

Breaking the Silence: A Global Analysis
Of Sexual Assault in the Military

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Introduction

In 1992, 83 women and 7 men were sexually assaulted during the 35th Annual Tailhook Symposium in Las Vegas, a convention for “Top Gun” aviators. The scandal brought about new military reforms that stressed a “zero tolerance” policy towards assault.¹ Yet 10 years later, statistics showed that in 2012, American “soldiers were 15 times more likely to be raped by a comrade than killed by an enemy.”² The following year in 2013, out of the 5,061 sexual assault cases reported by the Pentagon, only 484 went to trial, and 376 resulted in convictions.³ While sexual assault in the military continues to be a large problem in the United States, it is also an international issue.

This research paper will explore what factors increase the likelihood of sexual assault in the military, as well as factors that affect reporting rates. Analyzing how the military and civilian society interacts is essential in trying to understand why sexual harassment and assault is prevalent in so many national militaries. Often military culture seeps into civilian life; affecting the social and behavioral norms that society lives by. These norms are capable of influencing the types of legislation the government passes, as well as how the courts interpret these laws. Consequently, these laws and court cases have the ability to affect the policies the military implements. While all of these factors:

¹ Michael, Winerip, “Revisiting the Military’s Tailhook Scandal,” *International New York Times*, accessed September 16, 2015, http://www.nytimes.com/2013/05/13/booming/revisiting-the-militarys-tailhook-scandal-video.html?_r=0.

² Caitlin, Bancroft, “Pentagon Releases Startling New Statistics On Military Sexual Assault,” *Policy Mic*, accessed September 2, 2015, <http://mic.com/articles/72503/pentagon-releases-startling-new-statistics-on-military-sexual-assault>

³ Helene, Cooper, “Pentagon Study Finds 50% Increase in Reports of Military Sexual Assaults,” *International New York Times*, accessed September 2, 2015, <http://www.nytimes.com/2014/05/02/us/military-sex-assault-report.html>.

culture, laws and court cases, and the military justice system, influence the way in which sex offenses are handled in the armed forces, the system of justice the military employs is the most significant factor for increasing reporting rates for sexual harassment and possibly reducing actual incidents.

While women report the majority of sexual assaults and harassment cases in the military, in reality both genders are subjected to sexual abuse, often times by a superior officer.⁴ Due to the cohesive nature of the military, such assaults hurt not only the victim, but also the unit as a whole. According to Service Women's Action Network (SWAN), "Sexual Violence threatens the strength, readiness and morale of the U.S. military, undermining U.S. national security."⁵ By researching the factors that contribute to the likelihood of these cases occurring, we as a society, can better understand how to prevent these assaults and make the military a more safe, and therefore, productive environment.

The case study I will examine in this paper is the Israel Defense Forces (IDF). The Israeli military is distinctive in several ways. Israel's military and civilian cultures are closely interconnected, often influencing each other. It is one of 64 countries that have unreserved conscription; meaning compulsory military service is required for citizens in both peace and wartime.⁶ Additionally, Israel is one of the few nations in the

⁴ "Complete Results from Major Survey of U.S. Military Sexual Assault, Harassment Released," *The RAND Corporation*, accessed September 2, 2015, <http://www.rand.org/news/press/2015/05/01.html>.

⁵ "Military Sexual Violence: Rape, Sexual Assault and Sexual Harassment," SWAN Service Women's Action Network, accessed September 21, 2015, <http://servicewomen.org/military-sexual-violence/>

⁶ "Military Conscription Policy by Country," *Charts Bin*, accessed December 7, 2015, <http://chartsbin.com/view/1887>.

world that conscripts both male and female citizens and has a very high rate of recruitment, around 80% of those who receive summons serve.⁷ All of these aspects of Israeli culture will be studied in regards to sexual offenses in the military.

Furthermore, the legal factors surrounding this problem will also be analyzed. Due to the countries militarized nature, many laws and regulations ratified for civilian society are also imposed upon the military. One of these laws, the Prevention of Sexual Harassment Law, 5758- 1998, will be discussed in detail later on. Also, the legal procedures in place for handling sexual harassment and assault within the military differ in Israel from many nations such as the US. The differences in these procedures and the affect they have on harassment incidents and reporting rates will be examined in this paper.

This paper will first define the difference between sexual harassment and sexual assault. It will then review the various theories surrounding sexual offenses in the military. It will start by examining how women's status in the military has changed over time, and then proceed to examine both the cultural and legal aspects surrounding this problem. The second part of my paper will examine the previously discussed theories in regards to my case study, the IDF. After a brief background about the history of the IDF and its conscription laws, both the cultural and legal factors will be applied to the Israeli military. The last section of my paper will analyze what effect these factors have had on deterring sexual harassment or increasing reporting rates in Israel. Through both examining the data that has been collected and reviewing scholarly work, I will compare

⁷ "IDF Background Information," *IDF Mahal*, accessed October 28, 2015, <http://www.mahal-idf-volunteers.org/information/background/content.htm>.

which factors are more effective and which could be improved. Lastly, I will conclude with further research plans and recommendations for other militaries worldwide.

The Theoretical Debate

In order to fully understand why sexual assault happens in the military we must first define what it is. According to SHARP (Sexual Harassment/Assault Response and Prevention), “Sexual Assault is a crime. Sexual assault is defined as intentional sexual contact, characterized by use of force, threats, intimidation or abuse of authority, or when the victim does not or cannot consent.” This includes acts of “rape, forcible sodomy (oral or anal sex), and other unwanted sexual contact that is aggravated, abusive, or wrongful (including unwanted and inappropriate sexual contact) or attempts to commits these acts.”⁸ While related, sexual harassment differs from sexual assault. Sexual harassment is defined as “a form of gender discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.”⁹

Women’s Status in the Military

Similar to civilian society, women’s status in the military has changed over time. In her work, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” Margaret Conrad Devilbiss outlines both internal and external factors that have caused women’s status in the military to evolve.¹⁰ While her work focuses mainly on the

⁸ “Frequently Asked Questions,” SHARP, accessed October 1, 2015, <http://www.sexualassault.army.mil/faqs.cfm#question1>.

⁹ “Frequently Asked Questions,” SHARP, accessed October 1, 2015, <http://www.sexualassault.army.mil/faqs.cfm#question1>.

¹⁰ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

US military, her conclusions and factors can be applied to armed forces around the world.

She starts by stating external factors alone are typically not sufficient in compelling shifts in how the military approaches women, but instead work as facilitators for change. Her external factors are: cultural assumptions and social norms, outside pressure groups, law and legislation, and court decisions.¹¹ Historically, women's roles in the US military have been consistent with cultural assumptions about "what the concept of 'femininity' does or does not include."¹² Women's roles in the armed forces have evolved in different stages throughout history, from being permitted in direct combat roles during the Revolutionary War, to having no obligation to serve during the late 18th and early 19th centuries, to serving civilian capacities, such as nurses, during the Civil War. These shifts in roles were partially caused by the changing definition of femininity.¹³

While outside special interest groups have proven to be useful in influencing change, they are more powerful when tied to specific events or circumstances. For example, while feminist movements in the 1970s assisted with expansion of roles for women in the military, it was actually the "perception on the part of the military that the Equal Rights Amendment would be ratified and become law and would then affect military policy in this area that prompted change."¹⁴

¹¹ Margaret, Conrad Devilbiss, "Women and Military Service: A History, Analysis, and Overview of Key Issues," *Air University Press*, 1990.

¹² Margaret, Conrad Devilbiss, "Women and Military Service: A History, Analysis, and Overview of Key Issues," *Air University Press*, 1990.

¹³ Margaret, Conrad Devilbiss, "Women and Military Service: A History, Analysis, and Overview of Key Issues," *Air University Press*, 1990.

¹⁴ Margaret, Conrad Devilbiss, "Women and Military Service: A History, Analysis, and Overview of Key Issues," *Air University Press*, 1990.

A more influential external factor in generating military change is the ratification of legislation. Often times these acts passed by Congress are actually influenced heavily by the armed forces themselves. While “legislation passed by Congress and incorporated into law may be said to an important external influencing factor for change,” such as in the case Public Law (P.L) 94-106, which permitted women to attend the nation’s service academies, it can also be seen as a way to formalize “the military’s own estimation of its needs in this area.”¹⁵

The final, and most successful external factor according to Devilbiss, is judicial decisions. Because the courts typically deal with matters of constitutional rights, they have been able to force change within the military. However, these courts typically leave the issue of how to utilize women in the military to be resolved by the military itself.¹⁶

Because the military rarely cedes to outside pressure alone, internal factors have proven to be more efficient than external. The internal factors Devilbiss outlines are informal individual or group efforts within the ranks, influential individual decision makers, changing military organizational structure, and military need.¹⁷ Informal individual and group efforts have typically been more effective in causing change when they cooperate with more formal channels and mechanisms. In the case of “The women directors' offices and the Defense Advisory Committee on Women in the Services

¹⁵ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

¹⁶ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

¹⁷ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

(DACOWITS), both internal advisory groups,” effective policy changes only occurred once “their recommendation and concerns had obtained a sympathetic hearing with higher-level decision makers (e.g., service chiefs, service secretaries, members of key congressional committees, and the president).”¹⁸

Influential individual decision makers, such as the service secretaries, the Joint Chiefs of Staff, and the heads of major military commands and activities, play an instrumental role in eliciting policy change. During World War I, US Secretary of War Henry L. Stimson and Secretary of the Navy Josephus Daniels, were very influential in promoting the utilization of women in the military.¹⁹

One of the more successful means of changing women’s status in the military is the reformation of military organizational structure. Devilbiss uses industrialization in the US to portray how technological advancements can alter the military structure.²⁰ She claims that industrialization caused two major changes in the military to occur. The first is that, “industrialization and standardization made it possible to mass-produce the food, clothing, weapons, and equipment necessary to support very large armies in the field for prolonged periods of time. But to do so required the labor of both women and men.”²¹

The second change industrialization brought to the structure of the military is, “it became

¹⁸ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

¹⁹ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

²⁰ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

²¹ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

larger, more differentiated, and increasingly complex, as did many other societal institutions at the time.”²² Many jobs in this ‘new military’ required support, service, and non-combat specialties. Women were well suited for these types of jobs because they already had the skills and training required to perform these jobs; “and the supply of men to fill these jobs was often severely limited.”²³

The last, and most successful producer of change according to Devilbiss is military need.²⁴ She supports the idea that, “the very interests of national security depend on the effective performance of the military mission, which can only be maximized by either more or fewer women utilized in either expanded roles or in a limited number of jobs.”²⁵ In history, when critical skills that women possessed were in need, they were utilized by the military even if there was resistance. During earlier wars, such as the Civil War and Spanish-American War, the need for nurses dramatically increased due to the high rate of war casualties. Because of this women’s medical skills were needed and they were admitted into the army as civilian nurses.²⁶ During WWII, women began to be admitted into the armed services with combat support jobs due to the increasing need to combat personnel.

²² Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

²³ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

²⁴ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

²⁵ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

²⁶ Margaret, Conrad Devilbiss, “Women and Military Service: A History, Analysis, and Overview of Key Issues,” *Air University Press*, 1990.

