

**The Regulatory State between Mental Models, Political Entrepreneurs
and Electoral Capita: The Case of the Israeli State economy
arrangement law**

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1. Introduction

Israel, ever since its establishment, has been characterized by a large extent of centralization and public supervision of private activity, in almost any era of public life.² Since the 80's of the 20th century, Israel faced a structural reform with the emphasis on creating regulatory agencies along with a functional reform expressed in privatization and outsourcing means, and a slow adoption of new public management methods. Those changes placed Israel among many countries who adopt patterns of what is known most as the rise of the regulatory state.³ The literature focused on the explanatory variables of those reforms as well as on the dynamics in which they evolved and the results of those

1 Assaf Meydani, School of Government and Society, The Academic College of Tel-Aviv Yafo, 29 Melchet Street, Tel-Aviv 48622; Email: assafmei@mta.ac.il . I would like to thank Dr. David Levi – Faur and Dr. Shlomo Mizrahi for their useful comments.

2 The literature dealing with the evolution of the regulatory state define such a state as the positive state characterized by Redistribution, macroeconomic stabilization Taxing (or borrowing) and spending Political parties, civil servants, corporate groups as key actors a discretionary policy style, Corporatist political culture and direct political accountability see Majone, Giandomenico, From the Positive to the Regulatory State: Causes and Consequences of Changes in the Mode of Governance, Journal of Public Policy v17, n2, May-August, 1997.

3 The neo institutional approach reflected in new definitions most of them are wide involving a deep social as well as political dimensions as Majone defined regulation: sustained and focused control exercised by a public agency over activities that are socially valued. .. sustained and focused .. regulation is not achieves simply by passing a law, but requires derailed knowledge of, and intimate involvement with, the regulated activity. This requirement will necessitate, sooner or later, the creation of specialized agencies entrusted with fact-finding, rule making and enforcement" Majone Giandomenico, The Rise of the Regulatory State in Europe, West European Politics, Vol. 17 (3), 1994, pp 81. the regulatory state as opposed to the positive state characterized by Correcting market failures, rule making, Single issue movements, regulators, experts, judges, a Rule bound, legalistic policy style, a Pluralist political culture and indirect political accountability. see Majone, Giandomenico, From the Positive to the Regulatory State: Causes and Consequences of Changes in the Mode of Governance, Journal of Public Policy v17, n2, May-August, 1997.

structural reforms. Regarding the Israeli case the literature emphasized several variables mainly the rise of a neo-liberal ethos and the abandoning of a former collective ethos.⁴ Furthermore the literature emphasized the global influence of international events and dynamics which penetrate the local sphere and contributed to the evaluation of a neo liberal ethos.⁵ Along with that the literature dealt with powers of several actors motivating this changes their scope and ramifications. With regard to that, a special emphasis was drawn to societal demands for more and more regulation driven either by break of trust or decrease in ability and tolerance to risk

This paper based on Public Choice Theory aims to look into the dynamics occurred in Israel which led to the creation of such specialized agencies entrusted with fact-finding, rule making and enforcement.

This paper will use a notion most known as "shared mental models" in trying to explain the institutional change in Israel reflected in the regulatory state themes. Mantzavinos, North and Shariq⁶ suggest that institutional change should be analyzed as a part of a process where a certain institutional reality influences individual and collective beliefs, thus triggering an individual and collective learning process which eventually leads to

4 See for example, Jacint Jordana and David Levi – Faur (eds.) The politics of regulation in the age of governance in: Jacint Jordana and David Levi – Faur (eds.) The Politics of Regulation Institutions and Regulatory Reforms for Governance Age, Edward Elgar and the CRC Series on Regulation, the University of Manchester, May 2004, pp.1-28. see also Nachmias, David and Arbel-Ganz, Ori (2005) Policy Implementation in Israel: The Loss of Governmental Capacity, International Journal of Public Administration, pp: 30; Yitzhak Zamir, public Supervision of Private Activity, idc law review, July 2005 pp. 67-157.

Levi-Faur, David The Visible Hand: State-Directed Industrialization in Israel [Hebrew], Yad Ben-Zvi, Jerusalem, 2001.

5See for example: The Political Economy of Legal Globalization: Juridification, Adversarial Legalism and Responsive Regulation. A Comment, International Organization Vol. 59(2), 2005, pp. 473-484.

