be eligible for this position.

6.10 Geographical distribution

The Israeli court system is divided into 6 main districts, with the largest number of courts in the areas of highest population density. The most highly populated cities in Israel are Jerusalem, Tel-Aviv and Haifa (in that order)⁸¹⁴. Figure 20 below shows the organization of Israeli courts by district and location.

⁸¹⁴CBS "The Biggest Cities in Israel 2012-2013" http://www.cbs.gov.il/statistical/big_city139.pdf

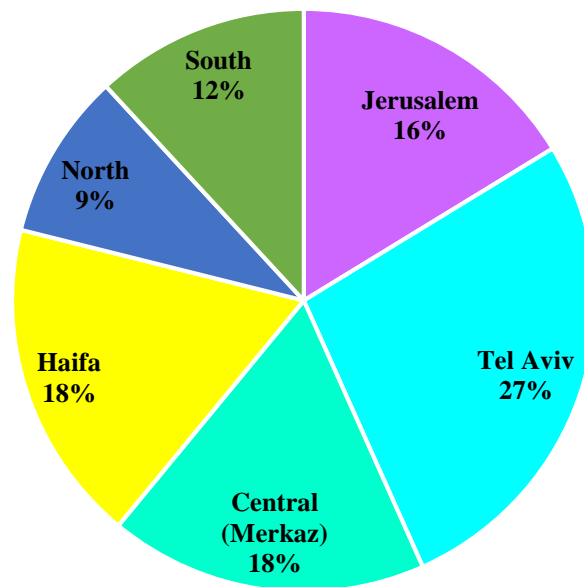
Figure 20. Detailed structure of the general courts system in Israel by district and location⁸¹⁵



⁸¹⁵ This figure was created for the purposes of this study. It is an English adaptation of the courts' organisational structure as published (in Hebrew) in the Judicial System Annual Report 2015 (http://elyon1.court.gov.il/heb/haba/dochot/doc/hofesh_meida2015.pdf), p.7

As Figure 22 show, the population density in large metropolitan cities is mirrored in the high proportion of judges in these cities. Tel-Aviv has 26% of all judges⁸¹⁶, Jerusalem has 16% and Haifa has 12%. The two figures show the distribution of judges into the six jurisdictional districts in Israel (Figure 21) as well as the distribution by each of the 26 individual court locations in Israel (Figure 22)⁸¹⁷.

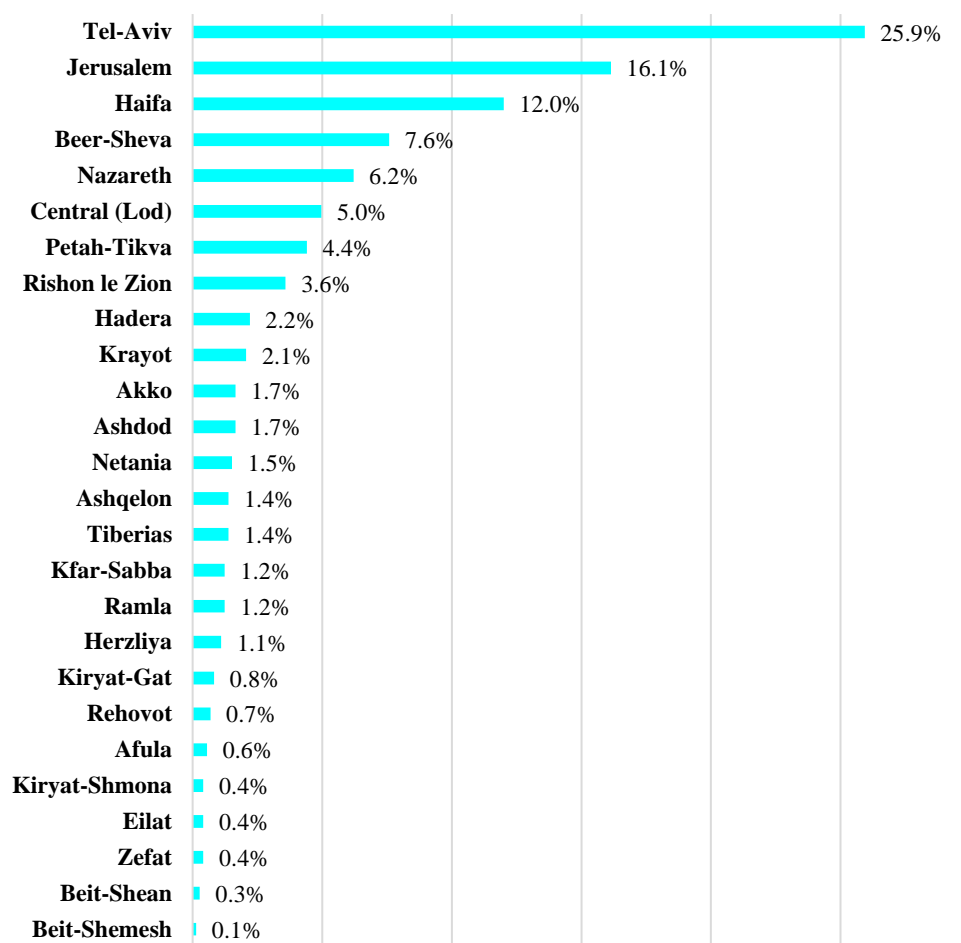
Figure 21: Geographical distribution of judges by court regional district



⁸¹⁶ Tel-Aviv, Israel's business centre has more judges than any other city in Israel, reflecting the scope of commerce there.

⁸¹⁷ The findings of this study are similar to the judiciary's report, although the latter does not seem to include registrars in the count and does not provide a distribution by geographical district for Labour Courts and General Courts combined (see semi-annual report 2014, p.10-11).

Figure 22: Geographical distribution of judges by court location



6.11 Family ties between judges

It appears that 33 of the 725 serving judges in the study (4.5%) have known family ties to other judges (serving or retired) by marriage, ancestry or sibling relationships. This contradicts the common perception in Israel that the judicial system is nepotistic and that sectors that are excluded from this “closed club” are inherently less likely to be represented in the judiciary. However what this finding cannot do is say how this figure compares with the situation in the Israeli judiciary in the past⁸¹⁸.

Summary

This chapter presented the findings from the first comprehensive examination of the composition of Israeli judiciary. The research employed publically available data on serving judges in Israel in a novel way. It aimed to collect and analyse data on as many background variables as possible, bearing in mind the unique characteristics of Israeli society, as well as the changes in the legal profession and legal education in Israel in recent years.

Overall, the research found that the Israeli judiciary has diversified over time but still does not completely reflect the diversity of Israeli society. Women now make up the majority of all judges in the Israeli judiciary, but they still do not constitute the majority of judges in higher courts and in senior judicial positions. Muslim Arabs and Sephardic Jews are under-represented in the judiciary in relation to their representation in the population. Ethiopian and USSR immigrants and Orthodox Jews are almost non-existent in the judiciary.

The research also dispelled some long-standing myths about the judiciary in Israel. Contrary to popular view, the largest proportion of Israeli judges have a private practice background, college law graduates are now represented amongst the serving judiciary, and judges have diverse and sometimes inter-disciplinary academic and professional backgrounds. There is also little evidence of nepotism in the Israeli judiciary, with only a very small proportion of current judges having any family connections to the judiciary. The Supreme Court’s current composition is significantly more diverse than it used to be,

⁸¹⁸ See Chapter 9 for suggestions for future research.

and today the Court has an Arab, two Sephardic Jews, three religious Jews, and five women (including the Chief Justice) on its bench. The findings of this research, therefore, paint a picture of a dynamic judiciary in Israel that is more diverse than is generally thought, but at the same time is not completely representative of the diversity of Israeli society.

Having created a detailed profile of the Israeli judiciary, the next question to consider is: What could be learned and projected about judicial diversity in Israel from looking at the pool of potential applicants for judicial appointment - that is Israeli lawyers and law students. Chapters 7 and 8 provide the findings of the second part of this research project, which examined the views and backgrounds of Israeli lawyers and law students. By combining these three sets of data (i.e. judges, lawyers and law students) it is hoped that an even more complete picture of judicial diversity in Israel will emerge.

CHAPTER 7: UNDERSTANDING THE POOL FOR JUDICIAL APPOINTMENTS: ISRAELI LAWYERS

Chapter 6 examined the state of diversity in the Israeli judiciary today, and produced an in-depth profile of Israeli judges, their professional and educational backgrounds and socio-demographic characteristics. However, understanding judicial diversity in Israel also requires an understanding of the “pool” from which judges are appointed, which in Israel is exclusively Israeli lawyers. This research operates on the assumption that understanding the demographics and views of lawyers in Israel will broaden and deepen the picture of judicial diversity in Israel as it is now and how it may develop in the future. There are no existing data regarding the composition of the Israeli legal profession or the perceptions or intentions of Israeli lawyers about the judiciary. The research findings presented in this chapter set out the first detailed analysis of the background characteristics of Israeli lawyers, their attitudes towards Israeli courts and judicial diversity, as well as their views about applying for a judicial post.

A large-scale online survey of Israeli lawyers (the “Lawyer Survey”) was distributed between August and October 2014. The Lawyers Survey serves three main goals:

- (1) To provide for the first time in Israel a socio-demographic profile of lawyers based on 18 background characteristics;
- (2) To examine Israeli lawyers’ attitudes to the judiciary and judicial diversity, and
- (3) To assess Israeli lawyers’ interest in pursuing a judicial career in the future.

These findings contribute to an understanding of judicial diversity in Israel in two important ways. First, they provide the first ever detailed profile of the immediate pool for future judges in Israel, and in doing so indicate the extent to which diversity in the judiciary may change in future. Second, by revealing for the first time in an empirically reliable way how members of the legal profession perceive judicial diversity, these findings help to assess the validity of previous anecdotal information about lawyers’ attitudes to judges and diversity. Along with the findings on judicial diversity in Israel (Chapter 6) and the findings from a similar survey of Israeli law students (Chapter 8), the findings of the Lawyer Survey provide important and critical information needed to understand judicial diversity in Israel.

7.1 PART 1: Demographics of the Israeli legal profession

7.1.1 Note on demographics of the Israeli legal profession and the response rate in the Lawyer Survey

It is important to bear in mind that official data in Israel about both the general population and legal profession is partial and not always reliable (i.e. it is often unclear how data were collected and analysed). At the time of this survey, there were over 56,000 registered active lawyers in Israel⁸¹⁹. Of this group, 38,000 were registered to receive email messages from the Israeli Bar, and a similar number of lawyers were included in the email distribution list for the Israeli online legal database Nevo. Distributing the survey both through the Bar (a statutory entity that incorporates all registered lawyers in Israel) and Nevo (a reputable private dataset) aimed to widen the range of lawyers that would be exposed to the survey. Given the nature of work of most Israeli lawyers and the widespread use of the Internet as an essential working tool, an online survey distributed to lawyers via emails, newsletters and notifications on websites was felt to be a reliable and valid tool for this target group.

A total of 671 lawyers took the survey. Rather than measuring the response rate based on the number of all registered lawyers in Israel (i.e., the target population), it would be more accurate to measure it against the frame population, that is: the number of lawyers who were invited to the survey. However, as explained in chapter 5, caution should be exercised here because the exact number of lawyers who were invited to take the survey is unclear. As explained, both the Bar and Nevo's distribution measures were used in order to maximize the participation in the survey, but the possible overlaps between the lists, in addition to the lack of a single comprehensive emailing list that can be monitored by the author, pose difficulties to accurately calculating the response rate. Thus, for example, when the number of usable responses is measured against the number of Nevo's distribution recipients, the response rate was **2%**, but it is not entirely clear how many lawyers are on both Nevo's and the Bar's distribution lists, how many emails failed to be sent, etc.

Whilst the distribution measures seem suitable to maximize the participation (in the absence of direct access to a fixed, controlled database of all Israeli lawyers), the low

⁸¹⁹The Israeli Bar Association, *Activity Report- 2013-2014* http://www.israelbar.org.il/UploadFiles/activity_report_2014_site.pdf, p.6. The actual number of qualified lawyers exceeds 60,000, but some 6,000 lawyers have withheld their membership. Hila Raz, "How Many New Lawyers Joined This Year and How Many Of Them Live In Tel-Aviv?" *TheMarker* (20.5.2012) <http://www.themarker.com/law/1.1711714>.

response rate raises several concerns. Firstly, the difference between the target population- all registered lawyers in Israel- which is estimated in over 56,000 lawyers, and the sample frame- all lawyers who receive the Bar's newsletters and/or Nevo's emails, might raise a coverage error. Secondly, the difference between the respondents to the survey, and the sample frame, and in particular the low response rate, may raise non-response errors. However, several measures were taken in this study to minimize the possible effects of the coverage and non-response errors. As mentioned, given the low response to the Bar's messages, it was decided to add another distribution measure – Nevo. This wide-spread, online legal database is believed to provide a good coverage of Israeli lawyers. Using it for this survey significantly increased the exposure of lawyers to the survey, and accordingly the number of responses.

In the absence of official data on the legal profession, it is difficult to estimate the extent to which the respondents are representative of Israeli lawyers. However, the very limited data that exist (and discussed below) support the assumption that there was no significant coverage problem and the respondents seem to be generally representative of the legal profession. The following section explores the background characteristics of those Israeli lawyers that took part in the Lawyer Survey and compares these findings, where possible, with known demographic information on Israeli society, the legal profession and judges (as found in chapter 6)⁸²⁰. As the findings show, the respondents in the Lawyer Survey were of diverse background, including ethnicity, legal education, work district and professional expertise, age and mode of employment, etc. There is indeed a gender imbalance, as Lawyer Survey respondents were disproportionately male (see Figure 23 below). However, overall, no statistically significant differences between men and women respondents were found regarding views and attitudes expressed in this survey (see, for example, section 7.2.8 below). Furthermore, the comparison between Lawyer Survey and Student Survey respondents, summarized in **Table 29** in chapter 9 below, shows that despite the differences in the sample size and response rates, the differences between the actual background characteristics of lawyers and law students are overall not substantial. Additionally, the attitudes, views and intentions made by participants in both surveys were overall similar, as further shown in chapter 9, suggesting that the possible effects of the low response rate may have been mitigated by adequate coverage. Future research, however, would definitely benefit from having a fixed list of contact details for

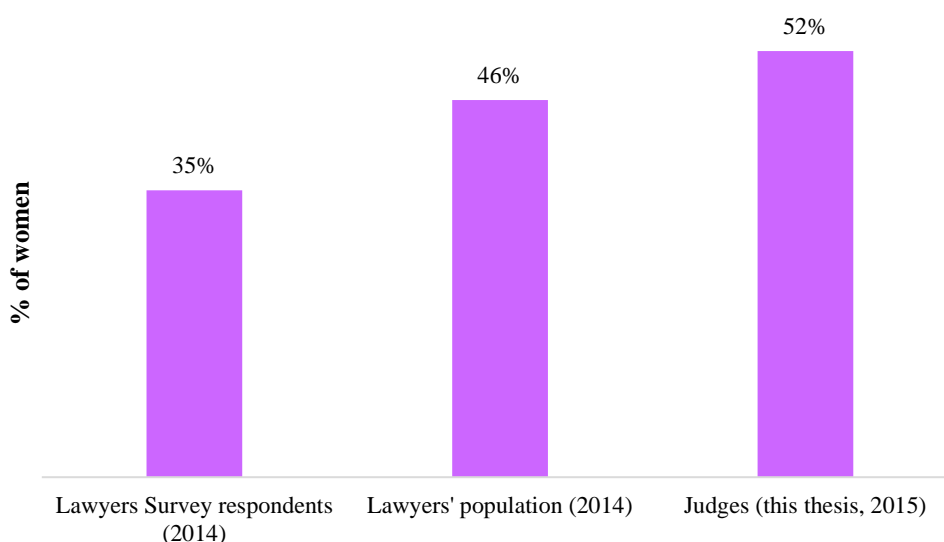
⁸²⁰ Full details of the statistical analyses conducted for this chapter are found in **Appendix 8**.

all lawyers in Israel, and updated data on the demographics of the entire lawyer population in Israel, both will enable a better control of the coverage and assessment of response issues.

7.1.2 Gender

There are no official statistics about the gender distribution in the legal profession in Israel today⁸²¹. However, publications from previous years claimed that 43%-46% of qualified lawyers in Israel were women⁸²². Assuming these sources are reliable, male lawyers were over-represented in the Lawyer Survey (65%) compared with female (35%)⁸²³. This needs to be borne in mind when interpreting the results. It also differs significantly to the proportion of women in the judiciary, as found in this thesis (52%).

Figure 23. Proportion of women in the Lawyer Survey, profession and judiciary



7.1.3 Religion, nationality and ethnicity

Overall, there are no official statistics regarding the religious, national or ethnic distribution of Israeli lawyers. The Bar does not publish figures about these variables

⁸²¹ In 2011, 43% of lawyers were women (The Israeli Bar Association, *Jubilee Issue: 1961-2001* (2011), http://www.israelbar.org.il/UpLoadFiles/orach-hadin_new_issue_11.pdf).

⁸²² Zer-Gutman (n384) 251; Nurit Roth, "The Bar's Jubilee: the Number of Lawyers Has Doubled over the Past Decade", *TheMarker* (22 May 2011) <http://www.themarker.com/law/1.644973>, 43% of lawyers in 2010-11 were women; Yasmin Gueta, "45% Of Lawyers Are Women- So Why Is There No Woman in the Picture?" *TheMarker* (6.3.2014) <http://www.themarker.com/law/1.2261778>; Anat Roe'e, "The Inflated Balloon of the Law Faculties Begins to Lose Air", *Calcalist* (12.11.2014) <http://www.calcalist.co.il/local/articles/0,7340,L-3644777,00.html>, according to which 46% of lawyers in Israel in 2014 were women.

⁸²³ There were 368 missing values in this questions, i.e. participants that did not indicate their gender.

either from its official records or by surveying lawyers. The only data found were on the proportion of Arabs in the legal profession, and that data are not consistent and out-of-date. Therefore, it was not possible to contextualize the findings of the Lawyers Survey in comparison with the lawyers' population; instead references to the general population or to judges were made where applicable.

The dominant religious/national group in the Lawyer Survey is Jews, who are significantly over-represented compared with their share of the general population. Religious minorities account for small proportions of the survey participants (under 10%, see Table 19). This distribution is almost identical to the religious and national composition of the judiciary presented in chapter 6. It is also very similar to the religious distribution of lawyers in the Civil Service, although Christians and Muslims have slightly greater representation there⁸²⁴. As Table 19 shows, the main gap between the survey participants and the general population is in relation to Muslims, which are significantly under-represented in the survey. However, in the absence of current data it is unclear what the current religious distribution is in the legal profession.

Table 19. Lawyers' religious self-definition compared with general population⁸²⁵

Religious/national category	Lawyer Survey		General population
	N	%	%
Jewish	337	91%	75%
Muslim	4	1%	17%
Druze	2	0.5%	1.5%
No religious affiliation	18	5%	4% ⁸²⁶
Christian	3	1%	2%
Mixed/other	8	2%	n/a
Total	372	100%	100%

⁸²⁴ 91% are Jewish, 4% Muslim, 1% Druze and 3% Christians. In light of the under-representation of Arab lawyers, the Ministry of Justice decided to proactively encourage Arab students, lawyers and jurists to join the Civil Service; "Partners: a conference to encourage the integration of lawyers and academics of the Arab sector, Druze and Circassian, in the Ministry of Justice and the judiciary" (30.9.2014) ([here](#))

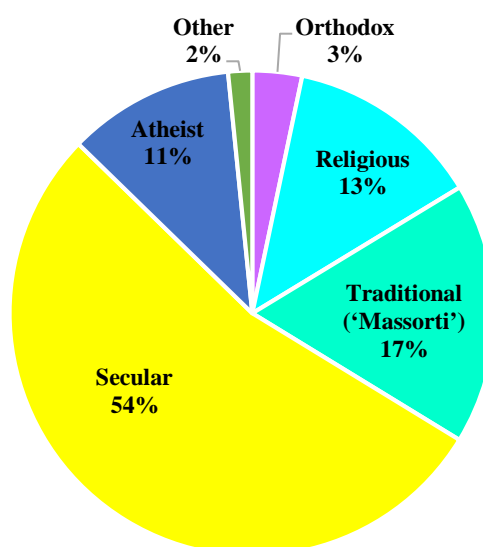
⁸²⁵ Data on the general population are from: CBS report "[The Druze Population of Israel](#)" (20.4.2015); CBS report "Christmas 2013 – Christians in Israel"; CBS, [Statistical Abstract Of Israel 2014](#) "Population, By Population Group, Religion, Age, Sex And Number Of Males Per 1,000 Females" (Table 2.5), Pp.100-101.

⁸²⁶ This figure includes both mixed/other and no religion.

7.1.4 Religiosity

There is no official data on religiosity of Israeli lawyers; therefore, it is hard to contextualize the figures displayed in Figure 24. On the one hand, the common perception is that religious and Orthodox Jews are under-represented in the judiciary and in the legal profession. On the other hand, the number of religious and ultra-Orthodox lawyers is arguably increasing⁸²⁷.

Figure 24. Lawyers' self-definition of religious observance



Compared with the distribution in the Jewish population in Israel⁸²⁸, seculars (54%) seem over-represented in this survey (compared with 42% of the population); Orthodox and traditional Jews are slightly under-represented (9% and 35%, respectively); and the number of religious lawyers resembles the general population of religious Jews (11%). However, compared with the judges' analysis, which found some 15% of judges to either appear religious or have a religious background, it seems that there are more lawyers with a religious or practicing background⁸²⁹. Several surveys found that the level of religious

⁸²⁷ An indication can be found in the special Orthodox forum established by the Bar (n496) stating it aimed to serve “thousands” of Orthodox lawyers.

⁸²⁸ The surveys that deal with religiosity separate Jews and non-Jews in data collection and analysis. CBS, *Israel in Figures 2014* (here), and a large-scale survey from 2009: *A Portrait of Israeli Jews: Beliefs, Observance, and Values of Israeli Jews, 2009* (Israel Democracy Institute, 2011).

⁸²⁹ 33% if religious, Orthodox and traditional are counted jointly. Yet this should be read with caution, because lawyers were asked for their self-definition, whereas judges' religiosity was assessed by external measures (e.g. clothing, biography, etc.).

observance varies between Jews and non-Jews⁸³⁰, but in this survey, there was no evidence of such differences between religious groups⁸³¹.

7.1.5 Jewish ethnicity

The Bar does not publish reports on the ethnic or national origins of its members (e.g. lawyers' countries of birth) or on their self-defined ethnicity. As such, the findings of this survey appear to be the first attempt to map the ethnic origin of Jewish lawyers in Israel today. Yet the difficulties in collecting and analysing data about Jewish ethnicity requires caution in interpreting the results. As explained earlier, this survey addressed Jewish ethnicity in two ways: (1) by self-definition and (2) by country of birth of the subject and their father (similar to official definitions).

By self-definition

In the Lawyer Survey, there were twice as many self-defined Ashkenazi lawyers than self-defined Sephardic lawyers. A significant proportion of lawyers (14%) described themselves as “mixed” or “other”, categories that are absent from official statistics⁸³². The dichotomy between Sephardic and Ashkenazi lawyers resembles the findings for judges, although judges’ ethnicity had to be assessed indirectly and not by self-definition. Especially prominent is the lack of Ethiopian Jews (only one lawyer in this survey or 0.3%, compared with 1.5% of the general population). As the following sections will show, many participants think that Ethiopian Jews are under-represented in the legal education, the profession and the judiciary, a perception that is supported by the findings of this survey.

By country of birth

In accordance with official publications, data regarding fathers’ or own country of birth were coded by the following categories: Ashkenazi, Sephardic, Ethiopian, former USSR and “Sabra” (Israeli born)⁸³³. The overwhelming majority of lawyers who took the survey (86%) were born in Israel, and almost 38% of those lawyers said their father was born in Israel meaning they fall within the category of Sabra. Lawyers whose own (or fathers’)

⁸³⁰ CBS, “Israel in Figures 2014” (n828).

⁸³¹ Probably because of the very small number of non-Jewish lawyers in this survey.

⁸³² As Sagiv (n.535) shows, some 20% of Israeli Jews are of mixed Jewish ethnic origin (by intermarriage).

⁸³³ Most former USSR countries would be categorised as Ashkenazi, however the Muslim republics are listed as Sephardic. Moreover, it is unclear regarding some of the states how their Jewish communities can be categorised. Jews from Georgia, for example, see themselves as a unique group that differs from the Ashkenazi/Sephardic dichotomy. For more information on how the different countries were categorised, see chapter 5.

country of birth was not Israel were categorised using the remaining categories mentioned above.

The differences between the two approaches to Jewish ethnicity are especially prominent for Ashkenazi and former USSR Jews. Although 31% of lawyers are classified Ashkenazi by father's country of birth, almost 45% of lawyers define themselves as Ashkenazi. The opposite trend was found for the category of “former USSR” by country of birth/origin, where almost 10% of survey participants would fall into this category, but only 3% of the survey participants actually define themselves as former USSR Jews⁸³⁴. This further illustrates the differences between the methods used by the CBS to define intra-Jewish ethnicity, and the results when Jews are asked for their self-definition of the same matter. Nevertheless, by both approaches, Ashkenazi Jews are clearly over-represented in the Lawyer Survey, whereas Ethiopian, former USSR and Sephardic Jews are under-represented compared with the general population. What is clear is that the ethnic composition of lawyers is more diverse than that of judges. For example, former USSR Jews are nearly non-existent in the judiciary⁸³⁵, but they are represented in the Lawyer Survey. Finally, Ashkenazi lawyers were significantly more likely to be university graduates than lawyers from other ethnic groups.

7.1.6 Age, location and income

As Table 20 shows, 53% of lawyers who took part in the survey are under the age of 44, and this reflects the “rejuvenation” of the profession in the last two decades⁸³⁶. In terms of location, compared with the general population there is an over-representation of lawyers in the survey from the central and Tel-Aviv districts. However, this distribution reflects the geographical distribution of lawyers by membership in the various Bar districts, as published by the Bar and displayed in Table 20. In terms of income, a survey from 2013 found that 25% of lawyers earn less than the average wage in Israel (mostly lawyers in small firms or in the periphery)⁸³⁷. In the Lawyer Survey 16% earn about the same as the average, and 15% earn below the average.

⁸³⁴ This pattern resembles a study that showed immigrants from USSR feel more Jewish or Israeli than Russian; Elazar Leshem, *The Integration of Immigrants from the Former Soviet Union (1990-2005): A Multi-Disciplinary Infrastructure Study* (JDC 2009).

⁸³⁵ As shown in chapter 6

⁸³⁶ Zer-Gutman (n384) 251, 60% of lawyers in Israel in 2010 were aged below 40.

⁸³⁷ Ella Levy-Weinriv, Hen Ma'anit, “The Cream of Israeli Lawyers” *Globes* (28.10.2013) <http://www.globes.co.il/news/article.aspx?did=1000889319>

Table 20. Lawyers' age, income level and residence district

Personal characteristics	Categories	% of lawyers in survey	
Age group (n=375)	18-24	0.2%	
	25-34	24%	
	35-44	29%	
	45-54	25%	
	55-64	13%	
	Other	9%	
Income level (n=364)	Not Working	2%	
	Well Below Average	4%	
	Below Average	10%	
	About The Same As Average	16%	
	Well Above Average	29%	
	Above Average	39%	
Residence district (n=369)		Lawyer Survey	General population⁸³⁸
	South	6%	14%
	North	8%	16%
	Haifa	10%	12%
	Jerusalem	15%	13%
	Tel-Aviv	23%	16%
	Central	38%	24%

7.1.7 Military service

Israeli law requires compulsory military service (IDF) for men and women⁸³⁹, although Arabs are exempt (but not Druze⁸⁴⁰), as are Orthodox Jews who are “skilled Torah students”. In this survey, 90% of lawyers had served in the IDF (of which 93% are Jewish), which significantly exceeds the average yearly draft rate (65%). In addition, 5.2% of lawyers in this survey did National Service (instead of military service)⁸⁴¹, and only 5.7% had not served at all (the majority of them non-Jewish). The proportion of

⁸³⁸ CBS, Table 2.15 “population, by district, sub-district and religion” (10.09.2015), p.2

⁸³⁹ The Defence Service Law (Consolidated Version), 5747–1986. For a review of the complexity and ramifications of the IDF service see: Meir Elran and Gabi Sheffer (eds), *Military Service in Israel: Challenges and Ramifications* (Institute for National Security Studies 2015).

⁸⁴⁰ Muslim and Christian Arabs can volunteer to serve, but despite an increase in the number of volunteers, their share of the general recruit population is marginal. Jackie Khourie, Gili Cohen “an increase in the number of Christian and Muslim Arabs that are being drafted to the IDF, yet they still only amount to dozens” *Haaretz* (17.11.2014) <http://www.haaretz.co.il/news/politics/.premium-1.2487624>

⁸⁴¹ The Knesset’s Research and Information Centre *The National-Civil Service in Israel* (2014)

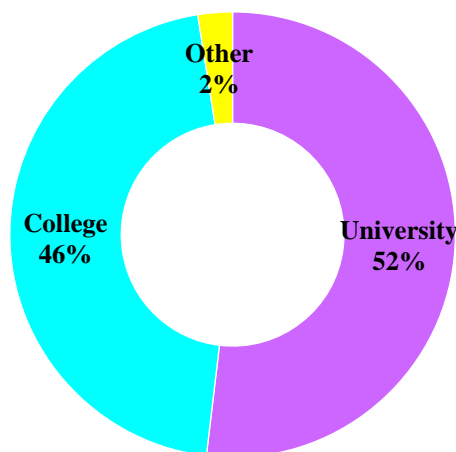
those who served in the IDF in the Lawyer Survey is very high, but that can be partially explained by the large number of Jews in the survey.

7.1.7 Legal education

LL.B.

Almost 95% of survey respondents obtained their LL.B. in Israel. A majority (52%) gained their LL.B. in universities as opposed to colleges (46%) or other institutions (2%)⁸⁴² (Figure 25). However, it is generally believed that the number of lawyers who graduated from colleges now exceeds the number of lawyers who are university law graduates. In the years 1998-2009, different sources indicate that 55% of qualified lawyers were college graduates⁸⁴³, and in the years 2000-2010 their proportion increased to 60%⁸⁴⁴.

Figure 25. Lawyer survey respondents by type of LL.B. institution attended



⁸⁴² As mentioned in Chapter 5, the universities are older higher education institutes, budgeted by the state, considered to have a high threshold for law faculties, and their tuition fees are subsidised. The colleges are younger, most of them are not state-budgeted and therefore their tuition fees are very expensive, but the admission criteria are lenient.

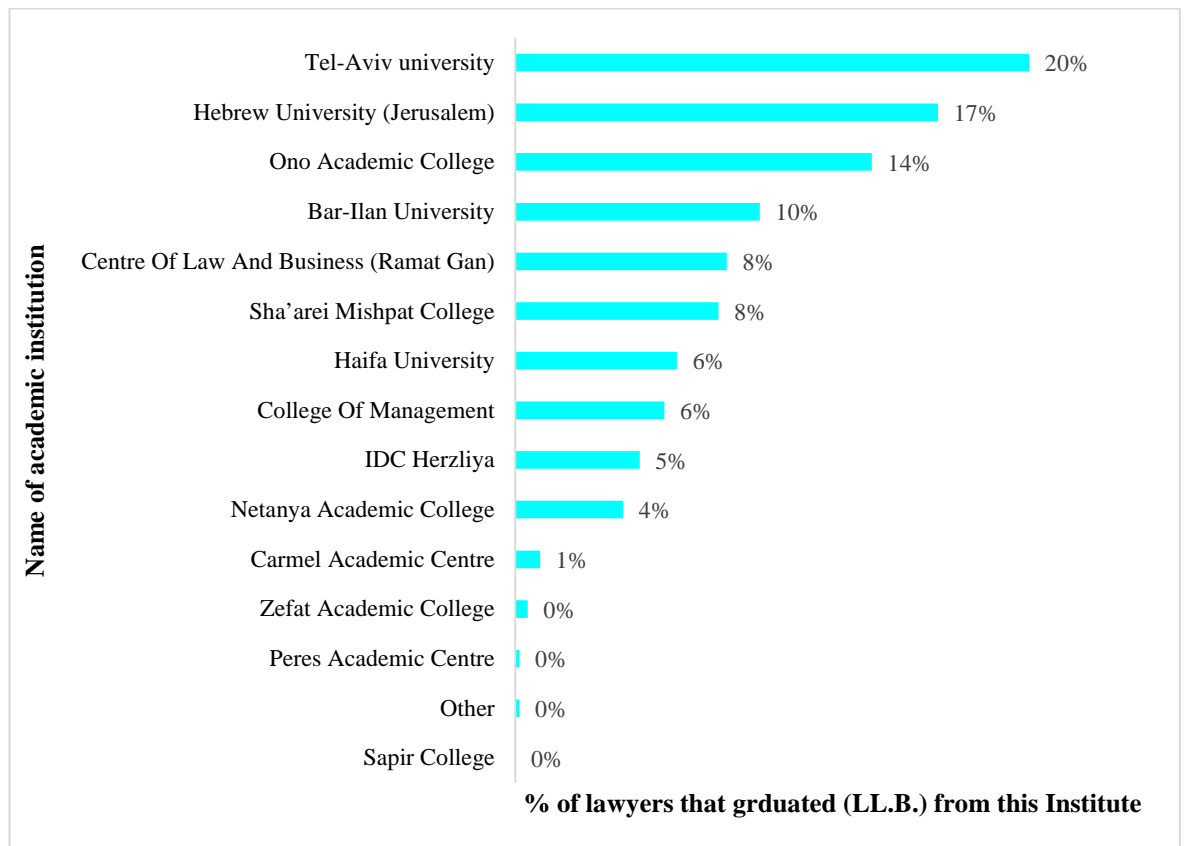
⁸⁴³ The Israeli Bar Association "The National Lawyers Index" (20.5.2009)

http://www.israelbar.org.il/article_inner.asp?pgId=81284&catId=6

⁸⁴⁴ Katvan (n393) claims that the number of college graduate lawyers greatly exceeds the number of university graduates; Roth (n822).

Figure 26 shows how the Lawyer Survey respondents were distributed according to the academic institution where they obtained their LL.B.

Figure 26. Lawyer survey respondents by academic institution (LL.B)



It is difficult to assess the extent to which these survey participants are representative of all Israeli lawyers, because the distribution of all registered lawyers by LL.B. awarding institution is not clear. In 2009, the Bar reported⁸⁴⁵ that the institutions that qualified the largest number of lawyers in the previous decade were Tel-Aviv University, IDC College, College of Management, Sha'arei Mishpat College and Netanya College (in that order). The participants in the Lawyer Survey do not completely follow this trend. However, the Bar's figures referred only to lawyers who joined the Bar after 1998, whereas the Lawyer Survey was open to lawyers from a much wider range of admission years (1965-2014). Legal education in Israel is dynamic, and the legal profession has also changed since 2009. A more recent publication⁸⁴⁶ showed that IDC College, Tel-Aviv University, College of Management, Hebrew University and Bar-Ilan University (in that order) qualified the highest number of lawyers between 2002-2012. It is therefore not surprising to see the largest proportion of lawyers in this survey coming from Tel-Aviv University, as well as Hebrew University and Bar-Ilan being second and fourth. Ono College, a relatively young institution, was ranked second to last in the Bar report from 2009, but its proportion in this survey reflects the exceptionally large number of students and graduates it has today⁸⁴⁷. Overall, the survey generally reflects the known trends about LL.B. academic institutions, although lawyers who graduated from IDC and the College of Management may be under-represented.

LL.M.

Survey respondents reflect the increasing popularity of LL.M. programmes in Israel⁸⁴⁸, with 32% holding an LL.M. or in the process of gaining one. This is slightly higher than official data, which indicates that a quarter of all undergraduate law students (in colleges and universities alike) continue to a Master's Degree in Law⁸⁴⁹. However, the Lawyer Survey LL.M. figure is lower than the proportion of Israeli judges with an LL.M. (44%)⁸⁵⁰.

⁸⁴⁵ The Lawyers Index (n843)

⁸⁴⁶ Raz, "How Many lawyers joined" (n819).

⁸⁴⁷ According to figures published by the Bar, more than 20% of newly qualified lawyers in December 2014 were from Ono College (*Statistical Data- Data regarding qualification 2014* http://www.israelbar.org.il/article_inner.asp?pgId=227072&catId=1809).

⁸⁴⁸ Nadav Alon "an LL.M.- who would benefit from it and why" *Calcalist* (6.7.2012) <http://www.calcalist.co.il/local/articles/0,7340,L-3576291,00.html>

⁸⁴⁹ Council for Higher Education (Planning and Budgeting Committee), "Selected Data Ahead of the Opening of the Academic Year 2014-15", (2014) [here](#) 15

⁸⁵⁰ Two percent of lawyers either had a PhD or were studying for one at the time of the survey (compared with 4% of judges).

Other qualifications

Many academic institutions in Israel offer combined programmes of law with another degree. This is said to highlight the fact that Israeli institutions are educating lawyers of the future to provide them with an academic background that is not exclusively legal but is inter-disciplinary⁸⁵¹. All the universities that teach law in Israel offer a variety of combined programmes with non-legal degrees; however only a minority of colleges provide similar programmes. As there is no official data on the number of lawyers with a non-legal degree, these findings provide an initial (but not comprehensive) indication of how widespread inter-disciplinary law degrees are amongst Israeli lawyers.

Amongst lawyers taking part in survey, almost 45% have non-legal degrees⁸⁵², of which 16% did their LL.B. in a combined program with another non-legal degree, and 33% had obtained a non-legal degree separately from their legal education (or were studying for one at the time of the survey). This contrasts with Israeli judges, where 17% were found to have a non-legal undergraduate or graduate degree⁸⁵³; however, this may be due to the more recent popularity of interdisciplinary programs in law faculties.

Amongst those lawyers in the survey who had taken non-legal studies⁸⁵⁴, the largest proportions were in Business Management/MBA (28%), Economics (21%) and Humanities (11%)⁸⁵⁵. Additionally, 18% of lawyers in the Survey had a non-legal qualification or certificate; the most popular ones were a teaching certificate, mediation and medical and health-related training (e.g. nurses, paramedics, etc.)⁸⁵⁶.

7.1.8 Experience in the legal profession

This section covers the following aspects of the survey respondents' experience in the legal profession: seniority, position, sector, district of work and specialization.

Almost 90% of the survey participants were working in the legal profession at the time of the survey. Only 4% of lawyers had been qualified to practice law in other countries,

⁸⁵¹ In some law faculties in Israel, more than 50% of students take a combined program. Aviv Bartela, "More law students are taking an additional degree", *YNET* (14.10.2013) www.ynet.co.il/articles/0,7340,L-4440035,00.html; Roe'e, "The Inflated Balloon of the Law Faculties" (n 822).

⁸⁵² A total of 29 lawyers answered 'yes' to both the question about a combined program and of a separate non-legal degree.

⁸⁵³ See Chapter 6

⁸⁵⁴ 97 answers were given for this question.

⁸⁵⁵ These figures refer to non-legal degrees in combined programmes with laws. In separate degrees, the leading ones were Business Management (19%), Social Sciences (19%), Humanities (18%) and Political Science (16%).

⁸⁵⁶ Currently there is no similar data regarding judges on the Website, therefore the populations cannot be compared on this.

and only 2% gained professional experience abroad. As Table 21 shows, overall, the variables relating to employment characteristics in the Lawyer Survey showed a diverse picture of lawyers with varying degrees of experience, specializations, sectors and positions in the legal profession.

Table 21. Lawyer Survey respondents experience in legal profession

Legal employment experience	Variables	% of lawyers in survey
Admission to legal profession (n=577)	1965-1985	10%
	1986-2003	36%
	2004-2014	54%
Years in legal profession (n=543)	Less than 5 years	30%
	5-10 years	22%
	10-15 years	15%
	More than 15 years	33%
Current employment sector (n=536)	NGO	1%
	State advocacy	2%
	Courts system	5%
	Public sector- other	5%
	Other	5%
	Private firm	81%
Mode of employment (n=522)	Self-employed	57%
	Salaried worker	42%
	n/a	1%
Position (n=521)	Senior partner	1%
	Department manager	2%
	Other	3%
	In house/ legal advisor	5%
	Legal assistant	5%
	Partner	7%
	Associate	26%
	Self-employed	42%

More than half (54%) of the survey respondents were admitted to the Bar in the decade prior to the survey. This reflects the known substantial increase in the number of lawyers entering the profession in Israel in recent years⁸⁵⁷. Yet there is good representation of lawyers of varying degrees of experience, and qualification year was spread across 5 decades.

The overwhelming majority of survey participants (81%) have spent the bulk of their legal career in the private sector. This closely reflects the findings of a 2009 publication, which estimated that 80% of registered lawyers work in private firms, with the remainder in either the public sector or in-house legal consultants⁸⁵⁸. Only 7% of respondents in the survey said they had worked in the courts system. There was also a diverse range of professional expertise amongst lawyers in the survey, with Litigation the most prevalent area of expertise (44.5% of lawyers mentioned it as their professional expertise) followed by Property Law (28.1%), Tort Law (24%) and Company Law (22.2%)⁸⁵⁹.

As Table 22 shows, almost half of the lawyers (47%) in the survey worked in the Tel-Aviv district⁸⁶⁰, while a third (33%) worked in the peripheral areas of Israel (i.e. south, north and Haifa). Compared with data from the 2014 Bar Activity report, there was an over-representation in the survey of lawyers working in the peripheral areas (33% in survey compared with 20% in Bar report).

Table 22. Work district of lawyers in the survey compared with Bar data

District	Lawyer Survey	Bar report ⁸⁶¹
South	5%	5%
Central	6%	n/a
Haifa	10%	4%
Jerusalem	14%	14%
North	18%	11%
Tel-Aviv	47%	66%

⁸⁵⁷ Roe'e (n822): 57% of Israeli lawyers in 2014 had qualified for the Bar in the preceding decade.

⁸⁵⁸ Anat Ro'ee, "how much do legal counsels earn?" *YNET* (19.7.2009)

<http://www.ynet.co.il/articles/1,7340,L-3748512,00.html>

⁸⁵⁹ 17% of respondents ticked "other" in this question.

⁸⁶⁰ 54% if counted with central district, as per the Bar's geographical distribution

⁸⁶¹ (n819) 49

Legal Internship

Since 1994, the required length of internship in Israel has been one year⁸⁶², but prior to that law graduates were required to do two years of internship⁸⁶³. Given the relatively young age of the survey participants, it is therefore not surprising that three-quarters (75%) had interned for one year⁸⁶⁴. A quarter of the lawyers in the survey interned in the public sector, 60% in the private sector and 12% in both. Broken down into categories, 71% of lawyers' interned in a private firm, 18% in the court system, 11% in the state's advocacy and 8% in other public sector branches.

7.1.9 Family ties in the profession

As discussed in Chapter 2, a common belief in Israel is that the judiciary tends to appoint "insiders" based on professional, family or friendly acquaintances, and excludes candidates who lack these connections⁸⁶⁵. In the Lawyer Survey, almost one-third of the lawyers (31%) had family members in the legal profession (i.e. siblings, spouses or parents), of whom 10% had relatives in a judicial office (i.e. 3% of all respondents)⁸⁶⁶. It is hard to compare these findings to the entire lawyers' population or to other professions due to lack of data, but the proportion of lawyers who are connected to the judiciary by family ties seems small. For comparison, this research project showed that 4.5% of sitting judges have declared family ties to other judges (sitting, retired or deceased). At least as far as this survey shows, the claims about family ties between the profession and the judiciary are not substantiated. However, this survey did not cover professional, business and friendship ties between lawyers and judges.

⁸⁶² S.35, The Bar Association Law, 5721-1961. This changed in October 2016 following a decision to extend the internship to 18 months (Hen Ma'anit, "Lawyers' internship duration to be extended to 18 months" *Globes* (02.2.2016) <http://www.globes.co.il/news/article.aspx?did=1001100010>).

⁸⁶³ "The flooding of the profession: Licence number 100,000", Israel Bar Jubilee (n821) 8-10.

⁸⁶⁴ The remaining 100 lawyers (16.5%) interned for two years and 43 lawyers had other lengths of internship.

⁸⁶⁵ As reviewed in previous chapters, the Judicial Nominations Committee has recently decided to restrict the number of judges with family ties to other judges.

⁸⁶⁶ The questions about family ties were 'branched', that is: lawyers were asked about family ties in the profession (total respondents 564); those who answered yes (n=173) were then referred to a follow-up question about ties to judges. Only 17 lawyers answered yes, meaning they amount to 10% of lawyers with family ties in the profession.

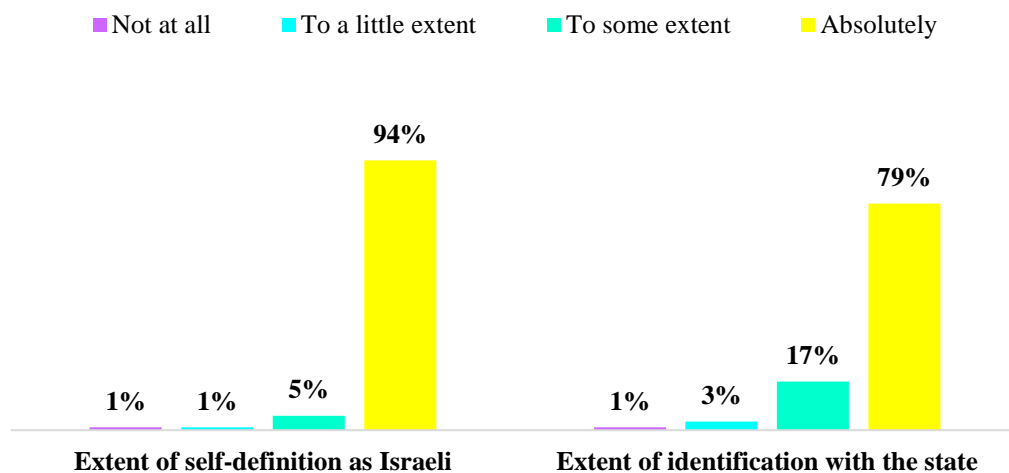
7.2 PART 2: Lawyers' experiences and attitudes

Very few surveys with lawyers have been conducted and published in Israel, and most have dealt with wages, employability and working hours⁸⁶⁷. The Lawyer Survey attempted to empirically examine Israeli lawyers' experiences of and attitudes to a number of key issues related to the legal profession, judiciary, judicial diversity and the state of Israel.

7.2.1 Identification with the state and with being Israeli

Lawyers were asked about their identification with the state and self-definition as Israeli. The objective in these questions is twofold: first, to see whether lawyers (who are an integral part of law enforcement in Israel) identify with the state and its main institutions; second, to examine how feelings of identification and belonging (or alternatively, exclusion) might influence the motivation of lawyers to join the judiciary, their views about judicial diversity and the fairness of the judicial system.

Figure 27. Lawyer identification with the state and being 'Israeli'



As Figure 27 shows, the overwhelming majority of lawyers in the survey define themselves “completely” as Israeli and identify with the state of Israel and its institutions, exceeding the general population in similar questions in opinion polls⁸⁶⁸. However, it

⁸⁶⁷Ella Levi-Weinriv, "51% Of Lawyers: Do Not Want Our Children to Become Lawyers" *Globes* (30.5.2011) <http://www.globes.co.il/news/article.aspx?did=1000649693&fid=829>; Yasmin Gueta "Lawyers in 2014: Work More, Earn Less and Send More CVs" *TheMarker* (1.7.2014) <http://www.themarker.com/law/1.2364309>.

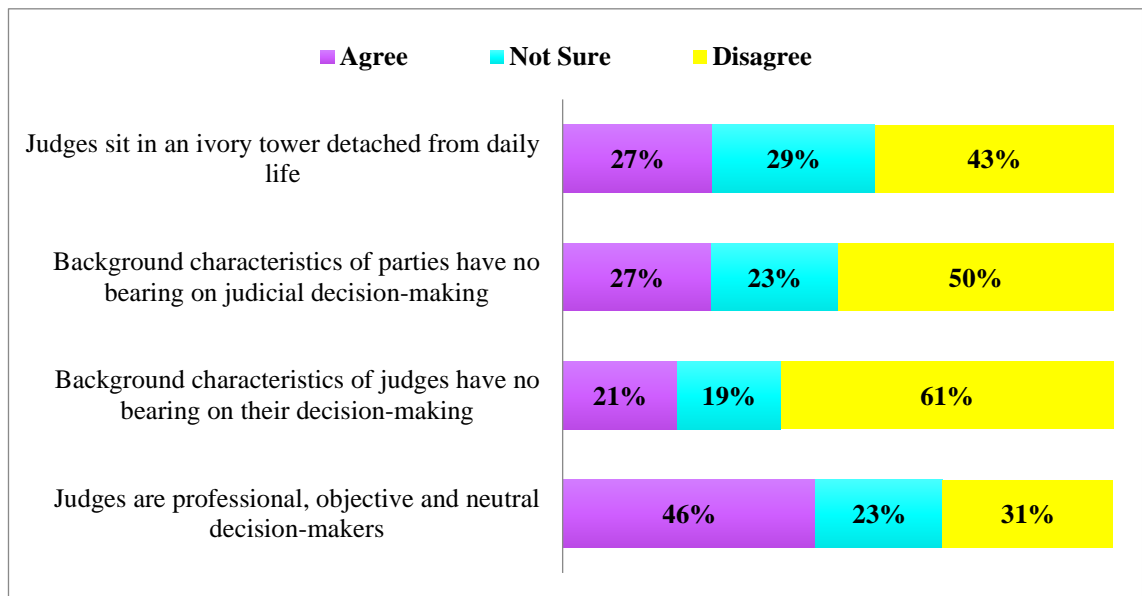
⁸⁶⁸ Surveys found that 65% of the population feel part of Israel to a very high or high extent (72% of Jews and nearly 28% of Arabs), Tamar Hermann and others, *The Israeli Democracy Index 2012* (Israel Democracy Institute ([here](#)) 73-74.

should be remembered that the Lawyer Survey took place at a time of heightened security (operation Protective Edge), and this may have led to an increase in feelings of patriotism and a sense of belonging to the state.

7.2.2 Attitudes to judges and judicial decision-making

So far as can be determined, the Lawyer Survey is the first survey to ask Israeli lawyers about their views on judicial matters, including the factors that influence judicial decision-making. From Figure 28 it appears that lawyers do not see a contradiction between agreeing that judges are objective and professional decision-makers, and believing that background characteristics of judges and parties may influence the judicial outcome.

Figure 28. Lawyer general attitudes to judges and judicial decision-making

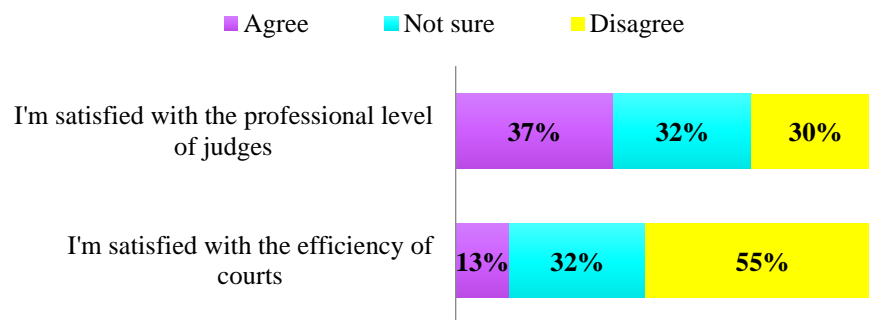


7.2.3 The Israeli judiciary

Focusing on the Israeli judiciary, lawyers were asked to indicate their satisfaction with the courts system (Figure 29) and respond to statements that reflect common perceptions about the Israeli judiciary (Figure 30). While the latter is asked in this survey for the first time, the issue of satisfaction with the profession (especially in light of the increase in the number of lawyers) had been dealt with in previous surveys. The proportion of lawyers who are dissatisfied with the professional level of judges (over 30%) is noteworthy, as is

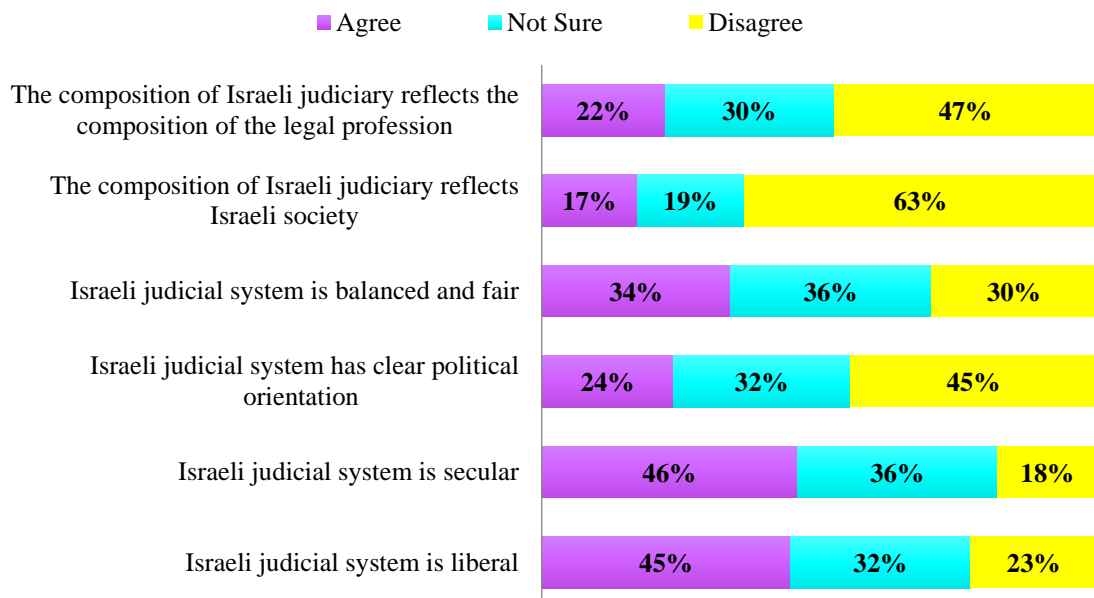
the fact that only 13% of respondents are satisfied with the efficiency of the courts (similarly to the Bar survey from 2011⁸⁶⁹).

Figure 29. Lawyer satisfaction with courts and judges in Israel



In relation to the composition of Israeli courts, most lawyers believe that the Israeli judiciary does not reflect Israeli society or the composition of the legal profession in Israel. Additionally, only one-third of lawyers felt that the Israeli judiciary is balanced and fair.

Figure 30. Lawyer attitudes to composition and characteristics of the Israeli judiciary



Based on the survey results, it appears that Israeli lawyers feel that background characteristics of judges and parties do play a role in the judicial decision-making process (despite the ethos that judges are impervious to external implications). They view the

⁸⁶⁹ The survey found that 57% of lawyers were concerned about the length of court proceedings (Levi-Weinriv n.867).

judiciary as a liberal, secular institution, but at the same time, feel that it is a-political, that judges are objective and professional decision-makers and that Israeli judges are not detached from daily life.

7.2.4 Trust in the courts system and other non-elected state institutions⁸⁷⁰

The public's trust in state institutions (and the judiciary in particular) is highly important in democracies. Lack of trust might be reflected in a decline in political participation and a sense of belonging to the state on the part citizens, and it may undermine the government's legitimacy⁸⁷¹. Israel, as many other western democracies, has witnessed a general decline in public trust in political and other institutions⁸⁷². Specific opinion polls in Israel have focused on the Supreme Court, which traditionally held very high levels of public trust, second only to the IDF. However, in the past 15 years, the public's confidence in the Israeli Supreme Court has fallen significantly (e.g. from 84% in 2000 to 52% in 2009)⁸⁷³. However, different surveys have produced different results in terms of public trust in courts in Israel. A survey from 2015 that asked about the general courts system (not only the Supreme Court) found that only 30% of the public trust the courts system fully or largely⁸⁷⁴, while the 2015 CBS Social Survey found that 58% of the Israeli public trust the courts system to a large or some extent⁸⁷⁵. The most recent Democracy Index found 62% support for the Supreme Court in Israel, which was an improvement from preceding years⁸⁷⁶.

No previous surveys about the level of trust of Israeli lawyers in state institutions and the courts system were found. There have been public opinion polls on these issues, and where relevant the results of the Lawyer Survey are compared with these. In the Lawyer Survey (Figure 31), the courts system is the second most trusted state institution (after the IDF) of those asked about. The proportion of lawyers who largely trust the courts (42%) is lower than other public opinion polls in which the courts system gained 52% trust⁸⁷⁷,

⁸⁷⁰ This survey focused on non-elected institutions on the basis that it would be better to compare the courts to other non-elected bodies.

⁸⁷¹ Hadar, "Public Confidence in Government Institutions, Over the Past Decade in Israel" (n94); Barak-Erez (n45) 123.

⁸⁷² Mike Hough and Julian V. Roberts, *Confidence in justice: An international review* (Home Office 2004); Hadar (n94).

⁸⁷³ Hadar (n94); Hermann and others (n868) 54-71, questions 17.1-17.10.

⁸⁷⁴ Hen Ma'anit, "New Survey Shows: Public Trust In The Courts System, The Knesset And The Police Reaches A New Low", *Globes* (26.10.2015) <http://www.globes.co.il/news/article.aspx?did=1001076264>

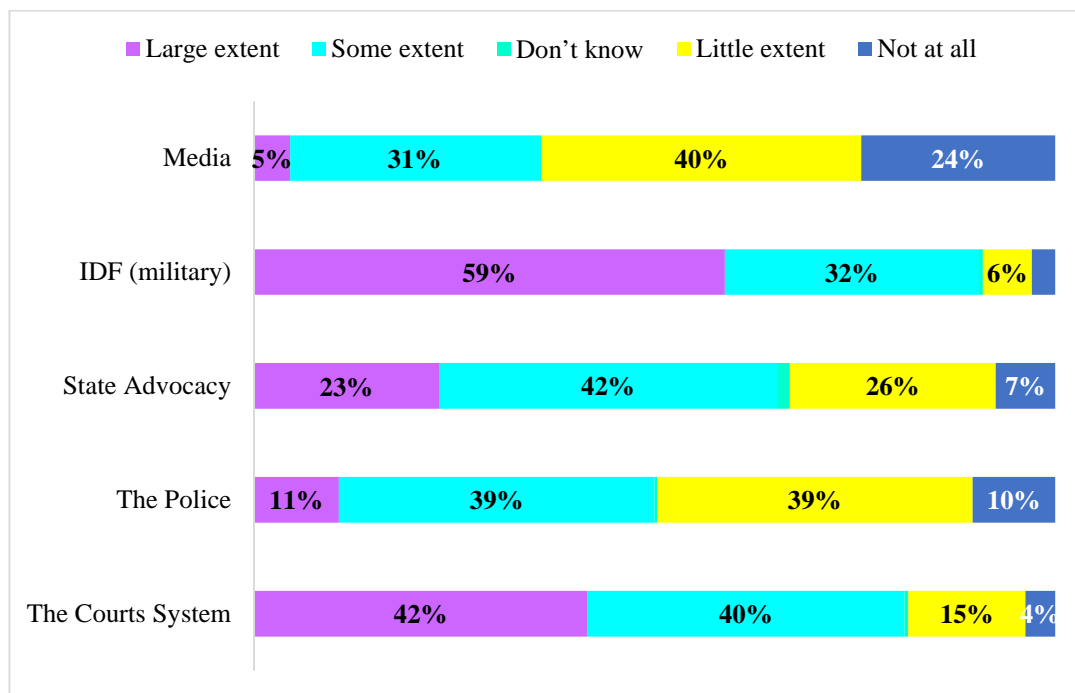
⁸⁷⁵ CBS "Selected Data from the 2015 Social Survey" (n80).

⁸⁷⁶ Tamar Hermann and others, *The Israeli Democracy Index 2015* (Israel Democracy Institute, 2015) http://en.idi.org.il/media/4254068/democracy_index_2015.pdf, p.82.

⁸⁷⁷ Hadar (n94).

but much higher than other polls if "large extent" and "some extent" are counted jointly. Thus, compared to 58% of the public that trust the courts to a large or some extent in the 2015 CBS Social Survey and 62% of the public that trust the Supreme Court (Democracy Index 2015), 82% of lawyers trust the courts to a large or some extent. While national and religious affiliation was found in previous studies in Israel to be directly related to the level of public trust in state institutions⁸⁷⁸, in this survey there were no statistically significant differences between Jews and non-Jewish lawyers' level of trust in courts.

Figure 31. Lawyer trust in non-elected state institutions⁸⁷⁹



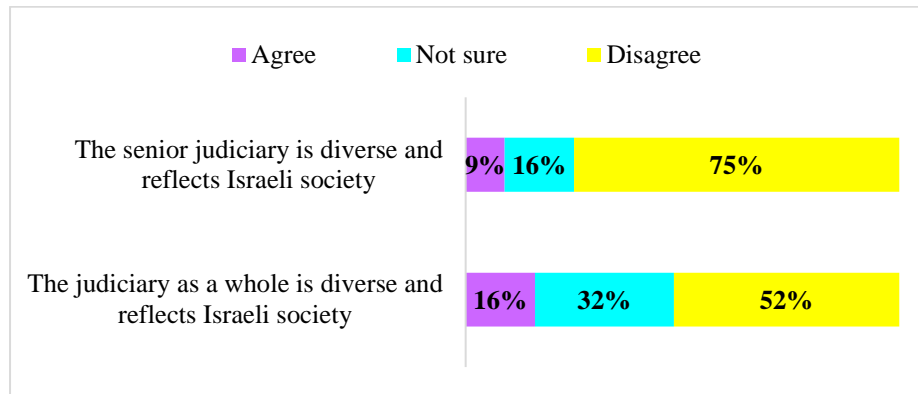
7.2.5 Composition of the Israeli judiciary

As seen in Figure 32, just over a majority of Israeli lawyers (52%) think that the Israeli judiciary does not reflect the composition of Israeli society, while a larger proportion of lawyers (75%) did not feel that the senior judiciary in Israel was diverse and reflective of Israeli society.

⁸⁷⁸ For example, The IDI found that in 2009 90% of Jews trusted the IDF, compared with only 16% of Arabs.

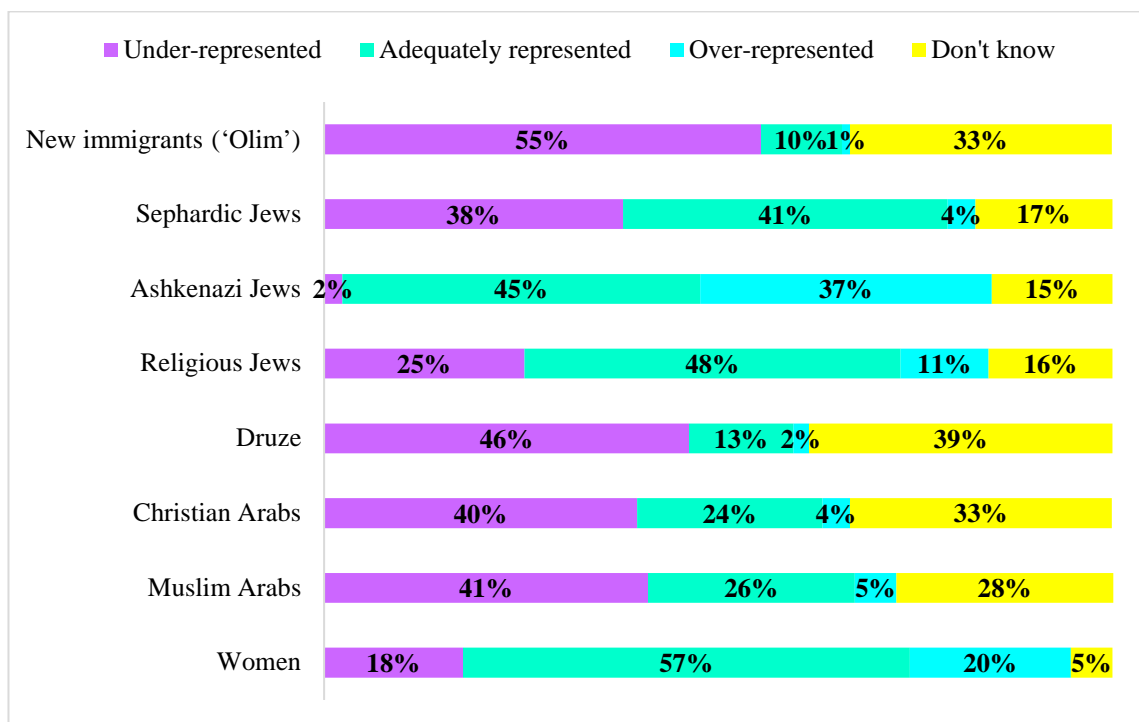
⁸⁷⁹ Data labels smaller than 4% were removed from the figure. The "don't know" labels were removed from the figure, as they were marginal and in some cases null.

Figure 32. Lawyer views of the extent of judicial diversity in Israel



The survey explored lawyers' views on judicial diversity further by asking their views on whether specific groups were over or under represented in the Israeli judiciary⁸⁸⁰. A majority of Israeli lawyers (55%) think that new immigrants are under-represented in the judiciary, followed by Druze (46%), Christian Arabs (40%), Muslim Arabs (41%), and Sephardic Jews (38%) (Figure 33).

Figure 33. Lawyer beliefs about representation within the Israeli judiciary



Previous studies about judicial diversity (not in Israel) have found correlations between judicial diversity and the perception of the fairness of and trust in courts⁸⁸¹. While one has to bear in mind the differences between general polls in other jurisdictions and this

⁸⁸⁰ The survey did not define representation.

⁸⁸¹ Thomas (n.5) 55; Hazel Genn and others, *Tribunals for Diverse Users* (Department for Constitutional Affairs 2006); Thomas, *Diversity in the Jury System* (n.110).

