

**THE LEGAL CULTURE AND MIGRATION: STRUCTURE,
ANTECEDENTS AND CONSEQUENCES**

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ABSTRACT

The concept of legal culture has been receiving a growing attention from scholars; more recently, it has been the subject of numerous empirical investigations. However, this research is often over-generalizing, because it overemphasizes the similarity of the opinions held by different segments of population. Furthermore, the relationship of migration and the change—or persistence—of the attitudes and perceptions that constitute legal culture has not received particular attention in the scholarly literature. Drawing on 102 in-depth interviews with representatives of three segments of the Israeli population—immigrants of the early 90's from the former Soviet Union, secular Israeli Jews and members of the Israeli Diaspora in Silicon Valley, CA—this research investigates various aspects of legal culture.

First, exploring four parameters of the legal culture—attitudes towards the rule of law, the subjective significance of individual liberty, perceptions of the neutrality of law, and dispute resolution preferences, including readiness to pursue rights and attitudes towards the courts—this study provides a comprehensive account of the legal cultures of these three groups.

The second important finding of this research is the persistence of the attitudes and perceptions that constitute legal culture over time. It appears that although two decades elapsed since the respondents of the first group emigrated from the former Soviet Union to Israel, they still express notions and demonstrate attitudes that bring to mind the Iron Fist of the Soviet Rule. Additionally, it appears that the attitudes characteristic of the pre-immigration outlooks affects—to a certain extent—the socialization of the new generation growing up and being educated in Israel.

Finally, this research calls into focus the significant disparities of the attitudes between various groups of population, leading to the conclusion that these differences warrant special consideration on the part of the policy-makers, whose ability to effectively secure desired behavior by means of regulation is linked to the attitudes of the population.

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I. INTRODUCTION

This research is located at the intersection of legal, anthropological and public policy studies. It investigates how migration choices and backgrounds of members of the same multicultural society affect their values, attitudes, and opinions toward the law and the legal system. These attributes collectively describe *legal sub-cultures*.

Legal culture of any given society—which is comprised of *legal sub-cultures* of various groups that inhabit it—constitutes public knowledge of and behavior patterns with respect to the law and legal systems.¹ In the legal sphere—as in other aspects of people’s everyday lives—individuals vary tremendously in their notions about the law and how legal institutions function in the society. And their behaviors—as part of their *legal culture*—illustrate this variety. For instance, why will one victim of a crime call the police, whereas another will seek revenge directly? Why one person meticulously follows the letter of the law, while another unabashedly cheats on her taxes? “Legal culture, like general culture, is a body of ideas, values, and attitudes. We can talk about the legal culture of a community; this does not mean, of course, that everybody shares the same ideas—what we refer to are patterns, tendencies, trends.”²

Knowledge of *legal sub-cultures* becomes even more essential in the age of globalization, when societies are comprised of individuals from many different backgrounds. These individuals bring to the ‘melting pot’ their own ideology, history, culture. The fact that “within a single multicultural or multiethnic society, laws and legal institutions may have different meanings for different culture groups”³ presents a difficulty, since such differences of perception can result in tensions between the existing legal system and the legal behavior of the various groups within any given society. Such

¹ Lawrence M. Friedman, *THE REPUBLIC OF CHOICE: LAW, AUTHORITY AND CULTURE*, Cambridge, Mass. (1990).

² Lawrence M. Friedman, *Is there a Modern Legal Culture?*, 7 *Ratio Juris.*, 117-131 (1994), at 120.

³ Gunter Bierbrauer, *Toward an Understanding of Legal Culture: Variations in Individualism and Collectivism between Kurds, Lebanese, and Germans*, 28(2) *Law & Society Review*, 243-264 (1994), at 244.

conflicts might lead the legal system to become extraneous to certain groups, causing them to resort to other forms and venues of dispute resolution. Therefore, exploration and analysis of the *legal sub-cultures* is crucial.⁴

This research set out to investigate what notions, concepts and rationales inform or motivate attitudes toward law, and what has been the impact of migration, on the attitudes towards law. To address these issues, I focus on the legal cultures of three groups of Israelis (1) immigrants from the FSU who immigrated to Israel between the years 1990 and 1994 and who since then reside there, (2) Israeli secular Jews, and (3) members of the Israeli Diaspora in the ‘Silicon Valley’ (Santa Clara, CA.) The samples were similar to each other along the observable dimensions,⁵ other than the migration. In particular, the Silicon Valley respondents were similar to the Israeli Jewish respondents, except for the fact that they chose to relocate to California.⁶ The FSU immigrants were similar to the Israeli Jewish interviewees, except for the fact that they were brought up in the Soviet Union and immigrated to Israel in the early 90’s. This research design allowed me to focus solely on hitherto little explored effects of migration and cultural background on the legal culture. Using in-depth interviewing, I gathered multi-layered data on the attitudes and concepts that constitute legal culture.

⁴ Bierbrauer (1994), *supra note 3*; James L. Gibson and Gregory A. Caldeira, *The Legal Cultures of Europe*, 30(1) *Law and Society Review*, 55-86 (1996); Tom R. Tyler, *Multiculturalism and the Willingness of Citizens to Defer to Law and to Legal Authorities*, 25(4) *Law & Social Inquiry*, 983-1019 (2000).

⁵ Respondents were chosen in a way that minimized the disparities of elements that previous research found to affect the legal culture, such as socio-economic status, education level, age and religious beliefs (see Gibson and Caldeira (1996), *supra note 4*). As elaborated in the following Chapters, while the possibility that the disparities are founded in some unobserved parameters of the groups cannot be unequivocally rebuffed, the design of this research makes this possibility less plausible.

⁶ Prior to their relocation to CA, all of the respondents of the Silicon Valley group were brought up and educated in Israel.

Focusing on four particular aspects of *legal culture*,⁷ this research discovered a number of notable disparities in the perceptions that constitute legal culture among the segments of the Israeli population interviewed in course of this study. Although the samples were closely matched along the observable parameters, the interviewees often expressed views that suggest significant cultural differences in their socio-legal attitudes. In Chapter V, I provide a detailed outline of the results of the interviews, while Parts A, B and C of Chapter VI are devoted to a comprehensive discussion of the possible reasons that underlie the discovered outlooks.