Levi-Faur, David, the Global Diffusion of Regulatory Capitalism, The Annals of the American Academy of Political and Social Science, Vol. 598, pp. 2005, pp. 12-32.

6 Mantzavinos, C., Douglass, N. and S. Shariq (2004) 'Learning, Institutions and Economic Performance,' Perspectives on Politics 2: 75-84.

institutional change, specific policies and to outcomes in terms of economic performance. The learning process is based on finding existing or new methods for solving social problems, i.e., shared mental models. According to that, the regulatory state in Israel evolved as a result of the development of a mental model among large parts of the Israeli public stating that in order to solve the problem of inability to govern in Israel⁷ people adopt after a learning process an alternative self making behavior. In other words, when people are dissatisfied with a particular policy or the level of supply of a public good, they adopt a proactive course of action, of alternative supply of the public good, usually in an illegal manner.⁸ This behavior is part of a wide shared mental model evolved among the Israeli public reflected in many eras of life. Consequently, during the eighties, the black economy flourished, as did privately paid supplements to state education, private payments to physicians in public service, and the pirate cable industry. A similar analysis may be applied to the development of the regulatory state in Israel. Among the Israeli public, there was a growing sense of its total inability to wield any influence over the political system. The best expression of this came in the form of the National Unity Governments which ruled from 1984 to 1990 – a system which increased the sense of deadlock. The fact that the means of influence available to the public were totally ineffective gave rise to a demand to change the election system and to attempts to find an alternative which would supply public policy (i.e., a type of a public good). The alternative body which was identified was the treasure civil servants as the professional body who will supply the demands through the creation of specialized agencies entrusted with fact-finding, rule making and enforcement. The roll of those civil servants will be

7 Dror, Yehezkel (2001) *The Capacity to Govern: A Report to the Club of Rome*. London: Portland.

8 See for example Mizrahi, S. and A. Meydani (2003) "Political Participation via the Judicial System: Exit, Voice and Quasi-Exit in Israeli Society", *Israel studies*, 8(2) 118-139.

explained within the notion of political entrepreneurs.⁹ They identified the need for policy design they define the social problem and point on the solution to that problem. This solution defined in this paper as an "Electoral Capita"¹⁰ for the use of politicians. The politicians will adopt this solution if it will help them getting reelected. Looking at the Israeli arena we can notice that during the mid 80's of the 20'th century Israel faced an economic crisis. Back then the politicians led by the civil servants from the ministry of treasure adopted a freezing of prices policy and a severe supervision policy over prices. This policy along with the cooperation of the public managed to halt the inflation. On 1985 the politicians adopted a specific Act called "the State economy arrangement law" (SEAL), commonly regarded as part of the budget legislation in Israel. This law turned to be an alternative channel for the allocation of many policies instead of applying the parliament in such cases. On the ground of in ability to govern, rise of public corruption and a dominant security dimension, it was very convenient for the politicians to avoid risks attached to each public decision. There was always the "boys" from the ministry of treasure to blame.

The arguments are developed in several stages. Section 2 presents the model of

9 political entrepreneur is someone, from within the political system i.e. politicians or bureaucrats, or from without the political system, i.e. social movements, lobbyists, that has an idea that could affect a change in the political status quo and by various means recruit enough people to support this idea. Current literature less distinguishes between types of political entrepreneurs ,for example, Doron, and Sened refer to 'political entrepreneur' as individuals players in the positive model of polity who serve as middleman between rulers and those they rule, [Doron, G. and I. Sened, (2001) Political Bargaining: Theory, Practice, and Process, Sage Publications, : 77.] this definition apply to two types of entrepreneurs: the inside player (politicians or bureaucrats) and to the outside player known also as a social activist or lobbyists.

10 Meydani, A. (2004). Ph.D. dissertation : Political Entrepreneurs and Dynamics of Institutional Change: Conceptual Framework and Analysis of Case Studies in Israel, (Hebrew), Supervisors: Professors Gideon Doron, David A. Frenkel, Shlomo Mizrahi.

institutional change based on public choice theory, a theoretical framework based on two explanatory variables 1. shared mental models 2. The activity of political entrepreneurs. In Section 3, I will discuss the impact of this politics on Israeli society elaborating on the evaluation of an alternative mode of solving social problems in Israeli culture. in section 4, I will elaborate on the establishment of a specific Act called "the state economy arrangement law" (SEAL), commonly regarded as part of the budget legislation in Israel. This law turned to be an alternative channel for the allocation of many policies instead of applying the parliament in such cases. in Section 5 I will conclude the paper.