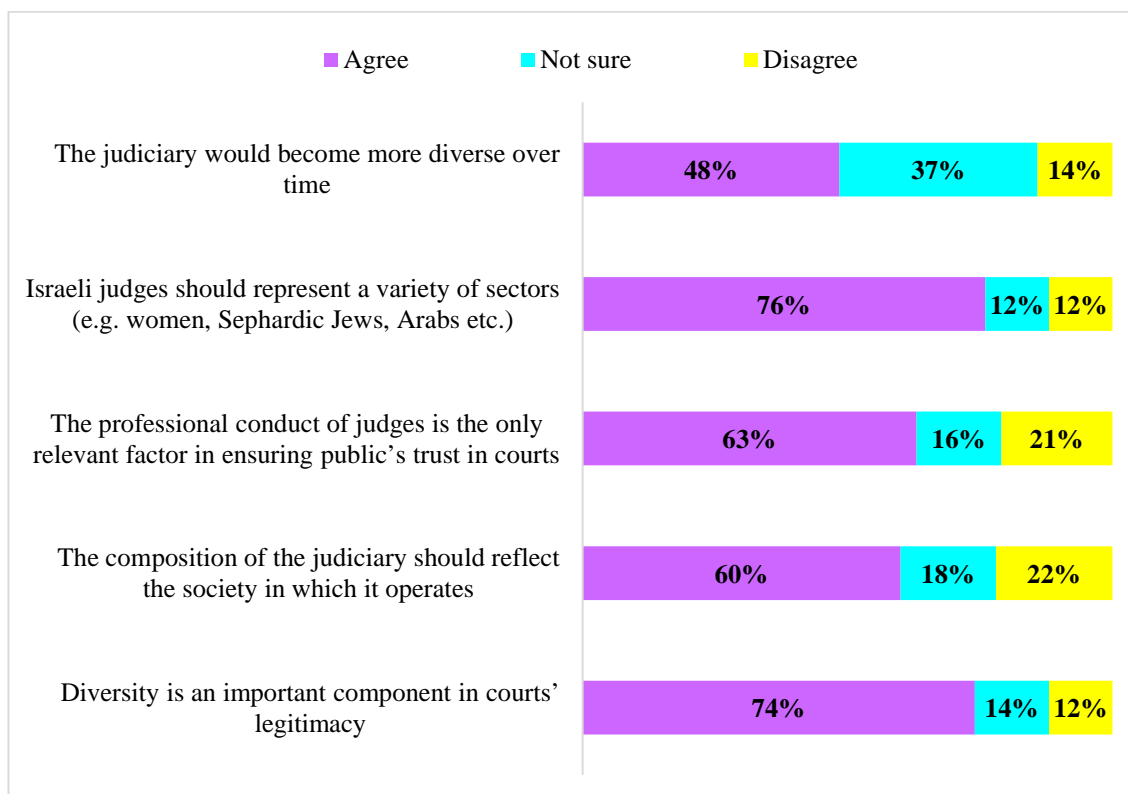
survey, which was conducted with Israeli lawyers only, the Lawyer Survey found a highly significant correlation between lawyers' views on judicial diversity in Israel and the extent of their perception of the fairness of courts and their trust in courts. Lawyers who thought the judiciary was diverse were highly more likely to think it was balanced and fair (53% of lawyers who agreed the judiciary was diverse also thought it was balanced and fair). However, 31% of lawyers who disagreed and 64% of lawyers who strongly disagreed that the Israeli judiciary was diverse or reflective of society also thought it was not balanced and fair. Furthermore, lawyers who thought the Israeli judiciary was diverse had high levels of trust in the courts⁸⁸², while lawyers who strongly disagreed that the judiciary was diverse were highly more likely to have low levels of trust in courts.

7.2.6 Justifications for judicial diversity

While the majority of lawyers in the survey did not think that the Israeli judiciary is diverse (with the exception of gender), the survey went on to further explore whether they thought the judiciary *should* be diverse. As Figure 34 shows, three-quarters of lawyers in the survey felt that the Israeli judiciary should represent a variety of sectors in Israeli society (76%); almost two-thirds (60%) felt that the composition of the judiciary should reflect the society in which it operates, and three-quarters (74%) felt that diversity is an important component in the courts' legitimacy. It is clear therefore that Israeli lawyers who participated in this survey had strong feelings about the importance of judicial diversity in general and specifically its applicability to the Israeli judiciary.

⁸⁸² e.g. 66% of lawyers who agreed the judiciary was diverse trusted the courts largely, compared with only 21% of lawyers who strongly disagreed the judiciary was diverse who trusted the courts largely.

Figure 34. Lawyers' views on the importance of judicial diversity



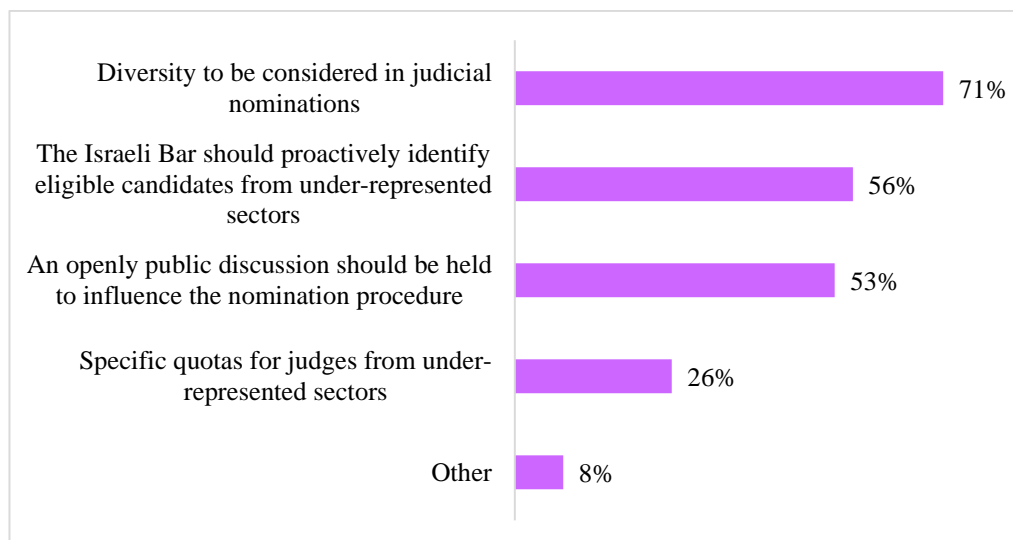
However, somewhat contradictory views also emerged. For instance, 63% of lawyers agreed that the professional conduct of judges is the only relevant factor to ensure public trust in the judiciary, and 70% of lawyers who strongly agreed that judicial diversity is an important component to courts' legitimacy also strongly agreed or agreed that the professional conduct of judges is the only relevant factor to ensuring the public trust in courts. This statement may seem contradictory to being supportive of judicial diversity if the professional level of judges is regarded as separate from judicial diversity. However, if diversity is seen as integral to merit, this result would not be surprising. It may be that the lawyers in this survey view diversity and professionalism of judges as complementary rather than conflicting terms, but the survey did not ask that question directly.

7.2.7 Should something be done about judicial diversity in Israel?

A key question in the survey was “Do you think something should be done about judicial diversity in Israel?”, as it provided a measure of whether lawyers are satisfied with the current policies on judicial diversity in Israel. Two-thirds of lawyers in the survey (66%) said “yes”, which suggests that most lawyers believe something should be done about judicial diversity in Israel.

Those survey participants who said something should be done about judicial diversity in Israel were then asked to specify what should be done (Figure 35), while those who said nothing needed to be done about judicial diversity were asked to elaborate on why they felt nothing should be done (Figure 36).

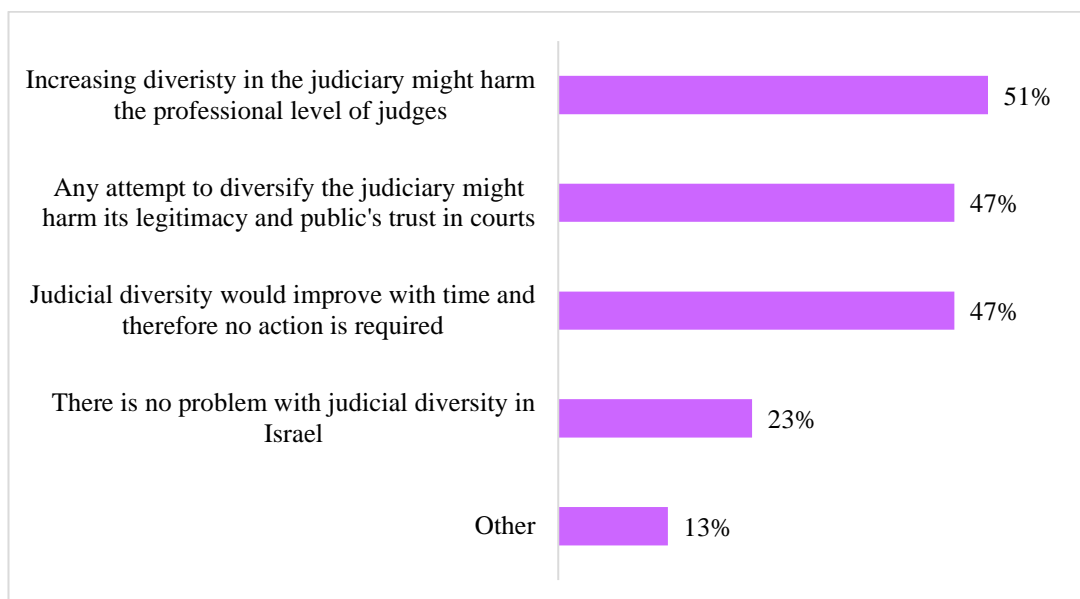
Figure 35. Lawyer views on what should be done to promote judicial diversity



Of the total of 269 respondents⁸⁸³ who identified specific actions they felt were needed to increase judicial diversity, many support a proactive approach, such as embedding diversity as an official consideration in the nominations procedure (71%; n=192), or asking the Bar to identify eligible candidates amongst its members (56%; n=151). Under the “other” category, some participants made interesting suggestions (e.g., that law faculties should encourage candidates from disadvantaged groups to study law).

⁸⁸³ It should be noted that respondents could tick more than one option in this question. Therefore, although 269 participants entered answers in this question, the total number of responses was 579.

Figure 36. Lawyer views on why no action is needed on judicial diversity in Israel



The views displayed in Figure 36 echo common arguments against action to increase judicial diversity. For example, just over half (51%) of lawyers in the survey who felt nothing needed to be done are worried about the effect of diversity on the professional level of judges (similar to the “merit argument” reviewed earlier). Almost a half (47%) who feel nothing needs to be done are concerned that diversifying the judiciary would harm its legitimacy and the level of public trust in courts (this argument resembles statements made by senior judges in Israel in the past⁸⁸⁴). A different view, also held by 47% of these lawyers, does not necessarily deny there is a problem with judicial diversity, but suggests that it would improve over time and no action should be initiated.

7.2.8 What might account for lawyers’ differing views on judicial diversity?

It is clear that the majority of lawyers in the survey believe that something should be done about judicial diversity. But what are the factors that account for this view? Can it be associated with specific background characteristics or attitudes of Israeli lawyers? The following sections present the results of a cross-analysis of lawyers’ views on judicial diversity and a broad range of respondents’ characteristics, views and experiences.

Lawyers’ background characteristics:

Lawyers’ views on judicial diversity in Israeli were not correlated to any of the following background characteristics of those lawyers who took part in the study: gender⁸⁸⁵,

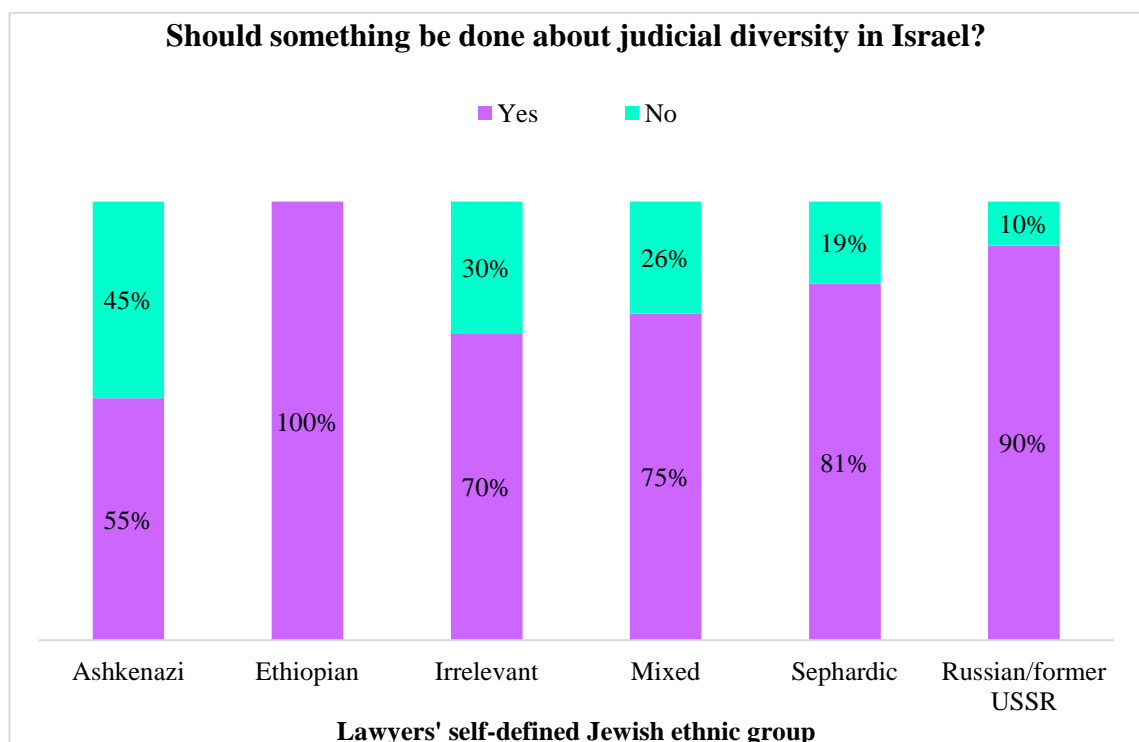
⁸⁸⁴ See Chapter 2 above for statements made by the Zamir Committee, as well as former Chief Justice Beinisch.

⁸⁸⁵ Albeit a higher percentage of women support it compared to men (71% of women said yes, compared with 65.1% of men).

nationality or religion⁸⁸⁶, level of religious observance⁸⁸⁷, self-identification as Israeli, sector of work, age, income level or the type of institution lawyers attended⁸⁸⁸. However, lawyers' views on judicial diversity were correlated to Jewish ethnicity, military service and self-definition as Israeli.

Jewish ethnicity: There was a highly significant correlation between self-defined Jewish ethnicity and views regarding judicial diversity. Ashkenazi lawyers are far less likely to think something should be done about judicial diversity, while Sephardic lawyers are far more likely to think something should be done. In other words, lawyers of Ashkenazi origin, who are over-represented in the judiciary, are significantly less supportive of action to increase judicial diversity, while members of an under-represented group in the judiciary (Sephardic Jews) are significantly more likely to support action to increase diversity.

Figure 37. Relationship between lawyer views on action for judicial diversity and their Jewish ethnic group (n=344)⁸⁸⁹



⁸⁸⁶ Perhaps because the Jewish group is so dominant amongst respondents of this survey.

⁸⁸⁷ Although lack of fit was observed for traditional ('Massorti') respondents who were more likely to think something should be done (77%).

⁸⁸⁸ Although 74% of lawyers who graduated from a college thought something should be done about judicial diversity in Israel, compared with only 62% of lawyers who are university graduates.

⁸⁸⁹ For Ethiopian n=1.

Military service and definition as Israeli: Those lawyers who had done military service were statistically more likely not to support action for judicial diversity than those lawyers who had not done military service or who did national service⁸⁹⁰. However, it seems that this outcome is mostly a reflection of the fact that 95% of participants served in the IDF or did National Service. Similarly, significant correlation between those who define themselves as Israeli and decreased support in action to increase judicial diversity was found (35% of lawyers who absolutely define themselves Israeli felt no action should be taken for diversity, compared with less than 8% of the rest of the lawyers). Yet this, as well, may also be a result of the proportion of lawyers who absolutely define themselves as Israeli (94%), rather than actual differences between groups.

Perceptions about courts and diversity:

Lawyers' response to the question "should something be done about judicial diversity in Israel?" was highly correlated with their views about the judiciary and judges. The more satisfied lawyers were with the judiciary (e.g. efficiency, fairness) and the more convinced they were that it was diverse, the more likely they were to deny action on judicial diversity. Similarly, lawyers who felt the judiciary was not reflective of Israeli society, not efficient, fair or professional enough, were substantially more willing to consider action on judicial diversity.

Court efficiency, the professional level of judges: The more satisfied lawyers were with the efficiency of courts, the less likely they were to think something should be done about judicial diversity. Similarly, the lower the level of satisfaction amongst lawyers with the professional level of judges, the more willing they were to consider action regarding judicial diversity⁸⁹¹. Support for greater judicial diversity, therefore, was linked to dissatisfaction with the courts and with judges.

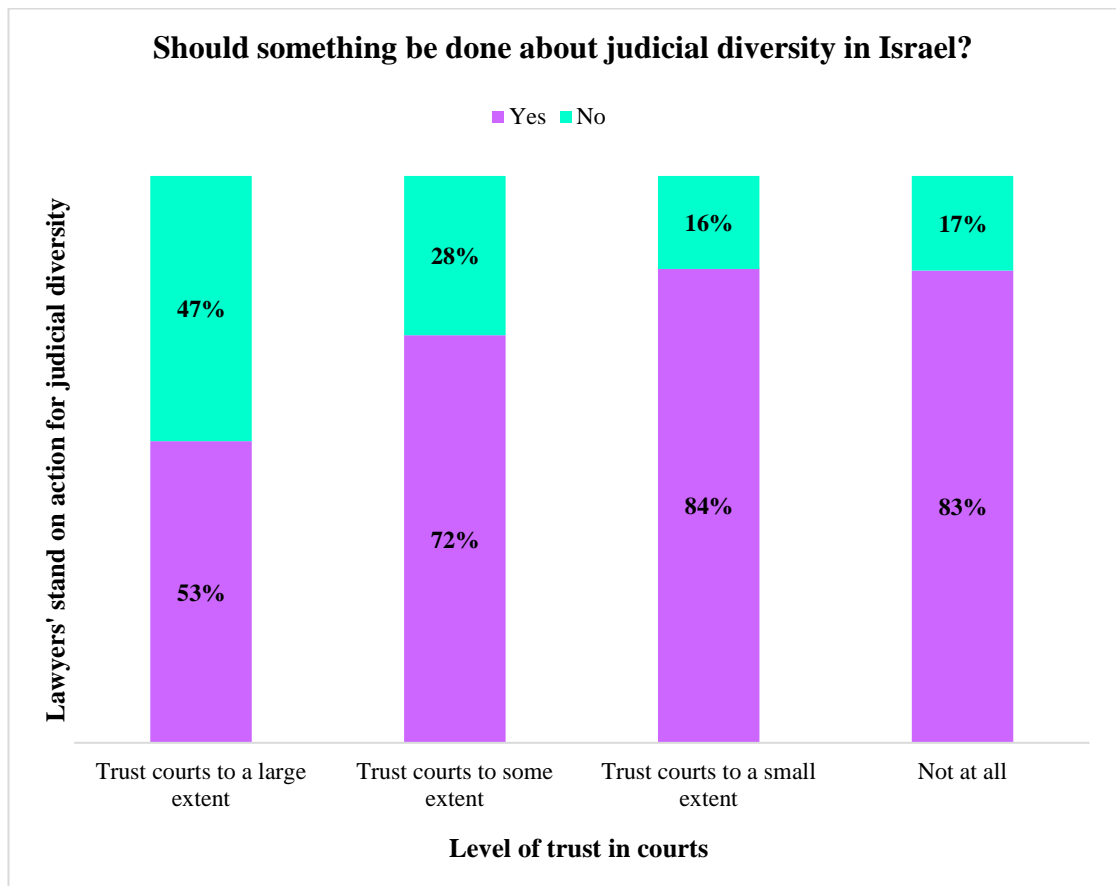
Trust in courts: Additionally, lawyers' views regarding action on diversity were highly associated with the extent to which they trust the court system. The greater the trust in courts, the less convinced the lawyers were to think something should be done about judicial diversity (Figure 38). This finding provides empirical support for there being a

⁸⁹⁰ 35% of lawyers who served did not agree that something should be done about judicial diversity, compared with only 21% of lawyers who did not serve and answered similarly.

⁸⁹¹ For example, 78% of lawyers who were strongly dissatisfied with the professional level of judges supported action for judicial diversity, compared with 48% of lawyers who were strongly satisfied with the same factor.

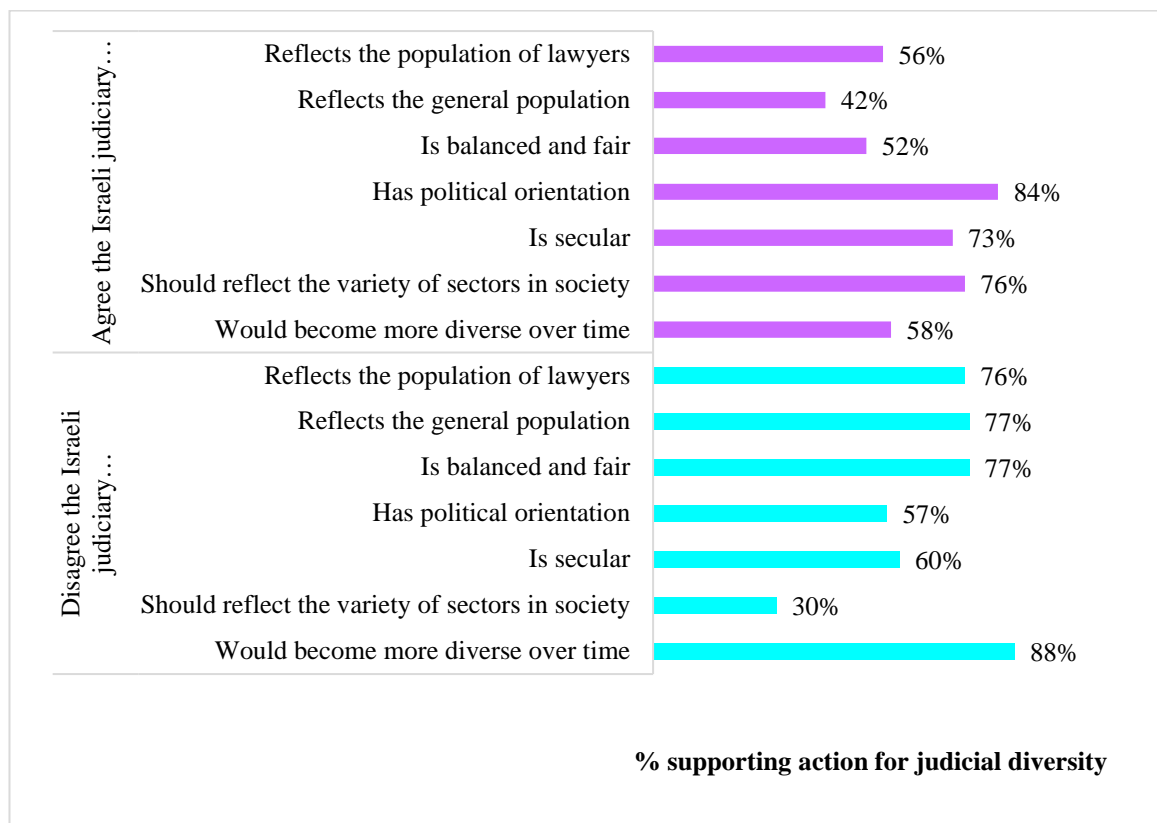
correlation between the composition of courts and the extent to which they are trusted in Israel.

Figure 38. Lawyer trust in courts and attitude to judicial diversity (N=369)



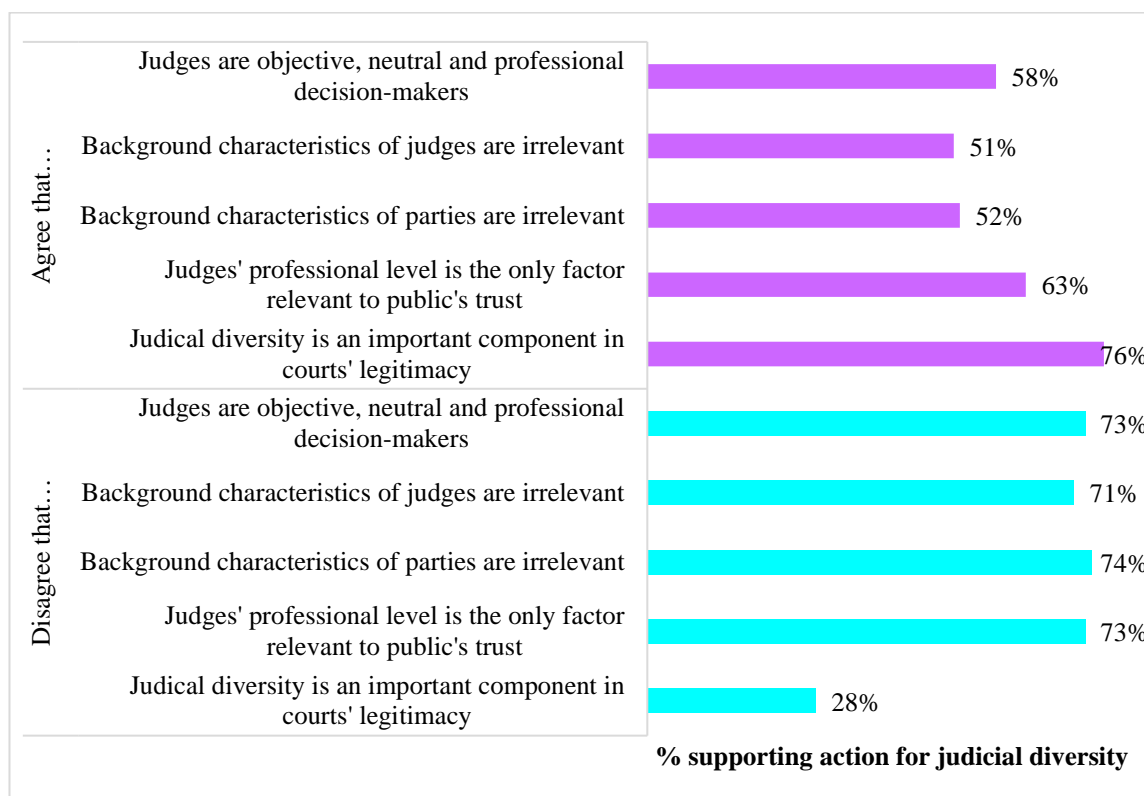
Characteristics and composition of the Israeli judiciary: Figure 39 presents Israeli lawyers' views about the Israeli judiciary that were significantly correlated to their views about the need to taking action to increase judicial diversity. For example, lawyers who agreed that the Israeli judiciary was secular were more in favour of action on judicial diversity (73%) than those who did not think the judiciary was secular (60%). Of the 30% of lawyers that thought the judiciary is not balanced and fair, 77% supported action to increase judicial diversity. This suggests that a relationship exists between the perception of fairness of courts and judicial diversity exists amongst Israeli lawyers. Lawyers in the survey who thought the Israeli judiciary does not reflect Israeli society were supportive of action on judicial diversity (77%). Similarly, lawyers who believe the judiciary *should* reflect society were highly likely to support action for judicial diversity (76% supporting action on judicial diversity, compared with only 30% amongst lawyers who do not think the judiciary should reflect Israeli society). Finally, lawyers in the survey who feel that diversity will inevitably improve over time were less supportive of action for diversity (58%) than lawyers who did not think diversity would improve over time (88%).

Figure 39. Relationship between lawyer support for action on judicial diversity and attitudes towards Israeli judiciary



Attitude towards judiciary and judicial decision-making: Lawyers in the survey who view the judiciary and the judicial decision-making process in a formalistic way were unlikely to support action for diversity Figure 40. For example, Israeli lawyers who think judges are objective and neutral were not strongly supportive of action to increase judicial diversity (only 58% supported such action). However, lawyers who agreed that “Judicial diversity is an important component in the courts’ legitimacy” were generally supportive of action for judicial diversity (76% supporting such action). Nevertheless, there was no significant correlation between lawyers' views on whether “Judges’ professionalism is the only factor relevant to public trust in the judiciary” and their views on the need for judicial diversity. This suggests that Israeli lawyers who support action to increase judicial diversity do not necessarily think that diversity contradicts the professionalism of judges.

Figure 40. Relationship between supporting action for judicial diversity and position regarding diversity and decision-making



Position regarding affirmative action in Israel: Lawyers were asked to specify groups that were, in their view, most worthy of affirmative action (in general) in Israel. Lawyers that thought Sephardic Jews were most worthy of affirmative action were far more likely to support action for judicial diversity (97%). However, lawyers who thought that none of the groups was worthy of affirmative action were less supportive of action for judicial diversity (44% of them said no to action on judicial diversity). This suggests that lack of support in the overall concept of affirmative action is linked to opposing action for judicial diversity⁸⁹².

7.2.9 Lawyers' attitudes to and experience of the legal profession

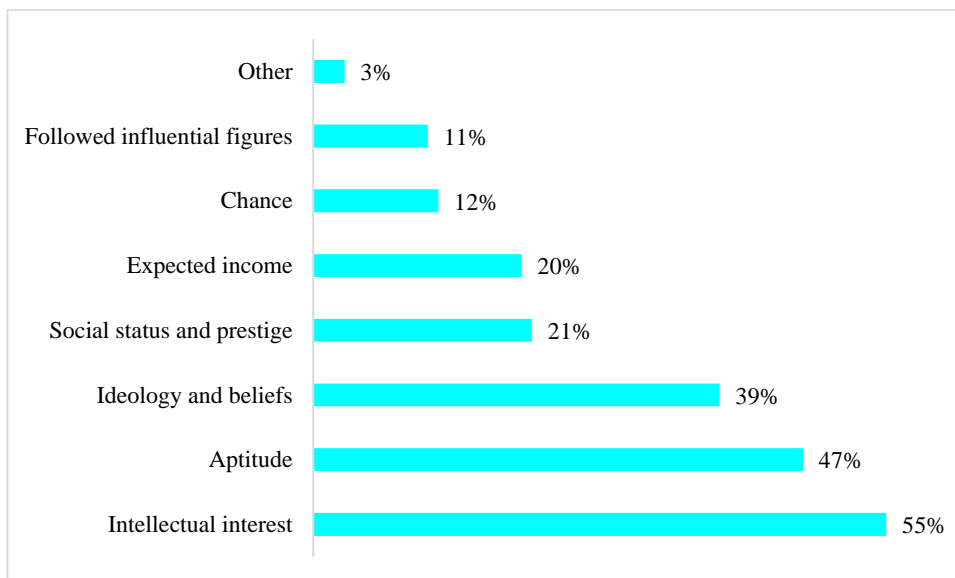
The Lawyer Survey also explored the participants' attitudes and experiences of the legal profession and legal education, including their attitudes towards diversity in both of these sectors.

⁸⁹² In fact, several comments in open-text boxes specifically said they oppose any form of affirmative action for judicial appointments.

Reasons for choosing the profession

Lawyers taking part in the survey were asked to reflect on their reasons for choosing the legal profession. “Material” factors such as expected income, social status and the prestige affiliated with the profession were less dominant than intellectual interest, aptitude, ideology and beliefs.

Figure 41. Lawyers’ reasons for choosing the legal profession (n=561)⁸⁹³



Satisfaction with the legal profession

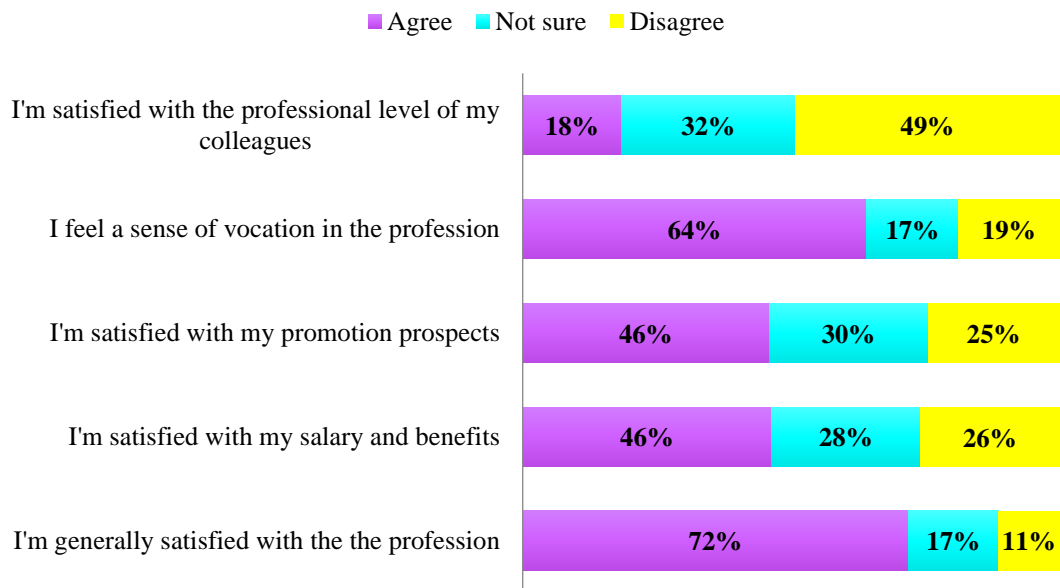
Almost three-quarters (72%) of lawyers who took part in the survey were generally satisfied with the legal profession⁸⁹⁴. However only a small proportion of lawyers in the survey (19%) said they were satisfied with the professional level of their lawyer-colleagues. These findings reiterate the Bar survey from 2011, which found that the majority of lawyers were concerned about the deterioration in the professional level of lawyers⁸⁹⁵.

⁸⁹³ Because participants could tick more than one option, the total number of responses to this question was 1,171, and the results add up to more than 100%.

⁸⁹⁴ In comparison, a survey from 2011 found that 51% of Israeli lawyers would not want their children to join the legal profession (Levi-Weinriv, n.867).

⁸⁹⁵ Ibid.

Figure 42. Lawyers' satisfaction with the legal profession⁸⁹⁶



Previous experiences of discrimination

Lawyers were asked whether they had ever experienced discrimination during their in education, at work or specifically in courts. There were 393 reports of discrimination (on various grounds). As Table 23 illustrates, although the workplace was more prone to reports of discrimination, a few lawyers felt they had been discriminated in courts, mostly based on age or ethnicity⁸⁹⁷.

⁸⁹⁶ This figure and the following figures combined the original 6 degrees of agreement into 3: agree, disagree and not sure.

⁸⁹⁷ No previous examination of lawyers' experiences of discriminations was found, but a 2011 survey found that 18% of lawyers were concerned about judges' attitudes towards lawyers (Levi-Weinriv n.867).

Table 23. Lawyers' experiences of discrimination

Grounds for discrimination	Where	N	%
Nationality	Studies	12	3%
	Work place	10	3%
	Courts	19	5%
Religion/level of religious observance	Studies	11	3%
	Work place	22	6%
	Courts	17	4%
Ethnicity/ 'Eda'	Studies	25	7%
	Work place	34	9%
	Courts	34	9%
Gender	Studies	9	2%
	Work place	54	14%
	Courts	24	6%
Sexual orientation	Studies	3	1%
	Work place	6	2%
	Courts	1	0%
Disability (mental, physical etc.)	Studies	1	0%
	Work place	8	2%
	Courts	2	1%
Age	Studies	9	2%
	Work place	48	13%
	Courts	36	9%

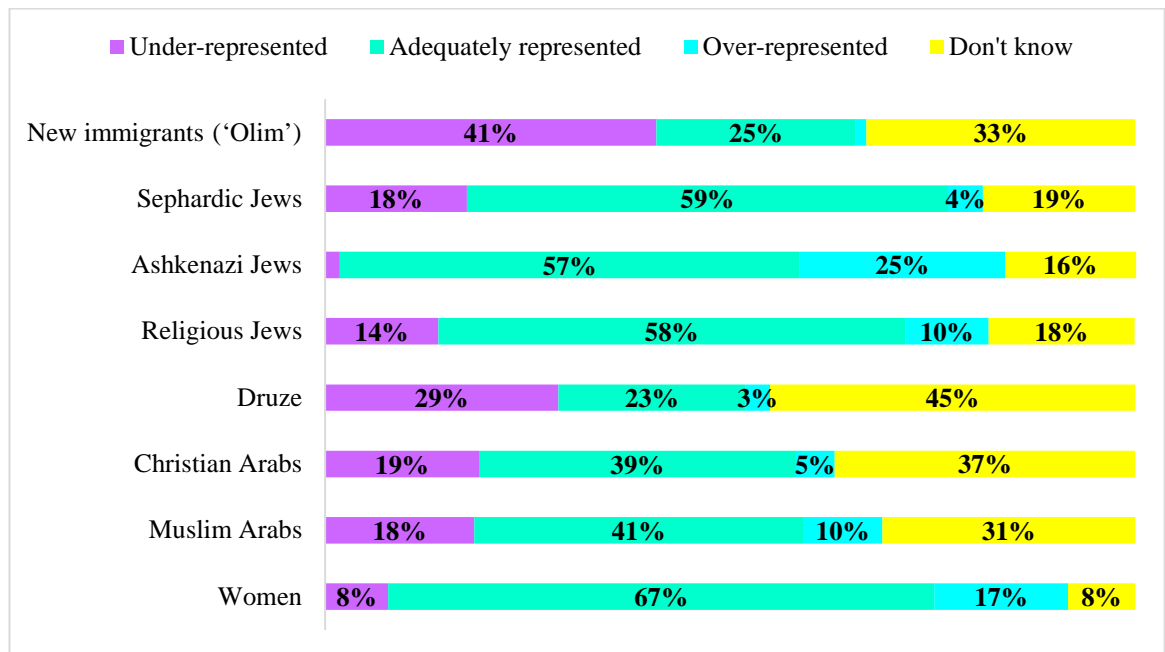
Overall, previous experiences of discrimination were not correlated to lawyers' position on the need to address judicial diversity, except for discrimination on the grounds of religion and ethnicity at work: Over 90% of lawyers who reported they had been discriminated at work on grounds of religion (n=20) and 88% of lawyers reporting discrimination on grounds of ethnicity at work (n=30) supported action to increase judicial diversity.

Diversity of the Israeli legal profession

The survey asked Israeli lawyers for their views on the extent to which the legal profession in Israel is diverse. As far as can be determined, this is the first time the views of Israeli lawyers have been canvassed on this issue. Lawyers who participated in this study distinguished between the general population of legal professionals and the senior lawyers (e.g. partners in firms). While 62% of lawyers agreed that the Israeli legal profession is diverse and reflects Israeli society, only 7% thought this was the case for senior lawyers. Similar patterns emerge regarding specific groups (see Figure 43). If the findings of this survey are representative of the entire lawyer population, than the

participants rightfully pointed to new immigrants, Druze and Ethiopian Jews⁸⁹⁸ as under-represented, but missed the under-representation of Arabs.

Figure 43. Lawyer views on group representation within the legal profession



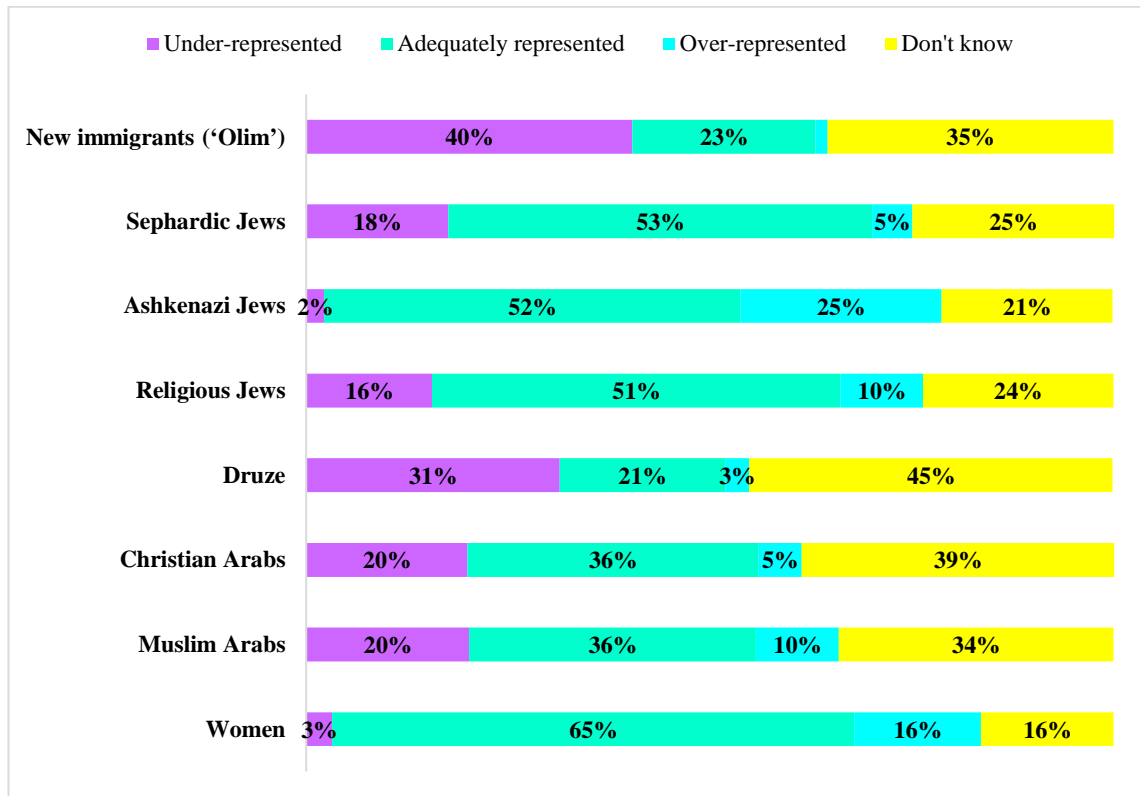
7.2.10 Diversity in legal education

While almost 60% of participants believed that the population of law students in Israel (in colleges and universities alike) is diverse and reflects Israeli society, only 15% held the same view on the population of the most academically outstanding law students⁸⁹⁹. However, when asked to what extent specific groups were represented amongst law students, many lawyers did not know how to estimate the representation of specific groups in Israeli society (Figure 44). This seems understandable, given the lack of publically available data on the diversity of Israeli law students.

⁸⁹⁸ There was also the option “Other”, and Ethiopian Jews were mentioned in this category as under-represented more than any other group.

⁸⁹⁹ However, some 19% of lawyers ticked “don't know”, which suggests they did not have sufficient data to establish an opinion on this matter (as opposed to their perception of diversity in legal education in general, for example).

Figure 44. Lawyers' views on the representation of groups in legal education



The groups that lawyers considered under-represented in legal education are new immigrants ('Olim') and Druze. Ethiopian Jews were also specified often (and more than any other group) in the "other" category. The fact that participants identified Ethiopian Jews separately from the new immigrants group (although there is some overlap between the groups) highlights their view of this group as specifically under-represented in the legal education in Israel.

As seen in chapters 3 and 4, lawyers' perceptions about the under-representation of Ethiopian Jews in legal education is in line with the data regarding the under-representation of Ethiopian Jews in higher education in Israel. However, there are no clear data on the composition of law students in Israel, therefore it is hard to say whether participants' estimations of diversity in legal education are correct. There are no data regarding Sephardic and Ashkenazi Jews amongst law students. Existing statistics regarding Arab students differentiate between Christian Arabs who are adequately represented in law schools, and Muslim and Druze who are under-represented. The largest proportions of participants in the Lawyer Survey did not know the extent of representation of Christian Arabs and Druze, while the largest proportion thought Muslims were adequately represented in legal education although official data suggests otherwise.

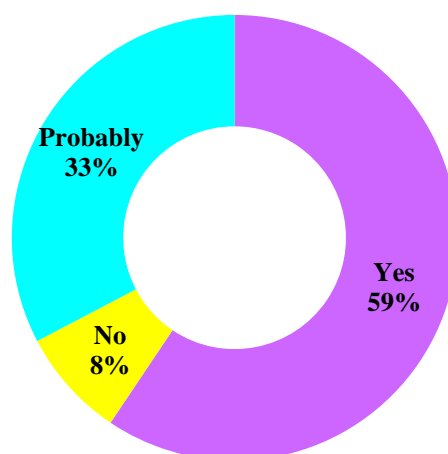
However, lawyers correctly identified that women are adequately represented in legal education.

7.3 PART 3: Professional intentions of Israeli lawyers

The Lawyer Survey was also specifically designed to try and understand what could be learned and projected about judicial diversity from looking at the immediate pool of potential applicants for judicial appointment⁹⁰⁰. This section explores the results of the survey about career plans of Israeli lawyers, especially the possibility of a judicial career, and the motivations and barriers that may influence Israeli lawyers' decisions to apply for judicial office. The Lawyer Survey is the first time these subjects have been systematically explored with Israeli lawyers before.

7.3.1 Plans to continue working in the profession

Figure 45. Lawyer intentions to be working in legal profession in 5 years (n=563)



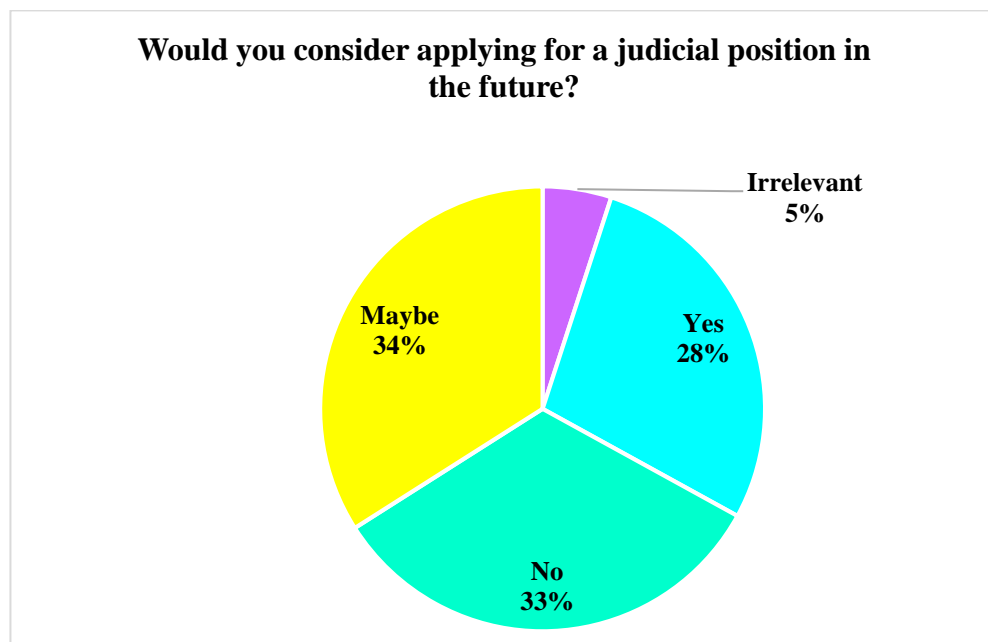
As Figure 45 shows, most Israeli lawyers (92%) either plan to stay in the profession (59%) or would probably do so (33%). Those lawyers (32) who said they do not plan to stay in the legal profession identified various reasons for their decision, mostly their age (that is, they are close to retirement; n=9), boredom and professional burnout (n=8), long hours and working conditions (n=5) and the acceleration in the number of lawyers in the market (n=4).

⁹⁰⁰ For the importance of career progression as a lever for bringing about change in the composition of the judiciary, Thomas (n5).

7.3.2 Desire for a judicial career

A key question in the survey asked participants whether they would consider applying for a judicial position at some point in their legal career. For some lawyers this may be too early, but for lawyers with professional experience of more than five years a judicial career is more probable. However, Figure 46 shows that lawyers are fairly even divided on this issue: a third (33%) said they would not consider a judicial career, another third (34%) said they might, while over a quarter (28%) said they would consider applying to be a judge in the future.

Figure 46. Lawyer intentions to apply for a judicial post in future

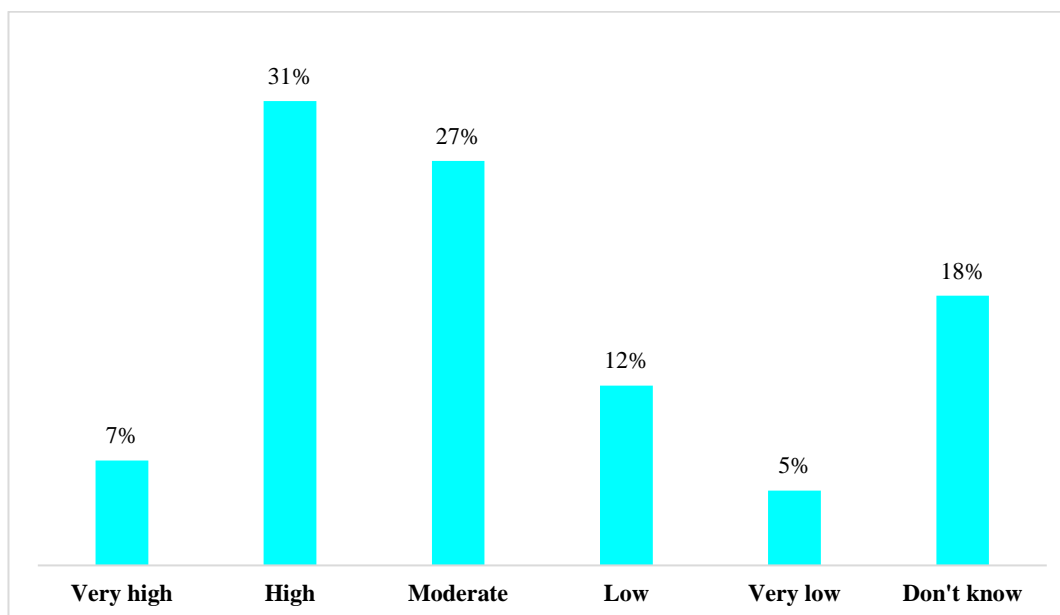


7.3.3 Likelihood of being appointed to a judicial position

In addition to asking lawyers intentions to apply to be a judge, all lawyers were also asked to estimate their chances of being appointed if they did apply for a judicial position⁹⁰¹. As Figure 47 shows, a majority of lawyers in the survey (58%) feel they would have a high to moderate chance of being appointed to the judiciary if they applied.

⁹⁰¹ This question was only directed to lawyers and was not included in the Law Student survey because most students would not be able to estimate their success in future applications, given the early stage of their professional qualification and limited experience.

Figure 47. Lawyer view of chance of being appointed to the judiciary (n=519)



As lawyers are the immediate pool for judicial appointments, these results were analysed to determine which factors are most likely to predict how lawyers estimate their likelihood of being appointed to the judiciary. Age and seniority in the legal profession, income level, previous experiences of discrimination in Israeli courts and the level of trust in courts were all strongly associated with lawyers' estimation of their chances of success if they applied for a judicial office. Factors that were not statistically correlated with perceived prospects of appointment to the judiciary were: gender, Jewish ethnicity, nationality and religion, residence district, type of academic institution⁹⁰², level of religious observance, level of satisfaction with the profession⁹⁰³, employment sector and identification with Israeli and self-definition as Israeli.

Age and experience in the profession: Young lawyers (25-34) tended to estimate their chances as moderate (36%), while older lawyers (55-64) were more likely than any other age group to think their chances were very low (presumably because they may be closer to retirement or may have been unsuccessful in applying to the judiciary in the past). Eighteen percent (18%) of lawyers with relatively little experience in practice (5-10 years) thought their chances to be appointed were low, whilst very experienced lawyers (more than 15 years) were highly more likely to think their chances were very high (15%).

⁹⁰² Although there was a high proportion of university graduates who perceived their chances as very high.

⁹⁰³ Despite a high number of lawyers who were very satisfied with the profession and estimated their chances as high.

There was strong evidence that lawyers' **income levels** were related to their view of their chances of being appointed to the judiciary. A majority (54%) of Israeli lawyers in the study who said they earn well above the average felt they had a very high or high chance of being appointed, while 31% of Israeli lawyers in the study who earn below average thought their chances were low.

In most cases, lawyers' previous **experiences of discrimination** did not predict how they would estimate their success when applying to the judiciary. However, lawyers who reported being discriminated in courts on grounds of nationality, ethnicity or religion were likely to estimate their chances to be appointed as either very high or very low. It is not entirely clear why discrimination in courts is the only form of discrimination that is statistically correlated to lawyers' estimated success in securing a judicial position. It may be that being discriminated in courts is a predictor of lawyers' perception of their success in the judiciary, either towards perceived inclusion in the judiciary or exclusion from it. However, the total number of lawyers who reported being discriminated in courts on grounds of nationality (n=19), religion (n=17) and ethnicity (n=33) is too marginal to base conclusions on⁹⁰⁴.

Perceptions of success: Lawyers who took part in the survey were also asked to identify elements "leading to one's success in Israeli society". Most lawyers thought that connections and previous acquaintances were highly meaningful to success in Israel (69%), followed by education and skills (50%). The correlation between how lawyers estimate their chances of success in the judiciary and their opinion on general success factors in Israel was overall non-significant, except for education and nationality and religion. Nearly 75% of all lawyers who estimated their appointment chances as very high thought that education was very meaningful in one's success in the Israeli society. Furthermore, 67% of lawyers who estimated their chances of being appointed to the judiciary as low thought that one's nationality or religion are meaningful to success in Israel.

Finally, lawyers' extent of **trust in the courts** system was highly associated with their estimates of the chance of success in obtaining a judicial position, particularly for lawyers whose level of trust was low. A quarter (26%) of lawyers who thought their chances of being appointed were low had very low levels of trust in the courts system. Conversely,

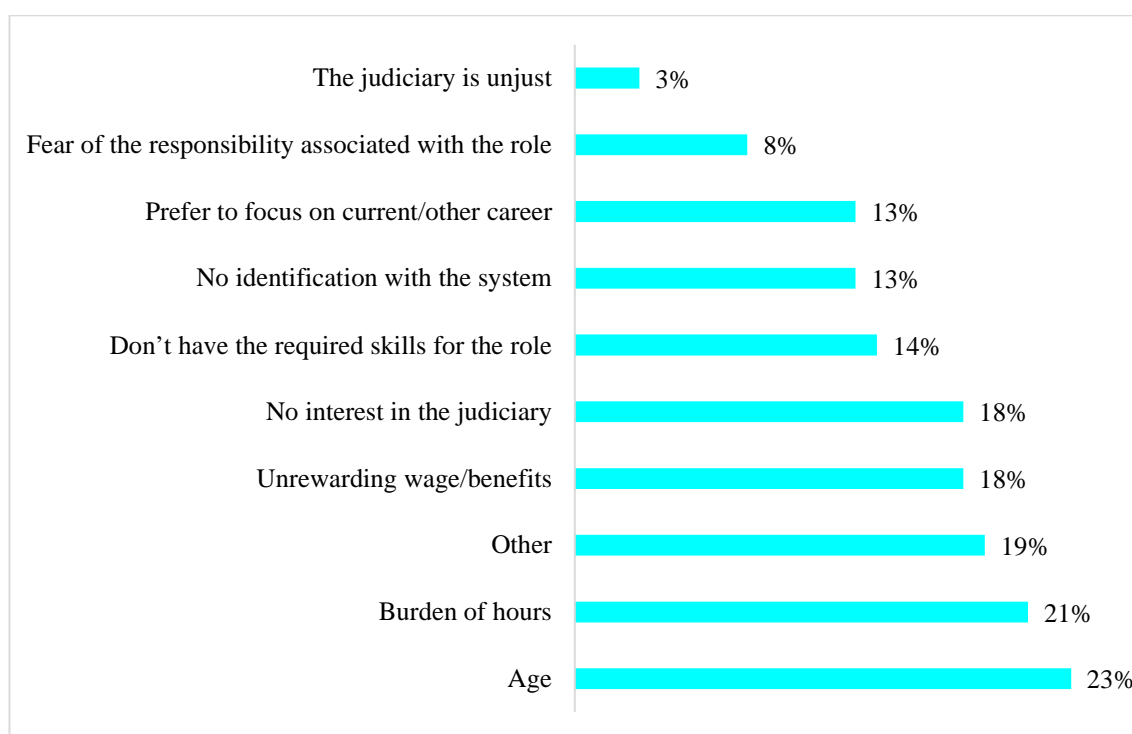
⁹⁰⁴ Compare: Suellyn Scarnecchia, "Gender and Race Bias against Lawyers: A Classroom Response." (1989) 23 *U. Mich. JL Reform* 319.

only two lawyers (1.2%) amongst those who trust the courts to a large extent estimated their chance to be appointed as very low. It appears, therefore, that lawyers' level of trust in courts affects not only their position regarding judicial diversity, but also their perception of successfully attaining a judicial career.

7.3.4 Reasons for not considering a judicial career

Israeli lawyers taking part in the survey were also asked to identify possible reasons why they would not consider applying to be a judge. As shown in Figure 48 the leading reason for lawyers not to consider a judicial path was age (23%). Some of them mentioned they were too old to change career, while others said they were too close to judges' retirement age (70) so would not be eligible to apply⁹⁰⁵.

Figure 48. Lawyers' reasons for not considering a judicial career (n=120)⁹⁰⁶



In addition to the somewhat expected considerations (e.g. working condition of judges⁹⁰⁷), at least 20 lawyers (17%) said they would not want to become judges given

⁹⁰⁵ Respondent 1031499 in the Lawyer Survey: "At my age [...] I will not gain the tenure and experience required of a judge before I retire."

⁹⁰⁶ Respondents specified 179 reasons displayed in this figure. This was an open question and therefore some respondents mentioned more than one reason, and the percentage add to more than 100%. The responses were then coded for analysis. A similar process was done in section 7.3.5 below.

⁹⁰⁷ Several commentators mentioned the restrictions imposed on judges by law as deterring them from considering a judicial career: "It imposes many restrictions on other activities and is a total change of lifestyle. Low-value, long hours and inability to do a good job considering the resources the system

the character of the Israeli judiciary (usually under the categories ‘the judiciary is unjust’ and ‘no identification with the system’). Some participants provided more detailed answers to this question. Some of them demonstrated feelings of dissent and disrespect towards the judiciary, while others pointed to deficiencies in the judicial appointments procedure and the homogeneity and “nepotism” of the judicial system. For example:

“based on my experience, the Judicial Nominations Committee is driven by irrelevant considerations, ignores past experience, knowledge and professional ability and prefers ‘insiders’ as part of its petty busyness approach... additionally it enjoys the privilege of confidentiality on its decisions...”⁹⁰⁸.

In other instances, lawyers mentioned their group or ethnic affiliation as a barrier to appointment: “[the judiciary is a] closed club and for an ethnic minority member this is much harder [to get in]”⁹⁰⁹. A belief in the importance of connections was demonstrated by another respondent: “I tried [applying], naively, and learned first-hand how the nominations system really works. Unfortunately I do not have the right connections, though I have the right skills”⁹¹⁰. One Orthodox-Jewish woman stated that she was given a Jewish halachic (religious) ruling according to which she was prevented from working as a judge⁹¹¹; this is an issue that might benefit from further exploration, in light of the growing number of Orthodox law students and qualified lawyers. These quotes suggest that the variety of reasons and barriers that influence lawyers’ decision not to embark on a judicial career is perhaps more nuanced than appears in the quantitative findings.

As mentioned, no research was found to explore the factors that motivate Israeli lawyers to consider a judicial career, or possibly deter them from applying for one. A report in England and Wales investigated the factors that attract highly qualified practitioners to senior judicial positions⁹¹² and found, that the main factors deterring potential applicants were: workload and working conditions; loss of autonomy; the expected salary; not having the right judicial temperament, etc. Despite the differences between the participants in the Lawyer Survey and the practitioners that were interviewed in the

provides judges. Promotion is political and not based on skills or ability” (Respondent 1028278 in the Lawyer Survey).

⁹⁰⁸ Respondent 1062107.

⁹⁰⁹ Respondent 1060299.

⁹¹⁰ Respondent 1060612.

⁹¹¹ Respondent 1061441.

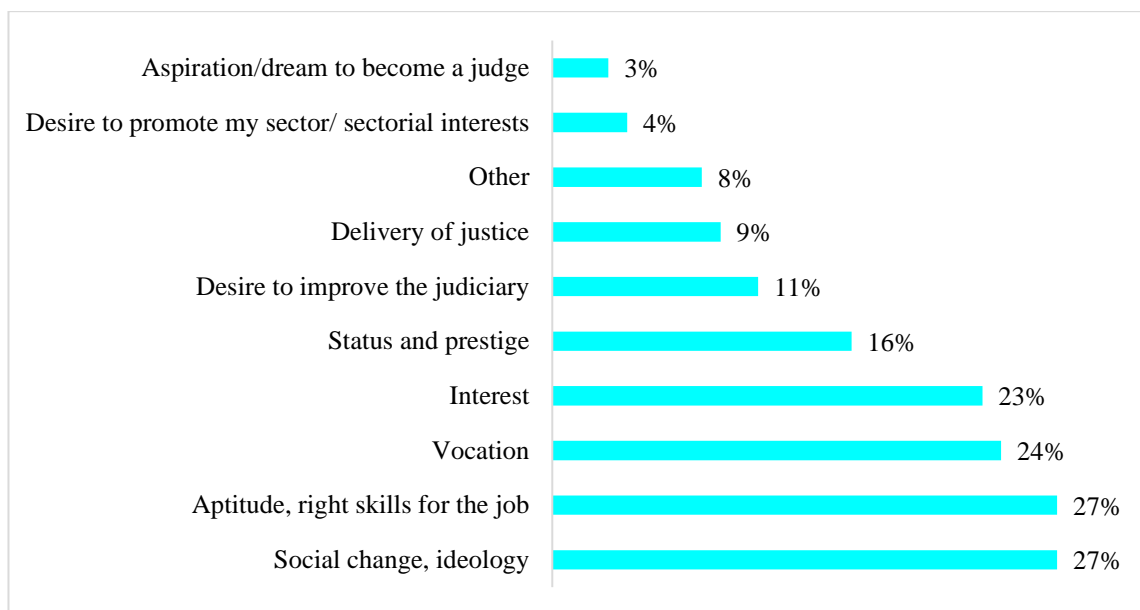
⁹¹² Genn, *The Attractiveness of Senior Judicial Appointment* (n519). Compare: Judicial Appointments Commission *Barriers to Application to Judicial Appointment (report)* (2013) https://jac.judiciary.gov.uk/sites/default/files/sync/about_the_jac/research-attitudes-to-judicial-appointment-2013.pdf.

England and Wales report, it seems like very similar factors deterred lawyers from considering a judicial career. However, while female practitioners raised concerns about the senior judiciary in England and Wales being predominantly male, the gender composition of the Israeli judiciary was not mentioned as a barrier to considering a judicial career in the Lawyer Survey, for obvious reasons.

7.3.5 Reasons to consider a judicial career

The survey also allowed lawyers to express their views on why they would consider applying for a judicial position. Of the 150 lawyers that responded to this question, over a quarter (41 or 27%) would apply because they wanted to promote social change, and an equal proportion were confident they possessed the skills to become good judges (aptitude). Almost a quarter also felt that they had a vocation to be a judge (24%) and that a judicial career would be interesting (23%).

Figure 49. Lawyers' reasons for considering a judicial career (n=153)



The previous section showed that being part of a certain ethnic, religious or sectorial group sometimes drives participants to exclude the possibility of a judicial career or estimate they would not be appointed. However, some lawyers from minority groups mentioned their sectorial affiliation as a reason to positively consider a judicial career: “I am part of the Arab minority in Israel and [...] realized that there is an urgent and acute need to appoint judges from minority groups, especially in areas with an Arab majority it

would improve the judiciary in many levels”⁹¹³. Others said they would like to promote under-represented sectors and make their voices heard in the judiciary⁹¹⁴.

7.3.6 Factors that may be associated with desire for a judicial career

Understanding what drives lawyers to consider a judicial career is an important factor in any discussion about judicial diversity, as lawyers are the only pool for judicial appointments in Israel and their perceptions of barriers and incentives can influence future appointments. The answer to the question “will you consider a judicial career” is likely to lie in an intersection of various factors, including the demographics of lawyers, their professional experience and their perceptions about the judiciary and judicial diversity. Thus, the study conducted a cross-analysis of lawyers’ answers to this question and other key questions covered in the survey to see if any specific factors were correlated to Israeli lawyers’ willingness to apply for a judicial appointment.

The analysis found that lawyers’ tendency to consider a judicial career was not correlated to any of the following background characteristics of those lawyers who took part in the study: the type of academic institution lawyers attended; their religion or level of religious observance; place of residence or district of work; income level; gender and position regarding whether something should be done about judicial diversity in Israel. However, a series of other factors were strongly correlated to whether lawyers would consider a judicial career. In summary, lawyers that were most likely to consider a judicial career are those who are younger, less experienced, have worked in the public sector, identify with the state of Israel, are generally satisfied with the legal profession, the courts and the professional level of judges, and think they have good chances of being appointed.

Age and years of experience in the profession:

There was a statistically significant correlation between lawyers’ age group and their desire for a judicial career. Specifically, lawyers in the age group 35-44 were more likely to consider a judicial career (42% of this age group said yes) than older lawyers (55% of 55-64 years would not consider a judicial career). This makes sense, given that the latter are closer to retirement. In addition, almost half of the lawyers with 15 years of professional experience or more did not consider a judicial career (although they thought

⁹¹³ Respondent 1062110

⁹¹⁴ Respondent 1060660: "I would like to promote justice, and represent the ‘other side’ of the population".

they had good chances to be appointed, as seen earlier), while lawyers with less than 5 years practice constituted 41% of all lawyers who considered a judicial career favourably and were less likely than others to answer no to this question⁹¹⁵.

Jewish ethnicity:

Surprisingly, there were no apparent differences between Sephardic and Ashkenazi Jews, except that Ashkenazi lawyers were more likely to say they would not consider a judicial career, and lawyers of mixed background tended to say “maybe” more than other intra-Jewish groups.

Previous experiences of discrimination:

There is some suggestion from studies in other jurisdictions that lack of diversity in the judiciary as well as previous experiences of discrimination in courts may deter women and ethnic minority lawyers from applying to join the judiciary⁹¹⁶. However, the results of the Lawyer Survey do not support this. The only correlation between discrimination and considering a judicial career was found amongst lawyers who said they had been discriminated in their workplace because of their religion, with 45% of them saying they would consider a judicial career. It was shown earlier that several experiences of discrimination were highly associated with lawyers’ assessment of their success if applied to become judges; however, this effect was not significant in relation with the possibility of a judicial career⁹¹⁷, and in any case the number of lawyers in the survey who reported discrimination was small.

Identification with the state:

Almost 90% of lawyers who said they would consider a judicial career also strongly identified with the state of Israel and its institutions. Similarly, the lower the identification with the state, the weaker the desire to join one of its key institutions - the judiciary (e.g. there was no lawyer who said they did not identify at all with Israel who also said they would or might consider joining the judiciary). However, it is important not to draw too much significance from this as almost (80%) of lawyers in the survey said they largely identified with Israel.

⁹¹⁵ Although for this experience level, the chances of being appointed are slim or non-existent.

⁹¹⁶ Sullivan (n119).

⁹¹⁷ The relatively small sample of lawyers who reported discrimination in this survey may also affect the results.