A Gendered System: The Feminist Perspective

There are a variety of explanations for why sexual assault and harassment occurs within the military. Some feminist scholars attribute the high number of intra-military sexual assaults to the patriarchal system of the military. According to Ellen Elster “patriarchy means male rule.”²⁷ Cynthia Cockburn claims “Sexual violence works very effectively as a weapon of war when women in the enemy society are known to be viewed as patriarchal property.”²⁸

In modern day society, men no longer gain their status from family, but use the state to “exert male superiority and female inferiority.”²⁹ Cockburn explains that during war, the enemy is seen as the “other.” In these traditional, patriarchal, and male dominated environments, “such as police departments, militaries, and fraternities, a bond forms that protects the members inside from outside accusations.”³⁰ Law Professor Madeline Morris expands on this belief by asserting that these bonds spread through the military culture and create a ‘primary group.’ She explains the high rate of sexual

²⁷ Ellen, Elster, “Patriarchy,” *Loaded Questions*, ed. W. Chapkis, Amsterdam: The Transnational Institute, 1981.

²⁸ Cynthia, Cockburn, “Why are *You* doing this to *Me?*’: identity, power and sexual violence in war,” in *Sexuality, Gender and Power: Intersectional and Transnational Perspectives*, ed. Anna G. Jónasdóttir, Valerie Bryson and Kathleen B. Jones, (Routledge: London, 2010), 189).

²⁹ Cynthia, Cockburn, “Why are *You* doing this to *Me?*’: identity, power and sexual violence in war,” in *Sexuality, Gender and Power: Intersectional and Transnational Perspectives*, ed. Anna G. Jónasdóttir, Valerie Bryson and Kathleen B. Jones, (Routledge: London, 2010), 189).

³⁰ Elizabeth, F. Defeis, “U.N. Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity,” *Washington University Global Studies Law Review*, 7 (2008): 185-212.

violence in the military is a result of a “military culture in which women are viewed as the ‘other’, primarily sexual targets.”³¹

In addition to patriarchy, feminist scholars also credit the hyper-masculine nature of the military as the leading cause of intra-military sexual violence. Hyper-masculinity is defined as “an extreme form of masculinity based on beliefs of polarized gender roles, the endorsement of stereotypical gender roles, a high value placed on control, power, and competition, toleration of pain, and mandatory heterosexuality.”³² In the military these ‘masculine’ attitudes are cultivated.³³ These personality traits “exclude or minimize qualities such as ‘gentleness’ and ‘compassion’.”³⁴ Studies show that there is a correlation between men who possess these hyper-masculine qualities, such as negative attitudes towards women and the acceptance of violence, and the act of sexual assault.³⁵

Building off the previous analysis of military moral ideology, some scholars believe that the culture of the military cultivates the acceptance of sexual violence. While some reports say conviction rates for sexual assault may be higher in the US military than

³¹ Regina, F. Titunik, “The First Wave: Gender Integration and Military Culture,” *Armed Forces & Society*, 26 (2000): 229-257.

³²Jessica, A. Turckik, and Susan, M. Wilson, “Sexual assault in the U.S. military: A review of the literature and recommendations for the future,” *Aggression and Violent Behavior*, 15 (2010): 267–277, DOI: 10.1016

³³Jessica, A. Turckik, and Susan, M. Wilson, “Sexual assault in the U.S. military: A review of the literature and recommendations for the future,” *Aggression and Violent Behavior*, 15 (2010): 267–277, DOI: 10.1016

³⁴ Regina, F. Titunik, “The First Wave: Gender Integration and Military Culture,” *Armed Forces & Society*, 26 (2000): 229-257.

³⁵Jessica, A. Turckik, and Susan, M. Wilson, “Sexual assault in the U.S. military: A review of the literature and recommendations for the future,” *Aggression and Violent Behavior*, 15 (2010): 267–277, DOI: 10.1016

in civilian life, studies show that there is a significant difference in retaliation rates against military victims than civilian ones.³⁶ Incidents where victims were discouraged from filing a legal case or their case was refused to be investigated was much more common in the military. In addition to ignoring a sexual assault report, the military legal office often tells victims that their cases are not serious enough to warrant attention.³⁷ According to the study, “There have been reports over the years of the military utilizing personality and adjustment disorder diagnoses as a way of expediting discharges of victims of sexual assault, particularly among male victims of sexual assault.”³⁸ This treatment of victims has created a culture of victim blaming and acceptance of sexual discrimination and misconduct as the military norm.

A study conducted on sexual violence among men in the military in South Korea, found that there was a high frequency of repetitive sexual assault rates, where 81.7% of perpetrators had themselves been victimized.³⁹ The report also found that while there was an epidemic of serious sexual violence, “the soldiers tended to minimize sexual violence, preferred not to address the issue if possible, criticized or ignored the victims, and did not trust the reporting procedures in place.”⁴⁰

³⁶ Carl Andrew, Castro, et al., “Sexual Assault in the Military,” *Curr Psychiatry Rep*, 17 (2015): 1-13, DOI: 10.1007.

³⁷ Carl Andrew, Castro, et al., “Sexual Assault in the Military,” *Curr Psychiatry Rep*, 17 (2015): 1-13, DOI: 10.1007.

³⁸ Carl Andrew, Castro, et al., “Sexual Assault in the Military,” *Curr Psychiatry Rep*, 17 (2015): 1-13, DOI: 10.1007.

³⁹ Insook, Kwon, “Sexual Violence Among Men in the Military in South Korea,” *Journal of Interpersonal Violence*, 22 (2007): 1024-1042, DOI: 10.1177.

⁴⁰ Insook, Kwon, “Sexual Violence Among Men in the Military in South Korea,” *Journal of Interpersonal Violence*, 22 (2007): 1024-1042, DOI: 10.1177.

Through an analysis of military and civilian statistical data, Morris developed the ‘rape differential.’⁴¹ She found that while rape is a problem in the armed forces, during peacetime, it actually occurs less in the military than in civilian life. But, she also found that “peacetime military rape rates are diminished from civilian rates far less than are military rates of other violent crimes.”⁴² She uses this analysis to suggest that sexually aggressive acts in the military are more prominent than in civilian life.⁴³

While this idea has contributed to the feminist argument that the sexual aggression in the military stems from its masculine nature, the opponents of an integrated military have also used it. Walter McDougall used the ‘rape differential’ to support his argument that women should not be in the military.⁴⁴ Other scholars, such as Helen Rogan, support McDougall’s assertion that men and women should not serve in the military together.⁴⁵ While this paper will not focus on the effects of an integrated military, it is important to note that there are debates centered on this topic.

Some academics believe that the masculine nature of the military creates a strict hierarchy within the armed forces. They attribute the abuse of women to the power

⁴¹ Regina, F. Titunik, “The First Wave: Gender Integration and Military Culture,” *Armed Forces & Society*, 26 (2000): 229-257.

⁴² Regina, F. Titunik, “The First Wave: Gender Integration and Military Culture,” *Armed Forces & Society*, 26 (2000): 229-257.

⁴³ Regina, F. Titunik, “The First Wave: Gender Integration and Military Culture,” *Armed Forces & Society*, 26 (2000): 229-257.

⁴⁴ Regina, F. Titunik, “The First Wave: Gender Integration and Military Culture,” *Armed Forces & Society*, 26 (2000): 229-257.

⁴⁵Helen, Rogan, *Mixed Company: Women in the Modern Army*, New York: G.P. Putnam’s Sons, 1981.

dynamics at play in the military.⁴⁶ In the military, gender stereotypes are amplified. This exaggeration of female and male characteristics has led to a hierarchy with men on the top and females at the bottom. Within this hierarchal system, “one way to assert dominance is through sexual violence and women are at the bottom of the totem pole.”⁴⁷

In addition to attributing this problem to a patriarchal system, system scholars believe that the moral ideology of the military may play a greater role in deterring sexual assault than the threat of punishment. Cynthia Cockburn uses the example of US soldiers in Europe during WWII to support her theory. During WWII, rape under US military law was punishable by the death penalty. Several service men were convicted of rape and executed for it. Yet, Cockburn explains that, “...for many thousands of American GIs billeted in the UK, and later advancing through Europe as an army of liberation, these sanctions were not a disincentive to rape...”⁴⁸ She goes on to explain that there have been incidents in history where rape is absent from the army’s actions.

She uses the example of the Vietcong, the National Liberation Front (NLF) of Vietnam, during the US/Vietnam war of 1959- 1975.⁴⁹ She explains that during the

⁴⁶ Jenna, C. Grassbaugh, “The Opaque Glass Ceiling: How Will Gender Neutrality in Combat Affect Military Sexual Assault Prevalence, Prevention, and Prosecution?” *Ohio State Journal of Criminal Law*, 11 (2014): 319-352.

⁴⁷ Jenna, C. Grassbaugh, “The Opaque Glass Ceiling: How Will Gender Neutrality in Combat Affect Military Sexual Assault Prevalence, Prevention, and Prosecution?” *Ohio State Journal of Criminal Law*, 11 (2014): 319-352.

⁴⁸ Cynthia, Cockburn, “Why are *You* doing this to *Me?*’: identity, power and sexual violence in war,” in *Sexuality, Gender and Power: Intersectional and Transnational Perspectives*, ed. Anna G. Jónasdóttir, Valerie Bryson and Kathleen B. Jones, (Routledge: London, 2010), 189).

⁴⁹ Cynthia, Cockburn, “Why are *You* doing this to *Me?*’: identity, power and sexual violence in war,” in *Sexuality, Gender and Power: Intersectional and Transnational Perspectives*

conflict, the NLF was widely reported to abstain from using rape as a weapon of war, unlike the US and South Vietnamese forces they were fighting. While rape did occur, according to Susan Brownmiller, it was symptomatic, not systematic, “it was the practice of the Vietcong to execute the perpetrator and publicize the execution.”⁵⁰ Cockburn explains this lack of systematic rape by analyzing the political ideologies of the NLF. According to the NLF’s leadership, the army was a ‘people’s army’ of workers and peasants. The unit was structured under Communist ideology based on the Marxist-Leninist principle of ending exploitation of the poor by the rich. While the Vietcong were not merciful, they conducted brutal executions of enemy leadership; the Marxist ideology caused them to feel a “morality of respect for those whom it envisaged as the ‘masses’ of a post-war Communist Vietnamese society. Rape was highly unlikely among men whose very identity was invested in ‘respect for the people’, the belief that it was wrong to steal even ‘a needle and thread’ from the villages through which they passed.”⁵¹

Norway: A Unique Example

One interesting case where a country overcame gender differences in the military is in Norway. In March 2014, the Norwegian Armed Forces conducted a study that experimented with unisex dorms. Originally the two researchers behind the project, Norwegian sociologists Ulla-Britt Lilleaas and Dag Ellingsen, were skeptical that the new dorm situation would work, but the results showed that the unisex dorms actually resulted

⁵⁰ Cynthia, Cockburn, “Why are *You* doing this to *Me?*’: identity, power and sexual violence in war,” in *Sexuality, Gender and Power: Intersectional and Transnational Perspectives*

⁵¹ Cynthia, Cockburn, “Why are *You* doing this to *Me?*’: identity, power and sexual violence in war,” in *Sexuality, Gender and Power: Intersectional and Transnational Perspectives*

in a decline in sexual assaults.⁵² The new dorm rooms consisted of two females and four males. Instead of focusing on gender differences, the unisex rooms had a ‘degenderizing’ effect. According to the researchers, “To them, there was nothing strange about the unisex rooms. They had entered a common mode where gender stereotypes had disappeared, or at least they were less obvious. The uniform was also helping, as it was more difficult to see the difference between boys and girls.”⁵³ In addition to lessening gender stereotypes, the unisex rooms also contributed to great team mentality. By sharing living space, the female and male recruits were able to communicate more honestly and openly with each other, which ultimately led to greater trust in the unit. According to one of the female recruits, “You have to be a team here, and then you have to live together in order to be able to trust in one another.”⁵⁴

Previously to the unisex dorms, Norway was already working on eliminating gender inequality in the military. In 2013, Norway passed gender-neutralization regulations that allowed men to have ponytails or braids.⁵⁵ The new regulations came after male soldiers complained that female soldiers were allowed to keep their hair in a

⁵² “Why Norway Says No Way to Gender Segregation in the Military,” *The Conversation*, accessed September 30, 2015, <http://theconversation.com/why-norway-says-no-way-to-gender-segregation-in-the-military-29981>.

