

“And the Children of Israel Sang this Song”¹: The Role of Israeli Law and Policy in the Advancement of Israeli Song

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“In a Greek rhythm with a Polish accent /
In a Yemenite flourish with a Rumanian fiddle /
Who am I? Yes, me, my God! /
An Israeli song”

-- Ehud Manor, “Israeli Song”

“There are roads aplenty, and everyone has a car /
And in the car the radio sings /
Sings in all languages, beats in all rhythms /
Whatever there is, more or less /
But the Hebrew song, it is still here /
It still exists, it is not giving up.”

-- Kobi Lurie, “Come, Hebrew Song”

Introduction

Popular music is widely recognized as a cultural form that serves as the major signifier of Israeli identity and the notion of “Israeliness” (Regev and Seroussi 2004), and its depiction by Ehud Manor – the most prolific of Israeli songwriters – of this cultural form resembles the central elements of the dominant Zionist narrative: it is in Hebrew, it represents the “ingathering of the [Jewish] exiles” and it disregards the existence of non-Jews in the civic and cultural sphere. At the same time, as Kobi Lurie notes, its main purveyor is the radio, where it must compete with a large selection of foreign sounds.

This study looks at the legal and policy ramifications of government policymakers’ recognition of the significance of the song as a signifier of Israeli identity and of its competition for the hearts of Israelis over the airwaves.² This ensuing effort is described through an analysis of the founding documents – draft laws, Knesset floor and committee debates, and the final legislative form – that led to the creation of a minimum quota for the broadcasting of Israeli songs on Israeli public and commercial radio stations

¹ Exodus 15:1.

² The term “song” is used here as the translation of the Hebrew word “shir” or “zemer.”

and the establishment of a government-licensed “Israeli and Mediterranean” music channel over cable and satellite television. The narrative that arises from the debate that takes place annually as part of the celebration of “Israeli Song Week” in the Knesset about the “Israeli song” helps illustrate the underlying ideological assumptions of this effort. The study identifies the overriding elements of the hegemonic Israeli narrative in these documents and debates and sets them in context of other Israeli cultural policies and in particular those pertaining to broadcasting. Taking into account how expressive culture (i.e. music) and the global music industry impact the shaping of domestic cultural policies, the study contextualizes Israeli cultural policies as they pertain to the Israeli song and provides a theoretical framework to analyze their development and underpinnings.

The study begins with a review of the general literature on the role of music and music broadcasting policy in the creation of a national culture. It follows with a discussion of the specific Israeli case of government involvement in national culture and cultural policy. It then describes Israeli state policies regarding the promotion of the Israeli song. The ensuing analysis seeks to determine whether Israeli policy represents a “defensive” cultural policy focused on preserving Israeli culture against the onslaught of foreign popular music and global media or whether it is an “offensive” cultural policy advancing “Israeli” song as a hegemonic-institutionalized national narrative.

The Role of Music and Cultural Policy in Articulating the Nation-State

Forms of expressive culture (music, arts, dance, etc.) resonate deeply within populations in ways that are powerful, yet not always predictable or understood. However, the intense emotional investment these forms can generate in people makes them extremely important in constructing identity, collectives, nations, and states (Hobsbawm 1992; Baily 1994; Scruggs 1999). Consequently, politicians and other cultural agents frequently seek to employ expressive culture for political aims, especially with regard to nurturing nationalist sentiments.

The politics surrounding these sentiments often materialize through pre-formulated political strategies undertaken by cultural elites as a means to link conceptions

of the “nation” – an ethnically-based community with shared languages, customs, and traditions –with conceptions of the “state” – a legal entity and internationally-recognized political organization with power and sovereignty over delineated geographical boundaries and the populations therein (Holy 1998). Such movements seek to define ethnicity as a more abstract political entity, such that a population implicitly recognizes itself as part of the “nation.” Doing so allows such “imagined” constructions to form the basis for officially-recognized state institutions, policies, and practices which further solidify, legitimate, and privilege specific depictions of the nation-state and its associated power dynamics (Anderson 1983). To this end, nationalist movements manipulate the symbolic capital of a public sector, appropriating commonly held notions so as to more effectively mobilize a population to identify with specific perspectives and agendas (Sugarman 1999). The efficacy of these is measured by how closely the perceptions and desires of the populace become aligned with the values, beliefs, and definitions systemically articulated by the state ideological apparatus. In light of its symbolic import, expressive culture serves as one of the most important tools in such endeavors.

By politicizing cultural forms through the terms and frames of their expression, a nation’s culture appears as both natural and eternal (despite its many contradictions), serving to further foster conceptions of national consciousness (Herzfeld 1996; Stokes 1994). The relationship between abstract ideas of culture and daily life practices get conflated such that the nation-state becomes an immutable and sacred entity. Such confluences also instill the ‘biological’ place of the citizenry in the national community (Delaney 1995). The incessant rearticulation of expressive cultural forms ultimately enacts a sense of national identity, and the state – once firmly established – ultimately serves as the apparatus to reproduce, monitor, and regulate the terms of that identity within a population; a condition, which ultimately sustains the values upon which it is based and substantiated (Jusdanis 2001).