Satisfaction with courts and judges:

There was a highly significant correlation between what lawyers think of judges and the courts system, and whether they would want to become judges themselves. Unsurprisingly, the higher their satisfaction was with the efficiency of courts and the professionalism of judiciary, the greater their willingness to join the judiciary. For example, 56% of lawyers who were satisfied with the courts' efficiency said they would consider a judicial career, whereas only 25% of lawyers who were not satisfied with the efficiency courts would consider joining the judiciary.

Trust in courts:

Similar correlations were found in relation to lawyers' level of trust in courts. Over 60% of lawyers who said they were interested in a judicial career also said they trusted the court system to a large extent; in contrast amongst lawyers who said they had little or no trust in the court system only 9% said they would consider a judicial career.

Professional background: current work sector, previous experience and internship

Three-quarters (74%) of lawyers who were working in the courts system at the time of the survey were positively considering a judicial career, as well as all lawyers from the State Advocacy (n=6). However, lawyers from the private sector were significantly less willing to consider a judicial career (only 25%).

Lawyers' past experience was also a strong predictor of their plans for a judicial career. Respondents who had worked in the public sector in the past were most likely to consider a judicial career, as were lawyers with past experience in the courts system: 47% of lawyers with experience in the public sector and 70% of lawyers with experience specifically in the court system would consider a judicial career, compared with only 22% of those who had no public sector experience. As discussed earlier, there is a general belief in Israel that the majority of Israeli judges are appointed from either the courts system or the State Attorney's office, although the analysis in Chapter 6 found that in reality a third of judges had worked in the private sector, a third in the public sector and a third had mixed professional background. The Lawyer Survey did find, however, that lawyers were highly more motivated to consider a judicial career if they had worked in the public sector, and specifically in the courts system and State Advocacy. Almost half (66 of 136, 49%) of the lawyers who interned in the public sector were willing to consider a judicial career, compared with only 22% of lawyers who interned in the private sector.

Satisfaction with the legal profession:

Similar to the correlation between satisfaction with the courts and desire in a judicial career, the higher the satisfaction with the legal profession, the more likely lawyers in the survey were to consider a judicial career. Over three-quarters (78%) of lawyers who said they would consider a future judicial career were highly satisfied or satisfied with the legal profession. However, 69% of lawyers who said they were not interested in a future judicial career were also satisfied with the legal profession⁹¹⁸.

Chances of actually being appointed:

Unsurprisingly, there was a correlation between those lawyers who said they would consider a judicial career and those who thought their chances to be appointed were high or moderate; 45% of lawyers who said they would consider a judicial career thought their chance of being appointed if they applied was very high or high.

Summary of main findings

The Lawyer Survey represents the first multi-variable portrait of Israeli lawyers to date. Despite a low response rate, the respondents appeared fairly representative of what is known about the demographics of the legal profession in Israel. As a result, the findings are helpful in contributing to our understanding of the state of diversity in the legal profession in Israel, and provide a glimpse into the pool for judicial appointments. Overall, the Lawyer Survey showed a legal profession in Israel that is more diverse than judges in some aspects, including academic background (e.g. type of institution attended, non-legal education), the proportion of non-Ashkenazi Jews as well as religious and Orthodox Jews. However, the balance between Jews and non-Jews is almost identical amongst lawyers and judges, while the proportion of female lawyers in the survey is lower than the proportion of women in the judiciary.

The survey also provides some important and novel insights into lawyers' perceptions of diversity in the judiciary, as well as the legal profession and in legal education. There appears to be a consensus amongst Israeli lawyers that judicial diversity is important, particularly in the Israeli context, and that the Israeli judiciary does not reflect the diversity of Israeli society or the composition of the legal profession. Moreover, two-thirds (66%) of the Israeli lawyers in the survey agree that action should be taken regarding judicial diversity in Israel, even though almost two-thirds (63%) think that

⁹¹⁸ 117 lawyers of 169 who would not consider a judicial career also strongly agreed or agreed they are generally satisfied with the profession.

judges' professional conduct is the only relevant factor in assessing public trust in courts. Finally, while the majority of lawyers who took part in the survey plan to stay in the legal profession, only a minority (28%) said they would consider applying for a judicial post in the future. The next chapter explores similar issues with the other key group in the pool for judicial appointments, Israeli law students.

CHAPTER 8: UNDERSTANDING THE POOL FOR JUDICIAL APPOINTMENTS: ISRAELI LAW STUDENTS

The previous chapter presented the results of the Israeli Lawyers Survey, which generated the first in-depth profile of Israeli lawyers and revealed Israeli lawyers' views on a wide range of issues including the courts and judiciary in Israel, judicial diversity and their possible intentions to pursue a judicial career. A similar large-scale online survey of Israeli law students (the "Law Student Survey") was conducted between August and October 2014. The Student Survey had three main goals: (1) to provide for the first time in Israel a broad socio-demographic profile of Israeli law students based on 18 background characteristics; (2) to examine students' attitudes to the judiciary and judicial diversity, and (3) to assess law students' interest in pursuing a judicial career in the future. This chapter presents the results of the Law Student Survey⁹¹⁹.

8.1 Part 1: Demographics of Israeli law students

8.1.1 Note on demographics of the Israeli law students and the survey

Unlike Israeli lawyers, for whom hardly any socio-demographic official data exist, several official bodies in Israel publish periodical reports about Israeli students in higher education (including law students). These reports, mainly by the CBS and the Council for Higher Education (CHE) predominantly focus on several population groups (e.g. Arabs, women, new immigrants) but do not consistently review law students in all institutions (i.e. colleges and universities) and normally do not refer to intra-Jewish ethnicity, religiosity and other variables that are important for this study. Moreover, publically available reports do not cover Israeli law students' views on the Israeli judicial system, judicial diversity and a possible judicial career.

When the Law Student Survey closed in October 2014, there were 2,163 stored responses on Opinio, of which 1,941 were usable⁹²⁰. The total number of law students in Israel in all academic institutions in the academic year 2013-14 (the year the survey was distributed in) was 15,959. Thus the response rate in the Student Survey was 12%, much higher than for the Lawyer Survey (2%). If the response rate is calculated more accurately based on the number of law students in the academic institutions that took part in this

⁹¹⁹ Full details of the statistical analyses carried out for this chapter are found in **Appendix 9**.

⁹²⁰ Meaning for participants who entered some data in their survey and did not have completely empty data lines. The number of usable responses is based on the question with the highest number of answers (q.2).

survey, the response rate is even higher (almost 17%). Based on official data about law students in Israel, the respondents to the Law Student Survey are overall representative of the law student population in Israel at the time of the survey with a few exceptions, specifically in relation to Muslim Arabs. The participants came from a range of backgrounds (in terms of age, ethnicity, income, residence, etc.), and provided insights about how Israeli law students feel about a number of key issues related to judicial diversity in Israel.

8.1.2 Current enrolment in a legal degree

The distribution of survey respondents according to the degree they were currently pursuing was closely representative of all Israeli law students. Most of the participants in the survey (88%) were LL.B. students, who make up 85% of the Israeli law student population. The law student participants in the survey were less representative in terms of the type of educational institution they were attending, with university law students comprising a larger proportion of the survey respondents (47%) than their representation in the Israeli law student population (28%). One reason that could account for this is that two of the larger colleges did not participate in the survey, meaning some 5,000 college law students were absent from the sample. Nevertheless, the sample still included almost 1.5 times more college than university students, which is important given the claims in Israel that law colleges are responsible for Israel's overpopulation of lawyers and the decline in the profession's prestige⁹²¹.

⁹²¹ Katvan (n393) 302

Table 24: Law Student Survey respondents compared with Israeli law student population

Degree/ institution type	Student Survey		Law students population ⁹²²	
	N	%	N	%
<i>Degree type</i>				
LLB students	1,671	88%	15,959⁹²³	85%
LL.M. students	190	10%	2,536 ⁹²⁴	13%
Doctoral students	41	2%	255	1.3%
Total	1,902	100%	18,750	100%
<i>Institution type</i>				
Academic colleges students	1,003	52%	13,531	72%
University students	913	47%	5,219	28%
Other/ n/a	13	1%	-	-
Total	1,929	100%	18,750	100%

As Figure 50 shows, Hebrew University had the largest number of students in the survey (n=332) and comprised 17% of all the survey participants. However, in terms of the total number of students in the faculty and the number of students that took the survey, Peres Academic Centre (the newest law school in Israel) had the largest participation rate: 31% of its law students took the survey (which comprised 5% of all the survey participants)⁹²⁵.

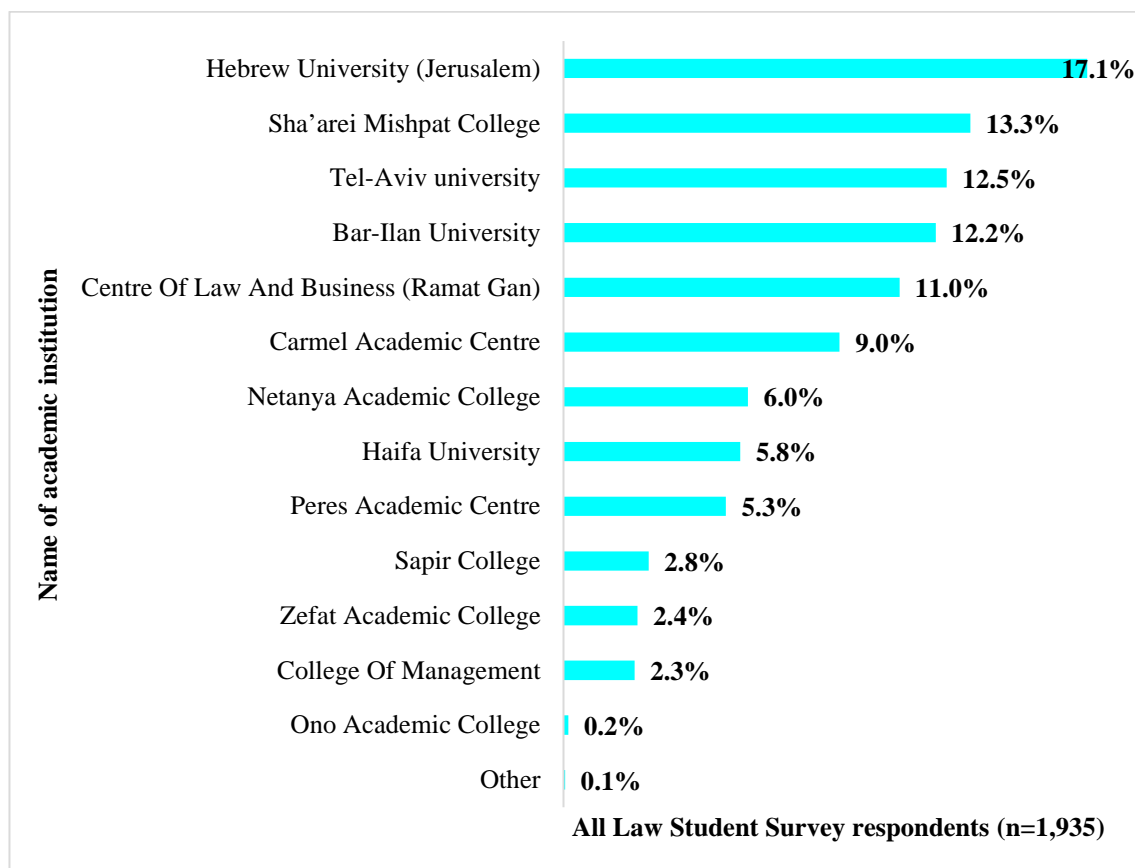
⁹²² Data as of 2013-14: CHE 'table 10- "Students in Institutions of Higher Education by Level of Degree, Type of Institution and Field of Study'.

⁹²³ 8.3% of all undergraduate students in Israel (260,000).

⁹²⁴ 4.6% of all graduate students in Israel

⁹²⁵ Colleges that hardly had any graduates in the Lawyer Survey are found in rather large numbers in the Law Student Survey (e.g. Sapir, Peres, Carmel). This is understandable given that the Lawyer Survey participants are older and therefore graduated from older law faculties.

Figure 50. Law Student Survey respondents by academic institution



8.1.3 Non-legal education and qualifications

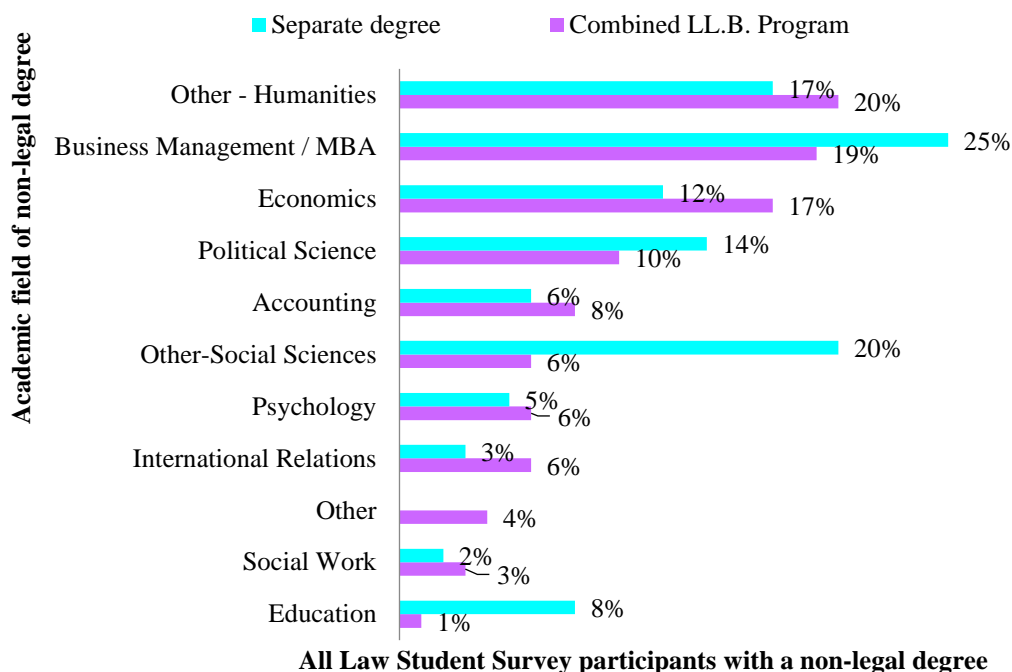
There are claims that legal education in Israel is one-dimensional because academic requirements in law schools have not obliged law students to gain a broader academic education, and therefore the worldviews and analytical abilities of lawyers and judges are limited. As the findings in Chapter 6 revealed, 17% of Israeli judges have a non-legal degree in addition to their legal degrees. While almost 45% of lawyers that took part in the Lawyer Survey had non-legal degrees (of various types), almost 36% of law students in the survey had or were studying for a non-legal degree⁹²⁶. Of this 18% had or were taking a combined program, and 21% had already obtained a non-legal degree. This is lower than the figures published recently which indicate that in several Israeli law schools more than 50% of students study for a non-legal degree in addition to their LL.B.⁹²⁷. Nevertheless, both the lawyers and law students in the two surveys for this research project have a more interdisciplinary academic background than Israeli judges. The most

⁹²⁶ 651 students responded yes to one question (i.e. they either had a combined program or had a separate program) and 28 said yes to both, adding up to 679 of all respondents.

⁹²⁷ Bartela (n851); Roe'e (n822).

popular fields of non-legal studies for participants in the law Student Survey are shown in and are similar to the findings in the Lawyer Survey.

Figure 51. Law Student Survey participants with non-legal degrees by academic field



In addition, 14% of law students in the survey had a non-legal qualification (n=255), which was also similar to the proportion found in the Lawyer Survey. The most popular certificates and qualifications were teaching and training, medical and health-related, accounting and bookkeeping and engineering.

8.1.4 Gender

The Law Student Survey respondents closely reflected the gender balance in Israeli law schools and in higher education in Israel in general. In 2012-13, women comprised the majority (57%) of all students in higher education in Israel⁹²⁸. The proportion of women studying law significantly increased in the last two decades, and in 2012-13 (the latest available figures) 49% of law undergraduate students were women⁹²⁹. Survey respondents closely reflected this with 53% female respondents. This is very similar to

⁹²⁸ CHE *The Higher Education System in Israel 2014* (n512) 35.

⁹²⁹ *ibid*, 37

the gender distribution amongst Israeli judges (52% women), but higher than participants in the Lawyers Survey (35% women).

Table 25. Representation of women in Law Student Survey, Israeli law schools and Israeli higher education

Type of degree	Women in Law Student Survey		Women in Israeli law student population ⁹³⁰		Women in Israeli higher education population ⁹³¹	
	N	%	N	%	N	%
Undergraduate (LL.B.)	547	54%	7,944	50%	107,719	57%
Graduate (LL.M.)	61	49%	1,352	53%	33,418	61%
Postgraduate (PhD)	16	51%	131	51%	5,681	53%
Overall distribution	634	53%	9,427	50%	148,383	57%

8.1.5 Religion, Nationality and Ethnicity

Unlike the findings for Israeli judges and lawyers in the previous chapters, respondents to the Law Student Survey were generally representative of the population in terms of religion, even though there was an under-representation of Muslims. Table 26 shows that the dominant religious/national group among law students was Jews, with religious minorities accounting for 12% of the law students in the survey.

⁹³⁰ CHE “Table 2: Students in High Education Institutions (Universities, Academic Colleges and Teacher Training Colleges) by degree and field, 1990-2013” (pers. Comm.)

⁹³¹ CHE 2014 report (n.512).

Table 26. Religious group representation in Student Survey, Israeli law schools, higher education and general population⁹³³

Religious/national category	Law Student Survey		Law student population (LL.B.) ⁹³²		Higher education population		General population
	N	%	N	%	N	%	%
Jewish	1,030	88%	n/a	92%	171,099	87%	75%
Muslim	33	3%	1,019	6%	26,800	8.7%	17%
Druze	11	1%	166	1%	3,800	1.2%	1.5%
No religious affiliation	67	6%	n/a	n/a	n/a	n/a	4%
Christian	18	1.5%	450	3%	5,900	1.9%	2%
Mixed/other	9	1%	n/a	n/a	n/a	n/a	n/a

Official figures show that Arabs are under-represented in higher education in general and specifically amongst law students in Israel⁹³⁴, and the findings of the Law Student Survey support the official position. The CHE reported in 2013 that only 12% of students in higher education institutions are Arabs⁹³⁵. However, the previous findings in this study have shown important differences between the sub-groups within the Arab sector in Israel, and the need to differentiate between these sub-groups in the analysis. Christian students are generally well represented in law faculties (2.5% of the entire law student population), and in this survey they comprise 1.5% of participants. Law is considered a less popular field among Druze students (1%)⁹³⁶, and in this survey only 0.9% of participants defined themselves Druze. Only 6.2% of law students in Israel are Muslim, and in this survey 3% of students defined themselves as such. Thus, Muslims are the only Arab group that is substantially under-represented amongst participants of the Law Student Survey.

⁹³² Based on data received from CHE referring to 2013-14 (pers.comm: email September 2014).

⁹³³ N=1,169, missing 994. Although the survey questions about religion included additional options (e.g. Circassia, Samaritan) these are not included in the analysis due to the minimal number of responses. The official data displayed in this table were obtained from the following sources: CBS report “The Druze Population of Israel (2012-13)”; CBS report The Moslem Population in Israel – higher education data” (15.10.2013); CBS report “Christmas 2013 – Christians in Israel”;

http://www.cbs.gov.il/shnaton65/st08_56.pdf;

http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201511097;

http://www.cbs.gov.il/shnaton65/st02_05x.pdf

⁹³⁴ See Chapter 3 for more details.

⁹³⁵ “Pluralism and Equal Opportunity In Higher Education: Expanding Access Of Arabs, Druze And Circassians To The Academia In Israel” <http://che.org.il/wp-content/uploads/2013>

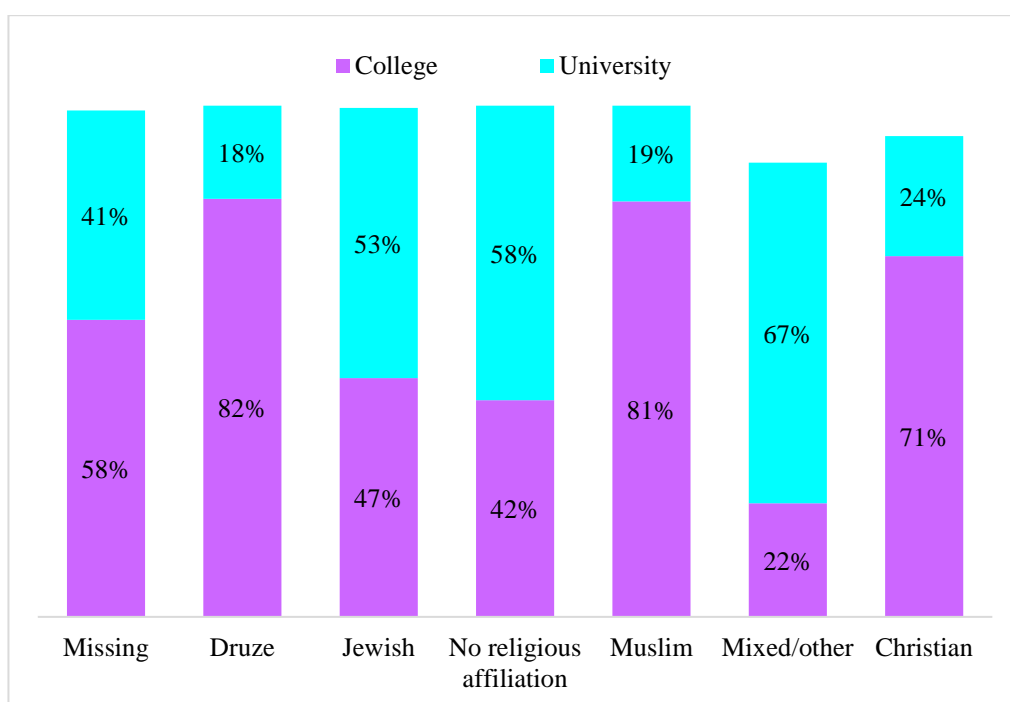
⁹³⁶ 5.4% of Druze students study law (compared to 8.9% of Jewish students see:

http://www.cbs.gov.il/www/publications/desc_exp/druzim.pdf

Religion and type of academic institution

It is often claimed that the academic colleges of law are more diverse than law faculties in universities in Israel⁹³⁷. In this survey the correlation between academic institution and self-defined religious group was significant, providing further evidence that colleges are more diverse than universities in that sense. For instance, as Figure 52 shows, Muslims, Druze and Christians were much more likely to be college not university students, while the majority of Jewish law students were university students.

Figure 52. Law students in survey by religion and type of academic institution⁹³⁸



Religion and gender

As shown earlier, women account to almost 70% of all Arab students in Israel. However, in the Law Student Survey exactly half (26 of 52) of the participants who defined themselves as Arabs were women. Cross analysis of gender with religious group in the Law Student Survey participants reveals similar ratios (): 617 of 1,027 (53%) Jewish participants are women, and 71 of the 137 (52%) non-Jewish students are women. There were more Muslim and Druze men than women among the Law Student Survey respondents⁹³⁹, however 14 of 18 Christian Arab students are women (78%). This is

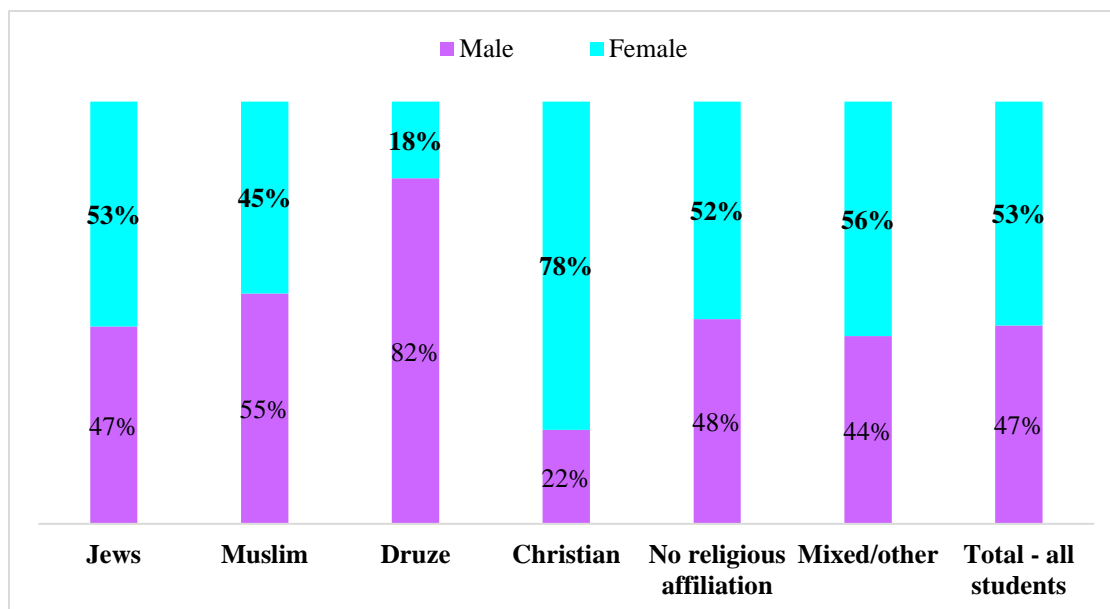
⁹³⁷ Elbashan in an interview to Shalmor (n.477); Ziv (n.76) 81

⁹³⁸ In this figure responses in the “other” category for institution was removed as it was marginal, as was the Samaritan category for religion (n=1).

⁹³⁹ Of the very few law students who defined themselves as Druze, only one was a woman.

substantially different from the findings on the judiciary (where 28% of non-Jews are women) and lawyers (where 17% of non-Jews are women)⁹⁴⁰.

Figure 53. Law students in survey by gender and religious group (n=1,164)



8.1.6 Jewish ethnicity

As discussed in Chapter 3, there are very partial official statistics about the representation of intra-Jewish ethnic groups in higher education in Israel. The official bodies that publish periodical reports tend to prioritize specific population groups (e.g. Arabs, Ethiopian Jews), so there are inconsistencies in what is known about the representation of all ethnic groups in higher education. The Law Student Survey contributes to a deeper understanding of the current Jewish ethnic makeup of Israeli law students. This survey considered Jewish ethnicity in two ways: (1) by self-definition and (2) by country of birth of the student and his/her father (similar to official definitions).

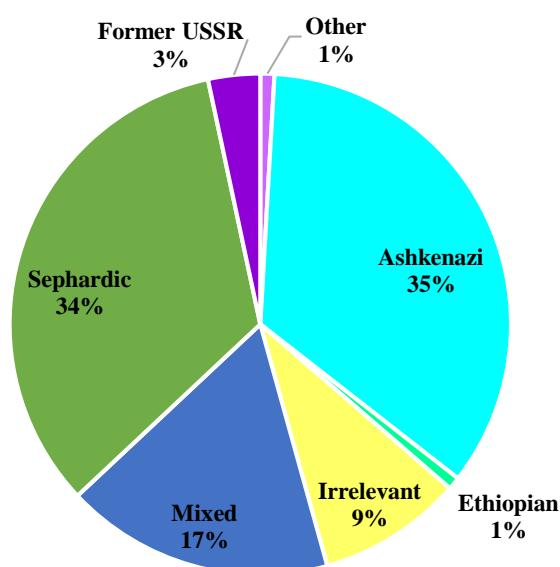
By self-definition:

Amongst Jewish law student participants in the survey the most prominent finding is that the distribution between Ashkenazi and Sephardic Jews was almost equal. This contrasts with the Lawyers Survey where there were twice as many self-defined Ashkenazi lawyers than Sephardic lawyers, and in the judges' analysis almost two thirds of judges were

⁹⁴⁰ The total number of Arabs in the Lawyer Survey was very small to begin with, but of 34 lawyers who identified themselves as affiliated with religious groups other than Jewish or none (i.e. Muslim, Druze, Christian, no religious affiliation, mixed/other), only 6 were women (17%).

Ashkenazi (64%). The proportion of students who describe themselves as “mixed” or “other” was very high, perhaps reflecting the growing rate of inter-ethnic marriages in Israel⁹⁴¹. Especially noticeable is the low number of Ethiopian Jews in the survey (n=9, 1%). However, this is only slightly lower than their representation in the general population (1.6%) and it is almost identical for 2013-14 figures for students studying for law degrees (1.1%)⁹⁴². There is a relatively small proportion of students who define themselves as “former USSR”⁹⁴³; but as was found in the Lawyer Survey, the figures completely change when country of birth (rather than self-definition) is examined.

Figure 54. Jewish-ethnicity (self-defined) of law students in survey (n=1,103)



Interestingly, a substantial proportion of law students who did not identify themselves as Jewish in the survey question about religion did specify an intra-Jewish ethnic affiliation: 60% of those who identified themselves as lacking religious affiliation or chose the option “Other” nevertheless chose specific categories of Jewish ethnicity⁹⁴⁴. It seems that many law students may not necessarily identify themselves as Jewish but still affiliate with specific Jewish ethnic groups.

⁹⁴¹ As shown in Chapter 3, it is estimated that 20% of Jewish Israelis are of mixed Jewish-ethnic origin.

⁹⁴² In 2014-15, the proportion of Ethiopians amongst all Jewish students was 1.2%, compared with their share of the 20-29 age group amongst Jews (3.3%). However, the proportion of Ethiopians in higher education is constantly growing. CBS, "The Ethiopian Population in Higher Education in Israel, 1999/00-2015/16" (28.11.2016) http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201611365

⁹⁴³ In a country where there are some 1.2 million inhabitants from the former USSR, one would presumably expect to see larger numbers of self-defined “Russian Jews” in such a survey.

⁹⁴⁴ Of the 67 law students who ticked “no religious affiliation”, 41 specified an ethnic group they relate to (of which 21 defined themselves as Ashkenazi).

By country of birth

A total of 1,055 (88%) law students in the survey were born in Israel, meaning the majority of respondents are “Sabra” (a similar proportion to that of lawyers and judges). Over 85% of those born outside Israel have been living in Israel for more than 15 years. Almost 57% of law students stated that their father was also born in Israel, in which case the only way to affiliate them with an ethnic group (other than Sabra) would be to examine their ethnic self-definition. Table 27 compares law students’ self-definition of Jewish ethnicity and categorizations by country of birth. This shows that only 16% of students are actually defined as Ashkenazi by their father’s country of birth, and only 19% are defined as Sephardic by their father’s country of birth. The difference derives mostly from the high rate of those whose father was born in Israel, but also could be related to preferences or desire to be affiliated with a specific group (other than Sabra). Relatively few law students (3.4%) defined themselves as former USSR Jews, but when country of birth is examined, their proportion increased to 7.7%. Perhaps despite their father’s country of birth, Jews from the former USSR prefer to affiliate with other ethnic groups (or none). Overall, in comparison to the Lawyer Survey and the Judges’ Study, the Law Student Survey had a larger proportion of Olim (Jewish immigrants)⁹⁴⁵.

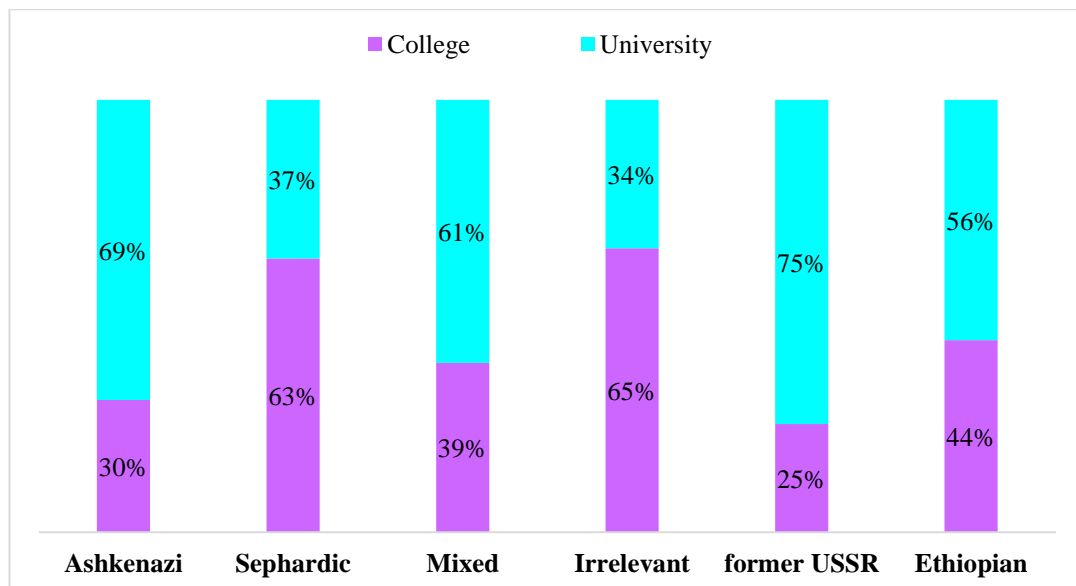
Table 27. Law students’ Jewish ethnicity: self-definition and country of birth

Jewish ethnic category (Eda)	By father’s country of birth		By self-definition	
	N	%	N	%
Ashkenazi	182	15.9%	382	34.6%
Sephardic	218	19.0%	371	33.6%
Israel (sabra)	651	56.7%	n/a	n/a
Ethiopian	9	0.8%	9	0.8%
Former USSR	88	7.7%	37	3.4%
Irrelevant	n/a	n/a	103	9.3%
Mixed	n/a	n/a	191	17.3%
Other	n/a	n/a	10	0.9%
Total	1,148	100%	1,103	100%

⁹⁴⁵ As mentioned previously, in September 2016 for the first time two female Ethiopian Jews were appointed to the Israeli judiciary. But at the time of this study, there were no Ethiopian judges and less than five judges originated from the USSR.

Some Israeli academics claim that law schools in colleges have a more diverse student body than law schools in universities.⁹⁴⁶ However, very little evidence exists to support these claims. The Law Student Survey adds important evidence to the debate about the composition of Israeli law colleges. A strong correlation was found between the type of academic institution law students attended and their **self-defined intra-Jewish ethnic group** (Figure 55). Although the overall proportion of self-defined Ashkenazi and Sephardic law students in the survey was almost identical (35% and 34% respectively), only 30% of Ashkenazi law students attended a college, compared with 63% of Sephardic law students. Law students who self-defined as mixed (n=189) or former USSR (n=36) also were more likely to be university students.

Figure 55. Law student Jewish ethnicity (self-defined) and academic institution



8.1.7 “Religiousness”

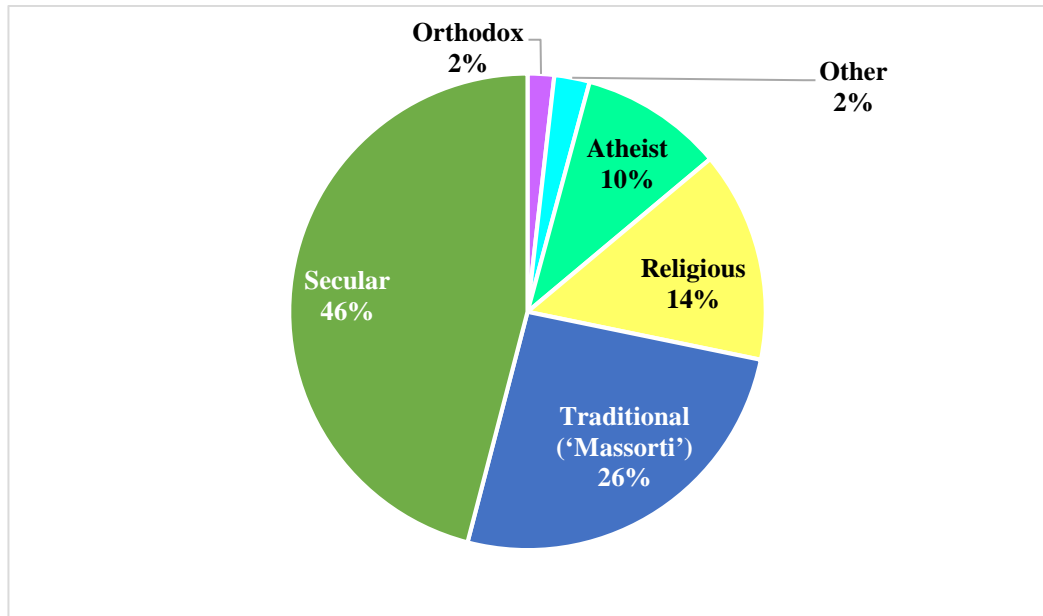
Although almost half (46%) of all law students in the survey said they were “secular”, a large proportion (40%) said they practice their faith to some extent (if “religious” and “traditional” are combined). Compared with the general population, participants in the Law Student Survey are generally representative in terms of religious observance, with the one exception of an under-representation of Orthodox Jews. Data on Orthodox students in higher education in Israel are unclear. According to the CHE, in 2014 there were 4,855 Orthodox Jewish students in budgeted academic institutions in Israel, the majority of whom study in unique academic facilities⁹⁴⁷; however, according to the CBS,

⁹⁴⁶ Shalmor (n.477); Katvan (n.393)

⁹⁴⁷ CHE (n512) 56-57

in the same year there were 8,300 Orthodox undergraduate students⁹⁴⁸. Nevertheless, their overall proportion in higher education is 3%⁹⁴⁹, significantly lower than their estimated proportion in the population (11%). What is not clear, however, is how many Orthodox Jews study law. In this survey, 2% of students defined themselves as Orthodox⁹⁵⁰.

Figure 56. Law Student Survey: self-definition of religious observance



8.1.8 Age, military service, personal status and place of residence

The single largest age group in the Law Student Survey was those 25-34 years of age (n=617, 52%), and overall 80% were 18-34 years old. More than 80% of law students in the survey had served in the IDF⁹⁵¹ (of which 93% are Jewish⁹⁵²). Similar to lawyers and judges, this is a much higher rate than the recruitment to the IDF in the general population. Only 9% of law students had not served at all (the majority of them non-Jewish). Law students who took part in the survey tended to reside in the central areas of Israel, however there are slightly more law students than lawyers from development towns and peripheral areas (south and north).

⁹⁴⁸ CBS "Higher Education in Israel - Selected Data for the New Academic Year 2015/16" (14.10.2015), p.6

⁹⁴⁹ "The Higher Education System in Israel: Current Status and Future vision" a presentation by the chairman of the CHE (October 2015).

⁹⁵⁰ Had Ono College taken part in this survey, the proportion of orthodox Jews would have been higher, as Ono College has the highest number of orthodox Jewish students.

⁹⁵¹ The figure for students includes 925 who answered yes and 20 who said they were part of the Academic Reserve scheme at the time of the survey.

⁹⁵² n=860.

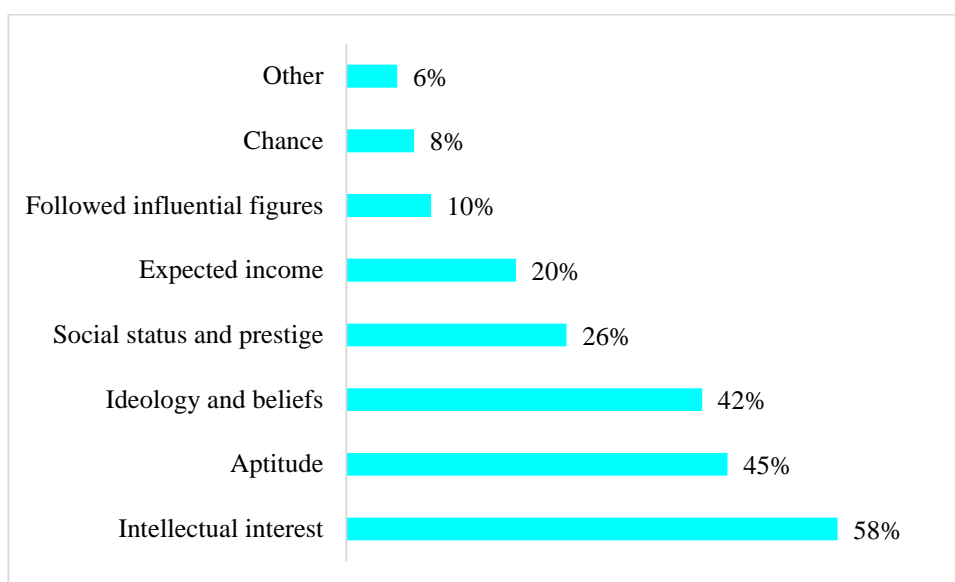
8.1.9 Family ties with the profession and the judiciary

A total of 371 students (21%) stated they had a family member in the legal field, of whom 32 (8.5%) had a family member in the judiciary (this was 1.8% of all respondents). These figures are lower than the number of reported family ties between lawyers and the legal profession and/or the judiciary. There is no other data available on this issue for Israeli law students.

8.1.10 Reasons for studying law

The three most prevalent reasons law students in survey gave for choosing to study law are: intellectual interest, aptitude and ideology (Figure 57). These are identical to the reasons lawyers in the Lawyer Survey gave as reasons for choosing the legal profession.

Figure 57. Law Student Survey: reasons for choosing to study Law (n=1,843)⁹⁵³



8.1.11 Professional and employment intentions⁹⁵⁴

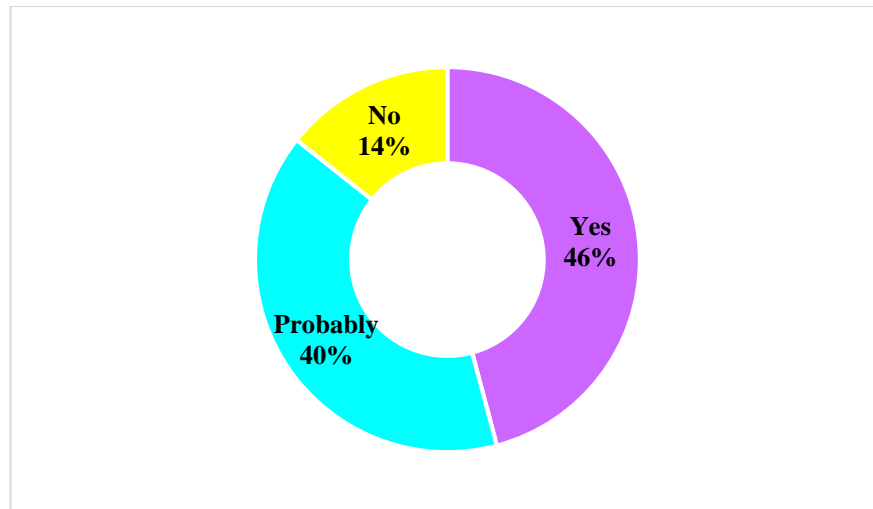
Even though virtually all law students (99%) said they would sit the Israel Bar exams, fewer law students (87%) actually intend to **work in the legal profession** following that, and only 46% estimated they would be working as lawyers in five years' time (Figure 58). Amongst the over 200 survey participants who estimated they would not work in the

⁹⁵³ Because students were allowed to tick more than one reason for choosing to study law, the number of responses is greater than the number of participants who answered this question (n=3,936), and the percentages add up to more than 100%.

⁹⁵⁴ This part of the survey was obviously more relevant to lawyers, however law students were asked similar questions (with required adjustments) as some of them (graduate and postgraduate) have already qualified as lawyers or have worked in the profession in varying capacities (e.g. pre-internship).

profession in five years' time, a variety of reasons were given⁹⁵⁵, the most prevalent being: having another qualification or profession (26%); lack of desire or interest to work in the profession (20%); adverse work conditions (e.g. long hours) and the market being full of lawyers (12%). However, 26% of these students did not actually know why they would not want to practice in 5 years' time (which is perhaps understandable given the early stage of their career).

Figure 58. Law Student Survey: plans to work in law in 5 years (n=1,788)



Internship: The vast majority of law students in the survey (84%) intended to look for an internship in Israel after completing their studies. Of these: 36% said they would pursue an internship in the private sector, 30% in the public sector, 7% specifically in the court system and 22% were undecided. This means there is an even split amongst law students between public (37% - public plus courts) and private sector (36%) internships. Amongst the 725 law students who mentioned they had already worked in the legal profession (during pre-internship, as paralegals, etc.⁹⁵⁶), 44% did so in the private sector, 26% in the public sector and 27% in both.

8.1.12 Experience of discrimination

Law students in the survey provided over 1,000 reports of experiences of discrimination in the work place or studies. Students mentioned ethnicity, gender and age as the prominent grounds associated with experiences of discrimination, and as Table 28 shows,

⁹⁵⁵ The answers typed in the “please specify” textbox were coded into 6 categories including don’t know/ not applicable (n=203).

⁹⁵⁶ This figure may include students who have already qualified and worked as lawyers, alongside students who have performed a pre-internship.

discrimination was generally more likely to occur in the work place than in academic institutions.

Table 28. Law Student Survey: experiences of discrimination

Grounds for discrimination	Where	N	%
Nationality	Studies	87	7%
	Work place	59	5%
Religion/level of religious observance	Studies	79	7%
	Work place	77	7%
Ethnicity/ "Eda"	Studies	97	8%
	Work place	129	11%
Gender	Studies	75	6%
	Work place	150	13%
Sexual orientation	Studies	15	1%
	Work place	20	2%
Disability (mental, physical etc.)	Studies	20	2%
	Work place	15	1%
Age	Studies	59	5%
	Work place	128	11%
Other ⁹⁵⁷	Studies	27	2%
	Work place	33	3%

⁹⁵⁷ In the "other" category respondents mentioned various factors, but the most dominant ones were discrimination based on political affiliation (n=11) and place of residence or socio-demographic background (n=12). Additionally, 42 students used this category to state they had never been discriminated against. Furthermore, although 104 comments were inserted in the text-box, only 60 of them specified whether this happened in the work place or studies. Therefore, only those who specified where the discrimination occurred are recorded in the table.

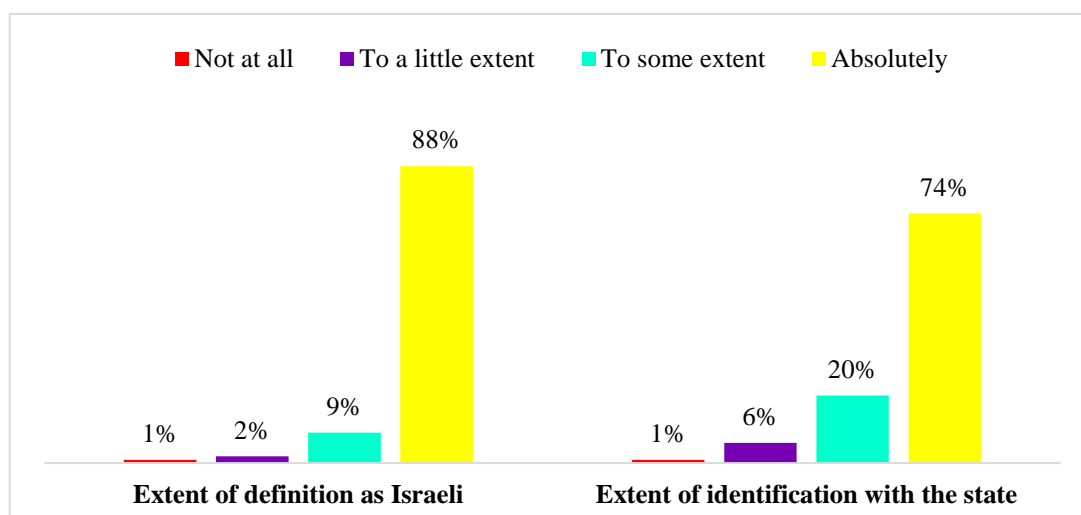
8.2 Part 2: Law students' experiences and attitudes

Chapter 7 highlighted the value of investigating the attitudes of lawyers to the judiciary and judicial diversity, as they form the current pool for judicial appointments. Although law students are not in the immediate pool for judicial appointments, their views on those same topics are important in understanding how judicial diversity may develop in future in Israel. These findings, along with the Lawyer Survey, explore issues have not previously been asked of law students in Israel.

8.2.1 Identification with the state and with being Israeli

Law students in the survey were asked to indicate the extent to which they (1) identify with the state and its institutions and (2) define themselves as Israeli.

Figure 59. Law student identification with the state and being Israeli



Almost all law students (88%) in the survey said they absolutely defined themselves as Israeli, and three-quarters (74%) said they identified with the state of Israel and its institutions. These are similar rates to those in the Lawyer Survey and higher than the general population when asked similar questions in opinion polls⁹⁵⁸. However, as with the Lawyer Survey, it is difficult to determine whether the security situation at the time of the survey may have affected these responses. Significant variations were found between members of different religious groups in the Law Student Survey, with Jews highly more likely to absolutely identify with the state and its institutions (95%), while non-Jews and law students without a religious affiliation were highly more likely to

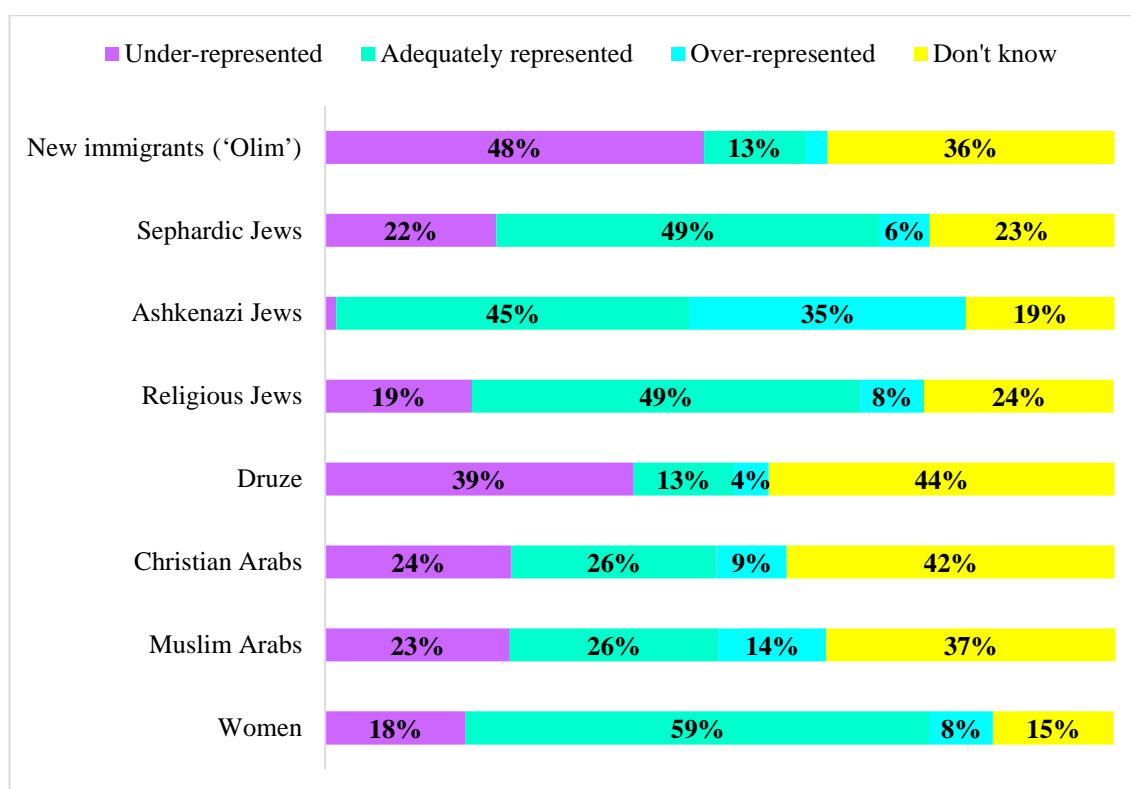
⁹⁵⁸ Compare: IDI surveys found that 65% of the population felt part of Israel to a very high or high extent (72% of Jews and nearly 28% of Arabs, Hermann and others (n868).

identify to a small or some extent, or not at all. A similar significant correlation was found for religion and the extent to which law students define themselves Israeli⁹⁵⁹.

8.2.2 Attitudes to diversity in law schools and the legal profession

Legal profession: Exactly half of the students strongly agree or agree with the statement that the population of lawyers in Israel is diverse and reflects Israeli society. However, only 10% (144 of 1,311) of students agree that the population of senior lawyers in Israel (e.g. partners in firms) is diverse. When asked to indicate how representative specific population groups are in the legal profession, almost half of law students (48%) felt that new immigrants were under-represented in the legal profession. However, large proportions (45%) of law students also said they did not know how to estimate the extent of representation of non-Jewish groups. A majority (56%) estimated that women are adequately represented in the legal profession.

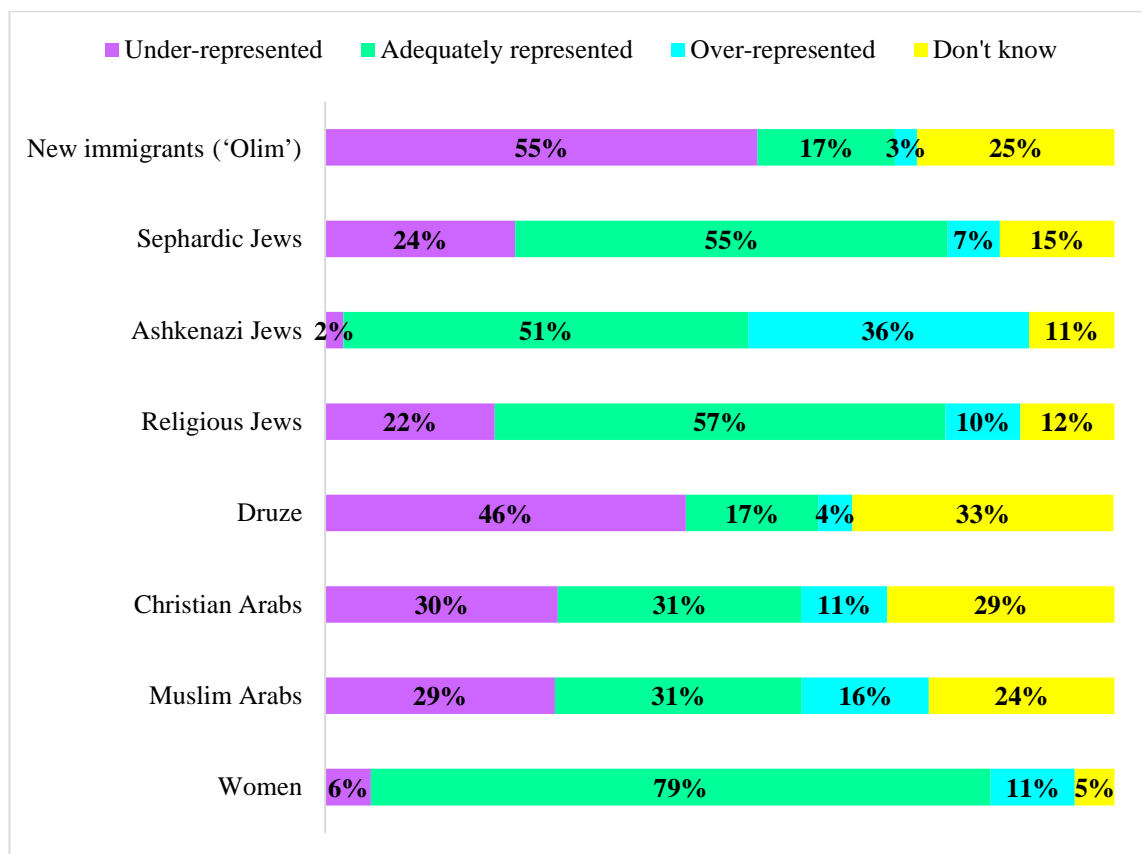
Figure 60. Law student views on group representation in the legal profession



⁹⁵⁹ Jews were highly more likely to define themselves as Israeli compared with minority groups. Compare: 2007 survey that found that 34% of Israeli-Arabs feel part of the state of Israel and its problems (Israel Democracy Institute, "Arab Identity In A Jewish And Democratic State" (2008) 58 *Parliament*) ([here](#)).

Law schools: Almost two thirds (61%) of law students either strongly agreed or agreed with the statement “the population of law students in Israel (in colleges and universities alike) is diverse and reflects Israeli society”. However, only 19% thought that the population of outstanding law students in Israel is diverse. The proportion of law students who did not know how to assess the representation of specific population groups amongst law students was quite high (see Figure 61). However those who did attempted to express their views were generally correct. In particular, students felt that new immigrants (55%) and Druze (46%) are under-represented in legal education. Ashkenazi Jews were the group most perceived as over-represented in legal education, and Ethiopian Jews were mentioned more than any other group under the “other” section as under-represented⁹⁶⁰. Most law students (79%) also believe that women are adequately represented in law schools.

Figure 61. Law student views on group representation in the legal education

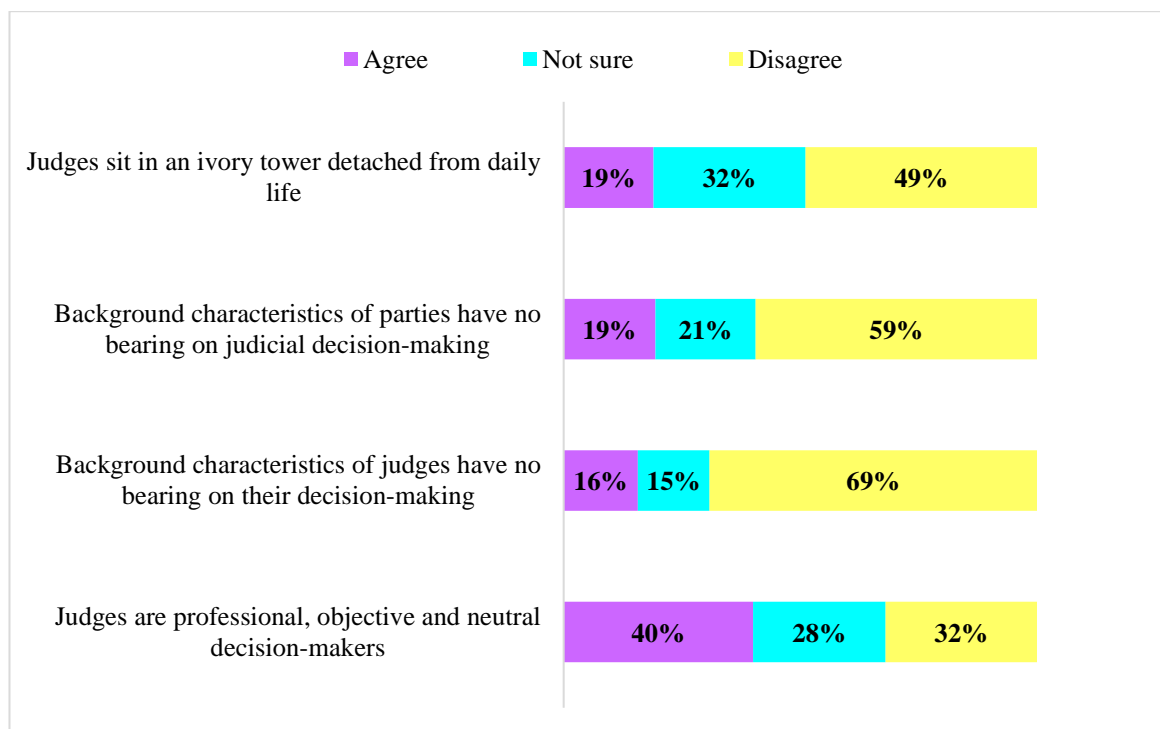


⁹⁶⁰ 48 of 299 students who responded to the “other” category specified Ethiopian Jews as under-represented.

8.2.3 Attitudes to judges and judicial decision-making

So far as can be determined, the Law Student Survey is the first survey to ask Israeli law students about their views on a wide range of judicial matters, including the factors that influence judicial decision-making. A majority of law students felt that background characteristics of judges and parties are meaningful to judicial decision-making (69% and 59% respectively), but at the same time 40% believed that “judges are professional, objective and neutral decision-makers” (Figure 62).

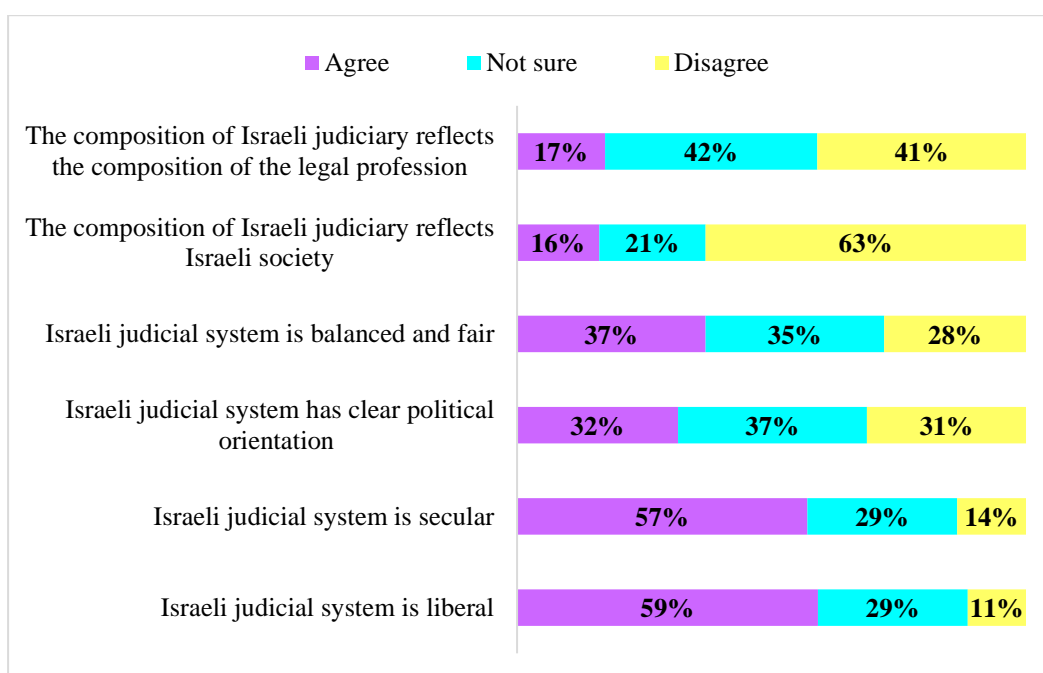
Figure 62. Law student general attitudes to judges and judicial decision-making



8.2.4 The Israeli judiciary

Law students were also asked a series of questions about the Israeli judiciary specifically (Figure 63). Just over a third (37%) of law students feel that the Israeli judiciary is balanced and fair, while 32% feel the Israeli judiciary is politically oriented. The clearest result is that almost two thirds (63%) of law students do not feel the Israeli judiciary reflects Israeli society, while law students are less certain about the whether the Israeli judiciary reflects the legal profession.

Figure 63. Law student views on the characteristics of the Israeli judiciary

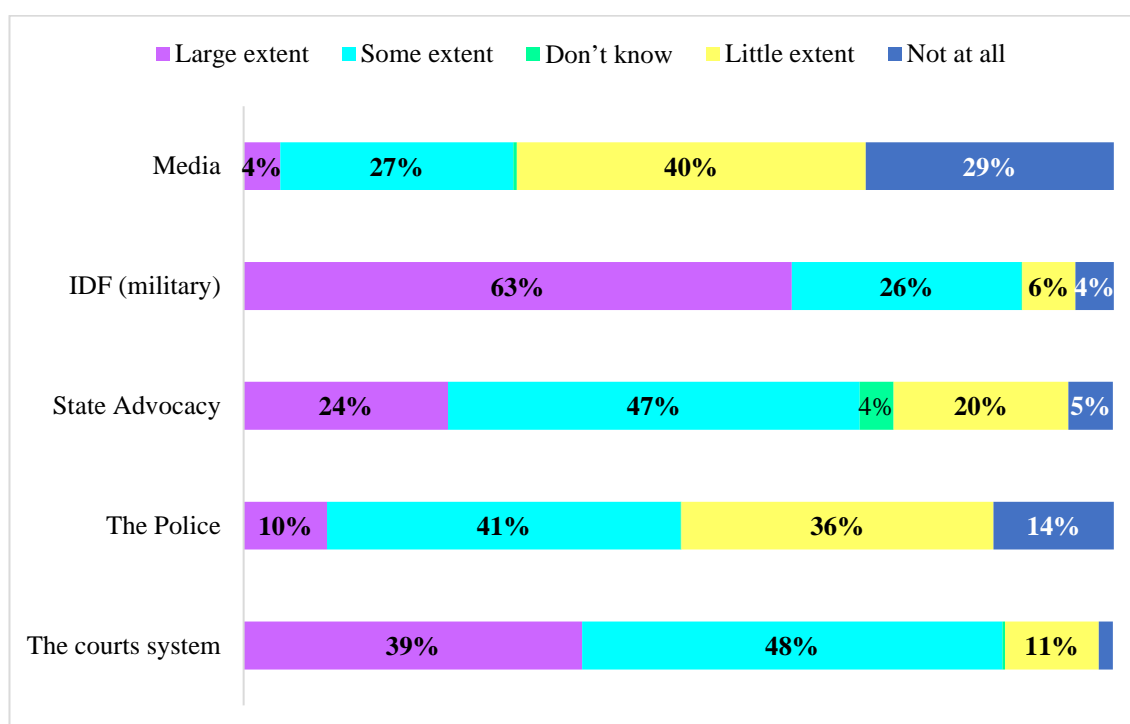


The link between the lack of diversity and the public perception of the fairness of courts has been highlighted in this thesis in relation to existing research as well as the findings of the Lawyer Survey. The Law Student Survey also found a significant correlation between students' perception of the composition of the Israeli judiciary and their view on the statement "the judiciary is balanced and fair". Students who thought the judiciary was reflective of the composition of the Israeli society, were highly more likely to think it was balanced and fair (61% of students who agreed the judiciary was reflective also thought it was balanced and fair). However, 45% of students who did not believe that the Israeli judiciary was reflective of society also thought it was not balanced and fair.

8.2.5 Trust in the courts system and other non-elected state institutions

The importance of the public trust in courts and the general decrease in the trust Israeli courts in recent years has been highlighted earlier, and the Law Student Survey set out to explore trust in the courts and other state institutions amongst law students. There have so far not been any studies that looked into the level of trust in courts amongst law students, although the issue has been explored generally in public opinion polls. Law student level of trust in courts (87%) is significantly higher than public trust (58% in the most recent CBS survey⁹⁶¹). But law student trust in courts is similar to that found in the Lawyer Survey (82%).

