



TEL AVIV UNIVERSITY

*The Harold Hartog School of  
Government and Policy*

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***No Exit ?  
Public Funding,  
Private Education  
and Accountability  
in Israel***

***Amos Zehavi***

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**Amos Zehavi**

## ***A Note from the Head of the School of Government and Policy***

The deterioration of Israeli students' achievements in international tests, together with social and economic changes have brought about changes in the public discourse regarding private education, and the role of the state in funding various streams of schools.

The Hartog School of Government and Policy, with the support of the Ford Israel Fund, is supporting research in the field of good government and transparency, with the aim of promoting not only knowledge of the field , but also public discourse.

This research, conducted by Dr. Amoz Zehavi, not only explains the complexity of the debate in Israel, but also draws on a comparative analysis of the privatization process in other education systems. It highlights the main issues pertaining to privatization of public services and of accountability to the state.

It is my hope that educators, policy makers and academics alike, will benefit from this research.

**Prof. Neil Gandal**



## ***Abstract***

In recent years, it has often been argued that Israeli education, at the primary and secondary levels, is undergoing privatization. Furthermore, numerous commentators have also claimed that although different private actors and institutions involved in education receive generous public funding, they are barely held accountable by government. This report examines private education in Israel and its relationship with the state and asks three related questions. First, how has private involvement in education and state accountability systems evolved over time, and what is the relationship between them? Second, what are the state's central goals in holding private schools publicly accountable? Third, what could, and should, be done by the state in the context of private school funding and regulation? While this work concentrates on the Israeli case, it does draw on the experience of other national education systems with a substantial private sector: primarily, Australia, England and the United States.

The study finds that the Israeli education system, not unlike education systems in other developed countries, is subject to both a 'new accountability' inspired transformation of school regulation and control and to growing privatization that is manifested in greater school choice and privatization of delivery, but not in privatization of funding. In Israel there is a large, pre-dominantly ultra-orthodox, non-public (i.e., private) school sector that derives the lion's share of its funding from the State. Where the Israeli case stands out in international comparison is in the relative lack of public regulation of publicly funded private schools, especially the ultra-orthodox ones. Although market accountability (i.e., badly performing schools would not be chosen by parents) might substitute for public regulation of academic instruction in some private schools, this cannot be assumed for ultra-orthodox schools. However, state accountability is a problematic option from a practical standpoint: the implementation of different types of state regulation that have proven to be effective in other national education systems have failed in Israel. While this report stresses the importance of public regulation of Israeli private schools, it concludes that political realities leave very little leeway for Israeli policymakers in designing and implementing an accountability system for ultra-orthodox schools.



## ***Introduction***

In July 2008, Israel's parliament, the Knesset, passed a law that enables secondary level ultra-orthodox schools to receive state aid while avoiding the requirement, which applies to other private schools, to teach a state-approved curriculum (2008). This law has been colloquially dubbed the "Supreme Court bypass law" because its enactment supersedes a Supreme Court ruling that conditioned state aid for schools on their partial adherence to a core curriculum. This law constitutes the last, but probably not the final, act in an ongoing struggle between private schools' desire to retain their autonomy and efforts to subject them to state accountability. This conflict between autonomy and regulation is neither new nor unique to Israel. Nevertheless, tensions between private schools and public authorities have significantly increased in Israel over the course of the last decade. This growing tension is influenced by two concurrent trends: education privatization and the establishment of more rigorous accountability regimes compared to what came before.

The main focus of this essay is on state relations with private and quasi-private schools. At the center of the study are three questions. First, how has private involvement in education and state accountability systems evolved over time, and what is the relationship between them? The main emphasis here is on the alleged tension between state funding of private schools, on the one hand, and state demands for outcome-based accountability, on the other. Second, what are the state's central goals in holding private schools publicly accountable? It should be stated up front that this study does not assume that states are unitary actors (and for that matter, neither are private schools). This implies that states could pursue different goals, often simultaneously, that might conflict with each other. Finally, this article asks the thorny question of what could, and should, be done by the state in the context of private school funding and regulation, especially in Israel.

Israel receives most of the attention in this work: apart from the fact that Israel constitutes a fascinating case study because of the large and political powerful Jewish ultra-orthodox sector, it serves as a useful illustration of some of the state – private school' tensions that are evident in other countries as well. This study, however, also briefly explores other countries: Australia, the U.S., and England (not Britain as a whole). These countries, of course, differ dramatically from Israel in many respects, not least of them education' system structure. Nevertheless, the funding-accountability issues with which Israel grapples are familiar in these three other countries as well. It is argued in this essay that Israel is not unique in terms of the goals that motivate state regulation of private schools; nor in the lax implementation of such regulation; and not even in the strategies that the state deploys to overcome obstacles and resistance to state oversight of private schools. Indeed, state authorities, in all four countries studied here, have used a mix



of markets, policy carrots, coercion, and deliberation with the private school sector, to prod private schools to align their educational goals with those of the state. Differences between Israel and the other countries are mostly a matter of degree: private sector opposition to public accountability is both more resolute and more politically powerful than elsewhere. The strength of the private school sector – specifically the ultra-orthodox sector – is scarcely countered by the Israeli state education establishment that has yet to formulate a cohesive approach in regard to its relationship with private schools.

Research for this essay was based on government and non-government document analysis, statistical data, and semi-structured interviews with policymakers, senior bureaucrats, leading members in the private school community, and other central actors in the education policy sphere.

The essay is organized in eight sections. The first section explores school privatization across three dimensions – purchase, provision, and decision-making. The pace and depth of privatization very much depends on the dimension in question. Next, the emergence of the accountability movement in education is traced to its origins in New Public Management and the tension between the 'new' accountability and school autonomy is discussed. The third section shifts attention from accountability in general to state regulation of private schools: specifically, the rationale for such regulation, and the resulting tensions which it provokes. The fourth section provides an overview of privatization, on three different dimensions, in Israeli education and also narrates how the accountability system evolved over the last fifteen years. In the fifth section, the goals of state regulation of private schools in Israel and the state's failure to hold a large share of these schools publicly accountable are discussed. Then the focus shifts to private school funding and accountability in three other countries: England, the U.S., and Australia. In the seventh section, insights derived from the international experience are applied to the Israeli case. The final section asks what might be done to strengthen private school accountability in Israel.





## ***Privatization in Schools: What does it Mean?***

Privatization has developed into a policy trend, and has even become something of a buzz word since its emergence as a mainstream policy in the 1980s. Probably the best-known manifestation of privatization is the transfer of ownership from the public to the private sector. This, however, is only one form of privatization and probably the least applicable to the education field. Tania Burchardt proposed a general typology for the demarcation of the public-private boundary that is useful for the analysis of education privatization (Burchardt 1997; West and Currie 2008). Burchardt argues that service' privatization could occur on at least three dimensions that do not necessarily overlap: purchase, provision, and decision-making. The first dimension is that of service purchase. The relevant defining question is whether the state is the service purchaser or is the purchaser a private entity or individual. Privatization of this type occurs when the state purchases a smaller share of the service than it did previously and private actors fill the void. The second dimension is that of provision. Privatization of provision occurs when responsibility for the delivery of a service is transferred from public workers to private ones, regardless of whether the state continues to finance the service or not.<sup>1</sup> This type of privatization is often referred to as 'contracting out'. Finally, privatization might also apply to decision-making. The central definitional question in this case is whether pivotal decisions with respect to the service are made by the state or by private actors. Decision-making privatization entails the transfer of decision-making powers from the state to private entities. It is important to stress that privatization on these three dimensions – purchase, provision, and decision-making – might or might not overlap. The sale of state owned enterprises is an example of privatization on all three dimensions. Quite differently, in the contracting out of services, for example, the state retains its purchase function and often its decision-making function as well (e.g., in the privatization of prisons).

In the education field, we have witnessed privatization on all three dimensions, separately and together. First, privatization of purchase has occurred in areas in which the state has reduced its funding and parents have picked up the slack. An increase in parental payments to public schools offers an example of privatization exclusively on this dimension. Although a rising share of school costs is financed directly by parents, the provision of education remains public and decision-making powers are left in the hands of public workers (principals and education agencies). Privatization of provision

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<sup>1</sup> It could be argued that any occasion in which the private expenditure share of total national expenditure on education increases constitutes privatization. Based on this definition, privatization could occur even if the government increases education expenditure in real terms. This would be the case if private expenditure growth outpaces public growth. A less expansive definition of privatization would include only instances in which public expenditure for function X is replaced by private expenditure for the exact same function.



in education does not necessarily entail the transfer of school ownership from public to private hands, although this is a distinct possibility. This form of privatization more commonly occurs when the state increasingly relies on private schools to educate the country's children. In this case, the share of private provision, often publicly funded private provision, increases. Finally, privatization of decision-making in education is manifested primarily in increased school choice. In many locales, parents are free to choose a school for their children whereas in the not too distant past this choice was made by education officials, usually based on single-school catchments.

Privatization of purchase is the form of privatization that is closest to the popular, and usually negative, image of privatization. The state recedes and the void is filled by private spending – most commonly out-of-pocket parental expenditures on either private schools or on only partially-funded activities within public schools. Privatization critics argue that states renege on their responsibilities to the countries' children by giving ground to private expenditure and that the end result is a privatized education system that is segregated and highly inequitable (Apple 2001; Torche 2005; Yonah et al. 2008). It is far from evident, however, that developed nations have undergone privatization of this type. The share of private expenditure has not notably increased across most developed countries over the last couple of decades (based on OECD Stat extracts 2009).

Privatization of provision could refer not just to an increased share of students attending private schools, but also to an increased involvement of private entities in public schools, whether in academic or ancillary capacities. It is the former type of privatization – i.e., privatization of core educational services – that is of greater interest to us because this form of privatization provokes the greatest tensions. The main form this privatization takes is an increase in state aid for private schools. In some cases, state-per-pupil aid to private school students might even equal that of public school students although this is uncommon. Has privatization of provision in developed countries increased significantly in recent years? The answer in most cases appears to be less than one might think. A report on private education in European Union countries from 2000 observed that during the 1990s there was no real increase in the scope of state aid to private schools across fifteen countries (Eurydice 2000). In a comparison between the U.S. and the U.K of privatization of provision, John Fitz and Bryan Beers claim that privatization has proceeded in 'glacial speed' (Fitz and Beers 2002). There are, nevertheless, countries in which the share of publicly aided children in private schools has indeed increased substantially and two such exceptions are dealt with in this study: Israel and Australia.

The third type of privatization – decision-making – has occurred across most countries in the form of greater parental choice. An OECD report from 2002 has argued that parental choice in education constitutes a major reform that has encompassed most OECD countries (Hirsch 2002). School catchments and zones have been abolished in



many places. Parents have more choices among public schools than they did before, and at times choice is also inclusive of private schools.

Education privatization is progressing, admittedly unevenly, on these three dimensions. One should not make too many assumptions, however, about the reasons for this process. We mostly think of privatization as a policy that is driven forward and guided by government. However, privatization in education is more complex than the sale of state owned enterprises. Privatization decisions are not always made in a top-down fashion. Privatization of purchase is often viewed as part of a right-led neo-liberal project, but the push for privatization could actually originate with parents. If the state cannot increase education public spending to meet the ever-growing demands of the middle class, then middle class parents might search for alternative avenues that could involve private expenditure. Privatization of provision could, in a similar manner, be driven forward by the supply side – private school entrepreneurs – and not the demand side.

To conclude, privatization across developed countries has advanced in an uneven manner across the three privatization dimensions of purchase, provision and decision-making. Paradoxically, privatization on the purchase dimension, which is closest to the popular conception of privatization, is the least extensive of the three in OECD countries.