2. The model- a process of institutional change shared mental model and political entrepreneurs

The model elaborated here examines the change in Israel notion of regulatory state as a part of an institutional change. It emphasizes two variables:

1. To begin the process of formulating an institutional change, the agent of change must identify a public need to alter the political rules.

The model discusses a feeling that exists among a large segment of society, regarding the need to change the political rules, a variable which explains the motivation to implement an institutional change. In a recent paper, Mantzavinos, North and Shariq (2004)¹¹ adopt an approach that views human learning in regard to problem solving, i.e., any human activity concerns problem solving, and the individual is constantly engaged in learning ways to solve problems – either existing or new ones. Solutions to given problems are formed using a mental model, i.e., a coherent, but transitory set of rules that enables the organism to form predictions of the environment based on the available knowledge. A

11 Mantzavinos, C., Douglass, N. and S. Shariq (2004) 'Learning, Institutions and Economic Performance,' Perspectives on Politics 2: 75-84.

belief is formed when environmental feedback confirms the same mental model so many times it becomes stabilized, and a belief system is defined as the interconnection of beliefs.¹² It follows that norms, values and ideas transformed to the individual through cultural and educational mechanisms play a significant role in the learning process and the creation of mental models.

Following that when citizens believe that a given political opportunity structure disallows conventional democratic channels of influence to materialize, they look for alternative ways to improve policy outcomes and political performance, or in the terms of Mantzavinos et al. (2004),¹³ people attempt to find new ways to solve social problems that after a process of collective learning may also lead to transformation of the belief system.

This feeling results from a long learning process, during which society comes to understand that in order to change the situation, (that is, to supply the missing policy and solve the problem), one must act to change the political rules¹⁴. This historical process includes attempts to supply policies that rely on existing state rules. When such an attempt fails (for instance, due to political and economic centralization), society may come to believe it is necessary to change the political rule and to adopt an alternative way of solving economic problems and to solve economic goods.

2. Political entrepreneurs

12 Mantzavinos, C. 2001. *Individuals, Institutions and Markets*. Cambridge: Cambridge University Press; Mantzavinos, C., Douglass, N. and S. Shariq (2004) 'Learning, Institutions and Economic Performance,' *Perspectives on Politics* 2: 75-84.

13 Mantzavinos, C., Douglass, N. and S. Shariq (2004) 'Learning, Institutions and Economic Performance,' *Perspectives on Politics* 2: 75-84.

14 Mantzavinos, C., Douglass, N. and S. Shariq (2004) 'Learning, Institutions and Economic Performance,' *Perspectives on Politics* 2: 75-84.

The model focuses on the involvement of political entrepreneurs. In this article I define *political entrepreneur* as a person or a group which tries to change political reality by a making policy change or by changing the existing political rules of the game.¹⁵ Those political entrepreneurs identify a need (belief) to change the political rules, as well as the benefits they will derive from the change. During the time this belief is developing, political entrepreneurs become important in their ability to link between the public's dissatisfaction and the proposed institutional change as a solution to the problem. They define the problem in terms of the public's dissatisfaction, and by making use of society's beliefs about how the problem should be solved. In terms of social choice theory, this link requires the addition of a parameter that represents the cost-benefit function of the various players. The model refers to this choice of solution as *electoral capita*; that is, assets (image, material resources, political support) the agent of change can use to maximize his benefits. A politician can, for instance, use the assets to maximize his chances of re-election. Following this logic, the political entrepreneur acts to promote the change not only for ideological reasons, but also because of the belief that such action will bring him political support or maximize his public prestige. However, this does not mean other players will adopt this institutional change as an electoral capita; they will only do so if they will be convinced that support for the action will allow them to maximize their own public prestige or chances of re-election.

3. The Evolution of a shared mental model of alternative Politics in Israeli Society

This section will elaborate on the concept of alternative politics, the mechanism by which it evolves and then describe the main characteristics of alternative politics in

15 Doron, G. and I. Sened, (2001) *Political Bargaining: Theory, Practice, and Process*, Sage Publications, : 77

Israeli society.