⁵³ Torgeir, Haugaard, “Unisex Rooms Made Gender Insignificant in Army, Norwegian Study Finds,” *Science Daily*, accessed September 30, 2015, <http://www.sciencedaily.com/releases/2014/03/140320111756.htm>.

⁵⁴ Torgeir, Haugaard, “Unisex Rooms Made Gender Insignificant in Army, Norwegian Study Finds,” *Science Daily*, accessed September 30, 2015, <http://www.sciencedaily.com/releases/2014/03/140320111756.htm>.

⁵⁵ Richard, Orange, “Norway’s Male Soldiers Allowed Ponytails,” *The Local*, accessed September 30, 2015, <http://www.thelocal.no/20130809/norways-male-soldiers-allowed-ponytails>.

loose ponytail or braid, while men with long hair had to tie it into a knot or keep it in a hair net. According to Vegard Utne, from the Department of Defense's culture and tradition department, "I do not think it was hair that stopped people from wanting to enter the military before, but I can well understand why someone would want to keep the ponytail when they are here."⁵⁶ While sexual assault and harassment were already comparatively low in the Norwegian military, the numbers are declining even more.⁵⁷

The Legal Debate

While all the scholars previously discussed believe that the gender system plays a vital role in explaining intra-military sexual violence, not all academics find this to be true. Some critics of this belief acknowledge that women are discriminated against in the military, but they do not agree that it is caused by the 'aggressive' and 'masculine' nature of the military. Many find that the structure of the military legal system greatly affects how sexual assault cases are handled, and therefore the frequency of them. The main division among policy makers is whether to remove the decision to prosecute intra-military sexual assault cases from the chain of command or not.⁵⁸

⁵⁶ Richard, Orange, "Norway's Male Soldiers Allowed Ponytails," *The Local*, accessed September 30, 2015, <http://www.thelocal.no/20130809/norways-male-soldiers-allowed-ponytails>.

⁵⁷ Eric, Campbell, "The Gender Mission," *ABC News: Foreign Correspondent*, accessed September 30, 2015, <http://www.abc.net.au/foreign/content/2014/s4061340.htm>.

⁵⁸ Lindsay, Hoyle, "Command Responsibility- A Legal Obligation to Deter Sexual Violence in the Military," *Boston College International and Comparative Law Review*, 37 (2014): 353-388.

As previously mentioned in 2013, out of the 5,061 sexual assault cases reported by the Pentagon, only 484 went to trial, and 376 resulted in convictions.⁵⁹ While these numbers are already appalling, studies show that they are actually far from reality. A survey done in 2014 found that an estimated 20,000 service men and women were sexually assaulted that year.⁶⁰ Many critics of the current military judicial system in the U.S. attribute the system to the large discrepancies between reported cases and actual assaults, as well as the number of reported cases and convictions.⁶¹

Originally under the US military legal system, the Uniform Code of Military Justice (UCMJ), victims had to report their assault to their unit commanders. It was then the commander's responsibility to preliminarily investigate the report and decide whether to take action against the assailant or not.⁶² Because this process primarily left the unit commander in charge of handling these cases, even though they typically lacked the legal experience to do so, on April 16, 2012, Secretary of Defense, Leon Panetta announced reforms to the UCMJ. The new policy requires unit commanders to report "allegations of completed or attempted rape, and sexual assault, to an elevated commander—typically a

⁵⁹ Helene, Cooper, "Pentagon Study Finds 50% Increase in Reports of Military Sexual Assaults," *International New York Times*, accessed September 2, 2015, <http://www.nytimes.com/2014/05/02/us/military-sex-assault-report.html>.

⁶⁰ Patricia, Kimes, "Incidents of Rape in the Military Much Higher than Previously Reported," *Military Times*, accessed October 1, 2015, <http://www.militarytimes.com/story/military/pentagon/2014/12/04/pentagon-rand-sexual-assault-reports/19883155/>.

⁶¹ Lindsay, Hoyle, "Command Responsibility- A Legal Obligation to Deter Sexual Violence in the Military," *Boston College International and Comparative Law Review*, 37 (2014): 353-388.

⁶² Lindsay, Hoyle, "Command Responsibility- A Legal Obligation to Deter Sexual Violence in the Military," *Boston College International and Comparative Law Review*, 37 (2014): 353-388.

colonel or captain.”⁶³ The change in policy was designed to “remove unit commander discretion to investigate and prosecute sexual assault cases,” but it failed to remove the decision to prosecute the perpetrator from the chain of command.⁶⁴

An 18-month investigation by Human Rights Watch reported that despite these new reforms “both male and female military personnel who report sexual assault are 12 times as likely to experience some form of retaliation as to see their attacker convicted of a sex offense.”⁶⁵ The organization claims that any progress the U.S. military has made in getting soldiers to report sexual assaults will diminish as long as these cases continue to go unpunished.⁶⁶ In an op-ed piece to CNN, Congresswoman Jackie Speier stated, “It is clear that the inherent conflicts within the chain of command structure are at the core of the epidemic of military rape and sexual assault.”⁶⁷ Within the military there are also supporters for removing the decision to prosecute serious crimes from the chain of command. Lieutenant Colonel, David J. R. Frakt from the U.S. Air Force Reserve, claims that because the perpetrator in military sexual assaults is often times a superior officer,

⁶³ Lindsay, Hoyle, “Command Responsibility- A Legal Obligation to Deter Sexual Violence in the Military,” *Boston College International and Comparative Law Review*, 37 (2014): 353-388.

⁶⁴ Lindsay, Hoyle, “Command Responsibility- A Legal Obligation to Deter Sexual Violence in the Military,” *Boston College International and Comparative Law Review*, 37 (2014): 353-388.

⁶⁵ “US: Military Whistleblowers at Risk,” *Human Rights Watch*, accessed October 1, 2015, <https://www.hrw.org/news/2015/05/18/us-military-whistleblowers-risk>.

⁶⁶ “US: Military Whistleblowers at Risk,” *Human Rights Watch*, accessed October 1, 2015, <https://www.hrw.org/news/2015/05/18/us-military-whistleblowers-risk>.

⁶⁷ Jackie, Speier, “Why Rapists in the Military Get Away with it,” *House.Gov*, accessed October 1, 2015, http://speier.house.gov/index.php?option=com_content&view=article&id=705:why-rapists-in-military-get-away-with-it&catid=13:op-eds&Itemid=17.

the junior soldier feels their report will not be believed and, therefore, does not report it.⁶⁸ He goes on to note that unit commanders who are not trained in legal practice should not have the power to decide the fate of a criminal case. He believes “when service members commit felony-level crimes such as rape or sexual assault, military prosecutors should evaluate the cases, not non-lawyer commanders who lack the time and expertise to make such decisions.”⁶⁹

Similar to the situation in Norway, a study done on the factors associated with women’s risk of rape in the military environment in the US showed that mixed gender barracks alone didn’t increase the odds of rape. Instead, the study showed that female soldiers who reported experiencing a hostile work environment were 6 times more likely to be raped than those who didn’t.⁷⁰ However, women who experienced, “unwanted sexual advances, remarks, or pressure for dates in sleeping quarters was associated with more than a three-fold increase in odds of rape. Women who observed sexual activities of others in military sleeping quarters experienced a three-fold increase in odds of rape.”⁷¹ According to Dr. James E. Gruber, the organizational leaders of an institution greatly affect sexual harassment rates. He claims that, “Organizations in which leaders are perceived as proactive in addressing the problem of sexual harassment- for example, have

⁶⁸ Jennifer, Koons, “Sexual Assault in the Military: Can the Pentagon Stem the Rise in Incidents,” *CQ Researcher*, accessed October 2, 2015,

⁶⁹ Jennifer, Koons, “Sexual Assault in the Military: Can the Pentagon Stem the Rise in Incidents,” *CQ Researcher*, accessed October 2, 2015,

⁷⁰ Anne, G. Sadler, et al., “Factors Associated With Women’s Risk of Rape in the Military Environment,” *American Journal of Industrial Medicine*, 43 (2003): 262-273, DOI: 10.1002.

⁷¹ Anne, G. Sadler, et al., “Factors Associated With Women’s Risk of Rape in the Military Environment,” *American Journal of Industrial Medicine*, 43 (2003): 262-273, DOI: 10.1002.

discouraged it or spoken out against it- have fewer harassment problems than organizations in which the leadership was seen either as indifferent toward or encouraging of sexually harassing behaviors.”⁷²

If greater rates of sexual harassment contribute to higher cases of sexual assault, then according to Gruber, unit commanders play an instrumental role in preventing these attacks. Because it is the commanders’ responsibility to establish an environment free of harassment and discrimination, they may feel that they are to be blamed or punished if an assault does occur.⁷³ This fear could result in unit commanders being reluctant to act on ‘minor’ incidents that they hear about. This could lead them to “dismiss allegations as unfounded or convince the service member who has been harassed or assaulted not to formally report the incident.”⁷⁴ In addition to fear of punishment themselves, another explanation for why unit commanders are often reluctant to act on sexual assaults reported to them could stem from the military culture of placing great value on unit performance. This can result in, “leaders dismissing or minimizing claims of sexual harassment or assault when the accused is a high performer or when the accuser is a low performer.”⁷⁵ This can put the commander in a difficult situation of choosing whether to

⁷² James, E. Gruber, “The Impact of Male Work Environments and Organizational Policies on Women’s Experiences of Sexual Harassment,” *Gender and Society*, 12 (1998): 301-320, DOI: 10.1177.

⁷³ Carl Andrew, Castro, et al., “Sexual Assault in the Military,” *Curr Psychiatry Rep*, 17 (2015): 1-13, DOI: 10.1007.

⁷⁴ Carl Andrew, Castro, et al., “Sexual Assault in the Military,” *Curr Psychiatry Rep*, 17 (2015): 1-13, DOI: 10.1007.

⁷⁵ Carl Andrew, Castro, et al., “Sexual Assault in the Military,” *Curr Psychiatry Rep*, 17 (2015): 1-13, DOI: 10.1007.

take action and lose one of the unit's best performers or dismissing the case or dismissing the case and denying the victim justice and closure.⁷⁶

Opponents of a new legal system believe that in order for commanders to maintain order and control of their units, they must be deeply involved in its legal system. Major General, John D. Altenburg JR., retired U.S. Army, defends the system by asserting that unit commanders usually seek council from their military lawyers before deciding whether to discipline or not. He notes that, "Commanders make ultimate decisions because only they are responsible for the combat readiness of their units and for leading those units on operations. Sexual assault offenses should not be treated differently than other offenses, which can range from murder to skipping work."⁷⁷ He argues that because the military actually has higher conviction rates of sexual assault than civilian courts, a better approach to handling sexual assault cases would be to discipline commanders who fail to handle these cases appropriately.⁷⁸

In addition to losing control over their units, some believe commanders should maintain authority over sexual assault cases because only unit commanders can effect cultural change within the military.⁷⁹ Chuck Hagel, the former US Secretary of Defense,

⁷⁶ Carl Andrew, Castro, et al., "Sexual Assault in the Military," *Curr Psychiatry Rep*, 17 (2015): 1-13, DOI: 10.1007.