## ***New Public Management and the Spread of Standards and Performance-Based Accountability in Education***

Privatization has been associated with the rise of neo-liberalism and also with New Public Management. While neo-liberalism has been considered first and foremost as the guiding ideology of the political right, New Public Management (NPM) has been more difficult to associate with one side of the political map and not the other (Kettl 2005). Proponents of NPM have extolled its usefulness in improving public sector performance while less emphasis has been placed on reducing the size of the public sector. Thus NPM could be adopted by both right and left although the theory's debt to the right-oriented Public Choice and neoclassical economic theories cannot be questioned (Batley and Larbi 2004).

What precisely are the central tenets of NPM is a contested topic. Nevertheless, almost all formulations of NPM include both an emphasis on the efficacy of employing private actors to provide public services and on the need to hold public actors and private contractors accountable for the services and products that they provide to the public. More specifically, NPM accountability differs from traditional bureaucratic accountability in its emphasis on outputs and outcomes instead of procedures and inputs (Hood 1991; Kettl 2005). NPM is above all about making the public sector more efficient, mainly by the emulation of private sector practices. In the private sector, producers are held accountable by the market but this is not always a practical solution in the public sector. Instead, producers are held accountable by the state, no differently from traditional public management, but the main focus of accountability shifts from compliance with procedures to achievement of end-results. It is the role of the public principal, according to NPM, to set clear and quantifiable targets for producers, whether they are public or private. The public principle is also charged with the task of monitoring and assessing producer' outcomes by the use of quantifiable measures. Finally, as a substitute for market discipline, the public principal sifts the good performers from the bad and while the former are rewarded, the latter are penalized and sometimes discarded.

As often noted, the different tenets of NPM do not constitute a coherent whole (Haque 2007). The increased concurrent use of private providers and performance measures can be viewed as necessary complements but also as potentially contradictory acts. For Osborne and Gaebler, in their influential book *Reinventing Government*, benchmarking and performance measurement are necessary prerequisites for offering private actors a greater role in the delivery of public services and also for the expansion of managerial autonomy. This is so because – drawing on Osborne and Gaebler's oft-cited metaphor – the public agents get the best results out of agents when they steer them towards clear well-specified goals, but do not intervene in the "rowing" (Osborne and Gaebler 1992).

Yet questions persist in regard to how different "steering" is from "rowing". On the one hand, a clear definition of the desired product and precise product' measures appear to be essential for the success of contracting out. On the other hand, setting a multitude of highly-specific targets could lead to micro-management. Agents that are burdened with too many targets lose much of their latitude for innovation and find it difficult to do things "their own way". George Frederickson, for example, has warned that an obsession with benchmarking could very well force conformity on government and nonprofit actors (Hood and Peters 2004).

The spread of NPM type reforms in education has been expressed in both the setting of clear goals and the construction of standard quantifiable measures for performance. The "standardization" movement in education is well-known; more so than in most fields. Student', teacher', school' and even the entire education system's performance is gauged by the use of standardized tests that are administered in a consistent manner across space (including international comparisons) and time. Test results are said to provide a factual basis for evaluation and, in some cases, most notably high stakes testing, they determine the allocation of awards and punishment to the different actors involved (Hess 2002). A prerequisite for standardized testing is that schools teach a shared curriculum. Indeed, in the Anglo-Saxon countries, the introduction of a core-curriculum and standardized testing often went hand in hand (Apple 2001).

In the field of education, the internal tensions of NPM reforms have already received some attention. Ami Volansky, for example, has argued that the growth of standardization has contradicted policies that stressed the importance of delegation of decision-making powers to the school level and the desirability of greater school autonomy (Volanski 2007). In an analysis of the introduction of NPM to Dutch education, Sjoerd Karsten observes that neo-liberal policymakers followed a contradictory policy of, on the one hand, imposing strict and specific performance standards, but on the other hand, delegating authority to the school level (Karsten 1999). Schools, according to Karsten, are granted only the appearance of autonomy because the preponderance of standardized tests does not allow them any real leeway: what one hand giveth, the other taketh away. Of course, it is also possible to take a different view of the autonomy-standards relationship. Proponents argue that education systems are setting goals but it is up to the schools to chart the course. Critics of standardization, however, cast doubt on this straightforward separation of means and ends.



## ***State Regulation and Funding of Private and Religious Schools***

The rise of the accountability movement in education was first and foremost viewed as a response to the perceived failures of *public*, not private, schools. Nevertheless, once new accountability systems were established, they were extended to the private sector as well. State regulation of the private school sector is generally not as strict as that of public schools. However, it is widely recognized that the state does have a public interest in education (Randall 1992). First, private school students are no less the future citizens of a democratic state than public school students.

The values that are inculcated in children throughout their education will help determine their allegiance to the state and its core values. The rationale for state regulation is evident: the stability of the regime, and perhaps state survival itself, depends to some extent on what and how children are taught at school – be it a private or a public school. Second, developed economies rely on the work and skills of a well-educated populace. Students that graduate without acquiring a certain set of skills and knowledge are more likely than their better educated counterparts to earn low incomes and suffer from unemployment. In order to augment state wealth and reduce future economic dependency on the state, many states set and enforce minimal academic standards that are to be met by all schools regardless of sector.

Apart from these two rationales for government regulation of private schools – which will be referred to hereafter as the “practical skills” and “good citizenship” rationales for short – one should also take into account regulation and accountability that are contingent on the degree of state financial involvement in private education. The argument in favor of regulation here is simple: recipients of public largesse must accept that funding entails obligations. The public, at the bare minimum, has a right to know what is done with its money and perhaps should also have some say over how it is spent. Indeed, it appears that there is a positive correlation on both the intra-state and inter-state level between public regulation and public funding. A study conducted by The Center on Education Policy found that countries that offer full funding to private schools demand higher standards of private school accountability in return (Kober 1998).

On the one extreme is the Dutch case, in which private schools receive operation costs equivalent to public ones and in return must teach the full state approved curriculum (International Review of Curriculum and Assessment frameworks 2007). On the other extreme, there are a few countries that do not support private education – the United States stands out as a good example of this – and accordingly hardly imposes any academic demands on their private schools. Although there is considerable regulatory diversity across political systems, in general, it seems that the 'X level of funding entails

a corresponding 'X level of regulation' principle applies to most countries. As stated before, in recent years there is a growing emphasis on privatization of provision and decision-making in education. One implication of this is that the relationship between private schools and the state has become closer in terms of funding. Increasingly, private schools are the beneficiaries of state aid and the expansion of school choice has often led to a rise in the private schools' student share. Nevertheless, the new focus on regulation and accountability creates a dilemma for private schools. Increased public aid is likely to lead to higher levels of public accountability<sup>2</sup> that private schools find objectionable. Public funding is sometimes vital for the financial survival of private schools, or at least better enables these schools to achieve their academic goals. However, it also restricts their autonomy.

This dilemma is by no means unique to private schools: in general, private actors that contract with government must subject themselves to what is often perceived as unwelcome public regulation (Smith and Lipset 1993). In education, however, the dilemma is more acute than in most other areas because private schools often have a strong religious or philosophical identity that is not necessarily shared by government and could be distorted by government regulation (Glenn 2000). Traditionally, religious schools constitute a large share of all private schools. These schools have a strong independent identity so the funding-regulation tradeoff is likely to be especially painful for them.

The combination of stricter accountability and privatization of provision sets private schools on a collision course with government. Does privatization on the two other dimensions – purchase and decision-making – exacerbate regulation-related tension between private schools and the state? One might actually make the case that these two forms of privatization are expected to ease tensions in contrast to privatization of provision. First, privatization of purchase implies that parents are paying for a growing share of their children's education. Although, as explained before, there are certainly justifiable reasons for state regulation and oversight, most commentators agree that schools should not have to meet the same standards as public schools as long as they are privately funded. If one argues that by accepting public funding private schools implicitly consent to a higher level of regulation and state control then the opposite follows as well: schools that reduce the share of state aid in their financial mix should be granted greater freedom from public oversight. This implies that privatization of purchase weakens the case for public control and oversight of schools.

Second, privatization of decision-making in education entails more school choice and also more voice. It could be argued that choice and voice make administrative accountability superfluous because they constitute effective alternatives for the purpose

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<sup>2</sup> Throughout this essay, the terms state accountability, public accountability, bureaucratic accountability, and administrative accountability are used interchangeably.



of advancing educational quality. The case for choice as a substitute for bureaucratic control has been forcefully made by John Chubb and Terry Moe in their influential book *Politics, Markets and America's Schools* (Chubb and Moe 1990). Chubb and Moe argued that the reason that students' performance in American private schools is superior to that of public school students is attributable to education system organization. Market control, so they argue, is fundamentally more efficient than democratic control. This is especially true when system outcomes are objectively difficult to measure and quantify as is the case in education. The lack of reliable performance measures precludes effective top-down evaluation and management and opens the door for political intervention that does not favor the students. In systems with student choice, in contrast, the market is the main disciplinary mechanism. According to Chubb and Moe, market discipline is far more effective than bureaucratic control in weeding out the bad performers. Moreover, market discipline does not lead to the top-down micro-management that often constrains and demoralizes professionals at the school level in public schools. In a primarily market framework, principals and teachers will do what they think is best to improve educational quality in order to attract students. For Chubb and Moe, choice creates markets, and market accountability, underpinned by parents' exit option, is far more effective than democratic accountability.<sup>3</sup> Thus, in theory, privatization on the funding and decision-making dimensions could actually resolve much of the tension created by privatization of provision by making administrative accountability less necessary.

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<sup>3</sup> Chubb and Moe's criticism of democratic accountability is primarily directed at hierarchical management or what is referred to in this essay as state regulation or state accountability. Democratic accountability, however, could also be construed as a system that allows citizens greater influence over public services. In schools, this could be expressed in greater voice for students and parents. Privatization of decision-making might therefore take the form of both greater choice and more 'voice'.



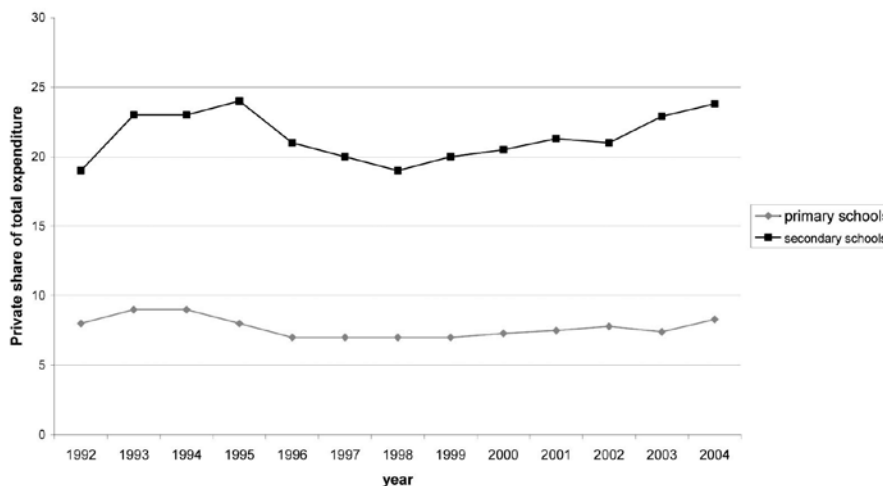
## **Privatization and Accountability in the Israeli School System**

Has education' privatization in Israel proceeded on all three dimensions? And has there been a movement towards performance-based forms of regulation and accountability?

### **Privatization of Purchase**

One obvious measure of privatization of purchase is growth (or decline) in the share of private expenditure out of total national expenditure on education. Figure 1 shows a thirteen year time series (1992-2004) for the share of private expenditure in both primary and post-primary schools. The figure does not support the common claim that privatization of purchase has advanced in leaps and bounds in Israel.<sup>4</sup> Although the share of private expenditure on education has increased somewhat from 1998 to 2004, this growth, at least in primary education, is modest and it is to some extent fueled by recession-driven cuts to public expenditure in the early years of the 2000s and far less by an increase in private expenditure. Recent government budgets have significantly increased the education budget, something that would most probably lead to an increase in the public share.