Therefore, employing expressive culture in nationalist projects is both constructive and sinister. Through its appeal to emotion rather than intellect, it defines relations between people and ideologically and geopolitically organizes subjective experience in distinct, powerful, and one might say, effortless ways. In legitimating normative conceptions of culture, it defines values and national characteristics, thus

delineating and dissociating insiders from outsiders within the nation-state's political framework (Leoussi and Grosby 2006).

By controlling how familiar cultural forms and conceptions largely get (re)deployed in society, nationalist movements demarcate the definitions of cultural identity. In this way, traditions are recreated, reinscribed, and further legitimated through the institutions of society and the concomitant policies they enact. Over time, tradition serves as the dynamic force for strengthening and maintaining political and ideological conceptions of both "nation" and "state." In fact, these entities can actually serve to reaffirm one another in a dialectic exchange: the "nation" justifying state formation and policy; the "state" mobilizing and reinforcing conceptions of the "nation" through the development of its institutional protocol.

Consequently, expressive culture must *always* be viewed as political, as well as the decisions which govern how it is employed and utilized with regard to defining majority and minority interests within the state and beyond. It is thus imperative to interrogate the relationships between expressive culture and the ways it intersects the dynamics of state policy if one seeks to properly identify nationalist tendencies.

The Israeli Media Landscape

Electronic media in Israel consists of three broadcasting platforms and three governing laws: two laws regulate broadcasting and one regulates both cable and satellite. The Broadcasting Authority Law of 1965 established the Broadcasting Authority (IBA), which is charged with national broadcasting: non-commercial television funded by a license fee and radio funded by advertising and by a license fee on car radios. IBA television broadcasts over two channels, one terrestrial ("Channel 1") and one satellite ("Channel 33," which also targets neighboring states), while radio broadcasts consist of thematic stations: talk, news, light music, classical music, Arabic language, and immigrant languages. The Second Authority for Radio and Television Law enacted in 1990 created the Second Authority and charged it with overseeing commercial television, of which since the early 2000s there are two channels ("Channel 2" and "Channel 10"),

and a network of regional commercial radio stations, of which there are currently fourteen.

Cable and satellite television are both governed by the Communications (Telecommunications and Broadcasting) Law, which established the Cable Broadcasting Council in 1986 and expanded it to oversee satellite television when it was launched in the late 1990s. The cable and satellite offerings include a plethora of local channels, locally packaged foreign channels, and foreign satellite services. The local channels owned by the cable and satellite operators are prohibited from carrying advertising, while independent government-licensed channels are allowed to do so.

An Overview of Israeli Cultural Policies

The Israeli state has instituted cultural policies serving the Jewish nation since its inception. First and foremost is the promotion of the Hebrew language. Indeed, from a legalistic standpoint, Hebrew and Arabic are both considered “official languages,” however the Supreme Court has narrowed the obligations this determination carries. In a landmark 2002 decision following a petition filed by Adalah, the Legal Center for the Rights of the Arab Minority in Israel, against the municipalities of Tel Aviv, Ramla, Lod, and Upper-Nazareth, the majority – Justices Aharon Barak and Daliah Dorner – stipulated that these municipalities were obligated to add Arabic to street signs in all of the towns’ streets, including neighborhoods where no Palestinian Israelis resided. However, they iterated, this was not a right they assumed as a collective, but a service provided to them as individuals (Schejter 2008). Chief Justice Barak wrote that Hebrew is the “language of the Israelis” and the “power that brings us together as children of one country” and is therefore not the property of a specific group within society – the way French is the language of all the French people and English the language of all the English people, serving as a fundamental pillar of these nations’ sovereignty. If all the citizens of the State of Israel were to study Hebrew, argued Barak, it would guarantee their equal rights. Indeed, he concluded that neither in London, Paris, nor New York are there street signs to be found that reflect the linguistic diversity of the residents of those cities. The Chief Justice did, however, acknowledge that the Arabic language is

“distinct,” being the language of Israel’s largest minority and a core element of its culture (Schejter 2009, 117). As Nomi Levitsky describes, Chief Justice Barak pressured Justice Dorner to remove from her opinion the word *farhesia*, a Greek word that refers to the classic determination of free speech as a natural right, in order to ensure that the right awarded to the Palestinian minority in this case would be an individual and not a collective right (Levitsky 2006, 300).

The legislation nationalizing the educational system further promotes this understanding of the superiority of the Hebrew language along with the reflection of the Zionist narrative. The goals of the system as delineated in the National Education Law leave little doubt as to what the hegemonic interpretation of the culture is and what the ideology it serves aims to achieve through its educational system: Jewish heritage is one that should be “taught,” while the language, culture, history, and heritage of the Arab population (as it is named in the law) needs merely to be “recognized.” It can be presumed from reading the law, that even members of the Palestinian minority in Israel are required to “learn” the Jewish Bible, while their own language (which is an “official” language) is only “recognized” (Schejter 2009, 16).