Additionally to providing a detailed description of the perceptions and the attitudes that the members of the three groups in question hold with respect to law and legal system, the results of this research allow us to offer some insights⁸ regarding the process of transformation of the legal culture of the migrants—i.e., their *legal acculturation*.⁹ In addition to the discussion of *legal acculturation*, Part D of Chapter VI outlines certain factors that plausibly have implications for the change—or the preservation—of legal-cultural attitudes.

Finally, while this research did not specifically focus on examining the implications of particular legal-cultural attitudes for public policy-making, its findings, nevertheless, point to the crucial role of legal culture for effective policy-making. In particular, the findings suggest that differences in the legal-cultural perceptions of various segments of population warrant special consideration, which may promote successful implementation of desired policies.

Although this research focuses on Israelis, the issues of multiculturalism and ethnic diversity—as well as the concerns that arise with respect thereto—are not particular or peculiar solely to the Israeli society. Many contemporary societies—Israel and the U.S. are among them—support sustaining the moral and cultural values of

⁷ Namely, support for the rule of law, subjective perceptions of the significance of individual liberty, perceptions of the neutrality of law, and dispute resolution preferences and readiness to pursue rights.

⁸ The issue of the challenge posed by the attempt to attribute specific findings to particular element—or combination of elements—is discussed at length in the following Chapters.

⁹ For a definition of the term *legal acculturation* as it is employed in this study, see Part D of Chapter VI below.

diverse groups, accommodating to their attitudes.¹⁰ As Tyler notes: “[E]thnic diversity is the projected future of the United States... [which] is becoming a mosaic society, in which distinct subgroups coexist within a common framework.”¹¹ He further notes that multiculturalism may even pose a threat to the viability of democratic institutions, since one of the most important Western political, legal, and social values “...is respect for law and legal authorities [underline added].” Tyler asserts that “[A]s nature of American society changes toward a mosaic model, the question of whether and how democratic processes can be maintained becomes natural to discussion of public policy.”¹² Such analysis would potentially offer models that deal with the challenges posed by diverse *legal cultures*.

The theoretical context of this study is provided by earlier research on *legal culture*. The cultural homogeneity of legal norms—even within one nation state—cannot be assumed. For instance, although the goal of their 1996 study was to analyze cross-national differences in legal values, Gibson and Caldeira found that considerable variation in attitudes towards the rule of law within nations: “Germans are different from Greeks, but neither all Germans nor all Greeks are similar.”¹³ In that study, nation-of-residence was not found to be “an especially strong predictor of attitudes;”¹⁴ rather the attitudes were found to be correlated more with other parameters, such as religious views, socio-economic status and education.

This project is significant in both theoretical and practical spheres. On the one hand, this research expands existing theoretical knowledge of the legal cultures of different segments of populations, offering nuanced data with respect to the attitudes and

¹⁰ Stanley Lieberson and Mary C. Waters, *The Location of Ethnic the United States*, 2(4) *Sociological Forum*, 780-810 (1987).

¹¹ Tyler (2000), *supra* note 4, at 986.

¹² Tyler (2000), *supra* note 4, at 1015.

¹³ Gibson and Caldeira (1996), *supra* note 4, at 70-71.

¹⁴ Gibson and Caldeira (1996), *supra* note 4, at 71.

concepts that constitute legal culture, and expanding the our understanding of the elements underlying such notions. Moreover, while the task of untangling the effects of migration and cultural background on individuals' legal values and attitudes is exorbitantly difficult, we can—nevertheless—speculate about plausible origins of various observed attitudes.

In the practical realm of public policy, this project sheds light upon importance of the legal sub-cultures for policymakers, who would be able to increase the policies' effectiveness by taking into account the disparities of the perceptions of different segments of the population. As Tyler notes: “[a] key problem in trying to manage diverse societies is finding social policies that will be acceptable to all individuals and groups.”¹⁵

II. LITERATURE REVIEW

A. THE CONCEPT OF LEGAL SYSTEM

Analyses of legal systems have a long and distinguished scholarly history. Both theoreticians and empiricists have examined, analyzed and discussed the properties and characteristics of legal systems; volumes have been written about their nature, sources and outcomes. Scholars, however, do not agree on the definition of the term *legal system*, since this phrase is somewhat vague and imprecise; its boundaries are blurry at best. Friedman defines *legal system* as “[E]very body of laws, together with its supporting institutions, whether national or part of a federal or pluralistic system.”¹⁶ But what exactly falls under the scope of “every body of laws” and its “supporting institutions”? According to Friedman, the system is an amalgam of three components: *structural*—the nature of the institutions; *substantive*—the laws themselves; and *cultural*—i.e., values and attitudes with respect to law and legal institutions.¹⁷

¹⁵ Tyler (2000), *supra* note 4.

¹⁶ Lawrence M. Friedman, *Legal Culture and Social Development*, 4 *Law & Society Review*, 29-44 (1969), at 31.

¹⁷ Friedman (1969), *supra* note 16.

Although earlier studies viewed legal systems as autonomic structures that are self-governed, self-sufficient and independent of external influence, later literature has recognized the dependence of legal systems on social forces; legal systems are inseparable from the social surroundings in which they are embedded: “[W]hat gives life and reality to the legal system is the outside, social world.”¹⁸ Social forces create, amend and nourish the legal system; social forces, constantly interacting with each other, are the grease that keeps the wheels of legislature and the judiciary spinning.

Among the forces that craft and shape legal systems is the *legal culture*; it is *legal culture* that is “an essential intervening variable in the process of producing legal stasis or change.”¹⁹ *Legal culture* is the power behind the veil that produces—or discourages—the use of legal rules and institutions: “...legal culture is the term we apply to those values and attitudes in society which determine what structures are used and why; which rules work and which do not, and why.”²⁰ It is “those parts of general culture – customs, opinions, ways of doing and thinking – that bend social forces toward or away from the law and in particular ways.”²¹ *Legal culture* is the subject of the current work.

B. THE LEGAL CULTURE

1. The Concept of Legal Culture

For decades, the concept and properties of *legal culture* have influenced the discourse of scholars of law and sociology. After being coined by Friedman in 1969, the

¹⁸ Lawrence M. Friedman, *THE LEGAL SYSTEM*, Russell Sage Foundation (1975), at 15.