**Figure 1: Share of private expenditure in Israel, primary and secondary education**



Source: Central Bureau of Statistics (Israel), "Table 8.2 (8.4; 22.5): National Expenditure on Education, by Type of Expenditure and Level of Education and by Operating and Financing Sector," In *Statistical Abstract of Israel (different years)*.

<sup>4</sup> For example, Professor Danny Gutwein, one of the more outspoken critics of privatization in Israel, claimed that in the last two decades, private expenditure on education has increased immensely while the opposite is true of public expenditure Kav la-hinuch. 2007. Education privatization: finance and government (in Hebrew). In *Kav la-hinuch*.



This relative stability in the public-private composition of expenditure appears to contradict the common sentiment in Israel that education is undergoing rapid privatization. One possible explanation for this mismatch between the figures and popular sentiment could be that the official figures do not capture the full extent of private expenditure and therefore cannot account for its allegedly impressive growth. In Israel, schools are permitted to collect fees from parents for "additional services". The level of these fees is explicitly capped in education ministry directives. Nevertheless, education ministry personnel openly admit that many – if not most – schools collect fees well above the legal limit without reporting this to the authorities.

There are several estimates of the aggregate level of these fees. A senior education department official claimed that while education department directives allow schools to collect fees at an approximate total range of 1.2 to 1.5 billion Shekel per year, the actual amount collected is estimated to be at around 2.5 billion Shekel (Israeli education ministry official 2008). A report by the Knesset Research and Information Center reached an estimate of 1.24 Billion Shekel for state-authorized collection and 2.67 billion for actual collection (Tsadik 2006). It should be noted, however, that the private expenditure figures used above are derived from the Central Bureau of Statistics' (CBS) Household Survey in which respondents report their total education expenditures – whether legally sanctioned or not. This implies that the private expenditure share is probably not much higher than indicated by the official CBS figures on which figure 1 is based. While one might argue that the private expenditure share is too high, there is little to support the notion that the private share has grown substantially since the 1990s.

## ***Choice***

School choice has yet to be adopted by the education ministry as a national policy (Goldman 2002; Oplatka 2002; Schwartz 2000).<sup>5</sup> One should not conclude, however, that school choice has passed Israel by. It emerged during the 1990s and the 2000s in several cities – most prominently Tel Aviv and Jerusalem – as a local initiative that has received occasionally enthusiastic support from the education ministry. Tel Aviv was undoubtedly the trailblazer. The Tel Aviv Education Authority introduced its school choice initiative as early as 1992.

The parental choice plan was controlled by the Authority in order to prevent student selection by schools and also to guarantee a mixed student population in schools that enjoyed high demand (Oplatka 2002). The controlled school choice plan was gradually

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<sup>5</sup> This conclusion is also based on a ministry of education e-mail response (January 15, 2009) that did not explicitly state that no such policy exists but referred the investigators to director general directives that implied that no official choice policy exists.

introduced starting 1994. Each student was given a choice among five schools. The Tel Aviv school choice plan spread to other locales – primarily in the larger cities – during the 2000s. The growth of specialized schools has also contributed to school choice. These schools usually concentrate on a specific theme (e.g., arts) or adhere to a unique philosophy (e.g., anthroposophy). In many cases, specialized schools accept students from different catchments. The number of specialist schools has grown considerably since the establishment of the first schools of this type in the late 1970s.

A recent PISA report from 2006 found that Israeli students enjoy slightly more choice than the average OECD student: 69.1% of students can choose among three or more schools compared to only an average 60.3% in the OECD countries (OECD 2007). Although a figure for previous years is unavailable there is little doubt that this is a relatively new development in Israel.

## ***Provision***

An analysis of the privatization of provision in Israeli education is complicated by the difficulty in defining what precisely constitutes a private school setting. The majority of upper secondary schools are not state-owned. Among the primary and lower secondary schools, the majority of schools are considered public and the vast majority of the private schools belong to the ultra-orthodox sector. Many of the public schools partner with nonprofit organizations that partially fund activities and sometimes directly provide educational services. A recent survey conducted for the education ministry indicated that over 600 such private nonprofit organizations are active in public schools (Michaeli 2008).

Legally speaking, the private, or non-public, schools in Israel are separated into two distinct categories: recognized (but not formal) and exempt schools. The latter category – exempt schools – is comprised exclusively of ultra-orthodox schools. These schools are exempt from most education regulation and they receive 55% of public school funding for operational costs. The recognized schools are predominantly ultra-orthodox. These schools receive 75%-100% of public school funding and in return are obligated to teach a corresponding share of the core curriculum (Vorgen 2007). The number of students in these schools is more than triple that of exempt schools (145,695 to 43,660 in primary education for 2006/7) (Vorgen 2007). The total share of ultra-orthodox students among Jewish students was around 27% for the 2007-2008 school' year. Table 1 indicates a trend of rapid growth in the share of ultra-orthodox students over the last two decades.



Table 1: Ultra-orthodox share of students (Jewish school population)		
Year	Percentage share of ultra-orthodox students out of all primary school Jewish students	Percentage share of ultra-orthodox students out of all secondary school Jewish students
1959/60	6.6	
1969/70	6.6	3.7
1979/80	5.7	4.0
1989/90	7.6	5.7
1999/00	20.4	14.8
2004/05	25.1	19.0
2006/07	26.5	20.8
2007/08*	27.0	20.5

Source: compiled from: CBS, 2008. Table 8.12: Pupils in Schools, By Supervision and Level of Education (Hebrew Education), *Statistical Abstract of Israel*.

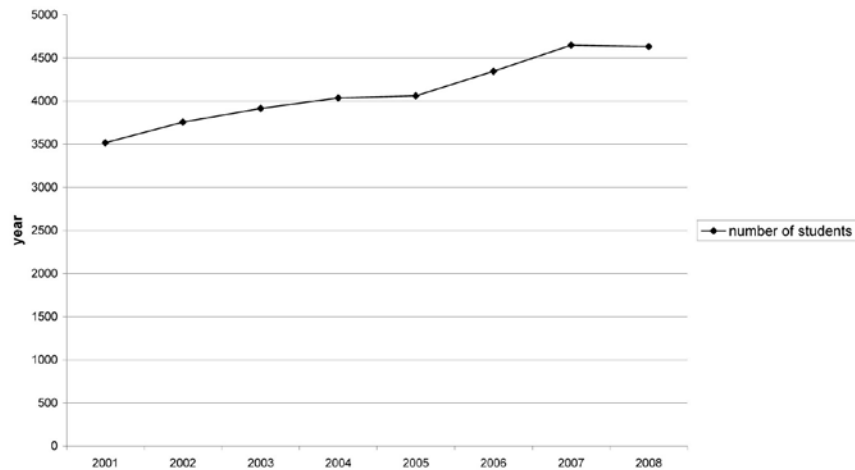
This trend has been fueled by the demographic growth of the ultra-orthodox population and the increase in the per student share in state funding for ultra-orthodox students in the 1990s, which ultimately brought more than half of these students to a funding level equivalent to that of public school students.

Along side the recognized ultra-orthodox schools there are a small number of recognized non-religious and religious orthodox schools. Although these schools have received considerable attention in the press, the number of students that study in these schools is small: less than 10,000 students study in Jewish secular and religious recognized (but not formal) schools combined. Furthermore, the growth in student numbers has been quite modest over the last few years as demonstrated in figure 2. The growth in student numbers in the non- Ultra-Orthodox recognized schools does little to contribute to the privatization of provision.

Nevertheless, some commentators have argued that privatization of provision is occurring, albeit informally, by the expansion of the afore-mentioned specialized schools (Kashti 2007b). Specialized schools are permitted to select students in accordance with their unique mission and many of them charge parental fees that are far higher than the legal cap for 'regular' public schools.<sup>6</sup>

<sup>6</sup> It appears that fee collection by both recognized and specialist schools falls into a legal gray zone. The different education laws and education ministry directives do not make any allowances for specialist schools. In practice, however, these schools overtly collect fees, often aided by the local municipality.

**Figure 2: Students in Jewish secular recognized schools  
(does not include special ed.)**



Source: Based on data compiled from the Israel Education Ministry's 'Administrative and pedagogical information system' (*Mamnach*). Access date: January 2, 2009, <http://www.education.gov.il/mamnach/>.

How many students study in these schools very much depends on how one defines them and the education minister has recently admitted that the ministry has failed to come up with a satisfactory definition for these schools due to their variegated nature (Kashti 2008). Hence, one cannot pin an exact figure on student numbers but the number of specialist schools is in the hundreds including some that belong to the recognized school sector (Chromchenko 2004b). The growth of this sector has been a source of controversy for the education community. While some education ministers were very supportive (Rubinstein 2008), others were concerned that the introduction of additional specialist schools would create a two-tiered education system with specialist schools for the well-off and regular schools for the rest (Tirosh 2008; Zelikovitch 2001). The courts intervened a number of times on behalf of these schools and ordered a reluctant education ministry to offer them funding (Kashti 2008).

## **Accountability**

The growing emphasis on performance-based accountability in Israel has accelerated in the 2000s. The traditional accountability mechanism, which is still a dominant component in the system, was based on a national network of education ministry inspectors that were assigned to schools within a specific education sub-system (e.g., Arab public schools). The main focus of inspections was on process and safety – not on outcomes. A chronic



shortage of inspectors has limited the comprehensiveness of inspections. Schools are very rarely penalized, if at all. The inspectors main mode of operation is an advisory one (Schwartz 2000).

The new accountability regime is predicated on a clear statement of what schools are obligated to teach – hence the importance of the national core curriculum – and on standardized tests for different grade levels that provide a tool for the measurement of performance. Standardized tests were initiated by the Chief Scientist of the education ministry in the early 1990s. These tests were experimental in nature and they were discontinued by an education minister that reasoned that they were an unnecessary cause of stress for students and teachers (Aloni 2008). Nevertheless, in the 2000s, standardized tests were re-instituted, and this time, on a much broader scope than before.<sup>7</sup> Students in fifth and eighth grades, in both the public and recognized school systems, are required to participate in tests in the general areas of literacy, mathematics, English, and science and technology. The results are reported to principals but not to the public. The introduction of standardized exams was supported by Limor Livnat, the education minister in the first half of the 2000s. The initiative was the brainchild of leading figures within the education ministry, including the director general, that were eager to emulate the American model of performance-based accountability (Shield 2008). The tests were administered to recognized schools as well as public ones. The education ministry managed to reach an understanding with the two largest organizations within the ultra-orthodox sector that allowed for the administration of the tests for this sector as well, albeit in a very limited manner: only fifth graders are tested and not in the areas of English and the Sciences. In academic circles, this move towards standardization is controversial (Volanski 2007; Yogev 2007). In policy circles, however, opposition is weak and senior politicians have voiced a desire to expand the exams (Michaeli 2008).

The institutionalization of a core curriculum has emerged as a policy flash point during the 2000s. The 1953 Education Act authorized the education minister to determine a basic curriculum for recognized schools (Clause 11). In practice no such curriculum was introduced until the 2000s. Interviews with former education ministers and former education ministry' director generals left no doubt regarding the reason for this failing: the powerful political opposition of the ultra-orthodox parties. The status quo was challenged, however, due to the intervention of the Supreme Court. Following a petition to the Court by MK Joseph Paritzky and others in 1999, the education ministry notified the Court that it would proceed to prepare a comprehensive educational program for all schools, recognized schools withstanding. In 2002, the Shoshani committee recommended that the level of public funding be proportionally related at several levels (60% to 100%) to the share of the core curriculum studied by students in

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<sup>7</sup> These tests are called "Indices of school effectiveness and growth" (*Metisav*) and they are administered by the national authority for education' evaluation and measurement (*Rama*).

recognized schools (Shimon Shoshani (Chair) 2002). In June 2003, the education ministry published detailed requirements for both public and private primary schools regarding the core curriculum (but not secondary ones). All schools were required to teach the core curriculum although recognized schools were obligated to teach only 75% of the curriculum content in return for 75% funding. Recognized schools that belonged to the two large ultra-orthodox networks were entitled to receive funding equivalent to that of public schools (Director General of the Education Ministry 2003). The unique status of the networks among recognized schools was established in a 1992 amendment to the Budget Foundation law.