Israeli society and political culture were shaped under the rule of the British Mandate in Palestine from 1917-1948. As explained elsewhere,¹⁶ the Jewish community in Palestine under the British Mandate had a relatively large measure of autonomy in managing its own affairs in most fields of life.¹⁷ The Jewish leadership, elected via a relatively independent political system, created independent organizations, separate from those of both the British Authorities and the Arab community, to accelerate economic development, provide public services such as health, education and welfare, and develop an infrastructure such as electricity, roads, water supply and building construction. Thus, the idea that the Jewish community could not trust others and had to create its own institutions and organizations gradually became a building block of the Zionist ethos. At the same time, facing significant threats from the Arab population and a British ban on widespread Jewish immigration, as well as the aspiration to expand Jewish settlement in Palestine, the Jewish leadership gradually built illegal para-military forces that had three main goals: fighting the Arab para-military forces, organizing illegal Jewish immigration and establishing and defending illegal settlements. These channels of activity were not only "alternative," but also illegal as far as British mandatory law was concerned. The political culture that was passed down to generations of Israelis included the idea that acting via unilateral initiatives that might skirt the letter of the law, and sometimes even

16 Mizrahi, S. and A. Meydani (2003) "Political Participation via the Judicial System: Exit, Voice and Quasi-Exit in Israeli Society", *Israel studies*, 8(2) 118-139.

17 Arian, Asher. 1997. *The Second Republic – Politics in Israel*. Chatham, NJ: Chatham House; Horowitz, Dan and Moshe Lissak. 1978. *Origins of the Israeli Polity*. Chicago: Chicago University Press; Migdal, Joel. 2001. *Through the Lens of Israel: Explorations in State and Society*. Albany: SUNY Press; Shprinzak, Ehud. 1986. *Everyman Whatsoever is Right in His Own Eyes: Illegalism in Israeli Society*. Tel Aviv: Sifriat Poalim. (Hebrew).

operate outside formal regulatory structures, is not only permitted, but actually serves national goals. To a large extent, this became the modus operandi of Israeli society.¹⁸

Due to a high level of centralization, the Jewish, and later the Israeli, institutional setting enabled politicians to repress similar initiatives directed towards the Jewish, or Israeli, system itself.¹⁹ Yet, as explained elsewhere, in the 1970s and 1980s the central systems continuously failed in providing the demand for public services.²⁰ Since citizens also faced a situation which they interpreted as blocked influence channels, significant groups in society turned back to a problem-solving approach which they knew – unilateral initiatives and alternative politics.

Specifically, during the 1980s and 1990s many groups and individuals in Israeli society employed non-institutionalized initiatives to create alternatives, often illegal or semi-legal, to governmental services. The 1980s were characterized by a significant growth in the "black-market economy" – particularly the illegal trade in foreign currency, "gray-market medicine" – expressed in the semi-legal, private supply of health services using public facilities, "gray-market education" – expressed in the employment of privately paid teachers and the evolution of independent private schools, and pirate cable

18 Lehman-Wilzig, Samuel N. 1992. *Wildfire: Grassroots Revolts in Israel in the Post-Socialist Era*. Albany: SUNY Press; Migdal, Joel. 2001. *Through the Lens of Israel: Explorations in State and Society*. Albany: SUNY Press; Shprinzak, Ehud. 1986. *Everyman Whatsoever is Right in His Own Eyes: Illegalism in Israeli Society*. Tel Aviv: Sifriat Poalim. (Hebrew).

19 Shprinzak, Ehud. 1986. *Everyman Whatsoever is Right in His Own Eyes: Illegalism in Israeli Society*. Tel Aviv: Sifriat Poalim. (Hebrew); Horowitz, Dan and Moshe Lissak. 1989. *Trouble in Utopia*. Albany: SUNY Press; Aharoni, Yair. 1998. "The Changing Political-Economy of Israel." *Annals of the American Academy of Political and Social Science* 555: 127-146.