⁷⁷ Jennifer, Koons, "Sexual Assault in the Military: Can the Pentagon Stem the Rise in Incidents," *CQ Researcher*, accessed October 2, 2015,

⁷⁸ Jennifer, Koons, "Sexual Assault in the Military: Can the Pentagon Stem the Rise in Incidents," *CQ Researcher*, accessed October 2, 2015,

⁷⁹ Felicia, Schwartz, "Hagel Urges Sexual Assault Cases Stay in Military Command Structure," *The Wall Street Journal*, accessed October 12, 2015, <http://www.wsj.com/articles/hagel-urges-sexual-assault-cases-stay-in-military-command-structure-1421444631>.

maintains that commanders are responsible for the environment of their units and therefore, “improvements in that area will come from a change in institutional culture rather than congressional or executive action.”⁸⁰

All of the scholars formerly mentioned believe that either legal or cultural factors, or a combination of both, influence the rate of sexual assault in the military. This paper will examine these factors through an analysis of the Israeli military. The case study will look at cultural aspects, such as conscription laws and civilian-military ties, and both external and internal legal factors.

Israel Background:

Women in the IDF

During Israel’s Independence War in 1948, the IDF required all available personnel to fulfill combat roles. In the early weeks of the war, Israel’s first Prime Minister, David Ben Gurion, officially established the IDF as the national military and made conscription mandatory for women as well as men.⁸¹ During this time women were given full combat status.⁸² Following its independence, women were barred from participating in combat roles in the IDF until the 1990’s. After a series of court cases in the 1990’s, the IDF began to officially start accepting women as flight candidates for the

⁸⁰ Felicia, Schwartz, “Hagel Urges Sexual Assault Cases Stay in Military Command Structure,” *The Wall Street Journal*, accessed October 12, 2015, <http://www.wsj.com/articles/hagel-urges-sexual-assault-cases-stay-in-military-command-structure-1421444631>.

⁸¹ “The Beginning, Women in the Early IDF,” *Israel Defense Forces*, accessed September 24, 2015, <http://www.idf.il/1283-9679-en/Dover.aspx>.

⁸² “Women of the Israel Defense Forces: History in Combat Units,” *Jewish Virtual Library*, accessed September 24, 2015, http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/femcom.html.

Air Force in 1997.⁸³ In 2000, the Equality amendment to the Defense Service Law stated “that the right of women to serve in any role in the IDF is equal to the right of men.”⁸⁴

On May 26, 2011, Ehud Barak, the Israeli Defense Minister, oversaw the promotion of the first female Major General, Orna Barbivai. Five months later, in October 2011, “27 female combat soldiers completed the IDF Ground Forces Officers Training Course along with 369 male soldiers and were promoted to the rank of second lieutenant.”⁸⁵

IDF Conscription Laws

The Israeli Security Service Law, also known as the Israeli Defense Service Law, is the official act that frames the procedures and regulations for the recruitment of military personnel in Israel. The law was originally ratified in 1949 as the Security Service Act of 1949, but was later replaced by the Security Service Law. The most recent main revision to the bill was in 1986.

In terms of conscription, the law requires that both male and female Jewish citizens of Israel serve in the IDF and only male Druze and Circassians (two non-Jewish minority groups) Israeli citizens are conscripted.⁸⁶ While the law does outline exemptions

⁸³ “Women of the Israel Defense Forces: History in Combat Units,” *Jewish Virtual Library*.

⁸⁴ “Women of the Israel Defense Forces: History in Combat Units,” *Jewish Virtual Library*.

⁸⁵ “Women of the Israel Defense Forces: History in Combat Units,” *Jewish Virtual Library*.

⁸⁶ “Defense Service Law- Consolidated Version 5746- 1986,” *Israel Ministry of Foreign Affairs*, accessed October 28, 2015, <http://www.mfa.gov.il/mfa/mfa-archive/1980-1989/pages/defence%20service%20law%20-consolidated%20version--%205746-1.aspx>.

Joshua, Mitnick, “The Israel Defense Forces,” *My Jewish Learning*, accessed October 27, 2015, <http://www.myjewishlearning.com/article/the-israel-defense-forces/2/>.

from service, around 80% of those who receive summons serve.⁸⁷ According to Section 3, Articles 13 and 14, females are qualified for conscription from the ages of 18-26 and males from the ages of 18-29. Recruitment can be done at age 17, but only if the parents or guardian of the soldier allows it.⁸⁸ The required length of service for men is 36 months, females serve for 21 months, and officers are required to enlist for 48 months.⁸⁹

In addition to outlining the guidelines for conscription, the Security Service Law also explains the necessary conditions for exemption from service. These conditions include motherhood, pregnancy, and marriage (for females only).⁹⁰ In addition women who object to service on the basis of conscious reasoning or reasons, “connected with her family’s religious ways of life,” are also exempted.⁹¹ Arab- Israelis are also exempt from service and according to the Jewish Agency for Israel, the “ultra-Orthodox yeshiva students and ‘a small group of delinquents’ are exempt from military service.”⁹² While

⁸⁷“IDF Background Information,” *IDF Mahal*, accessed October 28, 2015, <http://www.mahal-idf-volunteers.org/information/background/content.htm>.

⁸⁸ “Defense Service Law- Consolidated Version 5746- 1986,” *Israel Ministry of Foreign Affairs*, accessed October 28, 2015, <http://www.mfa.gov.il/mfa/mfa-archive/1980-1989/pages/defence%20service%20law%20consolidated%20version--%205746-1.aspx>.

⁸⁹“Israel: Military service, including age of recruitment, length of service, grounds for exemption, and availability of alternative service (March 2009-January 2013),” *UNHCR: The UN Refugee Agency*, accessed November 2, 2015, <http://www.refworld.org/docid/5152beb62.html>.

⁹⁰ “Defense Service Law- Consolidated Version 5746- 1986,” *Israel Ministry of Foreign Affairs*, accessed October 28, 2015, <http://www.mfa.gov.il/mfa/mfa-archive/1980-1989/pages/defence%20service%20law%20consolidated%20version--%205746-1.aspx>.

⁹¹ “Defense Service Law- Consolidated Version 5746- 1986,” *Israel Ministry of Foreign Affairs*, accessed October 28, 2015, <http://www.mfa.gov.il/mfa/mfa-archive/1980-1989/pages/defence%20service%20law%20consolidated%20version--%205746-1.aspx>.

⁹²“Israel: Military service, including age of recruitment, length of service, grounds for exemption, and availability of alternative service (March 2009-January 2013),” *UNHCR: The UN Refugee Agency*, accessed November 2, 2015, <http://www.refworld.org/docid/5152beb62.html>.

ultra-Orthodox students are still often exempted from service, a new bill passed in 2014 starting setting annual quotas for the drafting of yeshiva students for either military or civilian national service. The goal for the bill is to enlist 5,200 per year by 2017.⁹³

In 2007, 28 percent of eligible Israeli citizens were not recruited into the armed forces. Five percent of these cases were draft evaders, but 23 percent were results of policy restrictions. The breakdown of these statistics is: 11.2 percent of the non-recruits were yeshiva students, just over 7 percent received medical waivers, 4 percent were overseas, and 3 percent were exempt due to their previous criminal records.⁹⁴

Israel: a Culture of War

The state and the military are two intimately connected institutions. The military is the organization that, “most closely identifies with the state, its ideologies, and its policies.”⁹⁵ Max Weber conceptualized the link between the military and state by defining the state by its, “monopoly over the legitimate use of force within a territory.”⁹⁶ The army is not, “just another patriarchal institution,” but is “essential to the definition of the political entity as a sovereign state.”⁹⁷

⁹³ “Israel Ends Ultra-Orthodox Military Service Exemptions,” *BBS News*, accessed November 2, 2014, <http://www.bbc.com/news/world-middle-east-26542316>.

⁹⁴ Nissan, Ratzlav-Katz, “28% of Army-Age Israelis Do Not Serve,” *Arutz Sheva*, accessed November 2, 2015, <http://www.israelnationalnews.com/News/News.aspx/124164#.VjgM62SrTLY>.

⁹⁵ Orna, Sasson-Levy, “Feminism and Military Gender Practices: Israeli Women Soldiers in ‘Masculine’ Roles,” *Sociological Inquiry*, 73 (2003): 440-465, DOI: 10.1111 /1475-682X.00064.

⁹⁶ Orna, Sasson-Levy, “Feminism and Military Gender Practices: Israeli Women Soldiers in ‘Masculine’ Roles,” *Sociological Inquiry*, 73 (2003): 440-465, DOI: 10.1111 /1475-682X.00064.

⁹⁷ Orna, Sasson-Levy, “Feminism and Military Gender Practices: Israeli Women Soldiers in ‘Masculine’ Roles,” *Sociological Inquiry*, 73 (2003): 440-465, DOI: 10.1111 /1475-682X.00064.

In Israel, many aspects of life are rooted in a culture of war. Within this culture, militarized patterns of thought and action dictate both social priorities and the allocation of resources.⁹⁸ These patterns include the belief that war is imposed upon the state of Israel, not a choice; that it is unavoidable, much like a natural disaster.⁹⁹ These beliefs determine, “the limits of what is said and thought, and no less, the substance of what is left out. In a cyclic pattern, processes of knowledge-building within the culture of war tend to reinforce these presuppositions, to rely on, and thus implicitly affirm, what goes without saying.”¹⁰⁰

These beliefs, held by many in Israeli society, idealize the image of the IDF ‘fighter;’ even though ‘fighters’ in the IDF form only a small percentage of the Israeli military, 20% in 1997.¹⁰¹ This “powerful ‘fighter’ image, so central to masculine identity in Jewish Israeli society, totally obscures and marginalizes these statistics.”¹⁰² Feminist scholar, Cynthia Enloe, explains how, “combat continues to have an ideological potency, in large measure because it is wielded as a criterion to divide ‘the men from the boys’—and, more recently, the men from the women.”¹⁰³ In 2013, 92 percent of roles in the IDF

⁹⁸ Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women’s Studies & Gender Issues*, 6 (2003): 39-50.

⁹⁹ Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women’s Studies & Gender Issues*, 6 (2003): 39-50.

¹⁰⁰ Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women’s Studies & Gender Issues*, 6 (2003): 39-50.

¹⁰¹ Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women’s Studies & Gender Issues*, 6 (2003): 39-50.

¹⁰² Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women’s Studies & Gender Issues*, 6 (2003): 39-50.