Figure 64. Law student trust in non-elected state institutions⁹⁶²



The correlation between the level of trust in courts and the extent to which law students define themselves as Israeli and identify with the state was statistically significant: the less law students defined themselves as Israeli and identified with the state, the less trust they had in courts. For example, while 83% of law students who trust the courts to a large extent also identify with Israel largely, 36% of law students who have no trust in the judiciary identify with Israel only to a little extent. However, there was no significant correlation between the trust in courts and students' nationality or religion, although

⁹⁶¹ CBS (n.80)

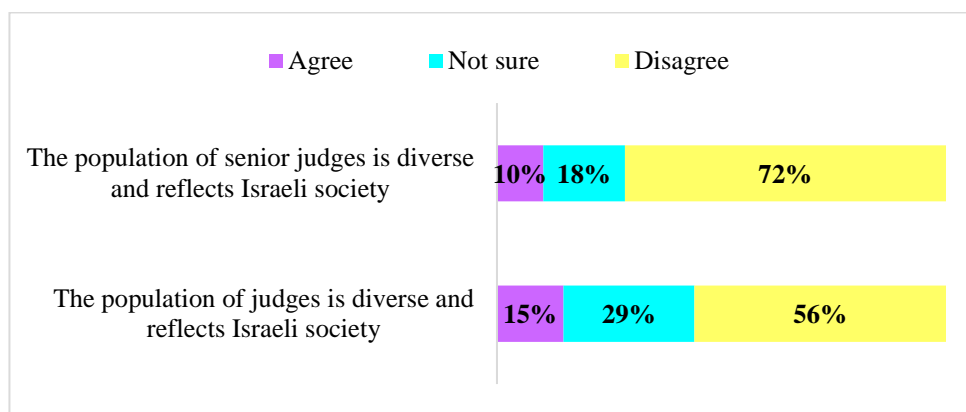
⁹⁶² The "don't knows" were removed as they were marginal and in some cases null.

Muslim law students tended more than other groups to trust the courts to some or little extent (22% of Muslims had little or no trust in courts, compared with 11% of Jews).

8.2.6 Composition of the Israeli judiciary

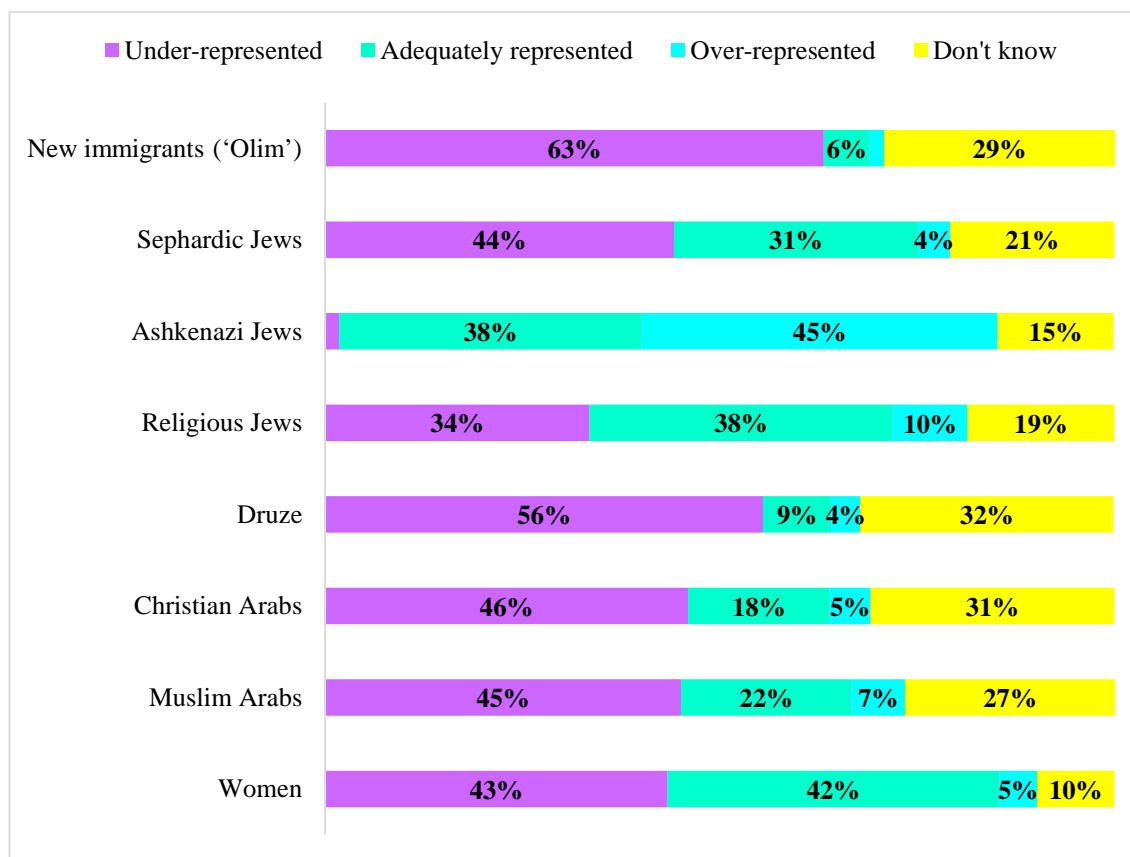
As seen above, most law students think that the Israeli judiciary reflects neither the composition of Israeli society, nor the lawyers' population. When asked directly about the extent of diversity in the Israeli judiciary and senior judiciary (Figure 65), law students were very decisive saying that neither the general judiciary nor the senior judiciary are diverse and reflect Israeli society.

Figure 65. Law student views on the extent of judicial diversity in Israel



When asked to rate the representation of specific population groups in the judiciary, students identified new immigrants, Druze, Muslim and Christian Arabs and Sephardic Jews as underrepresented in the judiciary (see figure 66). This corresponds to what is known about the under-representation of Olim, Druze, Muslims and Sephardic Jews, but is not an accurate view of Christian representation in the Israeli judiciary (as discussed in Chapter 6). In addition, 43% of law students in the survey thought that women were under-represented in the judiciary, whereas women now actually comprise a majority of Israeli judges.

Figure 66. Law student beliefs about representation in the judiciary

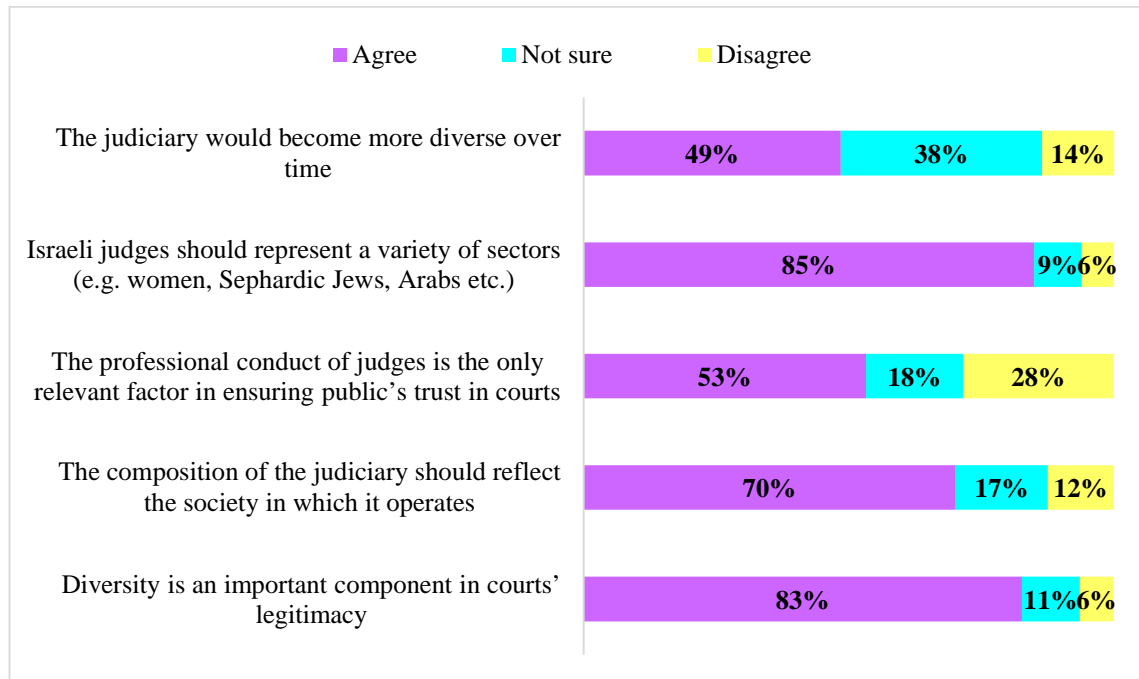


8.2.7 Justifications for judicial diversity

The survey also explored law students' views about the importance of judicial diversity. The results show that Israeli law students not only think the Israeli judiciary is not diverse (above), but also believe that it *should* be diverse. As Figure 67 shows, 83% of law students agreed that diversity is an essential component in the legitimacy of courts, and 70% of law students believed that the composition of the judiciary should reflect the society in which it operates⁹⁶³. Almost all law students in the survey (85%) feel it is important that a variety of sectors in Israeli society be represented in the judiciary. At the same time, 54% of students agreed that “judges’ professional conduct is the only relevant factor in assessing public’s trust in courts”, and almost half (49%) think that the judicial system will diversify over time. This suggests that law students (like the lawyers in the Lawyer Survey) may not see diversity as contradictory to professionalism.

⁹⁶³ This add together the numbers of students who agreed or strongly agreed with this statement (931 of 1325, 70%).

Figure 67. Law student views on the importance of judicial diversity

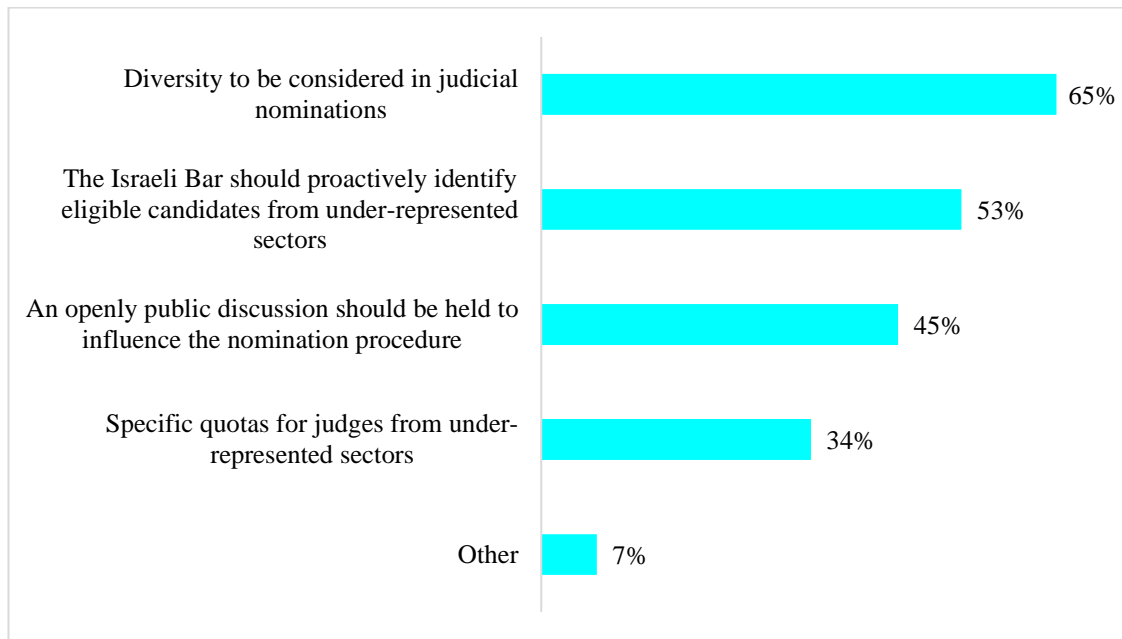


8.2.8 Should something be done about judicial diversity in Israel?

The Law Student Survey (as did the Lawyer Survey) also explored law student views on what if anything should be done about judicial diversity in Israel. Three quarters (76%) of law students felt that something should be done about judicial diversity in Israel (compared with 66% of lawyers). Of the 976 participants⁹⁶⁴ who identified what needs to be done to increase judicial diversity, law students strongly supported the inclusion of diversity as a consideration in the nominations procedure (65%), and were also supportive of having an open discussion about diversity (45%) and encouraging the Bar to be proactive about increasing diversity (53%).

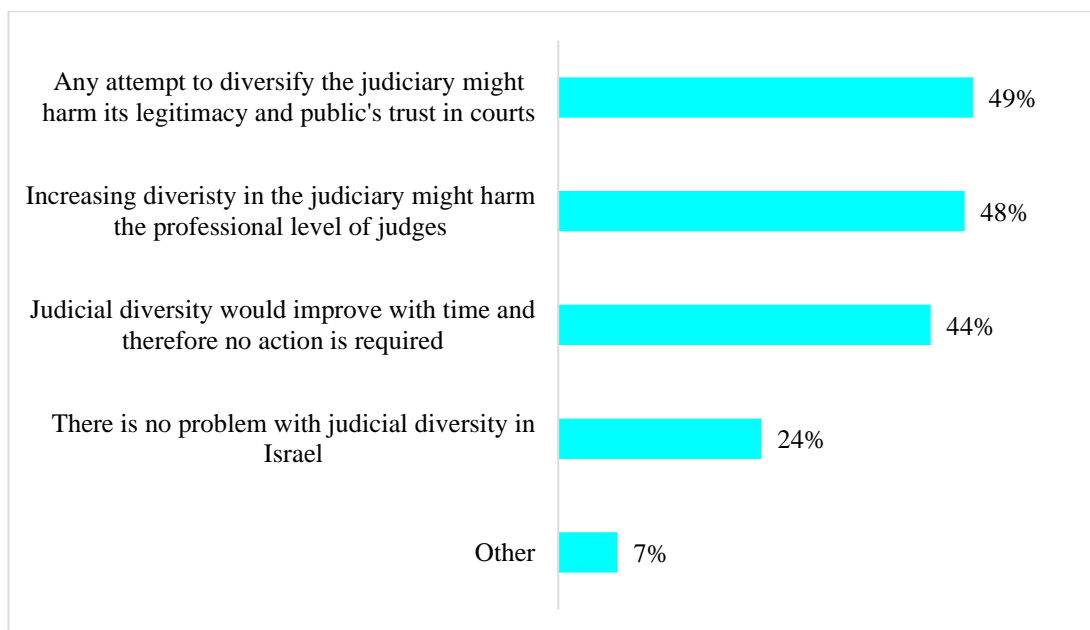
⁹⁶⁴ Respondents could tick more than one option in this question. Therefore, the total number of responses was 1,997.

Figure 68. Law student views on what should be done to promote judicial diversity (n=976)



Amongst those law students who thought no action should be taken on diversity. Most thought that increasing diversity would harm the professionalism of judges (48%); that attempts to diversify the system would harm public confidence in the courts (49%) and that diversity would improve over time without intervention (44%).

Figure 69. Law student views on why no action is needed on judicial diversity in Israel (n=302)



8.2.9 What might account for law students' differing views on judicial diversity?

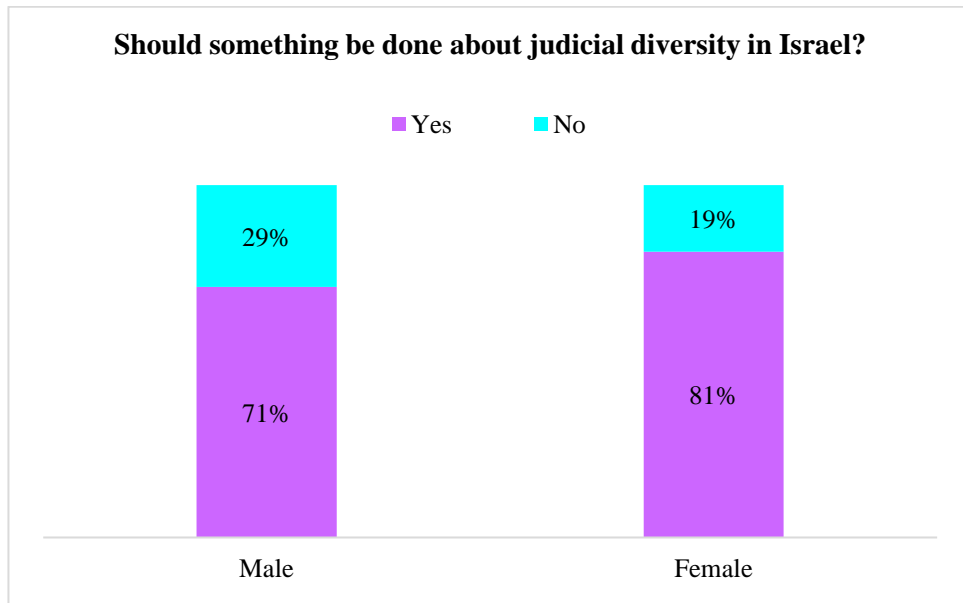
The analysis considered whether any specific characteristics of law students were strongly correlated to particular views on judicial diversity. Overall, students from sectors and groups that are (or are considered) under-represented in the judiciary (e.g. Sephardic Jews, college students) are significantly more likely to think something should be done about judicial diversity than those students from groups that are over-represented in the judiciary (e.g. Ashkenazi). Also, the less law students identify with the state of Israel and trust its institutions, the more likely they are to support action for judicial diversity. Furthermore, law students who said they had been discriminated on the grounds of religion, nationality, gender and ethnicity were also more likely to support action for judicial diversity. Law students' views on judicial diversity were not correlated with any of the following characteristics of survey participants: age group, income level, and religion/nationality. However, there was a particularly high percentage of a small number of Muslim respondents feeling that something should be done (29 of 30, 96.7%). Similarly, Christians and Druze students also supported action for diversity in higher rates than the overall trend (93% and 82% respectively).

The following section reviews the background characteristics and attitudes of law students that were highly correlated with views on the need for action on judicial diversity in Israel.

Law students' background characteristics

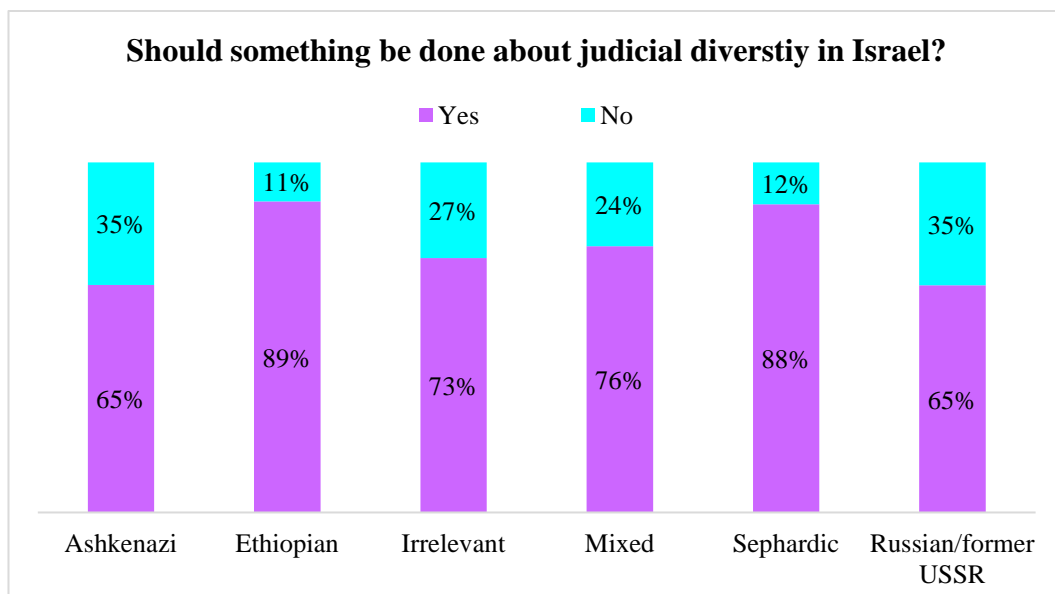
There were highly significant differences in law students' views on whether or not something should be done about judicial diversity by their **gender**. Female law students were far more likely than male law students to feel that something should be done about judicial diversity (81% for females compared to 71% for males), despite women not being under-represented overall in the judiciary.

Figure 70. Law student support for action on judicial diversity, by gender



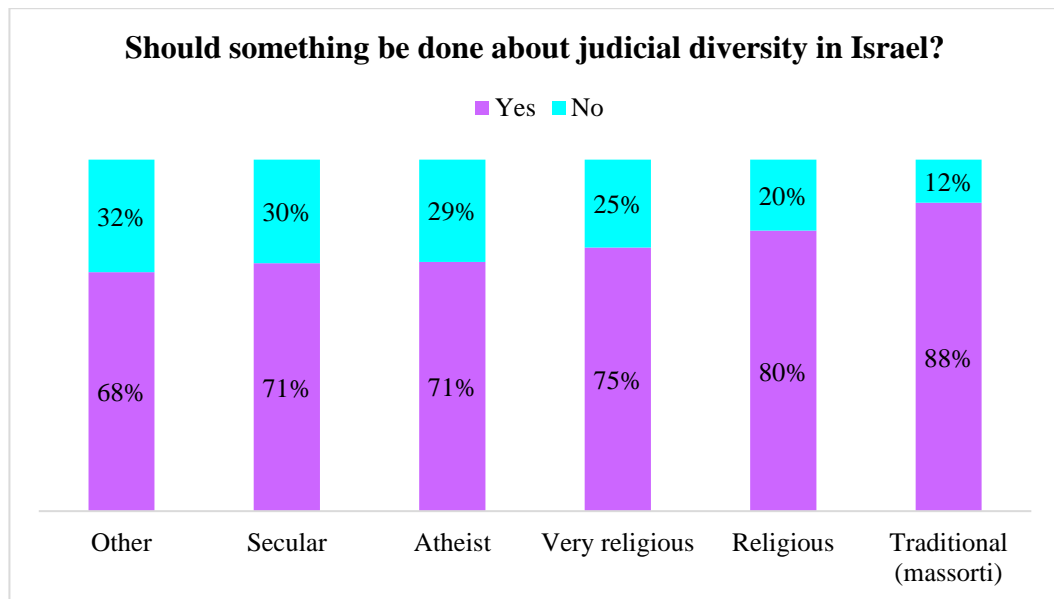
There were highly significant differences in views by law students' **self-defined Jewish ethnicity**. This was mainly a consequence of stark differences between the views of Ashkenazi students (65% of whom felt something should be done) and Sephardic Jews (88% of whom felt something should be done). Thus, Ashkenazi Jews are highly less likely to think something should be done about diversity compared with law students of Sephardic origin. Law students from the former USSR had similarly low levels of support for action on diversity as Ashkenazi law students, despite their being members of a group that is under-represented in the judiciary (unlike Ashkenazi students).

Figure 71. Law student views on action for judicial diversity and their Jewish ethnic group (n=1,066)



There were also highly significant differences in views according to the law students' level of **religious observance**. As Figure 72 shows, this is predominantly a consequence of a low percentage of secular law students feeling something should be done and a far higher percentage of traditional (Massorti) law students feeling something should be done about judicial diversity.

Figure 72. Law student views on action for judicial diversity and their level of religious observance (n=1,129)



Finally, law students' views about the need to do something to increase judicial diversity differed significantly by the **type of academic institution** they attended. A significantly higher percentage of college law students felt something should be done about judicial diversity (516 of 641, 80.5%) compared to university law students (457 of 632, 72.3%). This resembles the trend in the Lawyer Survey, in which lawyers who graduated from colleges were highly more likely to support action on diversity than university law graduates.

Experience of discrimination

There were differences in law student views on judicial diversity based on their personal experience of discrimination (see Figure 73 and Figure 74). In particular, respondents who reported being discriminated against during studies or at work based on **religion, nationality, gender** and particularly **ethnicity** were all significantly more likely to feel that something should be done about judicial diversity.

Figure 73. Law student views on action for judicial diversity and their experience of discrimination during studies

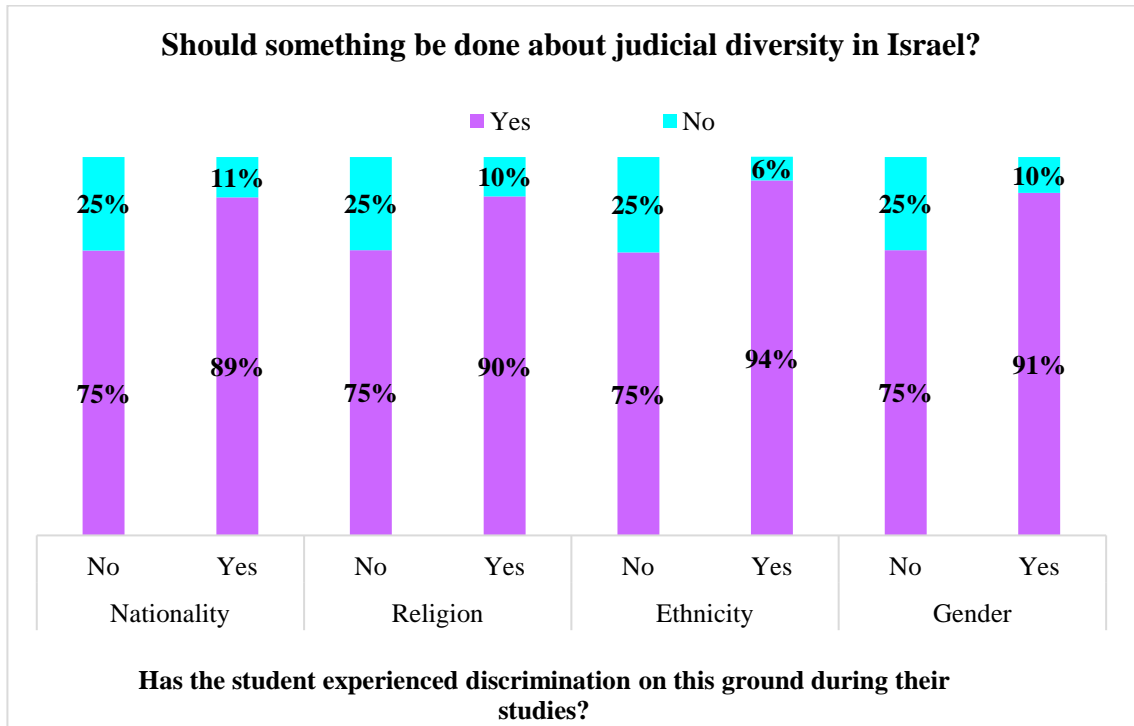
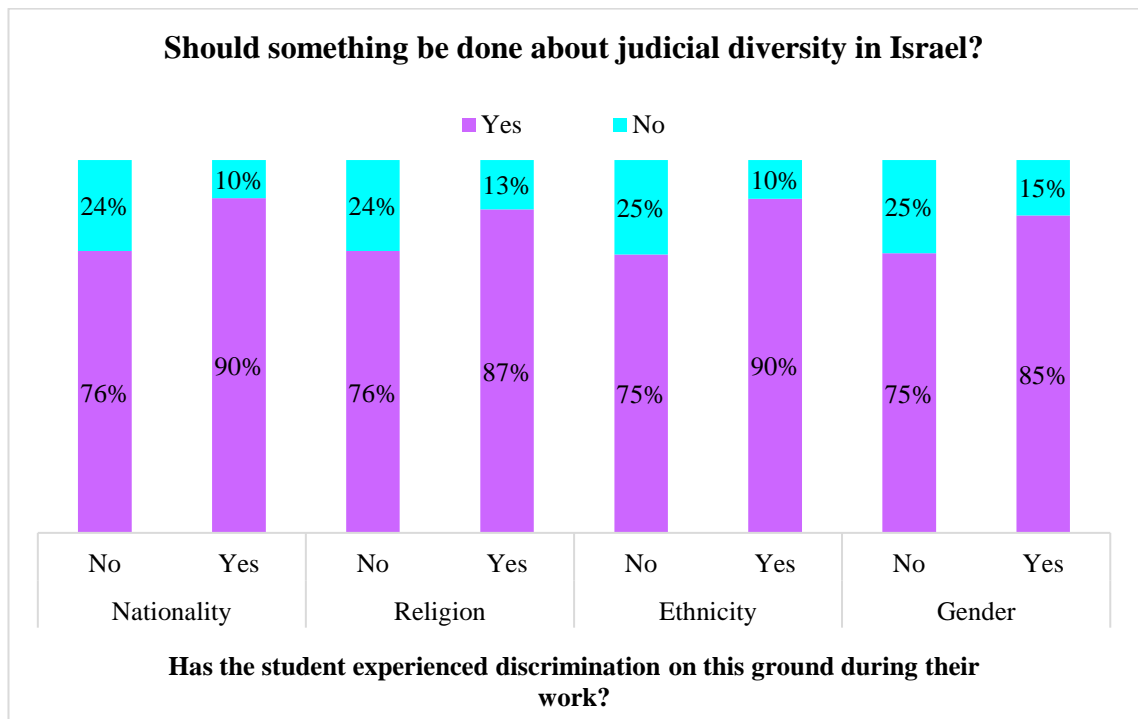


Figure 74. Law student views on action for judicial diversity and their experience of discrimination at work



In addition, and as the Lawyer Survey found, law students' views on groups in Israel that are worthy of **affirmative action** was strongly related to their support for judicial

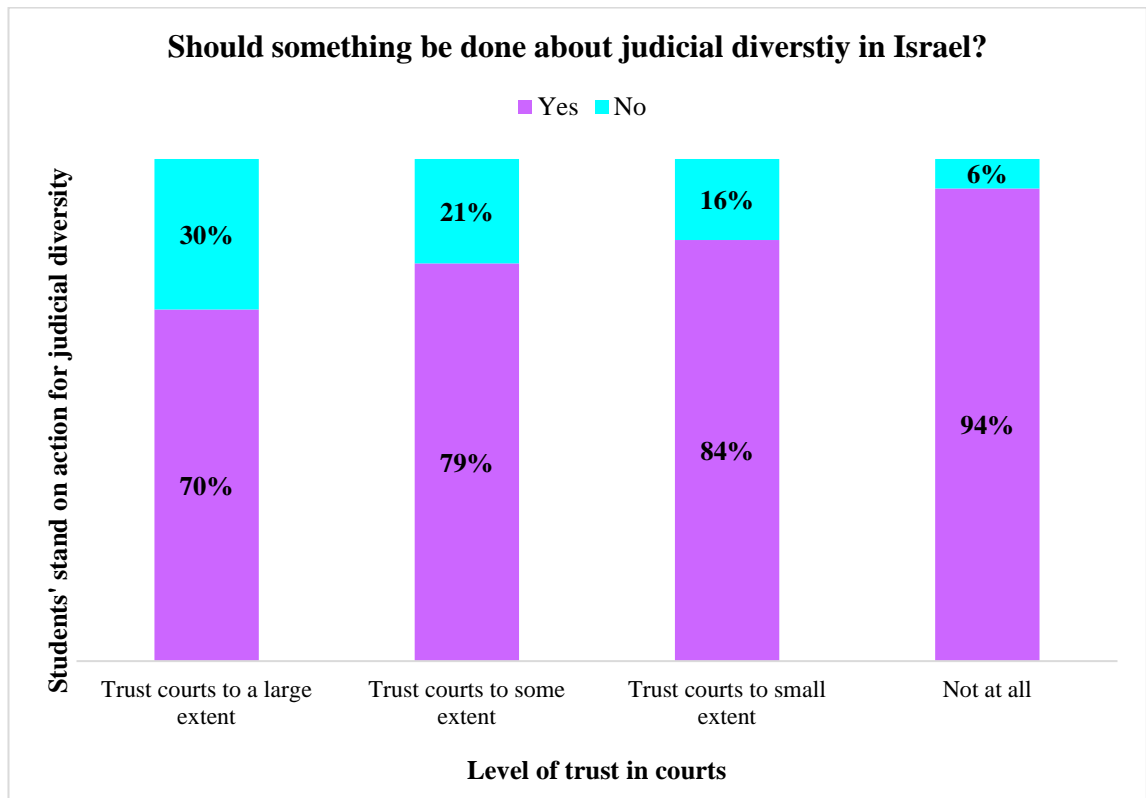
diversity. Thus, 91% of law students who believe Sephardic Jews are worthy of affirmative action, and 83% of those who believe that Arabs would benefit from such action, thought something should be done to increase judicial diversity in Israel.

Attitudes to the state, courts and judiciary

There was some evidence of a relationship between law students' **identification with the state** and their views on judicial diversity. The percentage of law students who feel something should be done to improve judicial diversity fell as the proportion of law students who identified with the state increased.

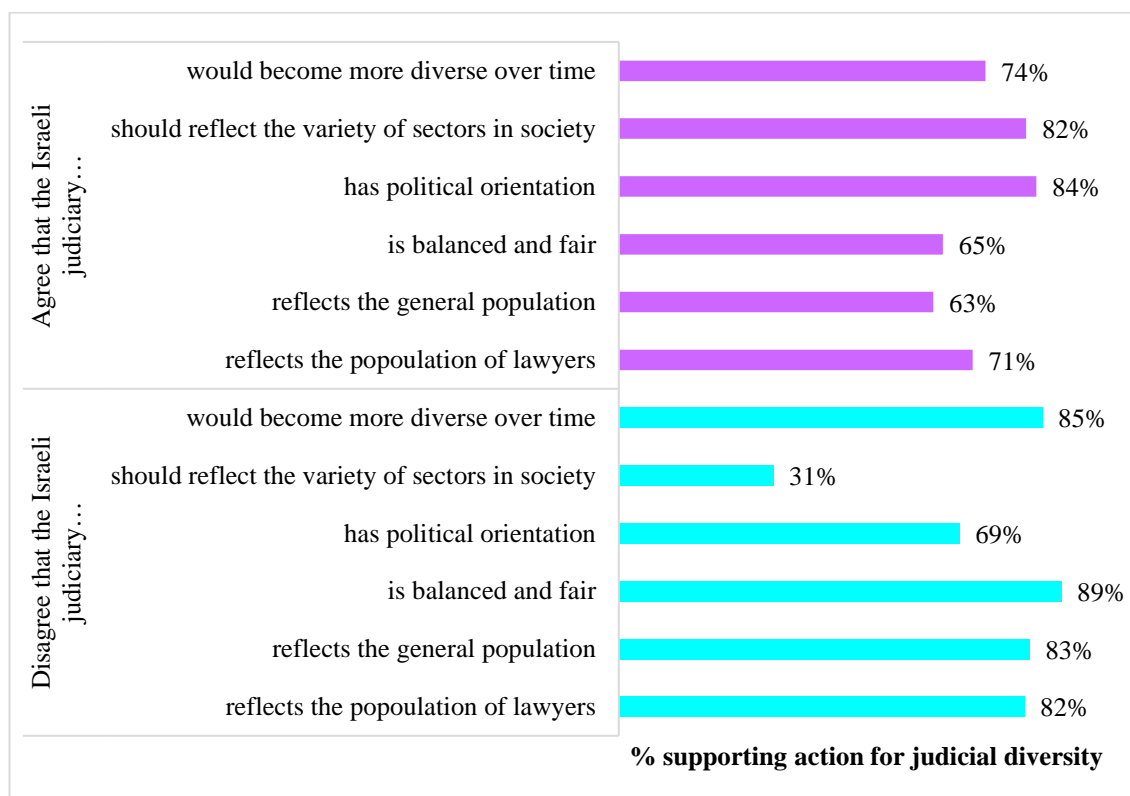
Trust in courts: There was a highly significant association between the degree to which law students trusted the court system and whether or not they felt something should be done about judicial diversity. As trust in courts decreased, the proportion of law students feeling that something should be done on judicial diversity increased; 70% (316 of 450) of law students who trusted the courts to a large extent felt something needed to be done to increase judicial diversity, but this rose to 94% (to 16 of 17) of those who did not trust courts at all (Figure 75). The common claims of those wishing to increase judicial diversity in Israel refer to the correlation between lack of diversity and decline in the public trust in the judiciary. While these claims have never been empirically investigated, the Lawyer and Student surveys provide evidence of a correlation between lawyer and law student trust in courts and their stand on action for judicial diversity.

Figure 75. Law student trust in courts and attitude to action on judicial diversity (n=1,162)



Fairness of the Israeli judiciary: The extent to which the judicial system is perceived as fair by law students is strongly correlated to law student support for judicial diversity (a similar correlation was found amongst Israeli lawyers in the previous chapter). Almost all law students (90%) who said they do not feel the judiciary is balanced and fair support action for judicial diversity, compared with only 65% of law students who believe the judiciary is balanced and fair. Figure 76 shows the relationship between Israeli law students' attitudes to the Israeli judiciary and the extent of their support in action to increase judicial diversity.

Figure 76. Relationship between student support for action on judicial diversity and attitudes towards Israeli judiciary

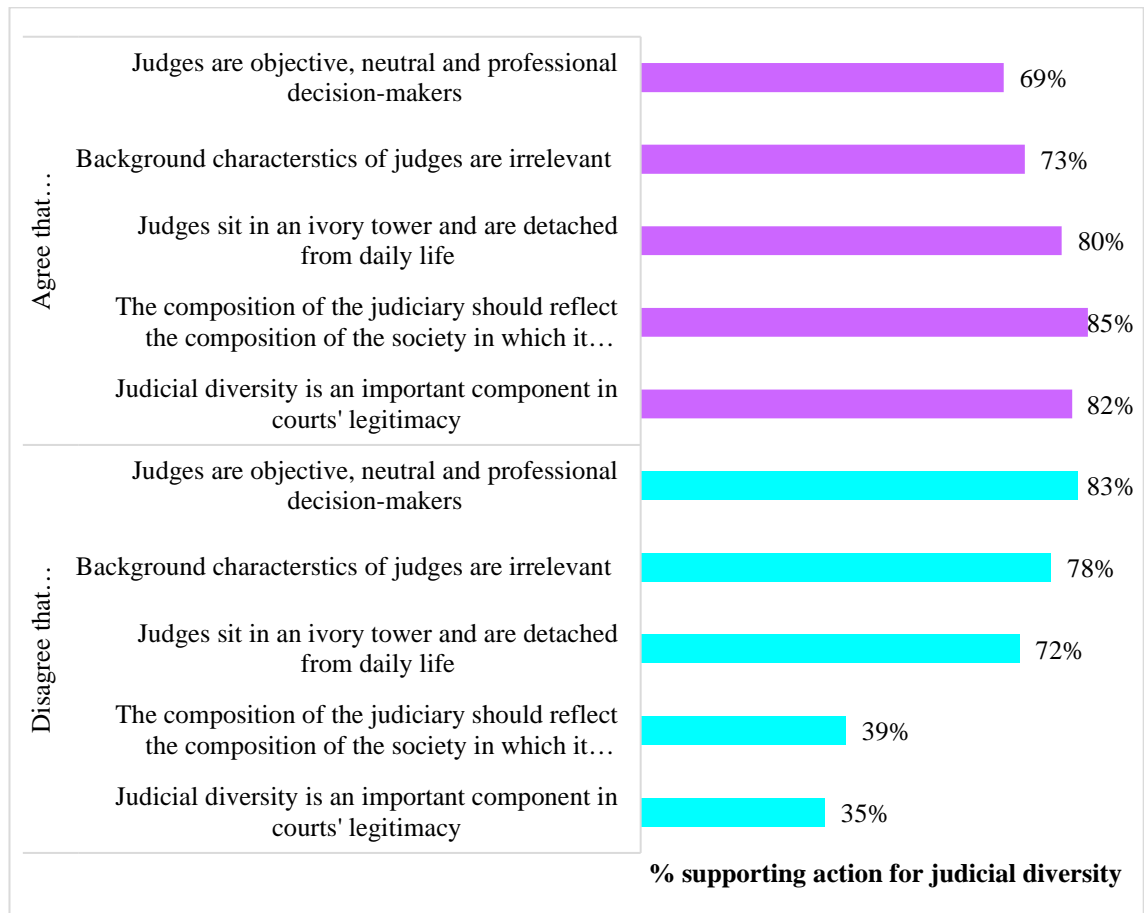


The importance of judicial diversity: There was a highly significant association between law student views about the judicial decision-making process and their support for action to increase judicial diversity in Israel. For example, students who strongly view judges in the traditional perspective of "professional, objective and neutral decision-makers" were less likely to think something should be done about judicial diversity compared with law students who do not view judges as objective; 69% of the first group support action for judicial diversity compared with 83% of the second group. Similarly, there was a highly significant correlation between the view that judges are detached from daily life, and thinking that something should be done about judicial diversity. The more law students rejected the idea that "judges sit in an ivory tower and are detached from everyday life", the less likely they were to say that something should be done about judicial diversity and vice versa⁹⁶⁵. Finally, law students were more likely to support action for judicial diversity in Israel the more they agreed with the view that judicial diversity was an

⁹⁶⁵ The strongest support for the view that something should be done about judicial diversity was found amongst law students that neither agreed nor disagreed that judges sit in an ivory tower – 82% said yes to action.

essential part of the judiciary’s legitimacy and the more they agreed that the judiciary should reflect the society in which it operates.

Figure 77. Relationship between supporting action for judicial diversity and position regarding diversity and decision-making



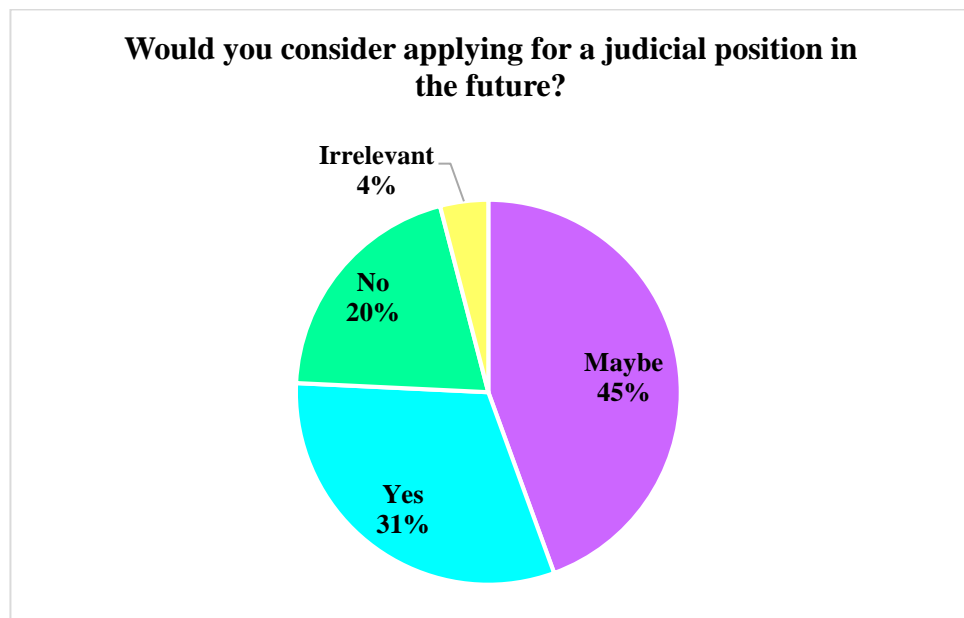
8.3 Israeli law student likelihood of pursuing a judicial career

The Law Student Survey (like the Lawyer Survey) also specifically explored the career plans of Israeli law students, especially the possibility of a judicial career, and the motivations and barriers that may influence Israeli law students' future decisions to apply for judicial office. Mapping the intentions of Israeli law students in relation to their future career in the judiciary is the first time this subject has been systematically explored with Israeli law students.

8.3.1 Interest in a judicial career

Only a small proportion of law students are currently not interested at all in a future judicial career: 20% said no when asked if they would consider applying for a judicial position in future. Three-quarters (76%) of law students who took part in the survey said they would consider applying (31%) or that they might consider applying (45%). The proportion of law students that positively said they would considered applying for a judicial position is similar to the proportion of lawyers in the Lawyer Survey who said they would consider applying (28% said yes, 34% said maybe).

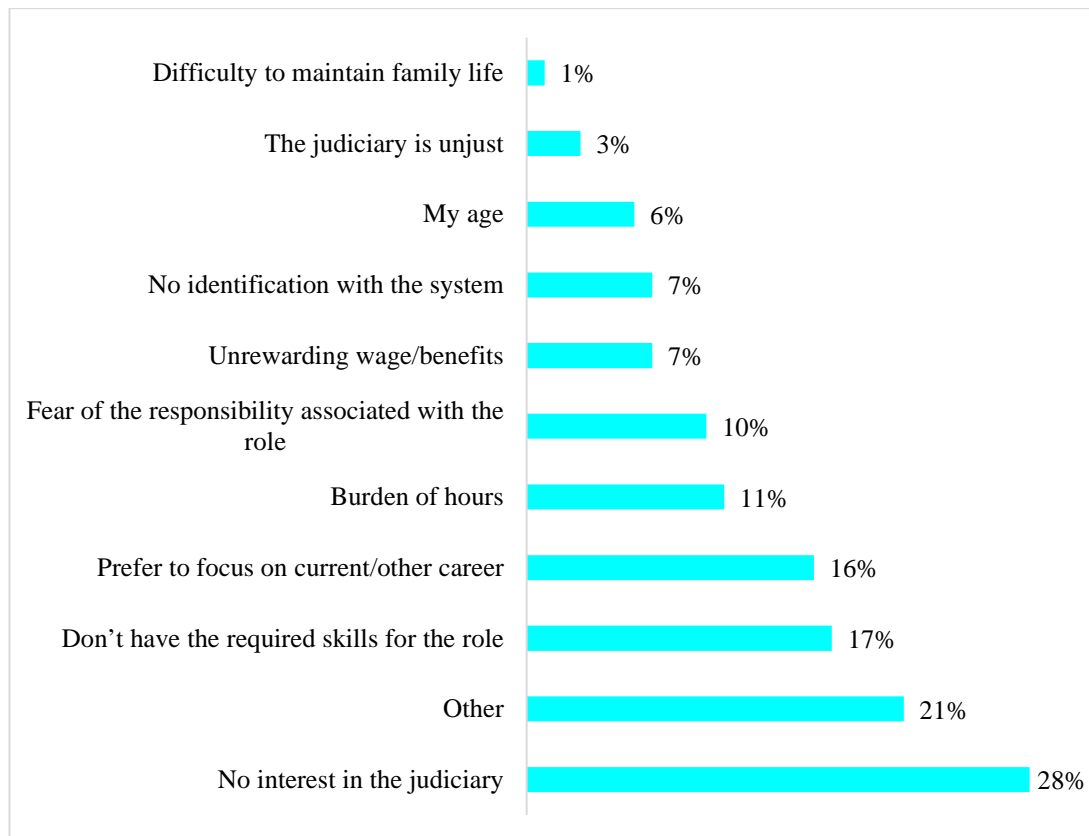
Figure 78. Law student intentions to apply for a judicial post in future (n=1,798)



8.3.2 Reasons for not considering a judicial career

Law students were invited to give reasons why they would not be willing to consider applying for a judicial position in the future. The most prevalent reason (28%) was a general lack of interest in the judiciary. Other more common reasons were a belief on the part of law students that they did not have the skills to be a judge (17%), that they prefer to focus on their current or other career (16%), the burden of judicial hours (11%) and the fear of the responsibility that goes with a judicial post (10%).

Figure 79. Law student reasons for not considering a judicial career (n=276)⁹⁶⁶



A relatively high proportion of law students (21%) said “Other”, and a more in-depth reading of the comments students provided reveals that there are students whose unwillingness to join the judiciary stems from feelings of distrust or alienation. Overall, 10% of students excluded the possibility of a judicial career in the future based on distrust in the judiciary and lack of identification with it. Thus, one respondent said: “It is a corrupt system that has no legal boundaries or definitive moral standards. I would not want to partake of such a system” (this respondent defined himself as an Orthodox

⁹⁶⁶ Respondents were allowed to enter more than one reason, thus the percentages do not up to 100%.

Jew)⁹⁶⁷. Another participant, who defined himself as a male Sephardic Jew from a settlement, gave two reasons for not considering a judicial career: first, his sectorial affiliation⁹⁶⁸ and second, his lack of trust in the system⁹⁶⁹. Others said: “Israeli law does not reflect the moral ideology in which I was raised”⁹⁷⁰ or “Israel’s regime is illegitimate and undemocratic and therefore I would not want to partake in it as a judge”⁹⁷¹. Several students also expressed frustration and disappointment with the judicial nominations procedure. One of them said: “I believe that I will not be accepted [in the judiciary] and even if I am accepted, it would only be for lower courts without being promoted.... This is mainly because of my origin and my social and financial background”⁹⁷².

8.3.3 Reasons for considering a judicial career

The most commonly stated reason by law students to consider a judicial appointment was the view of the judiciary as a tool for social change (44%, compared with only 27% lawyers). A quarter (24%) said the reason was their interest in the work of the judiciary, 19% are attracted by the status and prestige of the judicial post, while 14% believed they had the aptitude to become good judges. Many participants (11%) mentioned they wanted to change the judicial system and improve it.

⁹⁶⁷ Respondent 1024541 in the Law Student Survey

⁹⁶⁸ He did not mention what he meant by “sectorial affiliation” but it can be presumed he was referring to the fact that he was religious and/or settler.

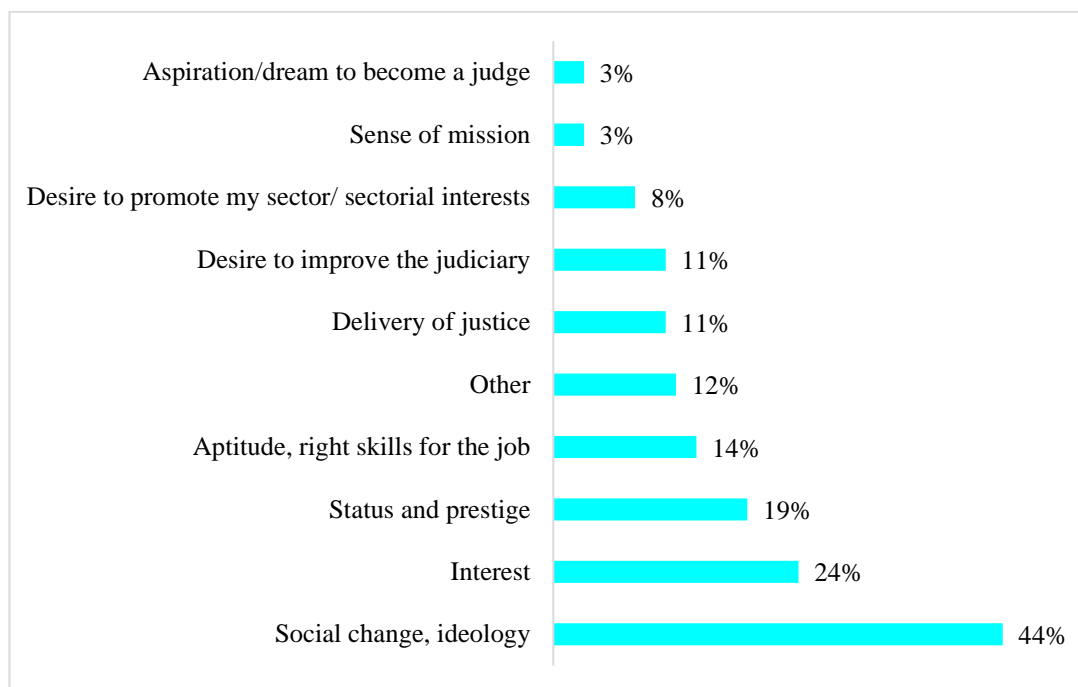
⁹⁶⁹ Respondent 1028491 in the Law Student Survey

⁹⁷⁰ Respondent 1003884, *ibid.*

⁹⁷¹ Respondent 1005465, *ibid.*

⁹⁷² Respondent 1016108 *ibid.*, a Jewish participant of Caucasus origin. He mentioned he was from a development town and that he had been discriminated against in light of his ethnic origin in the workplace and during his studies.

Figure 80. Law student reasons for considering a judicial career (n=822)



Some law students from minority groups identified their sectorial affiliation as a reason for positively considering a judicial career. For example, a respondent that defined himself as an Orthodox-Jew stated: “Because I am part of a minority group, I think that if I am found professionally eligible [for judgeship] I will significantly contribute to the human and scholarly legal diversity in Israel”⁹⁷³. Another Orthodox-Jew said almost identical things stating he/she would apply because they belong to a sector that is “under-represented in the court system”⁹⁷⁴. Similarly, a participant who self-identified as an Ethiopian Jew said: “I know I can contribute a lot to the Israeli judiciary, and what is unique about me is that I come from a population group that is unfortunately [underrepresented], that is the Ethiopian community”⁹⁷⁵. A participant who self-defined as an Arab woman said:

“As a woman in the Arab sector who aspires for social equality generally and for the Arab sector in particular, I see myself...capable of making a change.... I believe that the Arab voice should be heard without filters..”⁹⁷⁶.

Another Arab participant made a similar comment:

⁹⁷³ Respondent 1006762 in the Law Student Survey

⁹⁷⁴ Respondent 1011919.

⁹⁷⁵ Respondent 1009633.

⁹⁷⁶ Respondent 1014050.

“I belong to the Arab minority in Israel and I believe that with this path I can contribute to... bringing both peoples closer. Also, this would be my contribution to the state in which I live [but] have not served or fought for”⁹⁷⁷.

This respondent appears to see the judiciary not just as a personal inspiration or a way to promote the representation of her sector, but also as a means of contributing to the state in lieu of military service. Some Sephardic Jews⁹⁷⁸, Muslims and students from development towns⁹⁷⁹ made similar remarks. This suggests that being part of a minority group may have implications for student’s plans for a judicial career: it could lead to feeling excluded from the system and not wanting to partake in it, but it could also encourage students towards aspiring for inclusion.

8.3.4 Factors that may be associated desire for a judicial career

As mentioned in the previous chapter, understanding what drives members of the pool for judicial appointments to consider a judicial career is important for any discussion about judicial diversity. Although students do not make-up the immediate pool for judicial candidates, they are the direct pool for lawyers who are the immediate pool from which judges in Israel are selected. Their views about a possible judicial career are therefore important in understanding how judicial diversity might develop in the long term, and what factors may affect this.

Personal characteristics

The following factors and characteristics of law students who participated in the survey were not correlated with their interest in a judicial career: type or district of residence; intra-Jewish ethnicity; level of religious observance; stand on action for judicial diversity in Israel; gender; nationality or religious self-definition. However, of the small number of **Muslim law students** (n=33), almost 50% would positively consider a judicial career; this is higher than all other ethnic groups (including Jews).⁹⁸⁰

Students’ **age group** was correlated to their willingness to consider a judicial career, with older students (45-54 years) more likely to reject the idea of a judicial career than younger

⁹⁷⁷ Respondent 1016902

⁹⁷⁸ Respondent 1022031: “I think the judiciary should better reflect society... I am a woman of Sephardic origin, from Israel’s cultural periphery and therefore can add such diversity [to the judiciary]”.

⁹⁷⁹ Respondent 1035278 in the Law Student Survey: “...I see that the Arab sector and Muslims in particular are not represented in the system, especially women, and I support gender equality in the field”.

⁹⁸⁰ This connects to some of the earlier comments from Arab law students who indicated their nationality as a driver for considering a judicial career and is encouraging in light of the small proportion of Muslim judges today.

students (18-24 years). This is unsurprising, given that such older law students would have fewer opportunities than the youngest law students to consider applying for a judicial career.

There was a significant relationship between the **type of educational institution** law students attended and their willingness to consider a judicial career, with more college law students willing to consider a judicial career than university law students, and fewer college law students being indecisive about their willingness to consider applying to the judiciary in future. This suggests that the current low levels college graduates in the judiciary will not deter current college law students from considering a judicial career in the future.

There was also a strong correlation between law student plans for an **internship** and the likelihood that they would consider a judicial career. Law students who aspire to intern in the courts system or in the public sector more generally were highly more likely to consider a judicial career than those who wished to intern in the private sector. While 68% of students wishing to intern in the courts system also said they would consider a judicial career, only 27% of students planning to intern in the private sector would consider it. A similar trend was observed for lawyers (Chapter 7), and this suggests that intentions to apply for a judicial office may be shaped at a very early stage of a person's legal career in Israel.

There was a strong correlation between law students' current **income level** and their willingness to consider a judicial career. Law students with income above or well above the average were twice as likely to say they were not interested in a future judicial career compared to law students whose income is well below the average (33% and 16% respectively).

Experience and perception factors

Previous experience of **discrimination** on the grounds of age and nationality in the workplace were found to relate (strongly) to law students' plans for a judicial career. Law students who reported being discriminated against in this way were willing to consider applying for a judicial position in future: 50% who felt they had been discriminated against at work based on their nationality would consider a judicial career, and 44% of law students reporting discrimination on the grounds of age at work would consider applying for a judicial position.

There was also a correlation between the extent to which law students **defined themselves as Israeli** and their willingness to consider a future judicial career. The few law students who identified as Israeli to a small extent were highly more likely to say no to the question about applying for a judicial position in the future than law students who defined themselves as Israeli.

There was a highly significant correlation between law students' **trust in the courts** and their willingness to consider a judicial career. Law students who had high levels of trust in the courts were also highly likely to consider a judicial career in future (45% of students who would consider a judicial career trusted the courts largely), whereas students whose trust in courts was low were likely to say they would not consider a future judicial career. And not surprisingly, a high proportion (54%) of law students who strongly **believe the judiciary is balanced and fair** said they were willing to consider applying for a judicial post in the future (54%), while a third (34%) of law students who said they would not consider a future judicial career strongly disagree or disagree with the statement that the judiciary is balanced and fair.

Summary of main findings

The Law Student Survey along with Lawyer Survey (covered in Chapter 7) have helped to broaden the analysis of judicial diversity in Israel by shedding light on the makeup and attitudes of the two groups that comprise the current and future pool for judicial appointments in Israel.

The survey found that vast majority of students believe the Israeli judiciary is not diverse, they feel that the judiciary *should* reflect the composition of Israeli society in which it operates, and they strongly support action to increase judicial diversity in Israel. Law students from minority groups (e.g. Arabs) and/or groups that are under-represented in the judiciary (e.g. Sephardic Jews, college students) were highly likely to support action to increase judicial diversity in Israel.

While the vast majority of law students intend to qualify as lawyers and work in the legal profession, they were less certain about staying in the profession in the future and even less certain about whether they would consider applying for a judicial position in future. Several important factors appear to shape law students' willingness to consider a judicial career in the future, such as their level of trust in courts, age, income, type of law school they attend, and career plans in the legal profession. Experiencing discrimination or being part of a group that is currently under-represented in the judiciary (e.g. college students)

did not appear to deter today's Israeli law students from aspiring to have a judicial career. But willingness to consider a future in the judiciary does appear to depend on having trust in the court system and believing that the current judicial system is fair and balanced.

CHAPTER 9: THE FUTURE OF JUDICIAL DIVERSITY IN ISRAEL

“We must acknowledge the cultural diversity of Israeli society, which consists of three major cultural groups: secular Jews, religious Jews and Arabs...[and] we must make the necessary normative conclusions stemming from Israel’s multi-culturalism.... The Supreme Court must understand that it can no longer function in a manner that makes large groups in society think it acts as an agent of one group only. The Supreme Court must understand that a situation in which ... [a] group feels alienation and perhaps hostility towards the court is undesirable”⁹⁸¹.

This statement captures many of the issues that underlie this study⁹⁸². While Mautner focuses only on the Israeli Supreme Court, his assertion about the changing nature of Israeli society and the adaptations required of that court is relevant to the entire Israeli court system and to any study of judicial diversity in Israel.

In the past four decades, Israel has experienced far-reaching changes in its social demographics and in the relations between Israeli political institutions and the courts; amongst them are the judicialization of politics, the transformation of the courts system from a dispute-resolution mechanism to an influential political player, and deep socio-cultural changes in society. Judicial diversity has become a critical policy issue in Israel embodying all these changes. Yet the exact nature of diversity in the Israeli judiciary has remained a mystery. In a state where the judiciary is increasingly involved in resolving political conflicts but is perceived as failing to reflect the diversity of Israeli society, it is all the more important that an accurate picture exists of the current state of judicial diversity in Israel and there is some reliable understanding of the composition of and attitudes amongst those who make up the pool for future judicial appointments (Israeli lawyers and law students).

Over the years, numerous claims have been made about the lack of diversity in the Israeli judiciary, especially in the Supreme Court. Some claims focused on the socio-demographic characteristics of judges, asserting that too many judges were Jewish, Ashkenazi and secular men. Others thought that the problem was the cultural and

⁹⁸¹ Menachem Mautner, ‘The Supreme Court: Three Periods’ (2009) 10 *Law and Business* 585, 591-592.

⁹⁸² Mautner does not think that the composition of the court ought to be more diverse, rather he proposes alternative ways to make the court more accessible to various groups in society (e.g. to use more Jewish Law in its decisions or to change the state’s symbols to bring Arabs closer, etc.) *ibid*, 592 onwards.

ideological homogeneity of judges (that Israeli judges were too liberal and too activist). Additional criticisms focused on what was believed to be judges' homogeneous academic background and professional experience, arguing that this scholarly and professional homogeneity was responsible for creating a gap between the courts and the public⁹⁸³. However, most of these claims about judicial diversity in the Israeli judiciary were concerned only with the Supreme Court, examined a very limited number of variables and did not use detailed and reliable empirical evidence to support or substantiate these claims. The consequence of this has been to leave the public and scholarly debate about judicial diversity in Israel without any solid foundations, and therefore to be limited in both scope and impact. Moreover, while much of the focus on judicial diversity in Israel has been on the representation of women and Arabs in the judiciary, almost all other issues relating to the composition of Israeli judiciary have remained unexamined. Perhaps the most prominent unexplored issue has been the intra-Jewish ethnicity of judges; this may be because of the difficulties associated with obtaining and interpreting information about Jewish ethnicity, or it may be because the legal system has traditionally ignored the issue of Jewish ethnicity⁹⁸⁴.

This multi-faceted research project is the first to empirically investigate the state of judicial diversity in Israel amongst the current judiciary and amongst lawyers and law students who make up the pool of candidates for future judicial appointments. Prior to this research, the public debate about judicial diversity in Israel has relied primarily on anecdotal "evidence" and unsubstantiated impressions about the judiciary, the legal profession and law students - and hardly ever been based on robust data. The main goal of this research was to establish a sound empirical basis for understanding judicial diversity in Israel. To do so it conducted 3 inter-related empirical studies: a detailed analyses of all the publically available data on all judges in the main courts in Israel, as well as two large-scale surveys of the background, attitudes and experiences of Israeli lawyers and law students. As well as producing some insights into the reality of judicial diversity in Israel today and its prospects for the future, the findings from these three

⁹⁸³ Heller, "The Solution to the Supreme Court Crisis" (n806).

⁹⁸⁴ Yifat Bitton ('Mizrahim and the Law: The 'Missing' As 'Present', n457) claims that Sephardic Jews have been invisible to Israeli law despite years of persistent and proven discrimination but were never recognised by law as such. This "dynamic of denial" created inherent difficulties in the battle of Sephardic Jews for equality. In an interview, Bitton claimed that the lack of data on Jewish ethnicity of judges is part of the overall disregard for the topic: "the study of Sephardic Jews in law is the study of 'nothing': there is no data, no statistics, no discrimination... it is about lack of transparency... when the topic is raised as a subject for research, it is barred for formalistic reasons [because] it is categorized as political and not legal". Weiss (n337).

studies form a new evidence-based foundation for future policy discussions and research on judicial diversity in Israel.

This chapter reviews some of the central findings of this research project and relates these findings to the wider debate about judicial diversity in Israel and elsewhere. It considers how these research findings speak to issues such as the public perception of judges and the court system, and whether common views about judicial diversity in Israel are more myth than reality. It also explores the wider question of whether a “liberal paradox” lies at the heart of the judicial diversity debate in Israel, and considers what implications the research findings may have for policy and future research on the judiciary in Israel.

9.1 What the main research findings tell us about judicial diversity in Israel

The purpose of this research was to address the key issues arising in the context of judicial diversity in Israel: what is the current composition of the Israeli judiciary in terms of the background characteristics of judges? To what extent does the judiciary represent Israeli society? Do Israeli law students and legal practitioners have the same demographic characteristics as judges? How do lawyers and law students in Israel perceive judicial diversity and the prospect of a judicial career? While the findings have confirmed that some assumptions about the Israeli judiciary are true, the findings have also exposed the fact that many common and long-held views about who makes up the Israeli judiciary are myths.

Religion, nationality and ethnicity

The findings confirmed the widespread belief that Ashkenazi Jews are over-represented in the judiciary and Sephardic Jews are under-represented. This refutes the assertion of the Zamir Committee (based on general impression rather than factual examination) that there was no apparent problem with the representation of Sephardic Jews in the judiciary. This research also found that the populations of Jews that immigrated to Israel from the USSR and Ethiopia in the early 1990s have virtually no presence in the judiciary although they jointly amount to over 1.1 million people and 15% of the entire Israeli population⁹⁸⁵.

⁹⁸⁵ This has very recently changed with the appointment of two Ethiopian-Jewish women to Magistrates Courts (September 2016).

This finding supports a recent assertion by a member of the Judicial Nominations Committee that new immigrants are “excluded” from the judiciary⁹⁸⁶.

The findings also reveal that while 25% of Israel’s population is not Jewish, only 8.3% of the Israeli judiciary are non-Jews. Furthermore, Muslim Arabs are significantly under-represented in the judiciary compared with their representation in the Israeli population, in contrast to Christian Arabs that are represented in the judiciary in a higher proportion than their share of the population. However, the distinction between Arab judges based on their religion would benefit from having direct access to official data or to judges themselves; the current estimation heavily relies on external factors and cross-referencing of data, which cannot guarantee a perfectly accurate assessment. Ultra-Orthodox Jews are, not surprisingly, not found in the judiciary, but the proportion of religious judges or judges with religious backgrounds seems larger than is commonly assumed. The current Supreme Court, specifically, has three religious justices, rendering the “one seat for a religious Jew” policy almost irrelevant. The prestige effect was apparent amongst Arabs and Sephardic Jews in courts and judicial positions. Most Arab judges sit in Magistrate’s Courts, and their representation decreases the higher up the judiciary one goes.

Gender

Women form 52% of the current Israeli judiciary. But even though the majority of judges in Israel are women, they are not evenly represented across courts. Arab and Sephardic women are significantly under-represented in the judiciary compared with men from the same ethnic groups. The highest proportion of female judges is found in the lowest judicial division (Magistrate’s Courts), and the proportion of female judges decreases the higher up one goes in the judiciary hierarchy. Women are also found in larger proportion in junior positions, while men are the majority of Vice-Presidents and Presidents of courts. All of this confirms the existence of the prestige effect in the Israeli judiciary, despite the fact that there is a gender balance within the judiciary overall. In addition, the high proportion of women in Juvenile and Family Courts indicates that the caring role effect exists in Israel. Despite the steady increase in the number of women, ethnic minorities and under-represented sectors in the judiciary as a whole, the prestige effect is still evident in Israel.

⁹⁸⁶ Tzimuki (n782) 18. The data upon which MK Ilatov based his concerns was obtained from the Courts’ Management and analysed by the Knesset’s research centre.