In addition, Israeli law has instituted specific symbols adopted from the Zionist movement’s symbolic reservoir and made them the state’s symbols: the Israeli flag is the flag of the Zionist movement and the state emblem depicts the *menorah* as it appears on the columns of the Titus Arch in Rome, being carried out of the Jewish Temple by Roman soldiers in 70 CE. National memorial days have provided opportunities for instituting more civil ceremonies with ideological constructs: Independence Day Law was enacted as early as 1949 and Independence Day celebrations were designed to reflect collective values that represent national and state objectives (Dominguez 1989).

Legislation has also directed artistic production to a certain extent. Cultural policy in Israel is guided by an elaborate organizational apparatus, whose center is the Culture Administration, a government arm that both solicits applications and distributes funds for the support of scores of art organizations (Katz and Sella 1999). State regulation of public and commercial broadcasters provides another key means of shaping popular culture along national lines. Major support for the local movie industry came in the form of the 1998 Motion Picture Law. This law designated fifty percent of the franchising fees paid

annually by commercial television and cable operators to be set aside for the funding of Israeli feature films.³

Israeli Media as Cultural Messenger

Media law in Israel is mobilized to serve the same dominant story: The law establishing the Broadcasting Authority requires that it “promote Hebrew and Israeli creativity.” In 1979, the Knesset rephrased that obligation (in a non-binding resolution) to state it referred to “Hebrew, Israeli, and Jewish creativity.” The Second Authority for Television and Radio Law governing commercial broadcasting states that commercial broadcasting too should “promote Hebrew and Israeli works of art.” It also established a quota system to preserve a minimum share of local productions in broadcasting, a quota that has grown between 1990 (when it was established) and 2003 from one third to forty percent of the programming and was expanded in 1997 to encompass the public Broadcasting Authority as well.

While the quota system resembles similar European efforts of “defensive” cultural regulation in face of the onslaught of American-based programming, media regulation in Israel has also taken on an “offensive” nationalist mode mobilizing the media to serve some of the cultural symbolism in more specific ways. On Memorial Day, cable channels are not allowed to broadcast advertising,⁴ and during both Memorial Day and Independence Day, the cable operators’ privately-owned channels must carry a minimum of two hours of locally produced programming on the “theme of the day,” including programs that express the “Israeli experience and Jewish tradition.”⁵ On Holocaust Martyrs and Heroes Remembrance Day, all houses of entertainment are required to close,⁶ commercial television stations are prohibited from carrying advertising,⁷ and some cable channels are required to broadcast a minimum of two hours of original

³ This law was passed on the same day as the law for the promotion of the Hebrew song was passed, as described below.

⁴ Communications Regulations (Telecommunications and Broadcasting) (Advertising, public service announcements and underwriting in dedicated channel broadcasts), 2004, K.T. 6328, 776 (July, 5, 2004).

⁵ Communications Regulations (Telecommunications and Broadcasting) (Broadcast License Holder), 1987, K.T. 5064, 138 (November 12, 1987).

⁶ Memorial Day for the Holocaust and Heroism Law, 1959, S.H. 284 (April 8, 1959).

⁷ *Supra* note 4.

programming reflecting, according to the Telecommunications Regulations, the “Israeli experience and Jewish heritage.”⁸ Even telecommunications services are regulated to serve the same narrative: Telephone services during Independence Day are to be provided under a holiday rate and discounts on regulated landline telephone services are provided only during the Jewish Sabbath and Jewish holidays.⁹

At the same time, Israeli broadcasting law identifies Palestinian Israelis as merely a linguistic minority (Schejter 2008) although their national aspirations are no secret and are recognized by the state in the international agreements signed with both Egypt and the Palestinians, in Camp David in 1979 and in Washington, D.C. in 1993, respectively.¹⁰ Both the Broadcasting Authority Law and the Second Authority define “maintaining broadcasts in the Arabic language for the needs of the Arabic-speaking population and broadcasts to advance understanding and peace with neighboring states according to the basic aspirations of the state” as one of their goals. It thus associates this minority with an “Arab” culture and an “Arab” nation, thereby denying its self-proclaimed “Palestinian” identity and provides a legal determination that serves the Jewish majority.

The quota system, the detailed cultural obligations, and the delineation between the majority Jewish nation and minority “Arabic-speaking” population, all reflect the inherent conflicts within Israeli culture: on the one hand the system embraces capitalism and its expression through commercial broadcasting and replaced the government-controlled monopoly with a system populated by commercial broadcasters and cablecasters following the dictates of an emerging individualistic, neo-liberal agenda; on the other it introduces content obligations that serve a nationalistic agenda and expand them with time. On the one hand the state purports to be “democratic” and on the other hand it tries to maintain its identity as “Jewish.” It is within this context that the law promoting popular songs in Hebrew was enacted.

⁸ Supra note 5.

⁹ Communication Regulations (Telecommunications and Broadcasting) (Payments for Telecommunications Services), 2005, K.T. 6389, (May 31, 2005).