20 Mizrahi, Shlomo and Assaf Meydani. 2003. "Political Participation via the Judicial System: Exit, Voice and Quasi-Exit in Israeli Society." *Israel Studies* 8: 118-136; Ben-Porat, Guy and Shlomo Mizrahi. 2005. "Political Culture, Alternative Politics and Foreign Policy: The Case of Israel." *Policy Sciences* 38: 177-194.

networks – all of which were alternatives to inadequate governmental services.²¹ In the 1990s, this mode of behavior spread to other policy areas such as internal security, social welfare and even the policy towards the Arab-Israeli conflict.²² Indeed, during the 1990s, it became clear that, for the most part, only initiatives of this kind could help people access the services they needed.²³ Furthermore, the Israeli government responded positively to those initiatives by changing its policies in the direction demanded by these groups. The rules became more decentralized than previously – particularly in the fields of foreign currency trade and the communications market.²⁴ In the fields of education and health care, the government followed the lead set by society and initiated several reform plans leading towards decentralization.²⁵ These processes intensified during the 1990s when unilateral initiatives and alternative politics were expanded to a wide variety of fields such as internal security,²⁶ social welfare services provided by ever-growing third sector organizations²⁷ and civil marriage procedures.²⁸ Furthermore, in this process the legislative and the executive authorities were weakened, while the Supreme Court, which

21 Lehman-Wilzig, Samuel N. 1992. *Wildfire: Grassroots Revolts in Israel in the Post-Socialist Era*. Albany: SUNY Press.

22 Ben-Porat, Guy and Shlomo Mizrahi. 2005. "Political Culture, Alternative Politics and Foreign Policy: The Case of Israel." *Policy Sciences* 38: 177-194.

23 Mizrahi, S. and A. Meydani (2003) "Political Participation via the Judicial System: Exit, Voice and Quasi-Exit in Israeli Society", *Israel studies*, 8(2) 118-139.

24 Bruno, Michael. 1993. *Crisis Stabilization and Economic Reform: Therapy by Consensus*. Oxford: Oxford University Press.

25 Chernichovsky, Dov. 1991. *Lessons of the Crisis in the Israeli Health-Care System: Key Principles and Proposals for Reform*. Jerusalem: JDC-Brookdale Institute. (Hebrew); Yogev, Abraham. 1999. "Order in the Chaos: Israel Education Policy in the Post-Modern Era." In *Public Policy in Israel*, ed. David Nachmias and Gila Menachem. Jerusalem: The Israeli Democracy Institute. (Hebrew).

26 Zinger, Roni. 2004. "Guarding Home by Private Police." *Ha'aretz Daily*, 13.8.04, B. (Hebrew).

27 Gidron, Benjamin, Michal Bar and Hagai Katz. 2003. *The Third Sector in Israel: Between Welfare State and Civil Society*. Tel Aviv: Hakibbutz Hameuchad. (Hebrew).

28 Lehman-Wilzig, Samuel N. 1992. *Wildfire: Grassroots Revolts in Israel in the Post-Socialist Era*. Albany: SUNY Press.

enjoyed public legitimacy and trust, was considerably strengthened.²⁹

This high magnitude of alternative politics in Israeli society and the deep learning processes it has undergone motivated the evolution of alternative politics also in the area of regulatory behavior in supplying the economic goods. The next section explains these dynamics.

4. The alternative politics of the Arrangements in the State Economy Law

General

The State Economy Arrangement Law (SEAL) was enacted in 1985 as a complimentary measure of the economic stabilization program. The program has been conceived as a possible solution for the social problem that characterized Israel's economy at that time, which in the opinion of the Program's initiators, demanded that an economic emergency program be implemented by means of legislation to achieve stabilization of Israel's economy. The Program consisted of a host of laws and legislative amendments from numerous areas, which the Government of Israel presented to the Knesset (Israeli Parliament) for approval as one whole. Albeit conceived as a solution for an emergency situation, SEAL has since become a rooted practice and is brought for renewed approval by the Knesset every year, concurrently with the budget law. Among others, the literature on the topic emphasizes the political – coalition instability and the diminishing economic execution capability as catalysts that promoted the use of the SEAL as well as the fact that the Law is used as an instrument for minimizing political costs.³⁰

29 Barzilai, Gad. 1999. "Courts as Hegemonic Institutions: The Israeli Supreme Court in a Comparative Perspective." *Israel Affairs* 5: 15-33; Mizrahi, S. and A. Meydani (2003) "Political Participation via the Judicial System: Exit, Voice and Quasi-Exit in Israeli Society", *Israel studies*, 8(2) 118-139.

