
The Interplay between Halakhah and Ideology: Characteristics of Rulings of Israeli Haredi Rabbinical Judges in Monetary Disputes

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This article describes the characteristics of rulings by ultra-Orthodox (haredi) rabbinical judges (dayyanim) in the State of Israel. To the best of the author's knowledge, this subject has not yet been discussed in the academic literature. The article is based on an analysis of dozens of judgments and other halakhic rulings by ultra-Orthodox rabbinical judges in state-run and independent rabbinical courts.

In contrast to previous research regarding the judgments by rabbinical judges in Israel, this article is innovative in three major respects: It relates to ultra-Orthodox rabbinical judges as a distinct group. It does not deal with judgments relating to family law, but rather with monetary issues unrelated to it. Finally, it takes an interdisciplinary approach, adding a sociological perspective to the halakhic and legal analysis of the rulings under discussion.

The article examines rulings concerning various monetary issues, with the focus on two case studies. The first is the case of employees – especially female employees working in “recognized but unofficial” ultra-Orthodox educational institutions – who waive their social benefits, a practice which is invalid under Israeli civil law. The second concerns condominium housing laws and violation of the construction laws. In both cases, ultra-Orthodox rabbinical judges were required to rule on the halakhic validity of practices in some segments of the ultra-Orthodox community and its institutions that violate civil law and civil case law. In both case studies, most rabbinical judges granted halakhic validity to these illegal practices.

The author's main argument is that it is impossible to understand the rulings dealing with monetary matters by some ultra-Orthodox rabbinical judges based solely on the halakhic principles, which they applied, and that sometimes their rulings were influenced by their ultra-Orthodox background and views. The influence of their background and views expressed itself primarily in whether and to what extent one may rule in accordance with civil laws and civil case law. Of course, not every ruling regarding monetary matters by these judges was influenced by their ideology, nor was every financial issue relevant to their ideological view.

The ultra-Orthodox worldview generally was not openly apparent in these rulings, but was imbedded, *inter alia*, in the halakhic and meta-halakhic principles chosen by these judges and in the manner in which they interpreted and implemented them. The technique of employing meta-halakhic principles, such as “public policy” (*takanat hatzibur*) or “bad custom,” enabled the rabbinical judges to rule on the halakhic validity of civil laws and case law by exercising broad discretion in interpreting these principles according to their worldviews. The fact that the halakhic and factual rationales of some of these judges are problematic also reinforces the argument

that they strove to reach a certain outcome in accordance with their worldview and sought justification for it.

The author describes the characteristics of rulings regarding monetary matters by ultra-Orthodox rabbinical judges in Israel in light of an economic, sociological, and ideological analysis of Israeli ultra-Orthodox society, examining how these elements are reflected in their rulings. According to the author, five factors have sometimes influenced these rulings: the economic, geographic and demographic state of Israeli ultra-Orthodox society; the centrality of Torah study and the importance of the ultra-Orthodox educational institutions; the insularity of ultra-Orthodox society and the perception on the part of some of these judges that this society is autonomous and not subject to the laws of the state; ultra-Orthodox society's ideological reservations regarding the State of Israel and its laws and the rulings of the civil courts; and ultra-Orthodox society's subordination to the rulings of the leading ultra-Orthodox rabbis (*gedolei ha-dor*).

That these factors generally influence the rulings of ultra-Orthodox rabbinical judges in Israel is not new. However, since many (mistakenly) believe that rulings on monetary issues are unrelated to ideology, this article's main innovation lies in the proof that it offers to the contrary. By exposing the techniques used for interpreting halakhic principles and sundry other ways whereby the worldview of *Haredi* rabbinical judges prejudices their rulings, the article demonstrates that the above-mentioned factors indeed influenced their rulings even regarding monetary issues that do not relate to issues of family law.

This study can serve as the basis for further research to examine the rulings of Israeli ultra-Orthodox rabbinical judges in other monetary areas, including those touching upon issues of family law. In addition, an analysis can be conducted of rulings concerning monetary matters by Israeli religious-Zionist rabbinical judges as well as by ultra-Orthodox rabbinical judges outside Israel, with a comparison between their rulings and those of Israeli ultra-Orthodox rabbinical judges in corresponding cases.