Educational and professional background

The research also examined the validity of common claims about the educational and professional backgrounds of judges. It is widely believed in Israel that the judiciary is dominated by graduates of two universities, who have almost exclusively worked for the State's Advocacy or the courts prior to being appointed as judges. The study's findings partially refute these assumptions. While 90% of judges have in fact attended universities and only 10% are graduates of Israeli colleges, the latter figure seems to be growing⁹⁸⁷. But most judges have, as is widely believed, attended the Hebrew University and Tel-Aviv University, with more than 65% of all judges gaining their LL.B. from these two institutions. Amongst Israeli Supreme Court Justices, all but one are graduates of these two universities, the other having studied abroad. However, two other faculties have generated almost a fifth of all judges (Bar-Ilan and Haifa universities). Clearly, the Hebrew University and Tel-Aviv University still dominate the judiciary, but there are signs of changes in that respect.

In terms of professional background, a somewhat surprising proportion of judges spent their internship or legal practice years in the private sector (36% for internship, and 48% for practice), and almost a third of judges had a mixed professional experience in both the private and public sectors before joining the bench. Therefore, the findings of this research refute the common perception that Israeli judges are exclusively drawn from the public sector.

Family ties

The research also attempted to at least partially examine claims that the Israeli judicial selection process is nepotistic and relies on family (and other) ties rather than professional skills. This was a belief also expressed by a substantial proportion of participants in the Lawyer and Law Student Surveys. However, this study found that only 4.5% of Israeli judges have known family ties to other judges (serving or retired) by marriage, ancestry or sibling relationships. Nevertheless, this finding requires further investigation. Even though it was possible to obtain data on judges' declared family ties, the judiciary's webpage does not provide data about other relations between judges and senior members of the legal profession, in the public or private sectors or the Israeli Bar. Close friendships, business partnerships and professional acquaintances are not listed, but they are claimed

⁹⁸⁷ In the 2010 previous version of this study, only 3% of the sampled judges were college graduates.

to exert a strong influence on the judicial appointment and promotion process in Israel⁹⁸⁸. In order to determine whether there are fewer family ties now compared to the past, additional data on previous years needs to be obtained. A recent development raises hopes that further information on this issue may be forthcoming. Under the Freedom of Information Law, the press published an official list of people and parties with whom Israeli judges are prevented from discussing their cases⁹⁸⁹.

9.2 A new picture of judicial diversity in Israel

Israeli Judges Study

The findings of the Israeli Judges Study (set out in Chapter 6) reveal a new, complex and multi-layered picture of diversity in the current Israeli judiciary. On the one hand, it can no longer be said that the judiciary is exclusively Jewish, male, Ashkenazi and consists of graduates of two universities following a career in the public service. Rather, there are more women, Arabs, Sephardic Jews, and college graduates in the judiciary than ever before, and the professional and educational background of Israeli judges today seems increasingly diverse. On the other hand, women are still more likely to serve in lower or less prestigious courts; they are seen less in senior positions and are highly concentrated in Family and Juvenile Courts. Muslim Arabs are significantly under-represented in the judiciary, as are Sephardic Jews. So while the judiciary in Israel is dynamic, it still does not reflect the composition of Israeli society nor do the impressive number of women judges in the Israeli judiciary result in substantial numbers of women in higher courts and senior positions. The Israeli judiciary is no longer homogenous, but it also does not appear as if diversity is structurally and systematically embedded in it yet.

This study placed a specific focus on understanding the **Jewish ethnic origin of Israeli judges**, a matter that has been ignored for years by the judiciary but was actually one of the main reasons for claims about lack of diversity. The judicial system's disregard of the ethnic issue is not unique. Unlike gender and nationality, which have been investigated before, Jewish ethnicity has for years been a denied matter, almost a non-issue⁹⁹⁰. The

⁹⁸⁸ See for example a review of the matter from 2005: Nurit Amitai, "The appeal is granted, and say hello to your folks" (16.6.2006) *Walla! News* <http://news.walla.co.il/item/924884> ; Very recently a petition to the court forced the Ministry of Justice to publish a list of its workers that agreed to provide data on family ties with presiding judges: Ma'anit (n316).

⁹⁸⁹ The aim is to ensure that cases and legal proceedings are assigned to judges who do not have any conflict of interest. Ido Baum, Efrat Neuman "The list that every lawyer must know" *TheMarker* (13.9.2016) <http://www.themarker.com/law/1.3065986>

⁹⁹⁰ Several Israeli scholars believe that the conspiracy of silence around the issue of ethnic origin is the result of the desire of Israeli elites (e.g. academic, political and judicial) to maintain their status, and fear that the opening of the ethnic issue for discussion will spark protests. Blechman (n558).

CBS's view on Jewish ethnicity is that it less relevant today, especially for the younger generation, and therefore the CBS hardly publishes reports relating to this issue. The Council for Higher Education in Israel (CHE) turned down requests from journalists and scholars trying to obtain information about the representation of Sephardic Jews in the academia⁹⁹¹. The Head of the CHE's Planning and Budgeting Committee, when asked recently about the gaps between Ashkenazi and Sephardic Jews in academia, said:

“I have no data on this, and I do not think the system checks that... This issue is blurred... I do not think that is the problem. We are focused on encouraging Arabs and women who are in the system and find it difficult to reach the higher levels”⁹⁹².

It is no surprise, therefore, that there are no official data on the proportion of Sephardic Jews in legal education, the legal profession and the judiciary.

The issue of the under-representation of Sephardic Jews in the Israeli judiciary has been neglected, either because of an unwillingness to address an issue many would like to believe was no longer of concern in Israeli society, or because of the practical difficulties in assessing the ethnic origin of judges. A prominent example of this attitude is found in the Zamir Committee's response to allegations about the under-representation of Sephardic Jews:

“It seems that it would be inappropriate, and practically impossible, for the court administration to sort its judges by ethnic criteria, whether for statistical purposes or for other requirements. In the absence of such data, based on a general impression, it seems that in fact there is not a serious problem in the composition of judges in terms of [Jewish] ethnic origin”⁹⁹³.

In other words, even though the Committee declared it did not have the required data on the ethnic composition of the judiciary, it could nevertheless rely on a “general impression” and conclude there was no problem with the representation of Sephardic Jews in the judiciary. This is problematic in two respects. First, the courts administration collects some data on judicial candidates' ethnicity, country of birth and religion. While it is not clear whether information on Jewish judges' country of origin (i.e. parents' country of birth) is collected⁹⁹⁴, the Zamir Committee could have decided that such data

⁹⁹¹ Amnon Levi “The True Face of the Ethnic Demon (n445); Blechman (n558)

⁹⁹² Rotem Shtarkmen, Lior Detal, “The Hebrew University Has 4 Billion Worth Of Assets” *TheMarker* (29.10.2016) <http://www.themarker.com/markerweek/1.3105225>

⁹⁹³ Zamir Report (n336) para 29.

⁹⁹⁴ Judicial applicants may not be asked to record this information when they apply; however during the assessment process applicants were asked by the psychologists of the judicial training course to provide

should be collected to allow for judges' ethnicity to be examined⁹⁹⁵. Second, the Committee's dismissal of problems with ethnic diversity in the judiciary solely based on a general impression and in the absence of reliable data, is concerning⁹⁹⁶.

Measuring judges' "Eda" was a major challenge in the Judges Study, and the results must be read with caution. However, it was the first attempt to systematically investigate the ethnic composition of the Israeli judiciary as a whole. Even though no thorough academic investigation of the representation of Sephardic Jews in the judiciary could be found, a journalistic report in 2007 found that only 10% of judges in District Courts and in the Supreme Court were Sephardic Jews⁹⁹⁷. The findings of this thesis, conducted 8 years later, found generally similar results albeit with some indication of progress in the representation of Sephardic Jews in the judiciary. Despite the difficulties in investigating Jewish ethnicity, it is hoped that the findings in this study will prompt the judiciary to rethink its attitude regarding the relevance and importance of this issue, and especially its resistance to the collection, analysis and publication of data on judges' Jewish ethnic affiliation.

Lawyer and Law Student Surveys

Given the tremendous changes that have occurred in both legal education and the legal profession in Israel in the past two decades, both the Lawyer and Law Student Surveys provide a unique insight into the pool for future appointments to the Israeli judiciary. In the period 2000-2010, the number of lawyers in Israel doubled⁹⁹⁸, and in two decades the legal profession has grown more than five-fold, from over 10,000 lawyers in 1990 to over 56,000 lawyers in 2016. Legal education has also experienced similar change: in the mid-1990s there were only four law schools in Israel, whereas today there are 14 law schools. Given this dramatic transformation in the size and character of the legal profession, it is surprising that there have been so few studies of how these transformations have

information. Hen Ma'anit, "Naor Instructed: Do Not Ask Candidates about Their Ethnic Affiliation" *Globes* (9.06.2016) <http://www.globes.co.il/news/article.aspx?did=1001131251>.

⁹⁹⁵ Pers.comm with the Knesset's Research Unit (letter from the Unit to MK Yitzhak Cohen, dated 30.6.2014, sent to the author by email on 16.12.2015), in which a Unit official confirmed that an analyses perform by the Unit were based on the information that judicial candidates provide about their country of birth, their religious affiliation, etc. However, as to country of origin, an official document by the Unit states that the courts management does not collect data on judges' parents' country of birth.

⁹⁹⁶ For a journalistic article criticising this conduct see Weiss (n337). Weiss interviewed former Justice Zamir, who admitted that that Committee experienced difficulties examining the ethnic origin of Jewish judges (similar to the difficulties this thesis faced) and that "the bottom line was that I and the committee members did not feel there was any problem with the reflection of Sephardic Jews in the judiciary". However, Weiss mentions there was no Sephardic Jewish member on the Committee.

⁹⁹⁷ *Ibid*; Amnon Levi's 2013 documentary (n445).

⁹⁹⁸ Raz (n819).

influenced the composition of the legal profession. Moreover, there has not been any attempt (prior to this research) to examine how the changes in the legal profession and legal education might ultimately affect the composition of the judiciary in Israel. While the Lawyer and Law Student Surveys cannot provide unequivocal evidence of the demographics of Israeli lawyers and law students (given the limitations of the survey and its samples), the surveys do provide an insight into the characteristics of these two groups and their respective views of judges, courts and judicial diversity in Israel. This in turn provides some basis on which to assess whether changes in the judiciary's profile are likely to happen in the future.

Demographics of the pool for future judicial appointments

The analysis of background characteristics of the Lawyer Survey participants is the first multi-variable portrait of Israeli lawyers to date. Overall, the Lawyer Survey population seems more diverse than judges. Many more lawyers (46%) gained their LL.B. in a college compared with judges (10%), and many more lawyers (45%) had a non-legal degree compared with judges (17%). In addition, the proportion of Sephardic Jews as well as religious and Orthodox Jews amongst lawyers appears to exceed that of the judiciary. The distribution to various religious groups (i.e. Jews and non-Jews) amongst lawyers in the study is almost identical to that of judges, although the proportion of women lawyers in the survey is lower than the proportion of women in the judiciary. That said, it is important to consider the possible effect of coverage and, moreover, low response rate issues, and the caution that needs to be exercised when interpreting the Lawyer Survey results and findings. Whilst the possible effects did not seem powerful in the views and attitudes part of the survey (e.g., there were no statistically significant differences between men and women lawyers' views despite the gender imbalance of survey participants), they do affect the ability to confidently ascertain that the Lawyer Survey respondents represent the population of Israeli lawyers. As shown in chapter 7, Despite a low response rate, the Lawyer Survey appeared to reflect what is known about the demographics of lawyers in Israel, except the low proportion of women respondents; but because so little is known about Israeli lawyers today, more research and official data are required in order to further develop and strengthen the findings of this study.

As with the Lawyer Survey, the Law Student Survey was the first attempt to comprehensively investigate this group in Israel in terms of perceptions and views about the legal profession and the judiciary. The relatively high number of participants, the participation of 12 out of the 14 law schools in Israel and the fact that both college and

university law students participated makes the findings of this survey unique in the Israeli context. The Law Student Survey revealed a picture of Israeli law students that is generally similar to that of Israeli lawyers, but in some aspects is more diverse. The majority of survey participants were college (not university) law students (52%); there was a higher proportion of non-Jews (12%) and Sephardic Jews (34%) than amongst the lawyers; and participants included relatively new immigrants from Ethiopia (1%) and the USSR (7.7% by father's country of birth, 3.4% by self-definition).

Table 29 compares the main findings of each of the three demographic studies in this research, covering judges, lawyers and law students. It highlights some of the key differences and similarities between the three major populations that are critical to an understanding of judicial diversity in Israel. It shows that other than legal education, extra-legal education and Jewish ethnicity, there is a remarkable consistency on all other variables between the judiciary, the legal profession and current law students in Israel.

Table 29. Key background characteristics of Israeli judges, lawyers and students (comparative look on the findings of this thesis)

Variable	Categories	Israeli Judges Study	Israeli Lawyer Survey	Israeli Law Student Survey
Legal education (in Israel)	LL.B. in university	90%	46%	47%
	LL.B. in college	10%	52%	52%
Extra legal education	Non-legal academic degrees	17%	45%	36%
Employment ⁹⁹⁹	Public	21%	18%	n/a
	Private	48%	81%	
	Both	31%	n/a	
Family ties in the profession	Reported ties to the judiciary	4.5%	3%	1.8%
	Reported ties to the profession	n/a	31%	21%
Gender	Women	52%	35%	53%
Religion / nationality	Jews	91.7%	91%	88%
	Non-Jews	8.3%	9%	12%
Religiosity ¹⁰⁰⁰	Religious or Orthodox	15% ¹⁰⁰¹	16%	16.1%
Jewish ethnicity ¹⁰⁰²	Ashkenazi	64.1%	44.5%	35%
	Sephardic	15.6%	22%	34%
	Mixed	n/a	14.1%	17%
	Immigrants from former USSR/Ethiopia	0%	3.1%	4%
	Unknown / other ¹⁰⁰³	20.3%	16.4%	10%

⁹⁹⁹ This section only refers to employment as lawyers and not to internship.

¹⁰⁰⁰ For lawyers and law students this includes those who selected “religious” or “orthodox”, but note that there was a category of “traditional” that also suggests religious observance to an extent.

¹⁰⁰¹ 6% appear religious; 9% with religious background

¹⁰⁰² For judges, the analysis was done based on external factors; the figures displayed here are a joint calculation of certain categories and less certain (e.g. Ashkenazi and “appears Ashkenazi”). For lawyers and law students this was based on self-definition. Analysis of ethnicity by parents and own country of birth was reviewed in chapters 7 and 8.

¹⁰⁰³ For lawyers and law students this category included “other” and “irrelevant”. For judges, it referred to Jewish judges whose ethnicity could not be determined.

Attitudes to judicial diversity and the courts system

The two other aims of the Lawyer and Student Surveys were to explore the **attitudes** of Israeli lawyers and law students to judicial diversity in Israel, and to examine **motivations and barriers** to considering a judicial career. As Figure 81 shows, Israeli lawyers and law students tend to feel that background characteristics of judges affect their decision-making, but they also tend to agree that judges are objective, professional and neutral. This suggests that lawyers and law students may not see diversity as unconnected to professionalism ('merit').

Figure 81. Lawyer and law student general views about judges and decision-making

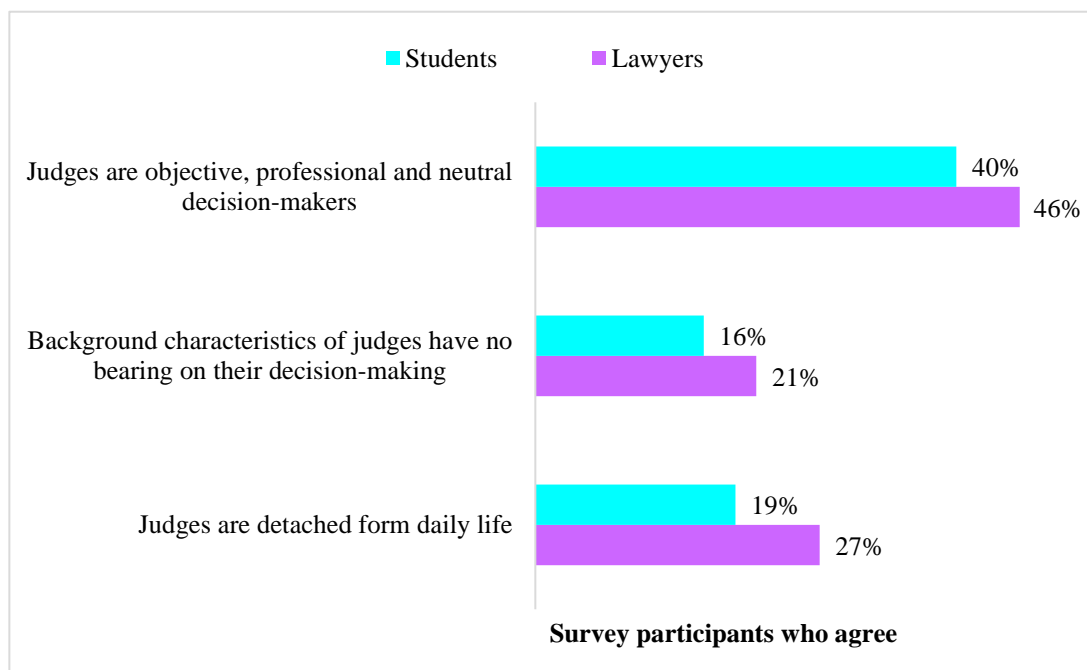
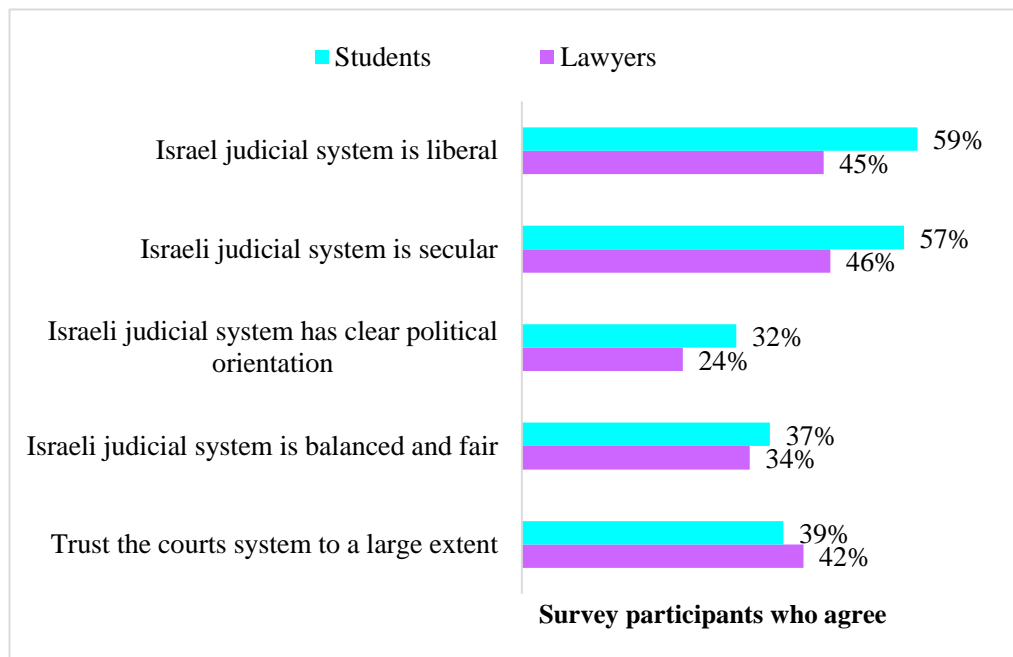


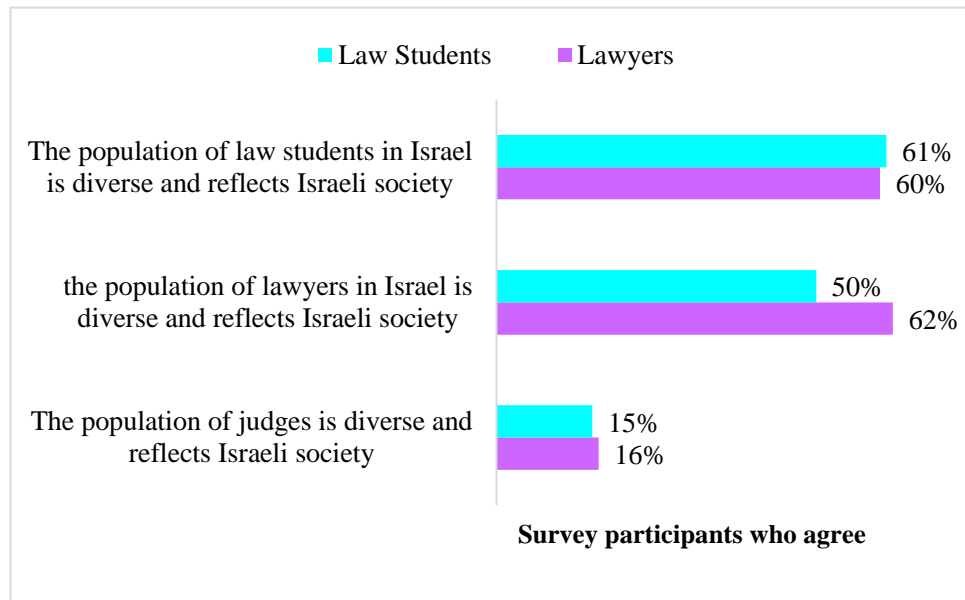
Figure 82 shows that Israeli law students were more likely than Israeli lawyers to agree that the judicial system in Israel is liberal, secular and has a clear political orientation. However, lawyers and law students had similar levels of scepticism about the extent to which the judiciary was balanced and fair, and had similar levels of trust in the courts system. Whilst existing polls and studies in Israel often ask the public about the image of the courts and its trustworthiness, this was the first time Israeli lawyers and law students have been asked specifically about these issues.

Figure 82. Lawyer and law student views about the Israeli judiciary



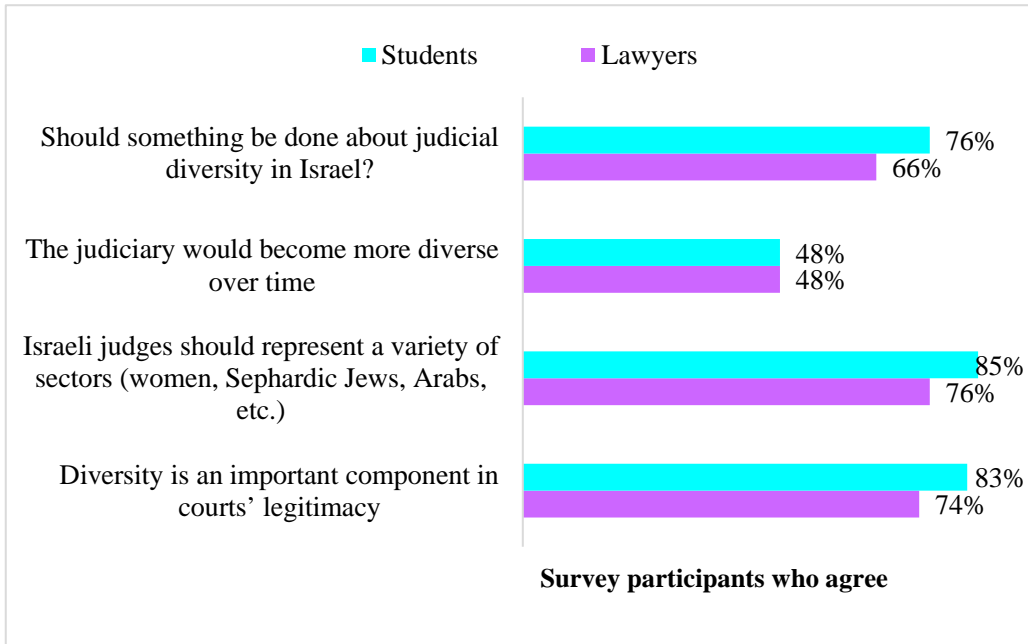
In terms of their views about the current state of diversity in the Israeli judiciary, the legal profession and legal education, both lawyers and law students agreed that legal education and the legal profession are diverse. But only a small minority of both lawyers and law students believe the judiciary is diverse (Figure 83).

Figure 83. Lawyer and law student views about the current state of diversity in law



When asked specifically about judicial diversity policies, very substantial majorities of both Israeli lawyers and law students in the surveys felt that diversity is an important component in the courts' legitimacy; that the judiciary should represent a variety of sectors that make up Israeli society and that something should be done about judicial diversity in Israel. Such a clear message from a representative sample of the current and future pool for judicial appointments in Israel should not be overlooked by decision-makers, the judiciary or the Bar.

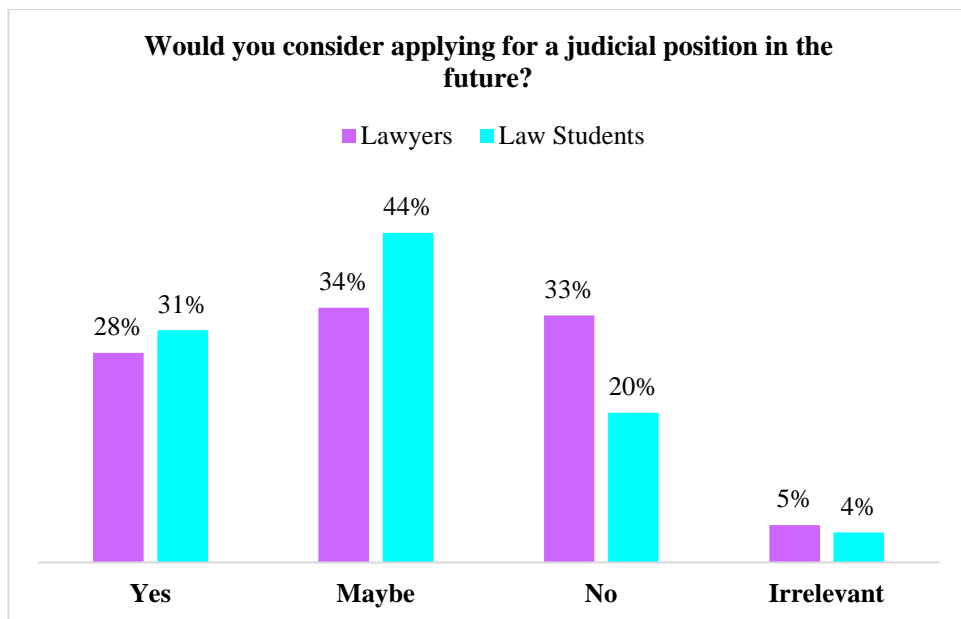
Figure 84. Lawyer and law student views about judicial diversity in Israel



Interest in becoming a judge

Israeli lawyers and law students were also able for the first time to express their views about applying for a judicial position in the future and the reasons why they would either consider or not consider a judicial career. Their answers provide the first insights on judicial career plans for current and future members of the pool for judicial appointments in Israel. A majority of both lawyers and law students said they would or might consider applying of a judicial post in future, which should be seen as beneficial to the judiciary.

Figure 85. Lawyer and student intentions to apply to the judiciary



While age (i.e. being too old to apply), unattractive wages and working conditions were the most common reasons for lawyers to not be interested in applying for a judicial post, law students' reluctance was based mostly on a general lack of interest in a judicial post. A more in-depth analysis revealed a series of factors that were strongly correlated to considering a judicial career. In brief, lawyers who are younger, less experienced, have worked in the public sector, identify with the state of Israel, are generally satisfied with the legal profession, the courts and the professional level of judges, and think they have a good chance of being appointed were those most likely to consider a judicial career. Older law students who expected to stay in the legal profession, had high levels of trust in the courts, earned a below average salary and attended a college were more likely to consider a judicial career.

Some of the statements of survey participants on this issue indicated a lack of confidence in the judicial selection and nomination system and the perception of it as biased and unfair:

“I have no connections. The queue to get called for an interview is very long and it's only aimed at those who have connections and recommendations from judges”¹⁰⁰⁴

“Political considerations and nepotism heavily influence the selection of judges.... [We] should act to create mechanisms that can help promote judicial diversity”¹⁰⁰⁵

“It's a setup”¹⁰⁰⁶

This may be an indication of the ‘domino effect’ in the lack of diversity at work in Israel; that is, the discrediting of the appointments process caused by a lack of judicial diversity¹⁰⁰⁷.

Moreover, lawyers who had applied for a judicial position in the past described concerns from their first-hand experience:

“This is a nepotistic system that does not look only on skills but also and mainly on connections. I applied for a judicial position in the past and I saw the candidates who overcame me. They were not better than I was, but they had connections that I did not have”.¹⁰⁰⁸

¹⁰⁰⁴ Respondent 1060771 (Lawyer Survey)

¹⁰⁰⁵ Respondent 1028297 (Lawyer Survey)

¹⁰⁰⁶ Respondent 1060349 (Lawyer Survey)

¹⁰⁰⁷ Thomas (n5) 103

¹⁰⁰⁸ Respondent 1060422 (Lawyer Survey)

Clearly, there is an underlying interest in applying for a judicial position amongst most lawyers and law students, and the surveys revealed some of their motivations (desire to change the system, belief that they had the aptitude for it and ideological reasons). However, the judiciary and the Judicial Nominations Committee would benefit from considering the statements of lawyers and students in this study who view the nominations system as problematic and biased, even if they are based on stereotypes rather than facts. Those statements reflect a common, negative public perception of the judicial selection mechanism in Israel¹⁰⁰⁹. But coming from Israeli lawyers and students who are familiar with the legal system and form part of the current and future pool for judicial appointments, they raise important concerns about the way the judicial selection process is perceived among potential eligible candidates for the judiciary. Despite the differences in sample sizes and response rates between the Lawyer and Student surveys, and specifically the concerns regarding response and coverage errors in the Lawyer Survey, the similarities between the demographics, trends and attitudes of Lawyer and Student respondents, suggest that the composition of the Lawyer survey participants may have not been heavily affected by the low response rate.

9.3 How the findings fit within existing knowledge on judicial diversity

The findings of this research enhance the understanding of the state of judicial diversity in Israel, and in some cases, they contribute to the knowledge of judicial diversity worldwide. In some cases, they reiterate the common justifications for greater judicial diversity, and they correlate with the existing literature about the positioning of women and ethnic minorities in the judiciary. Unique to the Israel judiciary are the findings regarding Jewish ethnicity (which have not been systematically examined before), and the findings regarding the attitudes and intentions of Israeli lawyers and law students.

This study's analysis of the current composition of the Israeli judiciary makes an important contribution to the knowledge of judicial diversity in Israel, mainly because it is the first thorough examination of the judiciary as a whole. However, the findings also have significance beyond Israel, as they reinforce the findings of a number of other studies conducted in other jurisdictions. Especially prominent are this study's findings regarding the representation and progression of women and ethnic minorities in the various ranks of the judiciary, which provide further support for the "prestige theory" of judicial

¹⁰⁰⁹ For the impression amongst members of the public, politicians and journalists that the judges appointed to the Supreme Court during the 1990s were selected from one group of friends, see Mautner, "Appointment of Judges in a multi-culturalist society" (n1) 426-7 (and references in footnote 5).

diversity: that women and ethnic minorities are most likely to attain judicial office in less prestigious courts. Regarding women, the prestige theory is borne out in Israel, but only to some extent. While women are over-represented in lower courts and under-represented in senior judicial positions, women have been able to attain some influential senior roles in the Israeli judiciary, including the President of the Supreme Court, and Presidents and Vice-Presidents of other courts. The prestige effect also seems to apply to Sephardic Jews in the judiciary, in line with the pattern seen for minorities in other judicial systems. The high concentration of women judges in family courts and juvenile courts in Israel also provides a further example of the “caring role effect” in the study of judicial diversity.

The findings of this study also affirm some of the main theoretical premises of the existing literature on judicial diversity, and specifically the justifications for greater diversity. The survey findings on lawyer and law student attitudes lend weight to the **democratic argument for judicial diversity**, in which judicial diversity is “part of the delivery of justice that is increasingly vital for the courts’ legitimacy in a diverse society”¹⁰¹⁰. In addition to the fact that 60% of lawyers and 70% of law students in the surveys agreed that “the composition of the judiciary should reflect the society in which it operates”, 74% of lawyers and 83% of law students agreed that “diversity is an important component in the courts’ legitimacy”. In addition, lawyers and law students who agreed that diversity is an important component in the courts’ legitimacy were also highly more likely to think that something should be done about judicial diversity in Israel. This provides some evidence that (amongst these two groups at least) diversity and legitimacy are seen as strongly linked.

Furthermore, the survey results reinforce the **perception of fairness** argument that “...a diverse judiciary signals the public acknowledgement of historically excluded communities and sends an invaluable message of inclusion”¹⁰¹¹. Lawyers who did not feel that the Israeli judiciary was “balanced and fair” were highly more likely to support action for judicial diversity (77% compared with 66% of all lawyers supporting action for diversity), and vice versa. Similarly, Israeli law students who do not view the judicial system as fair are significantly more likely to think that something should be done about judicial diversity.

¹⁰¹⁰ Thomas (n5) 6; Hale (n128) 1-2 (emphasis added).

¹⁰¹¹ Chen (n 132) 1116-1117.

Considering the **possible effects of diversity** (or its lack thereof), one of the most important findings of the surveys was the correlation between lawyers and law students' level of trust in Israeli courts and their stand on judicial diversity. The public's trust in state institutions (and the judiciary in particular) is vital in any democracy. Lack of trust might be reflected in a decline in political participation and a sense of belonging to the state on the part citizens, and it may undermine the government's legitimacy¹⁰¹². Judicial diversity has been found to promote public confidence in the courts. Israel has seen a steady decline in public confidence in its courts. The CBS 2015 Social Survey found that only 58% of the public trust the judicial system to any extent¹⁰¹³. Specifically, 60% of Jews and 50% of Arabs trust the courts. Amongst Jews, the rate of confidence in the justice system falls as the level of religiosity increases (e.g. only 22% of Orthodox Jews trust the courts). Moreover, Jews from the former USSR and from Ethiopia trust the judicial system in lower rates than the general Jewish public (53% and 43% accordingly). In other words, minority sectors, either ethnic or religious, as well as immigrants, tend to trust the judiciary less than the general public. These are also precisely some of the sectors that were found to be under-represented in the judiciary in this study¹⁰¹⁴. In addition, 29% of the population think that Israeli courts do not treat all citizens equally¹⁰¹⁵. Although it is hard to link the figures about the decline in public trust directly to the lack of judicial diversity, these figures reflect a worrying trend that is worthy of further investigation.

Despite the inherent differences between the general public and the populations of legal practitioners and law students, the survey results found a link between **judicial diversity and the level of trust in courts** amongst these members of the pool for judicial appointments. Overall, lawyers and law students trust the courts in significantly higher proportions than the public: 82% of lawyers and 87% of students trust the courts to a large or some extent. And a highly significant correlation was found between the level of trust in courts and lawyers' and law students' standing on judicial diversity. For example, lawyers who thought the judiciary was diverse also trusted the courts to a large extent, while lawyers who strongly disagreed that the judiciary was diverse were highly more likely to trust the courts only to a small extent or not at all. In addition, the greater the

¹⁰¹² Hadar (n94); Barak-Erez (n45) 123.

¹⁰¹³ In comparison, 82% trust the IDF, 60% trust the State Comptroller, 53% trust the police. CBS "Selected Data from the 2015 Social Survey" (n80).

¹⁰¹⁴ It would be interesting to see a comparison between various Jewish ethnic groups, but the CBS did not publish data on other groups.

¹⁰¹⁵ CBS "Selected Data from the 2015 Social Survey: Public Opinion (of Aged 20 and Over) on the Police and Court Services in Israel" (19.9.2016)

http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201619291

trust in courts, the less convinced lawyers and law students were that something should be done about judicial diversity in Israel. Conversely, as trust in courts decreased, the percentage of lawyers and law students feeling that something should be done about judicial diversity increased¹⁰¹⁶. These findings are important not just in the Israeli context, but can be regarded as reinforcing the existing literature about the possible effects of judicial diversity on trust in courts, this time in relation specifically to lawyer and law students.

Interestingly, the decline in public trust in the courts has occurred parallel to an increase in judicial diversity of courts in recent years, as shown in this thesis. However, it might be that the public views on the judiciary, including its composition and diversity, are not necessarily derived from facts on the composition of courts, but rather rely on beliefs, opinions and sometimes myths. In other words, perhaps because no data on judicial diversity are available to the public, the courts are perceived as less diverse than they are in reality, and this perception might have an effect on the level of trust in courts. This study addressed lawyers and law students, not the general public, but may nevertheless suggest that it is important to publish and update the data about judicial diversity in Israel, in order to provide the public with solid data and thus perhaps increase the level of public trust. Additionally, the survey findings in this respect reinforce the need to conduct further studies to investigate the public views in Israel regarding judicial diversity, and how they possibly link with trust in the judiciary.

9.4 Is there a liberal paradox at the heart of judicial diversity?

The Israeli judicial system is heavily influenced by the doctrines of Anglo-American law; one of the most important of these is political liberalism¹⁰¹⁷. Israeli scholars who study the history of the Israeli legal system have focused on the evolution of liberalism in the courts¹⁰¹⁸. In the early years of the state, the liberal tradition of the Supreme Court was opposed to the general culture of Israel, which was collectivist and emphasized the state and not the individuals. However, from the 1980s judicial liberalism was not opposed to

¹⁰¹⁶ Only 70.2% of law students who trusted the courts “to a large extent” think that something should be done about judicial diversity, compared with 83.7% of those who trust courts “to a small extent”.

¹⁰¹⁷ Mautner, ‘The Supreme Court- 3 periods’ (n981) 587. The Anglification that shaped Israel’s law embeds liberalism, says Mautner.

¹⁰¹⁸ Zaltzberger and Oz-Zaltzberger (n44); Amal Jamal, “Liberal Zionism”: Enlightened Jurisprudence and the Challenge of Multiculturalism in Israel” (2004) 4 *State and Society* 789-823; Sapir, “Between Liberalism and Multiculturalism” (n360) 311-340

the mainstream culture¹⁰¹⁹. During the 1980s and the 1990s, following major political changes in Israel, the liberal elite in Israel expressed strong concerns that the values of liberalism, humanism, enlightenment and modernism would be defeated by religiousness and theocracy. In the forefront of the struggle to hold off “anti-democratic” powers was the Supreme Court, which has become a pivotal arena for the political and cultural activity of liberals. The Court itself cooperated with this trend through its judicial activism, moral reasoning and positioning as a central political player in Israel¹⁰²⁰. As a result the Supreme Court has become affiliated with the liberal, former-hegemonic sectors of Israel, and not with the new, “multi-culturalist” (or multi-layered) society that emerged following the political upheavals of 1977.

However, despite its strong liberal ethos, the common view among the senior judiciary and legal scholars was that judicial diversity was not an issue worth dealing with. Part of the argument was that the judiciary should not be representative of society because it is not an elected body but rather a professional institution and its judges should only be assessed on the grounds of merit. Others argued that diversity would occur naturally over time and should not be actively embedded in the judicial nominations system, as this would jeopardize the independence of the judiciary. Another common view was that there was actually no problem with judicial diversity in Israel. The Zamir Committee reflected this view:

“In many countries, the composition of the judiciary fails to reflect the composition of society, as it mainly relied on professional (rather than social) considerations. In Israel, it seems that the composition of judges reflects the Israeli society no less, and perhaps even more, than in many other countries. Still, the extent to which the Israeli judiciary is reflective of society should be improved”.¹⁰²¹

The Israeli case, in which liberals object to the idea of judicial diversity in an attempt to stop non-liberal groups from endangering the judiciary’s independence and liberal legacy, is not entirely unique. The rise of multiculturalism has posed several challenges to liberal thinkers. One of them was “how should liberal states treat non-liberal cultural groups?”¹⁰²² This has some relevance to liberal jurists in Israel when challenged about the lack of judicial diversity. The result was that the Israeli judiciary objected to the idea

¹⁰¹⁹ Mautner (n.981); Jamal (ibid), however, claims that this liberalism was Zionist and excluded groups that did not promote the Zionist ethos.

¹⁰²⁰ Mautner (n.981).

¹⁰²¹ Zamir report (n.336) para 29.

¹⁰²² Mautner, ‘From "Honor" to "Dignity"’ (n.180)

of proactively promoting judicial diversity. Thus, although it was argued that liberal decision-makers are more likely to appoint women and ethnic minorities to the judiciary because they are more aware of issues of fairness, equality and diversity¹⁰²³, in Israel this was not the case. A paradoxical situation developed, in which the liberal idea of diversity became a concept the judiciary and the liberal elite rejected.

However, this study's findings regarding both the state of judicial diversity in Israel and the views of lawyers and law students on judicial diversity should be of interest to those concerned with the liberal tradition of the Israeli judiciary. Of course, the common justification for diversity (e.g. the democratic argument), and the unique circumstances and composition of Israeli society present strong arguments in favour of endorsement of judicial diversity as a liberal idea. However, the findings of this study provide additional solid support to "resolving" the liberal paradox, that is: to make judicial diversity an accepted concept not only amongst those who want to challenge the courts but also for those who support the courts and wish to strengthen their legitimacy and improve their public perception. For example, the findings of this research about the under-representation of specific groups in the judiciary, as well as the prestige effect that influences the progression of women and ethnic minorities in the Israeli judiciary, suggest that claims of an under-representative judiciary are not just baseless allegations but rather the reality for Israeli courts today. Similarly, the consistent fall in public trust in the judiciary should concern all those who value the vital role played by the judiciary in Israeli democracy and public life. But they are even more concerning given this study's findings on the correlation between the level of trust in courts and perceptions about diversity amongst members of the legal profession and legal education.

Another finding from this research that adds an important aspect to the "liberal paradox" is the factors that were strongly linked with lawyers' and law students' position on action for judicial diversity. The survey did not look for participants' political views; however, it did ask about ethnicity, religious observance and identification with the state. The cross-analysis of these factors with lawyers' and law students' views on judicial diversity reveals that lawyers and law students of specific backgrounds (e.g. Sephardic or Arabs, religious and Orthodox and those who are less likely to identify with the state of Israel) are the strongest supporters of action to increase judicial diversity. This resembles the liberal paradox in the attitudes of politicians and policy-makers towards judicial diversity;

¹⁰²³ Hurwitz and Lanier (n108).

as discussed earlier, it is mainly Knesset members with right wing and religious views that have been more active and vocal about the need to increase diversity in the judiciary.

The findings of this thesis refute the claim that there is no problem with diversity in the Israeli judiciary. In addition, it clearly shows that the majority of lawyers and law students think the judiciary is not diverse enough and support actions for greater diversity in Israel. It has exposed some of the mistrust in the judicial selection procedure that exists not only in the public but also in the pool from which future judges in Israel will be selected. The reality of judicial diversity in Israel (revealed by this empirical study), as well as the firm and unequivocal stand of Israeli lawyers and law students on the importance of judicial diversity, should highlight the importance of judicial diversity and encourage Israeli liberals and the judicial system to acknowledge this issue. Other countries introduced policies to increase judicial diversity and there is no evidence to suggest that these policies or the growing diversity on the bench have harmed the liberal, professional or independent character of the judiciary. Similarly, given the findings of this study, it is suggested that those who wish to ensure a strong, independent and professional judiciary in Israel would realise that diversity is an inseparable part of these characteristics, and that a diverse bench is likely to contribute to strengthening the liberal ethos of the Israeli judiciary.

9.5 Policy implications

This section explores what policy implications may flow from the findings of this research. It deals with proposals for policy changes to the Judicial Nominations Committee and other bodies, and tries to balance the need to revise the judicial nomination procedure to increase diversity with the desire to maintain stability and agreement between the liberal and the conservative sides of the political and public spectrum.

The findings of this research highlight the need to promote, deepen and widen the judicial diversity debate, and consider actions to increase judicial diversity. What should be done to increase judicial diversity successfully? Cases from other jurisdictions suggest that judicial diversity may be addressed by a combination of factors, namely political action, appointment criteria, nomination committees and professional associations (e.g. the Bar, the Law Society etc.)¹⁰²⁴. Earlier chapters reviewed the factors that systematically affect

¹⁰²⁴ The Judicial Diversity Taskforce in the UK is an example of such joint efforts to increase judicial diversity (for its latest report see: "Improving Judicial Diversity- Progress towards the Delivery Of the

judicial diversity, most notably the judicial selection procedure, the nature of the judicial profession, the courts system and the pool from which judicial candidates are drawn¹⁰²⁵. This study's new findings have implications for most of these factors and have relevance for the bodies that are able to promote judicial diversity in Israel, including the Nominations Committee, the judiciary, the Israeli Bar and the academic institutions that teach law in Israel.

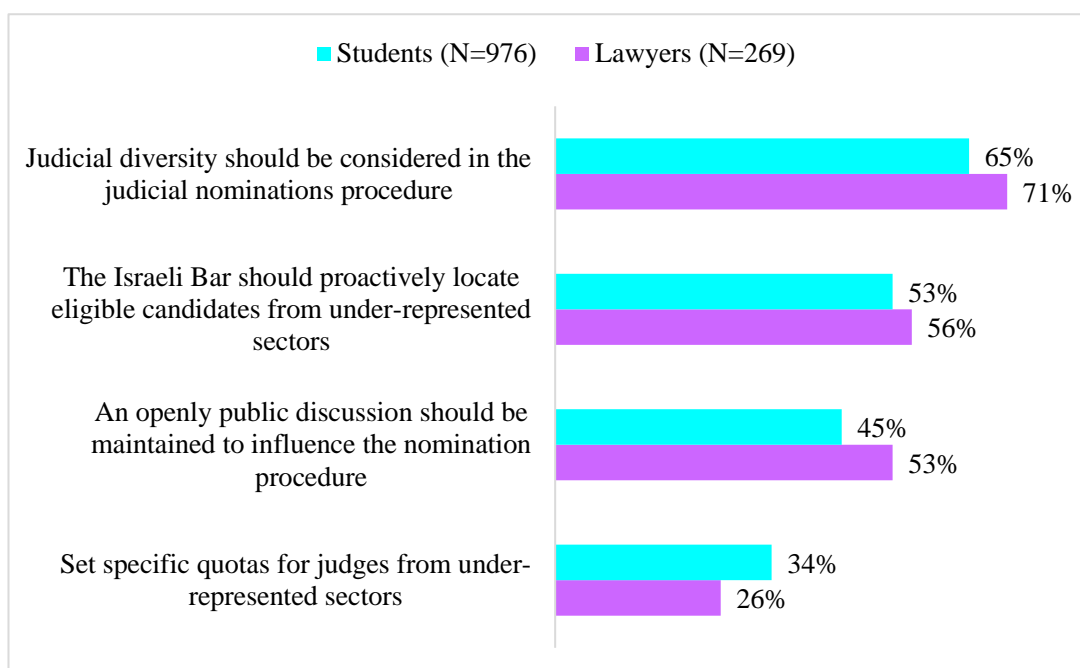
In Israel suggestions to set aside seats in the Supreme Court for judges from certain sectors (e.g., women, Arabs, Sephardic) have been repeatedly heard, yet the operation of a "designated seats" policy has remained vague, and the process of nominating judges has not been transparent for many years. The legal system has continuously opposed attempts to revise the selection procedure. The Zamir Committee dismissed the representativeness idea and claimed there was no evidence of under-representation of specific groups in the Israeli judiciary, apart from Arabs and new immigrants. This study has contributed a significant body of evidence and new knowledge to this diversity debate. In addition to the evidence regarding the reality of judicial diversity today, this study suggests several paths to increase judicial diversity and to improve the way judicial diversity is thought of and dealt with in Israel that would have the support of the legal profession and future lawyers.

The study's two surveys provide clear evidence of what Israeli lawyers and law students think should be done to increase judicial diversity in Israel. A majority of both Israeli lawyers and law students feel that diversity considerations should be a part of the judicial nominations process and that the Israeli Bar should play an active role in identifying eligible candidates for judicial office from under-represented groups.

'Report of the Advisory Panel on Judicial Diversity 2010' (Final Annual Report (2014) Produced by the Judicial Diversity Taskforce)" (June 2015).

¹⁰²⁵ In some cases, demographic influences will also systematically affect judicial diversity. Wald (n103).

Figure 86. Lawyer and student views on what should be done to increase judicial diversity in Israel



How should diversity be considered or implemented in the nominations procedure? The experience of other jurisdictions shows that in order to successfully increase judicial diversity, a genuine commitment to this target must be made by all parties involved in the selection and appointment procedure. Moreover, one of the JAC’s statutory duties is “to have regard to the need to encourage diversity in the range of persons available for judicial selection”¹⁰²⁶. Therefore in Israel it is necessary that the committee would publish a ‘diversity statement’ that expresses its commitment to achieving greater judicial diversity, as well as its strategy to increase diversity¹⁰²⁷. Such statement is important for two main reasons: it anchors the commitment of the entire committee (i.e. representatives of all branches of government and the bar) to promote diversity, and may allay fears of improper intervention or over-influence by some members of the committee. Second, in a conflicted and multi-cultural society like Israel, such statement is likely to send a strong message of inclusion that would be especially important to communities and sectors that are under-represented in the judiciary.

In addition to a diversity statement, which has a clear declarative value, in order to increase the diversity on the bench de facto, some targets need to be set. The option of quotas, as seen in figure 86, was the least supported diversity policy by survey

¹⁰²⁶ The Constitutional Reform Act 2005

¹⁰²⁷ Compare: the JAC Diversity Strategy (<https://jac.judiciary.gov.uk/diversity-strategy>).

participants. While quotas set very clear goals they do raise concerns and claims about inflexibility and possible threats to judicial selection on merit¹⁰²⁸ and in Israel they are likely to provoke strong opposition from the legal system, and perhaps to be misused by politicians. Scholars have shown that in order to promote minority representation in the judiciary, a certain ‘tipping point’ should be reached¹⁰²⁹. It is hard to determine what qualifies as a tipping point, but the literature suggested a 10%-15% rate of minority representation in order to reach that ‘point’¹⁰³⁰. However, while this may be a helpful target to ‘quantify’ the representation or progression of Arabs, Sephardic Jews and other minorities in the Israeli judiciary, what is the case for women judges who account for more than 52% of the judiciary? In light of this study’s findings and the operation of the prestige theory regarding women judges, It is clear the targets need to be set for specific courts and positions where women are under-represented, e.g. the supreme court, president of courts, etc.

Judicial selection procedure

Over the years, there have been numerous suggestions to revise the judicial nominations procedure. Some proposals were motivated by a concern over the judiciary’s dominance in the nomination process. This prompted suggestions to add Knesset members to the Judicial Nominations Committee or to entrust the selection procedure exclusively to the Knesset¹⁰³¹; others suggested a Knesset hearing for every judicial candidate¹⁰³². But there has been strong opposition to any change in the method of judicial appointment for fear of damaging the independence and professionalism of the judiciary¹⁰³³. The author of this thesis has suggested elsewhere that, in light of the tensions between the three branches regarding the judicial selection process, it may be better to leave the current structure of the committee in place¹⁰³⁴ and instead to establish an advisory panel to support the committee. Such a panel would be responsible for studying and monitoring the state of diversity in the judiciary, the legal profession and legal education in Israel¹⁰³⁵. Ideally, it

¹⁰²⁸ Malleson, Kate. "Gender Quotas for the Judiciary in England and Wales." *Ulrike Schultz; Gisela Shaw (comps.), Gender and Judging. Oxford/Portland: Hart Publishing* (2013): 461-500, 484

¹⁰²⁹ McCall, Madhavi. "Structuring Gender's Impact: Judicial Voting Across Criminal Justice Cases." *American Politics Research* 36, no. 2 (2008): 264-296.

¹⁰³⁰ *ibid*

¹⁰³¹ Aviad Bakshi, *Changing The Method Of Judicial Selection In Israel* (The Institute for Zionist Strategies 2011)

¹⁰³² See chapter 2 on reform proposals.

¹⁰³³ Some of these bodies were reviewed earlier, e.g. Israel Democracy Institute.

¹⁰³⁴ That is, to allow for representation of the judicial system, the government, the Knesset and the Bar in the Committee

¹⁰³⁵ Levy Ariel (n.175)

would consist of representatives of the Bar, the judiciary, the Ministry of Justice and academics. It should aim for cooperation (rather than confrontation) between the branches and prefer a model in which reforms are promoted by consensus, transparency and mutual flow of information. An important element of any such change is that the discourse about judicial diversity be evidence-based, not impressionistic and anecdotal, and decisions should be substantiated by reliable data.

In addition, based on this study's findings, there are specific sectors and matters that the Nominations Committee and the proposed new advisory panel should focus on in order to target diversity effectively¹⁰³⁶. For example, this study shows that a large representation of women in the judiciary does not guarantee their promotion to higher courts or to senior positions, nor does it necessarily result in the advancement of women from minority groups (e.g. Arab women) in the judiciary. Therefore, the focus of any policy in relation to women in the judiciary should be on the senior judiciary and higher courts, as well as the allocation of eligible female candidates from under-represented groups¹⁰³⁷. A good example of a targeted approach to gender diversity in the judiciary would be to investigate the regression in the number of women as District Court Presidents from 2010 (68%) to 2015 (17%) and 2016 (0%). This may suggest that there is no explicit gender-equality policy that regulates the number of women in senior positions and they are rather subject to external factors such as retirement, promotion, etc. But only a detailed study would answer this and point to whether any policy change was needed.

Two other groups, recent Jewish immigrants from the former USSR and Ethiopia, have been identified by a member of the Nominations Committee as in need of policy action to address their under-representation in the judiciary¹⁰³⁸. This study affirmed the true extent of their non-existence in the judiciary. The Committee could find ways to focus policy actions on this population, especially in light of the low rates of trust in the courts amongst these groups. Another sector in need of a diversity policy is Israeli Arabs. However, based on this study's findings, to do that effectively, the Committee would need to focus specifically on Muslim and Druze applicants for judicial office, given that the

¹⁰³⁶ Compare: Paterson and Paterson's recommendations, in light of the experience from other jurisdictions that managed to "disable" the prestige effect for women and minorities by using political power and leadership (n.5) 63; Thomas, *Understanding Judicial Diversity* (n.105) for a summary of strategies that have been used successfully to increase judicial diversity in other jurisdictions.

¹⁰³⁷ The appointment of two female Ethiopian Jewish judges in September 2016 is an example of such step.

¹⁰³⁸ See previous comments on MK Ilatov.

majority of Arab judges in Israel today are Christian. The next round of appointments to the Supreme Court presents an opportunity to demonstrate awareness on this issue, as the only Arab (Christian) justice is expected to retire in 2017, and there is a valued and experienced Muslim candidate to fill his place¹⁰³⁹.

Finally, the study clearly demonstrates that an important matter for the Nominations Committee to take into account is the perception of the judicial selection procedure amongst current and future members of the pool for future judicial appointments. The conduct of the Committee in previous years (characterised by secrecy and a lack of transparency) has raised concerns about the process being biased, unfair and posing barriers for greater diversity. The views expressed by lawyers and students in this research provide important feedback to Israeli policy-makers involved in the judicial selection procedure and demonstrate the importance for the Committee to find ways to ensure that the process is perceived as legitimate and fair, and that it is not a barrier but rather an incentive for judicial diversity. Greater transparency would be an important step towards changing the image of the nominations procedure, and this could be assisted by the protocols and decisions of the Committee being published and made publicly accessible recently, as well as a clear declaration about diversity and its importance in the Committee's work (which has not happened yet).

Judicial system data

A crucial, immediate need is for **greater transparency** of the data that the judiciary collects and publishes on judicial diversity. This is essential for transforming the judicial diversity debate into a fact-based debate not and anecdote-based debate. Obviously, this would require releasing data about judges and the judiciary. The inclusion of CVs on the judiciary's webpage is noteworthy, and provides invaluable data about Israeli judges today, but it does not provide all the data that is essential for a comprehensive examination of judicial diversity in Israel. In addition, when certain information is found to be essential to studying diversity but is not systematically collected (e.g., Jewish ethnicity), this should provide the grounds for re-evaluating the scope and variety of diversity-related characteristics that the judiciary monitors. Finally, in light of the findings of this study, and based on the experience of other jurisdictions, it is recommended that the judiciary

¹⁰³⁹Kahled Kaboub, a Muslim District Court judge, is reported to be the preferred candidate of the Bar (Tova Tzimuki, 'The Next Supremes' *Yedioth Ahronoth* (7.10.2016); Yasmin Gueta, 'Judges in Jerusalem: Soon there will be four more' *TheMarker* (21.10.2016) <http://www.themarker.com/markerweek/1.3100022>.

re-examine its policy of not cooperating with academic research and consider a new policy of research cooperation to investigate the state of judicial diversity and the factors that may be affecting it¹⁰⁴⁰.

The meetings and deliberations of the Nominations Committee, its subcommittees that examine judicial candidates, and the processes of evaluating candidates are all confidential¹⁰⁴¹. The recent publication regarding a secret committee that screens candidates for promotion in the judicial system adds to the criticism over lack of transparency. But in the past few years, the shroud of secrecy surrounding the judicial system and judges has begun to lift. Some Israeli scholars have started examining the external factors that may affect the judicial decision-making process, and journalists and members of the legal profession have forced the judiciary and the MoJ to reveal family and other ties between presiding judges and members of the profession. And with the establishment of the Ombudsmen for Judges, the decision has now been made to upload the Nominations Committee decisions and protocols to the public website¹⁰⁴². Yet, there is still much to be done to enhance transparency in this context. Firstly, the process of selecting and appointing judges should be as clear and transparent to the public (and to potential applicants) as possible. This includes the operation of all committees, subcommittees and panels that are involved in shortlisting, interviewing, recommendation drafting and appointment of judges. While intra-organizational consultation processes are legitimate and essential, the operation of a secret advisory panel, detached from the official selection procedure and far from the public eye and the Nominations committee, harms the image of the judicial selection process and might deter potential applicants. Such mechanism must be known to the public (unlike, for example, the names of failed applicants which can remain confidential).

Second, it is essential to make the process of applying for judicial positions at all levels accessible and ‘user-friendly’. Currently, the judiciary’s website only publishes tenders for positions of interns, legal assistants and other non-judicial positions. The section on

¹⁰⁴⁰ This could potentially be done in collaboration with the Israeli Courts Research Division (established in 2010) that has published several reports and performs quantitative investigation of various topics, including the workload in Israeli courts, conviction and acquittal rates in Israel. (<http://elyon1.court.gov.il/heb/Research%20Division/Research%20-%20Eng.htm>). However, no research or reports have been published regarding the composition of the judiciary or any other matter relating to judicial diversity.

¹⁰⁴¹ Klein and Koppel (n303) 19.

¹⁰⁴² These protocols do not refer to the evaluation of judicial candidates, but rather provide the end decision regarding appointments and other matters discussed in the Committee's meeting (e.g. setting limitations to appointment of family members of sitting judges).

the website regarding the appointment of judges in Israel only details the eligibility criteria set by law for various judicial positions, and provides links to application forms¹⁰⁴³. Therefore, it is recommended that a designated website of the Nominations Committee is established, which will contain a 'diversity statement' (as mentioned) and a commitment to an equal selection process, a clear explanation of the application process (including the sub-committee, the training course, etc.) and updated information about judicial vacancies at all levels. The JAC website serves as a good example, as it contains detailed information regarding current and forthcoming vacancies; it clearly sets the eligibility criteria, job requirements and working conditions; it provides a succinct explanation about the selection and appointment process, and, as mentioned, it declares its commitment to diversity. Studies in the US found that in order to ensure a diverse applicant pool, it is essential to welcome candidates to apply and ensure that judicial vacancies are widely advertised¹⁰⁴⁴. These are definitely areas in which the current selection and appointment mechanism in Israel needs to improve, in order to attract quality candidates from diverse backgrounds. In addition, and for similar reasons, it is essential to publish data about judicial diversity, including data on judicial candidates, success rates in the judicial candidates' course, etc.¹⁰⁴⁵. This is critical to understanding the state of judicial diversity in Israel, including the understanding of barriers and other challenges in the judicial selection process. Similarly, data that shows the progression and representation of certain sectors (e.g. Christian Arabs, women) might serve as an incentive for potential applicants.

Of course, lack of updated data on diversity is not unique to the judiciary: the Bar, academic institutions and other official bodies either do not collect or do not publish information about diversity in Israel. The lack of publicly-available data about a range of judicial diversity-related variables should be addressed, as such data are key to any informed discussion about judicial diversity in Israel.

¹⁰⁴³ https://www.gov.il/he/Departments/General/judges_nominations

¹⁰⁴⁴ Torres-Spelliscy, Ciara, Monique Chase, and Emma Greenman. "Improving Judicial Diversity." *Brennan Centre for Justice* (2010)

https://www.brennancenter.org/sites/default/files/legacy/Improving_Judicial_Diversity_2010.pdf. The authors suggested that appointment commissions should act like proactive recruiters or head-hunters, in order to attract diverse judicial applicants.

¹⁰⁴⁵ Compare: the JAC website publishes several reports and statistics about diversity, including statistics about judicial applicants, reports of the Judicial Diversity Taskforce, etc. (<https://jac.judiciary.gov.uk/judicial-diversity-forum>)

The Bar

The Bar is deeply involved in the selection and appointment of almost all judges in Israel, including in specialised courts, labour courts as well as the main courts system. In addition, it is in charge of the qualification process of thousands of interns each year, and the on-going supervision of almost 60,000 Israeli lawyers. It is a pivotal link between legal education, the profession and the judiciary, and many of its members have frequent interfaces with judges. Its interest in judicial diversity should, therefore, be inherent. It was recently reported that the Bar prefers a Muslim candidate to the Supreme Court over a Christian candidate, because there are thousands of Muslim Bar members and nearly 2 million Muslim citizens in Israel. It also elected the first ever Arab Bar representative to sit in the Judicial Nominations Committee. Perceptions like these suggest that the Bar is aware of the diversity consideration but does not necessarily apply it coherently.

The Bar cooperated with this study to some extent by distributing the survey to its newsletter recipients, but was not willing to provide any data on its members' demographics (and it is unclear whether such information is actually collected and analysed systematically). Given its central role in the appointment of judges and in qualifying and monitoring the next generation of potential judges, it is clear that any attempt to increase judicial diversity should include a rethinking within the Bar. One step could be for the Israeli Bar to adopt a "Judicial Diversity Initiative", similar to that of the American Bar Association¹⁰⁴⁶ or the English Law Society¹⁰⁴⁷. Such an initiative would promote diversity in the Nominations Committee, as well as in the Bar (e.g. by identifying eligible applicants from minority groups and increasing awareness amongst lawyers). In addition, the Bar should take into account the views and perceptions of this study's survey participants on the legal profession, legal education and the issue of judicial diversity. These findings should encourage the Bar to systematically collect, analyse and publish data regarding diversity amongst Bar members in Israel, and perhaps (like the Law Society in England) conduct internal surveys about diversity similar to the Lawyers Survey conducted here. As was prominent in the Lawyer Survey, the lack of existing data on the demographics of Israeli lawyers posed difficulties to assessing the possible effects of the low response rate, the coverage bias, etc., in this study. This highlights the importance of maintaining a publically available, regularly updated database about diversity in the legal profession in Israel.

¹⁰⁴⁶ Thomas (n5) 79

¹⁰⁴⁷ <http://www.lawsociety.org.uk/support-services/practice-management/Diversity-inclusion/>

Finally, the Bar could play a significant role in encouraging eligible lawyers to consider a judicial career and initiate activities to raise awareness about judicial diversity and the possibility of a judicial career, especially in under-represented sectors.

Academic institutions

Even though legal education in Israel has changed significantly in the past two decades with the opening of ten new law schools and a massive increase in the number of law students, it has been unclear how (or if) the increase in the number of law students diversified the population of law students (and future lawyers). Almost all law schools in Israel agreed to participate in this study by distributing the Law Student Survey to their students. However, none of the faculties provided data about the demographic composition of its student cohort, and it is unclear whether in fact such information exists. The CBS and the Council for Higher Education only provide data on a limited number of variables (e.g. gender, Arabs) and this is compound data covering all law schools. Therefore, the first recommendation to Israeli law schools would be to analyse and publish data about the diversity of their student cohorts on a yearly basis. This would enable researchers to understand whether a lack of diversity occurs already in legal education, or if the law student population is diverse but there are barriers that reduce diversity in the transition from legal education to the legal profession. Another important contribution of data regarding diversity would be to the debate on the “flooding” of the legal profession and the calls to reduce the number of law schools (especially to close colleges). An openly available database of law student populations would allow for an examination of the differences between the various institutions (e.g. based on location and state-funded compared with private colleges). If colleges are more diverse than universities (a trend that was found in this study regarding intra-Jewish ethnicity), this could serve as a strong argument against closing colleges¹⁰⁴⁸.

9.6 Future research

The findings of the different studies in this thesis have highlighted several areas where further research into judicial diversity in Israel is needed:

¹⁰⁴⁸ In response to the Bar’s attempt to reduce the number of lawyers by issuing stricter qualification exams, extending the length of the required internship, etc., some academics and activists claimed this was a professional guild’s effort to maintain its elitist character. In his television report, Shalmor (n477) interviews Prof. Yuval Elbasha, of Ono Academic College, who claimed that the recent decision of the MoJ to extend the internship duration to two years would prevent law students with disadvantaged backgrounds from entering the legal profession.

- consistent and publicly available database on judicial diversity in Israel;
- expansion of the judicial diversity research to courts and judges that were not covered in this study (namely, military courts, religious courts and the Enforcement and Collection Authority); and
- further examination of the “pool” for future judicial appointments.

There are several caveats that stem from the exploratory nature of this research and the fact that it did not have an existing body of research or datasets to rely on. In order to explore the state of judicial diversity this study had to establish a database without access to official records or previous reports and of course with no direct access to judges. Thus, some of the findings, mainly regarding ethnicity and religiousness, are based on the interpretation of judges’ CVs and/or inferential examination of what judges included in their public profiles, external resources, etc. This raises concerns about the subjectivity of the analysis and the relatively high number of cases that could not be categorised with certainty regarding ethnicity and religion. The best methodology would be to obtain data directly from the judges or from the courts system records. This was not possible at the time of this study, but the first priority of future research would be to obtain the collaboration of the courts system, or to convince it to publish data regarding specific variables. Should the courts system be willing to cooperate with research, direct access to judges would enable both a systematic review of the courts system’s records on current and retired judges and the ability to obtain additional or missing data.

Furthermore, the methods chapter explained the reasons why this research focused on the General Courts system and did not include the Specialised Courts, which differ from the main courts system in size, composition, appointment criteria and procedures, court procedures and jurisdiction (as well as the availability of data on its judges). However, understanding judicial diversity in Israel would be assisted by a more expansive definition of the judiciary that included these other courts in any future diversity analysis. This would also include the Enforcement and Collection Authority, which was not included in this study because it is separate from the courts system, consists only of registrars and maintains a different selection and appointment procedure¹⁰⁴⁹. However, its registrars are part of the pool for candidates to judicial office in the General Courts system. Registrars’ CVs are published on the Authority’s website, so a study similar to this one could be

¹⁰⁴⁹ **Appendix 1**

conducted with registrars, but any comparison between this authority and the general courts system would need to be done carefully given the differences between them.