30 David Nachmias and Eran Klein, 1999, *The Arrangement Law: Between Economics and Politics*, The Israel

This paper as stated before presents a positive theoretical framework that confirms the common arguments with the addition of an institutional, cultural layer that stems from the theory of public choice. I will show how the SEAL has been transformed into "electoral capita" by the various agents of change, mainly politicians and treasury officials. Under the special structural conditions of the non-governability of the political system and the existence of alternative political culture in the Israeli public, the law has been transformed into a product that maximizes the benefit and can therefore serve as a convenient platform for promoting the interests of certain players in Israel's political sphere.³¹

This process enabled an accelerated, flexible regulatory process with no adequate democratic discussion in the Knesset and with no special intervention on behalf of Israeli consumer organizations. In this way, it reflected the Israeli transition to a special regulation state that lacks the appropriate balance between the needs of the public sector and those of the private-business sector.

The State Economy Arrangement Law (SEAL)

The SEAL has been submitted to the Knesset as a draft bill by the government, after it had been conceived as a complementary measure on top of the budget law and consists of a collection of laws and amendments, which the government believes are necessary for enabling it to implement its economic policy and programs. As customary, the SEAL was presented as a single whole to the Knesset's finance committee, which discussed its various articles in a short, pre-determined period of time. The law was then submitted for

Institute of Democracy, p.33 [Hebrew]

31 Assaf Meydani and Natan Urieli (2006), A Political Rational Analysis : the case of tourism law services, POLITICA The Israeli Journal of Political Science & International Relations, (The Leonard Davis Institute for International Relations, The Hebrew University, Jerusalem) 15: 71-96 [Hebrew]

final approval by the Knesset's plenum.³²

The social problem of 1985

Israel of 1985 was suffering from a severe economic crisis. Inflation rose to hundreds of percents a year; the budgetary deficit was growing continually and currency reserves were diminishing. The banking and financial systems did not yet recover from the major share crisis of 1983. Attempts made by the government, the coordination bureau of the employers' organizations and the Histadrut (the workers union) to stabilize the economy with topical treatments and "package deals" proved futile while the situation kept deteriorating. The military policy employed by Israel in Lebanon only aggravated the feeling of economic crisis in the public and various signals were beginning to emerge from the public, attesting for the cry to resolve the various social issues.³³ A comprehensive economic stabilization plan was proposed as early as in the beginning of the 1980s, but it was the exacerbation of the economic crisis, combined with the failure of topical solutions that helped promoting the plan among the decision makers.

The political Entrepreneurs

The National Unity Government was formed in September 1984 headed by Shimon Peres (Maarach: Avoda (labor) an Mapam) as the prime minister. Towards the end of that year, a small group of experts and high officials convened with an aim of formulating the

32 David Nachmias and Era Klein, 1999, *The Arrangement Law: Between Economics and Politics*, The Israel Institute of Democracy [Hebrew]

33 Assaf Razin and Ephraim Sadka, *the Economy of Modern Israel: Malaise and Promise*, Chicago: University of Chicago Press, 1993, pp. 26-30; Michael Bruno, *Crisis, Stabilization, and Economic Reform*, Oxford: Clarendon Press, 1993, pp. 78-106; Guy Bechor, 1996, *Constitution for Israel*, Jerusalem: Keter Press Enterprises.

economic stabilization program, of which the SEAL was to become a part. Some of the political entrepreneurs behind the initiatives were the director general of the Treasury at that time, Dr. Emmanuel Sharon, leading representatives of the academe such as Prof. Michael Bruno, later the governor of the Bank of Israel, Prof. Eitan Berglas, Mordechai Frenkel from the Bank of Israel, and Amnon Neubach, the economic advisor of the Prime Minister. The team enjoyed the support of Prime Minister Shimon Peres (Maarach) and the Minister of Finance, Yitzchak Modai (Likkud). The discussions were held in secrecy concurrently with talks with the US Administration, which committed to earmarking special assistance of USD 1.5 billion for the rescue of Israeli economy.³⁴ The team agreed that the only way to come out of the crisis is with a comprehensive economic program.³⁵ Shortly after the government approval was received, the necessary actions were brought for approval by the Knesset under the header "The State Emergency Economic Arrangement Law – 1985". This was the first Arrangements Law, which with the years has transformed into "electoral capita" for the decision makers and into a platform that influences political and economic processes and gives rise to certain political and professional norms in Israel's politics and public system.