In a 2004' testimony before the Knesset Education and Culture Committee, the head of the recognized schools unit in the education department cited figures that demonstrated that within a year of the publication of the education ministry directive, the vast majority of ultra-orthodox schools, which belong to the two major networks (the Ashkenazi Independent Network and the Sephardic *Maayan Hahinuch Hatorani*), had satisfactorily complied with the teaching requirements based on the core curriculum (Chromchenko 2004a).

The core curriculum controversy, however, was still far from resolved. A 2004 petition to the Supreme Court by the Organization of Secondary School Teachers resulted in a ruling that directed the education ministry to implement a core curriculum for all recognized secondary schools as a prerequisite for funding. The Supreme Court Justices allowed the education department three years to formulate and implement a core curriculum for these schools (Yoaz et al. 2004). The education ministry, however, failed to follow the court order and asked for extensions from the Supreme Court in 2007 and again in 2008. The ultra-orthodox parties were active on the political front. They were intent on preventing a final ruling that would strip their schools of public funding. With the coalition government's support, the "Special Cultural Educational Establishments" law was passed July 23<sup>rd</sup> 2008, on the strength of a 39 to 6 vote. The law explicitly exempts "culturally special" schools (ultra orthodox schools are the only schools that currently belong to this category) from teaching the core curriculum at the secondary school level (2008). At present, ultra-orthodox schools at the primary level are formally obligated to teach at least 75% of the core curriculum but upper secondary ultra-orthodox schools are fully exempt from any curriculum requirements that might apply to other schools.

## ***Growing Tensions***

The spread of performance based accountability has evolved slowly in the 1990s, but the pace has accelerated considerably in the 2000s with the introduction of the core curriculum for primary schools and standardized tests. Privatization of purchase,



despite public perceptions to the contrary, cannot be considered (yet) a significant trend. Privatization of provision and the expansion of parental choice, on the other hand, have been substantial. Have these concurrent developments exacerbated tensions between the state and private schools?

The answer depends to a certain extent on one's definition of private schools (e.g., do specialist schools count as private?) but far more on the type of private schools considered. Among the majority of non- Ultra-Orthodox private schools, neither the introduction of the core curriculum nor that of standardized tests provoked special concern. Most of these schools teach the core curriculum subjects regardless of state mandates. Furthermore, standardized tests do not pose a real challenge to these schools for the simple reason that low pass rates bear no implication in terms of public funding, disciplinary measures, or even public status: exam results for individual schools are not made public and school funding is not tied to performance. In schools in which the administration of compulsory exams is against the pedagogical philosophy of the school, students often refuse to take the exam although the school does formally administer them (Hocherman 2008; Tal 2008).<sup>8</sup> One department of education official added that, in practice, private school transgressions are often overlooked, or even go undetected, because the education department shows very little interest in non-public schools (Israeli education ministry official 2008).

The situation in the ultra-orthodox sector is quite different. Recognized ultra-orthodox primary schools are subject to a core curriculum since 2003 of which they are obligated to teach at least 75%. Furthermore, these schools are also subject to standardized tests in literacy and math at the fifth grade level. As noted before, the education department claimed that the vast majority of these schools have complied with these requirements. Interviews with senior education department personnel and a well-positioned justice ministry official, however, suggest that this is a misleading representation. Education ministry figures are based on school self-reporting or on the report of ultra-orthodox inspectors. Furthermore, it is entirely unclear what counts as "following the core curriculum" (Former director general 2008; Justice ministry official 2008). External inspection of these schools hardly ever takes place. Circa 2007, there were only six inspectors assigned to primary and secondary ultra-orthodox schools, recognized and exempt combined (Vorgen 2007). This implies a ratio lower than one inspector to 40,000 students. Interviewees from both the education ministry and the ultra-orthodox sector claimed that inspections had no impact on the operation of ultra-orthodox schools. As described before, exempt schools and recognized ultra-orthodox secondary schools were not subject, in practice, to a core curriculum and the 2008 "special cultural" law sanctioned this state of affairs.

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<sup>8</sup> The same holds true for the instruction of the core curriculum. The schools offer such instruction but students are not compelled to study these subjects.



As far as the standardized tests are concerned, the ultra-orthodox primary schools did participate in the tests – at least initially. Since the 2006/7 school year, schools from the largest ultra-orthodox school network – the Independent network – ceased to administer external exams (students of the Sephardic *Maayan* network still take the tests) (The National Authority for Measurement and Evaluation in Education (*Rama*) 2009). To conclude, the ultra-orthodox school sector, whether formally (i.e., exempt schools and all upper secondary schools since the passing of the 2008 law) or informally (schools that ignore regulations due to incredibly lax oversight) has, by and large, successfully avoided state accountability.



## ***The Failed Attempt to Hold Ultra-Orthodox Schools Publicly Accountable***

This state of affairs invokes questions concerned with both motivation and ability. First, what was the main impetus for the promotion of greater ultra-orthodox school sector accountability? Second, how were the ultra-orthodox schools able to circumvent state attempts to subject them to new and effective accountability measures?

First, the drive towards greater performance-based accountability in Israel was certainly not backed by any broad consensus in government circles. The institutionalization of a core curriculum was supported by different education ministers, director generals and several department appointed committees (most prominently, the Shoshani committee in 2002 and the Dovrat committee two years later), but it is unlikely that it would have come to fruition without the intervention of the Supreme Court. Although upgrading accountability mechanisms was a topic of negotiation between the ultra-orthodox networks and the education ministry, no significant progress on the issue was achieved before the issue was brought before the Supreme Court. The 2000 Supreme Court ruling on the Paritzki petition forced the education ministry to act and convinced the ultra-orthodox sector to make some concessions, however small, on the curriculum-testing front. The establishment of a funding-curriculum nexus certainly dovetailed with the views of many of the top officials – political and professional – in the education system. The institutionalization of a core curriculum and standardization was viewed by some of the senior education ministry workers as a necessary complement to the trend of growing school autonomy and privatization. These were viewed as essential means by which the state could retain some effective control over the citizenry's education even in an era in which its share in direct ownership of schools was in decline.

In the Paritzky petition to the Supreme Court, which got the core curriculum wagon rolling, the plaintiffs argued that in the absence of a core curriculum, graduates of the ultra-orthodox school system enter the workforce without the basic skills necessary for contributing to the economy. This "practical skills" (or lack thereof) argument has been mentioned numerous times in interviews with senior education system personnel as a justification for the institutionalization of a core curriculum for the ultra-orthodox sector. Currently, ultra-orthodox primary schools for boys dedicate far more attention to religious studies than to lay subjects and in secondary boy schools the focus is exclusively on religious subjects. Many interviewees voiced a concern that without the involvement of state authorities, ultra-orthodox schools would continue to churn out, in growing numbers, graduates with little marketable skills that are therefore likely to constitute an economic burden for the state. A second motivation for the introduction of a core curriculum for ultra-orthodox schools was a concern regarding their students'

role as state citizens. In one interview, a former education minister, downplayed the importance of the "practical skills" motivation. He claimed, however, that he implored ultra-orthodox leaders to accept a curriculum that would highlight good democratic citizenship (Levi 2008). The "good citizenship" argument comes in both a strong and a weak form. The strong form requires all schools, ultra-orthodox schools withstanding, to teach their students about the merits of a democratic political system. At least for some ultra-orthodox schools such a requirement is incompatible with their worldview that holds democracy in contempt because it subordinates religious law to popular government (Shamai 2000). A weaker version of this argument settles for a requirement that teachers refrain from directly challenging the democratic character of the state in the classroom. This weaker "good citizenship" argument does not require the imposition of a curriculum. The "Special Cultural Educational Establishments" law reflects the state's complete retreat from a position of support for a core curriculum, based on either the "practical skills" or the strong "good citizenship" rationales, to a position based on the weak "good citizenship" argument. The 2008 law, allows the director general to withdraw funding from schools that discriminate or incite against the state (clause 35), but beyond that no reference whatsoever is made to the school's curriculum.

Second, the answer to the question of how ultra-orthodox schools managed to elude state intervention is well-known and straightforward. The ultra-orthodox school sector relies on the support of two to three ultra-orthodox parties that are essential building blocks in the formation of a coalition government. As part of coalition formation negotiations, secular parties must concede some of the ultra-orthodox demands and unconditional support for the ultra-orthodox education system is at the top of ultra-orthodox wish list. Thus, in 2006, as part of the coalition agreement signed between *Shas*, an Ultra-Orthodox Sephardic party, and Prime Minister Ehud Olmert, the Prime Minister committed his government to support of legislation that would "permit all Haredi education institutions to continue carrying out the education and study programs unique to them" and would "arrange for the continued existence of the independent inspection system of the Haredi education institutions."<sup>9</sup> The agreement was intended to prevent the imposition of a state-approved curriculum on ultra-orthodox schools. The enactment of the 2008 law mentioned before accomplished this.

One might wonder why leaders of the ultra-orthodox sector tend to be so apprehensive about accepting a core curriculum. The answer is basically that ultra-orthodox leaders are reluctant to give up their autonomy and, perhaps more importantly, they are unwilling to allow secular studies into their secondary boys' schools. In both interviews and in public statements, ultra-orthodox religious, educational and political leaders have been quite forthright on this issue: they say that they are willing to give up funding before giving

<sup>9</sup> Quoted from coalition agreement in Ettinger, Yair. 2006. Despite opposition, English and math are now part of Haredi curriculum *Haaretz (in English)*, May 10.



up any of their independence. One senior ultra-orthodox education official explained in an interview that ultra-orthodox education is far superior to state education therefore state regulation is bound to compromise education integrity and quality (ultra-orthodox education official 2008). The need to learn practical skills was rejected by this interviewee (as by others). In his view, religious studies are instrumental to the development of cognitive skills and whatever practical skills a person might later require in the labor market could be quickly learnt and acquired by the sharp-witted yeshiva graduates. It is important to stress that ultra-orthodox schools are not made of a single cloth and some sectors within this very diverse society demonstrate some willingness to expand the teaching of lay studies and adopt a core curriculum. Nevertheless, hostility to the adoption of a state-approved core curriculum is generally the norm among the ultra-orthodox.

In the previous section, it was proposed that privatization of purchase and of choice could alleviate the tension between privatization of provision and accountability by weakening the case for increased accountability. As far as privatization of purchase is concerned, this is a moot point because there is no substantial privatization of this type in Israel. Privatization of choice, however, is gaining ground in Israel. Could it be the solution to the accountability crisis? The answer hinges on whether parental goals are compatible with those of the state. A main goal of the educational system is to produce graduates that would possess the skills and capacities to become economically self-reliant members of society. It is doubtful that many non-ultra-orthodox parents would knowingly choose an education for their children that would fail to provide students with the skills necessary to succeed in the workplace. In this sense, as long as parents have access to adequate information about the quality of different schools, the market (where it exists) could substitute for a state accountability system. This, however, does not appear to be currently the situation in the ultra-orthodox school sector. The quality of education is certainly a factor in school choice, but not education that necessarily contributes to the development of skills and capacities that would later prove useful in the labor market. Moreover, school choice even in large cities, Jerusalem first and foremost, is not an option for most ultra-orthodox parents that register their children to their specific religious community's school (e.g., a Belz Hassidic school) and not to the school that provides the best education – even not the best religious education. Choice cannot substitute for state accountability in the ultra-orthodox sector therefore because choices are very limited and not motivated by the goals that are prized by the state.