¹⁰³ Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women’s Studies & Gender Issues*, 6 (2003): 39-50.

were officially open to women, but in reality, females only served in about 3 percent of combat roles.¹⁰⁴

Those women who pursue combat and semi-combat roles often try to adopt ‘masculine’ traits. In an effort to ‘conceal their femininity,’ on some bases women are prohibited from using perfume, wearing makeup and jewelry, and are required to wear their hair under a hat worn low so their eyes are not exposed.¹⁰⁵ In addition to physically adhering to ‘masculine’ traits, “a special source of power, security, and pride for a woman soldier is her personal weapon.”¹⁰⁶ Many female soldiers describe their obligation to carry a weapon as a privilege that demonstrates their military value and is therefore a source of power and self-confidence. According to Nira, a female religious soldier who served as a commander for male soldiers, the weapon she carried served as a status symbol that placed her at the same level of men.¹⁰⁷ “The yearning for the weapon, which is typical of women in semi-combat roles, portrays it as attesting to their proximity to the hegemonic masculinity and ignores its function, which is threaten, injure, and kill.”¹⁰⁸

¹⁰⁴ Jodi, Rudoren, “Looking to Israel for Clues on Women in Combat,” *New York Times*, accessed November 18, 2015, http://www.nytimes.com/2013/01/26/world/middleeast/looking-to-israel-for-clues-on-women-in-combat.html?_r=0.

¹⁰⁵ Orna, Sasson-Levy, “Feminism and Military Gender Practices: Israeli Women Soldiers in ‘Masculine’ Roles,” *Sociological Inquiry*, 73 (2003): 440-465, DOI: 10.1111 /1475-682X.00064.

¹⁰⁶ Orna, Sasson-Levy, “Feminism and Military Gender Practices: Israeli Women Soldiers in ‘Masculine’ Roles,” *Sociological Inquiry*, 73 (2003): 440-465, DOI: 10.1111 /1475-682X.00064.

¹⁰⁷ Orna, Sasson-Levy, “Feminism and Military Gender Practices: Israeli Women Soldiers in ‘Masculine’ Roles,” *Sociological Inquiry*, 73 (2003): 440-465, DOI: 10.1111 /1475-682X.00064.

¹⁰⁸ Orna, Sasson-Levy, “Feminism and Military Gender Practices: Israeli Women Soldiers in ‘Masculine’ Roles,” *Sociological Inquiry*, 73 (2003): 440-465, DOI: 10.1111 /1475-682X.00064.

Viewing the weapon as only a gender status equalizer contributes to the normalization of the means of violence and to the continuation of the militaristic culture in Israel.¹⁰⁹

Many feminist organizations in Israel fail to acknowledge the central role of the military in Israeli society, as well as the problem of sexual harassment within the IDF.¹¹⁰ According to Rela Mazali, an Israeli writer and feminist peace activist, “most of them [feminist organizations] adhere to the mindset framed by a militarized leadership and upholding its continued rule—the belief that ‘we have no choice,’ that war and fighting are imposed upon, not chosen by, Israeli leaders.”¹¹¹ The emotions associated with men as the ‘fighters’ and women as the ‘protected party’, has contributed to the establishment of women as second-class citizens. Recognizing that women are at risk both from and within the military itself would dangerously undermine this concept.¹¹²

In her essay, “And What About the Girls?” Mazali starts by saying, “The first lecture I ever gave on the subject of parenting in a state that practices conscription began with the sentence: ‘When my daughter was born, I could allow myself a sigh of relief that I couldn't take when each of my sons was born.’ This was in 1991. Reading this opening sentence today, I cringe.”¹¹³ She emphasizes that every Israeli citizen is affected by

¹⁰⁹ Orna, Sasson-Levy, “Feminism and Military Gender Practices: Israeli Women Soldiers in ‘Masculine’ Roles,” *Sociological Inquiry*, 73 (2003): 440-465, DOI: 10.1111 /1475-682X.00064.

¹¹⁰ Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, 6 (2003): 39-50.

¹¹¹ Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, 6 (2003): 39-50.

¹¹² Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, 6 (2003): 39-50.

¹¹³ Rela, Mazali, “And What About the Girls?” *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, 6 (2003): 39-50.

military culture in some way or another, including herself. Throughout her work, she stresses, "...that living within a war culture, the consciousness of each and every member of society is militarized to some degree... The process of identifying and peeling off the militarized filters through which I have learned to see reality is possibly unending."¹¹⁴

Israel Case Study

Internal Legal Factor: the Military Justice Law

Israel's Military Justice Law (MJL) is the IDF's internal judicial system, which operates separate from Israel's general courts. The law went into effect in 1955 after the Knesset ratified it.¹¹⁵ The MJL's jurisdiction encompasses all active IDF service soldiers, reservists, and military contractors accused of committing a military or criminal offense while in service.¹¹⁶ It lays out specific procedural rules for military courts including, "provisions concerning the structure, jurisdiction and procedure of the military courts and also organized the activities of investigating institutions leading up to trial."¹¹⁷

Although there have been few major statutory changes to the MJL since its establishment in 1955, disciplinary procedures, especially in the case of sexual offenses, have evolved as a result of, "changes in military policies in response to new challenges

¹¹⁴ Rela, Mazali, "And What About the Girls?" *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, 6 (2003): 39-50.

¹¹⁵ "Criminal Proceedings in the Military Courts," *IDF MAG Corps*, accessed October 27, 2015, <http://www.law.idf.il/647-2350-en/Patzar.aspx>.

¹¹⁶ "Military Justice System: Adjudication of Sexual Offenses: Israel," *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

¹¹⁷ "Criminal Proceedings in the Military Courts," *IDF MAG Corps*, accessed October 27, 2015, <http://www.law.idf.il/647-2350-en/Patzar.aspx>.

posed with the passage of time and requirements imposed by Israel's Supreme Court. Some important changes to the adjudication system include the removal of the determination of adjudication from the chain of command in some cases and new requirements for legal training or IDF-specific training in dealing with sexual harassment offenses."¹¹⁸

Through the Israeli Military Justice System there are two mechanisms for handling cases: adjudication by military courts and disciplinary action by adjudication officers and commanders. Military courts try criminal cases and have the authority to impose long-term prison sentences, even death, as well as rank demotions.¹¹⁹ The second mechanism for adjudicating cases is disciplinary action. This form of punishment doesn't allow for the same levels of sentencing that military courts can. Because the commanders make the decisions in disciplinary action, these proceedings are mainly intended to provide commanders legal advising for disciplining their subordinates.¹²⁰

The handling of sex offenses in the Israeli Military Justice System, unlike other violations of military law, requires Military Advocate General (MAG) attorneys to make the decision to try sexual offenses in a disciplinary proceeding, not the commanders.¹²¹

¹¹⁸ "Military Justice System: Adjudication of Sexual Offenses: Israel," *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

¹¹⁹ "Military Justice System: Adjudication of Sexual Offenses: Israel," *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

¹²⁰ "Military Justice System: Adjudication of Sexual Offenses: Israel," *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

¹²¹ "Military Justice System: Adjudication of Sexual Offenses: Israel," *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

MAGs are the legal advisors to the IDF commanders and conduct court martials.¹²² They operate independently within the military and, “do not fall within the commander’s chain of command.”¹²³ Their powers include the ability to, “file a charge sheet, order a preliminary investigation, and arraign soldiers for both military offenses and offenses committed under the penal laws of the State of Israel,” as well as, “review disciplinary hearing documentation and may “amend the judgment, quash it, or return it to the disciplinary officer.”¹²⁴

According to the Justice System, sexual harassment is considered both a criminal offense and civil wrong, which can be handled by a criminal or disciplinary hearing, as well as a filing of claim for compensation. The General Staff Command Advisor for Women’s Matters through the Equal Employment Office (EEO), by unit commanders, and by adjutant officers all share the responsibility of developing and implementing policies for the prevention of “harm of a sexual nature.”¹²⁵

¹²² “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 1, 2015, http://responsesystemspanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.

¹²³ “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 1, 2015, http://responsesystemspanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.

¹²⁴ Lisa, Schenck, “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 1, 2015, http://responsesystemspanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.

¹²⁵ “Military Justice System: Adjudication of Sexual Offenses: Israel,” *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

The Israeli Military Justice System lays out the procedures for filing and investigating sexual offenses. These procedures are what make Israel's justice system unique from many other justice systems around the world:

GSO 33.0145 provides that victims of sexual offenses may seek assistance, treatment, and guidance by contacting their commanders (except where the commander is the alleged offender themselves), soldiers appointed by the commander to handle sexual harassment complaints, or the unit's medical or mental health officers, as well as EEO personnel. Victims may be reassigned to a different unit after having being heard and following consultation with their commander.

Commanders who have been informed of allegations of sexual offenses must report such complaints to adjutant officers and in their absence to the EEO, to their own unit commanders, and to the MAG. A report-alleging perpetration of sexual offenses will not be forwarded to a commander if the soldier requested confidentiality or when the commander is the subject of the complaint.

Upon receipt of a complaint an adjutant officer must interview the complainant, fill out a complaint form, and open a file for a sexual offense complaint. The complainant may then choose to have the complaint investigated either by an investigative officer or by the Military Investigative Police (MIP).

When there is suspicion of violence, as in allegations of rape, forced sodomy, etc., the complaint file must be transferred to the MIP (or the Israeli police when the alleged perpetrator is a civilian), even in the absence of the complainant's consent.

In addition to having their complaints investigated and adjudicated by the IDF, complainants are entitled to file a civil complaint against their alleged perpetrators.¹²⁶

After the investigation is completed, all findings, whether done by the MIP or investigative officers, must be reported to MAG. The decision to adjudicate sex offenses is then made by the military advocate, not commanders.¹²⁷

¹²⁶ "Military Justice System: Adjudication of Sexual Offenses: Israel," *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

“Lighter” sexual offenses may be handled in disciplinary proceedings rather than in military courts. These cases must always be presided over by, “AOs [adjudication officers] who have a rank of at least Lieutenant Colonel and legal education or specific training in handling sexual harassment cases from the IDF School of Military Justice.”¹²⁸ Additionally, it is MAG who determines which AOs are assigned to sexual offenses. Thus, even in these “lighter” cases, where arbitration is done within military ranks, the commanders do not possess the power to assign officers to the case.¹²⁹ This policy was intended to increase transparency in the military legal system and ensure adjudication officers who may be biased do not preside over certain cases.¹³⁰

External Legal Factors: Laws and Court Cases

While the IDF generally operates independently from the Israeli Government, including its own military judicial system, MJL, outside forces have been able to influence change within the military, including reform in sexual harassment management. Both the Knesset (Israeli Parliament) and the Supreme Court have been able to assist change in the IDF. Member of the Knesset (MK) Naomi Chazan is a longtime supporter of women’s rights in Israel. She served as a member of the Israeli delegation to the UN

¹²⁷ “Military Justice System: Adjudication of Sexual Offenses: Israel,” *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

¹²⁸ “Military Justice System: Adjudication of Sexual Offenses: Israel,” *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

¹²⁹ Devanshi, Patel, “Education or Prosecution: Institutional Efforts to Combat Sexual Violence in the United States Military,” *Center on Democracy, Development, and the Rule of Law Stanford University*, 2014: accessed November 8, 2015.

¹³⁰ Devanshi, Patel, “Education or Prosecution: Institutional Efforts to Combat Sexual Violence in the United States Military,” *Center on Democracy, Development, and the Rule of Law Stanford University*, 2014: accessed November 8, 2015.