The SEAL as electoral capita

An analysis of the preliminary design of the SEAL shows that this type of legislation was the subject of criticism already in 1985. In their article, David Nachmias and Eran Klein

34 Shimon Peres, The Program is Tested in its Implementation, from Multiple Discourse: the 10th anniversary of Israel's Economic Stabilization Program, The Economics Quarterly, December 1995, p.575 [Hebrew]

35 The Comprehensive Economic Stabilization Plan, 30.6.1985. "The decision makers' document" was filed for government approval, introduction, p.1. for the status of Israel's prime minister see Asher Adrian, David Nachmias and Ruth Amir, 2002. Executive Governance in Israel, the Israel Democracy institute. (In Hebrew) pp. 129.

point at the dissatisfaction that prevailed in the Ministry of Justice at that time and the determined objection on behalf of the Attorney General, Prof. Yitzchak Zamir.³⁶ Nachmias and Klein emphasize that despite the State Economy Basic Law – 1975, the Protection of Investments of the Israeli Public in Financial Assets – 1984, and the Foundations of Budget Law – 1985, all of which limit the government's ability to undertake major economic measures without the approval of the Knesset, the economic program was devised under a veil of secrecy and concurrently with driving the Ministry of Justice away from center stage. The political entrepreneurs' ability to promote the process with the help of the Prime Minister and the minister of finance was among others the result of the non-governability, the crisis atmosphere and the alternative politics that developed in Israel since the 1970s and accelerated the onset of personal initiatives among decision makers. With time, this pattern of individual action became a deeply-ingrained management norm.

In the years that passed since the implementation of the economic stabilization program, the government used the SEAL to facilitate the approval of hundreds of laws and legislation amendments in a broad range of areas such as healthcare and welfare, taxation and investments, municipal taxes and regulatory, structural reforms of the agriculture, communication, and energy industry.

Certain sectors have begun using the SEAL as an instrument to advance their interests. For example, the government uses the Law and the coalition majority to support its initiatives; the Prime Minister and the minister of finance are pushing an accelerated legislative process for obstacles and conflicts to further underpin their power; the high officials in the ministry of finance regard the SEAL a vital tool for the design and

36 David Nachmias and Eran Klein, 1999, *The Arrangements Law – Between Economics and Politics*, Israel Democracy Institute, p. 11

implementation of economic-social policy and for promoting structural reforms in Israel's economy. Nachmias and Klein point out that this group has strong influence on the public system and for this reason, its backing of the SEAL has special weight, both because of the professional-public stature of its members and because of their extensive experience in working with the political system.³⁷ Interestingly, high officials in other ministries object to the SEAL, but the rise of the "free market agenda" as regards the supply of economic and social products Israel is short of, has turned the Treasury officials into opinion leaders who enjoy the support of Prime Ministers, finance ministries and senior figures of Israel's economy.³⁸ Some members of Knesset too use the SEAL as electoral equity. They supported the Law in various periods due to their concerns that the imbalance of the political system mandates that a governance tool of this kind be left in the hands of the government. Two prominent supporters of SEAL were Prof. Shevach Weiss (Labor) and Amnon Rubinstein (Meretz).³⁹ This rationale was also adopted by other groups in Israel's economy, which support structural reforms that involve privatization and regarded the SEAL as critical for successful implementation of these reforms.⁴⁰ Other groups regarded the Arrangements in the State Economy Law as a convenient way for promoting extraordinary budgets for their members.

37 David Nachmias and Eran Klein, 1999, *The Arrangements Law – Between Economics and Politics*, Israel Democracy Institute, p. 14

38 Assaf Meydani and Natan Urieli (2006), *A Political Rational Analysis : the case of tourism law services*, POLITICA The Israeli Journal of Political Science & International Relations, (The Leonard Davis Institute for International Relations, The Hebrew University, Jerusalem) 15: 71-96 [Hebrew]

39 David Nachmias and Eran Klein, 1999, *The Arrangements Law – Between Economics and Politics*, Israel Democracy Institute, p. 14

40 Assaf Meydani and Natan Urieli (2006), *A Political Rational Analysis : the case of tourism law services*, POLITICA The Israeli Journal of Political Science & International Relations, (The Leonard Davis Institute for International Relations, The Hebrew University, Jerusalem) 15: 71-96 [Hebrew]

5. Summary and conclusions

This paper based on Public Choice Theory aims to look at a specific institutional change occurred in Israel. This process enabled an accelerated, flexible regulatory process with no adequate democratic discussion in the Knesset and with no special intervention on behalf of Israeli consumer organizations.