Another important group that cannot be currently investigated due to a lack of access to the judicial system's records are applicants for judicial positions in Israel who have submitted information as part of their application process¹⁰⁵⁰. Access to this population and to the records of their application would provide invaluable information as to the demographic and other characteristics of judicial applicants in Israel. Clearly, judicial applicants are the most immediate pool for judicial appointments, and this group's characteristics and composition are a key factor directly affecting judicial diversity. Of course, examination of the records of judicial applicants would require anonymity and a strict privacy policy. It is unclear, however, how willing the judicial system would be to share such data given the secrecy surrounding the classification, examination and selection of judicial candidates.

Another population that could potentially help to better understand judicial diversity in Israel is retired judges. At least in theory, this group of judges is not likely to be bound by the same restrictions that prohibit acting judges from answering academic survey questions. They are also likely to have views on the system in general and more specifically about diversity in the judiciary¹⁰⁵¹. However, a sampling frame that would list these judges, let alone ways of contacting them, was not available, and therefore, this approach problematic at present¹⁰⁵².

Finally, future research could further assess the pool from which the future Israeli judges are likely to be appointed. The surveys in this study focused on law students and lawyers. This was done to enable a broad perspective of the pool, from the initial point (law students who are making their first steps in the legal arena) to the immediate pool consisting of qualified lawyers of varying experience levels. Moreover, another population to research would be legal interns in Israel. Interns are those who successfully completed their law degree and find a place for an internship, but have not taken the Bar exam and are therefore not qualified lawyers. This is an important group situated at a point of time in their career between students and lawyers. Exploring their demographics,

¹⁰⁵⁰ Thomas, *Appointment of Deputy District Judges* (n.110) 21, explains how identifying who applies for judicial positions is the first key factor affecting diversity.

¹⁰⁵¹ There are several examples of interviews, books and lectures by retired judges, for instance: Lahav, *Chief Justice Simon Agranat* (n.453); Lewitzky *Your Honour- Aharon Barak* (n.453); Yitzhak Olshen, *Collection of Articles in Law* (Schocken 1978)

¹⁰⁵² The webpage has recently added a section for retired judges' CVs, but it is still under construction.

career plans and perceptions would enrich our understanding of judicial diversity in Israel and possibly identify barriers that affect the transition from legal education to the legal profession. Currently, the most practical way to approach Israeli legal interns is through the Bar (which is responsible for registering and monitoring interns)¹⁰⁵³.

Judicial diversity has been an increasingly important policy-making issue in many western countries. Its importance stems from several factors, the leading being the growing power of the courts in public life (judicialization of politics) and correspondently the increased public interest in the composition of courts and judicial decision-making. The links between judicial diversity and the legitimacy of courts and perception of the courts as fair have also contributed to scholarly and public interest in diversity. Specifically in Israel, the interest in the background characteristics of judges and the extent to which the judiciary reflects the diversity of the Israeli society has grown substantially in the past two decades. The complex multicultural nature of Israeli society, the growing power of courts and especially the transformation of the Israeli Supreme Court into a key political player have all given rise to criticisms about the lack of diversity on the bench. However, the public debate has so far been dominated by anecdotal evidence and unsubstantiated beliefs about judicial diversity. The importance of this thesis is that it represents the first thorough empirical investigation of judicial diversity in Israel and covers three aspects: the judiciary (including all judges in the General Courts system), the legal profession and legal education in Israel. This thesis has demonstrated that much of what people have believed about judicial diversity in Israel has been based more on myth than reality. But it has also revealed how Israel highlights a particular dichotomy for those who feel that judicial diversity has an underlying liberal dimension. It found that Israeli lawyers and law students strongly support action for judicial diversity in Israel and believe the Israeli judiciary should reflect a variety of sectors in society but currently fails to do so. Thus, this thesis has strengthened the understanding of judicial diversity in Israel, highlighted the elements that policymakers in Israel need to focus on if they wish to increase judicial diversity and provided the database, knowledge and foundation for any future examination of judicial diversity in Israel.

¹⁰⁵³ Using legal databases like Nevo is also feasible but it would need to be a complementary measure as it is unclear how many interns are registered on these databases and what is their daily exposure to them.

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- The Knesset Research and Information Center (2001) *Judges' Appointment – A Comparative Research*
- The Knesset Research and Information Center (2001) *Limitations on Justiceships of Judges in Family Relationships*
- The Knesset Research and Information Center (2002) *The Judicial Treatment of Groups in the Population*
- The Knesset Research and Information Centre (2006) *Discrimination against Arabs in Employment and Workplace*
- The Report of the Advisory Panel on Judicial Diversity 2010 (Ministry of Justice)
<https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Reports/advisory-panel-judicial-diversity-2010.pdf>
- The Report of the Committee for the Examination of Judicial Selection in Israel* (March 2001) [Hebrew]
- Towards the Full Integration of Ethiopian-Israelis: A Progress Report, Myers-JDC-Brookdale Institute (available at:
<http://brookdale.jdc.org.il/Uploads/dbsAttachedFiles/Towards-the-Full-Integration-of-Ethiopian-Israelis-April-2011.pdf>

APPENDICES

Appendix 1: Appointment structure for all judges in all courts in Israel

Type of court	Governing legislation	Appointing official	Selection/nomination body- composition
All General Courts	Basic Law: the Judicature (1984); The Courts Law [consolidated version] (1984)	President of Israel	Judicial Nominations Committee (9) 1. Minister of Justice 2. Supreme Court President (Chief Justice) 3. 2 Supreme Court justices 4. Another minister 5. 2 Members of the Knesset (MK) 6. 2 Bar representatives
Labour Courts	Labor Court Act, 1969	President of Israel	Judicial Nominations Committee (9) 1. Minister of Justice 2. Supreme court president (Chief Justice) 3. 2 Supreme Court justices 4. Another minister ¹ 5. 2 Members of the Knesset 6. 2 Bar representatives
Military Courts²	Military Justice Law, 1955	President of Israel	Military Judges Selection Committee 1. Minister of Defence 2. Minister of Justice 3. Chief Justice 4. Supreme Court justice

¹ When appointing labour judges, the additional minister in the committee would be the Minister of Economy and Industry

² This only refers to military judges that are jurists, rather than military judges (side judges) that have no legal background and are appointed separately.

				<ol style="list-style-type: none"> 5. IDF Chief of Staff 6. President of IDF Court of Appeal 7. Judge of IDF court of appeal 8. IDF Head of Personnel 9. Bar Rep
Religious Courts³	<i>Druze Courts (3 courts)</i>	The Druze Religious Courts Law, 1962	President of Israel	(9 members) <ol style="list-style-type: none"> 1. Chairman of the Council 2. Chair of the Appeal Court 3. 2 khadi'Med'heb 4. Minister of Justice 5. Another minister⁴ 6. 2 Druze MK's⁵ 7. Bar representative
	<i>Muslim Courts (Sharia courts) (9 courts)</i>	The Qadi Law, 1961		(9 members) <ol style="list-style-type: none"> 1. President of the Sharia Appeal Court 2. Khadi 3. Minister of Justice 4. Another minister 5. 3 MK's (of which at least 2 Muslims) 6. 2 Bar representatives (at least 1 Muslim)

³ In Israel, two parallel legal systems have jurisdiction over issues relating to family law: the religious courts (consisting of courts for all recognised religious communities in Israel) and the civil courts (including family courts). See: Family Courts Law 5797-1995. Religious courts have exclusive jurisdiction over matters of marriage and divorce of married couples of the same religious group, and family courts have jurisdiction on all other matters regarding family law.

⁴ Alternatively, a Druze Vice Minister.

⁵ The law stipulates alternatives in case there are no two Druze MK's.

	<i>Christian (Ecclesiastical) Courts</i> ⁶	Article 54 of the King's Order-in-Council ⁷		There is no legislative stipulation about appointment of Christian Court judges. De facto, the Churches appoint religious judges independently and there is no government committee involved in the selection process ⁸ .
	<i>Rabbinical courts (13 courts)</i> ⁹	Rabbinical Courts (Marriage and Divorce) Law, 5713 – 1953 The Rabbinical Judges Act, 1955		Rabbinical Judges Appointment Committee (11 members): <ol style="list-style-type: none"> 1. the two Chief Rabbis in Israel, 2. two Great Rabbinical Court judges , 3. two Ministers (including the Minister of Justice) 4. two Knesset Members, 5. two Bar reps 6. a female rabbinical pleader
Enforcement and Collection Authority ¹⁰		Execution Law, 1967	Minister of Justice	<ol style="list-style-type: none"> 1. District Court judge (currently a retired judge)(President of Committee) 2. Director of Enforcement and Collection Authority 3. Supervisor of Registrars 4. Public representative with legal background (currently: a retired judge) 5. Bar representative

⁶ There are separate courts for each of the ten recognised Christian denominations (e.g. Greek-orthodox) Kayan- Feminist Organisation *Ecclesiastical Courts in Israel: a Gender-Responsive Analysis* (2012). However, not all Christian communities are recognized for this purpose, e.g. Protestants. Shimon Shetreet, *On Adjudication: Justice on Trial* (Yediot Achronot, 2004) 121.

⁷ The courts of the various Christian communities still operate under the King's Order-in-Council and were not regulated in Knesset legislation, as were other courts for religious groups (Shetreet).

⁸ As confirmed to the author by the Ministry of Justice's Public Inquiries department. Pers.comm: email correspondence 9.11.2016. For the problems caused by the lack of regulation and state supervision over the Christian courts, see "Ecclesiastical Courts in Israel: a gender-responsive analysis" (n6) 3

⁹ As of 2015, the rabbinical courts are no longer subject to the Ministry of Justice but are subordinated to the Ministry of Religious Services.

¹⁰ Criteria for appointing registrars is "an Israeli citizen eligible to be appointed as a Magistrate's Court judge".

Appendix 2: English translation of survey questionnaire for Israeli lawyers

Survey Questionnaire for Israeli Lawyers

‘Diversity in the Israeli Judiciary and the Legal Profession’

Dear colleague,

This survey is part of a study about diversity in the Israeli judiciary. The issue of judicial diversity is constantly on the public agenda, and claims about lack of representation of various groups in the Israeli judiciary are often heard. Yet there is little evidence about the diversity of the judiciary, and even less regarding diversity in the legal profession and legal education – the two crucial populations that form the potential pool for judicial appointments (at present and in the future).

This questionnaire is designed to understand the demographics of law students and legal practitioners in Israel today; and to understand their views and perceptions about judicial diversity. **By completing this survey, you would enhance our understanding of the ‘pool’ of legal professionals from which the future judges of Israel are likely to be selected.** You would also be contributing to an important study that is the first of its kind in Israel.

Your participation and cooperation are therefore highly important and very much appreciated.

Most of the questions in this survey are multiple-choice questions. Please choose the option that is most suitable to your views, perceptions or circumstances. There are no ‘right’ or ‘wrong’ answers. Unless otherwise stated, you should tick **only one** of the options for each question. The survey is interactive in the sense that follow-up questions appear in accordance with answers to preceding questions, and therefore it is important not to skip questions and answer the entire survey if possible.

Participation in this study is entirely anonymous, and any information you provide will remain anonymous and not be shared with other organisations.

Thank you for agreeing to participate in this study!

* The author is a member of the Israeli Bar Association and a qualified solicitor of England and Wales. This study is part of a doctoral dissertation being undertaken at the UCL Judicial Institute, Faculty of Laws, University College London, and is supported by the UCL Faculty of Laws and several other organisations.

Questions Regarding Legal education And the Legal Profession

Q1: Was your LL.B. obtained in Israel?

- Yes
- No
- n/a

Q2: [IF 'NO' TO Q0]

If your LL.B. was gained in a country other than Israel, please specify the name of the country in which you gained it [SELECT FROM a DROP-DOWN LIST] [DIRECTED TO Q5]

Q3: [IF 'YES' TO Q0]

If your LL.B. was obtained in Israel, in what type of an academic institution was it?

- University
- Academic college
- Other
- n/a

Q4: Please indicate the name of the academic institution in Israel from which you obtained your LL.B.:

- IDC Herzliya
- Ono academic college
- Netanya academic college
- College of Management
- Sha'arei Mishpat college
- Centre of law and business (Ramat Gan)
- Peres academic centre

- Carmel academic centre
- Zefat academic college
- Sapir college
- Haifa University
- Bar-Ilan University
- Tel Aviv university
- Hebrew University
- Other; please specify: _____

Q5: Did you study for your LL.B. in a combined program for laws and another non-legal degree?

- Yes [DIRECT TO Q6]
- No

Q6: If you studied in a combined program, what was the other degree you took in addition to your LL.B.?

- Accounting
- Business management / MBA
- Economics
- Education
- International relations
- Political science
- Psychology
- Social work
- Other fields in Humanities
- Other fields in Social sciences
- Other (please specify): _____

Q7: Do you have an academic (non-legal) degree that was obtained independently of your legal studies?

- Yes
- No
- No, but I am currently studying for a non-legal degree

Q8: [IF 'YES' OR 'NO, BUT' TO Q0]

If you have a non-legal degree or you are currently studying for one, please indicate in which field:

- Accounting
- Business management / MBA
- Economics
- Education
- International relations
- Political science
- Psychology
- Social work
- Other fields in Humanities
- Other fields in Social sciences
- Other (please specify): _____

Q9: Do you have an LL.M.?

- Yes
- No
- No but I am currently studying for an LL.M.

Q10: Do you have a PhD in Laws?

- Yes
- No

- No, but I am currently studying for a PhD in Laws

Q11: Do you have any other non-legal professional certificate and/or qualification? (e.g. teaching certificate, accountant)

- Yes; please specify _____
- No

Q12: Are you qualified to practice law in any country other than Israel (e.g. admission to the NY Bar)?

- Yes
- No

Q13: What was the duration of your internship? (This question refers to the duration of the compulsory internship period and not any pre-internship schemes, etc.)

- One year
- Two years
- Other

Q14: In which sector did you undertake your internship?

- The private sector
- The public sector
- Both
- n/a

Q15: In which of the following offices/posts did you intern?

- Private law firm
- The courts system
- State attorney

- IDF
- Another public sector position
- Other

Q16: In what year were you admitted to the Israeli bar? [SELECT FROM A DROP-DOWN LIST]

Q17: Are you currently working as a lawyer?

- Yes
- No [DIRECTED TO Q19]

Q18: How many years have you been working in the legal profession for (in Israel and/or generally)?

- Less than 5 years
- Between 5 and 10 years
- Between 10 and 15 years
- More than 15 years
- I am qualified but do not practise

Q19: In which sector are you currently working as a lawyer?

- Private sector
- The court system
- State attorney
- IDF
- NGO
- Other branch of the public sector
- Other; please specify: _____

Q20: Have you ever worked or are you currently working as a lawyer in the public sector?

- Yes
- No [DIRECTED TO Q22]

Q21: Have you ever worked or are you currently working as a lawyer in the court system?

- Yes
- No

Q22: Have you taught law in an academic institution in Israel (after being admitted to the Israeli Bar)?

- Yes
- No

Q23: Are you self-employed or a salaried lawyer?

- Self-employed
- Employed
- N/a

Q24: In which legal position are you currently working?

- Associate
- Partner
- Head of department
- Senior partner
- Co-founder
- Legal assistant
- Legal counsel/ in-house

- Self-employed
- Other
- n/a

Q25: In which geographic area in Israel are you currently working? (Please note this refers to your work place and not residence district)

- Haifa
- North
- South
- Tel-Aviv area
- Jerusalem area
- Centre

Q26: Have you ever worked as a lawyer outside Israel?

- Yes
- No

Q27: How would you define your area(s) of professional specialism? (Tick all that apply)

- Criminal law
- Constitutional law
- Administrative law
- Family law
- Labour law
- Real estate (land law)
- Tax law
- Traffic law

- Litigation
- Company law
- Tort law
- Banking law
- Insurance law
- N/a
- Other; please specify: _____

Q28: Why did you choose to work in the legal profession? Please tick all that apply.

- Expected income;
- Social status and prestige;
- Intellectual interest
- Ideals and beliefs (e.g. law as an important tool for social change)
- Followed Family members or other important figures who work in the profession
- I thought I would have an aptitude in it
- By chance
- Other reason; please specify: _____

Q29: Does anyone in your immediate family (i.e. parent(s), sibling(s), spouse/partner) work in the legal field?

- Yes
- No [DIRECTED TO Q31]

Q30: Are or were any of your family members judges in the Israeli judicial system?

- Yes
- No

Q31: Do you expect to be working in the legal profession in 5 years' time?

- Yes
- Probably
- No [DIRECTED TO Q32]

Q32: If you do not expect to be working in the legal profession in 5 years' time, please indicate why:

Q33: To what extent do you agree with the following statements?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
I am satisfied with the legal profession in general	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I am satisfied with my wage and benefits	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I am satisfied with my prospects of promotion	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I consider the legal profession as my vocation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

I am satisfied with the professional level of my colleagues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I am satisfied with the efficiency of the courts system	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I am satisfied with the professional level of the judges I have met	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q34: Would you consider applying to a judicial position in Israel during your legal career or in the future?

- Yes
- No
- Maybe
- Irrelevant

Q35: If you applied for a judicial position, what do you think would be your chances of success in being appointed?

- Very high
- High
- Moderate
- Low
- Very low
- Don't know

Q36: If you would consider applying for a judicial position in the future, please indicate why:

Q37: If you do not intend to apply for a judicial position in the future, please indicate why:

**Views and Perceptions Regarding Judicial Decision-Making, the Judiciary and Judges
(In Israel and Generally)**

Q38: To what extent do you agree with the following statements?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
Judges are professional, objective and neutral decision-makers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The background characteristics <u>of judges</u> (e.g. age, gender, ethnicity, religion etc.) have no bearing on their decision-making.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The background characteristics <u>of the parties in a given case</u> (e.g. age, gender, ethnicity, religion etc.) have no bearing on judicial decision-making.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges sit in an 'ivory tower' and are detached from everyday life	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Israeli legal system is characterized by a liberal approach	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Israeli legal system is characterized by secularism	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The Israeli legal system is characterized by a clear political orientation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Israel's legal system is balanced and fair	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The composition of the Israeli judiciary reflects the composition of the <u>Israeli society</u>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The composition of the Israeli judiciary reflects the composition of <u>the legal professionals in Israel</u>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q39: To what extent do you agree with the following statements?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
Diversity in the judiciary is an important component in the legitimacy of courts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The composition of the judiciary should reflect the composition of the society in which it operates.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges' professional conduct is the only	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

relevant factor to ensure public trust in courts.						
It is important that a variety of sectors of Israeli society (e.g. women, Sephardic Jews, Arabs etc.) are represented in the judiciary	○	○	○	○	○	○
The judiciary will become increasingly diverse over time	○	○	○	○	○	○

Q40: For each of the following groups, please indicate the extent to which you agree they are diverse and reflective of the Israeli society:

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
The population of law students in Israel (in universities and colleges alike) is diverse and reflective of the Israeli society	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The population of legal professionals in Israel is diverse and reflective of the Israeli society	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The population of sitting judges in Israel is	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

diverse and reflective of the Israeli society						
The population of senior judges in Israel (e.g. presidents of courts, supreme court justices etc.) is diverse and reflective of the Israeli society	○	○	○	○	○	○
The population of senior legal practitioners in Israel (e.g. partners in law firms, heads of departments in the State Attorney's	○	○	○	○	○	○

office) is diverse and reflective of the Israeli society						
The population of outstanding law students in Israel (e.g. on the dean's list) is diverse and reflective of the Israeli society	○	○	○	○	○	○

Q41: For each of the following groups please indicate the extent to which you think they are represented amongst Israeli law students (e.g. to what extent are women represented amongst law students, etc.):

	Under-represented among Israeli law students	Over represented among Israeli law students	Adequately represented among Israeli law students	Don't know
Women	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Muslim Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Christian Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Druze	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religious Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ashkenazi Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sephardic Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New immigrants ('Olim')	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify): _____	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q42: For each of the following groups please indicate the extent to which you think they are represented amongst Israeli lawyers: (e.g. to what extent are women represented amongst Israeli lawyers, etc.)

	Under-represented among Israeli lawyers	Over represented among Israeli lawyers	Adequately represented among Israeli lawyers	Don't know
Women	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Muslim Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Christian Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Druze	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religious Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ashkenazi Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sephardic Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New immigrants (‘Olim’)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify): _____	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q43: For each of the following groups please indicate the extent to which you think they are represented amongst Israeli judges (e.g. to what extent are women represented amongst Israeli judges, etc.)

	Under- represented among Israeli judges	Over represented among Israeli judges	Adequately represented among Israeli judges	Don't know
Women	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Muslim Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Christian Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Druze	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religious Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ashkenazi Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sephardic Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New immigrants (‘Olim’)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify): _____	○	○	○	○
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Q44: Do you think anything should be done about judicial diversity in Israel?

- Yes [DIRECTED TO Q45]
- No [DIRECTED TO Q46]

Q45: If you answered ‘yes’ to the previous question, what should be done, in your view, to address judicial diversity in Israel (tick all that is applicable)?

- Judicial diversity should be considered in the judicial appointments process
- Special quotas for judges from under-represented groups/backgrounds should be set.
- The Israeli Bar Association should proactively locate eligible candidates for justiceship among lawyers and especially lawyers from minority groups.
- There should be an open public discussion on the matter, which would influence the nominations procedure.
- Other; please specify: _____

Q46: If you answered ‘no’ to the previous question, please indicate why in your view nothing should be done regarding judicial diversity in Israel (tick all that is applicable):

- Judicial diversity will improve over time and does not require any action or intervention
- There is no problem with judicial diversity in Israel
- Any attempt to ‘diversify’ the judiciary could undermine the legitimacy of the judicial system and public trust in judges.
- Increasing judicial diversity might harm the professionalism of judges
- Other; please specify: _____

Questions Regarding Nationality, Society and Population Groups in Israel

Q47: To what extent do you define yourself as Israeli?

- Completely
- To some extent
- To a small extent
- Not at all

Q48: To what extent do you identify with the state of Israel and its institutions?

- Completely
- To some extent
- To a little extent
- Not at all

Q49: To what extent do you trust the following institutions/bodies in Israel?

	To a large extent	To some extent	To a small extent	Not at all	Don't know
The court system	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The police	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The state advocacy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The army (IDF)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The media	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q50: Please rate on a scale of 1 to 5 (where 5 describes the most important component and 1 the least important) how important the following factors are in the way you define yourself (e.g. if gender is the most important component in your self-definition, it should be rated 5 etc.)

	5 – most important	4	3	2	1 – least important
My religion (e.g. ‘I am Jewish’, ‘I am Muslim’ etc.)	<input type="radio"/>				<input type="radio"/>
My nationality (e.g. ‘I’m Israeli’, ‘I am Arab’ etc.)	<input type="radio"/>				<input type="radio"/>
My ideological or political views (e.g. I am Zionist, I am a feminist)	<input type="radio"/>				<input type="radio"/>
My ethnicity (e.g., I am Ashkenazi; I am Bedouin etc.)	<input type="radio"/>				<input type="radio"/>
My gender	<input type="radio"/>				<input type="radio"/>
Other; please specify	<input type="radio"/>				<input type="radio"/>

Q51: Please indicate how influential you believe each factor is on one’s likelihood of success and integration in the Israel society:

	Very Influential	Influential	Not So Influential	Not Influential At All	Don’t Know
Age	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ethnic origin	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Nationality and religion	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Place of residence (e.g. periphery)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Personal connections, acquaintances	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Appearance and looks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Education	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Skills and abilities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Income and social status	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Profession and qualifications	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Luck/ fate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q52: In your view, which of the following population groups (if any) is most worthy of affirmative action?

- Women
- Sephardic Jews
- People with disabilities (physical, mental, etc.)
- Arabs
- New immigrants
- Orthodox and religious Jews
- LGBT
- None of the groups
- Other; please specify: _____

Q53: Have you ever felt you have been discriminated against and/or treated differently, during your studies and/or your work, on grounds of the following characteristics?

	During your studies	In the workplace	In court
Nationality	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religion and/or religiosity	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ethnic origin and/or 'Eda'	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sexual orientation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Age	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other background characteristic; please specify: _____	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Background characteristics

Q54: what is your Age group?

- 18-24
- 25-34
- 35-44
- 45-54
- 55-64
- Other; please specify: _____

Q55: Gender

- Female
- Male
- Other

Q56: Country of birth

- Israel
- Other [DIRECT TO Q57]

Q57: if you were not born in Israel, please specify your country of birth [SELECT FROM a DROP-DOWN LIST]

Q58: If you were not born in Israel – how long have lived in Israel?

- Less than a year
- Between 1 and 5 years
- 5-10 years
- 10-15 years
- More than 15 years
- n/a

Q59: Please state your **Father's** country of birth [SELECT FROM a DROP-DOWN LIST]

Q60: Please state your **Mother's** country of birth: [SELECT FROM a DROP-DOWN LIST]

Q61: How do you define yourself?

- Jewish
- Muslim
- Christian
- Druze
- Samaritan
- Without religion affiliation
- Mixed/other; please specify: _____

[IF TICKED 'JEWISH' OR 'MIXED/OTHER' OR 'NO RELIGION' IN Q61]

Q62: how would you define your intra-Jewish ethnic origin ('Eda')?

- Sephardic/ Mizrahi
- Ashkenazi
- Ethiopian
- Russian/ former USSR
- Mixed
- Irrelevant
- Other; please specify: _____

Q63: [IF TICKED ALL OTHER OPTIONS OTHER THAN 'JEWISH' IN Q61 or TICKED 'N/A' IN Q62]

How would you define yourself in terms of affiliation to any of the following national/religious groups?

- Arab
- Druze
- Bedouin
- Armenian
- Circassian
- Samaritans
- Irrelevant
- Other; please specify: _____

Q64: Which of the following best describes your level of religious observance?

- Very religious (e.g. for Jews: Orthodox/ Haredi)
- Religious
- Observant ('Massorti')
- Secular
- Atheist
- Other; please specify: _____

Q65: How would you describe your personal status?

- Single (never married)
- Co-habiting
- Married
- Separated
- Divorced
- Widowed

Other; please specify: _____

Q66: Please indicate the type of locality you live in:

- City/town
- Village
- 'Moshav'
- Kibbutz
- Local council
- Development town
- Other; please specify: _____

Q67: In which of the following geographical districts in Israel do you reside?

- Jerusalem
- Northern
- Haifa
- Central
- Tel-Aviv
- Southern

Q68: Have you served in the IDF?

- Yes
- No
- No, but I served in 'National Service' scheme ('Sherut Le'umi')

Q69: The monthly average income in Israel in 2013 was ~ 9,200 NIS (gross). How would you define your income level compared to the average?

- Well below the average
- Below the average
- More or less as the average

- Above the average
- well above the average
- I do not work

[COMPLETE / END]

Thank you for taking part in this survey!

For any queries or comments regarding the survey or this study, please contact:



Appendix 3: English translation of survey questionnaire for Israeli law students

Survey questionnaire for Law Students in Israel

Diversity in the Israeli Judiciary and the Legal Profession

Dear Law Student,

This survey is part of a study about diversity in the Israeli judiciary. The issue of judicial diversity is constantly on the public agenda, and claims of under-representation of various groups and sectors in the Israeli judiciary are often heard. Yet there is little evidence about the composition of the judicial system, and even less regarding lawyers and law students – the two crucial populations that form the potential pool for future judicial appointments (at present and in the future).

This questionnaire is designed to understand the demographics of law students and legal practitioners in Israel today; and to understand their views and perceptions about judicial diversity.

By completing this survey, you would enhance our understanding of the ‘pool’ of legal professionals from which the future judges of Israel are likely to be selected. You would also be contributing to an important study that is the first of its kind in Israel.

Your participation and cooperation are therefore highly important and very much appreciated.

Most of the questions in this survey are multiple-choice questions. Please choose the option that is most suitable to your views, perceptions or circumstances. There are no right’ or ‘wrong’ answers. Unless otherwise stated, you should tick **only one** of the options for each question.

Participation in this study is entirely anonymous, and any information you provide will remain anonymous and not shared with other organisations.

Thank you for agreeing to participate in this study!

* The author is a member of the Israeli Bar Association and a qualified solicitor of England and Wales. This study is part of a doctoral dissertation being undertaken at the UCL Judicial Institute, Faculty of Laws, University College London, and is supported by the UCL Faculty of Laws and several other organisations.

Questions regarding Legal Education and the Legal Profession

Q1: What degree are you currently studying for?

- LL.B.
- LL.M.
- PhD (in laws) / JD
- Other; please specify: _____

Q2: What year of your degree are you in?

- First
- Second
- Third
- Fourth
- Other

Q3: In which type of academic institution are you taking this degree?

- University
- Academic College
- Other

Q4: Please indicate the name of the institution you are currently studying at:

- Bar-Ilan University
- Haifa university
- Tel-Aviv university
- Hebrew university
- Zefat academic college

- College of Management
- Carmel academic centre
- Peres academic centre
- IDC Herzliya
- Centre of Law and Business (Ramat Gan)
- Ono academic college
- Netanya academic college
- Sapir college
- Sha'arei Mishpat college
- Other; please specify: _____

Q5: Are you currently studying for another (non-legal) degree as well? (In a combined program with law or a different scheme)

- Yes [DIRECT TO Q6]
- No [DIRECT to Q0]

Q6: [IF 'YES' TO Q0] If you answered 'yes' to the previous question, what is the non-legal degree you are currently studying for in addition to your legal degree?

- Accounting
- Business management / MBA
- Economics
- Education
- International relations
- Political science
- Psychology
- Social work
- Other fields in Humanities

- Other fields in Social sciences
- Other (please specify): _____

Q7: Do you already have an academic (non-legal) degree?

- Yes [DIRECT TO Q8]
- No [DIRECT TO Q9]

Q8: [IF 'YES' TO Q0] If you already have a non-legal degree, please indicate in which field (tick all that apply):

- Accounting
- Business management / MBA
- Economics
- Education
- International relations
- Political science
- Psychology
- Social work
- Other fields in Humanities
- Other fields in Social sciences
- Other (please specify): _____

Q9: Do you have any other non-legal professional certificate and/or qualification? (e.g. teaching certificate, accountant)

- no
- Yes; please specify _____

Q10: [IF ANSWERED 'LLM', 'PhD', OR 'OTHER' TO Q0] for graduate or postgraduate law students: do you already have an LL.B.?

- Yes
- No [DIRECT TO Q12]

Q11: [IF 'YES' TO Q0] If so, was your LL.B. gained in an Israeli academic institution?

- Yes
- No [DIRECT TO Q13]

Q12: [IF 'YES' TO Q0] If your LL.B. was gained in an Israeli academic institution, please indicate whether this was a:

- University
- College
- other
- n/a

Q13: [IF ANSWERED 'LL.M.', 'PhD', OR 'OTHER' TO Q0] for graduate or postgraduate law students: Have you successfully passed the Israeli Bar exams and qualified as a lawyer in Israel?

- Yes
- No
- n/a

Q14: Are you qualified to practice law in a country other than Israel?

- Yes
- No

Q15: Why did you choose to study law (tick all that apply)?

- Expected income
- Social status and prestige
- Intellectual interest
- Ideals and beliefs (e.g. law as a tool for social change)
- Followed family members or other important figures who studied laws
- By chance
- I thought I would have an aptitude for it
- Other reason (please specify): _____

Q16: Do you intend to take an internship in Israel once you complete your studies?

- Yes [DIRECT TO Q17]
- No
- n/a
- I am already a qualified lawyer in Israel and am not required to take an internship.

Q17: [IF 'YES' TO Q0] Where do you intend or hope to undertake your internship?

- The private sector
- The Public sector (State Advocacy, government offices, etc.)
- The Court system
- NGO's
- I haven't decided yet

- I do not intend to take an internship
- n/a
- Other (please specify): _____

Q18: Once you complete your internship period, do you intend to take the Israeli Bar exams?

- Yes
- No

Q19: [IF 'YES' TO Q0 AND TO Q0] Do you intend to work as a lawyer in Israel after completing your internship and successfully passing the Bar exams?

- Yes
- No
- n/a

Q20: Are you currently working or have you worked as a lawyer (in Israel or elsewhere)?

- Yes
- No

Q21: Have you ever worked or are you currently working in a legal position in Israel or elsewhere? (E.g. pre-internship, student legal work, etc.)

- Yes
- No
- n/a

Q22: [IF 'YES' TO Q0] If you have worked in a legal position, please indicate if this work is/was in the:

- Private sector
- Public sector
- Both (if you worked in more than one place)
- n/a

Q23: Does anyone of your immediate family (i.e. parent, sibling, spouse/partner) work in the legal field?

- Yes
- No [DIRECT TO Q25]

Q24: [IF 'YES' TO Q0] Are or were any of these family members judges in the Israeli judicial system?

- Yes
- No

Q25: Do you expect to be practicing in the legal profession 5 years from now?

- Yes
- Probably
- No ; If you answered No please indicate why in the box below:

Q26: Would you consider applying for a judicial position in the future or at some stage in your legal career?

- No
- Yes
- Maybe
- N/a

Q27: [IF 'NO' TO Q0] If you do not intend to apply for a judicial position, please indicate why:

Q28: [IF 'YES' OR 'MAYBE' TO Q0] If you would or might consider applying for a judicial position in the future, please indicate why:

**Views and Perceptions Regarding Judicial Decision-Making, the Judiciary and Judges
(in Israel and generally)**

Q29: To what extent do you agree with the following statements?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
Judges are professional, objective and neutral decision-makers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The background characteristics <u>of judges</u> (e.g. age, gender, ethnicity, religion etc.) have no bearing on their decision-making.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The background characteristics <u>of the parties in a given case</u> (e.g. age, gender, ethnicity, religion etc.) have no bearing on judicial decision-making.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges sit in an 'ivory tower' and are detached from everyday life	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Israeli legal system is characterized by a liberal approach	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Israeli legal system is characterized by secularism	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The Israeli legal system is characterized by a clear political orientation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Israel's legal system is balanced and fair	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The composition of the Israeli judiciary reflects the composition of <u>Israeli society</u>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The composition of the Israeli judiciary reflects the composition of <u>the legal professionals in Israel</u>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q30: To what extent do you agree with the following statements?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
Diversity in the judiciary is an important element in the legitimacy of courts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The composition of the judiciary should reflect the composition of the society in which it operates.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges' professional conduct is the only	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

relevant factor to ensure public trust in courts.						
It is important that a variety of sectors in Israeli society (e.g. women, Sephardic Jews, Arabs etc.) are represented in the judiciary	○	○	○	○	○	○
The judiciary will become increasingly diverse over time	○	○	○	○	○	○

Q31: For each of the following groups, please indicate the extent to which you agree they are diverse and reflective of the Israeli society:

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
The population of law students in Israel (in universities and colleges alike) is diverse and reflective of the Israeli society	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The population of legal professionals in Israel is diverse and reflective of the Israeli society	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The population of sitting judges in Israel is	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

diverse and reflective of the Israeli society						
The population of senior judges in Israel (e.g. presidents of courts, supreme court justices etc.) is diverse and reflective of the Israeli society	○	○	○	○	○	○
The population of senior legal practitioners in Israel (e.g. partners in law firms, heads of departments in the State Attorney's	○	○	○	○	○	○

office) is diverse and reflective of the Israeli society						
The population of outstanding law students in Israel (e.g. on the dean's list) is diverse and reflective of the Israeli society	○	○	○	○	○	○

Q32: For each of the following groups please indicate the extent to which you think they are represented amongst Israeli law students (e.g. to what extent are women represented amongst law students, etc.):

	Under-represented among Israeli law students	Over represented among Israeli law students	Adequately represented among Israeli law students	Don't know
Women	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Muslim Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Christian Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Druze	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religious Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ashkenazi Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sephardic Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New immigrants ('Olim')	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify): _____	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q33: For each of the following groups please indicate the extent to which you think they are represented amongst Israeli lawyers: (e.g. to what extent are women represented amongst Israeli lawyers, etc.)

	Under-represented among Israeli lawyers	Over represented among Israeli lawyers	Adequately represented among Israeli lawyers	Don't know
Women	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Muslim Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Christian Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Druze	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religious Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ashkenazi Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sephardic Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New immigrants (‘Olim’)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify): _____	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q34: For each of the following groups please indicate the extent to which you think they are represented amongst Israeli judges (e.g. to what extent are women represented amongst Israeli judges, etc.)

	Under- represented among Israeli judges	Over represented among Israeli judges	Adequately represented among Israeli judges	Don't know
Women	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Muslim Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Christian Arabs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Druze	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religious Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ashkenazi Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sephardic Jews	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
New immigrants (‘Olim’)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify): _____	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q35: Do you think anything should be done about judicial diversity in Israel?

- Yes [DIRECT TO Q36]
- No [DIRECT TO Q37]

Q36: If you answered ‘yes’ to the previous question, what should be done in your view to address judicial diversity in Israel (tick any options that reflect your view)?

- Judicial diversity should be considered in the judicial appointments process
- Special quotas for judges from under-represented groups/backgrounds should be set.
- The Israeli Bar Association should proactively locate eligible candidates for judicial posts among lawyers and especially lawyers from minority groups.
- There should be an open public discussion on the matter, which would influence the nominations procedure.
- Other; please specify: _____

Q37: If you answered ‘no’ to the previous question, please indicate why in your view nothing should be done regarding judicial diversity in Israel (tick any that reflect your view):

- Judicial diversity will improve over time and does not require any action or intervention
- There is no problem with judicial diversity in Israel
- Any attempt to ‘diversify’ the judiciary could undermine the legitimacy of the judicial system and public trust in judges.
- Increasing judicial diversity might harm the professionalism of judges
- Other; please specify: _____

Questions Regarding Nationality, Society and Population Groups in Israel

Q38: To what extent do you define yourself as Israeli?

- Completely
- To some extent
- To a small extent
- Not at all

Q39: To what extent do you identify with the state of Israel and its institutions?

- Completely
- To some extent
- To a little extent
- Not at all

Q40: To what extent do you trust the following institutions/bodies in Israel?

	To a large extent	To some extent	To a small extent	Not at all	Don't know
The court system	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The police	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The State Advocacy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The army (IDF)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The media	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q41: Please rate on a scale of 1 to 5 (where 5 describes the most important component and 1 the least important) how important the following factors are in the way you define yourself (e.g. if gender is the most important component in your self-definition, it should be rated 5, etc.)

	5 – most important	4	3	2	1 – least important
My religion (e.g. ‘I am Jewish’, ‘I am Muslim’ etc.)	<input type="radio"/>				<input type="radio"/>
My nationality (e.g. ‘I’m Israeli’, ‘I am Arab’ etc.)	<input type="radio"/>				<input type="radio"/>
My ideological or political views (e.g. I am Zionist, I am a feminist)	<input type="radio"/>				<input type="radio"/>
My ethnicity (e.g., I am Ashkenazi, I am Bedouin etc.)	<input type="radio"/>				<input type="radio"/>
My gender	<input type="radio"/>				<input type="radio"/>
Other; please specify	<input type="radio"/>				<input type="radio"/>

Q42: Please indicate how influential you believe each factor is on one’s likelihood of success and integration in the Israel society:

	Very Influential	Influential	Not So Influential	Not Influential At All	Don’t Know
Age	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ethnic origin	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Nationality and religion	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Place of residence (e.g. periphery)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Personal connections, acquaintances	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Appearance and looks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Education	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Skills and abilities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Income and social status	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Profession and qualifications	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Luck/ fate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q43: in your view which of the following population groups (if any) is most worthy of affirmative action?

- Women
- Sephardic Jews
- Disabled (physically/mentally)
- Arabs
- New immigrants
- Orthodox and/or religious Jews
- LGBT
- None of these groups
- Other; please specify _____

Q44: Have you ever felt you have been discriminated against and/or treated differently during your studies and/or your work, on grounds of the following characteristics?

	During your studies	In the workplace
Nationality	<input type="radio"/>	<input type="radio"/>
Religion and/or religiosity	<input type="radio"/>	<input type="radio"/>
Ethnic origin and/or 'Eda'	<input type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input type="radio"/>
Sexual orientation	<input type="radio"/>	<input type="radio"/>
Disability	<input type="radio"/>	<input type="radio"/>
Age	<input type="radio"/>	<input type="radio"/>
Other background characteristic; please specify: _____	<input type="radio"/>	<input type="radio"/>

Background characteristics

Q45: What is your Age group?

- 18-24
- 25-34
- 35-44
- 45-54
- 55-64
- Other

Q46: Gender

- Male
- Female
- other

Q47: Country of birth

- Israel [DIRECT TO Q50]
- Other [DIRECT TO Q48]

Q48: If you were not born in Israel, please specify your country of birth [SELECT FROM a DROP-DOWN LIST]

Q49: If you were not born in Israel – how long have you lived in Israel?

- Less than a year
- Between 1 and 5 years
- 5-10 years
- 10-15 years
- More than 15 years

- n/a

Q50: Please state your Father's country of birth [SELECT FROM a DROP-DOWN LIST]

Q51: Please state Mother's country of birth [SELECT FROM a DROP-DOWN LIST]

Q52: How do you define yourself?

- Jewish
- Muslim
- Christian
- Druze
- Samaritan
- Without religion affiliation
- Mixed/other; please specify: _____

Q53: [IF TICKED 'JEWISH' OR 'MIXED/OTHER' OR 'NO RELIGION' IN Q0]

How would you define your intra-Jewish ethnic origin ('Eda')?

- Sephardic/ Mizrahi
- Ashkenazi
- Ethiopian
- Russian/ former USSR
- Mixed
- Irrelevant
- Other; please specify: _____

Q54: [IF TICKED ALL OTHER OPTIONS RATHER THAN 'JEWISH' IN Q0 or TICKED 'N/A' IN Q0]

How would you define yourself in terms of affiliation to any of the following national/religious groups?

- Arab
- Druze
- Bedouin
- Armenian
- Circassian
- Samaritans
- irrelevant
- other; please specify: _____

Q55: Which of the following best describes your level of religious observance?

- Very religious (e.g. for Jews: Orthodox/ Haredi)
- Religious
- Observant ('Massorti')
- Secular
- Atheist
- Other; please specify: _____

Q56: How would you describe your personal status?

- Single (never married)
- Co-habiting
- Married
- Separated
- Divorced
- Widowed

Other; please specify: _____

Q57: Please indicate the type of locality you live in:

- City/town
- Village
- 'Moshav'
- Kibbutz
- Local council
- Development town
- Other; please specify: _____

Q58: In which of the following geographical districts in Israel do you reside?

- Jerusalem
- Northern
- Haifa
- Central
- Tel-Aviv
- Southern

Q59: Have you served in the IDF?

- Yes
- No
- No, but I served in 'National Service' scheme ('Sherut Le'umi')
- I am studying in the academic reserve scheme ('Atuda') and expected to be drafted to the army upon completion of my degree.

Q60: The monthly average income for employees in Israel in 2013 was 9,200 NIS (gross). How would you define your income level compared with the average?

- Well below the average

- Below the average
- More or less as the average
- Above the average
- Well above the average
- I do not work

[COMPLETE / END]

Thank you for taking part in this survey!

For any queries or comments regarding the survey or this study, please contact:



Appendix 4: Invitation to lawyers to take the survey, as it appeared in the Israeli Bar newsletter (first image) and in the electronic notice board (second image) both on the Bar website

הודעות ועדכונים

הזמנה לשתתפות בסקר העוסק בגיוון (diversity) באוכלוסיית הסטודנטים למשפטים, עורכי הדין והשופטים בישראל

המחקר מתמקד בחקר מאפיינים של סטודנטים למשפטים, עורכי-דין ושופטים בישראל ובפרט בנושא של מגוון (diversity) ביכולויות הללו. לשכת עורכי-הדין בישראל הסכימה לזר שיאמנה איתם בבקשה זו. יוצג כי הסקר היום אנונימי לחלוטין.

14.8.2014
המשך קריאה

הודעה בדבר סגירת לשכת רישום מקרקעין נתניה לקבלת קהל לשם הטמעת מערכת מיחשוב חדשה החל מ-9.9.2014

לשכת רישום המקרקעין והמפקחת על רישום מקרקעין בנתניה תהייה סגורה לציבור בין התאריכים 09.09.2014 ל-17.09.2014 כולל. במאריכים התנבים לעיל לא יינתן כל שירות לגבי המקרקעין המצויים בתחום לשכת רישום נתניה - הפקדת תיקים, הגשת תובענות, דיונים שיפוטיים וכ"ד.

7.9.2014
המשך קריאה

ללשכת עורכי הדין דרושים/ות מפקחים/ות על ההתמחות

במסגרת הפעלת מערך הפיקוח על המתמחים, דרושים ללשכה מפקחים/ות בשכר בכל רחבי הארץ.

11.9.2014
המשך קריאה
לדף המדור הפלא

מועדון הצרכנות < חדשות צרכנות

מבצע תווי קנייה - ראש השנה תשע"ה

כמדי שנה לקראת החגים, אנו שמחים להגיע לכם לרכוש את תווי השי (בכרטיסים מגנטיים) באמצעות הלשכה. עבורכם/ן ועבור עובדות ועובדי המשרד. תווי השי תקפים ל-5 שנים, לרבות במבצעים.

19.8.2014
המשך קריאה
לדף המדור הפלא

גופים קשורים

שכר מצווה

המוסד הארצי לגישור

החברה הכלכלית

שומר הסף

עורך הדין

חיפוש באתר הקלד כאן טקסט לחיפוש חפש לחיפוש מתקדם <<

לאיזור האישי
תשלום דמי חבר
עדכון פרטים אישיים ועוד...



עמוד הבית << עורכי דין >> הדעות ועדכונים <<
 הזמנה לשתתפות בסקר העוסק בגיוון (diversity) באוכלוסיית הסטודנטים למשפטים, עורכי דין והשופטים בישראל <<

הדעות ועדכונים
הזמנה לשתתפות בסקר העוסק בגיוון (diversity) באוכלוסיית הסטודנטים למשפטים, עורכי דין והשופטים בישראל

14.08.2014

ע"ד יעל לוי-אראל

המחקר מתמקד בחקר מאפיינים של סטודנטים למשפטים, עורכי-דין ושופטים בישראל ובפרט בנושא של מגוון (diversity) באוכלוסיות הללו. לשכת עורכי-הדין בישראל הסכימה לך שאפנה אליכם בבקשה זו. יודגש כי הסקר הינו אנונימי לחלוטין.

חבר/ה יק/ה,

אני פונה אליכם בבקשה כי תשתתפו בסקר המצ"ב על עורכי-דין בישראל. אני חברת לשכת עוה"ד בישראל ובמים אלו משלימה את עבודת הדוקטורט שלי בפקולטה למשפטים ב- University College London. המחקר מתמקד בחקר מאפיינים של סטודנטים למשפטים, עורכי-דין ושופטים בישראל ובפרט בנושא של מגוון (diversity) באוכלוסיות הללו. לשכת עורכי-הדין בישראל הסכימה לך שאפנה אליכם בבקשה זו. יודגש כי הסקר הינו אנונימי לחלוטין.

ניתן להשתתף בסקר באמצעות לחיצה על הקישור הבא:

<https://opinio.ucl.ac.uk/s?s=31936>

אודה לכם מאוד אם תקדישו מספר דקות להשיב על השאלון. השתתפותכם במחקר זה תתרום רבות להצלחתו.

לפרטים נוספים או שאלות בנוגע למחקר, ניתן לפנות אליי באמצעות הדוא"ל: yael.ariel.09@ucl.ac.uk

בתודה מראש על שיתוף הפעולה.

יעל לוי-אראל, ע"ד

חזרה | ארכיון | גישה להדפסה | לראש העמוד | שלח לחבר | לראש העמוד

לשכת עורכי הדין בישראל
 ISRAEL BAR ASSOCIATION
 نقابة المحامين في إسرائيل

חיפוש ע"ד:

משפחה: חפש

שם: לחיפוש מתקדם

הלשכה והמחוזות

עורכי דין

הציבור הרחב

מתמחים



ע"ד אפי נוה, ראש לשכת עורכי הדין

המדרשה
להשתלמות
עורכי דין

ביטוח אחריות
מקצוענית הבהור
על ידי לשכת
עורכי הדין

הפוליסה מתקשרת ביטוח המבטוחת ריבך כשנשי מלא כיסור רעואקטיבי בלבו ומגביל לכלל הפגנות

לפרטים נוספים <<

לביטוח לאומי
נכנסים
רק עם עו"ד

למידע נוסף

אתיקה מקצועית

Appendix 5: Initial request to Deans of Israeli Law Schools and Faculties to collaborate with this study (sent by email during May 2014)

To:

Professor [FULL NAME]

Dean of Faculty of Laws/ Law School

[INSERT INSTITUTION NAME]

Dear madam/sir,

My name is Yael Levy-Ariel and I am a doctoral student at the UCL Judicial Institute in the Faculty of Laws of University College London. I have previously graduated with an LL.B. and a BA (Communication and Journalism) from the Hebrew University, and have also been awarded an LL.M. from the UCL Faculty of Laws. I am a qualified Israeli lawyer and a solicitor of England and Wales.

My current research deals with judicial diversity in Israel. It examines the background characteristics of sitting judges in Israel and the possible relationship between the demographic profile of Israeli judges and the demographic profiles of Israeli lawyers and law students, which comprise the 'pool' for potential judicial appointments.

I am writing to seek your cooperation with my empirical-legal study in which I aim to distribute an online survey to Israeli law students in all relevant academic institutions. I do not require any funding or support, only technical assistance in sending a link to the online survey to your students. Once the data collection and analysis are completed, I would be happy to share my findings and conclusions with you.

I strongly believe that if I gain the cooperation of various academic institutions (universities and colleges alike), the findings of this study will be valuable not only for my research, but also for anyone who values the importance of legal education and the legal profession in Israel. Specifically, distributing the survey in [INSERT INSTITUTION NAME] is highly important because of the composition of your students and because of [INSERT RELEVANT FIGURES, E.G. IF THIS IS A WELL-ESTABLISHED INSTITUTION, ANY GRADUATES IN THE JUDICIARY, ETC.]. In addition, in the future some of your law graduates are likely to become eligible candidates for a judicial post, therefore my interest in this population is clear.

For your information, I have included an abstract of my research, detailing the purposes of the survey as well as its content and scope. I would be happy to send you the full questionnaire should you wish to see it. Please note that this letter and the attached abstract are currently being sent to all law faculties and schools in Israel.

It is important to note that the survey was developed for academic purposes only, and it will be distributed and completed anonymously. Also this study is not intended to criticise the judiciary, the Israeli Bar Association or any legal academic institutions in Israel. Rather, the aim of my research is to understand the extent to which the Israeli judiciary is diverse and the possible links between judicial diversity (or its lack thereof) and the characteristics of Israeli lawyers and law students.

My research is funded by the UCL Faculty of Laws and is also supported by the British Friends of the Hebrew University, the Anglo-Israel Association and the Anglo-Jewish Association.

I would be happy to send you any additional information you may require, including the questionnaires, my CV, etc. If you wish to speak over the phone, please let me know of the best way to get in touch.

I would like to thank you for your time and I hope you will agree to participate in this research.

Yael Levy Ariel (Adv.)

[REDACTED]

Appendix 6: Invitation to Israeli law students to participate in the survey (sent by email during July-August 2014 through the Deans of Law Schools and/or staff members)

[SUGGESTED SUBJECT LINE: "WHO ARE THE FUTURE JUDGES OF ISRAEL?"]¹¹

Dear students in the law faculty/school at [INSERT NAME OF INSTITUTION]

I am writing to ask you to participate in the attached survey about Israeli law students. I am a research student at the UCL Faculty of Laws, and my study examines the background characteristics and perceptions of law students, lawyers and judges in Israel. Your faculty/school [OPTION: INSERT DEAN'S NAME IF APPLICABLE] has approved of the sending of this request to you to participate in my survey. Completing this survey should take only a few minutes of your time, and it is completely anonymous.

To take the survey please click on the link below:

<https://opinio.ucl.ac.uk/s?s=31934>

I would be very grateful if you could take part in this survey. Your cooperation will be extremely valuable and will contribute to the success of this study.

For additional details or queries regarding this study, please contact:

████████████████████

¹¹ The author suggested using this subject line in the email sent to students through their departments. However, the faculties themselves made the final decision of the wording of the subject matter and any other information that deans decided to include.

Appendix 7: Statistical analysis appendix – chapter 6

This appendix sets out the statistical analyses conducted as part of chapter 6 (Judges' analysis). It does not cover every single statistical analysis that was carried out for the purpose of this study, as these are numerous. Instead, it focuses on the findings that arose from statistically significant cross analyses between variables, and elaborates on the important results displayed in chapter 6 (including results displayed in tables and figures in the chapter).

The results of the **significance tests (chi-square)** and the outputs of the statistical package in which the analysis was conducted (SPSS) are displayed below by order of appearance in chapter 6. Each output table displays the actual count, the expected count, and the adjusted Pearson residuals (or 'PR'), which indicate which cells in the table caused the 'lack of fit', i.e. contributed to the significant chi-square result. Furthermore, where appropriate, an **independent sample t-test** was performed to compare the means of two **independent** groups in order to determine whether there is statistical evidence that the associated population means are significantly different (for example, comparing the mean age of male and female judges, comparing the length of professional experience prior to first judicial appointment for Jews and Arabs, etc.).

1. Gender

a. Cross analysis of gender and type of court

			Type of court								Total	
			Magistra tes	Distri ct	Supre me Court	Juven ile	Traff ic	Fam ily	Labou r- Natio nal	Labou r- Regio nal		Courts managem ent
Gender	Male	Count	163	103	12	5	13	24	3	22	2	347
		Expect ed	164.2	86.6	8.1	8.1	13.4	30.6	3.4	31.6	1.0	347 .0
		Count Adjust ed Residu al	-2	2.8	1.9	-1.5	-2	-1.7	-3	-2.5	1.5	
Female		Count	180	78	5	12	15	40	4	44	0	378
		Expect ed	178.8	94.4	8.9	8.9	14.6	33.4	3.6	34.4	1.0	378 .0
		Count Adjust ed Residu al	.2	-2.8	-1.9	1.5	.2	1.7	.3	2.5	-1.5	
Total		Count	343	181	17	17	28	64	7	66	2	725
		Expect ed	343.0	181. 0	17.0	17.0	28.0	64.0	7.0	66.0	2.0	725 .0
		Count										

Chi-Square Tests

	Value	df	Asym p. Sig. (2- sided)
Pearson Chi-Square	22.395 ^a	8	.004
Likelihood Ratio	23.498	8	.003
Linear-by-Linear Association	6.528	1	.011
N of Valid Cases	725		

b. Gender and position in court (seniority)

			Position in court					Total	
			Registrar	Senior registrar	Judge	Senior judge	Vice president		President
Gender Male	Count		13	17	234	23	49	11	347
	Expected Count		17.2	18.2	242.7	23.9	34.9	10.1	347.0
	Adjusted Residual		-1.4	-.4	-1.4	-.3	3.5	.4	
Female	Count		23	21	273	27	24	10	378
	Expected Count		18.8	19.8	264.3	26.1	38.1	10.9	378.0
	Adjusted Residual		1.4	.4	1.4	.3	-3.5	-.4	
Total	Count		36	38	507	50	73	21	725
	Expected Count		36.0	38.0	507.0	50.0	73.0	21.0	725.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	13.828 ^a	5	.017
Likelihood Ratio	14.019	5	.015
Linear-by-Linear Association	8.057	1	.005
N of Valid Cases	725		

2. Religion

a. Religious group with type of court (non-significant)

			Religious group					Total
			Jewish	Muslim	Christian	Druze	other non-Jewish	
Type of court	Magistrates	Count	307	6	24	3	3	343
		Expected Count	314.6	6.2	18.5	2.4	1.4	343.0
		Adjusted Residual	-2.1	-.1	1.8	.6	1.8	
	District	Count	171	3	6	1	0	181

	Expected Count	166.0	3.2	9.7	1.2	.7	181.0
	Adjusted Residual	1.6	-.2	-1.4	-.3	-1.0	
Supreme Court	Count	16	0	1	0	0	17
	Expected Count	15.6	.3	.9	.1	.1	17.0
	Adjusted Residual	.4	-.6	.1	-.3	-.3	
Juvenile	Count	15	1	1	0	0	17
	Expected Count	15.6	.3	.9	.1	.1	17.0
	Adjusted Residual	-.5	1.3	.1	-.3	-.3	
Traffic	Count	25	0	3	0	0	28
	Expected Count	25.7	.5	1.5	.2	.1	28.0
	Adjusted Residual	-.5	-.7	1.3	-.4	-.3	
Family	Count	61	2	1	0	0	64
	Expected Count	58.7	1.1	3.4	.4	.3	64.0
	Adjusted Residual	1.1	.8	-1.4	-.7	-.5	
Labour- National	Count	6	0	1	0	0	7
	Expected Count	6.4	.1	.4	.0	.0	7.0
	Adjusted Residual	-.6	-.4	1.0	-.2	-.2	
Labour- Regional	Count	62	1	2	1	0	66
	Expected Count	60.5	1.2	3.6	.5	.3	66.0
	Adjusted Residual	.7	-.2	-.9	.8	-.5	
Courts management	Count	2	0	0	0	0	2
	Expected Count	1.8	.0	.1	.0	.0	2.0
	Adjusted Residual	.4	-.2	-.3	-.1	-.1	
Total	Count	665	13	39	5	3	725

Expected Count	665.0	13.0	39.0	5.0	3.0	725.0
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Chi-Square Tests

	Value	df	Asymp. Sig. (2- sided)
Pearson Chi-Square	17.084 ^a	32	.986
Likelihood Ratio	19.579	32	.958
Linear-by-Linear Association	2.265	1	.132
N of Valid Cases	725		

b. Binary religious category (Jewish/ non-Jewish) with type of court (non-significant)

			Religion (binary)		Total
			Jewish	Arab	
Type of court	Magistrates	Count	307	36	343
		Expected Count	314.6	28.4	343.0
		Adjusted Residual	-2.1	2.1	
District	District	Count	171	10	181
		Expected Count	166.0	15.0	181.0
		Adjusted Residual	1.6	-1.6	
Supreme Court	Supreme Court	Count	16	1	17
		Expected Count	15.6	1.4	17.0
		Adjusted Residual	.4	-.4	
Juvenile	Juvenile	Count	15	2	17
		Expected Count	15.6	1.4	17.0
		Adjusted Residual	-.5	.5	
Traffic	Traffic	Count	25	3	28
		Expected Count	25.7	2.3	28.0
		Adjusted Residual	-.5	.5	
Family	Family	Count	61	3	64
		Expected Count	58.7	5.3	64.0
		Adjusted Residual	1.1	-1.1	
Labour- National	Labour- National	Count	6	1	7
		Expected Count	6.4	.6	7.0
		Adjusted Residual	-.6	.6	
Labour- Regional	Labour- Regional	Count	62	4	66

	Expected Count	60.5	5.5	66.0
	Adjusted Residual	.7	-.7	
Courts management	Count	2	0	2
	Expected Count	1.8	.2	2.0
	Adjusted Residual	.4	-.4	
Total	Count	665	60	725
	Expected Count	665.0	60.0	725.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	6.677 ^a	8	.572
Likelihood Ratio	7.041	8	.532
Linear-by-Linear Association	1.556	1	.212
N of Valid Cases	725		

c. Religious group with position in court (seniority)

			Religious group					Total
			Jewish	Muslim	Christian	Druze	other non-Jewish	
Position in court	Registrar	Count	33	0	3	0	0	36
		Expected Count	33.0	.6	1.9	.2	.1	36.0
		Adjusted Residual	.0	-.8	.8	-.5	-.4	
	Senior registrar	Count	33	1	4	0	0	38
		Expected Count	34.9	.7	2.0	.3	.2	38.0
		Adjusted Residual	-1.1	.4	1.4	-.5	-.4	
	Judge	Count	467	11	24	3	2	507
		Expected Count	465.0	9.1	27.3	3.5	2.1	507.0
		Adjusted Residual	.6	1.2	-1.2	-.5	-.1	
	Senior judge	Count	45	0	4	1	0	50
		Expected Count	45.9	.9	2.7	.3	.2	50.0
		Count						

	Adjusted Residual	-5	-1.0	.9	1.2	-5	
Vice president	Count	67	1	3	1	1	73
	Expected Count	67.0	1.3	3.9	.5	.3	73.0
	Adjusted Residual	.0	-.3	-.5	.7	1.3	
President	Count	20	0	1	0	0	21
	Expected Count	19.3	.4	1.1	.1	.1	21.0
	Adjusted Residual	.6	-.6	-.1	-.4	-.3	
Total	Count	665	13	39	5	3	725
	Expected Count	665.0	13.0	39.0	5.0	3.0	725.0
	Count						

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	11.091 ^a	20	.944
Likelihood Ratio	12.537	20	.896
Linear-by-Linear Association	.010	1	.920
N of Valid Cases	725		

d. Binary religious category with position in court

			Religion binary		Total
			Jewish	Arab	
Position in court	Registrar	Count	33	3	36
		Expected Count	33.0	3.0	36.0
		Adjusted Residual	.0	.0	
	Senior registrar	Count	33	5	38
		Expected Count	34.9	3.1	38.0
		Adjusted Residual	-1.1	1.1	
	Judge	Count	467	40	507
		Expected Count	465.0	42.0	507.0
		Adjusted Residual	.6	-.6	
	Senior judge	Count	45	5	50
		Expected Count	45.9	4.1	50.0
		Adjusted Residual	-.5	.5	

Vice president	Count	67	6	73
	Expected Count	67.0	6.0	73.0
	Adjusted Residual	.0	.0	
President	Count	20	1	21
	Expected Count	19.3	1.7	21.0
	Adjusted Residual	.6	-.6	
Total	Count	665	60	725
	Expected Count	665.0	60.0	725.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	1.831 ^a	5	.872
Likelihood Ratio	1.712	5	.887
Linear-by-Linear Association	.266	1	.606
N of Valid Cases	725		

e. Religious group (binary) with location of court

			Religion binary		Total
			Jewish	Arab	
District of court	Jerusalem	Count	112	6	118
		Expected Count	108.2	9.8	118.0
		Adjusted Residual	1.4	-1.4	
TLV		Count	193	3	196
		Expected Count	179.8	16.2	196.0
		Adjusted Residual	4.0	-4.0	
Merkaz (central)		Count	127	1	128
		Expected Count	117.4	10.6	128.0
		Adjusted Residual	3.4	-3.4	
Haifa		Count	106	24	130
		Expected Count	119.2	10.8	130.0
		Adjusted Residual	-4.7	4.7	
North		Count	43	24	67
		Expected Count	61.5	5.5	67.0
		Adjusted Residual	-8.6	8.6	
South		Count	84	2	86
		Expected Count	78.9	7.1	86.0
		Adjusted Residual	2.1	-2.1	

Total	Count	665	60	725
	Expected Count	665.0	60.0	725.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	111.548 ^a	5	.000
Likelihood Ratio	92.967	5	.000
Linear-by-Linear Association	22.199	1	.000
N of Valid Cases	725		

f. Religious group with district of courts

			Religious group					Total
			Jewish	Muslim	Christian	Druze	other non-Jewish	
District of court	Jerusalem	Count	112	2	4	0	0	118
		Expected Count	108.2	2.1	6.3	.8	.5	118.0
		Adjusted Residual	1.4	-.1	-1.0	-1.0	-.8	
TLV		Count	193	2	1	0	0	196
		Expected Count	179.8	3.5	10.5	1.4	.8	196.0
		Adjusted Residual	4.0	-1.0	-3.5	-1.4	-1.1	
Merkaz (central)		Count	127	0	1	0	0	128
		Expected Count	117.4	2.3	6.9	.9	.5	128.0
		Adjusted Residual	3.4	-1.7	-2.5	-1.0	-.8	
Haifa		Count	106	1	19	3	1	130
		Expected Count	119.2	2.3	7.0	.9	.5	130.0
		Adjusted Residual	-4.7	-1.0	5.2	2.5	.7	
North		Count	43	6	14	2	2	67
		Expected Count	61.5	1.2	3.6	.5	.3	67.0
		Count						

	Adjusted Residual	-8.6	4.6	5.9	2.4	3.4	
South	Count	84	2	0	0	0	86
	Expected Count	78.9	1.5	4.6	.6	.4	86.0
	Adjusted Residual	2.1	.4	-2.4	-.8	-.6	
Total	Count	665	13	39	5	3	725
	Expected Count	665.0	13.0	39.0	5.0	3.0	725.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	128.996 ^a	20	.000
Likelihood Ratio	112.025	20	.000
Linear-by-Linear Association	21.696	1	.000
N of Valid Cases	725		

g. Religious group and military service

			Did the judge serve in the military?			Total
			Yes (including national service)	No (including unknown)	999.00	
Religious group	Jewish	Count	628	36	1	665
		Expected Count	584.3	79.8	.9	665.0
		Adjusted Residual	18.0	-18.2	.3	
	Muslim	Count	1	12	0	13
		Expected Count	11.4	1.6	.0	13.0
		Adjusted Residual	-8.9	9.0	-.1	
	Christian	Count	3	36	0	39
		Expected Count	34.3	4.7	.1	39.0
		Adjusted Residual	-15.8	15.9	-.2	

Druze	Count	5	0	0	5
	Expected				
	Count	4.4	.6	.0	5.0
	Adjusted Residual	.8	-.8	-.1	
other non-Jewish	Count	0	3	0	3
	Expected				
	Count	2.6	.4	.0	3.0
	Adjusted Residual	-4.7	4.7	-.1	
Total	Count	637	87	1	725
	Expected				
	Count	637.0	87.0	1.0	725.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	367.591 ^a	8	.000
Likelihood Ratio	223.880	8	.000
Linear-by-Linear Association	.019	1	.889
N of Valid Cases	725		

3. Jewish ethnicity

a. Binary Jewish ethnic group with position in court

			Jewish ethnicity			Total
			Ashkenazi	Sephardic	Jewish but ethnicity unknown	
Position in court	Registrar	Count	17	5	11	33
		Expected Count	21.1	5.2	6.7	33.0
		Adjusted Residual	-1.5	-.1	1.9	
Senior registrar	Registrar	Count	14	6	13	33
		Expected Count	21.1	5.2	6.7	33.0
		Adjusted Residual	-2.7	.4	2.8	
Judge	Judge	Count	307	67	93	467
		Expected Count	299.2	73.0	94.8	467.0
		Adjusted Residual	1.4	-1.4	-.4	
Senior judge	Senior judge	Count	25	11	9	45
		Expected Count	28.8	7.0	9.1	45.0
		Adjusted Residual	-1.2	1.7	-.1	
Vice president	Vice president	Count	47	12	8	67
		Expected Count	42.9	10.5	13.6	67.0
		Adjusted Residual	1.1	.5	-1.8	
President	President	Count	16	3	1	20
		Expected Count	12.8	3.1	4.1	20.0
		Adjusted Residual	1.5	-.1	-1.7	
Total	Total	Count	426	104	135	665
		Expected Count	426.0	104.0	135.0	665.0
		Count				