Conference on Women in Nairobi in 1985 and to the Fourth World Conference on Women in Beijing in 1995.¹³¹ Directed by pressure from MK Naomi Chazan, the IDF began collecting data on sexual harassment complaints within its units for the first time in 1995.¹³²

Following the decision to record data regarding military sexual harassment, the Knesset passed the Prevention of Sexual Harassment Law, 5758- 1998. The law was designed, “to prohibit sexual harassment in order to protect human dignity, liberty and privacy and to promote equality between the sexes.”¹³³ Unlike most laws passed by the Knesset, the Prevention of Sexual Harassment Law included language specifically targeted towards the IDF. Section seven of the law frameworks the “steps to be taken by employers,” and section eight outlines that, “failure to publish a code of practice is an offense.”¹³⁴ In section eleven, the statute addresses the status of the state affirming, “This Law shall apply to the State; for the purposes of sections 7 and 8, where there is no employee-employer relationship between the Security Forces and the person serving in the Security Forces, the Security Forces shall be regarded as the employer and the person

¹³¹ Tzili, Mor, “Law as a Tool for a Sexual Revolution: Israel’s Prevention of Sexual Harassment Law-1998,” *Michigan Journal of Gender and Law*.

¹³² Tzili, Mor, “Law as a Tool for a Sexual Revolution: Israel’s Prevention of Sexual Harassment Law-1998,” *Michigan Journal of Gender and Law*.

¹³³ “Prevention of Sexual Harassment Law, 5758- 1998,” *State of Israel, Ministry of Justice*, accessed October 27, 2015, <https://www.jewishvirtuallibrary.org/jsource/Politics/PrventionofSexualHarassmentLaw.pdf>.

¹³⁴ “Prevention of Sexual Harassment Law, 5758- 1998,” *State of Israel, Ministry of Justice*, accessed October 27, 2015, <https://www.jewishvirtuallibrary.org/jsource/Politics/PrventionofSexualHarassmentLaw.pdf>.

serving shall be regarded as the employee.”¹³⁵ The law defines ‘Security Forces’ as Israel Defense Forces, The Israel Police, the Prison Service and the other security organizations of the State.¹³⁶

This law not only made sexual harassment in the military a criminal offense, but it also made it legal for the victim of a sexual offense to pursue a civil suit against their perpetrator.¹³⁷ After the bill was passed, the IDF “produced both a manual and a mandatory training film about sexual harassment.” While the bill was still being negotiated in parliament, the military, “launched a 24-hour hotline for complaints and distributed regulations about appropriate behavior.”¹³⁸ In addition to legislation, court cases also play an important role in promoting a harassment free environment in the military. As previously mentioned, the Supreme Court played a large role in prompting reform in the MJL.

Supreme Court cases also have the capability of both affecting policy change within the military and influencing the public’s impression of the IDF. In the case of *DOE v. Galili*, Nir Galili was announced by the Chief of Staff to be promoted to the rank of General despite the fact that three years earlier a female soldier had accused him of

¹³⁵ “Prevention of Sexual Harassment Law, 5758- 1998,” *State of Israel, Ministry of Justice*, accessed October 27, 2015, <https://www.jewishvirtuallibrary.org/jsource/Politics/PrventionofSexualHarassmentLaw.pdf>.

¹³⁶ “Prevention of Sexual Harassment Law, 5758- 1998,” *State of Israel, Ministry of Justice*, accessed October 27, 2015, <https://www.jewishvirtuallibrary.org/jsource/Politics/PrventionofSexualHarassmentLaw.pdf>.

¹³⁷ Cecilia, M. Bailliet, “Examining Sexual Violence in the Military Within the Context of Eritrean Asylum Claims Presented in Norway,” *International Journal of Refugee Law*, 27 (2015): 1-40; DOI: 10.1093/ijrl/eem052.

¹³⁸ Tzili, Mor, “Law as a Tool for a Sexual Revolution: Israel’s Prevention of Sexual Harassment Law-1998,” *Michigan Journal of Gender and Law*.

sexual harassment under his command.¹³⁹ At the time of the original accusation, Galili was convicted of “behavior unbecoming an officer.”¹⁴⁰ When the promotion was announced the female officer filed a petition with the Supreme Court and claimed that, “if Galili were promoted, public faith in the army would be shattered and the positive image of officers would be damaged.”¹⁴¹ The Court ruled that “ ‘Security’ (i.e., the need for effective officers) no longer justified turning a blind eye to improper behavior; as a public trustee, the chief of staff was responsible to a broader constituency.”¹⁴² This was the first time in Israeli history that a court halted the promotion of a military officer. The case happened shortly before the Prevention of Sexual Harassment Law went into effect.¹⁴³

Data Analysis: Does the Israeli System Work?

Between the years of 2007 and 2009, the IDF Women’s Affairs Office reported four categories of complaints that were received in that office. The office reported that: “56% were physical harassment; 28% were verbal harassment; 13% were peeping; and

¹³⁹ Dani, Kom, *Public Policy in Israel: Perspectives and Practices*, New York: Lexington Books, 2002, pgs. 215-216.

¹⁴⁰ Dani, Kom, *Public Policy in Israel: Perspectives and Practices*, New York: Lexington Books, 2002, pgs. 215-216.

¹⁴¹ Dani, Kom, *Public Policy in Israel: Perspectives and Practices*, New York: Lexington Books, 2002, pgs. 215-216.

¹⁴² Dani, Kom, *Public Policy in Israel: Perspectives and Practices*, New York: Lexington Books, 2002, pgs. 215-216.

¹⁴³ Gideon, Doron, Arye, Naor, and Assaf, Meydani, *Law and Government in Israel*, New York: Routledge, 2010, pg. 59.

3% or 15 were rape.”¹⁴⁴ Lisa M. Schenck, an Associate Dean for Academic Affairs, Professorial Lecturer in Law, and Senior Adviser to the National Security Law, collected data about reports of, “verbal abuse, peeping, and physical harassment, investigations of physical harassment (but not non-touching harassment), and indictments” from a 2010 Haaretz article to produce the following table¹⁴⁵:

Military Sex Offense Reports and Indictments in Israel							
	2007	2008	2009	2010	2011	2012	Average
Reports	318	363	445	483	583	500	442
Investigations	94	103	131	143	144		123
% of Reports Investigated	30%	28%	27%	29%	25%		28%
Indictments		28	26	20	14	27	23
% of Reports Resulting in Indictments		8%	6%	4%	2%	5%	5%
% of Investigations Resulting in Indictments		27%	20%	14%	10%		19%

¹⁴⁴ Lisa, Schenck, “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 5, 2015, http://responsesystemspanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.

¹⁴⁵ Lisa, Schenck, “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 5, 2015, http://responsesystemspanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.

The table above shows that, with the exception of 2012, sex offense reports in the IDF have been gradually increasing. The table also illustrates that while reports are generally increasing, the percentage of reports being investigated has stayed relatively stable; and the percentage of investigations resulting in indictments has steadily decreased.

It is hard to say definitively whether the rise in sexual offense reports is due to an actual increase in assaults or whether, “it merely reflected rising awareness of the subject, resulting from a comprehensive IDF campaign to root out sexual harassment in its ranks.”¹⁴⁶ With sexual harassment legislation being passed and high profile military court cases regarding sex offenses being publicized, the reason for an increasing number of complaints within the IDF could be a result of growing awareness to the issue. As for the decreasing amount of investigation resulting in indictments, it is difficult to determine whether this is a result of a flawed Military Justice Law system, or whether an increasing amount of reports didn’t warrant an indictment. The table above doesn’t specify the percentage of reported complaints that resulted in a lesser punishment like rank demotion or dishonorable discharge. Additionally, statistics on completed trials in Israel are not available so it is impossible to analyze the percentage of indictments that resulted in convictions.¹⁴⁷ Furthermore, because the IDF does not have an internal organization devoted to reducing sexual harassment, data collection is rather limited. The reports

¹⁴⁶ “Military Justice System: Adjudication of Sexual Offenses: Israel,” *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.

¹⁴⁷ Lisa, Schenck, “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 5, 2015, http://responsesystemspanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.

above do not compare actual sexual assault incidents to reported accounts because this information is not available. In order to fully understand the effect the military legal system has on sex offenses in the IDF, data collection must become more regular and more comprehensive.¹⁴⁸

According to Law Professor, Lisa Schenck, the recent increase in reporting sexual harassment in the IDF cannot be a result of removing the chain of command from authority because the, “fundamentals of the current system establishing the authority of the MAG were created by the Military Justice Law (MJL), which came into force on January 1, 1956.” She claims the rise in reporting may be due to the “prosecution of some high profile, non-military sex crimes.”¹⁴⁹ Contradictory to Schenck, Brig. Gen. Rachel Tevet Wiesel, the women’s affairs adviser to the IDF’s chief of staff, claims that, “the rise in reporting rates, specifically from male victims is a product of the fact that ‘there is no obligation to report to the commanders.’”¹⁵⁰ She feels that when victims are given the option to maintain anonymity, they are more likely to seek both mental and psychological help, as well as pursue legal actions, because they will not risk professional

¹⁴⁸ Devanshi, Patel, “Education or Prosecution: Institutional Efforts to Combat Sexual Violence in the United States Military,” *Center on Democracy, Development, and the Rule of Law Stanford University*, 2014: accessed November 8, 2015.

¹⁴⁹ Lisa, Schenck, “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 5, 2015, http://responsesystemspanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.

¹⁵⁰ Devanshi, Patel, “Education or Prosecution: Institutional Efforts to Combat Sexual Violence in the United States Military,” *Center on Democracy, Development, and the Rule of Law Stanford University*, 2014: accessed November 8, 2015.

repercussions.¹⁵¹

In addition the IDF Manpower Directorate review reported that the rise in complaints could be a result of a rise in sexual harassment and assault incidents, a rise in the awareness about sexual harassment and assault due to social campaigns focusing on the issue, or IDF instructions to commanders and soldiers to immediately report these cases.¹⁵² Amos Guiora, a University of Utah law professor and former IDF MAG, believes that the increased reports are due to, “recent high profile prosecution along with the balance of judicial power that Israel established between MAGs and commanders.”¹⁵³

In terms of previous arguments mentioned in the literature review, there is little evidence regarding the effects of removing adjudication authority from commanders. According to Lawrence Korb, a senior fellow at the Center for American Progress, “no evidence has been presented that the readiness or unit cohesion of these militaries has declined because commanders are not handling criminal cases.”¹⁵⁴ Reports from the IDF actually show that victims’ confidence in the military has gone up, not declined, as a

¹⁵¹ Devanshi, Patel, “Education or Prosecution: Institutional Efforts to Combat Sexual Violence in the United States Military,” *Center on Democracy, Development, and the Rule of Law Stanford University*, 2014: accessed November 8, 2015.

¹⁵² Lisa, Schenck, “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 5, 2015, http://responsesystemspanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.

¹⁵³ Lisa, Schenck, “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 5, 2015, http://responsesystemspanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.

¹⁵⁴ Devanshi, Patel, “Education or Prosecution: Institutional Efforts to Combat Sexual Violence in the United States Military,” *Center on Democracy, Development, and the Rule of Law Stanford University*, 2014: accessed November 8, 2015.

result of the legal change.¹⁵⁵

Current Situation in Israel

While sexual harassment and assault in the IDF continues to be problematic to this day, reports show that improvements have occurred. In 1996, the Israel Women's Network reported that one in three women in Israel is the victim of a sexual assault in their life.¹⁵⁶ According to the joint findings of the rape crisis centers in Israel, 75% of the women who sought their services between 1992 and 1994 were 25 years old or younger. "In other words, a predominant proportion of the victims reporting sexual assault are roughly the same age as most of the active 'fighters,' and they comprise a similar if not higher proportion of the population in that age group."¹⁵⁷ These statistics show that army aged females serving in the IDF are in the group most at risk of sexual harassment, assault, and rape in Israel. A more recent report revealed that in 2013, one in eight female IDF soldiers were harassed.¹⁵⁸ While one in eight sexual harassments is still fairly high, it is a significant decrease from the statistics of 1996.