¹⁰ Israel Ministry of Foreign Affairs Guide to the Peace Process. Available at: <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Camp%20David%20Accords> and <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Declaration+of+Principles++Main+Points.htm>

Israeli Songs in Broadcasting

From 1948 onwards, Israeli media policymakers initially focused much of their regulatory zeal on television, freeing radio of detailed intervention. One telling example of this distinction is reflected in the different reaction to offshore broadcasting in the 1970s. Launched by a lone seaman and peace activist, Abe Nathan, the *Voice of Peace* broadcast light international popular music from a ship anchored “somewhere in the Mediterranean” and began gaining popularity with Israeli listeners. In response, the Broadcasting Authority, at the time still a government controlled monopoly, launched a new station in 1976, *Reshet Gimmel* (“Network C”) adopting the light character and foreign rock music programming of the rogue competitor (Caspi and Limor 1999, 134). However, in 1981, when a similar endeavor was looming, only this time threatening to offer a competing television service, the Knesset was fast to react by amending the Wireless Telegraphy Ordinance outlawing such broadcasts (Knesset Records 1981, 2745).

Thus it was only in 1998 that the Knesset first bothered to intervene directly in the content of radio broadcasts,¹¹ beyond the general mandate of “promoting Hebrew and Israeli culture,” and the context was indeed, that of Israeli songs. Incidentally, this took place at the same time Israeli songs were voluntarily becoming the center of *Reshet Gimmel* broadcasts: Towards the end of 1997, facing mounting competition from the newly formed commercial radio stations, the no-longer-monopolistic Public Broadcasting Authority responded by turning *Reshet Gimmel* into an all Israeli-song channel (Regev and Seroussi 2004, 37). Indeed, *Reshet Gimmel*’s repetitive jingle cries “only Israeli music.”¹² However, there is no Arab music on Hebrew Israeli stations (Regev 1995). It is an historical irony that the same network founded to broadcast light popular foreign music only twenty years earlier was now the purveyor of Hebrew songs. *Reshet Gimmel*’s role in the promotion of the dominant Hebrew culture is not limited to the promotion of the song alone, but also to the context in which it is broadcast. In particular, this is true for memorial days, on which both *Reshet Gimmel* and commercial radio stations offer a

¹¹ One exception to this chronology is a 1993 law that permitted the public radio to carry advertising.

¹² While the actual jingle uses the term “music,” *de facto* the station only plays “songs.”

special menu of songs even though no regulation requires them to do so (Neiger et al. 2009).

Reshet Gimmel's "conversion" notwithstanding, two Knesset members of the Labor Party first proposed in the summer of 1997 "the Law for the Encouragement of the Israeli Song" and the fourteen Knesset members attending the preliminary reading passed it unanimously. By the time it passed the Education and Culture Committee in November 1998, however, it became the "Law for the Encouragement of Songs in the Hebrew Language." The proposed law required that half the songs played on public broadcasting be in Hebrew and that the Second Authority actively encourage local radio stations to broadcast songs in Hebrew. The explanatory memorandum of the bill coming out of the committee explained very little, as it stated:

The objective of the proposed bill is to encourage local creativity in the field of songwriting. In order to reach this goal, while balancing the interest of exposing the public to the world's culture and the interest of preserving and developing local culture, equal exposure to Hebrew and foreign language songs over the stations operating under the Broadcasting Authority Law is proposed. As for radio stations operating under the Second Authority Law, it is proposed that the Authority will work to establish and operate stations whose main goal will be the advancement of Hebrew creativity and songs in the Hebrew language.¹³

Note the explanatory memorandum uses "local" and "Hebrew" interchangeably. Indeed, both the Broadcasting Authority Law and the Second Authority Law refer to "Hebrew" and "local" as a dyad of obligations. This is in stark contrast to the general mandates regarding broadcasting, as with regard to television programs the law creates a minimum five percent quota for programs in Arabic and Russian, out of the total programming fare of the commercial stations, but no minimum quota is set for programming in Hebrew. On television, the definition of "local" in the law – for which the minimum quota is, as mentioned earlier, forty percent – is expressed through the

¹³ As the law progressed through committee the word "*zemer*" that was used in the first version of the bill was replaced by the word "*shir*" in the law's title. In the explanatory memorandum, however, the word "*zemer*" was used even though the word in the title was "*shir*."

national identity of the creators, singled out by a requirement that the majority of them reside in Israel. The proposed “Songs” law thus set a precedent in its insistence that the quota refer to Hebrew songs, defined by their language, and not “Israeli” songs defined by the origin of their creator. This transition did not go unnoticed by the Knesset members as the proposal set off an emotional debate on the Knesset floor in both its first and second readings.