Israeli education policymakers face what appears to be a unique predicament: the "practical skills" and "good citizenship" arguments provide compelling reasons for state regulation of private education. In addition, public funding without public accountability seems difficult to justify. If lack of state control is indeed a problem, then it is a large

and growing problem at that. However, the obvious solution to this problem appears unavailable to policymakers. Due to the political power of the ultra-orthodox community, it is very difficult for the State to use public funding as leverage. Furthermore, markets, given the character of ultra-orthodox societies, do not appear to be a practical alternative solution. What, if at all, can policymakers do? A brief investigation of private school' accountability in other countries might help identify different strategies and solutions for coping with the Israeli predicament.



## ***Accountability and Private Schools: Dilemmas and Solutions in Four Countries***

Below, the essay focuses on different aspects of private school accountability in three countries that have been heavily influenced by NPM, and have moved towards a performance-based accountability system in education. The main focus is on an analysis of state – private school tensions due to state regulation, on what has been done in the different states to implement accountability and/or resolve the tensions with the private sector, and on the success of these efforts.

### ***England***

In England, the share of private school students has been stable for quite some time: between 6 and 7 percent of the total school student population. The state does not usually support these schools, a fact that makes them unaffordable to many (Murray-West 2006). Most religious schools in England, however, are state supported and formally belong to the sub-categories of voluntary-controlled and voluntary aided schools. These religious public schools are required to teach the full National Curriculum and students are subject to standardized tests administered by the Office for Standards in Education (Ofsted). Hence, in England, unlike Israel, recipients of government funding are subject to a rigorous accountability regime that includes both a core curriculum and standardized testing. Furthermore, even independent schools are subject to state regulation. Independent schools are subject to inspections, in six year' cycles, conducted either by Ofsted or by the Independent School Inspectorate, which is authorized by law to inspect schools whose principals are members of the Independent School Council (Ofsted 2008). Although independent schools are not required to teach the national core curriculum and their students are not obligated to participate in standardized tests, the schools are required to follow certain curricular guidelines. First, the schools are supposed to teach certain broad subjects such as mathematics, science and technology, and English (Statutory Instrument 2003 No. 1910 2003). The law specifically requires that private school students meet a minimal level of English proficiency. The law addresses concerns previously voiced by public education officials with respect to Jewish Ultra-Orthodox and Muslim schools that failed to guarantee a satisfactory level of English proficiency (Canovan 2003a). Finally, as a condition for registration, the schools must refrain from teaching messages that conflict with the tolerant ethos of English society. In fact private schools are expected to demonstrate that they: "provide pupils with a broad knowledge of public institutions and services in England; assist pupils to acquire

an appreciation of and respect for their own and other cultures in a way that promotes tolerance and harmony between different cultural traditions." (Statutory Instrument 2003 No. 1910 2003).

One could conclude based on the above that independent schools, despite the fact that they do not benefit from government funding, are subject to more stringent curricular requirements than, at the very least, secondary level ultra-orthodox and exempt schools in Israel that do benefit from public aid. Nevertheless, even though accountability standards for non-aided independent schools in England are significantly higher than those that apply to publicly-aided ultra-orthodox schools in Israel, this does not mean that independent school regulation is not a reason for concern. While in principle, regulation of private schools in England is quite strict, in practice, private schools do not always fully comply with the law. A 2003 report by David Bell, the Chief Inspector of schools, revealed that four out of ten private schools did not fulfill statutory curriculum requirements (Canovan 2003b). Two years later, the Chief Inspector noted in a speech that "traditional Islamic education does not entirely fit pupils for their lives as Muslims in modern Britain" (Taylor 2005). A review of Ofsted reports of Jewish independent ultra-orthodox schools underscores the fact that despite state oversight, several of these schools suffer from common shortcomings. For example, a complaint reiterated in several – but certainly not all – Ofsted inspection reports of ultra-orthodox schools with very slight variation asserts: "The overall quality of the curriculum is inadequate because the secular curriculum (*Chol*) is inadequate." (Teacher 2007). Ofsted is not responsible for sanctioning private schools. Only the Department for Children, Schools, and Families has the authority to do so. The office for Independent Schools and School Organisation, which is responsible for independent school regulation, does its best to close the implementation gap: schools that seriously violate government regulations – related to student welfare, curriculum, etc. – are sometimes issued statutory notices that formally inform them that if they do not rectify regulation contraventions they would be struck from the school registrar (about forty such notices have been issued in 2008). This almost always prompts schools to comply or, more rarely, to close down (Jones 2009) .

For years, independent school regulation was not a major concern for the government. Recent events, however, have changed that. The main challenge is related to Muslim independent schools. Until the end of the 1990s, Muslim school' applications for public status, and with it public funding, were repeatedly denied, most probably due to a concern that these schools would prove divisive to society (Parker-Jenkins et al. 2005). New Labour changed this long-standing approach and granted state status to seven Muslim schools. The riots in Bradford in 2001 and the terrorist attacks of 2005, which involved radical home-grown Muslims, invoked new concerns regarding the illiberal and politically radical nature of Muslim education in some of these schools. The government



response, contrary to some public demands, was not to retract public support for faith schools in general and Muslim schools in particular. Instead, the English government strategy has been quite the opposite: increase state recognition of Muslim schools and also fund civics classes for private educational institutions in order to prevent the spread of radical ideologies. In 2007, following consultations with different faith groups, the Schools Minister adopted a policy of encouraging the growth of faith schools. As part of this policy, over a hundred independent Muslim schools would be encouraged to join the state sector in the near future (2007). A central motivation for this policy is the notion that it would be easier to control the activities of these schools in the public than in the private sector (Butt 2007). Prime Minister Gordon Brown also stated in 2007 that the Labour government will set aside £70 million for measures that would help Muslim communities to combat terrorism. Among these measures is the support of civic lessons in Muslim Madrasas (McVeigh 2007). Labour's strategy of addressing radicalism in Muslim schools is *not* to impose tighter regulation on private schools. Rather it is to strengthen moderate influences within Muslim communities and to move many of these schools to the public sector where it is hoped that the National Curriculum-based education would bring the students closer to the values of mainstream society.

## ***United States***

It is misleading to speak of an 'American education policy' given the highly decentralized nature of the education system. Although federal education policy, and even more so the federal constitution, influence school policy, the impact of state and local school district policy is traditionally more consequential. Nevertheless, as far as the relationship between government and private schools is concerned, there are certainly some commonalities across different American schools districts and states.

First, historical circumstances have given rise to Blaine amendments, which constitutionally prohibit state aid to sectarian schools, in 37 American states. Because most private school students attend sectarian schools these amendments severely restrict the scope for state aid to private schools.<sup>10</sup> Furthermore, the First Amendment of the federal constitution of the United States was throughout much of the twentieth century interpreted to imply that to avoid the establishment of religion, states should not be permitted to aid sectarian schools. The 2002 *Zelman v. Simmons* Supreme Court ruling, however, has provided an opening for indirect public support for sectarian schools by the

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<sup>10</sup> Although in recent years there has been an increase in the share of non-religious private schools, circa 2005, the share of students in these schools, as part of the entire private school population, is still only 18% Planty, M., W. Hussar, T. Snyder, S. Provasnik, G. Kena, R. Dinkes, A. Kewal-Ramani, and J. Kemp. 2008. *The condition of education 2008: trends in private school enrollments*. Ed. National Center for Education Statistics Institute of Education Sciences. Washington, DC.: U.S. Department of Education.



use of school voucher programs. Nevertheless, substantial state aid to private schools is still relatively minor. Second, largely due once again to Supreme Court rulings – primarily *Pierce v. Society of Sisters* (1925) – public regulation of private schools, where it exists, has been relatively permissive. The United States educational system therefore features a combination of very low government funding for private schools with correspondingly little government regulation of these schools although the government's right to regulate is constitutionally recognized.

In the state of New York, one finds the 'low funding – little accountability' combination typical of all American states' relationship with private schools. Private schools are formally subject to public regulation and, due to a state Blaine amendment, cannot directly receive public funding. Within the State education department, the Nonpublic School Services office is responsible for state relations with private schools. It is impossible to receive a state approved graduation diploma without registering the school with the state. Hence, a majority of private secondary schools, about 1150 out of 1400, are registered with the state (Education 2005; Hogan and Anderson 2007). Although private schools are not required to register, they are legally obliged to provide instruction "which is substantially equivalent to that provided in the public schools" (Education 2005). This includes teaching a curriculum, for grades 1 through 6, that includes the subjects specified in table 2.

**Table 2: Mandatory subjects in New York private primary schools**

arithmetic	geography
English language	health education
reading	physical education
spelling	science
writing	United States history
music	New York State history
	visual arts

Source: (Education 2005).

Furthermore, until a few years back, Pupil Evaluation Program and Program Evaluation Tests were mandatory for private school students on several grade levels. Recently, these tests became voluntary. As long as the tests were compulsory, about 90% of private school students took them. Once their status changed, the figure dropped to about 70% (Hogan and Anderson 2007).



Implementation falls short of formal requirements. Supervision of nonpublic (i.e., private) schools is the charge of public school district' superintendents but such supervision hardly ever involves more than a one-time inspection of a new school. Furthermore, superintendents are supposed to determine whether instruction in the private school is "substantially equivalent" to that of public schools. In practice, superintendents hardly ever determine a school not to be substantially equivalent. A senior officer of the Nonpublic Schools Services claimed that during his twenty year tenure in the department, the State did not close – or penalize – a single private school on these grounds (Hogan and Anderson 2007). Some private schools, especially sectarian ones, are reluctant to comply with even a minimal curriculum. Other private schools find it difficult to comply with curriculum requirements because of limited resources (Schick 2007).

The content of regulation primarily focuses on the instruction of subjects that would enable students to successfully integrate into the workforce (Hogan and Anderson 2007). Education administrators, however, have very limited tools at their disposal to deal with cases in which private school instruction fails to meet these standards. Forcing compliance has not been practiced by the state education department and is also politically impractical in school districts in which private school constituencies are powerful. Given that the share of private school students in New York State is relatively high when compared to the national average – 14.2% to 9.4% (National Center for Education Statistics 2008; New York State Department of Education 2008) – the political clout of these schools is correspondingly greater than in most other places. Education department administrators rely therefore on non-coercive means to get problem private schools to rectify unsatisfactory practices.

First, in a study of regulation of quasi-private charter schools in three states, Sandra Vergari found that 'negotiated compliance' was the dominant state strategy for addressing charter school shortcomings, mostly because the regulatory agencies lacked the resources to achieve compliance in any other way (Vergari 2000). 'Negotiated compliance' appears to be the preferred mode of operation for the New York Nonpublic Schools Services office administrators as well (Hogan and Anderson 2007).

Second, in some cases, despite state and federal restrictions on direct public aid for sectarian schools, public authorities were able to offer funding to private schools, and in return demanded a higher level of accountability than would have otherwise existed. For example, one Jewish seminar in New York was given about a million dollars under the federal No Child Left Behind program in order to improve students' English proficiency. In return, however, school students were required, for the first time, to partake in statewide English proficiency tests (Hogan and Anderson 2007). Many private school principals are wary of receiving state aid precisely because they understand that state

funding comes with accountability strings attached. To conclude, at least in New York State, the government regulates private schools in terms of curriculum primarily to insure that students in these schools attain a threshold level of skills and know-how that would allow them to economically support themselves. Nevertheless, regulation of private schools is politically contentious and is not at the top of the public agenda therefore some schools – especially sectarian ones – do not adhere to state curricular guidelines, nor do they partake in standardized tests. Negotiated compliance and accountability-dependent government aid are preferred to coercion as methods of getting private schools to comply with state standards and expectations.

## ***Australia***

Australian private schools' accountability-funding relationship with government is much closer to the supposedly unique Israeli' case than to fellow Anglo-Saxon countries England and the United States. Substantial Commonwealth funding for private schools was introduced in the mid-1970s (over two-thirds of these schools at the time were Catholic) and has increased several times since then (Potts 1999; Sherman 1982). The level of Commonwealth aid varies inversely with the social economic status of school students. For schools that have a large share of students that belong to a relatively low socio-economic category, public aid is quite substantial: about 70% of funding for public schools. On average, private schools receive over half of the per-pupil funding of public schools (Senate Report Independent Schools Council of Australia 2008; 2004).