¹⁵⁵ Devanshi, Patel, "Education or Prosecution: Institutional Efforts to Combat Sexual Violence in the United States Military," *Center on Democracy, Development, and the Rule of Law Stanford University*, 2014: accessed November 8, 2015.

¹⁵⁶ Rela, Mazali, "And What About the Girls?" *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, 6 (2003): 39-50.

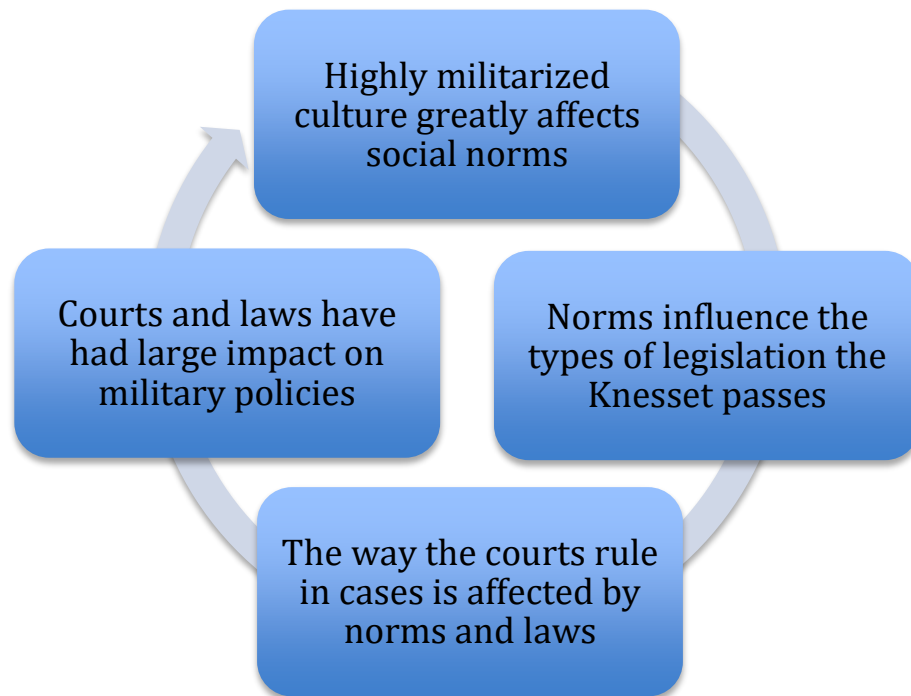
¹⁵⁷ Rela, Mazali, "And What About the Girls?" *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, 6 (2003): 39-50.

¹⁵⁸ Omri, Efraim, "Report: 1 in 8 IDF women soldiers experienced sexual assault in 2013," *Ynet News*, accessed November 30, 2015, <http://www.ynetnews.com/articles/0,7340,L-4484305,00.html>.

Two years after the 1996 report, the Knesset ratified the Prevention of Sexual Harassment Law, 5758. This law fundamentally changed the way sex offenses were treated in Israeli society, including the military. This law gave the victim the option to file civil suits against the military for mishandling these cases. By making the IDF accountable for the management of the complaints of victims of sexual harassment and assault, this law could arguably be considered a catalyst for the reforms and changes the IDF has undertaken since 1998. While annual reports about sexual harassment cases from the years 1996-2007 would clarify the actual affect this law has had on sexual harassment reports in the IDF, clearly in the last two decades efforts made by Israel to curb sexual violence in the armed forces has had some success.

Analysis

The Israeli military is unique in a number of ways. Unlike many military justice systems around the world, Israel has removed the power to adjudicate sexual harassment and assault cases from the commanders. As previously mentioned the Military Justice Law allows for victim confidentiality to prevent professional retaliation. Also, MAG attorneys, not commanders, are required to handle these cases, which means legally trained, impartial officers are in charge of handling these cases. Additionally, Israel is one of the few countries that conscript both male and female citizens. It is a nation that has a highly militarized culture that affects many aspects of civilian life.



In Israel the military and civilian society are closely intertwined. The highly militarized society affects the social and behavioral norms many Israelis live by. These norms influence the types of legislation the Knesset passes and how the courts interpret these laws. In turn these laws and court cases have the ability to affect the way the military operates. And finally, because of the respect Israel has for its armed forces, the policies the IDF implements impact the way Israeli society thinks. While all of these factors: culture, laws and court cases, and the military justice system, influence the rates in which sex offenses are handled in the military, the Military Justice System of the IDF is most effective at increasing reporting rates for sexual harassment.

In contrast to Margaret Devilbiss's argument, my case study found that external factors play a very important role in initiating change in the military. Devilbiss found that the most important internal factors were military need followed by the changing military

organizational structure. While her most effective external factors were court cases followed by laws and legislation, she argues that internal factors overall are more powerful than external ones. Although her article relates these factors to evolution of women's status in the military, when I applied her factors to the progress of reducing sexual harassment in the military I found that external factors are very important.

When I examined internal factors, I looked at the Military Justice Law. Since its establishment in 1955 the system hasn't had many statutory changes, except for a few reforms, most notably the resolution to remove the decision to adjudicate sex offenses from the commanders. This decision came largely as a result of requirements imposed by several Supreme Court case decisions. It did not come as a product of either military need or changing military organizational structure.

Additionally, the Prevention of Sexual Harassment Law, 5758- 1998, has had a very great impact on how sexual harassment cases are treated in both Israeli civilian life and in security forces, such as the IDF and police forces. Immediately following this ratification of this law, the IDF produced both a manual and began requiring soldiers to undergo mandatory training about sexual harassment. Even while the law was being negotiated in parliament, the IDF launched a 24-hour hotline for victims of sex offenses. In terms of legislation, Devilbiss argues that external factors are more effective in reforming military practices when the military perceives this law as an act that will change military policies. This concept aligns with the case of the IDF in terms of the Prevention of Sexual Harassment Law, 5758- 1998. Even before the law was actually enacted, the IDF began reacting to it and decided to introduce a hotline.

In terms of the military justice legal system, the main argument among scholars is whether to remove the decision to investigate and prosecute sex offenses from the chain of command or not. Supporters of this action claim that commanders should be removed from this process because they are not required to have legal training, often times perpetrators are superior officers, and commanders may fear retaliation themselves for not preventing a sexual assault in their unit. Supporters of keeping the chain of command in tact assert that the military needs commanders to be in absolute control for unit cohesion and combat readiness. They claim that improvements in sexual harassment rates will only come from institutional culture, not external legislative action. In the case of the IDF, removing the decision to adjudicate sexual assaults from the commanders has not affected the way military units run. Neither combat readiness, nor unit cohesion have declined as a result of the current justice system. In fact, reports from the IDF show the opposite. Victims' confidence in the military has actually increased as a result of the legal change.

While internal and external factors have arguably influenced the rise in sexual harassment and assault reports, it is difficult to say whether a military's justice system affects the rate of sexual harassment and assault or not. Cynthia Cockburn's previous argument states that the threat of punishment is fairly ineffective in deterring sexual assault in the military, but without more detailed data about reporting versus incidents, we cannot analyze the affect the threat of punishment has on sexual harassment limitation in the IDF. Although Israel's military legal system has increased victim's safety and

confidence in reporting, it is not the silver bullet solution for reducing sexual assault incidents.

While my case study focused mainly on the legal aspects surrounding sex offenses in the military, there are cultural factors to this problem as well. Women in the IDF make up about one third of the armed forces and about a quarter of all officer positions, yet they still face sexual harassment and assault.¹⁵⁹ Simply the presence of women in the military doesn't have a large role in lessening sex offense cases.

The behavioral and social norms in Israel have been greatly affected by living in a highly militarized society. Israel is still a very patriarchal society, with an increased value placed on these masculine behaviors in the military. Many women in the military often try to (or are forced to) mimic the characteristics of their male counterparts. The military is held in high regards in Israel through both the idealized image of the soldier and the notion that war is imposed upon the state, not chosen. Because of this wide respect for the IDF, many Israeli citizens do not recognize how the military has influenced their way of thinking. Even as a pronounced feminist, when Mazali's sons were born she immediately thought of them as future fighters, an experience she did not have when her daughter was born.¹⁶⁰

Because culture does have an impact on this problem, further research should be done to examine this aspect. An interesting future case study would be to analyze if the

¹⁵⁹ Devanshi, Patel, "Education or Prosecution: Institutional Efforts to Combat Sexual Violence in the United States Military," *Center on Democracy, Development, and the Rule of Law Stanford University*, 2014: accessed November 8, 2015.

¹⁶⁰ Rela, Mazali, "And What About the Girls?" *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, 6 (2003): 39-50.

United States' recent decision to open all combat jobs to women affects the rates in which US soldiers experience sexual harassment and assaults.¹⁶¹ On December 3, 2015, Defense Secretary, Ashton B. Carter, announced that the Pentagon would open all combat positions to females, saying, "There will be no exceptions... They'll [women] be allowed to drive tanks, fire mortars and lead infantry soldiers into combat. They'll be able to serve as Army Rangers and Green Berets, Navy SEALs, Marine Corps infantry, Air Force parajumpers and everything else that was previously open only to men."¹⁶² This decision will provide future researchers a unique opportunity to see how complete female integration in the armed forces influences culture and possibly sexual assaults.

Concluding Remarks

There are many lessons we can take away from the Israeli military. First, we learned that while the structure of the military's justice system is an important factor, it is not sufficient on its own to deter sex offenses. Second, we discovered that culture does influence the number of sexual harassment incidents, as well as reporting rates. As in the case of the Norwegian military, sexual harassment is a rare occurrence due to the extremely egalitarian nature of both its military and society. The third, and probably most important finding from the research, is how little data there is regarding military sex offenses. Some militaries do have special organizations that are responsible for researching and helping sexual assault victims, such as the U.S. Sexual Assault

¹⁶¹ Mathew, Rosenberg, and Dave, Philips, "All Combat Roles Now Open to Women, Defense Secretary Says," *NY Times*, accessed December 4, 2015, http://www.nytimes.com/2015/12/04/us/politics/combat-military-women-ash-carter.html?_r=0.

¹⁶² Mathew, Rosenberg, and Dave, Philips, "All Combat Roles Now Open to Women, Defense Secretary Says," *NY Times*, accessed December 4, 2015, http://www.nytimes.com/2015/12/04/us/politics/combat-military-women-ash-carter.html?_r=0.

Prevention and Response Office (SAPRO). But a large majority of armed forces around the world fail to collect reliable, annual data.

Based on my findings, I would recommend that militaries worldwide remove the authority to adjudicate sexual harassment and assault from the commanders. By removing the authority from the chain of command, reporting rates will rise as a result of victim confidentiality. I would also recommend that all militaries create a division of the armed forces solely dedicated to collecting data and preventing sexual offenses.