During the first reading, the law was debated concomitantly with the law for the advancement of Israeli film (Knesset Records, November 2, 1998).¹⁴ As a result, most Knesset members referred more to the latter, as it also required earmarking funding that was derived from the franchise fees paid by commercial television operators while the former only set the quota and obligation but did not direct funding for that matter. Still, the interchangeability of “Hebrew” and “Israeli” was evident in the debate regarding the part of the law dealing with songs. Knesset Member (MK) Meir Sheetrit (Likud) expressed the importance of “the children of Israel and the citizens of Israel hear[ing] the Hebrew song in all its diversity.” MK Rechavam Zeevi, leader of Moledet, a party which advocated the “willful” transfer of Palestinian Israelis to neighboring countries, expressed both the cultural defensive and cultural activist role of both the song and the movie. Both needed to be encouraged, he argued, in order to avoid being overrun by foreign culture and to serve the goal of creating “one nation with its own culture.” MK Benyamin Elon, of the Moledet party supported the encouragement of songs, but opposed support for film, claiming it reminded him of Soviet policies. MK Efi Oshaya of the Labor party, on the other hand, opposed the law regarding the song claiming the Knesset should not impose its taste on the independent public broadcaster. The distinction between the law’s appeal to the “nation” and its appeal to the “state” was expressed as several parliamentarians supporting the law called for the inclusion of songs in Arabic within its dictates as well.

Knesset Member Tamar Gozansky of the left-wing Hadash-Balad¹⁵ alliance said that Israeli-Arab songwriters deserve as much promotion as Hebrew songwriters, setting the debate parallel to the existing dictates regarding quotas on television. MK Anat Maor

¹⁴ <http://www.knesset.gov.il/TqI/mark01/h0013560.html>.

¹⁵ Hadash-Balad is the Democratic Front for Peace and Equality-The National Democratic Covenant.

of the left wing Meretz party seconded her proposal. Knesset member Ahmed Sa'd of Hadash-Balad stated that the law gives a "fifty percent priority" to Hebrew songs. "How much are you giving to the Arabs?" he asked, "There are a million Arabs living in this country." His implied suggestion for a proportionate representation for songs in Arabic was met with across-the-board opposition, as Knesset Member Yonah Yahav (Labor), who initiated the law, stated: "You don't understand. In the Arabic music programs, 100 percent of the songs are in Arabic, while on Hebrew radio, only ten percent of the songs are in Hebrew." MK Yahav did agree, however, that the Arab population was being discriminated against with regard to the support for Arabic culture in the general budget. Knesset Member Talab El-Sana of the United Arab List Ra'am-Ta'al said the law represented an attempt to obscure the national identity of Israel's Arab population. He said he would only support the law if proper time were budgeted for Middle Eastern music as well. During the final reading of the law (Knesset Records, December 22, 1998)¹⁶ Knesset Member Abdulmalik Dehamshe asked rhetorically whether it would not be preferable to have the law refer to Israeli songs in both Hebrew and Arabic. MK Rechavam Zeevi replied angrily to his proposition: "You have twenty-one countries where they sing only in Arabic... we give you programs in Arabic, once I even demanded giving you a channel in Arabic, only in Arabic, so that you wouldn't need to take hours that are inconvenient... you may be discriminated against there, but it is unacceptable that you will introduce your demands that are based on discrimination and providing a means of expression for another language, to the Hebrew programs aimed at the people of Israel¹⁷ whose language is the Hebrew language."

Israeli Songs on Cable television

An interesting legal structure emerged in the cable television arena. The original 1987 regulations enacted by the Cable Broadcasting Council (as it was known at the time) stipulated that the operators maintain quotas of certain program genres. These were

¹⁶ <http://www.knesset.gov.il/Tqil/mark01/h0013561.html>.

¹⁷ "The People of Israel" is used here in the Biblical sense, meaning the Jewish people, the "nation," and not the people of the State of Israel.

created in order to fulfill the operators' legal obligation to "broadcast a variety of movies and programs in the fields of entertainment, music, art, education, culture, and sports, while providing proper expression to the topics and needs of the franchise area."¹⁸ The genres to be included in the operators' broadcasts consisted of the following: drama-melodrama; documentary-docudrama; comedy-satire; thriller; horror; western; science fiction and fantasy; teleplay; musical; adventure; soap opera; TV entertainment; classical music; opera concert; pop music/ jazz/rock; animation; sport/sport event summaries.¹⁹

A new policy emerged, however, in the mid-1990s and instead of across the board cultural obligations on cable channels it recommended creating separate channels focused on themes (Schejter 1999). The themes were to serve the programming needs of underrepresented groups and other cultural needs the Knesset and the Cable and Satellite Broadcasting Council (as it was known from 1999 on) deemed necessary. When the policy was announced in 1997 these channels were to include channels in Arabic, in Russian and Amharic (Ethiopian dialect), a channel dedicated to Jewish tradition, a news and information channel, and "an Israeli music channel, to include Mediterranean music" (Nissan 1997). However, only two of these "designated" channels were eventually created, a Russian-language channel and the Israeli music channel, apparently because the elaborate channel scheme had no economic backbone.²⁰ A license for the latter channel of "Israeli and Mediterranean music" was created in 2002.²¹ The channel is a "must-carry" over both cable and satellite platforms. The license defines "Israeli" and "Israeli and Mediterranean" music as either "any work of music in which the gist of the word content is in Hebrew" or a work of music which fulfills two of four criteria: the music was composed by a citizen or resident of Israel; the lyrics were written by a citizen or resident of Israel; the work is performed by a citizen or resident of Israel or by an ensemble in which the majority of the members are citizens or residents of Israel; or it is a live broadcast that took place in Israel or a work of music that was recorded in Israel.