¹⁹ Lawrence M. Friedman, *The Concept of Legal Culture: A Reply*, 33 in David Nelken, (ed.), *COMPARING LEGAL CULTURES*, Dartmouth Publishing Company Ltd. (1997).

²⁰ Friedman (1969), *supra note* 16, at 35. Although the influence of *legal culture* extends to all levels of the legal system, its impact is especially important as the source of *demands* made on legal system: “[I]t is the legal culture, ... which determines when and why and where people turn to law or government, or turn away” (Friedman (1969), *supra note* 16, at 34).

²¹ Lawrence M. Friedman, *THE LEGAL SYSTEM: A SOCIAL SCIENCE PERSPECTIVE*, New York: Russell Sage Foundation, (1975), at 15.

term *legal culture* took on a life of its own, encompassing a broad range of phenomena that deal with the different ways in which “features of law are themselves embedded in larger framework of social structure and culture.”²²

However, despite its “long and honorable pedigree”²³ and a place of honor within the socio-legal scholarship, “the term ‘legal culture’ is not an easy concept to pin down”.²⁴ Like many other terms of social science, the concept is hard to define or limit.²⁵

Additionally, the usefulness of the concept itself has been questioned.²⁶ Although the term has been criticized as vague and imprecise,²⁷ arguably it is a useful general term for certain socio-legal phenomena.²⁸ The debate with respect to *legal culture* is not solely as to its usefulness; different meanings continue to be attached to this term.²⁹

For some scholars, *legal culture* is “a socially derived product encompassing such interrelated concepts as legitimacy and acceptance of authorities, preferences for and beliefs about dispute arrangements, and authorities’ use of discretionary power.”³⁰ For others, such as Blankenburg, legal culture is a multilayered concept that combines “the interrelationships on three levels: that of substantive law and procedural codes, that

²² David Nelken, *Towards a Sociology of Legal Adaptation*, in David Nelken, (ed.), *COMPARING LEGAL CULTURES*, Dartmouth Publishing Company Ltd. (1997), at 25.

²³ Friedman (1994), *supra* note 2, at 119.

²⁴ Nelken (2001), *supra* note 23, at 26.

²⁵ Friedman (1997), *supra* note 19.

²⁶ Roger Cotterell, *The Concept of Legal Culture*, 14 in David Nelken, (ed.), *COMPARING LEGAL CULTURES*, Dartmouth Publishing Company Ltd. (1997).

²⁷ See, for instance, Cotterell (1997), *supra* note 26, at 14-15: “...the difficulty of any such concept [legal culture]—as of the concept of culture itself—is its imprecision and vagueness...”; “[T]he imprecision of these formulations makes it hard to see what exactly the concept covers and what the relationship is between the various elements said to be included within its scope.”

²⁸ Friedman (1997), *supra* note 19.

²⁹ Friedman notes that the term *legal culture* has been applied by scholars to a wide variety of concepts (Friedman (1997), *supra* note 19, at 39). For comprehensive discussion of the literature see Susan S. Silbey, *Legal Culture and Cultures of Legality*, 470, in *HANDBOOK OF CULTURAL SOCIOLOGY*, John R. Hall, Laura Grindstaff and Ming-Cheng Lo (eds.), London and New York: Routledge (2010), at 472-473.

³⁰ Bierbrauer (1994), *supra* note 3, at 243.

of institutions such as the courts and the legal profession, and finally the level of legal behavior and attitudes towards law.”³¹

In this work, I follow Friedman’s approach that focuses on social attitudes and the interaction between social actions and the law, and characterizes *legal culture* as a term that “refers to public knowledge of and attitudes and behavior patterns toward the legal system.”³² Under this definition, *legal culture* encompasses a variety of societal elements associated with a legal system, such as the perceived legitimacy of laws and legal institutions, individuals’ willingness to seek legal solutions to disputes and general knowledge about the legal system. *Legal culture*—as it is examined in this work—includes “... the ideas, values, attitudes, and opinions people in some society hold, with regard to law and the legal system.”³³

“[L]aw and legal systems are cultural products”³⁴ and just as any other form of culture, *legal culture* cannot be described in absolute terms. Detached from a certain group or community—unified by shared ethos, history or other elements—the term becomes meaningless. Every person has a *legal culture*,³⁵ but together these ‘private’ *legal cultures* comprise the *legal culture* of the society.

³¹ Erhard Blankenburg, *Civil Litigation Rates as Indicators for Legal Cultures*, 41 in David Nelken, (ed.), *COMPARING LEGAL CULTURES*, Aldershot: Dartmouth (1997), arguing that legal culture encompasses behavioral and institutional factors: legal behavior—such as litigation or avoidance of lawyers and courts; its relation to patterns of legal consciousness; institutional features—such as the legal training, the composition of the legal profession, the organization of and access to courts; and the relation of these to scholarship and the patterns of legal discourse. For a critique of this approach, see David Nelken, *Puzzling out Legal Culture: A Comment on Blankenburg*, p.69, in David Nelken, (ed.), *COMPARING LEGAL CULTURES*, Aldershot: Dartmouth (1997). Also, see Pierre Legrand, *European Legal Systems Are Not Converging*, 45 *INT’L. & COMP. L. Q.* 52-81 (1996), at 56-57: “...‘culture’ concerns frameworks of intangibles within which interpretive communities operate and which have normative force for these communities... Because rules are but the outward manifestation of an implicit structure of attitude and reference, they are a reflection of a given legal culture.”

³² Friedman (1975), *supra note 18*, at 193.

³³ Friedman (1990(a)), *supra note 1*, at 4.

³⁴ Bierbrauer (1994), *supra note 3*, at 243.

³⁵ Friedman (1994), *supra note 2*, at 117.

Moreover, one must be mindful of the fact that *legal culture* is not static; rather, it constantly undergoes changes, reacting and adjusting itself to the surrounding society.³⁶ “Even within a given society legal culture is a complex, contested and changing phenomenon.”³⁷ Individuals’ notions of and attitudes towards the law and legal institutions are subject to constant change and adaptation.³⁸

Naturally, not everyone holds the same opinions about the courts, or about seeking legal aid in an instance of a conflict; some would choose to take matters into their own hands, while others would tend to ‘forget’ about the matter. “Legal culture, like general culture, is a body of ideas, values, and attitudes. We can talk about the legal culture of a community; this does not mean, of course, that everybody shares the same ideas—what we refer to are patterns, tendencies, trends.”³⁹

It is the nature of *legal cultures* of different groups or communities that I find fascinating and that motivates the current research. However, before going into a detailed discussion of the ways to explore *legal culture*, its *significance* should be addressed.