Private schools were not made subject to public accountability in the mid-1970s despite receiving public aid. Private schools were hardly ever inspected beyond the initial state inspection that is a prerequisite for mandatory school registration in most states (Gurr 2008; Gurr 2007). In part, the reason for this was political: the Catholic Church, which was the most important lobby for public aid to private schools, also succeeded in blocking attempts aimed at making publicly aided private schools publicly accountable (Sherman 1982). However, it is impossible to overlook the fact that at the time that significant public aid was first granted to private schools – Catholic or other independent schools – public school accountability systems were also very much undeveloped (Cuttance et al. 1998). Only in the 1990s, did public accountability systems, which featured authoritative state curriculums and performance-based testing, begin to emerge.

The rise of the accountability movement appeared to set state governments – the primary authorities on most education policy issues – and private schools on a collision course. Private schools, as mentioned before, were in the past successful in separating public aid from accountability requirements. Recent efforts at establishing new accountability systems take place on the backdrop of a constant growth in the share of private school



students since the early 1990s. In 2007, one in every three school students attended a private school (Australian Bureau of Statistics 2007). The growth in the share of private schools would lead one to expect that unwelcome state demands for accountability would meet stiff private sector-based political resistance that would be even more effective than that which blocked Commonwealth accountability demands in the mid-1970s because of the growing constituency numbers. This, however, is not the case. In fact, private schools have not put up much of a fight.

This could be illustrated by the case of accountability reforms in Victoria. Victoria has proceeded further than most other Australian states in the establishment of a NPM type accountability system (Gurr 2007). The conservative Kennett government, elected in 1992, moved swiftly to establish a radically new accountability system: the Curriculum and Standards Framework (CSF). The twin pillars of the CSF were the formulation of a statewide curriculum and the institutionalization of standardized tests that would – for the first time – provide comparable information on student performance. Most of the opposition to the introduction of the CSF came from the public teacher unions but it proved futile. Catholic and independent school teachers also generally opposed the introduction of the new Framework. Nevertheless, the Kennett government enjoyed the collaboration of the Catholic Education Commission of Victoria (CECV) which was – and still is – responsible for school policy in the Catholic sector. The director of the CECV, Monsignor Doyle, decided to embrace the reform for both political and financial reasons. Doyle reasoned that the reform was inevitable so it would be better to accept it sooner rather than later and in doing so have a greater say over the policy and also have the government subsidize accountability-related costs. Working along side Doyle was Susan Pascoe, the next CECV director. She also supported the reform because she believed that standards would provide good longitudinal data for the system and more information for parents (Pascoe 2008; Pascoe and Pascoe 1997). According to government initiated focus group studies, 75% of parents were supportive of standardized assessment, Catholic parents withstanding (Pascoe 2008; Richards 1995). Nevertheless, the majority of Catholic schools and teachers were hostile to the new accountability system. The CECV worked hard to persuade the schools to administer the tests without any external interference by the state (Pascoe 2008). Ultimately all Catholic schools taught the curriculum and participated in the tests despite some protests.

Non-Catholic Independent Schools are less centralized, although they do have a representative body – the Association of Independent Schools Victoria (AISV). When the curriculum and tests were introduced in the mid-1990s, the AISV was apprehensive and the Victorian Independent Education Union was flat out opposed to the tests (Painter 1995). The government decided not to force the issue perhaps because the task would have been of monumental proportions and would have involved political significant costs

(Muller 2008). However, in 2004, the state Labor government was intent on introducing a new accountability system – Victoria Essential Learning Standards (VELS) – and the education ministry conducted extensive and cordial consultations with the AISV (Green 2008). It was agreed that the curriculum under VELs would be more flexible than under the CSF, thus offering all schools more discretion, although independent schools were unconditionally required to teach core subjects. Independent schools were concerned that government intent was to make regulation more onerous in order to restrict the growth of the private sector (Donnelly 2008). Nevertheless, the AISV consented to standardized tests that are now administered by all private schools, although in a few schools, the children decline to take the tests for pedagogical-philosophical reasons (Green 2008). There is no one definitive answer for why the AISV – or the CECV for that matter – ultimately acceded to the NPM type accountability system. The disintegration of the Catholic voting block, and with it the waning of Catholic political power, probably help explain this result. One cannot, however, ignore the importance of attitude change within the Catholic and independent sectors. Parental and professional views on standardization gradually became more favorable and thus weakened opposition.

On the federal level, the commonwealth government is quickly moving closer to a national curriculum with national standardized tests that would apply to all independent schools as well as public ones (Education Week 2007; Tomazin and Harrison 2008). Even without binding nationwide standards, the Commonwealth Government has managed to promote its educational agenda in independent schools by the creation of government-funded numeracy and literacy programs (Muller 2008). The Social Assistance Act of 2004 requires schools to make an effort to meet performance targets and undergo evaluation based on performance measures, which involves standardized testing, in order to receive government funding offered for a broad range of targeted programs (Commonwealth Government 2008).<sup>11</sup>

The main focus of accountability content for the commonwealth government is similar to that of the states: the instruction of core subjects (e.g., mathematics) that constitute the foundation for acquiring economically desirable skills (Education Week 2007). There have been some concerns regarding what values are taught in private schools (Wilkinson et al. 2004). Some critics have singled out Muslim schools as especially problematic because they are more likely than other schools to inculcate intolerant views in their students (MacMahon 2008). Nevertheless, in Australia, the accountability system for private schools is primarily aimed at improving academic quality and not at regulating values. The constant growth of the private school sector, and with it public aid to private schools, has brought to the fore concerns about private school accountability. These concerns

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<sup>11</sup> The General Recurrent Grants are offered without such accountability commitments although this will change in the near future if the Rudd government is able to push through the legislature its education reform.



are being addressed in a gradual process that involves public-private deliberation and private schools' acceptance of stricter accountability standards in return for additional public funding offered by the Commonwealth Government.



## ***Common Problems, Common Goals, Common Strategies***

It is time to return to the three questions that motivated this study. First, how have the concurrent trends of privatization and accountability interacted in Israel and elsewhere? Second, what are the main public motivations driving the reform of private school accountability systems? Third, what should and can the state, especially the Israeli one, do with respect to the private school accountability conundrum?

### ***Accountability and privatization***

At least in Israel, the U.S., England, and Australia, there has been a significant transformation of accountability systems in the last two decades or so. This transformation is comprised of two interrelated components. First, authorities have made an effort to clearly specify educational targets, usually expressed in a shared curriculum. The second component is a growing emphasis on standardized testing as the main tool for student', school' and system' evaluation. These accountability systems' changes were primarily applied to the public sector, but reform did not stop there: private schools were also progressively subjected to NPM-type accountability systems. Thus, private sector accountability might have been a byproduct of reforms directed at the public sector, but this does not mean that the reforms have left private schools untouched.

Privatization of education has made some inroads but this change is far from uniform across different education dimensions and different countries. Two generalizations, however, can be made across the four countries surveyed here – generalizations that also apply to a much broader range of countries. First, privatization of purchase, or privatization of funding, is a marginal phenomenon. Public expenditure on education constitutes a stable share of national expenditure across the countries, and Israel is no exception. Second, privatization of decision-making, primarily manifested in the spread of school choice, has expanded across almost all countries in which choice was limited in the past. Decision-making is the most prevalent dimension of privatization in education. Privatization of delivery is where one witnesses the greatest cross-country variation. In the U.S. and England, there is undoubtedly some privatization of this type – public authorities at different levels fund private forms of education that did not receive funding in the past. Nevertheless, privatization on this dimension is still quite small although not insignificant. In Australia and Israel, however, privatization of delivery over the last thirty years has been substantial. This is first and foremost evident in the growing share of private school students out of all publicly funded students. In both countries, this has been largely the result of the growth of religious publicly-funded schooling.

Have these concurrent trends of privatization of delivery, on the one hand, and the



restructuring of accountability systems, on the other hand, accentuated public-private tensions? The answer to this question hinges on the level of state funding for private schools. In the U.S. and England, in which state support for private schools is relatively small, private schools are held to certain standards but these are less demanding than those that public schools – including religious ones in the English case – are expected to meet. This does not mean that private schools do not feel that their autonomy is threatened by NPM-type accountability systems: even if they are less strict than systems applied to publicly-aided schools.<sup>12</sup> Nevertheless, private school accountability has not emerged as an important public issue in either country. In Australia, public accountability demands have gradually intensified.

The debate in Victoria during the 1990s (within the Catholic sector) and the 2000s (non-Catholic independent schools) demonstrated that private schools were apprehensive in regard to the new accountability regime. Nevertheless, given the high level of public aid to private schools, the general principle that private schools should be held publicly accountable is broadly accepted. Most controversies concentrate on the details of accountability and not on the principle. Potential tensions are also attenuated, in the different countries (with the possible exception of England), by the implementation gap. Private schools are rarely required, in practice, to closely follow formal demands.

In Israel, public-private tension is relatively high. Undoubtedly, this has much to do with the fact that the exceptional mismatch between the level of public aid (very high) and public accountability demands (low) in Israel. No less importantly, in Israel, the political power of the ultra-orthodox parties has allowed them to tackle head-on state accountability requirements backed by the Supreme Court.

Privatization–accountability tension is apparent in Israel both because it is difficult for the state to accept the near-complete autonomy of certain categories of publicly-aided ultra-orthodox schools, on the one hand, and because these schools are capable of effectively resisting state demands, on the other hand. Private schools in other countries either receive much less in public aid (U.S. and England) or do not enjoy the type of political backing that benefits the ultra-orthodox private schools in Israel. It should be mentioned, however, that not all private schools in Israel are ultra-orthodox (although the vast majority of them are) and the non- ultra-orthodox private schools are far more amenable to public accountability demands, both from a legal and political standpoint. Finally, the ultra-orthodox schools in Israel also differ from most other private schools in the degree of their distinctiveness.

Part of the reason that the application of the NPM-type accountability system to Victoria private schools proceeded fairly smoothly had to do with the favorable attitude

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<sup>12</sup> For example, English faith schools have lobbied for self-inspections instead of external inspections by Ofsted. Wainwright, Tom. 2006. Outrage as faith schools try to avoid Ofsted check. *The Express*, September 11.



of Catholic parents.<sup>13</sup> In contrast, the introduction of secular subjects in boys' secondary schools is anathema to many, if not most, of the leaders of the ultra-orthodox sector in Israel. Simply speaking, the ultra-orthodox leaders must make more concessions with respect to their pedagogical philosophy to accept state accountability than Australian Catholics, or almost any other private school constituency for that matter.<sup>14</sup>

## **Government goals**

Governments pursue an assortment of goals when they act to regulate private schools. Regulation might be intended to promote equality of opportunity for all children or, on the flip side, to prevent discrimination. The goal could also be to protect parents and children from educational fraud (Randall 1992). The two most common – at least stated – goals of state regulation of private schools have been discussed previously in this essay. First, the state has an interest in ascertaining that all citizens, including those that are educated in private schools, uphold certain values that are thought to contribute to the stability of the state and the democratic regime (the strong version of "good citizenship"). Conversely, the state has perhaps an even stronger interest to prevent the propagation through schools of beliefs and values that are inimical to the well-being of segments of society and/or the state (the weak version). Second, the state has an interest that children, regardless of in which school they are educated, will acquire the basic skills that would later on enable them to become productive members of society ("practical skills").