¹⁸ Telecommunications (amend. No. 4) Law, 1986, S.H. 224 (August 13, 1986).

¹⁹ Supra note 5.

²⁰ Licenses awarded to a news channel and to a "Jewish tradition" channel were revoked after the channels failed to launch, while a repeated tender for a channel in Arabic failed to promote a winner.

²¹ The license of the Israeli and Mediterranean Music Channel and the appendix regarding its content and characterization are available to download at http://www.moc.gov.il/sip_storage/FILES/5/665.pdf and http://www.moc.gov.il/sip_storage/FILES/6/666.pdf.

Thus the license specifically provides a balance between the language requirement and the national identity of the creators in its definition of programming; however, detailed instructions in it leave little room for doubt that both “Israeli” and “Mediterranean” are predominantly Hebrew and failure to maintain them as such is a violation of the license. The license awards its holder permission to establish, produce, edit, and cablecast a television channel designated to Israeli and Mediterranean music that would be broadcast in Hebrew. The license twice states that the channel’s language is Hebrew. As for the music, in 2006 the license was amended to allow the inclusion of news reports about developments in foreign music worldwide and broadcasts of concerts of foreign music that took place in Israel as well as live broadcasts of concerts taking place abroad. In January 2007 the license was amended again to allow the channel for one year (after which the council can reconsider its policy) to devote ten percent of broadcasting time to “foreign music,” defined as “music that is not Israeli music.”

As far as the Israeli music itself is concerned, the license requires that eighty percent of the “Israeli music” should be in Hebrew and that interviews with music makers not carried in Hebrew should carry Hebrew subtitles. There are no requirements regarding other languages – neither Arabic nor Russian. In other words, the channel has a minimum quota for the majority’s language and a maximum quota for minority languages. The channel’s schedule is subject to quarterly reviews by the Cable and Satellite Council and it should be “adjusted to holidays, national events including days of mourning and remembrance, vacations, Hebrew and general year ends, Independence Day, and other national events requiring such change.”

Additional Knesset activities

Another institutional recognition of the importance of the Hebrew song is the celebration of *hag ha-zemer ha-ivri*, the “Holiday of the Hebrew Song.” The Knesset has recognized this unofficial event annually since 2000 through holding a festive debate in the Education and Culture Committee where on occasion a musician is invited to perform or the Knesset members themselves engage in a sing-a-long. Already in the inaugural sitting, the interchangeable use of “Israeli” and “Hebrew” in this context was apparent.

The chairman of the special NGO established to manage “Hebrew Song Week,” the “Hebrew Song Week Association,” stated in his opening remarks the first year that “the NGO and ‘Israeli Song Week’ (sic) both refer to the whole [of] Israeli music, to everything that is created in the country, with no difference in style, age, or beat. We are all together; the common target for us all is to sing in Hebrew. That is why we see ourselves in this forum and generally, as representative of what is unifying in Israeli music.”²² In 2001 the discussion focused on three topics: the advancement of Hebrew songs in the educational system, the need to find new legal tools to combat piracy, and the role of the media in promoting “Hebrew music.” Under this heading, the director of *Reshet Gimme!l* described the efforts of the station that broadcasts only Israeli music, while a senior television producer described the efforts on behalf of the Broadcasting Authority’s public channel. In 2003, the debate was dedicated to the “role of Hebrew songs in the media as a component in the formation of Israeli identity.”²³ MK Yuli Tamir (Labor), who in 2006 became the Minister of Education, drew the attention of the chairman (Ilan Shalgi of the centrist Shinui party) to the fact that he used two terms that were not identical: Hebrew songs and Israeli songs. She stated that while this is an event stressing the Hebrew song, the challenge is how to incorporate into this celebration people that don’t sing in Hebrew but are Israelis.

The head of the culture administration in the Ministry of Education and Culture acknowledged this point and his explanations clarified that this was not an unintentional slip. In fact, he said, the celebrations were first called “Israeli” but the name was changed because “Hebrew Song” is a known “brand.” He added that the Arab and immigrant languages had other opportunities and festivals in which they were presented alongside the Hebrew fare, and agreed that more should be done. Later in the discussion, a producer on Israeli television explained that the Broadcasting Authority’s music program “Made in Israel” (“*totzeret ha-aretz*”), is an outlet that provides a place for Russian-language and “Arab” (the term he used) creators. In the 2004 debate,²⁴ the same committee chairman

²² Minutes of Knesset Education and Culture Committee meeting of June 5, 2001, available at <http://www.knesset.gov.il/protocols/data/rtf/chinuch/2001-06-05.rtf>.