2. Significance of Legal Culture

a. Legal Culture and Society

Undoubtedly, the volumes of theoretical discussions, as well as vast empirical research, that have been generated by the scholars of law and society on the subject of *legal culture* consistently point to its importance. Legal culture “influences not only how people act within the sphere of society that we call the legal system but also how they

³⁶ Lawrence M. Friedman, *Some Comments on Cotterell and Legal Transplants*, in David Nelken and Johannes Feest, (eds.), *ADAPTING LEGAL CULTURES*, Hart Publishing, Oxford-Portland Oregon (2001), at 93.

³⁷ Nelken (2001), *supra note 23*, at 26.

³⁸ Even within the same society at a specific point in time, the law and the notions that constitute legal culture differ from one situation to another: “[T]he relationship between law and culture varies between one society and another and one context and another” (Nelken (2001), *supra note 23*, at 26).

³⁹ Friedman (1994), *supra note 2*, at 120.

distinguish what is a legal issue from what is not and how they demarcate the realm of the legal from other potentially conflicting or overlapping realms of society...”⁴⁰

Friedman notes that in order to describe, compare and evaluate legal systems, one must identify two sets of influences; the forces of the society that have impact upon the law and the ways in which legal decrees get translated into actions and behavior.⁴¹ “The concept of *legal culture* has a central place in regard to both of these tasks.”⁴²

Legal Culture as a Characteristic of a Legal System

Indisputably, legal and political institutions provide important information about the nature of law in a society and the means of its operation.⁴³ However, scholars agree that, in order to understand how the law operates within a given society, one must look beyond institutions and examine cultural norms and values, notions and attitudes of the individuals about the law, or—as we call it—the *legal culture*. For instance, Capelletti et al. assert that “...what gives the legal order character, individuality, a style of its own, is the prevailing legal outlook in the culture of which that legal order is an integral part.”⁴⁴ In the same spirit, Friedman notes that: “...at least in some sense each country or society has a legal culture of its own and that no two are exactly alike...”⁴⁵

In addition to differentiating among various legal systems,⁴⁶ *legal culture* characterizes each legal and political system and provides it with a context.⁴⁷ *Legal*

⁴⁰ Richard J. Ross, *The Legal Past of Early New England: Notes for the Study of Law, Legal Culture, and Intellectual History*, 50(1) *The William and Mary Quarterly*, Law and Society in Early America, 28-41 (1993).

⁴¹ See Friedman (1975), *supra note 18*; Friedman (1994), *supra note 2*, at 117.

⁴² Friedman (1994), *supra note 2*, at 118.

⁴³ Blankenburg (1997), *supra note 31*, at 40.

⁴⁴ Mauro Capelletti, John Henry Merryman, and Joseph M. Perillo, *THE ITALIAN LEGAL SYSTEM. AN INTRODUCTION*, Stanford, Calif.: Stanford University Press (1967), at 165.

⁴⁵ Friedman (1975), *supra note 21*, at 199.

⁴⁶ Mark Van Hoecke and Mark Warrington, *Legal Cultures, Legal Paradigms and Legal Doctrine: Towards a New Model for Comparative Law*, 47(3) *The International and Comparative Law Quarterly*, 495- 536 (1998), suggesting a new approach to comparative law; this approach would move beyond the

culture is the element that can explicate how law and politics function within any given society; cultural norms and values of the individuals can account for the operation of the legal systems.

Legal Culture as the Source of Law and Social Change

Indeed *legal culture* holds the promise of providing more accurate characterization of legal systems; however, its implications go far beyond that. Legal culture is not merely a descriptive feature of legal system; rather, it is its foundation. “Legal culture is the *source* of law – its norms create the legal norms; and it is what determines the *impact* of legal norms on society”⁴⁸ To explore legal culture is to explore “those social ideas and concepts that shape and underpin the law.”⁴⁹

Friedman notes that *legal culture* is “...the immediate source of legal change....”⁵⁰ He argues that “...it was the outside legal culture, and its resultant behavior, that made the most difference to the law—more than books and writings of jurists, the arguments and doctrines of courts, the posturings of lawyers.”⁵¹

traditional legal doctrine of ‘law as rules’ and examine and compare various legal systems from the stand point of the *context* of law: “law as culture.”

⁴⁷ Barzilai asserts that “[T]he phenomenon of legal culture deserves critical inquiry because law, society, and politics are incomprehensible when they are considered in isolation from culture in law, culture toward law, and law toward culture, all within the context of power relations and state domination” (Gad Barzilai, *COMMUNITIES AND LAW: POLITICS AND CULTURES OF LEGAL IDENTITIES*, The University of Michigan Press (2003), at 21).

⁴⁸ Friedman (1994), *supra note 2*, at 118; Lawrence M. Friedman, *Two Faces of Law*, *Wis. L. Rev.* 13-36 (1984).

⁴⁹ Lawrence M. Friedman, *Concept of the Self in Legal Culture*, 38 *Clev. St. L. Rev.* 517-534 (1990(b)).

⁵⁰ Lawrence M. Friedman, *TOTAL JUSTICE*, Russell Sage Foundation New York (1985), at 32; Friedman (1990(b)), *supra note 49*, at 552; also *ibid* at 534 “...legal culture (rather than legal tradition, or doctrine, or the lawyers themselves) acts as the immediate source of law, the impetus for legal stasis or change.”