In terms of using Israel as a model for other militaries, the IDF has many good qualities, but is not perfect. The IDF is working to improve its sexual harassment rates, but still has a way to go before it can attribute its sex offense cases to ‘a few bad eggs’ rather than a systematic problem. I believe at the end of the day, the Israeli military is capable of diminishing sex offense incidents, but it will require both cultural change and a continuation of institutional reform to reflect the changing times.

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Bibliography

- Bailliet, M. Cecilia, "Examining Sexual Violence in the Military Within the Context of Eritrean Asylum Claims Presented in Norway," *International Journal of Refugee Law*, 19 (2007): 471-510, accessed September 16, DOI: 10.1093.
- Bancroft, Caitlin, "Pentagon Releases Startling New Statistics On Military Sexual Assault," *Policy Mic*, accessed September 2, 2015, <http://mic.com/articles/72503/pentagon-releases-startling-new-statistics-on-military-sexual-assault>
- Campbell, Eric, "The Gender Mission," *ABC News: Foreign Correspondent*, accessed September 30, 2015, <http://www.abc.net.au/foreign/content/2014/s4061340.htm>.
- Castro, Carl Andrew, et al., "Sexual Assault in the Military," *Curr Psychiatry Rep*, 17 (2015): 1-13, DOI: 10.1007.
- Cockburn, Cynthia, "Why are You doing this to Me?": identity, power and sexual violence in war," in *Sexuality, Gender and Power: Intersectional and Transnational Perspectives*, ed. Anna G. Jónasdóttir, Valerie Bryson and Kathleen B. Jones, (Routledge: London, 2010), 189).
- "Complete Results from Major Survey of U.S. Military Sexual Assault, Harassment Released," *The RAND Corporation*, accessed September 2, 2015, <http://www.rand.org/news/press/2015/05/01.html>.
- Connell, Dan, "Foreign Policy in Focus: Eritrea," *Interhemispheric Resource Center and Institute for Policy Studies*, 2 (1997): 1-4;
- Cooper, Helene, "Pentagon Study Finds 50% Increase in Reports of Military Sexual Assaults," *International New York Times*, accessed September 2, 2015, <http://www.nytimes.com/2014/05/02/us/military-sex-assault-report.html>.
- "Criminal Proceedings in the Military Courts," *IDF MAG Corps*, accessed October 27, 2015, <http://www.law.idf.il/647-2350-en/Patzar.aspx>.
- Defeis, F. Elizabeth, "U.N. Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity," *Washington University Global Studies Law Review*, 7 (2008): 185-212.
- "Defense Service Law- Consolidated Version 5746- 1986," *Israel Ministry of Foreign Affairs*, accessed October 28, 2015, <http://www.mfa.gov.il/mfa/mfa-archive/1980-1989/pages/defence%20service%20law%20consolidated%20version--%205746-1.aspx>.

- Margaret, Conrad Devilbiss, "Women and Military Service: A History, Analysis, and Overview of Key Issues," *Air University Press*, 1990.
- Doron, Gideon, Arye, Naor, and Assaf, Meydani, *Law and Government in Israel*, New York: Routledge, 2010, pg. 59.
- Efraim, Omri, "Report: 1 in 8 IDF women soldiers experienced sexual assault in 2013," *Ynet News*, accessed November 30, 2015, <http://www.ynetnews.com/articles/0,7340,L-4484305,00.html>.
- Elster, Ellen, "Patriarchy," *Loaded Questions*, ed. W. Chapkis, Amsterdam: The Transnational Institute, 1981.
- "Fact Sheet on Israeli Military Justice," *Response System Panel: George Washington University Law School* accessed November 1, 2015, http://responsesystempanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03_Israel_Fact_Sheet.pdf.
- "Frequently Asked Questions," SHARP, accessed October 1, 2015, <http://www.sexualassault.army.mil/faqs.cfm#question1>.
- Grassbaugh, C. Jenna, "The Opaque Glass Ceiling: How Will Gender Neutrality in Combat Affect Military Sexual Assault Prevalence, Prevention, and Prosecution?" *Ohio State Journal of Criminal Law*, 11 (2014): 319-352.
- Gruber, E. James, "The Impact of Male Work Environments and Organizational Policies on Women's Experiences of Sexual Harassment," *Gender and Society*, 12 (1998): 301-320, DOI: 10.1177.
- Haugaard, Torgeir, "Unisex Rooms Made Gender Insignificant in Army, Norwegian Study Finds," *Science Daily*, accessed September 30, 2015, <http://www.sciencedaily.com/releases/2014/03/140320111756.htm>.
- Hoyle, Lindsay, "Command Responsibility- A Legal Obligation to Deter Sexual Violence in the Military," *Boston College International and Comparative Law Review*, 37 (2014): 353-388.
- "IDF Background Information," *IDF Mahal*, accessed October 28, 2015, <http://www.mahal-idf-volunteers.org/information/background/content.htm>.
- "Israel Ends Ultra-Orthodox Military Service Exemptions," *BBS News*, accessed November 2, 2014, <http://www.bbc.com/news/world-middle-east-26542316>.
- "Israel: Military service, including age of recruitment, length of service, grounds for exemption, and availability of alternative service (March 2009-January 2013),"

- UNHCR: The UN Refugee Agency*, accessed November 2, 2015, <http://www.refworld.org/docid/5152beb62.html>.
- Kimes, Patricia, "Incidents of Rape in the Military Much Higher than Previously Reported," *Military Times*, accessed October 1, 2015, <http://www.militarytimes.com/story/military/pentagon/2014/12/04/pentagon-rand-sexual-assault-reports/19883155/>.
- Kom, Dani, *Public Policy in Israel: Perspectives and Practices*, New York: Lexington Books, 2002, pgs. 215-216.
- Koons, Jennifer, "Sexual Assault in the Military: Can the Pentagon Stem the Rise in Incidents," *CQ Researcher*, accessed October 2, 2015,
- Kwon, Insook, "Sexual Violence Among Men in the Military in South Korea," *Journal of Interpersonal Violence*, 22 (2007): 1024-1042, DOI: 10.1177.
- Mazali, Rela, "And What About the Girls?" *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, 6 (2003): 39-50.
- "Military Conscription Policy by Country," *Charts Bin*, accessed December 7, 2015, <http://chartsbin.com/view/1887>.
- "Military Justice System: Adjudication of Sexual Offenses: Israel," *Library of Congress*, accessed October 27, 2015, <http://www.loc.gov/law/help/militaryjustice/israel.php>.
- "Military Sexual Violence: Rape, Sexual Assault and Sexual Harassment," SWAN Service Women's Action Network, accessed September 21, 2015, <http://servicewomen.org/military-sexual-violence/>
- Mitnick, Joshua, "The Israel Defense Forces," My Jewish Learning, accessed September 20, 2015, <http://www.myjewishlearning.com/article/the-israel-defense-forces/2/>.
- Mor, Tzili, "Law as a Tool for a Sexual Revolution: Israel's Prevention of Sexual Harassment Law-1998," *Michigan Journal of Gender and Law*.
- Orange, Richard, "Norway's Male Soldiers Allowed Ponytails," *The Local*, accessed September 30, 2015, <http://www.thelocal.no/20130809/norways-male-soldiers-allowed-ponytails>.
- Patel, Devanshi, "Education or Prosecution: Institutional Efforts to Combat Sexual Violence in the United States Military," *Center on Democracy, Development, and the Rule of Law Stanford University*, 2014: accessed November 8, 2015.

- “Prevention of Sexual Harassment Law, 5758- 1998,” *State of Israel, Ministry of Justice*, accessed October 27, 2015, <https://www.jewishvirtuallibrary.org/jsource/Politics/PrventionofSexualHarassmentLaw.pdf>.
- Ratzlav-Katz, Nissan, “28% of Army-Age Israelis Do Not Serve,” *Arutz Sheva*, accessed November 2, 2015, <http://www.israelnationalnews.com/News/News.aspx/124164#.VjgM62SrTLY>.
- Rogan, Helen, *Mixed Company: Women in the Modern Army*, New York: G.P. Putnam’s Sons, 1981.
- Rosenberg, Mathew, and Dave, Philips, “All Combat Roles Now Open to Women, Defense Secretary Says,” *NY Times*, accessed December 4, 2015, http://www.nytimes.com/2015/12/04/us/politics/combat-military-women-ash-carter.html?_r=0.
- Rudoren, Jodi, “Looking to Israel for Clues on Women in Combat,” *New York Times*, accessed November 18, 2015, http://www.nytimes.com/2013/01/26/world/middleeast/looking-to-israel-for-clues-on-women-in-combat.html?_r=0.
- Sadler, Anne G., Brenda M. Booth, Brian L. Cook, Bradley N. Doebbeling, “Factors Associated With Women’s Risk of Rape in the Military Environment,” *American Journal of Industrial Medicine*, 43 (2003): 262-273, accessed September 2, 2015, DOI 10.1002.
- Sasson-Levy, Orna, “Feminism and Military Gender Practices: Israeli Women Soldiers in ‘Masculine’ Roles,” *Sociological Inquiry*, 73 (2003): 440-465, DOI: 10.1111/1475-682X.00064.
- Schenck, Lisa, “Fact Sheet on Israeli Military Justice,” *Response System Panel: George Washington University Law School* accessed November 5, 2015, <http://responsesystempanel.whs.mil/public/docs/meetings/20130924/materials/allied-forces-mil-justice/other/03 Israel Fact Sheet.pdf>.
- Schwartz, Felicia, “Hagel Urges Sexual Assault Cases Stay in Military Command Structure,” *The Wall Street Journal*, accessed October 12, 2015, <http://www.wsj.com/articles/hagel-urges-sexual-assault-cases-stay-in-military-command-structure-1421444631>.
- Jackie, Speier, “Why Rapists in the Military Get Away with it,” *House.Gov*, accessed October 1, 2015, http://speier.house.gov/index.php?option=com_content&view=article&id=705:why-rapists-in-military-get-away-with-it&catid=13:op-eds&Itemid=17.

- “Statistics: Women’s Service in the IDF for 2010,” Israel Defense Forces, accessed September 21, 2015, <https://www.idfblog.com/blog/2010/08/25/statistics-womens-service-in-the-idf-for-2010-25-aug-2010/>.
- “The Beginning, Women in the Early IDF,” Israel Defense Forces, accessed September 24, 2015, <http://www.idf.il/1283-9679-en/Dover.aspx>.
- Titunik, F. Regina, “The First Wave: Gender Integration and Military Culture,” *Armed Forces & Society*, 26 (2000): 229-257.
- Turckik, A. Jessica, and Susan, M. Wilson, “Sexual assault in the U.S. military: A review of the literature and recommendations for the future,” *Aggression and Violent Behavior*, 15 (2010): 267–277, DOI: 10.1016
- “US: Military Whistleblowers at Risk,” Human Rights Watch, accessed October 1, 2015, <https://www.hrw.org/news/2015/05/18/us-military-whistleblowers-risk>.
- “Why Norway Says No Way to Gender Segregation in the Military,” *The Conversation*, accessed September 30, 2015, <http://theconversation.com/why-norway-says-no-way-to-gender-segregation-in-the-military-29981>.
- Winerip, Michael, “Revisiting the Military’s Tailhook Scandal,” *International New York Times*, accessed September 16, 2015, http://www.nytimes.com/2013/05/13/booming/revisiting-the-militarys-tailhook-scandal-video.html?_r=0.
- “Women of the Israel Defense Forces: History in Combat Units,” Jewish Virtual Library, accessed September 24, 2015, http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/femcom.html.