This paper suggest that this institutional change should be analyzed as a part of a process where a certain institutional reality influences individual and collective beliefs, thus triggering an individual and collective learning process which eventually leads to institutional change, specific policies and to outcomes in terms of economic performance. According to that, the regulatory state in Israel evolved as a result of the development of a mental model among large parts of the Israeli public stating that in order to solve the problem of in ability to govern in Israel People adopt after a learning process an alternative self making behavior.

Among the Israeli public, there was a growing sense of its total inability to wield any influence over the political system. The best expression of this came in the form of the National Unity Governments which ruled from 1984 to 1990 – a system which increased the sense of deadlock. The fact that the means of influence available to the public were totally ineffective gave rise to a demand to change the election system and to attempts to find an alternative which would supply public policy (i.e., a type of a public good). The alternative body which was identified was the treasure civil servants as the professional body who will supply the demands through structural reforms including the creation of specialized agencies entrusted with fact-finding, rule making and enforcement that involve privatization and regarded the SEAL as critical for successful implementation of

these reforms.⁴¹

The roll of those civil servants was explained within the notion of political entrepreneurs. They identified the need for policy design they define the social problem and point on the solution to that problem. This solution was defined in this paper as an "Electoral Capita" for the use of politicians.

Looking at the Israeli arena we can notice that during the mid 80's of the 20'th century Israel faced an economic crisis. Back then the politicians led by the civil servants from the ministry of treasure adopted a freezing of prices policy and a severe supervision policy over prices. This policy along with the cooperation of the public managed to halt the inflation. On 1985 the politicians adopted a specific Act called "the state economy arrangement law", commonly regarded as part of the budget legislation in Israel. This law turned to be an alternative channel for the allocation of many policies instead of applying the parliament in such cases. On the ground of in ability to govern, rise of public corruption and a dominant security dimension, it was very convenient for the politicians to avoid risks attached to each public decision.

From a comparative perspective, it is important to note that many democracies faced difficulties to cope with a complex modern reality, in which, a common notion of non- governability turned to be a major phenomenon.⁴²

Also, Many democracies for example France adopted emergency acts in order to handle severe economic problems.⁴³ Moreover the use of an act like the SEAL was not

41 Assaf Meydani and Natan Urieli (2006), A Political Rational Analysis : the case of tourism law services, POLITICA The Israeli Journal of Political Science & International Relations, (The Leonard Davis Institute for International Relations, The Hebrew University, Jerusalem) 15: 71-96 [Hebrew]

42 Dror, Y. (2002) The Capacity to Govern: A Report to the Club of Rome, London and Portland, OR: Frank Cass.

43 On June 22, 2005 the government of France approved the use of emergency orders to handle employment problems see for example articles from Le Figaro and Le Mondo from the 22nd June 2005.

an Israeli invention. States as USA and Canada uses similar acts called Omnibus Laws, Belgium uses the loi- programme (law of the program), Spain uses similar taxation law from 2005 after canceling the older act called "Ley de Acompañamiento"(the accompany law), Italy uses a financial law called "Disegno di legge finanziaria".

From the alternative politics perspective it is importante to note that alternative politics characterized other highly centralized systems as well. Helmke and Levitsky ⁴⁴ point to a set of informal norms (“blat”) that have emerged in the Soviet Union – set up by individuals and personal networks to provide basic needs – which created incentives to behave in ways that alter the substantive effect of formal rules, but without directly violating them. To a large extent such norms still prevail in Russian society and this nature of political culture may help explaining the evaluation of a specific regulatory state.

44 Helmke, Gretchen and Steven Levitsky. 2004. "Informal Institutions and Comparative Politics: A Research Agenda." *Perspectives on Politics* 2: 725-740.