⁵¹ Friedman (1984), *supra note 48*. Similarly, Sarat argues that “[I]nsofar as legal institutions are “reactive” they depend for the input of cases and problems on the willingness of private individuals and groups to make legal claims...The decision of an individual to invoke the legal system is influenced by his perception and evaluation of the law and his prior experience with it” (Austin Sarat, *Studying American*

The process of legal change operates as follows: the ideas and attitudes of individuals produce *demands*⁵² on the legal system; in turn, these demands may lead to change. *Demands* are based on interests, however, “[I]nterests must be converted into demands...” for the legal process to be set in motion. The change comes about when “...social forces, i.e., power, influence, presses upon the legal system and evokes legal acts, when legal culture converts interests into demands or permits this conversion.”⁵³ \

Legal culture also has important implications for public policy.⁵⁴ “A study of legal culture may turn up conditions under which legal change occurs—either spontaneous change, or imposed change; and, in the case of imposed change, the conditions which make it fail or succeed.”⁵⁵

b. Significance of Individuals’ Legal Values

The values held by citizens on issues concerning the nature and operation of law are important “...because they structure more specific opinions and expectations toward legal institutions...”⁵⁶ Legal values are significant in establishing and shaping the individuals’ behavior and the relationships among individuals, as well as between individuals and the state.⁵⁷

Legal Culture: An Assessment of Survey Evidence, 11 *Law and Society Review*, 427–488 (1977), at 430.) Also, see Black arguing that “[E]ach citizen determines for himself what within his private world is the law’s business and what is not; each becomes a kind of legislator beneath the formal surface of legal life” (Donald Black, *The Mobilization of Law*, 2 *Journal of Legal Studies* 125-149 (1973), at 142).

⁵² For instance, see Friedman (1975), *supra* note 21, at 209: “Legal culture is important, because attitudes help manufacture real *demands* on the legal system.”

⁵³ Friedman (1975), *supra* note 18, at 193.

⁵⁴ David Nelken, *Using the Concept of Legal Culture*, 29 *Australian Journal of Legal Philosophy*, 1-26 (2004).

⁵⁵ Friedman (1969), *supra* note 16, at 35.

⁵⁶ Gibson and Caldeira (1996), *supra* note 4, at 59.

⁵⁷ For instance, see Yngvesson who notes the “striking differences...between an official rule of law codified in formal statutes, dominated by a professional elite and symbolized in a national system of

Moreover, the interaction between law and culture becomes especially noteworthy in light of globalization, especially to the extent that the boundaries between countries become porous, allowing movement of people, as well as of material and cultural commodities. The meaning of law and legal institutions may differ among representatives of different cultural groups; legal systems, particularly the institutions for dispute resolution, need to take demographic and ethnic facts into account, in order to retain their legitimacy and effectiveness.⁵⁸

Much research has challenged the uniformity to legal culture across communities.⁵⁹ Legal culture affects such important issues as voluntary compliance, support for human rights and for legal institutions and the willingness to turn to legal institutions for the management of essentially private conflicts.

Voluntary Compliance

Law is a tool by means of which societies regulate and guide the conduct of their members. But legal authorities cannot rely solely—or, even, heavily—on forced compliance; rather the legal system relies heavily on the voluntary cooperation of citizens.⁶⁰ *Voluntary* compliance is the way out of the predicament that limited enforcement-power presents; “[T]he legal system has, at best, a limited ability to compel

courts, on the one hand, and unofficial systems in which informal agreement, various forms of self-help, gossip, avoidance, and "lumping it" are customary practice, on the other" (Barbara Yngvesson, *Inventing Law in Local Settings: Rethinking Popular Legal Culture*, 98(8) YALE L.J., 1689-1709 (1989), at 1689).

⁵⁸ Bierbrauer (1994), *supra* note 3, at 243.

⁵⁹ For instance, see Sally E. Merry, *Going to Court: Strategies of Dispute Management in an American Urban Neighborhood*, 13(4) Law & Society Review, 891-925 (1979); Sally E. Merry and Susan S. Silbey, *What Do Plaintiffs Want? Reexamining the Concept of Dispute*, 9(2) The Justice System Journal, 151-178 (1984); David M. Engel, *The Oven-Bird's Song: Insiders, Outsiders and Personal Injuries in an American Community*, 18(4) Law & Society Review, 551-582 (1984); Robert C. Ellickson, *Of Coase and Cattle: Dispute Resolution among Neighbors in Shasta County*, 38(3) Stanford Law Review, 623-687 (1986); Carol J. Greenhouse, *Courting Difference: Issues of Interpretation and Comparison in the Study of Legal Ideologies*, 22(4) Law & Society Review, 687-708 (1988); Christine B. Harrington and Sally E. Merry, *Ideological Production: The Making of Community Mediation*, 22(4) Law & Society Review 709-736 (1988); Barbara Yngvesson, *Making Law at the Doorway: The Clerk, the Court and the Construction of Community in a New England Town*, 22(3) Law & Society Review 409-448 (1988).

⁶⁰ Tom R. Tyler, *WHY PEOPLE OBEY LAW*, New Haven, CT: Yale Univ. Press (1990); Tyler (2000), *supra* note 4; Tom R. Tyler and Darley, John M., *Building a Law-Abiding Society: Taking Public Views About Morality and the Legitimacy of Legal Authorities into Account When Formulating Substantive Law*, 28 Hofstra Law Review, 707-739 (2000).

people to obey the law and is heavily dependent on widespread voluntary cooperation with judicial directives.”⁶¹ The legal and political systems depend on the degree to which members of a society voluntarily accept their commands.⁶² As Tyler puts it, “[I]f the law is to be effective in fulfilling its regulatory role, most citizens must obey most laws most of the time.”⁶³ Similarly, Tyler writes that “... the key to the effectiveness of laws is that people obey them. Hence, to be effective, legal authorities need to be able to secure compliance with laws among members of the public.”⁶⁴

But what motivates voluntary compliance? Studies found that attitudes towards law help determine whether the citizens will comply *voluntarily* or the authorities would be forced to use the costly and, often, inadequate means of compelling compliance.⁶⁵ Individuals’ perception of the law as being just and legitimate influences their potential compliance; therefore, understanding the sources of the perceptions of the law is crucial.

To achieve the goal of voluntary compliance, the law needs to be reinforced by social norms; these norms are the key factor in achieving non-compulsory legal obedience. Etzioni asserted that “strong social norms reduce the burden on law enforcement...laws supported by social norms are likely to be significantly more enforceable...laws that are formulated in ways that are congruent with social norms are much more likely to be enacted than laws that offend such norms.”⁶⁶

⁶¹ Tyler (2000), *supra* note 4, at 984.

⁶² Tyler (1990), *supra* note 62.

⁶³ Tyler (1990), *supra* note 62, at 19.