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	21.551 ^a	10	.018
Likelihood Ratio	21.231	10	.020
Linear-by-Linear Association	10.158	1	.001
N of Valid Cases	665		

b. Jewish group (broad definition) with position in court

			Jewish ethnicity (broad)					Total	
			Ashkenazi	appears Ashkenazi	Sephardic	appears Sephardic	USSR		not clear
Position in court	Registrar	Count	3	14	2	3	0	11	33
		Expected Count	8.5	12.5	2.0	3.2	.1	6.7	33.0
		Adjusted Residual	-2.3	.6	.0	-.1	-.4	1.9	
Senior registrar		Count	6	7	2	4	1	13	33
		Expected Count	8.5	12.5	2.0	3.2	.1	6.7	33.0
		Adjusted Residual	-1.0	-2.0	.0	.5	2.3	2.8	
Judge		Count	119	186	28	39	2	93	467
		Expected Count	120.8	176.3	28.1	44.9	2.1	94.8	467.0
		Adjusted Residual	-.3	1.7	.0	-1.7	-.1	-.4	
Senior judge		Count	14	11	3	8	0	9	45
		Expected Count	11.6	17.0	2.7	4.3	.2	9.1	45.0
		Adjusted Residual	.8	-1.9	.2	1.9	-.5	-.1	
Vice president		Count	23	24	3	9	0	8	67
		Expected Count	17.3	25.3	4.0	6.4	.3	13.6	67.0
		Adjusted Residual	1.7	-.3	-.6	1.1	-.6	-1.8	
President		Count	7	9	2	1	0	1	20
		Expected Count	5.2	7.5	1.2	1.9	.1	4.1	20.0

	Adjusted Residual	.9	.7	.8	-.7	-.3	-1.7	
Total	Count	172	251	40	64	3	135	665
	Expected Count	172.0	251.0	40.0	64.0	3.0	135.0	665.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	38.270 ^a	25	.044
Likelihood Ratio	36.993	25	.058
Linear-by-Linear Association	13.276	1	.000
N of Valid Cases	665		

c. Jewish ethnic group with type of court

			Jewish ethnicity			Total
			Ashkenazi	Sephardic	Jewish but ethnicity unknown	
Type of court	Magistrates	Count	178	57	72	307
		Expected Count	196.7	48.0	62.3	307.0
		Adjusted Residual	-3.0	1.9	1.9	
	District	Count	122	20	29	171
		Expected Count	109.5	26.7	34.7	171.0
		Adjusted Residual	2.3	-1.6	-1.3	
	Supreme Court	Count	13	2	1	16
		Expected Count	10.2	2.5	3.2	16.0
		Adjusted Residual	1.5	-.3	-1.4	
	Juvenile	Count	11	0	4	15
		Expected Count	9.6	2.3	3.0	15.0
		Adjusted Residual	.8	-1.7	.6	
Traffic	Count	20	2	3	25	

	Expected Count	16.0	3.9	5.1	25.0
	Adjusted Residual	1.7	-1.1	-1.1	
Family	Count	33	16	12	61
	Expected Count	39.1	9.5	12.4	61.0
	Adjusted Residual	-1.7	2.4	-.1	
Labour- National	Count	5	1	0	6
	Expected Count	3.8	.9	1.2	6.0
	Adjusted Residual	1.0	.1	-1.2	
Labour- Regional	Count	42	6	14	62
	Expected Count	39.7	9.7	12.6	62.0
	Adjusted Residual	.6	-1.4	.5	
Courts management	Count	2	0	0	2
	Expected Count	1.3	.3	.4	2.0
	Adjusted Residual	1.1	-.6	-.7	
Total	Count	426	104	135	665
	Expected Count	426.0	104.0	135.0	665.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	26.751 ^a	16	.044
Likelihood Ratio	31.302	16	.012
Linear-by-Linear Association	1.224	1	.269
N of Valid Cases	665		

d. Jewish ethnic group (broad) with type of court

			Jewish ethnicity (broad)					Total	
			Ashkenazi	appears Ashkenazi	Sephardic	appears Sephardic	USSR post 1990		not clear
Type of court	Magistrates	Count	58	116	20	36	3	74	307
		Expected Count	79.4	114.5	18.5	28.6	1.8	64.2	307.0
		Adjusted Residual	-3.8	.2	.5	2.0	1.2	1.9	
District		Count	62	60	11	9	0	29	171
		Expected Count	44.2	63.8	10.3	15.9	1.0	35.7	171.0
		Adjusted Residual	3.6	-.7	.3	-2.1	-1.2	-1.5	
Supreme Court		Count	13	0	2	0	0	1	16
		Expected Count	4.1	6.0	1.0	1.5	.1	3.3	16.0
		Adjusted Residual	5.1	-3.1	1.1	-1.3	-.3	-1.5	
Juvenile		Count	2	8	0	1	0	4	15
		Expected Count	3.9	5.6	.9	1.4	.1	3.1	15.0
		Adjusted Residual	-1.1	1.3	-1.0	-.4	-.3	.6	
Traffic		Count	7	12	0	2	1	3	25
		Expected Count	6.5	9.3	1.5	2.3	.2	5.2	25.0
		Adjusted Residual	.2	1.1	-1.3	-.2	2.2	-1.1	
Family		Count	14	19	4	11	0	13	61
		Expected Count	15.8	22.7	3.7	5.7	.4	12.8	61.0
		Adjusted Residual	-.5	-1.0	.2	2.5	-.6	.1	
Labour- National		Count	1	4	1	0	0	0	6
		Expected Count	1.6	2.2	.4	.6	.0	1.3	6.0

	Adjusted Residual	-5	1.5	1.1	-8	-2	-1.3	
Labour-Regional	Count	14	28	2	3	0	15	62
	Expected Count	16.0	23.1	3.7	5.8	.4	13.0	62.0
	Adjusted Residual	-6	1.3	-1.0	-1.3	-6	.7	
Courts management	Count	1	1	0	0	0	0	2
	Expected Count	.5	.7	.1	.2	.0	.4	2.0
	Adjusted Residual	.8	.4	-.4	-.5	-.1	-.7	
Total	Count	172	248	40	62	4	139	665
	Expected Count	172.0	248.0	40.0	62.0	4.0	139.0	665.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	79.620 ^a	40	.000
Likelihood Ratio	83.684	40	.000
Linear-by-Linear Association	.860	1	.354
N of Valid Cases	665		

e. Jewish ethnic group (binary) with district of court

		Jewish ethnicity			Total	
		Ashkenazi	Sephardic	Jewish but ethnicity unknown		
District of court	Jerusalem	Count	84	17	11	112
		Expected Count	71.7	17.5	22.7	112.0
		Adjusted Residual	2.6	-.1	-3.0	
TLV		Count	112	33	48	193
		Expected Count	123.6	30.2	39.2	193.0
		Adjusted Residual	-2.1	.7	1.9	
Merkaz		Count	86	12	29	127
		Expected Count	81.4	19.9	25.8	127.0

	Adjusted Residual	1.0	-2.1	.8	
Haifa	Count	73	14	19	106
	Expected Count	67.9	16.6	21.5	106.0
	Adjusted Residual	1.1	-.8	-.7	
North	Count	28	6	9	43
	Expected Count	27.5	6.7	8.7	43.0
	Adjusted Residual	.1	-.3	.1	
South	Count	43	22	19	84
	Expected Count	53.8	13.1	17.1	84.0
	Adjusted Residual	-2.6	2.8	.6	
Total	Count	426	104	135	665
	Expected Count	426.0	104.0	135.0	665.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	24.834 ^a	10	.006
Likelihood Ratio	25.721	10	.004
Linear-by-Linear Association	3.058	1	.080
N of Valid Cases	665		

4. Gender with ethnicity and religion combined

			Ethnic/ religious group					Total
			not Jewish	Ashkenazi	Sephardic	UUSR	unknown	
Gender Male	Count		43	186	64	2	52	347
	Expected Count		28.7	202.5	49.8	1.4	64.6	347.0
	Adjusted Residual		3.9	-2.5	3.0	.7	-2.4	
Female	Count		17	237	40	1	83	378
	Expected Count		31.3	220.5	54.2	1.6	70.4	378.0
	Adjusted Residual		-3.9	2.5	-3.0	-.7	2.4	
Total	Count		60	423	104	3	135	725
	Expected Count		60.0	423.0	104.0	3.0	135.0	725.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	29.134 ^a	4	.000
Likelihood Ratio	29.598	4	.000
Linear-by-Linear Association	4.895	1	.027
N of Valid Cases	725		

5. Gender with religious group

			Religious group					Total
			Jewish	Muslim	Christian	Druze	other non-Jewish	
Gender Male	Count		304	12	24	5	2	347
	Expected Count		318.3	6.2	18.7	2.4	1.4	347.0
	Adjusted Residual		-3.9	3.2	1.8	2.3	.7	
Female	Count		361	1	15	0	1	378
	Expected Count		346.7	6.8	20.3	2.6	1.6	378.0
	Adjusted Residual		3.9	-3.2	-1.8	-2.3	-.7	
Total	Count		665	13	39	5	3	725
	Expected Count		665.0	13.0	39.0	5.0	3.0	725.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	20.315 ^a	4	.000
Likelihood Ratio	23.904	4	.000
Linear-by-Linear Association	11.595	1	.001
N of Valid Cases	725		

6. Age

a. General frequencies

One-Sample Statistics

	N	Mean	Std. Deviation	Std. Error Mean
Age	530	50.3509	8.29019	.36010

Age

N	Valid	530
	Missing	195
Mean		50.3509
Median		48.0000

Mode	44.00
Std. Deviation	8.29019

b. Age with gender

Group Statistics								
			Statistic	Bootstrap ^a				
Gender				Bias	Std. Error	95% Confidence Interval		
						Lower	Upper	
Age	Male	N	342					
		Mean	52.3977	.0031	.4296	51.5814	53.2363	
		Std. Deviation	8.22483	-.01080	.22333	7.77809	8.65941	
		Std. Error Mean	.44475					
	Female	N	188					
		Mean	46.6277	-.0083	.5162	45.6069	47.6374	
		Std. Deviation	7.03313	-.05908	.44079	6.14822	7.85139	
		Std. Error Mean	.51294					

Independent Samples Test										
		Levene's Test for Equality of Variances		t-test for Equality of Means						
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
									Lower	Upper
Age	Equal variances assumed	19.211	.000	8.123	528	.000	5.77000	.71031	4.37461	7.16539
	Equal variances not assumed			8.499	438.077	.000	5.77000	.67890	4.43569	7.10432

c. Age with nationality (Jews vs non-Jews)

Age

Jewish/Non-Jewish		Statistic	Bootstrap ^a			
			Bias	Std. Error	95% Confidence Interval	
					Lower	Upper
Jewish	Mean	50.5405	.0037	.3696	49.7925	51.2785
	N	481	0	0	481	481
	Std. Deviation	8.27666	-.01165	.20354	7.88611	8.65465
Non-Jewish	Mean	48.4898	.0675	1.1472	46.3475	50.9178
	N	49	0	0	49	49
	Std. Deviation	8.27678	-.07987	.69546	6.81608	9.43600
Total	Mean	50.3509	.0096	.3490	49.6571	51.0471
	N	530	0	0	530	530
	Std. Deviation	8.29019	-.00893	.19330	7.91083	8.65602

Group Statistics

Jewish/Non-Jewish		Statistic	Bootstrap ^a				
			Bias	Std. Error	95% Confidence Interval		
					Lower	Upper	
Age	Jewish	N	478				
		Mean	50.5523	.0096	.3810	49.8181	51.2615
		Std. Deviation	8.29086	-.00904	.19761	7.88354	8.66205
		Std. Error Mean	.37922				
Non-Jewish	Non-Jewish	N	52				
		Mean	48.5000	.0215	1.1490	46.3462	50.8457
		Std. Deviation	8.13007	-.10837	.69088	6.59304	9.33664
		Std. Error Mean	1.12744				

Independent Samples Test

Levene's Test for Equality of Variances		t-test for Equality of Means						
F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
							Lower	Upper

Age Equal variances assumed	.312	.577	1.698	528	.090	2.05230	1.20841	-.32158	4.42619
Age Equal variances not assumed			1.725	63.106	.089	2.05230	1.18950	-.32466	4.42926

d. Age at the time of first judicial appointment

Statistics

How old was the judge when first appointed?

N	Valid	531
	Missing	194
Mean		41.0207
Median		40.0000
Std. Deviation		6.04118
Range		34.00
Minimum		28.00
Maximum		62.00

Statistics

How old was the judge when first appointed?

	Statistic	Bootstrap ^b			
		Bias	Std. Error	95% Confidence Interval	
				Lower	Upper
N Valid	531	0	0	531	531
Missing	0	0	0	0	0
Mean	41.0207	.0012	.2591	40.4954	41.5103
Median	40.0000	-.0620	.3198	39.0000	40.0000
Mode	39.00				
Std. Deviation	6.04118	-.00905	.20790	5.62630	6.45314

b. Unless otherwise noted, bootstrap results are based on 1000 bootstrap samples

e. Cross analysis of age at appointment and nationality/religion

Group Statistics							
	Religion	Statistic	Bootstrap ^a				
			Bias	Std. Error	95% Confidence Interval		
					Lower	Upper	
How old was the judge when first appointed?	Jewish	N	478				
		Mean	41.3849	-.0053	.2629	40.8556	41.9098
		Std. Deviation	6.06069	-	.20674	5.62406	6.44235
		Std. Error Mean	.27721	.01688			
	Arab	N	53				
		Mean	37.7358	.0102	.6630	36.4528	39.0184
		Std. Deviation	4.77635	-	.77638	3.27827	6.20031
		Std. Error Mean	.65608	.11773			

a. Unless otherwise noted, bootstrap results are based on 1000 stratified bootstrap samples

Independent Samples Test										
		Levene's Test for Equality of Variances		t-test for Equality of Means						
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
									Lower	Upper
How old was the judge when first appointed?	Equal variances assumed	6.493	.011	4.238	529	.000	3.64909	.86094	1.95780	5.34038
	Equal variances not assumed			5.123	71.974	.000	3.64909	.71224	2.22925	5.06893

7. **Type of academic institution**

a. With position in court

Crosstab

			Position in court					Total	
			Registrar	Senior registrar	Judge	Senior judge	Vice president		President
Type of academic institution	University	Count	28	26	433	48	67	18	620
		Expected Count	30.6	33.2	435.8	43.1	60.2	17.1	620.0
		Adjusted Residual	-1.5	-4.1	-.8	2.4	2.9	.7	
	College	Count	6	11	52	0	0	1	70
		Expected Count	3.4	3.8	49.2	4.9	6.8	1.9	70.0
		Adjusted Residual	1.5	4.1	.8	-2.4	-2.9	-.7	
Total		Count	34	37	485	48	67	19	690
		Expected Count	34.0	37.0	485.0	48.0	67.0	19.0	690.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	31.325 ^a	5	.000
Likelihood Ratio	38.000	5	.000
Linear-by-Linear Association	17.198	1	.000
N of Valid Cases	690		

b. With Jewish ethnicity

			Jewish ethnicity (broad)						USS R post 1990	not clear	Total
			non-Jews	Ashkenazi	appears Ashkenazi	Sephardic	appears Sephardic				
Type of academic institution	University	Count	52	156	219	32	49	3	109	620	
		Expected Count	50.3	143.8	214.8	33.2	53.0	3.6	121.3	620.0	
		Adjusted Residual	.8	3.7	1.1	-.7	-1.8	-1.0	-3.9		
College		Count	4	4	20	5	10	1	26	70	
		Expected Count	5.7	16.2	24.2	3.8	6.0	.4	13.7	70.0	
		Adjusted Residual	-.8	-3.7	-1.1	.7	1.8	1.0	3.9		
Total		Count	56	160	239	37	59	4	135	690	
		Expected Count	56.0	160.0	239.0	37.0	59.0	4.0	135.0	690.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	28.367 ^a	6	.000
Likelihood Ratio	29.462	6	.000
Linear-by-Linear Association	24.451	1	.000
N of Valid Cases	690		

c. With type of court

		Type of court								Total	
		Magistrates	District	Supreme Court	Juvenile	Traffic	Family	Labour-National	Labour-Regional		Courts management
	Count	289	175	16	13	19	50	6	51	1	620

Type of academic institution	University	Expected Count	292.9	158.1	14.4	13.5	22.5	55.7	6.3	54.8	1.8	620.0
		Adjusted Residual	-1.0	4.9	1.4	-.4	-2.3	-2.5	-.4	-1.7	-1.9	
College		Count	37	1	0	2	6	12	1	10	1	70
		Expected Count	33.1	17.9	1.6	1.5	2.5	6.3	.7	6.2	.2	70.0
		Adjusted Residual	1.0	-4.9	-1.4	.4	2.3	2.5	.4	1.7	1.9	
Total		Count	326	176	16	15	25	62	7	61	2	690
		Expected Count	326.0	176.0	16.0	15.0	25.0	62.0	7.0	61.0	2.0	690.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	37.463 ^a	8	.000
Likelihood Ratio	46.801	8	.000
Linear-by-Linear Association	9.919	1	.002
N of Valid Cases	690		

8. Legal practice experience (length of professional experience prior to judicial appointment)

a. General- frequencies

Statistics

Number of years of practice before first appointment

		Statistic	Bootstrap ^b			
			Bias	Std. Error	95% Confidence Interval	
					Lower	Upper
N	Valid	711	0	0	711	711
	Missing	0	0	0	0	0
Mean		13.0956	.0078	.1954	12.7286	13.4979
Median		12.0000	.1110	.3175	12.0000	13.0000
Mode		12.00				
Std. Deviation		5.40963	-.00897	.17307	5.05013	5.76878

b. Unless otherwise noted, bootstrap results are based on 1000 stratified bootstrap samples

b. Gender and years of practice:

Group Statistics							
	Gender		Statistic	Bootstrap ^a			
				Bias	Std. Error	95% Confidence Interval	
						Lower	Upper
Number of years of practice before first appointment	Male	N	344				
		Mean	13.4215	.0020	.3016	12.8224	14.0399
		Std. Deviation	5.73361	-.00716	.26701	5.20057	6.25563
		Std. Error Mean	.30914				
	Female	N	367				
		Mean	12.7902	-.0095	.2666	12.2665	13.3134
		Std. Deviation	5.07615	-.01753	.20340	4.68634	5.47321
		Std. Error Mean	.26497				

a. Unless otherwise noted, bootstrap results are based on 1000 stratified bootstrap samples

Independent Samples Test

	Levene's Test for Equality of Variances		t-test for Equality of Means						
	F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
								Lower	Upper
Number of years of practice before first appointment	2.371	.124	1.557	709	.120	.63132	.40556	-.16492	1.42756
			1.551	685.420	.121	.63132	.40716	-.16810	1.43074

c. Nationality and years of practice:

Group Statistics

	Religion	Statistic	Bootstrap ^a				
			Bias	Std. Error	95% Confidence Interval		
					Lower	Upper	
Number of years of practice before first appointment	Jewish	N	651				
		Mean	13.1828	.0046	.2129	12.7742	13.5959
		Std. Deviation	5.50933	.00253	.17485	5.18065	5.86761
		Std. Error Mean	.21593				
	Arab	N	60				
		Mean	12.1500	-.0049	.5389	11.1000	13.2500
		Std. Deviation	4.09557	-.04835	.38100	3.28887	4.77938
		Std. Error Mean	.52874				

a. Unless otherwise noted, bootstrap results are based on 1000 stratified bootstrap samples

Independent Samples Test

Levene's Test for Equality of Variances		t-test for Equality of Means						
F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference	
							Lower	Upper

Number of years of practice before first appointment	Equal variance assumed	6.457	.011	1.416	709	.157	1.03280	.72934	- .39913	2.46472
	Equal variance not assumed			1.808	80.119	.074	1.03280	.57113	- .10376	2.16935

d. Cross analysis of the type of courts with range of years of experience prior to first judicial appointment

			Type of court								Total	
			Magistrates	District	Supreme Court	Juvenile	Traffic	Family	Labour-National	Labour-Regional		Courts management
Years prior to judicial appointment	up to 5 years	Count Expected	6	3	0	0	2	0	0	1	1	13
		Count Adjusted	6.2	3.2	.3	.3	.5	1.2	.1	1.1	.0	13.0
		Residual	-.1	-.1	-.6	-.6	2.1	-1.1	-.4	-.1	5.1	
6 to 10 years	Count Expected	115	55	4	3	6	20	5	34	0	242	
	Count Adjusted	115.0	59.9	5.8	5.8	9.5	21.8	2.4	21.1	.7	242.0	
	Residual	.0	-.9	-.9	-1.4	-1.4	-5	2.1	3.6	-1.0		
11 to 15 years	Count Expected	127	61	6	7	11	20	2	16	0	250	
	Count Adjusted	118.8	61.9	6.0	6.0	9.8	22.5	2.5	21.8	.7	250.0	
	Residual	1.3	-.2	.0	.5	.5	-.7	-.4	-1.6	-1.0		
16 to 20 years	Count Expected	63	34	3	3	7	17	0	10	1	138	
	Count Adjusted	65.6	34.2	3.3	3.3	5.4	12.4	1.4	12.0	.4	138.0	
	Residual	-.5	.0	-.2	-.2	.8	1.5	-1.3	-.7	1.1		
Count			26	21	4	4	2	6	0	1	0	64

21	Expect to 30 yea rs	Count	30.4	15.8	1.5	1.5	2.5	5.8	.6	5.6	.2	64. 0
		Adjusted Residu al	-1.2	1.6	2.1	2.1	-4	.1	-8	-2.1	-4	
mor e tha n 30 yea rs	Count Expect ed Count Adjust ed Residu al	Count	1	2	0	0	0	1	0	0	0	4
		Adjusted Residu al	1.9	1.0	.1	.1	.2	.4	.0	.3	.0	4.0
		Adjusted Residu al	-9	1.2	-3	-3	-4	1.1	-2	-6	-1	
Total	Count Expect ed Count	Count	338	176	17	17	28	64	7	62	2	711
		Expect ed Count	338.0	176. 0	17.0	17.0	28.0	64.0	7.0	62.0	2.0	711 .0

Chi-Square Tests

	Value	df	Asymp. Sig. (2- sided)
Pearson Chi-Square	73.633 ^a	40	.001
Likelihood Ratio	54.456	40	.063
Linear-by-Linear Association	2.506	1	.113
N of Valid Cases	711		

Appendix 8: statistical appendix- chapter 7

This appendix sets out the statistical analyses conducted as part of chapter 7 (Lawyer Survey). It does not cover every singly statistical analysis that was carried out for the purpose of this study, as these are numerous. Instead, it focuses on the findings that arose from statistically significant cross analyses between variables, and elaborates on the important results displayed in chapter 7.

The results of the significance tests (chi-square) and the outputs of the statistical package in which the analysis was conducted are displayed below by order of appearance in chapter 7. Each output table displays the actual count, the expected count, and the adjusted Pearson residuals, which indicate which cells in the table caused the 'lack of fit', i.e. contributed to the significant chi-square result.

Commonly used abbreviations:

PR= Pearson residuals

Extent of agreement with various statements:

- SA = strongly agree (1)
- A=agree (2)
- NAND= neither agree nor disagree (3)
- D= disagree (4)
- SD= strongly disagree (5)
- DK= don't know (6)

Analysis in PART 1: Demographics of lawyers

1. Cross-examination self-defined Jewish ethnicity and type of academic institution

			Jewish Ethnicity						former USSR	Total
			other	Ashkenazi	Ethiopian	irrelevant	mixed	Sephardic		
Type of academic institution	university	Count	3	97	0	26	25	35	5	191
		Expected Count	3.9	84.6	.6	28.0	26.9	41.4	5.6	191.0
		Adjusted Residual	-.7	2.7	-1.1	-.6	-.6	-1.7	-.4	
	other	Count	0	1	0	0	0	0	0	1
		Expected Count	.0	.4	.0	.1	.1	.2	.0	1.0
		Adjusted Residual	-.1	1.1	-.1	-.4	-.4	-.5	-.2	
	irrelevant	Count	1	0	0	1	0	0	0	2
		Expected Count	.0	.9	.0	.3	.3	.4	.1	2.0
		Adjusted Residual	4.8	-1.3	-.1	1.4	-.6	-.7	-.2	
	college	Count	3	53	1	23	23	39	5	147
		Expected Count	3.0	65.1	.4	21.6	20.7	31.9	4.3	147.0
		Adjusted Residual	.0	-2.7	1.2	.4	.7	1.9	.4	
Total	Count	7	151	1	50	48	74	10	341	
	Expected Count	7.0	151.0	1.0	50.0	48.0	74.0	10.0	341.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	36.013 ^a	18	.007
Likelihood Ratio	19.843	18	.342
Linear-by-Linear Association	6.108	1	.013
N of Valid Cases	341		

Analysis in PART 2: Lawyers' experiences and attitudes to the state, the judiciary and judicial diversity

1. Link between perception of diversity in the Israeli judiciary and the level of trust in courts

1.1 level of trust in courts and "the Israeli judiciary reflects the Israeli society"

			Level of trust in courts					Total
			to a large extent	to some extent	to a small extent	not at all	don't know	
The Israeli judiciary reflects the Israeli society	1	Count	4	3	0	0	0	7
		Expected Count	2.9	2.8	1.0	.3	.0	7.0
		Adjusted Residual	.8	.2	-1.1	-.5	-.2	
	2	Count	34	12	3	2	0	51
		Expected Count	21.2	20.1	7.4	1.9	.3	51.0
		Adjusted Residual	3.9	-2.5	-1.9	.1	-.6	
	3	Count	30	23	5	1	0	59
		Expected Count	24.6	23.3	8.6	2.2	.3	59.0
		Adjusted Residual	1.6	-.1	-1.5	-.9	-.6	
	4	Count	66	73	20	4	2	165
		Expected Count	68.7	65.1	24.1	6.2	.9	165.0
		Adjusted Residual	-.6	1.7	-1.2	-1.2	1.6	
	5	Count	14	28	26	7	0	75
		Expected Count	31.2	29.6	10.9	2.8	.4	75.0
		Adjusted Residual	-4.5	-.4	5.5	2.8	-.7	
	6	Count	6	7	0	0	0	13
		Expected Count	5.4	5.1	1.9	.5	.1	13.0
		Adjusted Residual	.3	1.1	-1.5	-.7	-.3	
Total		Count	154	146	54	14	2	370

Expected Count	154.0	146.0	54.0	14.0	2.0	370.0
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Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	63.305 ^a	20	.000
Likelihood Ratio	63.123	20	.000
Linear-by-Linear Association	24.600	1	.000
N of Valid Cases	370		

1.2 level of trust in courts with stand on the statement "the population of Israeli judges is diverse and reflects Israeli society"

Crosstab

			The population of judges is diverse						
			1	2	3	4	5	6	Total
Level of trust in courts	To a large extent	Count	3	32	45	58	10	7	155
		Expected Count	2.1	20.9	41.8	65.6	19.6	5.0	155.0
		Adjusted Residual	.8	3.4	.8	-1.6	-3.0	1.2	
	to some extent	Count	2	14	42	72	12	4	146
		Expected Count	2.0	19.7	39.4	61.8	18.5	4.7	146.0
		Adjusted Residual	.0	-1.8	.6	2.2	-2.1	-.4	
	to a small extent	Count	0	3	11	21	20	0	55
		Expected Count	.7	7.4	14.8	23.3	7.0	1.8	55.0
		Adjusted Residual	-.9	-1.9	-1.3	-.7	5.7	-1.5	
	not at all	Count	0	1	2	5	5	0	13
		Expected Count	.2	1.8	3.5	5.5	1.6	.4	13.0
		Adjusted Residual	-.4	-.6	-1.0	-.3	2.8	-.7	
	don't know	Count	0	0	0	1	0	1	2
		Expected Count	.0	.3	.5	.8	.3	.1	2.0
		Adjusted Residual	-.2	-.6	-.9	.2	-.5	3.7	
	Total	Count	5	50	100	157	47	12	371
		Expected Count	5.0	50.0	100.0	157.0	47.0	12.0	371.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	41.809 ^a	9	.000
Likelihood Ratio	46.264	9	.000
Linear-by-Linear Association	.274	1	.601
N of Valid Cases	490		

2. Cross analyses of various factors with stand on action for judicial diversity

- a. Action for judicial diversity and gender (non-significant but note differences between men and women)

			Gender			Total
			other	male	female	
Action for judicial diversity	Yes	Count	1	155	88	244
		Expected Count	.7	160.0	83.3	244.0
		Adjusted Residual	.7	-1.2	1.1	
	No	Count	0	83	36	119
		Expected Count	.3	78.0	40.7	119.0
		Adjusted Residual	-.7	1.2	-1.1	
Total	Count	1	238	124	363	
	Expected Count	1.0	238.0	124.0	363.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	1.752 ^a	2	.417
Likelihood Ratio	2.070	2	.355
Linear-by-Linear Association	1.015	1	.314
N of Valid Cases	363		

- b. Action for judicial diversity and level of religious observance (non-significant but note the 'traditional' category')

		Level of religious observance					Total
		other	atheist	religious	very religious	secular	
Yes	Count	5	22	36	9	120	48

Action for judicial diversity	Expected Count	4.0	26.9	30.9	8.1	128.4	41.7	240.0
	Adjusted Residual	.8	-1.7	1.7	.6	-1.9	1.9	
	No Count	1	18	10	3	71	14	117
	Expected Count	2.0	13.1	15.1	3.9	62.6	20.3	117.0
	Adjusted Residual	-.8	1.7	-1.7	-.6	1.9	-1.9	
Total	Count	6	40	46	12	191	62	357
	Expected Count	6.0	40.0	46.0	12.0	191.0	62.0	357.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2- sided)
Pearson Chi-Square	10.893 ^a	5	.054
Likelihood Ratio	11.218	5	.047
Linear-by-Linear Association	.268	1	.605
N of Valid Cases	357		

- c. Action for judicial diversity and type of academic institution (non-significant but note the support in action amongst college students)

		Type of academic institution				Total	
		university	other	irrelevant	college		
Action for judicial diversity	Yes	Count	130	1	2	129	262
		Expected Count	141.7	.7	2.0	117.6	262.0
		Adjusted Residual	-2.5	.7	.0	2.5	
No	Count	81	0	1	46	128	
	Expected Count	69.3	.3	1.0	57.4	128.0	
	Adjusted Residual	2.5	-.7	.0	-2.5		
Total	Count	211	1	3	175	390	
	Expected Count	211.0	1.0	3.0	175.0	390.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2- sided)
Pearson Chi-Square	6.845 ^a	3	.077

Likelihood Ratio	7.210	3	.065
Linear-by-Linear Association	6.282	1	.012
N of Valid Cases	390		

d. Action for judicial diversity and self-defined Jewish ethnicity

			Jewish ethnicity						Former USSR	Total
			other	Ashkenazi	Ethiopian	irrelevant	mixed	Sephardic		
Action for judicial diversity	Yes	Count	3	85	1	35	35	61	9	229
		Expected Count	4.7	102.5	.7	33.3	31.3	49.9	6.7	229.0
		Adjusted Residual	-1.3	-4.0	.7	.6	1.2	3.1	1.6	
	No	Count	4	69	0	15	12	14	1	115
		Expected Count	2.3	51.5	.3	16.7	15.7	25.1	3.3	115.0
		Adjusted Residual	1.3	4.0	-.7	-.6	-1.2	-3.1	-1.6	
Total	Count	7	154	1	50	47	75	10	344	
	Expected Count	7.0	154.0	1.0	50.0	47.0	75.0	10.0	344.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	22.619 ^a	6	.001
Likelihood Ratio	23.805	6	.001
Linear-by-Linear Association	21.722	1	.000
N of Valid Cases	344		

a. 5 cells (35.7%) have expected count less than 5. The minimum expected count is .33.

e. Link between action for judicial diversity in Israel and military service

		Military service			Total	
		yes	no	no but national service		
Action for judicial diversity	Yes	Count	206	15	17	238
		Expected Count	212.5	12.8	12.8	238.0
		Adjusted Residual	-2.4	1.1	2.1	
No	Count	110	4	2	116	
		Expected Count	103.5	6.2	6.2	116.0
		Adjusted Residual	2.4	-1.1	-2.1	
Total	Count	316	19	19	354	
		Expected Count	316.0	19.0	19.0	354.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	6.048 ^a	2	.049
Likelihood Ratio	7.046	2	.030
Linear-by-Linear Association	6.013	1	.014
N of Valid Cases	354		

f. Link between action for judicial diversity and definition as Israeli

		Self-definition as Israeli				Total	
		not at all	to a small extent	to some extent	absolutely		
Action for judicial diversity	Yes	Count	2	3	17	223	245
		Expected Count	1.3	2.7	12.0	229.1	245.0
		Adjusted Residual	1.0	.4	2.6	-2.7	
No	Count	0	1	1	122	124	
		Expected Count	.7	1.3	6.0	115.9	124.0

	Adjusted Residual	-1.0	-4	-2.6	2.7	
Total	Count	2	4	18	345	369
	Expected Count	2.0	4.0	18.0	345.0	369.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	7.970 ^a	3	.047
Likelihood Ratio	10.633	3	.014
Linear-by-Linear Association	5.459	1	.019
N of Valid Cases	369		

g. link between action for judicial diversity and satisfaction with the professional level of judges

			Satisfaction with the professional level of judges						Total
			1	2	3	4	5	6	
Action for judicial diversity	Yes	Count	15	83	64	69	26	10	267
		Expected Count	20.4	80.4	73.2	62.6	21.8	8.6	267.0
		Adjusted Residual	-2.1	.6	-2.2	1.6	1.6	.9	
	No	Count	16	39	47	26	7	3	138
		Expected Count	10.6	41.6	37.8	32.4	11.2	4.4	138.0
		Adjusted Residual	2.1	-.6	2.2	-1.6	-1.6	-.9	
Total	Count	31	122	111	95	33	13	405	
	Expected Count	31.0	122.0	111.0	95.0	33.0	13.0	405.0	
	Count								

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	12.896 ^a	5	.024
Likelihood Ratio	12.872	5	.025

Linear-by-Linear Association	5.678	1	.017
N of Valid Cases	405		

h. Efficiency of courts

		Satisfaction with the efficiency of courts						Total	
		1	2	3	4	5	6		
Action for judicial diversity	Yes	Count	4	24	63	98	69	11	269
		Expected Count	4.0	28.5	73.5	92.8	61.6	8.6	269.0
		Adjusted Residual	.0	-1.5	-2.5	1.2	1.8	1.4	
	No	Count	2	19	48	42	24	2	137
		Expected Count	2.0	14.5	37.5	47.2	31.4	4.4	137.0
		Adjusted Residual	.0	1.5	2.5	-1.2	-1.8	-1.4	
Total	Count	6	43	111	140	93	13	406	
	Expected Count	6.0	43.0	111.0	140.0	93.0	13.0	406.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	12.036 ^a	5	.034
Likelihood Ratio	12.203	5	.032
Linear-by-Linear Association	9.704	1	.002
N of Valid Cases	406		

i. Trust in courts

Crosstab

			Level of trust in courts					Total
			to a large extent	to some extent	to a small extent	not at all	don't know	
Action for judicial diversity	Yes	Count	82	105	46	10	2	245
		Expected Count	102.2	96.9	36.5	8.0	1.3	245.0
		Adjusted Residual	-4.5	1.8	2.9	1.3	1.0	
	No	Count	72	41	9	2	0	124
		Expected Count	51.8	49.1	18.5	4.0	.7	124.0
		Adjusted Residual	4.5	-1.8	-2.9	-1.3	-1.0	
Total	Count	154	146	55	12	2	369	
	Expected Count	154.0	146.0	55.0	12.0	2.0	369.0	
	Count							

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	23.811 ^a	4	.000
Likelihood Ratio	25.078	4	.000
Linear-by-Linear Association	21.873	1	.000
N of Valid Cases	369		

j. Attitudes towards the importance of judicial diversity

Judicial diversity is an important component in the courts' legitimacy

			Judicial diversity is part of legitimacy						Total
			1	2	3	4	5	6	
Action for judicial diversity	Yes	Count	102	129	24	11	2	0	268
		Expected Count	77.2	123.4	35.0	23.1	7.9	1.3	268.0
		Adjusted Residual	5.7	1.2	-3.4	-4.5	-3.7	-2.0	
	No	Count	15	58	29	24	10	2	138
		Expected Count	39.8	63.6	18.0	11.9	4.1	.7	138.0
		Adjusted Residual	-5.7	-1.2	3.4	4.5	3.7	2.0	

Total	Count	117	187	53	35	12	2	406
	Expected Count	117.0	187.0	53.0	35.0	12.0	2.0	406.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	69.815 ^a	5	.000
Likelihood Ratio	71.875	5	.000
Linear-by-Linear Association	69.015	1	.000
N of Valid Cases	406		

Judges' professionalism is the only relevant factor (non-significant)

			Judges' professional conduct is the only relevant factor to ensure public trust					Total
			1	2	3	4	5	
Action for judicial diversity	Yes	Count	68	94	44	51	11	268
		Expected Count	75.3	94.4	42.2	48.8	7.3	268.0
		Adjusted Residual	-1.7	-.1	.5	.6	2.4	
	No	Count	46	49	20	23	0	138
		Expected Count	38.7	48.6	21.8	25.2	3.7	138.0
		Adjusted Residual	1.7	.1	-.5	-.6	-2.4	
Total		Count	114	143	64	74	11	406
		Expected Count	114.0	143.0	64.0	74.0	11.0	406.0
		Count						

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	8.218 ^a	4	.084
Likelihood Ratio	11.645	4	.020
Linear-by-Linear Association	5.039	1	.025
N of Valid Cases	406		

Judges are objective and professional decision-makers

		Judges are objective, neutral decision-makers					Total	
		1	2	3	4	5		
Action for judicial diversity	Yes	Count	15	95	68	66	25	269
		Expected Count	23.2	101.4	62.3	63.6	18.6	269.0
		Adjusted Residual	-3.1	-1.4	1.4	.6	2.7	
	No	Count	20	58	26	30	3	137
	Expected Count	11.8	51.6	31.7	32.4	9.4	137.0	
	Adjusted Residual	3.1	1.4	-1.4	-.6	-2.7		
Total	Count	35	153	94	96	28	406	
	Expected Count	35.0	153.0	94.0	96.0	28.0	406.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	18.224 ^a	4	.001
Likelihood Ratio	19.078	4	.001
Linear-by-Linear Association	13.216	1	.000
N of Valid Cases	406		

Judges' background characteristics have no bearing on their decision-making

		Background characteristics of judges are irrelevant to decision-making						Total	
		1	2	3	4	5	6		
Action for judicial diversity	Yes	Count	13	29	49	117	58	2	268
		Expected Count	15.2	38.9	48.2	115.5	48.2	2.0	268.0
		Adjusted Residual	-1.0	-3.0	.2	.3	2.7	.0	
	No	Count	10	30	24	58	15	1	138
	Expected Count	7.8	20.1	24.8	59.5	24.8	1.0	138.0	
	Adjusted Residual	1.0	3.0	-.2	-.3	-2.7	.0		

Total	Count	23	59	73	175	73	3	406
	Expected	23.0	59.0	73.0	175.0	73.0	3.0	406.0
	Count							

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	14.371 ^a	5	.013
Likelihood Ratio	14.451	5	.013
Linear-by-Linear Association	10.755	1	.001
N of Valid Cases	406		

Background characteristics of parties have no bearing on judicial decision-making

		Background Characteristics of Parties have no bearing on judicial decision-making						Total	
		1	2	3	4	5	6		
Action for judicial diversity	Yes	Count	13	44	58	104	46	2	267
		Expected	16.5	55.4	59.3	97.6	35.6	2.6	267.0
		Count							
		Adjusted Residual	-1.5	-2.9	-.3	1.4	3.2	-.7	
No	Count	12	40	32	44	8	2	138	
	Expected	8.5	28.6	30.7	50.4	18.4	1.4	138.0	
	Count								
	Adjusted Residual	1.5	2.9	.3	-1.4	-3.2	.7		
Total	Count	25	84	90	148	54	4	405	
	Expected	25.0	84.0	90.0	148.0	54.0	4.0	405.0	
	Count								

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	19.718 ^a	5	.001
Likelihood Ratio	20.631	5	.001
Linear-by-Linear Association	15.685	1	.000
N of Valid Cases	405		

Judges sit in an ivory tower detached from daily life

			Judges sit in an ivory tower					Total
			1	2	3	4	5	
Action for judicial diversity	Yes	Count	20	68	79	87	14	268
		Expected Count	14.6	59.6	76.1	91.3	26.5	268.0
		Adjusted Residual	2.5	2.1	.7	-1.0	-4.4	
Total	No	Count	2	22	36	51	26	137
		Expected Count	7.4	30.4	38.9	46.7	13.5	137.0
		Adjusted Residual	-2.5	-2.1	-.7	1.0	4.4	
Total	Count		22	90	115	138	40	405
		Expected Count	22.0	90.0	115.0	138.0	40.0	405.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	27.849 ^a	4	.000
Likelihood Ratio	28.242	4	.000
Linear-by-Linear Association	22.939	1	.000
N of Valid Cases	405		

k. Attitudes on the diversity of the Israeli judiciary

The judiciary should reflect the Israeli society

			The composition of the judiciary should reflect the society					Total
			1	2	3	4	5	
Action for judicial diversity	Yes	Count	93	105	39	28	3	268
		Expected Count	66.8	96.6	45.0	44.3	15.2	268.0
		Adjusted Residual	6.4	1.8	-1.7	-4.6	-5.5	
Total	No	Count	8	41	29	39	20	137
		Expected Count	34.2	49.4	23.0	22.7	7.8	137.0
		Adjusted Residual	-6.4	-1.8	1.7	4.6	5.5	
Total	Count		101	146	68	67	23	405
		Expected Count	101.0	146.0	68.0	67.0	23.0	405.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	81.595 ^a	4	.000
Likelihood Ratio	87.345	4	.000
Linear-by-Linear Association	80.164	1	.000
N of Valid Cases	405		

The Israeli judiciary reflects the composition of the Israeli society

		The composition of the Israeli judiciary reflects Israeli society							
		1	2	3	4	5	6	Total	
Action for judicial diversity	Yes	Count	1	28	36	130	68	5	268
		Expected Count	4.7	41.3	42.7	118.7	52.0	8.7	268.0
		Adjusted Residual	-3.0	-3.9	-1.9	2.4	4.3	-2.2	
	No	Count	6	34	28	48	10	8	134
	Expected Count	2.3	20.7	21.3	59.3	26.0	4.3	134.0	
	Adjusted Residual	3.0	3.9	1.9	-2.4	-4.3	2.2		
Total	Count	7	62	64	178	78	13	402	
	Expected Count	7.0	62.0	64.0	178.0	78.0	13.0	402.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	47.341 ^a	5	.000
Likelihood Ratio	48.341	5	.000
Linear-by-Linear Association	26.402	1	.000
N of Valid Cases	402		

The Israeli judiciary reflects the population of Israeli lawyers

			The composition of the Israeli judiciary reflects the composition of the legal profession						Total
			1	2	3	4	5	6	
Action for judicial diversity	Yes	Count	7	43	60	102	44	12	268
		Expected Count	7.3	51.7	64.3	90.9	37.1	16.6	268.0
		Adjusted Residual	-.2	-2.3	-1.1	2.5	2.1	-2.0	
	No	Count	4	35	37	35	12	13	136
		Expected Count	3.7	26.3	32.7	46.1	18.9	8.4	136.0
		Adjusted Residual	.2	2.3	1.1	-2.5	-2.1	2.0	
Total	Count	11	78	97	137	56	25	404	
	Expected Count	11.0	78.0	97.0	137.0	56.0	25.0	404.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	16.855 ^a	5	.005
Likelihood Ratio	16.922	5	.005
Linear-by-Linear Association	3.186	1	.074
N of Valid Cases	404		

Israeli judicial system is characterised by secularism

			The judiciary is secular						Total
			1	2	3	4	5	6	
Action for judicial diversity	Yes	Count	30	105	86	38	5	4	268
		Expected Count	20.5	101.9	92.6	39.7	7.9	5.3	268.0
		Adjusted Residual	3.7	.7	-1.5	-.5	-1.8	-1.0	
	No	Count	1	49	54	22	7	4	137
		Expected Count	10.5	52.1	47.4	20.3	4.1	2.7	137.0
		Adjusted Residual	-3.7	-.7	1.5	.5	1.8	1.0	
Total	Count	31	154	140	60	12	8	405	
	Expected Count	31.0	154.0	140.0	60.0	12.0	8.0	405.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	19.025 ^a	5	.002
Likelihood Ratio	23.866	5	.000
Linear-by-Linear Association	11.675	1	.001
N of Valid Cases	405		

Israeli judicial system has a clear political orientation

		The judiciary has a political orientation						Total	
		1	2	3	4	5	6		
Action for judicial diversity	Yes	Count	32	48	84	77	27	1	269
		Expected Count	23.2	39.8	82.8	80.2	41.1	2.0	269.0
		Adjusted Residual	3.3	2.4	.3	-.7	-4.1	-1.2	
No	Count	3	12	41	44	35	2	137	
	Expected Count	11.8	20.2	42.2	40.8	20.9	1.0	137.0	
	Adjusted Residual	-3.3	-2.4	-.3	.7	4.1	1.2		
Total	Count	35	60	125	121	62	3	406	
	Expected Count	35.0	60.0	125.0	121.0	62.0	3.0	406.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	31.164 ^a	5	.000
Likelihood Ratio	33.056	5	.000
Linear-by-Linear Association	28.930	1	.000
N of Valid Cases	406		

Israeli judicial system is balanced and fair

		The Israeli judicial system is balanced and fair						Total	
		1	2	3	4	5	6		
Action for judicial diversity	Yes	Count	8	63	103	65	29	1	269
		Expected Count	13.9	76.2	97.4	59.0	21.9	.7	269.0
		Adjusted Residual	-2.8	-3.1	1.2	1.5	2.7	.7	
No	Count	13	52	44	24	4	0	137	

	Expected Count	7.1	38.8	49.6	30.0	11.1	.3	137.0
	Adjusted Residual	2.8	3.1	-1.2	-1.5	-2.7	-7	
Total	Count	21	115	147	89	33	1	406
	Expected Count	21.0	115.0	147.0	89.0	33.0	1.0	406.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	24.414 ^a	5	.000
Likelihood Ratio	25.288	5	.000
Linear-by-Linear Association	22.331	1	.000
N of Valid Cases	406		

The state of judicial diversity will improve over time

			The judiciary will diversify over time						Total
			1	2	3	4	5	6	
Action for judicial diversity	Yes	Count	30	82	81	44	8	21	266
		Expected Count	29.0	99.0	77.2	31.0	7.9	21.8	266.0
		Adjusted Residual	.3	-3.7	.9	4.3	.0	-.3	
	No	Count	14	68	36	3	4	12	137
		Expected Count	15.0	51.0	39.8	16.0	4.1	11.2	137.0
		Adjusted Residual	-.3	3.7	-.9	-4.3	.0	.3	
Total	Count	44	150	117	47	12	33	403	
	Expected Count	44.0	150.0	117.0	47.0	12.0	33.0	403.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	25.284 ^a	5	.000
Likelihood Ratio	29.683	5	.000
Linear-by-Linear Association	4.215	1	.040
N of Valid Cases	403		

1. Cross analysis of stand on fairness of Israeli courts and whether the Israeli judiciary should reflect the composition of society

		The Israeli judiciary reflects the Israeli society						Total	
		1	2	3	4	5	6		
The Israeli judiciary is balanced and fair	1 Count	3	6	4	6	2	2	23	
	Expected Count	.4	3.5	3.7	10.1	4.5	.7	23.0	
	Adjusted Residual	4.0	1.5	.2	-1.8	-1.3	1.6		
	2 Count	3	28	26	48	10	5	120	
	Expected Count	2.3	18.3	19.4	52.9	23.4	3.7	120.0	
	Adjusted Residual	.6	2.9	1.9	-1.1	-3.7	.8		
	3 Count	2	25	30	73	17	5	152	
	Expected Count	2.9	23.2	24.6	67.0	29.7	4.7	152.0	
	Adjusted Residual	-.7	.5	1.5	1.2	-3.2	.2		
	4 Count	0	5	7	49	28	0	89	
	Expected Count	1.7	13.6	14.4	39.2	17.4	2.8	89.0	
	Adjusted Residual	-1.5	-2.8	-2.4	2.4	3.2	-1.9		
	5 Count	0	0	1	8	25	1	35	
	Expected Count	.7	5.3	5.7	15.4	6.8	1.1	35.0	
	Adjusted Residual	-.9	-2.6	-2.2	-2.6	8.1	-.1		
	6 Count	0	0	0	1	0	0	1	
	Expected Count	.0	.2	.2	.4	.2	.0	1.0	
	Adjusted Residual	-.1	-.4	-.4	1.1	-.5	-.2		
	Total	Count	8	64	68	185	82	13	420
		Expected Count	8.0	64.0	68.0	185.0	82.0	13.0	420.0
		Count							

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	131.547 ^a	25	.000
Likelihood Ratio	119.888	25	.000
Linear-by-Linear Association	54.401	1	.000
N of Valid Cases	420		

m. Cross analysis between position regarding affirmative action and support in action for judicial diversity

			Affirmative Action									Total	
			Missing	Other	people with disabilities	none of the groups	Orthodox and/or religious Jews	Sephardic Jews	Women	Olim	Arabs		LGBT
Action for judicial diversity	Yes	Count	32	11	70	34	10	34	24	22	29	5	271
		Expected Count	32.5	13.3	74.9	40.4	8.6	23.2	24.5	22.5	26.5	4.6	271.0
		Adjusted Residual	-.2	-1.1	-1.1	-1.9	.8	4.0	-2	-2	.9	.3	
No	Count	17	9	43	27	3	1	13	12	11	2	138	
		Expected Count	16.5	6.7	38.1	20.6	4.4	11.8	12.5	11.5	13.5	2.4	138.0
		Adjusted Residual	.2	1.1	1.1	1.9	-.8	-4.0	.2	.2	-.9	-.3	
Total	Count	49	20	113	61	13	35	37	34	40	7	409	
	Expected Count	49.0	20.0	113.0	61.0	13.0	35.0	37.0	34.0	40.0	7.0	409.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	21.557 ^a	9	.010
Likelihood Ratio	27.587	9	.001
N of Valid Cases	409		

n. Stand on action for judicial diversity and previous experiences of discrimination

On the grounds of religion (at work)

			Q53Discrimination.Religion.Work		Total
			No	Yes	
Action for judicial diversity	Yes	Count	251	20	271
		Expected Count	256.4	14.6	271.0
		Adjusted Residual	-2.5	2.5	
	No	Count	136	2	138
		Expected Count	130.6	7.4	138.0
		Adjusted Residual	2.5	-2.5	
Total	Count	387	22	409	
	Expected Count	387.0	22.0	409.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	6.319 ^a	1	.012		
Continuity Correction ^b	5.208	1	.022		
Likelihood Ratio	7.743	1	.005		
Fisher's Exact Test				.010	.007
Linear-by-Linear Association	6.304	1	.012		
N of Valid Cases	409				

On the grounds of ethnicity (at work)

			Q53Discrimination.Ethnicity.Work		Total
			No	Yes	
Action for judicial diversity	Yes	Count	241	30	271
		Expected Count	248.5	22.5	271.0
		Adjusted Residual	-2.8	2.8	
	No	Count	134	4	138
		Expected Count	126.5	11.5	138.0
		Adjusted Residual	2.8	-2.8	
Total	Count	375	34	409	
	Expected Count	375.0	34.0	409.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	8.011 ^a	1	.005		
Continuity Correction ^b	6.974	1	.008		
Likelihood Ratio	9.417	1	.002		
Fisher's Exact Test				.004	.002
Linear-by-Linear Association	7.991	1	.005		
N of Valid Cases	409				

PART 3: Professional intentions of Israeli lawyers

- 1. Cross-analysis of likelihood of being appointed to the judiciary with various factors**
 - a. Type of academic institution (non-significant but note university and 'very high')

			Type of academic institution				Total
			university	other	irrelevant	college	
Chances of being appointed to the judiciary	moderate	Count	68	0	0	65	133
		Expected Count	68.4	.3	1.3	63.0	133.0
		Adjusted Residual	-.1	-.6	-1.4	.4	
	high	Count	81	0	2	71	154
		Expected Count	79.2	.3	1.5	73.0	154.0
		Adjusted Residual	.4	-.7	.4	-.4	
	very high	Count	25	0	0	12	37
		Expected Count	19.0	.1	.4	17.5	37.0
		Adjusted Residual	2.0	-.3	-.6	-1.9	
	don't know	Count	40	0	3	47	90
		Expected Count	46.3	.2	.9	42.7	90.0
		Adjusted Residual	-1.5	-.5	2.4	1.0	
	low	Count	32	1	0	28	61
		Expected Count	31.4	.1	.6	28.9	61.0
		Adjusted Residual	.2	2.7	-.8	-.2	
	very low	Count	10	0	0	13	23
		Expected Count	11.8	.0	.2	10.9	23.0
		Adjusted Residual	-.8	-.2	-.5	.9	
Total	Count	256	1	5	236	498	
	Expected Count	256.0	1.0	5.0	236.0	498.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	20.517 ^a	15	.153
Likelihood Ratio	18.302	15	.247
Linear-by-Linear Association	.290	1	.590
N of Valid Cases	498		

b. Satisfaction with the legal profession (non-significant but note those very satisfied and estimating their chances as 'high')

			Satisfaction with the legal profession					Total	
			strongly agree	agree	neither agree nor disagree	disagree	strongly disagree		don't know
Chances of being appointed to the judiciary	moderate	Count	23	71	29	10	6	1	140
		Expected Count	30.8	69.3	21.8	11.7	4.6	1.6	140.0
		Adjusted Residual	-1.9	.3	2.0	-.6	.8	-.6	
	high	Count	45	84	15	9	4	1	158
		Expected Count	34.8	78.2	24.6	13.2	5.2	1.8	158.0
		Adjusted Residual	2.4	1.1	-2.5	-1.5	-.7	-.8	
	very high	Count	9	17	4	5	2	0	37
		Expected Count	8.2	18.3	5.8	3.1	1.2	.4	37.0
		Adjusted Residual	.4	-.5	-.8	1.2	.7	-.7	
	don't know	Count	19	49	15	7	1	2	93
		Expected Count	20.5	46.0	14.5	7.8	3.1	1.1	93.0
		Adjusted Residual	-.4	.7	.2	-.3	-1.3	1.0	
low	Count	14	25	11	7	3	1	61	
	Expected Count	13.4	30.2	9.5	5.1	2.0	.7	61.0	
	Adjusted Residual	.2	-1.4	.6	.9	.7	.4		
very low	Count	3	8	6	5	1	1	24	

	Expected Count	5.3	11.9	3.7	2.0	.8	.3	24.0
	Adjusted Residual	-1.2	-1.6	1.3	2.3	.2	1.4	
Total	Count	113	254	80	43	17	6	513
	Expected Count	113.0	254.0	80.0	43.0	17.0	6.0	513.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	32.283 ^a	25	.150
Likelihood Ratio	31.477	25	.174
Linear-by-Linear Association	3.188	1	.074
N of Valid Cases	513		

c. Age group

			Age group						Total
			18 - 24	25- 34	35 - 44	45 - 54	55 - 64	other	
Chances of being appointed to the judiciary	moderate	Count	0	33	34	26	5	4	102
		Expected Count	.3	25.0	28.9	25.3	13.5	9.1	102.0
		Adjusted Residual	-6	2.2	1.3	.2	-2.9	-2.1	
high	Count	0	24	34	30	15	11	114	
	Expected Count	.3	28.0	32.3	28.3	15.1	10.1	114.0	
	Adjusted Residual	-7	-1.0	.4	.5	.0	.3		
very high	Count	0	1	7	8	6	7	29	
	Expected Count	.1	7.1	8.2	7.2	3.8	2.6	29.0	
	Adjusted Residual	-3	-2.7	-5	.4	1.2	3.0		
don't know	Count	0	20	14	12	11	8	65	
	Expected Count	.2	15.9	18.4	16.1	8.6	5.8	65.0	
	Adjusted Residual								

	Adjusted Residual	-5	1.3	-1.3	-1.3	1.0	1.1	
low	Count	1	11	13	11	5	1	42
	Expected Count	.1	10.3	11.9	10.4	5.5	3.7	42.0
	Adjusted Residual	2.8	.3	.4	.2	-.3	-1.6	
very low	Count	0	2	3	5	7	2	19
	Expected Count	.1	4.7	5.4	4.7	2.5	1.7	19.0
	Adjusted Residual	-.2	-1.5	-1.2	.2	3.1	.3	
Total	Count	1	91	105	92	49	33	371
	Expected Count	1.0	91.0	105.0	92.0	49.0	33.0	371.0
	Count							

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	52.224 ^a	25	.001
Likelihood Ratio	50.144	25	.002
Linear-by-Linear Association	5.720	1	.017
N of Valid Cases	371		

d. Seniority in the legal profession

			Years in the profession					Total
			Missing	15-10 years	10-5 years	more than 15 years	less than 5 years	
Chances of being appointed to the judiciary	moderate	Count	5	19	37	35	45	141
		Expected Count	10.1	19.6	28.3	42.4	40.8	141.0
	Adjusted Residual	Count	-1.9	-.2	2.2	-1.6	.9	
		Expected Count						
high	Count	9	23	29	53	46	160	
	Expected Count	11.4	22.2	32.1	48.1	46.2	160.0	
	Adjusted Residual	-.9	.2	-.7	1.0	-.1		
very high	Count	1	7	2	23	5	38	

	Expected Count	2.7	5.3	7.6	11.4	11.0	38.0
	Adjusted Residual	-1.1	.8	-2.4	4.3	-2.2	
don't know	Count	12	10	15	25	32	94
	Expected Count	6.7	13.0	18.8	28.3	27.2	94.0
	Adjusted Residual	2.3	-1.0	-1.1	-8	1.2	
low	Count	7	6	19	12	17	61
	Expected Count	4.3	8.5	12.2	18.3	17.6	61.0
	Adjusted Residual	1.4	-1.0	2.3	-1.9	-2	
very low	Count	3	7	2	8	5	25
	Expected Count	1.8	3.5	5.0	7.5	7.2	25.0
	Adjusted Residual	1.0	2.1	-1.5	.2	-1.0	
Total	Count	37	72	104	156	150	519
	Expected Count	37.0	72.0	104.0	156.0	150.0	519.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	51.271 ^a	20	.000
Likelihood Ratio	50.410	20	.000
N of Valid Cases	519		

e. Level of trust in courts

			Level of trust in courts					Total
			to a large extent	to some extent	to a small extent	not at all	don't know	
Chances of being appointed to the judiciary	moderate	Count	42	48	11	1	0	102
		Expected Count	42.7	40.2	14.8	3.8	.5	102.0
		Adjusted Residual	-2	1.9	-1.2	-1.7	-9	

high	Count	56	39	15	4	0	114
	Expected Count	47.7	44.9	16.5	4.3	.6	114.0
	Adjusted Residual	1.9	-1.4	-.5	-.2	-.9	
very high	Count	16	6	4	3	1	30
	Expected Count	12.5	11.8	4.3	1.1	.2	30.0
	Adjusted Residual	1.3	-2.3	-.2	1.9	2.2	
don't know	Count	27	26	11	2	0	66
	Expected Count	27.6	26.0	9.6	2.5	.4	66.0
	Adjusted Residual	-.2	.0	.6	-.3	-.7	
low	Count	13	15	11	3	0	42
	Expected Count	17.6	16.6	6.1	1.6	.2	42.0
	Adjusted Residual	-1.5	-.5	2.3	1.2	-.5	
very low	Count	2	13	2	1	1	19
	Expected Count	7.9	7.5	2.8	.7	.1	19.0
	Adjusted Residual	-2.8	2.7	-.5	.4	2.9	
Total	Count	156	147	54	14	2	373
	Expected Count	156.0	147.0	54.0	14.0	2.0	373.0
	Count						

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	43.711 ^a	20	.002
Likelihood Ratio	38.592	20	.007
Linear-by-Linear Association	10.243	1	.001
N of Valid Cases	373		

f. Income level

			Income level					about the same as average	Total
			not working	well above average	well below average	above average	below average		
Chances of being appointed to the judiciary	moderate	Count	0	22	5	40	9	23	99
		Expected Count	1.9	28.1	4.1	38.5	9.9	16.5	99.0
		Adjusted Residual	-1.6	-1.6	.5	.4	-.4	2.1	
	high	Count	0	41	3	43	6	14	107
		Expected Count	2.1	30.3	4.5	41.6	10.7	17.8	107.0
		Adjusted Residual	-1.7	2.7	-.8	.3	-1.8	-1.2	
	very high	Count	1	14	2	7	0	5	29
		Expected Count	.6	8.2	1.2	11.3	2.9	4.8	29.0
		Adjusted Residual	.6	2.5	.8	-1.7	-1.9	.1	
	don't know	Count	5	18	2	21	10	8	64
		Expected Count	1.2	18.1	2.7	24.9	6.4	10.7	64.0
		Adjusted Residual	3.7	.0	-.5	-1.1	1.7	-1.0	
	low	Count	0	5	1	21	8	8	43
		Expected Count	.8	12.2	1.8	16.7	4.3	7.2	43.0
		Adjusted Residual	-1.0	-2.6	-.6	1.4	2.0	.4	
very low	Count	1	2	2	8	3	2	18	
	Expected Count	.4	5.1	.8	7.0	1.8	3.0	18.0	
	Adjusted Residual	1.1	-1.7	1.5	.5	1.0	-.6		
Total	Count	7	102	15	140	36	60	360	
	Expected Count	7.0	102.0	15.0	140.0	36.0	60.0	360.0	
	Adjusted Residual								

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	55.876 ^a	25	.000
Likelihood Ratio	57.805	25	.000
Linear-by-Linear Association	.039	1	.843
N of Valid Cases	360		

g. Previous experiences of discrimination

On grounds of nationality (in courts)

			Discrimination nationality court		Total
			No	Yes	
Chances of being appointed to the judiciary	moderate	Count	138	3	141
		Expected Count	135.8	5.2	141.0
		Adjusted Residual	1.1	-1.1	
	high	Count	155	5	160
		Expected Count	154.1	5.9	160.0
		Adjusted Residual	.4	-.4	
	very high	Count	34	4	38
		Expected Count	36.6	1.4	38.0
		Adjusted Residual	-2.3	2.3	
	don't know	Count	90	4	94
		Expected Count	90.6	3.4	94.0
		Adjusted Residual	-.3	.3	
	low	Count	61	0	61
		Expected Count	58.8	2.2	61.0
		Adjusted Residual	1.6	-1.6	
	very low	Count	22	3	25
		Expected Count	24.1	.9	25.0
		Adjusted Residual	-2.3	2.3	
	Total	Count	500	19	519
		Expected Count	500.0	19.0	519.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	13.490 ^a	5	.019
Likelihood Ratio	12.440	5	.029
Linear-by-Linear Association	1.290	1	.256
N of Valid Cases	519		

On grounds of religion (in courts)

			Discrimination religion court		Total
			No	Yes	
Chances of being appointed to the judiciary	moderate	Count	137	4	141
		Expected Count	136.4	4.6	141.0
		Adjusted Residual	.3	-.3	
high	high	Count	158	2	160
		Expected Count	154.8	5.2	160.0
		Adjusted Residual	1.7	-1.7	
very high	very high	Count	33	5	38
		Expected Count	36.8	1.2	38.0
		Adjusted Residual	-3.6	3.6	
don't know	don't know	Count	93	1	94
		Expected Count	90.9	3.1	94.0
		Adjusted Residual	1.3	-1.3	
low	low	Count	60	1	61
		Expected Count	59.0	2.0	61.0
		Adjusted Residual	.8	-.8	
very low	very low	Count	21	4	25
		Expected Count	24.2	.8	25.0
		Adjusted Residual	-3.7	3.7	
Total		Count	502	17	519
		Expected Count	502.0	17.0	519.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	28.614 ^a	5	.000
Likelihood Ratio	18.927	5	.002
Linear-by-Linear Association	2.507	1	.113
N of Valid Cases	519		

On grounds of ethnicity (in courts)

			Discrimination ethnicity court		Total
			No	Yes	
Chances of being appointed to the judiciary	moderate	Count	132	9	141
		Expected Count	132.0	9.0	141.0
		Adjusted Residual	.0	.0	
	high	Count	151	9	160
		Expected Count	149.8	10.2	160.0
		Adjusted Residual	.5	-.5	
	very high	Count	33	5	38
		Expected Count	35.6	2.4	38.0
		Adjusted Residual	-1.8	1.8	
	don't know	Count	91	3	94
		Expected Count	88.0	6.0	94.0
		Adjusted Residual	1.4	-1.4	
	low	Count	59	2	61
		Expected Count	57.1	3.9	61.0
		Adjusted Residual	1.0	-1.0	
	very low	Count	20	5	25
		Expected Count	23.4	1.6	25.0
		Adjusted Residual	-2.9	2.9	
Total		Count	486	33	519
		Expected Count	486.0	33.0	519.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	13.464 ^a	5	.019
Likelihood Ratio	10.696	5	.058
Linear-by-Linear Association	.285	1	.593
N of Valid Cases	519		

h. Perception of success in Israeli society
Education is the most important component in success

			Education					Total
			1	2	3	4	5	
Chances of being appointed to the judiciary	moderate	Count	42	51	2	1	0	96
		Expected Count	48.4	40.9	5.9	.5	.3	96.0
		Adjusted Residual	-1.5	2.4	-1.9	.7	-.6	
	high	Count	62	42	7	0	1	112
		Expected Count	56.5	47.7	6.9	.6	.3	112.0
		Adjusted Residual	1.3	-1.3	.1	-	1.5	
	very high	Count	21	4	3	0	0	28
		Expected Count	14.1	11.9	1.7	.2	.1	28.0
		Adjusted Residual	2.7	-3.2	1.1	-.4	-.3	
	don't know	Count	37	24	2	0	0	63
		Expected Count	31.8	26.8	3.9	.4	.2	63.0
		Adjusted Residual	1.5	-.8	-1.1	-.7	-.5	
	low	Count	15	21	4	1	0	41
		Expected Count	20.7	17.5	2.5	.2	.1	41.0
		Adjusted Residual	-1.9	1.2	1.0	1.7	-.4	
	very low	Count	4	11	4	0	0	19
		Expected Count	9.6	8.1	1.2	.1	.1	19.0
		Adjusted Residual	-2.6	1.4	2.8	-.3	-.2	
	Total	Count	181	153	22	2	1	359
		Expected Count	181.0	153.0	22.0	2.0	1.0	359.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	39.580 ^a	20	.006
Likelihood Ratio	39.908	20	.005
Linear-by-Linear Association	2.691	1	.101
N of Valid Cases	359		