²³ Minutes of Knesset Education and Culture Committee meeting of June 10, 2003, available at <http://www.knesset.gov.il/protocols/data/rtf/chinuch/2003-06-10.rtf>.

²⁴ Minutes of Knesset Education and Culture Committee meeting of May 17, 2004, available at <http://www.knesset.gov.il/protocols/data/rtf/chinuch/2004-05-17-02.rtf>.

acknowledged the role of the Hebrew song in Israeli culture, but expressed a desire to include within the “Israeli song” songs in Arabic as well as songs in languages of immigrants, all of which are part of the “Israeli puzzle,” but in 2005, the following year, the theme of inclusion for all Israelis disappeared again from the Knesset discussion.²⁵ The new chairman of the committee, MK Avraham Poraz, (although from the same centrist party) returned to the theme that “Hebrew songs are the soundtrack of our lives” and one of the elements “leading the Zionist ethos.”

In 2002, following the Knesset’s dictate, the Ministry of Science, Culture, and Sport²⁶ appointed a special committee charged with seeking ways to preserve the Hebrew song. A report to the Knesset’s Education and Culture committee that year prepared by the Knesset’s Center for Research²⁷ identified two archives: the Jewish National and University Library, housed at the Hebrew University of Jerusalem and the musical archive of Tel Aviv University. Again, the report stresses, with regard to the Tel Aviv archive, that it is the “Archive for Israeli Music,” and that it serves as a center for the documentation of “Hebrew songs, Israeli art music, and the Israeli musical way of life.” In 2005,²⁸ the Minister of Education and Culture announced at the annual symposium that she was inaugurating the “Minister of Culture Award for the Advancement of the Hebrew Song.” The awards have been given over the ensuing years only to Hebrew songwriters. Ironically, the first Palestinian-Israeli minister to serve in an Israeli government, who served as Minister of Science, Culture, and Sport, awarded the last prize on record, in 2007. The present decade also saw two attempts to legislate a “Hebrew Song Law.” The proposed legislation, however, offered both to the 16th and 17th Knesset, was never implemented into law.

²⁵ Minutes of Knesset Education and Culture Committee meeting of June 7, 2005, available at <http://www.knesset.gov.il/AllSite/mark02/h0208097.html#TQL>.

²⁶ Since 1992 the jurisdiction over funding for the arts has transferred back and forth between the Ministry of Education and Culture and the Ministry of Science, which itself has occasionally been renamed the Ministry of Science, Culture, and Sport.

²⁷ Background document regarding “Preservation of the Hebrew Song” presented to the Knesset Education and Culture Committee by the Knesset Center for Research and Information, May 20, 2002. Available at <http://www.knesset.gov.il/AllSite/OneResDoc.asp?DocID=57390>.

²⁸ Supra note 25.

Discussion and Conclusion

The process by which “imagined” (Anderson 1983) or “mediated” (Poster 1999) communities are created is linked to the development of communications (Thompson 1995, 62). Therefore, the role of policy and policy makers should not and cannot be diminished with regard to the advancement of culture, in particular, the self-serving culture in Israel, which, as demonstrated, is not limited to the regulation of media alone. While it is common to focus on the economic and business aspects of “cultural policy,” (i.e. Heilbrun and Gray 1993; Throsby 1999; Footer and Graber 2000) cultural policies can and have been analyzed in the context of their symbol-creation and symbol-promotion functions as well and should be regarded as “social regulatory policies” (Tatalovich and Daynes 1988), policies that exercise legal authority in order to modify or replace community values, moral practices, and norms of interpersonal conduct with new standards of behavior or to preserve existing ones. And although media and cultural policies are both involved in the relationship between symbolic representation and issues of national and civic identity (McGuigan 2004), rarely are media and cultural policies considered in the same breath (Hesmondhalgh 2005). This relationship between media, media products (specifically music) and culture, however, is at the root of the case we are studying.

Israeli media-culture policies have been studied, described and analyzed in recent years with regards to broadcasting (Schejter 1996), cable (Schejter 1999), transborder satellite (Schejter 2005), the promotion of the dominant Zionist interpretation of history (Schejter 2007) and the exclusion of the Palestinian minority (Schejter 2008), and these studies have demonstrated that indeed they serve to preserve a pre-existing self-image of the Israeli nation, which stands in contradiction to that of the Israeli state, in that it leans more toward the “Jewish” identity of the former than toward the “democratic” nature of the latter. At the same time, it is possible to place most of these policies in an international context that vindicates them. Public broadcasting as a “national broadcaster” is a common policy worldwide (i.e. Blumler 1992); cablecasting is often seen as the appropriate forum for minority expression and representation, although it doesn’t necessarily emerge as such (Kubey et al. 1995); and blocking transborder satellite fare is

a common cultural-defensive practice (Lee and Wang 1995; Chan 2000). The same can be said regarding language policies: Providing the Palestinian minority with some Arabic content in broadcasts would seem to fulfill an obligation aimed at linguistic minorities in line with the state's democratic ethos. At the same time, it achieves another goal – one implied in the wording of Israeli media laws and many of the accompanying legal documents: it associates this minority with an “Arab” culture and an “Arab” nation, thereby denying its self-proclaimed “Palestinian” identity. Thus, in the Israeli case, awarding linguistic rights has become a means for restraining nationalistic sentiments.