⁶⁴ Tyler (2000), *supra* note 4, at 984. Also, *see* Tyler (1990), *supra* note 62, at 161: the “extent to which they [authorities] are able to influence the public’s behaviors toward the law.”

⁶⁵ Tyler (1990), *supra* note 62.

⁶⁶ Amitai Etzioni, *Social Norms: Internalization, Persuasion, and History*, 34 *Law & Society Review*, 157-178 (2000), at 159. It is interesting to note that Etzioni asserts that the scope of law should be based on moral values: Amitai Etzioni, *Creating Good Communities and Good Societies*, 29(1) *Contemporary Sociology*, 188-195 (2000), at 192: “... for a society to be good, much of the social conduct must be

As pointed out by Sarat, *voluntary compliance* flows from agreement with the principles on which the legal system is based, and peoples' satisfaction with legal institutions.⁶⁷ "If one measure of law's effectiveness is its ability to regulate conduct with as little coercion as possible, then the characteristics of the legal culture contribute to an explanation of why particular institutions or legal policies are or are not effective."⁶⁸ This is so due to the fact that "[P]eople who value the fundamental principles on which the legal system is founded, who express support for legal institutions, and who are satisfied with what those institutions do, should more readily comply with the law."⁶⁹ Similarly, Tyler and Darley assert that in order to have a law-abiding society, "we must have a polity in which citizens have social values that lead them to feel responsible for following rules, irrespective of the likelihood of being caught and punished for rule breaking."⁷⁰ Therefore, a thorough investigation of legal culture of a group would provide important insights into the degree to which its members would comply with legal decrees on a voluntary basis.⁷¹

"regulated" by reliance on the moral voice rather than on the law, and the scope of the law itself must be limited largely to that which is supported by the moral voice."

Also, *see* Tyler and Darley, who argue that "...the social values held by the public is one key component of an effort to create and sustain a legal order, the effectiveness of which is linked to the consent and cooperation of citizens" (Tyler and Darley (2000), *supra note* 62, at 708).

⁶⁷ Austin Sarat, *Authority, Anxiety, and Procedural Justice: Moving from Scientific Detachment to Critical Engagement*, 23 *Law & Society Review*, 647-671 (1993).

⁶⁸ Sarat (1977), *supra note* 52, at 430.

⁶⁹ Sarat (1977), *supra note* 52, at 430.

⁷⁰ Tyler and Darley (2000), *supra note* 62, at 708.

⁷¹ The consequences voluntary compliance are not limited to individuals. Voluntary compliance of nation-states with regulations and decisions of international forums—as well as their performance with respect to international treaties—has been in the spot-light of extensive research. This attention is understandable considering the inadequacy of measures available when a country refuses to abide and the lack of power on the part of international institutions to bring about compliance; in this situation, voluntary compliance is essential. Of course, the attitudes of states are not easy to compare with the attitudes of individuals. But research suggests that the legal culture of a given country has implications for international behavior. For instance, Gibson and Caldeira, who examined data on the compliance of European governments with the treaties of the European Union, discovered a correlation between support for the rule of law and neutrality of law, as principles, and whether the state complied with the directives of the European Union; the

Support for the legal and democratic institutions

Legal values held by individuals also help determine *support for legal and democratic institutions*.⁷² Support is a necessary element for an effective function of institutions; “[T]o persist and function effectively, political institutions must continuously try to amass and husband the goodwill of the public.”⁷³ Studies demonstrate that basic legal value orientations shape and nurture—to a certain extent—individuals’ perceptions and evaluations of institutions. The degree to which an individual supports—or not—these establishments, derives—at least partially—from legal value orientations, such as support for the rule of law and individual liberty.⁷⁴

Although there is little agreement on the nature of the cultural elements that advance democratic development,⁷⁵ some evidence suggests correspondence between legal culture and support for legal authorities. For instance, Caldeira and Gibson found correlation between the degree of the value placed by individuals on liberty, and their support of the Supreme Court, reporting that “...greater commitment to democratic values and to liberty generally evince greater diffuse support for the Supreme Court.”⁷⁶ Support

stronger the commitment to the first, “the less extensive the noncompliance with the European law” (Gibson and Caldeira (1996), *supra* note 4, at 80: “...mass legal values play some role in the functioning of the legal system and ... whether citizens are committed to the rule of law, for instance, has something to do with the way that legal decisions are made and implemented within the political process...”).

⁷² In James L. Gibson, Gregory A. Caldeira and Lester K. Spence, *The Supreme Court and the US Presidential Election of 2000: Wounds, Self-Inflicted or Otherwise?*, 33 B.J. Political Science, 535-556 (2003), the researchers used individuals’ perceptions of the rule of law to measure support for democratic institutions and processes—in that specific case, the US Supreme Court.

⁷³ Gregory A. Caldeira and James L. Gibson, *The Etiology of Public Support for the Supreme Court*, 36 *American Journal of Political Science*, 635-664 (1992), at 635.

⁷⁴ Caldeira and Gibson (1992), *supra* note 75; Gregory A. Caldeira and James L. Gibson, *The Legitimacy of the Court of Justice in the European Union: Models of Institutional Support*, 89(2) *The American Political Science Review*, 356-376 (1995).

⁷⁵ James L. Gibson, Raymond M. Duch, and Kent L. Tedin, *Democratic Values and the Transformation of the Soviet Union*, 54 *Journal of Politics*, 329-371 (1992).

⁷⁶ Caldeira and Gibson (1992), *supra* note 75, at 648.

for legal institutions does not only replicate individual satisfaction with the policies; basic legal value orientations, such as support for individual liberty, also play a role.⁷⁷

Legal values held by members of society are an important element in the emergence of a culture respectful of human rights. For instance, Gibson argues that public support for the rule of law is necessary for the development of a culture respectful of human rights, because “the idea that authority must be subservient to law” is a cultural factor that restrains the government’s power.⁷⁸ The rule of law does not guarantee respect for human rights; but it can constrain the power of the government. An order lacking the rule of law—where the omnipotent government follows law only when it is expedient to do so to promote its own interests—would leave the fate of citizens at the mercy of the powerful. Research on legal culture can, therefore, shed light upon the prospects of the emergence of a culture that respects human rights in a given society.