In all four countries surveyed here, government regulation is predicated on these two latter goals although the main focus definitely varies across countries in accordance with what might appear to be the most urgent concerns pertinent to the specific characteristics of the private school' constituency. In the U.S. and Australia, the main emphasis is on academic achievement: a focus that is associated with the 'practical skills' justification of regulation. In England, there is a greater emphasis than in the U.S. and Australia on citizenship and the cultivation of tolerance. So much so, that the government has earmarked funds specifically for the purpose of citizenship instruction in Muslim educational institutions. The July 2005 terrorist attacks, which were perpetrated by

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<sup>13</sup> This attitude is palpable on the national level as well. Bill Daniels, the executive director of the Independent Schools Council of Australia, for example, welcomed new commonwealth government legislation that would tighten private school accountability Tomazin, Farrah, and Dan Harrison. 2008. Show and tell demand on private school funds. *The Age* September 25.

<sup>14</sup> It should be stressed that this assertion applies to all ultra-orthodox schools, not merely Israeli ones. In England, for example, where ultra-orthodox schools have virtually no political power, they are nevertheless regarded as a particularly problematic group in terms of adherence to public accountability standards Jones, Polly. 2009. Telephone interview with Polly Jones, Deputy Director, Independent Schools and School Organisation, England.



British-born Muslims, have without question provoked widespread concern about the potentially illiberal content of instruction in some of the private Muslim schools.

In Israel, because the vast majority of private schools are ultra-orthodox, the main concerns addressed by regulation are related to this sector. Both the civic and practical-economic justifications for privatization are pertinent to ultra-orthodox schools. The ultra-orthodox community is very diverse, but in general its attitude towards democratic institutions and norms is at best ambivalent (Shamai 2000). Religious authority is universally viewed within the ultra-orthodox sector as superior to democratic state authority and liberal values of toleration, individual autonomy, etc. have little purchase. Nevertheless, the 'practical skills' goal of regulation figures more prominently than the citizenship-based one. To understand why, one needs to go no further than labor market participation rates in Israel. Circa 2004, the official labor market participation rate for ultra-orthodox men was 37%, more than 30% lower than the national average for men, which was 68% (Gottlieb 2007). The Ultra-Orthodox community comprises approximately 10% of the country's population and their natural growth rate is more than twice that of the non-orthodox. Given the large, and growing, share of the ultra-orthodox in the population, and their low participation rate in the labor market, it is no wonder that there is a growing interest in methods of increasing ultra-orthodox participation rates in the workforce. One such method is to place a greater emphasis on the cultivation of marketable skills in ultra-orthodox schools and by so doing raise the ultra-orthodox graduates' market worth. The Israeli state has pursued this goal primarily by the introduction of a mandatory curriculum for private schools that focuses on 'practical' areas of instruction. Whether this method has achieved its purpose is a wholly different matter.

### ***What could be done?***

Governments have a legitimate stake in private education. The question, however, is what governments can do – if at all – to guarantee that private education would advance the public interest? Each of the countries surveyed here has utilized diverse tools in its interaction with private schools. These different policy tools are guided by four overarching state strategies: trust the market, offer carrots, use sticks, and deliberation.<sup>15</sup>

First, parents that send their children to private schools, whether publicly aided or not, have an exit option. They can almost always move their child to a public school, and

<sup>15</sup> This classification of policy instruments overlaps with Christopher Hood's four-category classification of information (deliberation), finance (carrots), authority (sticks) and organization (closest to 'market'). The terminology is almost identical to Evert Vedung's tripartite classification of carrots, sticks and sermons (deliberation). Despite the close similarities with these two other classifications, 'market' does not fit neatly in either so the 'four strategies' classification should be viewed as a slight variation on a common theme (Hood 2000; Vedung 1998).

with the extension of school choice there are often several alternative schools to choose from. The existence of an educational market alleviates some of the state's concern in regard to the private school's academic quality as explained previously. The underlying assumption is that parents left to their own devices would generally make the right choices for their children. It could be argued that as long as parents have choice and relevant school-level information on which to base their decisions then the market takes care of quality standards – there is little need for applying more stringent state accountability mechanisms to the private sector.

Second, governments that want private schools to do their bidding sometimes offer them "carrots" in return. In most cases, these carrots are financial, hence, the positive correlation between state funding and regulation. Even in American education systems, which leave governments little leeway to offer private schools financial support, carrots are abundant nonetheless. Thus, for example, the No Child Left Behind Act of 2001, allows private school students and teachers – religious schools withstanding – to receive federal support for a broad range of programs (e.g., English proficiency for immigrants) on condition that these schools meet much higher accountability standards than those imposed by state authorities on non-participating private schools (U.S. Department of Education 2007). It has often been the case that private schools that are strapped for money acquiesce to state regulation demands in return for additional state aid.

Third, states possess a monopoly over the means of coercion and these can be applied to private schools to get them to comply with state accountability mandates. Outside observers of education systems might conclude that the trajectory starting from legislation, moving on to public oversight, and culminating in enforcement is the most direct route to – hence the most effective for – attaining private school accountability. Almost all states structure a framework of laws and enabling laws to govern their relationship with private schools. In all four countries surveyed here there are indeed formal accountability systems that formally subject private schools to state regulation. Private schools that fail to comply with state mandates are in violation of the law, and are therefore subject to various sanctions. Legal sanctions are one form of 'sticks'. Another is the use of state prerogative to withdraw all, or part, of public support for private schools. Where the state is not required to aid private schools, it can withdraw aid even if private schools are not in breach of the law. In such cases, states can simply threaten to take away funding if private schools do not accept accountability demands that are not legally binding.

Fourth, state reliance on sticks suggest a top-down interaction between the state and private schools, but often public authorities prefer horizontal interactions founded on deliberation to vertical ones based on coercion. Deliberation with private schools helps clear up misunderstandings, builds trust between government and private schools, leads to novel solutions and compromises, and can sometimes even produce changed



preferences – on either side – due to the presentation of persuasive arguments. It is especially important to emphasize the contribution of deliberation to mutual trust and the role that deliberation plays in hammering out new solutions. Private schools often tend to be leery of regulation because they suspect that government has ulterior motives, must prominently to employ accountability as a tool to weigh down private schools, thus reducing the competition faced by public schools. Through deliberation private school leaders often get to know and trust policymakers (Green 2008).

Once trust is established, as was the case, for instance, in negotiations between government and independent schools in Victoria, private schools might show greater willingness to accept state accountability. In general, negotiated compliance was probably the most prevalent tool for achieving accountability in the different countries surveyed. Negotiated compliance takes place within a given legal framework often 'stretching' it in places in order to accommodate the needs and demands of private schools. Deliberation, however, is not restricted to the implementation stage and often takes place ahead of legislation. This is especially true when private schools have considerable political clout and are able to slow down, or even block, legislation that they do not favor.

In Israel all four strategies have been employed yet, at least when applied to ultra-orthodox schools, their effectiveness is limited. The effectiveness, and shortcomings, of the different strategies in Israel will be discussed in the next paragraphs.

*Markets.* Choice has been expanded in Israeli education, as discussed above, and it could constitute an alternative to state accountability in ensuring a quality education. In other words, it could be argued that market accountability makes state accountability superfluous. This, however, assumes, first, that parents' preferences are similar to those of the State and, second, that parents are capable of making informed choices. Both assumptions are questionable.

First, it is doubtful whether parental school choices are motivated by the "good citizenship" goal of government. Furthermore, the fact that secondary level ultra-orthodox boys' schools rarely teach secular subjects indicates that ultra-orthodox parents – or at least the Rabbis that heavily influence parental choice in this sector – do not share the state's concern with the cultivation of practical skills among students. An educational market does not contribute to the quality of education on a certain dimension if parents do not treat that dimension as a choice criterion and ultra-orthodox parents do not appear to view practical skills as such a criterion. This, of course, may change. A couple of interviewees speculated that subterranean currents of parental' and student' dissatisfaction with the current state of affairs would ultimately force ultra-orthodox schools to offer 'practical' instruction along side the religious curriculum. Whether this will indeed be the case is yet to be seen. Second, market-efficiency could be compromised by lack of information. Parents that send their children to non- ultra-orthodox private



schools are more likely than ultra-orthodox parents to care about the practical aspects of their children's education. Nevertheless, despite the administration of standardized testing and matriculation exams in Israel, parents are not privy to school-level information and as a result their ability to compare the performance of their children's school to that of other alternatives is very limited.<sup>16</sup>

*Carrots.* The Israeli school system offers carrots in the form of increased funding in return for increased control. This is at least the situation among ultra-orthodox schools in which school funding ranges between 55% of public student funding for exempt schools and 100% for schools that are committed to teaching the full public curriculum. Non-ultra-orthodox private schools are entitled to 75% of public funding on condition that they teach at least 75% of the curriculum.

On the face of it, this proportional link between funding and curriculum (and testing) is carefully designed to structure incentives in such a way that private schools would be inclined to accept greater state regulation. This system, however, is plagued by at least three major problems. First, the curriculum requirement does not apply to all private schools and in addition is quite vague. The education department has yet to formulate the curriculum for secondary schools and, in any case, upper secondary ultra-orthodox schools, since July 2008, are no longer required to teach the curriculum. Furthermore, private schools that teach less than the full curriculum can decide what to leave out and this could sometimes be a complete subject area: for example, English in ultra-orthodox schools. Second, because of state oversight deficiencies, private schools can report that they teach a far higher share of the curriculum than they actually do. Some of our interviewees claimed this to be common practice.

If this is indeed the case, then what this implies is that numerous private schools receive state carrots without truly subjecting themselves to state accountability. Finally, even exempt schools, which in practice are almost 'regulation-free', receive a substantial share of state funding: 55%. This might not seem a lot, but one should keep in mind that these schools do not teach subjects that require expensive equipment (e.g., lab equipment, sports facilities) that substantially drive up education costs. Ultra-orthodox schools, on all grade levels, therefore have a legal option to avoid public accountability and still receive from the state funding that covers most of their running costs.

*Sticks.* The state can threaten private schools with sanctions if they do not comply with state mandates regarding accountability. A case in point is the 2004 Supreme Court decision that determined that within a fixed period, the education department must

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<sup>16</sup> In a study of state regulation of private schools in Hyderabad, India, James Tooley and Pauline Dixon find that despite the deep corruption of the state accountability system most private schools meet minimal state standards thanks to market accountability. Nevertheless, the authors argue that because parents lack reliable information regarding school performance, instruction quality suffers Tooley, J., and P. Dixon. 2005. An inspector calls: the regulation of 'budget' private schools in Hyderabad, Andhra Pradesh, India. *International Journal of Educational Development* 25 (3).



implement a core curriculum for private schools, and private schools that would not satisfactorily teach the curriculum would have all or part of their public aid withdrawn. Nevertheless, one can learn about the limitations of this approach from what transpired following this ruling.

The education department dragged its feet and failed to meet the Supreme Court deadline for the formulation and implementation of a core curriculum in secondary level ultra-orthodox schools. The Supreme Court chose not to immediately penalize the schools and instead extended the 'adjustment' period by a few months. Finally, the ultra-orthodox parties initiated legislation that legalized the current state of affairs and neutralized the threat of financial sanctions. In general, the education ministry – and in this it is no different from education authorities in the other countries surveyed – very rarely employs sanctions against private schools.

*Deliberation.* Government deliberation with private school officials, most prominently with the leaders of the two ultra-orthodox school networks, have preceded past policy reforms. Furthermore, 'negotiated compliance' has been the preferred mode of operation for Israeli school inspectors in general (Schwartz 2000). Deliberations have borne fruit on several occasions. During the 2000s, the education ministry was able to arrive at understandings with the leaders of the ultra-orthodox sector regarding both the introduction of a partial core curriculum in these schools and standardized testing for fifth graders. Deliberations regarding the core curriculum involved other actors as well. In the mid-2000s, under the auspices of the Van Leer Institute in Jerusalem, several working teams were put together to create the foundation for a core curriculum, including one team that was dedicated to ultra-orthodox education (Rotenberg 2008). The deliberation approach has been primarily applied to state interactions with the ultra-orthodox sector: perhaps because an approach which relies on coercion tends to be ineffective due to the political clout of ultra-orthodox parties.