Indeed, what emerges as significant in the policies we describe is that with regards to the flow of programming, Israeli policymakers have initiated the launch of alternative local media aimed at competing with the fruits of globalization and taking into account the state's own diversity both with regards to its immigrants and its homeland minorities; however, when it comes to the defense of the song, both on television and over radio, Israeli policy reverts to a “cultural offensive” mode, “removing the gloves” by exposing an extremely nationalistic sentiment disregarding any attempt to even nod towards the need for diversity. What could be the reason? One answer might lay with music's unique place in the cultural imperialism debate.

The cultural imperialism thesis has a long relationship with the development of the global music industry and ideas surrounding music as symbolic cultural capital (Laing 1986; Hesmondhalgh 2007). Initially critiqued for utilizing their economies of scale to economically exploit developing nations and populations and successfully position Anglo-American artists to dominate international markets, the global music industry and its control of the global realm have subsequently been reconsidered in light of emerging technologies and distribution patterns. But while their transnational power may be open to debate, their transnational influence is not, especially with regard to dramatically impacting the flow of international music traffic and retaining the supremacy of English as the primary language that defines global popular music. For this reason, states and cultures remain sensitive to the activities and influence of this primarily Western-oriented industry.

Moreover, music is unique as a form of symbolic capital in that it can impact identity formation in ways that other forms of culture simply cannot. Whereas one is

often dependent upon specific forums, technologies, or comprehension skills to meaningfully connect with most forms of foreign culture, music transcends such boundaries in that engagement and participation in musical activities is not necessarily dependent on such variables or specific interpretive skills. In short, new forms of meaning and community emerge from musical activity, which is not dependent upon anything but one's emotional investment and aesthetic immersion in the musical moment. Moreover, such moments can provide the means to communicate in the most personal of ways, which transcend acts of speech. As Simon Frith points out,

“Music ... articulates in itself an understanding of both group relations and individuality, on the basis of which social codes and ethical ideologies are understood. ... [S]ocial groups ... get to know themselves *as groups* (as a particular organization of individual and social interests, of sameness and difference) *through* cultural activity, through aesthetic judgment. Making music isn't a way of expressing ideas; it is a way of living them” (Frith 1996, 111).

For this reason, music -- especially in light of the ease and patterns of its contemporary global flow -- is both particularly important and extremely problematic with regard to developing and/or sustaining normative conceptions and forms of local culture. As sounds mix and mash their way around the world, it becomes increasingly difficult to pinpoint their compositional origin back to a specific geographical location. For this reason, language in song has become a particularly sensitive and important signifier with regard to formulating and establishing music's link to cultural identity. Consequently, cultural policies related to music often center on the particular use and structure of language therein.

Therefore, the role of language in the creation of the song is of paramount importance when considering music's relationship to formulating conceptions of national identity. While other broadcast products, and television in particular, are multi-dimensional and more predominantly visual, the song is first and foremost a polysemic aural text. It is beyond the scope of this study to highlight the role of the Hebrew language in the Zionist project. It is however only fair to speculate that its centrality

within that project (Lefkowitz 2004) may be tied to the centrality of song therein. Indeed, Regev and Seroussi (2004) assert that the emergence of three different genres of Hebrew songs – the “land of Israel songs” of the pioneering nature, Israeli rock music, and Israeli oriental music – represent the internal debate and struggle over the definition of Israeli identity through their competing musical styles. At the same time they note that popular music is second only to the emergence of the Hebrew language in its importance and significance regarding Israeliness. Recognizing the central role of the Hebrew language and music in developing the Zionist project, the idea of protecting songs becomes an extension of protecting the language, the most precious element in the creation of culture and cultural products, underscoring how protective policies related to song and language are equally important in light of their operations as nationalist expressive culture. Clearly understanding the importance of the song has led both to the policies we describe and to the emotional statements and justification of those policies by lawmakers. Further comparative studies could help to illuminate the specific cultural proclivities related to how a nation’s cultural policy gets formulated in relation to music, as well as the logics by which they are legitimated. As we have noted above, there is a general absence of such studies, which compare national policies related to popular music.

The song has been the means to express many a national sentiment in Hebrew culture, dating back to biblical times. Indeed when “the children of Israel sang this song” as the author of Exodus tells us, they celebrated the miraculous parting of the Red Sea. Led by the prophet Miriam, the “song of the sea” is one of a few biblical instances (along with the song of Deborah and the song of Hannah) in which triumph and miracle are expressed through song. With such a deep embedded legacy in the culture, perhaps there is no need to explain the aggressive policies aimed at further promoting the song by today’s heirs of the ancient Hebrews.

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