Rights consciousness and modes of dispute resolution

Research shows that investigation of legal values can provide insights into individuals’ preferred modes of handling disputes.⁷⁹ The willingness of citizens to turn to legal institutions for the management of essentially private conflicts depends—to a certain extent—on their legal culture. Litigation—or avoidance thereof—cannot be described, or explained, as a mere personal choice; rather, it is “a result of cultural patterns.”⁸⁰ It also reflects confidence or lack of confidence in institutions. And this may reflect reality—a corrupt system will, naturally, fail to win respect and usage.⁸¹

⁷⁷ Caldeira and Gibson, (1995), *supra* note 76, at 356.

⁷⁸ Gibson and Caldeira (1996), *supra* note 4, at 10. Also, *see* James L. Gibson, *OVERCOMING APARTHEID: CAN TRUTH RECONCILIATE A DIVIDED NATION?* New York: Russell Sage Foundation (2004a); James L. Gibson, *Truth, Reconciliation, and the Creation of a Human Rights Culture in South Africa*, 38(1) *Law and Society Review*, 5-40 (2004b).

⁷⁹ Bierbrauer (1994), *supra* note 3; Erhard Blankenburg, *Patterns of Legal Culture: The Netherlands Compared to Neighboring Germany*, 46(1) *The American Journal of Comparative Law*, 1-40 (1994).

⁸⁰ Blankenburg (1997), *supra* note 31, at 42.

⁸¹ Hendley observed that “[G]iven that law is an inherently interactive process, attitudes towards the legal system have a decisive influence on the willingness to use it” (Kathryn Hendley, *Legal Development in Post-Soviet Russia*, 13(3) *Post-Soviet Affairs*, 228-251 (1997), at 240).

Analysis of rights consciousness and modes of pursuit of rights by members of different groups is important, especially in culturally diverse societies, where the policy-makers have to be mindful of the difference in perceptions of legal concepts by different individuals. For instance, Bierbrauer investigated dispute resolution preferences among respondents from Turkey (Kurds) and Lebanon—as representatives of collectivistic society—and the individualistically oriented respondents from Germany. Bierbrauer found a substantial variety of legal preferences and practices, with collectivistic groups expressing a greater preference for abiding by the norms of tradition and religion, whereas individualistic respondents showed a preference for formal procedures and state law dispute resolution system. Suggesting that legal norms prevailing in Western societies may be inconsequential to people socialized in other cultures, Bierbrauer asserts that policy-makers “must consider how to adapt institutions for dispute resolution to retain their legitimacy and effectiveness.”⁸²

While unequivocally important for diverse societies, the preferences of dispute resolution modes vary; ethnic diversity is not a sole predictor of disparities in the attitudes. To exemplify this point, we can mention the scholars’ findings that individuals who define themselves as belonging to the same, informally interacting, social group often tend to avoid formal law.⁸³ However, they resort to law when the system of various informal social control practices—such as gossip, self-help, and “lumping it”—breaks down, or when “outsiders” are involved in a local conflict.

In another set of studies of the legal culture, which focused on working- and middle-class American neighborhoods, scholars discovered avoidance as a pattern of conflict management among neighbors and intimates.⁸⁴ In these communities, court use was found to be incompatible with ‘virtue’ and associated with a fall from respectability.

⁸² Bierbrauer (1994), *supra note 3*, at 261.

⁸³ Ellickson (1986), *supra note 61*; Engel (1984), *supra note 61*. Studying litigation practices of Sander County residents, Engel found sanctioning ‘newcomers’ or ‘outsiders’ for bringing personal injury suits against established citizens, but justifying the use of litigation when it was directed against newcomers.

⁸⁴ Merry and Silbey (1984), *supra note 61*; Greenhouse (1988), *supra note 61*.

On the other hand, research noted the frequent use of the mechanisms of law enforcement—such as police, courts, and other state or local agencies—as weapons in local political battles and as a means for shaping moral order among urban low-income populations.⁸⁵ In light of these disparate attitudes discovered by the research of legal culture, Yngvesson argues that “while courts are defined and avoided by many as the domain of the greedy, for others they serve as key arenas for forging particular local visions of moral virtue and social order.”⁸⁶

Empirical research shows the significance of legal values held by citizens. The practical implications of legal values provide further justification for scholarly interest in legal culture, in addition to the purely theoretical perspective, which—I might add—is by itself quite fascinating.

So far, we have discussed the concepts of *legal system* and *legal culture*, significance of legal culture at large, and measurement and significance of its particular values. Since this particular research is committed to the study of *legal sub-cultures*, the following chapter will discuss the specific segments of population selected for this study and the rationales behind this choice, and explore particular traits and characteristics of these groups.

C. MEASURING LEGAL CULTURE

Although the concept of *legal culture* is somewhat elusive, scholars have devoted a great deal of thought and effort to conceptualizing it. *Legal culture* in at least one sense is potentially measurable.⁸⁷ Legal culture can be measured directly—i.e., by asking people questions—or indirectly, by observing individuals’ behaviors.⁸⁸ It is not necessary

⁸⁵ Merry (1979), *supra note 61*; Merry and Silbey (1984), *supra note 61*; Yngvesson (1988), *supra note 61*.

⁸⁶ Yngvesson (1989), *supra note 59*, at 1692.

⁸⁷ Friedman (1994), *supra note 2*; Friedman (1997), *supra note 19*; Gibson and Caldeira (1996), *supra note 4*, at 55; Nelken (2004), *supra note 56*.

⁸⁸ Friedman (1994), *supra note 2*, at 119.

to employ direct measurement to study legal culture; rather “[I]t [*legal culture - added*] can be inferred – from other sorts of materials...”⁸⁹

In the current study, I will employ direct measurement, and attempt to make statements about the legal culture of certain populations based on data gathered through individual in-depth interviews.⁹⁰

Of course, one cannot simply approach members of a population and ask them about their legal culture. In order to avoid “conceptual tangle”,⁹¹ one must decide what aspects of legal culture to measure and find appropriate questions to get at it.

In order to devise a realistic measurement instrument of legal culture, one must define (1) the unit of analysis—i.e., nation country, social group, local court⁹²—and, (2) the aspects of legal culture, such as individual perceptions and norms of behavior, to be focused on.