Nationality and/or religion are the most important components in success

			Nationality and religion					Total
			1	2	3	4	5	
Chances of being appointed to the judiciary	moderate	Count	24	58	13	2	0	97
		Expected Count	25.1	51.8	17.2	2.2	.8	97.0
		Adjusted						
		Residual	-.3	1.5	-1.3	-.1	1.1	
	high	Count	26	71	12	1	2	112
		Expected Count	28.9	59.8	19.8	2.5	.9	112.0
		Adjusted						
		Residual	-.8	2.6	-2.3	1.2	1.3	
	very high	Count	7	9	8	2	0	26
		Expected Count	6.7	13.9	4.6	.6	.2	26.0
		Adjusted						
		Residual	.1	-2.0	1.8	1.9	-5	
	don't know	Count	20	26	15	1	1	63
		Expected Count	16.3	33.6	11.1	1.4	.5	63.0
		Adjusted						
		Residual	1.2	-2.1	1.4	-.4	.7	
	low	Count	7	20	11	2	0	40
		Expected Count	10.3	21.3	7.1	.9	.3	40.0
		Adjusted						
		Residual	-1.3	-.5	1.7	1.2	-.6	
	very low	Count	8	6	4	0	0	18
		Expected Count	4.7	9.6	3.2	.4	.2	18.0
		Adjusted						
		Residual	1.9	-1.7	.5	-.7	-.4	
Total	Count	92	190	63	8	3	356	
	Expected Count	92.0	190.0	63.0	8.0	3.0	356.0	

2. Intentions to apply for a judicial position in the future:

a. Age

			Age group						Total
			18 - 24	25- 34	35 - 44	45 - 54	55 - 64	Other	
Judicial career	Maybe	Count	0	37	38	37	11	3	126
		Expected Count	.3	30.6	36.3	31.2	16.5	11.1	126.0
		Adjusted Residual	-.7	1.6	.4	1.5	-1.8	-3.1	
Yes	Count	1	33	45	24	6	0	109	
	Expected Count	.3	26.5	31.4	27.0	14.2	9.6	109.0	
	Adjusted Residual	1.6	1.7	3.4	-.8	-2.8	-3.9		
No	Count	0	18	23	25	27	24	117	
	Expected Count	.3	28.4	33.7	29.0	15.3	10.3	117.0	
	Adjusted Residual	-.7	-2.7	-2.6	-1.0	3.9	5.4		
Irrelevant	Count	0	3	2	7	5	6	23	
	Expected Count	.1	5.6	6.6	5.7	3.0	2.0	23.0	
	Adjusted Residual	-.3	-1.3	-2.2	.6	1.3	3.0		
Total	Count	1	91	108	93	49	33	375	
	Expected Count	1.0	91.0	108.0	93.0	49.0	33.0	375.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	83.683 ^a	15	.000
Likelihood Ratio	89.197	15	.000
Linear-by-Linear Association	41.983	1	.000
N of Valid Cases	375		

b. Seniority (years) in the profession

			Seniority in the profession				Total
			10-15 years	5-10 years	more than 15 years	less than 5 years	
Judicial career	Maybe	Count	25	46	46	54	171
		Expected Count	26.2	36.3	55.8	52.7	171.0
		Adjusted Residual	-.3	2.2	-2.0	.3	
		Count	22	32	26	55	135

	Expected Count	20.7	28.7	44.1	41.6	135.0
	Adjusted Residual	.4	.8	-3.9	2.9	
No	Count	25	26	78	34	163
	Expected Count	24.9	34.6	53.2	50.2	163.0
	Adjusted Residual	.0	-2.0	5.1	-3.4	
Irrelevant	Count	3	0	10	8	21
	Expected Count	3.2	4.5	6.9	6.5	21.0
	Adjusted Residual	-.1	-2.4	1.5	.7	
Total	Count	75	104	160	151	490
	Expected Count	75.0	104.0	160.0	151.0	490.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	41.809 ^a	9	.000
Likelihood Ratio	46.264	9	.000
Linear-by-Linear Association	.274	1	.601
N of Valid Cases	490		

c. Jewish ethnicity

			Jewish ethnicity						Total	
			othe r	Ashkenaz i	Ethiopia n	irrelevan t	mixe d	Sephardi c		forme r USSR
Judicial career	Maybe	Count	1	49	0	18	24	27	4	123
		Expected Count	2.4	54.7	.3	17.7	17.3	27.0	3.5	123.0
		Adjusted Residual	-1.1	-1.3	-.7	.1	2.1	.0	.4	
Yes		Count	3	45	1	11	14	25	4	103
		Expected Count	2.0	45.8	.3	14.8	14.5	22.6	2.9	103.0
		Adjusted Residual	.8	-.2	1.6	-1.3	-.2	.7	.8	

No	Count	0	56	0	18	10	24	2	110
	Expected Count	2.2	49.0	.3	15.8	15.5	24.2	3.1	110.0
	Adjusted Residual	-1.8	1.6	-.7	.7	-1.8	.0	-.8	
Irrelevant	Count	3	8	0	4	2	2	0	19
	Expected Count	.4	8.5	.1	2.7	2.7	4.2	.5	19.0
	Adjusted Residual	4.5	-.2	-.2	.9	-.5	-1.2	-.8	
Total	Count	7	158	1	51	50	78	10	355
	Expected Count	7.0	158.0	1.0	51.0	50.0	78.0	10.0	355.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	35.360 ^a	18	.009
Likelihood Ratio	27.387	18	.072
Linear-by-Linear Association	4.737	1	.030
N of Valid Cases	355		

d. Previous experiences of discrimination - On the grounds of religion (at work)

			Discrimination Religion Work		Total
			No	Yes	
Judicial career	Maybe	Count	177	5	182
		Expected Count	174.5	7.5	182.0
		Adjusted Residual	1.2	-1.2	
	Yes	Count	139	10	149
		Expected Count	142.8	6.2	149.0
		Adjusted Residual	-1.9	1.9	
	No	Count	169	4	173
		Expected Count	165.8	7.2	173.0
		Adjusted Residual	1.5	-1.5	
	Irrelevant	Count	24	3	27
		Expected Count	25.9	1.1	27.0
		Adjusted Residual	-1.9	1.9	
Total	Count	509	22	531	
	Expected Count	509.0	22.0	531.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	8.129 ^a	3	.043
Likelihood Ratio	7.132	3	.068
Linear-by-Linear Association	.538	1	.463
N of Valid Cases	531		

e. identification with the state

			Identification with Israel				Total
			not at all	to a small extent	to some extent	to a large extent	
Judicial career	Maybe	Count	0	2	29	93	124
		Expected Count	1.7	3.7	21.3	97.4	124.0
		Adjusted Residual	-1.6	-1.1	2.3	-1.2	
	Yes	Count	0	2	10	98	110
		Expected Count	1.5	3.2	18.9	86.4	110.0
		Adjusted Residual	-1.5	-.8	-2.7	3.2	
	No	Count	4	5	19	88	116
		Expected Count	1.6	3.4	19.9	91.1	116.0
		Adjusted Residual	2.4	1.0	-.3	-.9	
	Irrelevant	Count	1	2	6	14	23
		Expected Count	.3	.7	3.9	18.1	23.0
		Adjusted Residual	1.3	1.7	1.2	-2.1	
Total	Count	5	11	64	293	373	
	Expected Count	5.0	11.0	64.0	293.0	373.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	23.928 ^a	9	.004
Likelihood Ratio	24.999	9	.003
Linear-by-Linear Association	5.072	1	.024
N of Valid Cases	373		

f. Satisfaction with the professional level of judges

			Satisfaction with the professional level of judges						Total
			1	2	3	4	5	6	
Judicial career	Maybe	Count	10	49	64	42	10	5	180
		Expected Count	13.5	53.3	53.3	41.5	13.2	5.2	180.0
		Adjusted Residual	-1.2	-.9	2.2	.1	-1.1	-.1	
	Yes	Count	22	63	35	24	3	1	148
		Expected Count	11.1	43.8	43.8	34.2	10.8	4.3	148.0
		Adjusted Residual	4.0	4.1	-1.9	-2.3	-2.9	-1.9	
	No	Count	7	37	46	48	21	8	167
		Expected Count	12.5	49.5	49.5	38.5	12.2	4.8	167.0
		Adjusted Residual	-2.0	-2.6	-.7	2.1	3.2	1.8	
	Irrelevant	Count	0	5	9	6	4	1	25
		Expected Count	1.9	7.4	7.4	5.8	1.8	.7	25.0
		Adjusted Residual	-1.5	-1.1	.7	.1	1.7	.3	
Total	Count	39	154	154	120	38	15	520	
	Expected Count	39.0	154.0	154.0	120.0	38.0	15.0	520.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	58.489 ^a	15	.000
Likelihood Ratio	59.421	15	.000
Linear-by-Linear Association	10.004	1	.002
N of Valid Cases	520		

g. Satisfaction with the efficiency of courts

			Satisfaction with the efficiency of courts						Total
			1	2	3	4	5	6	
Judicial career	Maybe	Count	2	14	59	68	32	5	180
		Expected Count	2.8	19.8	51.8	62.2	37.5	5.9	180.0
		Adjusted Residual	-.6	-1.7	1.5	1.1	-1.3	-.5	
	Yes	Count	6	32	46	44	17	2	147

	Expected Count	2.3	16.2	42.3	50.8	30.6	4.8	147.0
	Adjusted Residual	2.9	4.9	.8	-1.4	-3.3	-1.5	
No	Count	0	10	34	60	52	9	165
	Expected Count	2.5	18.2	47.5	57.0	34.4	5.4	165.0
	Adjusted Residual	-1.9	-2.5	-2.8	.6	4.1	1.9	
Irrelevant	Count	0	1	10	7	7	1	26
	Expected Count	.4	2.9	7.5	9.0	5.4	.9	26.0
	Adjusted Residual	-7.7	-1.2	1.1	-.8	.8	.2	
Total	Count	8	57	149	179	108	17	518
	Expected Count	8.0	57.0	149.0	179.0	108.0	17.0	518.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	59.948 ^a	15	.000
Likelihood Ratio	59.237	15	.000
Linear-by-Linear Association	10.092	1	.001
N of Valid Cases	518		

h. Level of trust in courts

			Level of trust in courts					Total
			to a large extent	to some extent	to a small extent	not at all	don't know	
Judicial career	Maybe	Count	45	62	15	2	1	125
		Expected Count	52.1	49.4	18.2	4.6	.7	125.0
		Adjusted Residual	-1.6	2.8	-1.0	-1.5	.5	
	Yes	Count	67	34	9	1	0	111
		Expected Count	46.2	43.9	16.2	4.1	.6	111.0
		Adjusted Residual	4.8	-2.3	-2.3	-1.9	-.9	
	No	Count	35	48	26	8	1	118
		Expected Count	49.1	46.6	17.2	4.4	.6	118.0
		Count						

	Adjusted Residual	-3.2	.3	2.8	2.1	.6	
	Irrelevant Count	10	5	5	3	0	23
	Expected Count	9.6	9.1	3.4	.9	.1	23.0
	Adjusted Residual	.2	-1.8	1.0	2.4	-4	
Total	Count	157	149	55	14	2	377
	Expected Count	157.0	149.0	55.0	14.0	2.0	377.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	44.105 ^a	12	.000
Likelihood Ratio	43.078	12	.000
Linear-by-Linear Association	7.333	1	.007
N of Valid Cases	377		

i. current work sector

			Current work sector					Total	
			other	other-public sector	courts system	private firm	NGO/Non-profit		state advocacy
Judicial career	Maybe	Count	13	12	4	138	3	0	170
		Expected Count	9.5	9.1	8.1	139.5	1.8	2.1	170.0
		Adjusted Residual	1.5	1.2	-1.8	-4	1.2	-1.8	
Yes		Count	6	7	17	100	0	6	136
		Expected Count	7.6	7.3	6.4	111.6	1.4	1.7	136.0
		Adjusted Residual	-7	-1	5.0	-3.1	-1.4	3.9	
No		Count	7	5	1	146	0	0	159
		Expected Count	8.9	8.5	7.5	130.5	1.6	2.0	159.0
		Adjusted Residual	-8	-1.5	-3.0	3.9	-1.6	-1.7	
Irrelevant		Count	1	2	1	14	2	0	20

	Expected Count	1.1	1.1	.9	16.4	.2	.2	20.0
	Adjusted Residual	-.1	.9	.1	-1.4	4.1	-.5	
Total	Count	27	26	23	398	5	6	485
	Expected Count	27.0	26.0	23.0	398.0	5.0	6.0	485.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	68.569 ^a	15	.000
Likelihood Ratio	59.558	15	.000
Linear-by-Linear Association	2.652	1	.103
N of Valid Cases	485		

j. Internship sector

			Internship sector				Total
			irrelevant	private sector	public sector	both sectors	
Judicial career	Maybe	Count	0	123	39	18	180
		Expected Count	1.0	110.2	46.5	22.2	180.0
		Adjusted Residual	-1.3	2.4	-1.6	-1.2	
	Yes	Count	0	72	66	10	148
		Expected Count	.8	90.6	38.3	18.3	148.0
		Adjusted Residual	-1.1	-3.7	6.1	-2.4	
	No	Count	2	115	25	29	171
		Expected Count	1.0	104.7	44.2	21.1	171.0
		Adjusted Residual	1.3	2.0	-4.1	2.2	
	Irrelevant	Count	1	12	6	8	27
		Expected Count	.2	16.5	7.0	3.3	27.0
		Adjusted Residual	2.2	-1.8	-.4	2.8	
Total	Count	3	322	136	65	526	
	Expected Count	3.0	322.0	136.0	65.0	526.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	58.985 ^a	9	.000
Likelihood Ratio	55.017	9	.000
Linear-by-Linear Association	2.804	1	.094
N of Valid Cases	526		

k. previous work in the courts system

			Work experience in the courts system		Total
			yes	no	
Judicial career	Maybe	Count	7	30	37
		Expected Count	11.1	25.9	37.0
		Adjusted Residual	-1.8	1.8	
Yes		Count	26	30	56
		Expected Count	16.8	39.2	56.0
		Adjusted Residual	3.6	-3.6	
No		Count	1	21	22
		Expected Count	6.6	15.4	22.0
		Adjusted Residual	-2.9	2.9	
Irrelevant		Count	3	5	8
		Expected Count	2.4	5.6	8.0
		Adjusted Residual	.5	-.5	
Total		Count	37	86	123
		Expected Count	37.0	86.0	123.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	16.337 ^a	3	.001
Likelihood Ratio	18.481	3	.000
Linear-by-Linear Association	.005	1	.945
N of Valid Cases	123		

1. Satisfaction with the legal profession

			Satisfaction with the legal profession					Total	
			strongly agree	agree	neither agree nor disagree	disagree	strongly disagree		don't know
Judicial career	Maybe	Count	29	96	36	17	2	1	181
		Expected Count	40.8	89.1	28.3	14.9	5.9	2.1	181.0
		Adjusted Residual	-2.6	1.3	1.9	.7	-2.0	-.9	
Yes		Count	44	71	19	6	4	4	148
		Expected Count	33.3	72.9	23.2	12.1	4.8	1.7	148.0
		Adjusted Residual	2.5	-.4	-1.1	-2.2	-.4	2.1	
No		Count	37	80	23	18	11	0	169
		Expected Count	38.1	83.2	26.4	13.9	5.5	1.9	169.0
		Adjusted Residual	-.2	-.6	-.9	1.4	2.9	-1.7	
Irrelevant		Count	8	11	4	2	0	1	26
		Expected Count	5.9	12.8	4.1	2.1	.8	.3	26.0
		Adjusted Residual	1.0	-.7	.0	-.1	-1.0	1.3	
Total		Count	118	258	82	43	17	6	524
		Expected Count	118.0	258.0	82.0	43.0	17.0	6.0	524.0
		Count							

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	32.884 ^a	15	.005
Likelihood Ratio	34.394	15	.003
Linear-by-Linear Association	.012	1	.913
N of Valid Cases	524		

m. Chances of being appointed

			Chances of being appointed to the judiciary						Total
			moderate	high	very high	don't know	low	very low	
Judicial career	Maybe	Count	59	47	9	32	26	6	179
		Expected Count	48.6	55.5	12.8	32.3	21.2	8.7	179.0
		Adjusted Residual	2.2	-1.7	-1.4	-.1	1.4	-1.2	
	Yes	Count	50	56	10	14	13	3	146
		Expected Count	39.6	45.3	10.5	26.3	17.3	7.1	146.0
		Adjusted Residual	2.3	2.3	-.2	-3.1	-1.3	-1.9	
	No	Count	29	50	17	35	21	13	165
		Expected Count	44.8	51.2	11.8	29.7	19.5	8.0	165.0
		Adjusted Residual	-3.3	-.2	1.9	1.3	.4	2.2	
	Irrelevant	Count	2	7	1	12	1	3	26
		Expected Count	7.1	8.1	1.9	4.7	3.1	1.3	26.0
		Adjusted Residual	-2.3	-.5	-.7	3.8	-1.3	1.6	
Total	Count	140	160	37	93	61	25	516	
	Expected Count	140.0	160.0	37.0	93.0	61.0	25.0	516.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	52.469 ^a	15	.000
Likelihood Ratio	51.967	15	.000
Linear-by-Linear Association	10.505	1	.001
N of Valid Cases	516		

Appendix 9: statistical appendix- chapter 8

This appendix sets out the statistical analyses conducted as part of chapter 8 (Student Survey). It does not cover every single statistical analysis that was carried out for the purpose of this study, as these are numerous. Instead, it focuses on the findings that arose from statistically significant cross analyses between variables, and elaborates on the important results displayed in chapter 8.

The results of the significance tests (chi-square) and the outputs of the statistical package in which the analysis was conducted are displayed below by order of appearance in chapter 8. Each output table displays the actual count, the expected count, and the adjusted Pearson residuals, which indicate which cells in the table caused the 'lack of fit', i.e. contributed to the significant chi-square result.

Commonly used abbreviations:

PR= Pearson residuals

Extent of agreement with various statements:

- SA = strongly agree (1)
- A=agree (2)
- NAND= neither agree nor disagree (3)
- D= disagree (4)
- SD= strongly disagree (5)
- DK= don't know (6)

Analysis in part 1 (demographics of Israeli law students)

1. Cross analysis of type of academic institution with religious group by self-definition

			Religious group						Total	
			Druze	Jewish	no religious affiliation	Muslim	mixed/other	Christian		Samaritan
Type of academic institution	college	Count	9	478	28	26	2	12	1	556
		Expected Count	5.3	490.8	31.7	15.4	4.3	8.2	.5	556.0
		Adjusted Residual	2.3	-2.3	-9	3.8	-1.6	1.9	1.0	
university		Count	2	541	38	6	6	4	0	597
		Expected Count	5.7	526.9	34.0	16.5	4.6	8.8	.5	597.0
		Adjusted Residual	-2.2	2.6	1.0	-3.8	.9	-2.3	-1.0	
other		Count	0	4	0	0	1	1	0	6
		Expected Count	.1	5.3	.3	.2	.0	.1	.0	6.0
		Adjusted Residual	-2	-1.6	-6	-4	4.4	3.1	-1	
Total		Count	11	1023	66	32	9	17	1	1159
		Expected Count	11.0	1023.0	66.0	32.0	9.0	17.0	1.0	1159.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	57.622 ^a	12	.000
Likelihood Ratio	38.828	12	.000
Linear-by-Linear Association	2.584	1	.108
N of Valid Cases	1159		

2. Cross analysis of gender with religious groups (non-significant)

			Religious group						Total	
			Druze	Jewish	no religious affiliation	Muslim	mixed/other	Christian		Samaritan
Gender	Male	Count	9	480	32	18	4	4	0	547
		Expected Count	5.2	482.2	31.0	15.5	4.2	8.5	.5	547.0
		Adjusted Residual	2.3	-.4	.3	.9	-.2	-2.1	-.9	
	Female	Count	2	547	34	15	5	14	1	618
		Expected Count	5.8	544.8	35.0	17.5	4.8	9.5	.5	618.0
		Adjusted Residual	-2.3	.4	-.3	-.9	.2	2.1	.9	
Total	Count	11	1027	66	33	9	18	1	1165	
	Expected Count	11.0	1027.0	66.0	33.0	9.0	18.0	1.0	1165.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	11.541 ^a	6	.073
Likelihood Ratio	12.578	6	.050
Linear-by-Linear Association	2.492	1	.114
N of Valid Cases	1165		

3. Cross analysis of type of academic institution with self-defined Jewish ethnicity

			Jewish Ethnicity					former USSR	Total
			Ashkenazi	Ethiopian	Irrelevant	mixed	Sephardic		
Type of Academic institution	College	Count	115	4	67	74	233	9	502
		Expected Count	175.4	4.2	47.7	87.4	170.7	16.7	502.0
		Adjusted Residual	-7.7	-1	4.0	-2.2	8.0	-2.6	
	university	Count	261	5	35	115	135	27	578
		Expected Count	201.9	4.8	54.9	100.7	196.6	19.2	578.0
		Adjusted Residual	7.5	.1	-4.1	2.3	-7.9	2.7	
	other	Count	3	0	1	0	1	0	5
		Expected Count	1.7	.0	.5	.9	1.7	.2	5.0
		Adjusted Residual	1.2	-.2	.8	-1.0	-.7	-.4	
Total	Count	379	9	103	189	369	36	1085	
	Expected Count	379.0	9.0	103.0	189.0	369.0	36.0	1085.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	108.797 ^a	10	.000
Likelihood Ratio	111.666	10	.000
Linear-by-Linear Association	51.659	1	.000
N of Valid Cases	1085		

4. Cross analysis of type of academic institution with Intra-Jewish ethnicity by father's country of birth

			Eda by Father					Total
			Sephardic	Ashkenazi	Ethiopian	former USSR	Israel	
type of academic institution	college	Count	124	82	4	36	297	543
		Expected Count	105.0	91.6	4.3	35.8	306.3	543.0
		Adjusted Residual	2.9	-1.5	-.2	.1	-1.1	
	university	Count	94	107	5	38	345	589
		Expected Count	113.9	99.4	4.7	38.8	332.3	589.0
		Adjusted Residual	-3.0	1.2	.2	-.2	1.5	
	other	Count	2	3	0	1	0	6
		Expected Count	1.2	1.0	.0	.4	3.4	6.0
		Adjusted Residual	.9	2.2	-.2	1.0	-2.8	
Total	Count	220	192	9	75	642	1138	
	Expected Count	220.0	192.0	9.0	75.0	642.0	1138.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	18.211 ^a	8	.020
Likelihood Ratio	19.946	8	.011
Linear-by-Linear Association	1.625	1	.202
N of Valid Cases	1138		

Analyses in Part 2 (Law students' experiences and attitudes)

1. Cross analysis of religious group with self-definition as Israeli

			Religious group						Total	
			Druze	Jewish	no religious affiliation	Muslim	mixed/other	Christian		Samaritan
Definition as 'Israeli'	not at all	Count	2	1	3	3	0	1	0	10
		Expected Count	.1	8.8	.6	.3	.1	.1	.0	10.0
		Adjusted Residual	6.2	-7.7	3.3	5.2	-3	2.2	-.1	
to a small extent		Count	0	7	6	10	1	1	0	25
		Expected Count	.2	22.0	1.4	.7	.2	.4	.0	25.0
		Adjusted Residual	-5	-9.4	4.0	11.2	1.8	1.1	-.1	
to some extent		Count	0	46	25	10	5	12	1	99
		Expected Count	.9	87.2	5.7	2.8	.8	1.5	.1	99.0
		Adjusted Residual	-1.0	-13.4	8.7	4.5	5.0	9.2	3.3	
absolutely		Count	9	960	32	10	3	3	0	1017
		Expected Count	9.7	895.9	58.3	29.2	8.0	15.0	.9	1017.0
		Adjusted Residual	-.7	18.2	-10.4	-10.6	-5.2	-9.2	-2.8	
Total		Count	11	1014	66	33	9	17	1	1151
		Expected Count	11.0	1014.0	66.0	33.0	9.0	17.0	1.0	1151.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	491.177 ^a	18	.000
Likelihood Ratio	265.153	18	.000
Linear-by-Linear Association	255.136	1	.000
N of Valid Cases	1151		

2. Cross analysis of religious group with extent of identification with the state

			Religious Group						Total	
			Druze	Jewish	no religious affiliation	Muslim	mixed/other	Christian		Samaritan
Identification with the State	not at all	Count	1	6	4	3	0	0	0	14
		Expected Count	.1	12.3	.8	.4	.1	.2	.0	14.0
		Adjusted Residual	2.4	-5.3	3.7	4.3	-3	-5	-.1	
to a small extent		Count	1	31	17	11	2	1	0	63
		Expected Count	.6	55.5	3.7	1.8	.4	1.0	.1	63.0
		Adjusted Residual	.5	-9.8	7.4	7.3	2.4	.0	-.2	
to some extent		Count	1	176	25	11	5	10	0	228
		Expected Count	2.2	200.8	13.3	6.3	1.6	3.6	.2	228.0
		Adjusted Residual	-9	-5.7	3.7	2.1	3.0	3.8	-.5	
to a large extent		Count	8	800	21	7	1	7	1	845
		Expected Count	8.1	744.3	49.2	23.5	5.9	13.2	.7	845.0
		Adjusted Residual	-.1	11.5	-8.1	-6.7	-3.9	-3.4	.6	
Total		Count	11	1013	67	32	8	18	1	1150
		Expected Count	11.0	1013.0	67.0	32.0	8.0	18.0	1.0	1150.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	228.606 ^a	18	.000
Likelihood Ratio	162.311	18	.000
Linear-by-Linear Association	97.564	1	.000
N of Valid Cases	1150		

3. Cross tab between view of the composition of Israeli judiciary and the perception of it as balanced and fair

		Q29Israel's legal system is balanced and fair						Total	
		SA	A	NAND	D	SD	DK		
Q29The composition of the Israeli judiciary reflects the composition of Israeli society	1	Count	17	10	10	6	1	0	44
	Expected Count	1.9	14.4	15.0	9.7	2.6	.4	44.0	
	Adjusted Residual	11.6	-1.5	-1.6	-1.4	-1.0	-.7		
	2	Count	9	85	51	23	1	2	171
	Expected Count	7.2	56.1	58.2	37.8	10.0	1.7	171.0	
	Adjusted Residual	.7	5.0	-1.2	-2.9	-3.1	.3		
	3	Count	9	77	77	30	7	0	200
	Expected Count	8.4	65.7	68.1	44.2	11.7	2.0	200.0	
	Adjusted Residual	.2	1.9	1.4	-2.6	-1.5	-1.5		
	4	Count	11	171	181	122	14	4	503
	Expected Count	21.2	165.1	171.2	111.1	29.5	4.9	503.0	
	Adjusted Residual	-2.9	.7	1.2	1.5	-3.7	-5		
	5	Count	8	65	111	102	52	1	339
	Expected Count	14.3	111.3	115.4	74.9	19.9	3.3	339.0	
	Adjusted Residual	-2.0	-6.2	-.6	4.1	8.6	-1.5		
	6	Count	2	29	23	11	3	6	74
	Expected Count	3.1	24.3	25.2	16.3	4.3	.7	74.0	
	Adjusted Residual	-.7	1.2	-.6	-1.5	-.7	6.4		
	Total	Count	56	437	453	294	78	13	1331
	Expected Count	56.0	437.0	453.0	294.0	78.0	13.0	1331.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	314.308 ^a	25	.000
Likelihood Ratio	210.687	25	.000
Linear-by-Linear Association	92.763	1	.000
N of Valid Cases	1331		

4. Cross-analyses of Level of trust in courts and other factors:

4.1 religious groups (non-significant but note Muslim group)

	Religious group								Total	
	Druze	Jewish	no religious affiliation	Muslim	mixed/other	Christian	Samaritan			
Level of trust in courts	to a large extent	Count	6	407	27	4	2	6	1	453
	Expected Count	4.3	399.4	26.2	12.5	3.5	6.7	.4	453.0	
to some extent	Count	4	491	27	21	7	10	0	560	
	Expected Count	5.3	493.7	32.4	15.5	4.4	8.2	.5	560.0	
to small extent	Count	1	103	11	7	0	1	0	123	
	Expected Count	1.2	108.4	7.1	3.4	1.0	1.8	.1	123.0	
not at all	Count	0	17	2	0	0	0	0	19	
	Expected Count	.2	16.8	1.1	.5	.1	.3	.0	19.0	
don't know	Count	0	3	0	0	0	0	0	3	
	Expected Count	.0	2.6	.2	.1	.0	.0	.0	3.0	
	Adjusted Residual	1.1	1.4	.2	-3.1	-1.0	-.3	1.2		
	Adjusted Residual	-.8	-.5	-1.4	2.0	1.8	.9	-1.0		
	Adjusted Residual	-.2	-1.6	1.6	2.1	-1.0	-.6	-.3		
	Adjusted Residual	-.4	.2	.9	-.7	-.4	-.5	-.1		

	Adjusted Residual	-2	.6	-4	-3	-2	-2	-1	
Total	Count	11	1021	67	32	9	17	1	1158
	Expected Count	11.0	1021.0	67.0	32.0	9.0	17.0	1.0	1158.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	23.943 ^a	24	.465
Likelihood Ratio	27.194	24	.296
Linear-by-Linear Association	1.658	1	.198
N of Valid Cases	1158		

4.2 identification with the state

			Extent of Identification with the State				Total
			not at all	to a small extent	to some extent	to a large extent	
Level trust in courts	to a large extent	Count	2	9	65	383	459
		Expected Count	5.4	25.7	89.9	338.0	459.0
		Adjusted Residual	-1.9	-4.3	-3.7	6.1	
	to some extent	Count	5	32	138	395	570
		Expected Count	6.8	31.9	111.6	419.8	570.0
		Adjusted Residual	-.9	.0	3.9	-3.3	
	to small extent	Count	7	18	27	76	128
		Expected Count	1.5	7.2	25.1	94.3	128.0
		Adjusted Residual	4.7	4.4	.5	-3.9	
	not at all	Count	0	7	1	11	19
		Expected Count	.2	1.1	3.7	14.0	19.0
		Adjusted Residual	-5	6.0	-1.6	-1.6	
don't know	Count	0	0	0	4	4	
	Expected Count	.0	.2	.8	2.9	4.0	
	Adjusted Residual	-2	-.5	-1.0	1.2		
Total	Count	14	66	231	869	1180	
	Expected Count	14.0	66.0	231.0	869.0	1180.0	
	Count						

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	111.387 ^a	12	.000
Likelihood Ratio	85.317	12	.000
Linear-by-Linear Association	57.076	1	.000
N of Valid Cases	1180		

4.3 Definition as Israeli

			Extent of definition as Israeli				Total
			not at all	to a small extent	to some extent	absolutely	
Level of trust in courts	to a large extent	Count	1	5	27	425	458
		Expected Count	3.9	10.1	38.1	405.9	458.0
		Adjusted Residual	-1.9	-2.1	-2.4	3.6	
	to some extent	Count	3	12	59	497	571
		Expected Count	4.8	12.6	47.5	506.1	571.0
		Adjusted Residual	-1.2	-2	2.4	-1.7	
	to small extent	Count	6	9	8	104	127
		Expected Count	1.1	2.8	10.6	112.6	127.0
		Adjusted Residual	5.0	4.0	-9	-2.5	
	not at all	Count	0	0	4	15	19
		Expected Count	.2	.4	1.6	16.8	19.0
		Adjusted Residual	-4	-7	2.0	-1.3	
don't know	Count	0	0	0	4	4	
	Expected Count	.0	.1	.3	3.5	4.0	
	Adjusted Residual	-2	-3	-6	.7		
Total	Count	10	26	98	1045	1179	
	Expected Count	10.0	26.0	98.0	1045.0	1179.0	
	Count						

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	55.024 ^a	12	.000
Likelihood Ratio	39.948	12	.000
Linear-by-Linear Association	21.305	1	.000
N of Valid Cases	1179		

5. Cross analyses of various factors with stand on action for judicial diversity

5.1 Religious group (overall non-significant but note high support in action for Muslim students)

			Religious group					Total		
			Druze	Jewish	no religious affiliation	Muslim	mixed/other	Christian	Samaritan	
Action for judicial diversity in Israel	yes	Count	9	762	49	29	7	14	1	871
		Expected Count	8.4	771.5	49.7	23.0	6.1	11.5	.8	871.0
		Adjusted Residual	.4	-2.1	-.2	2.6	.7	1.5	.6	
no	Count	2	246	16	1	1	1	0	0	267
		Expected Count	2.6	236.5	15.3	7.0	1.9	3.5	.2	267.0
		Adjusted Residual	-.4	2.1	.2	-2.6	-.7	-1.5	-.6	
Total	Count	11	1008	65	30	8	15	1	1	1138
		Expected Count	11.0	1008.0	65.0	30.0	8.0	15.0	1.0	1138.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	10.685 ^a	6	.099
Likelihood Ratio	14.550	6	.024

Linear-by-Linear Association	6.793	1	.009
N of Valid Cases	1138		

5.2 Gender

			Gender		Total
			Male	Female	
Action for judicial diversity in Israel	yes	Count	385	498	883
		Expected Count	413.6	469.4	883.0
		Adjusted Residual	-4.0	4.0	
	no	Count	156	116	272
		Expected Count	127.4	144.6	272.0
		Adjusted Residual	4.0	-4.0	
Total		Count	541	614	1155
		Expected Count	541.0	614.0	1155.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	15.793 ^a	1	.000		
Continuity Correction ^b	15.245	1	.000		
Likelihood Ratio	15.787	1	.000		
Fisher's Exact Test				.000	.000
Linear-by-Linear Association	15.779	1	.000		
N of Valid Cases	1155				

5.3 Jewish ethnicity

			Jewish Ethnicity					Total	
			Ashkenazi	Ethiopian	irrelevant	mixed	Sephardic		former USSR
Action for judicial diversity in Israel	yes	Count	243	8	72	143	316	24	806
		Expected Count	282.8	6.8	74.9	142.1	271.4	28.0	806.0
		Adjusted Residual	-5.9	.9	-.7	.2	6.7	-1.5	
	no	Count	131	1	27	45	43	13	260
		Expected Count	91.2	2.2	24.1	45.9	87.6	9.0	260.0
		Adjusted Residual	5.9	-.9	.7	-.2	-6.7	1.5	
Total	Count	374	9	99	188	359	37	1066	
	Expected Count	374.0	9.0	99.0	188.0	359.0	37.0	1066.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2- sided)
Pearson Chi-Square	56.581 ^a	5	.000
Likelihood Ratio	59.658	5	.000
Linear-by- Linear Association	38.999	1	.000
N of Valid Cases	1066		

5.4 Religiosity

			Religiosity					Total	
			other	atheist	religious	very religious	secular		traditional (massorti)
Action for judicial diversity in Israel	yes	Count	17	78	130	15	365	257	862
		Expected Count	19.1	84.0	124.5	15.3	395.5	223.7	862.0
		Adjusted Residual	-1.0	-1.4	1.1	-.1	-4.3	5.3	
	no	Count	8	32	33	5	153	36	267
		Expected Count	5.9	26.0	38.5	4.7	122.5	69.3	267.0
		Adjusted Residual	1.0	1.4	-1.1	.1	4.3	-5.3	
Total	Count	25	110	163	20	518	293	1129	
	Expected Count	25.0	110.0	163.0	20.0	518.0	293.0	1129.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2- sided)
Pearson Chi-Square	34.730 ^a	5	.000
Likelihood Ratio	37.332	5	.000
Linear-by- Linear Association	6.127	1	.013
N of Valid Cases	1129		

5.5 Identification with the state

			Identification with the State				Total
			not at all	to a small extent	to some extent	to a large extent	
Action for judicial diversity in Israel	yes	Count	12	54	180	635	881
		Expected Count	9.9	47.3	171.8	652.0	881.0
		Adjusted Residual	1.4	2.0	1.4	-2.7	
		no	Count	1	8	45	219
	Expected Count	3.1	14.7	53.2	202.0	273.0	
	Adjusted Residual	-1.4	-2.0	-1.4	2.7		
	Total	Count	13	62	225	854	1154
	Expected Count	13.0	62.0	225.0	854.0	1154.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	9.338 ^a	3	.025
Likelihood Ratio	10.408	3	.015
Linear-by-Linear Association	9.296	1	.002
N of Valid Cases	1154		

a. 1 cells (12.5%) have expected count less than 5. The minimum expected count is 3.08.

5.6 Type of academic institution

			Academic Institution			Total
			college	university	other	
Action for judicial diversity in Israel	yes	Count	516	457	5	978
		Expected Count	489.8	482.9	5.3	978.0
		Adjusted Residual	3.5	-3.4	-.3	
	no	Count	125	175	2	302
		Expected Count	151.2	149.1	1.7	302.0
		Adjusted Residual	-3.5	3.4	.3	
Total	Count	641	632	7	1280	
Expected Count	641.0	632.0	7.0	1280.0		

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	11.935 ^a	2	.003
Likelihood Ratio	11.981	2	.003
Linear-by-Linear Association	11.729	1	.001
N of Valid Cases	1280		

5.7 previous experiences of discrimination (displaying only significant chi-sq.)

On grounds of gender (studies/work)

			Q44Discrimination.Gender.Studies		Total
			0	1	
Action for judicial diversity in Israel	yes	Count	916	67	983
		Expected Count	926.6	56.4	983.0
		Adjusted Residual	-3.0	3.0	
	no	Count	299	7	306
		Expected Count	288.4	17.6	306.0
		Adjusted Residual	3.0	-3.0	
Total	Count	1215	74	1289	
	Expected Count	1215.0	74.0	1289.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	8.843 ^a	1	.003		
Continuity Correction ^b	8.026	1	.005		
Likelihood Ratio	10.622	1	.001		
Fisher's Exact Test				.002	.001
Linear-by-Linear Association	8.836	1	.003		
N of Valid Cases	1289				

			Q44Discrimination.Gender.Work		Total
			0	1	
Action for judicial diversity in Israel	yes	Count	857	126	983
		Expected Count	870.1	112.9	983.0
		Adjusted Residual	-2.7	2.7	
	no	Count	284	22	306
		Expected Count	270.9	35.1	306.0
		Adjusted Residual	2.7	-2.7	
Total	Count	1141	148	1289	
	Expected Count	1141.0	148.0	1289.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	7.274 ^a	1	.007		
Continuity Correction ^b	6.730	1	.009		
Likelihood Ratio	7.969	1	.005		
Fisher's Exact Test				.007	.004
Linear-by-Linear Association	7.268	1	.007		
N of Valid Cases	1289				

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 35.13.

b. Computed only for a 2x2 table

On the ground of ethnicity (studies/work)

			Q44Discrimination.Ethnicity.Studies		Total
			0	1	
Action for judicial diversity in Israel	yes	Count	893	90	983
		Expected Count	909.8	73.2	983.0
		Adjusted Residual	-4.2	4.2	
	no	Count	300	6	306
		Expected Count	283.2	22.8	306.0
		Adjusted Residual	4.2	-4.2	
Total	Count	1193	96	1289	
	Expected Count	1193.0	96.0	1289.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	17.525 ^a	1	.000		
Continuity Correction ^b	16.497	1	.000		
Likelihood Ratio	22.439	1	.000		
Fisher's Exact Test				.000	.000
Linear-by-Linear Association	17.512	1	.000		
N of Valid Cases	1289				

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 22.79.

b. Computed only for a 2x2 table

On ground of religion (studies/work)

			Q44Discrimination.Religion.Studies		Total
			0	1	
Action for judicial diversity in Israel	yes	Count	914	69	983
		Expected Count	924.3	58.7	983.0
		Adjusted Residual	-2.8	2.8	
	no	Count	298	8	306
		Expected Count	287.7	18.3	306.0
		Adjusted Residual	2.8	-2.8	
Total	Count	1212	77	1289	
	Expected Count	1212.0	77.0	1289.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	8.062 ^a	1	.005		
Continuity Correction ^b	7.296	1	.007		
Likelihood Ratio	9.518	1	.002		
Fisher's Exact Test				.003	.002
Linear-by-Linear Association	8.055	1	.005		
N of Valid Cases	1289				

			Q44Discrimination.Religion.Work		Total
			0	1	
Action for judicial diversity in Israel	yes	Count	917	66	983
		Expected Count	925.0	58.0	983.0

	Adjusted Residual	-2.2	2.2	
no	Count	296	10	306
	Expected Count	288.0	18.0	306.0
	Adjusted Residual	2.2	-2.2	
Total	Count	1213	76	1289
	Expected Count	1213.0	76.0	1289.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	4.995 ^a	1	.025		
Continuity Correction ^b	4.393	1	.036		
Likelihood Ratio	5.642	1	.018		
Fisher's Exact Test				.026	.014
Linear-by-Linear Association	4.991	1	.025		
N of Valid Cases	1289				

On grounds of nationality (work/studies)

			discrimination nationality studies		Total
			no	yes	
Action for judicial diversity in Israel	yes	Count	908	75	983
		Expected Count	918.9	64.1	983.0
		Adjusted Residual	-2.9	2.9	
	no	Count	297	9	306
		Expected Count	286.1	19.9	306.0
		Adjusted Residual	2.9	-2.9	
Total		Count	1205	84	1289
		Expected Count	1205.0	84.0	1289.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	8.420 ^a	1	.004		
Continuity Correction ^b	7.668	1	.006		
Likelihood Ratio	9.877	1	.002		
Fisher's Exact Test				.003	.002
Linear-by-Linear Association	8.414	1	.004		
N of Valid Cases	1289				

			discrimination nationality work		Total
			.00	1.00	
Action for judicial diversity in Israel	yes	Count	930	53	983
		Expected Count	938.0	45.0	983.0
		Adjusted Residual	-2.5	2.5	
	no	Count	300	6	306
		Expected Count	292.0	14.0	306.0
		Adjusted Residual	2.5	-2.5	
Total	Count	1230	59	1289	
	Expected Count	1230.0	59.0	1289.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	6.289 ^a	1	.012		
Continuity Correction ^b	5.528	1	.019		
Likelihood Ratio	7.473	1	.006		
Fisher's Exact Test				.011	.006
Linear-by-Linear Association	6.284	1	.012		
N of Valid Cases	1289				

5.8 Level of trust in courts

			Extent of trust in Israeli courts					Total
			to a large extent	to some extent	to small extent	not at all	don't know	
Action for judicial diversity in Israel	yes	Count	318	446	104	16	1	885
		Expected Count	345.8	428.8	94.4	12.9	3.0	885.0
		Adjusted Residual	-3.9	2.4	2.1	1.8	-2.4	
	no	Count	136	117	20	1	3	277
		Expected Count	108.2	134.2	29.6	4.1	1.0	277.0
		Adjusted Residual	3.9	-2.4	-2.1	-1.8	2.4	
Total	Count	454	563	124	17	4	1162	
	Expected Count	454.0	563.0	124.0	17.0	4.0	1162.0	
	Count							

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	25.101 ^a	4	.000
Likelihood Ratio	24.922	4	.000
Linear-by-Linear Association	12.498	1	.000
N of Valid Cases	1162		

5.9 Position regarding affirmative action in Israel:

		Groups worthy of affirmative action										Total
		other	people with disabilities)	none of the groups	orthodox and religious Jews	Sephardic Jews	women	new immigrants	Ara bs	LG BT		
Action for judicial diversity in Israel	ye Count	116	44	274	70	29	89	129	61	135	36	983
	s Expected	119.0	49.6	270.7	86.9	25.9	74.7	125.8	67.9	124.3	38.1	983.0
	Count Adjusted Residual	-6.6	-1.7	.5	-3.9	1.3	3.5	.6	-1.8	2.1	-7.7	
no	Count	40	21	81	44	5	9	36	28	28	14	306
	Expected	37.0	15.4	84.3	27.1	8.1	23.3	39.2	21.1	38.7	11.9	306.0
	Count Adjusted Residual	.6	1.7	-5.5	3.9	-1.3	-3.5	-6.6	1.8	-2.1	.7	
Total	Count	156	65	355	114	34	98	165	89	163	50	1289
	Expected	156.0	65.0	355.0	114.0	34.0	98.0	165.0	89.0	163.0	50.0	1289.0
	Count											

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	37.661 ^a	9	.000
Likelihood Ratio	38.807	9	.000
N of Valid Cases	1289		

5.10 attitudes towards the Israeli judiciary

Judges are professional and objective

			Judges are professional, objective and neutral decision-makers						Total
			SA	A	NAND	D	SD	DK	
Action for judicial diversity in Israel	yes	Count	41	316	274	290	55	3	979
		Expected Count	45.7	349.2	262.3	265.3	50.3	6.1	979.0
		Adjusted Residual	-1.5	-4.5	1.7	3.6	1.4	-2.6	
	no	Count	19	142	70	58	11	5	305
		Expected Count	14.3	108.8	81.7	82.7	15.7	1.9	305.0
		Adjusted Residual	1.5	4.5	-1.7	-3.6	-1.4	2.6	
Total	Count	60	458	344	348	66	8	1284	
	Expected Count	60.0	458.0	344.0	348.0	66.0	8.0	1284.0	
	Count								

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	35.683 ^a	5	.000
Likelihood Ratio	34.570	5	.000
Linear-by-Linear Association	18.203	1	.000
N of Valid Cases	1284		

The importance of background characteristics of judges

		The background characteristics of judges (e.g. age, gender, ethnicity, religion etc.) have no bearing on the decisions they reach.						Total	
		SA	A	NAND	D	SD	DK		
Action for judicial diversity in Israel	yes	Count	44	103	132	474	219	7	979
		Expected	45.1	109.3	141.4	478.4	198.7	6.1	979.0
		Count							
		Adjusted	-3	-1.3	-1.8	-.6	3.3	.7	
		Residual							
		no	Count	15	40	53	152	41	1
		Expected	13.9	33.7	43.6	147.6	61.3	1.9	302.0
		Count							
		Adjusted	.3	1.3	1.8	.6	-3.3	-.7	
		Residual							
Total		Count	59	143	185	626	260	8	1281
		Expected	59.0	143.0	185.0	626.0	260.0	8.0	1281.0
		Count							

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	13.800 ^a	5	.017
Likelihood Ratio	14.530	5	.013
Linear-by-Linear Association	8.429	1	.004
N of Valid Cases	1281		

Judicial diversity is important to legitimacy of courts

			Judicial diversity is an important component in the legitimacy of courts						Total
			SA	A	NAND	D	SD	DK	
Action for judicial diversity in Israel	yes	Count	426	445	66	27	2	6	972
		Expected Count	363.6	446.0	92.2	54.1	9.1	6.9	972.0
		Adjusted Residual	8.5	-.1	-5.9	-7.8	-4.9	-.7	
	no	Count	51	140	55	44	10	3	303
		Expected Count	113.4	139.0	28.8	16.9	2.9	2.1	303.0
		Adjusted Residual	-8.5	.1	5.9	7.8	4.9	.7	
Total	Count	477	585	121	71	12	9	1275	
	Expected Count	477.0	585.0	121.0	71.0	12.0	9.0	1275.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	157.591 ^a	5	.000
Likelihood Ratio	146.749	5	.000
Linear-by-Linear Association	138.791	1	.000
N of Valid Cases	1275		

The composition of the Israeli judiciary reflects the composition of society

			The composition of the Israeli judiciary reflects the composition of Israeli society						Total
			SA	A	NAND	D	SD	DK	
Action for judicial diversity in Israel	yes	Count	26	106	134	394	278	42	980
		Expected Count	32.8	126.0	150.5	372.8	246.7	51.2	980.0
		Adjusted Residual	-2.5	-3.9	-3.0	2.9	4.7	-2.7	
	no	Count	17	59	63	94	45	25	303
		Expected Count	10.2	39.0	46.5	115.2	76.3	15.8	303.0
		Adjusted Residual	2.5	3.9	3.0	-2.9	-4.7	2.7	
Total		Count	43	165	197	488	323	67	1283
		Expected Count	43.0	165.0	197.0	488.0	323.0	67.0	1283.0
		Count							

The Israeli judiciary should reflect a variety of sectors

			It is important that a variety of sectors of Israeli society (e.g. women, Sephardic Jews, Arabs etc.) are represented in the judiciary						Total
			SA	A	NAND	D	SD	DK	
Action for judicial diversity in Israel	yes	Count	503	388	54	16	8	1	970
		Expected Count	428.6	398.1	83.1	42.7	16.0	1.5	970.0
		Adjusted Residual	9.9	-1.3	-6.9	-8.6	-4.1	-9	
	no	Count	59	134	55	40	13	1	302
		Expected Count	133.4	123.9	25.9	13.3	5.0	.5	302.0
		Adjusted Residual	-9.9	1.3	6.9	8.6	4.1	.9	
Total		Count	562	522	109	56	21	2	1272
		Expected Count	562.0	522.0	109.0	56.0	21.0	2.0	1272.0
		Count							

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	186.479 ^a	5	.000
Likelihood Ratio	173.365	5	.000
Linear-by-Linear Association	174.775	1	.000
N of Valid Cases	1272		

Israeli judiciary has a political orientation

			The Israeli legal system is characterized by a clear political orientation						
			SA	A	NAND	D	SD	DK	Total
Action for judicial diversity in Israel	yes	Count	105	237	332	219	58	30	981
		Expected Count	87.9	222.3	331.6	233.8	74.1	31.3	981.0
		Adjusted Residual	3.9	2.3	.1	-2.3	-4.0	-.5	
	no	Count	10	54	102	87	39	11	303
		Expected Count	27.1	68.7	102.4	72.2	22.9	9.7	303.0
		Adjusted Residual	-3.9	-2.3	-.1	2.3	4.0	.5	
Total	Count	115	291	434	306	97	41	1284	
	Expected Count	115.0	291.0	434.0	306.0	97.0	41.0	1284.0	
	Count								

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	37.312 ^a	5	.000
Likelihood Ratio	38.946	5	.000
Linear-by-Linear Association	30.646	1	.000
N of Valid Cases	1284		

Israeli judiciary is balanced and fair

		Israel's legal system is balanced and fair						Total	
		SA	A	NAND	D	SD	DK		
Action for judicial diversity in Israel	yes	Count	30	282	336	251	66	8	973
		Expected Count	41.3	323.3	327.9	214.8	56.6	9.2	973.0
		Adjusted Residual	-3.7	-5.8	1.1	5.8	2.7	-.8	
	no	Count	24	141	93	30	8	4	300
		Expected Count	12.7	99.7	101.1	66.2	17.4	2.8	300.0
		Adjusted Residual	3.7	5.8	-1.1	-5.8	-2.7	.8	
Total		Count	54	423	429	281	74	12	1273
		Expected Count	54.0	423.0	429.0	281.0	74.0	12.0	1273.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	69.559 ^a	5	.000
Likelihood Ratio	72.063	5	.000
Linear-by-Linear Association	55.986	1	.000
N of Valid Cases	1273		

The composition of the Israeli judiciary reflects that of the legal profession

			The composition of the Israeli judiciary reflects the composition of legal professionals in Israel					Total	
			SA	A	NAND	D	SD		DK
Action for judicial diversity in Israel	yes	Count	15	145	218	306	126	170	980
		Expected Count	19.1	152.2	227.2	287.7	116.3	177.5	980.0
		Adjusted Residual	-2.0	-1.3	-1.4	2.7	2.0	-1.3	
	no	Count	10	54	79	70	26	62	301
		Expected Count	5.9	46.8	69.8	88.3	35.7	54.5	301.0
		Adjusted Residual	2.0	1.3	1.4	-2.7	-2.0	1.3	
Total	Count	25	199	297	376	152	232	1281	
	Expected Count	25.0	199.0	297.0	376.0	152.0	232.0	1281.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2- sided)
Pearson Chi-Square	16.623 ^a	5	.005
Likelihood Ratio	16.582	5	.005
Linear-by-Linear Association	2.218	1	.136
N of Valid Cases	1281		

The judiciary will diversify over time

			The judiciary will become increasingly diverse over time						Total
			SA	A	NAND	D	SD	DK	
Action for judicial diversity in Israel	yes	Count	127	337	237	131	16	120	968
		Expected Count	121.3	357.0	239.5	117.5	13.7	119.0	968.0
		Adjusted Residual	1.1	-2.7	-.4	2.7	1.3	.2	
	no	Count	32	131	77	23	2	36	301
		Expected Count	37.7	111.0	74.5	36.5	4.3	37.0	301.0
		Adjusted Residual	-1.1	2.7	.4	-2.7	-1.3	-.2	
Total		Count	159	468	314	154	18	156	1269
		Expected Count	159.0	468.0	314.0	154.0	18.0	156.0	1269.0
		Count							

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	14.152 ^a	5	.015
Likelihood Ratio	15.008	5	.010
Linear-by-Linear Association	1.783	1	.182
N of Valid Cases	1269		

The judiciary should reflect society

			The composition of the judiciary needs to reflect the composition of the society in which it operates.					Total	
			SA	A	NAND	D	SD		DK
Action for judicial diversity in Israel	yes	Count	374	389	139	52	10	3	967
		Expected Count	311.4	370.8	159.9	96.7	25.1	3.0	967.0
		Adjusted Residual	8.8	2.5	-3.7	-9.8	-6.3	-.1	
	no	Count	35	98	71	75	23	1	303
		Expected Count	97.6	116.2	50.1	30.3	7.9	1.0	303.0
		Adjusted Residual	-8.8	-2.5	3.7	9.8	6.3	.1	
Total	Count	409	487	210	127	33	4	1270	
	Expected Count	409.0	487.0	210.0	127.0	33.0	4.0	1270.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2- sided)
Pearson Chi-Square	192.676 ^a	5	.000
Likelihood Ratio	181.972	5	.000
Linear-by-Linear Association	179.124	1	.000
N of Valid Cases	1270		

Judges sit in an ivory tower detached from daily life

			Q29Judges sit in an 'ivory tower' and are detached from everyday life						Total
			SA	A	NAND	D	SD	DK	
Action for judicial diversity in Israel	yes	Count	39	159	317	340	112	12	979
		Expected Count	35.9	151.8	293.8	356.3	125.9	15.3	979.0
		Adjusted Residual	1.1	1.3	3.3	-2.2	-2.7	-1.7	
	no	Count	8	40	68	127	53	8	304
		Expected Count	11.1	47.2	91.2	110.7	39.1	4.7	304.0
		Adjusted Residual	-1.1	-1.3	-3.3	2.2	2.7	1.7	
Total		Count	47	199	385	467	165	20	1283
		Expected Count	47.0	199.0	385.0	467.0	165.0	20.0	1283.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	22.914 ^a	5	.000
Likelihood Ratio	22.716	5	.000
Linear-by-Linear Association	17.343	1	.000
N of Valid Cases	1283		

Analyses in part 3: intentions of Israeli students (regarding the legal profession and the judiciary)

1. Factors associated with a desire for a judicial career

a. Nationality/religion (non-significant but note PR for Muslim group)

			Religious group						Total	
			Druze	Jewish	no religious affiliation	Muslim	mixed/other	Christian		Samaritan
Judicial Career (with undecided)	No	Count	2	209	18	3	1	5	0	238
		Expected Count	2.3	208.9	14.2	7.0	1.7	3.6	.2	238.0
		Adjusted Residual	-2	.0	1.2	-1.7	-6	.8	-5	
Maybe		Count	5	460	28	14	5	4	0	516
		Expected Count	5.1	452.9	30.9	15.2	3.7	7.8	.5	516.0
		Adjusted Residual	.0	1.3	-7	-4	.9	-1.9	-9	
Yes		Count	4	314	21	16	2	8	1	366
		Expected Count	3.6	321.2	21.9	10.8	2.6	5.6	.3	366.0
		Adjusted Residual	.3	-1.4	-2	2.0	-5	1.3	1.4	
Total		Count	11	983	67	33	8	17	1	1120
		Expected Count	11.0	983.0	67.0	33.0	8.0	17.0	1.0	1120.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	13.027 ^a	12	.367
Likelihood Ratio	13.685	12	.321
Linear-by-Linear Association	1.709	1	.191
N of Valid Cases	1120		

b. Gender (non-significant but note PR for male)

			Gender		Total
			Male	Female	
Judicial Career (with undecided)	No	Count	127	112	239
		Expected Count	110.7	128.3	239.0
		Adjusted Residual	2.4	-2.4	
	Maybe	Count	231	296	527
		Expected Count	244.1	282.9	527.0
		Adjusted Residual	-1.6	1.6	
	Yes	Count	171	205	376
		Expected Count	174.2	201.8	376.0
		Adjusted Residual	-.4	.4	
Total	Count	529	613	1142	
	Expected Count	529.0	613.0	1142.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	5.886 ^a	2	.053
Likelihood Ratio	5.874	2	.053
Linear-by-Linear Association	2.543	1	.111
N of Valid Cases	1142		

c. Age group

			Age Group					Total	
			18 - 24	25- 34	35 - 44	45 - 54	55 - 64		other
Judicial Career (with undecided)	No	Count	45	127	31	25	9	3	240
		Expected Count	64.0	126.3	28.7	15.5	4.6	.8	240.0
		Adjusted Residual	-3.1	.1	.5	2.8	2.3	2.7	
	Maybe	Count	155	279	56	32	5	0	527
		Expected Count	140.5	277.3	63.1	34.1	10.1	1.8	527.0
		Adjusted Residual	1.9	.2	-1.3	-5	-2.2	-1.9	
	Yes	Count	105	196	50	17	8	1	377
		Expected Count	100.5	198.4	45.1	24.4	7.3	1.3	377.0
		Adjusted Residual	.6	-.3	.9	-1.9	.3	-.3	
Total	Count	305	602	137	74	22	4	1144	
	Expected Count	305.0	602.0	137.0	74.0	22.0	4.0	1144.0	
	Count								

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	31.350 ^a	10	.001
Likelihood Ratio	30.619	10	.001
Linear-by-Linear Association	10.863	1	.001
N of Valid Cases	1144		

d. Planned internship sector

			Internship. Place									Total
			other	do not intend to take an internship	private sector	courts system	NGOs	public sector	haven't decided yet	n/a		
Judicial Career (with undecided)	No	Count	80	4	3	138	11	12	61	56	0	365
		Expected Count	51.0	5.1	.8	113.7	22.9	7.0	94.4	68.6	1.5	365.0
		Adjusted Residual	4.9	-5	2.6	3.1	-2.9	2.2	-4.5	-1.9	1.4	
Maybe		Count	97	9	1	253	29	13	211	178	3	794
		Expected Count	111.0	11.1	1.8	247.3	49.7	15.2	205.4	149.2	3.2	794.0
		Adjusted Residual	-1.9	-8	-8	.6	-4.1	-8	.6	3.6	-2	
Yes		Count	64	11	0	146	68	8	174	90	4	565
		Expected Count	79.0	7.9	1.3	176.0	35.4	10.8	146.2	106.2	2.3	565.0
		Adjusted Residual	-2.2	1.4	-1.4	-3.3	6.9	-1.1	3.3	-2.1	1.4	
Total		Count	241	24	4	537	108	33	446	324	7	1724
		Expected Count	241.0	24.0	4.0	537.0	108.0	33.0	446.0	324.0	7.0	1724.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	120.402 ^a	16	.000
Likelihood Ratio	115.950	16	.000
N of Valid Cases	1724		

e. Expectation to stay in the legal profession in 5 years

			expect_to_work_in_profession_in5years			Total
			yes	probably	no	
Judicial Career (with undecided)	No	Count	129	132	103	364
		Expected Count	171.1	147.0	45.9	364.0
		Adjusted Residual	-5.0	-1.8	10.2	
	Maybe	Count	310	381	95	786
		Expected Count	369.4	317.5	99.1	786.0
		Adjusted Residual	-5.8	6.3	-.6	
	Yes	Count	366	179	18	563
		Expected Count	264.6	227.4	71.0	563.0
		Adjusted Residual	10.5	-5.1	-8.2	
	Total	Count	805	692	216	1713
		Expected Count	805.0	692.0	216.0	1713.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	194.075 ^a	4	.000
Likelihood Ratio	189.816	4	.000
Linear-by-Linear Association	148.799	1	.000
N of Valid Cases	1713		

f. Level of trust in courts

			Level of trust in courts					Total
			to a large extent	to some extent	to small extent	not at all	don't know	
Judicial Career (with undecided)	No	Count	73	122	37	7	2	241
		Expected Count	94.8	115.4	26.1	3.8	.8	241.0
		Adjusted Residual	-3.2	1.0	2.5	1.9	1.4	
	Maybe	Count	207	267	45	9	1	529
		Expected Count	208.1	253.4	57.3	8.3	1.8	529.0
		Adjusted Residual	-.1	1.6	-2.4	.3	-.9	
	Yes	Count	170	159	42	2	1	374
		Expected Count	147.1	179.2	40.5	5.9	1.3	374.0
		Adjusted Residual	3.0	-2.5	.3	-2.0	-.3	
	Total	Count	450	548	124	18	4	1144
		Expected Count	450.0	548.0	124.0	18.0	4.0	1144.0
		Count						

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	26.571 ^a	8	.001
Likelihood Ratio	26.573	8	.001
Linear-by-Linear Association	16.390	1	.000
N of Valid Cases	1144		

g. Perception of the Israeli judiciary as balanced and fair

			Israel's legal system is balanced and fair						Total
			SA	A	NAND	D	SD	DK	
Judicial Career (with undecided)	No	Count	11	73	92	72	19	2	269
		Expected Count	10.9	87.8	92.6	58.9	15.8	2.9	269.0
		Adjusted Residual	.0	-2.2	-.1	2.2	.9	-.6	
	Maybe	Count	13	192	223	120	29	9	586
		Expected Count	23.8	191.2	201.8	128.4	34.4	6.4	586.0
		Adjusted Residual	-3.1	.1	2.5	-1.1	-1.3	1.4	
	Yes	Count	28	152	125	88	27	3	423
		Expected Count	17.2	138.0	145.6	92.7	24.8	4.6	423.0
		Adjusted Residual	3.2	1.8	-2.6	-.7	.6	-.9	
Total		Count	52	417	440	280	75	14	1278
		Expected Count	52.0	417.0	440.0	280.0	75.0	14.0	1278.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	28.052 ^a	10	.002
Likelihood Ratio	27.961	10	.002
Linear-by-Linear Association	7.416	1	.006
N of Valid Cases	1278		

h. Income level

			Income level (compared with average)					Total	
			not working	well above the average	well below the average	above the average	below the average		about the same as average
Judicial Career (with undecided)	No	Count	31	20	72	35	47	27	232
		Expected Count	28.5	11.3	91.1	23.9	55.3	22.0	232.0
		Adjusted Residual	.6	3.0	-2.9	2.7	-1.4	1.3	
	Maybe	Count	66	19	219	40	124	44	512
		Expected Count	62.8	25.0	201.0	52.7	122.0	48.5	512.0
		Adjusted Residual	.6	-1.7	2.2	-2.5	.3	-.9	
	Yes	Count	39	15	144	39	93	34	364
		Expected Count	44.7	17.7	142.9	37.5	86.7	34.5	364.0
		Adjusted Residual	-1.1	-.8	.1	.3	.9	-.1	
Total	Count	136	54	435	114	264	105	1108	
	Expected Count	136.0	54.0	435.0	114.0	264.0	105.0	1108.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	26.850 ^a	10	.003
Likelihood Ratio	25.648	10	.004
Linear-by-Linear Association	.770	1	.380
N of Valid Cases	1108		

i. Previous experiences of discrimination

			discrimination nationality work		Total
			No	Yes	
Judicial Career (with undecided)	No	Count	356	9	365
		Expected Count	352.9	12.1	365.0
		Adjusted Residual	1.0	-1.0	
	Maybe	Count	774	20	794
		Expected Count	767.7	26.3	794.0
		Adjusted Residual	1.7	-1.7	
	Yes	Count	537	28	565
		Expected Count	546.3	18.7	565.0
		Adjusted Residual	-2.7	2.7	
Total	Count	1667	57	1724	
	Expected Count	1667.0	57.0	1724.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	7.155 ^a	2	.028
Likelihood Ratio	6.742	2	.034
Linear-by-Linear Association	5.290	1	.021
N of Valid Cases	1724		

			Q44Discrimination.age.work		Total
			No	Yes	
Judicial Career (with undecided)	No	Count	348	17	365
		Expected Count	340.4	24.6	365.0
		Adjusted Residual	1.8	-1.8	
	Maybe	Count	746	48	794
		Expected Count	740.6	53.4	794.0
		Adjusted Residual	1.0	-1.0	
	Yes	Count	514	51	565
		Expected Count	527.0	38.0	565.0
		Adjusted Residual	-2.7	2.7	
Total	Count	1608	116	1724	
	Expected Count	1608.0	116.0	1724.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	7.839 ^a	2	.020
Likelihood Ratio	7.711	2	.021
Linear-by-Linear Association	7.411	1	.006
N of Valid Cases	1724		

j. Self-definition as Israeli

			Nationality Self Identity				Total	
			not at all	to a small extent	to some extent	absolutely		
Judicial Career (with undecided)	No	Count	2	10	16	210	238	
		Expected Count	2.1	5.4	20.5	210.0	238.0	
		Adjusted Residual	-.1	2.2	-1.2	.0		
		Count	5	5	41	475	526	
	Maybe	Expected Count	4.6	12.0	45.3	464.0	526.0	
		Adjusted Residual	.2	-2.8	-.9	2.0		
		Yes	Count	3	11	41	318	373
			Expected Count	3.3	8.5	32.1	329.0	373.0
	Adjusted Residual		-.2	1.0	2.0	-2.2		
	Count		10	26	98	1003	1137	
	Total	Expected Count	10.0	26.0	98.0	1003.0	1137.0	
		Count						
Expected Count								

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	13.172 ^a	6	.040
Likelihood Ratio	13.420	6	.037
Linear-by-Linear Association	.539	1	.463
N of Valid Cases	1137		

k. Type of academic institution

			Academic Institution			Total
			college	university	other	
Judicial Career (with undecided)	No	Count	198	163	3	364
		Expected Count	189.3	172.7	1.9	364.0
		Adjusted Residual	1.0	-1.2	.9	
	Maybe	Count	386	399	6	791
		Expected Count	411.4	375.4	4.2	791.0
		Adjusted Residual	-2.5	2.3	1.2	
	Yes	Count	306	250	0	556
		Expected Count	289.2	263.9	2.9	556.0
		Adjusted Residual	1.7	-1.4	-2.1	
Total	Count	890	812	9	1711	
	Expected Count	890.0	812.0	9.0	1711.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	10.061 ^a	4	.039
Likelihood Ratio	12.798	4	.012
Linear-by-Linear Association	.630	1	.427
N of Valid Cases	1711		