The weakness of this approach is that it depends on the goodwill of the ultra-orthodox schools and on certain issues ultra-orthodox schools are unwilling to budge. This has become amply clear to both the education minister and the Van Leer team with respect to the teaching of secular subjects in secondary ultra-orthodox boys schools. The education minister reported back to the Supreme Court that attempts to hammer out an agreement regarding the core-curriculum for secondary ultra-orthodox schools were ultimately futile (Kashti 2007a). Furthermore, even what appeared at first to be achievements attained through deliberation are of questionable worth. Ultra-orthodox schools from the independent network agreed, at first, to partake in standardized testing but in the last couple of years they have quietly slipped out of the system. Core curriculum implementation in ultra-orthodox primary recognized schools is seemingly satisfactory. Nevertheless, some commentators question whether the introduction of the



core curriculum has really transformed pedagogical practices on the ground or has only offered an official stamp of approval for the little that ultra-orthodox schools have done all along.

All four strategies – market, carrots, sticks, and deliberation – have been employed in the context of the regulation of private schools in Israel. Nevertheless, private school accountability – specifically ultra-orthodox schools – falls far short from that of private schools elsewhere, particularly publicly aided private schools. Markets rely on compatibility of educational goals between the state and parents, a problematic assumption in the case of ultra-orthodox school' parents. Financial carrots work well when student performance and funding are closely linked. However, in Israel 'carrots' are both comprehensive and generous, but, in practice, only loosely linked to the degree to which private schools meet specific standards. The threat of government 'sticks' could lead private schools to follow the straight and narrow, but 'sticks' are rarely used in other countries and given the political clout of the ultra-orthodox, they are even less likely to exert much of an effect in Israel. Finally, deliberation can dispel misunderstandings and distrust and could also constitute the basis for novel policy solutions. Nevertheless, the Israeli experience has demonstrated that discussions on some topics invariably culminate in gridlock because ultra-orthodox schools are unwilling to give any ground. Is it therefore the case that all the policy tools available have been spent and Israeli private school accountability cannot proceed any further unless an unlikely shift in the political balance occurs that would seriously undermine the power of ultra-orthodox parties? The final section of this essay addresses this issue.



## ***Israeli Private School Accountability What More can be Done?***

It should not be accepted as a given that the Israeli state *should* tighten accountability over private schools, especially ultra-orthodox ones. For some commentators, current levels of ultra-orthodox school autonomy are desirable because they are consistent with the development of a multiculturalist community that does not allow the imposition of dominant norms on minorities (Hess 2004; Mitchell 2003; Yonah 1994). Others, especially in the ultra-orthodox camp, question whether a well-rounded secular education is necessary to prepare students for labor market participation. Among ultra-orthodox leaders, the view that religious education prepares students well not only for the religious life but also for work life is common. Hence, the low incomes and labor force participation rates of ultra-orthodox men should not be attributed to educational shortcomings, but to other reasons.<sup>17</sup> This section will not address these justifications for state non-intervention. The main question addressed here is what more could the state do if it, rightly or wrongly, desires greater private school accountability.

It is difficult to think up alternative strategies, but it could be possible to do more in the context of the four strategies discussed above. First, in general, the more information available to consumers, the more efficient markets are expected to be. In Israel, education consumers have been offered choice, but very little information is given to them to support their choices. This is in part due to the fact that relevant school level information – based on standardized tests and matriculation exams – is intentionally withheld from parents. Admittedly, such information could easily be misinterpreted (e.g., school performance is attributed exclusively to instruction level while other relevant factors, such as students' socio-economic background, are disregarded). Nevertheless, these are obstacles that should be addressed, not avoided entirely by simply ignoring parents' legitimate need for information about the schools that their children attend. Of course, augmenting consumer information does not directly address the problems posed to the system by ultra-orthodox education in which choice is a marginal factor.

Second, as explained before, in Israel, financial carrots are given to schools that teach a certain share of the curriculum but accountability demands are only loosely tied to funding. The cause of accountability would be advanced if the connection between the two is tightened. A model for this can be found in private school funding mechanism under No Child Left Behind legislation in the U.S. that earmarks funding for particular areas (e.g., literacy for special education students) and conditions this funding on schools meeting well specified accountability standards. Moving to such a system, one that

<sup>17</sup> One plausible alternative – and perhaps complementary – explanation is that given ultra-orthodox men's preference for lifelong study over work, the extent of their workforce participation primarily depends on their ability to obtain non-earned income, such as government support through child benefits.



requires that a large portion of funding be earmarked for specific tasks, would require a major reform of the Israeli education system. Nevertheless, it could make accountability more difficult to avoid because it would make funding requirements clearer and more explicit. Such a transformation would require new legislation and could also be circumvented by legislation – certainly a likely scenario – that would offer ultra-orthodox schools an exemption. Perhaps a more promising avenue is to offer *additional* funding for specific programs, such as the citizenship instruction budget for Muslim institutions in England. It is questionable, however, whether most secondary level ultra-orthodox schools would agree to teach civic lessons, or even mathematics, no matter what the funding formula would be.

Recently, the chair of the Knesset Education Committee, Michael Melchior, proposed a more realistic plan: graduates of ultra-orthodox schools would be offered the opportunity to study 'practical' studies in designated institutions following their graduation until the age of 30. This proposal could be viewed as wasteful and unfair: why should ultra-orthodox students enjoy additional funding when resources are scarce? It is also likely to face major opposition as it proceeds through the legislative process (Tirosh 2008). However, if one believes that what hinders ultra-orthodox participation in the workforce is primarily education, then this proposal could constitute a lesser evil when compared to the prospect of continued low labor force participation of a rapidly growing population.

Third, policy sticks present policymakers with a paradox. On the one hand, they appear to represent the most direct method for the implementation of accountability. The state does not have to negotiate with private actors, or hope that they are tempted by state carrots: it simply orders private schools to accept regulation or face the consequences. On the other hand, in practice, it is rare that public authorities employ disciplinary measures with respect to private school violations despite the fact that such violations are not rare at all. Given the pivotal role ultra-orthodox parties play in Israeli politics, it is hardly surprising that the State has done very little to enforce state mandated accountability requirements. Therefore the stick strategy is unlikely to be usefully extended under current political circumstances: circumstances in which an increased emphasis on ultra-orthodox school regulation is a low priority for the major secular parties that might possibly constitute a political counterforce to the ultra-orthodox ones.<sup>18</sup> Furthermore, it is unclear whether this strategy offers a good complement to other strategies or not. On the one hand, the threat of state legislative or disciplinary action could pressure

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<sup>18</sup> For a short period, a secular party called *Shinui* ("change") promoted policies intended to change the state – ultra-orthodox balance in favor of the state. *Shinui* peaked at 15 members of parliament – 10% of all Knesset seats – in the early 2000s, but went on to lose all of its seats in the 2005 national election. As the vote on the "Special Cultural Educational Establishments" law attests, very few parliament members have been willing since to publicly support similar goals (One Labor and five *Meretz* MKs voted against the law).



ultra-orthodox education leaders to enter meaningful deliberations with government representatives and hammer out agreements as happened with the application of the primary school core curriculum to ultra-orthodox schools. On the other hand, if one believes that a major reason that ultra-orthodox schools reject state accountability is that they suspect state intentions, state threats would only deepen ultra-orthodox mistrust and weaken those within the sector that are willing to contemplate greater state oversight of their schools.

Fourth, state deliberation with the ultra-orthodox schools is complicated by the heterogeneity of this sector and that it invariably speaks in several different voices. Yet, what mostly goes unnoticed is that the Israeli state's position on private school regulation cannot be considered clear or coherent either. There have been sporadic attempts by the education ministry to spell out the state's position on several sticky subjects related to the state's relationship with private schools. To date, however, there is no authoritative document that offers a comprehensive blueprint of what the state wishes to achieve in terms of private, especially ultra-orthodox, school funding and regulation. The absence of a coherent state position on this issue is no accident. The so-called Dovrat committee that was appointed by the education minister to propose structural reforms for the Israeli education system was informally asked to steer clear from dealing with the ultra-orthodox sector. Although the report touched upon the issue, it avoided making any concrete recommendations in regard to the ultra-orthodox school sector (Dovrat committee member 2008; National Committee for the Promotion of Israeli Education (Dovrat Committee) 2005: 216). Given the sensitivity of the issue, it is understandable why policymakers would tend to avoid recommendations on a subject that could severely undermine the status of the entire report. Nevertheless, the absence of a relatively clear and consistent vision of what state relations with private schools should be is likely to adversely affect deliberation with ultra-orthodox leaders. In other words, a preliminary for effective deliberation is for the State to formulate a reasonably coherent blueprint for state-private sector relations that would constitute the basis for policy proposals (not demands). Presently, it is difficult, at least for an outsider, to comprehend what the education ministry policy *is* on a range of issues related to private schools, let alone in what direction it wishes to develop.<sup>19</sup> The odds of making headway in deliberations with the private sector are likely to be higher if negotiators on behalf of the state come to the table with a relatively clear and stable position on a broad range of interrelated questions pertinent to the state-private schools relationship.

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<sup>19</sup> For example, we received different, and sometimes contradictory, answers from different education ministry office holders in response to the question of whether parental fees in private schools are capped and at what level. The different respondents, however, did agree that the question was of little practical importance because private schools did whatever they wished due to lack of proper public oversight.

## ***Conclusion***

The Israeli education system is subject to both a NPM-type transformation of school regulation and control and to growing privatization that is manifested in greater school choice and privatization of delivery, but not in privatization of purchase. These dual processes are common to other countries. One implication of this is that state support for private schools expands (more parents choose private schools or more state aid is offered to these schools) while state accountability demands directed at private schools grow correspondingly. States generally have a stake in private education due to schooling's central role in shaping society's future citizens and workers, and this interest only becomes more pronounced when state aid is involved. These concurrent trends of growing accountability and privatization could result in mounting tensions between private schools and the state. These tensions exist elsewhere, but they are more pronounced in Israel than in other countries.

In Israel, a combination of a rapidly growing private school sector, driven by ultra-orthodox demographic growth, and relatively high levels of public aid to private schools make the regulation of private schools a more pressing issue than in other countries, such as the U.S. or England, in which the private school sector is smaller, static, and only marginally benefits from state aid. Private school accountability and public regulation – especially in secondary schools – lags behind that which applies to private schools in England, New York or Victoria (Australia). There are at least four general strategies that states employ to ensure that private school instruction is compatible with public interests: markets, carrots, sticks, and deliberation. In Israel, all four have been deployed, sometimes unintentionally, but it appears that the political clout of ultra-orthodox parties makes any further progress in implementing accountability standards for private schools unlikely. This essay, however, has suggested several avenues by which the state could move forward in its effort to promote public interests – primarily economic ones – in private schools. First, the state could make the educational market more efficient by supplying consumers with school-level information: perhaps standardized test results controlled for the influence of non-instruction related factors. Second, the government could offer ultra-orthodox students, and graduates, the opportunity to participate free-of-charge in special programs dedicated to narrowing the academic gap created by ultra-orthodox' boys' schools exclusive focus on religious learning. Finally, deliberations with the ultra-orthodox leadership have suffered from a major state failing: Israeli governments, regardless of ideological stripe, have never seriously engaged with the question of what should be the state's relationship with private schools in general and with ultra-orthodox schools in particular. Given the rapid expansion of private schools, primarily ultra-orthodox ones, this is a question that responsible policymakers cannot



avoid any longer. The situation in Israel is one of policy drift in which governments do little more than react to external events (e.g., the Supreme Court ruling on the need for a core curriculum) or bureaucratic initiatives (e.g., the extension of standardized testing to private schools). It is high time that the government and the education ministry conceive a comprehensive blueprint, even a vision, for the future of state – private school relations in Israel. Deliberations with the ultra-orthodox sector should begin at a point in which the State is able to clearly articulate what it wants to achieve.



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