1. The Unit of Measurement: Study of Legal Cultures within Cultures

In any nation cultural homogeneity of legal culture cannot be assumed.⁹³ For example, Friedman distinguishes “external legal culture,” the legal culture of general

⁸⁹ Friedman (1997), *supra note 19*.

⁹⁰ Scholars assert that the most notable limitation of investigating legal attitudes through the observable data—e.g., increased use of the courts—is that it demonstrates individuals’ actions, rather than their way of thinking about the legal system with which they are engaged. For instance, Hendley argues that “[A]ttitudes and behaviors vis-à-vis the law are sometimes wildly inconsistent . . . While some indicators of demand can be catalogued, such as the number of petitions filed in a particular issue area, this sort of evidence is incapable of revealing how Russians think and feel about law more generally” (Kathryn Hendley, ‘Demand for Law’—A Mixed Picture, 10 East European Constitutional Rev. 72-77 (2001), at 72).

⁹¹ Sarat (1977), *supra note 52*, at 431.

⁹² Gibson and Caldeira (1996), *supra note 4*, at 55; Nelken (2004), *supra note 56*.

⁹³ Lawrence M. Friedman, *Legal Culture and Welfare State*, 13-27, in DILEMMAS OF LAW IN THE WELFARE STATE, Gunter Teubner (ed.), (1985), “Not that any particular country has a single unified legal culture.”

population; and the “internal legal culture,” the legal culture of “those members of society who perform specialized legal tasks.”⁹⁴

Gibson and Caldeira, who studied cross-national differences in legal values, found considerable variation in attitudes towards the rule of law within nations: “Germans are different from Greeks, but neither all Germans nor all Greeks are similar.”⁹⁵ Interestingly—but not surprisingly—in that study, nation-of-residence was not found to be “an especially strong predictor of attitudes;” rather attitudes were found to be correlated more with other variables, such as religious views, socio-economic status and education.

To study and describe *legal culture*, the researcher must take into account more than the geographical borders that define the population in question. Rather, she must consider specific qualities and characteristics of the individuals who constitute that population.

Cross-cultural comparisons are important for the study of legal cultures. Bierbrauer suggests the comparative study of subsystems within a society.⁹⁶ Blankenburg states that within “a single multicultural or multiethnic society, laws and legal institutions may have different meanings for different culture groups.”⁹⁷ This difference of perception can result in a clash between the legal system and the aims and attitudes of various groups within society.⁹⁸

2. The Aspects of a Legal Culture

This research will focus on four aspects of legal culture. The measures of three of these aspects were developed and examined in 1996 by Gibson and Caldeira, who

⁹⁴ Friedman (1975), *supra note 21*, at 223.

⁹⁵ Gibson and Caldeira (1996), *supra note 4*, at 70-71.

⁹⁶ Bierbrauer (1994), *supra note 3*.

⁹⁷ Bierbrauer (1994), *supra note 3*, at 244.

⁹⁸ Bierbrauer (1994), *supra note 3*; Gibson and Caldeira (1996), *supra note 4*, at 55.

conducted a study of legal cultures of various European nation states, assessing: (1) support for the rule of law, (2) the subjective significance of individual liberty, and, (3) perceptions of the neutrality of law.⁹⁹ The fourth element of legal culture that will be examined by this work is (4) judgments of what is right and proper to do in instances of wrongdoing and conflict,¹⁰⁰ and individuals' readiness to pursue and defend their perceived rights. This list, while not exhausting the panoply of attitudes and perceptions that constitute *legal culture*,¹⁰¹ includes—nevertheless—its central values.¹⁰² Before delving into the details of this research, we should clarify the attitudes that are examined.

a. Cultural Definition of the Rule of Law

The fundamental significance of legal institutions to uphold and sustain the rule of law is undisputed; an honest legislature, impartial judiciary and honest law enforcement have vital importance for a society that values the rule of law. However, as Krygier points out, these institutional arrangements do not predict, or explain, why a person obeys decisions she finds objectionable; rather, it is “something far vaguer but fundamentally more important: a widespread assumption within the society that law *matters* and should matter.”¹⁰³

The concept of the *rule of law* is a crucial element of legal culture; that is, attitudes and opinions toward the rule of law is critical to the study and comprehension of

⁹⁹ Gibson and Caldeira (1996), *supra* note 4, at 55.

¹⁰⁰ Bierbrauer (1994), *supra* note 3, at 243.

¹⁰¹ In addition to the attitudes instigated by this research, other types of attitudes could be broadly defined as *legal culture*; for instance, attitudes towards law enforcement (e.g., Tyler (1990), *supra* note 62; Dana Yagil and Arye Rattner, *Attitudes toward the legal system among members of low and high status groups in Israel* (2005) <http://ssrn.com/abstract=736283> (viewed in October 2011)); perceptions of procedural justice (e.g., Tyler (1990), *supra* note 62; Arye Rattner and Dana Yagil, *Taking the law into one's own hands on ideological grounds*, 32 *International Journal of the Sociology of Law*, 85-102 (2004); perceived legitimacy of authorities (Tyler (1990), *supra* note 62; Tyler and Darley (2000), *supra* note 62).

¹⁰² Gibson and Caldeira (1996), *supra* note 4, at 59: with respect to the first three values, namely, (1) support for the rule of law, (2) the subjective significance of individual liberty, and, (3) perceptions of the neutrality of law.

¹⁰³ Martin Krygier, *Marxism and the Rule of Law: Reflections after the collapse of Communism*, 15(4) *Law & Society Inquiry*, 633-653 (1990), at 646.

the rule of law within a society.¹⁰⁴ “Understanding how a political or legal system operates always requires far more than grasping the structure and function of institutions, but when it comes to understanding the meaning of the rule of law in a country, culture is paramount.”¹⁰⁵ The rule of law and the legal culture are interrelated; as Gibson suggests “...perhaps the most important manifestation of the rule of law is its representation in a nation’s culture—the beliefs, expectations, values, and attitudes held by the populace of a country.”¹⁰⁶

The fundamental importance of the *rule of law* to society and to the welfare of its citizens is due to the fact that it is necessary to protect human rights¹⁰⁷, stimulate economic development and promote growth.¹⁰⁸ However, like the concept of *legal culture*, the notion of the *rule of law* encompasses various meanings and interpretations.¹⁰⁹

A rich body of work on individual attitudes toward the rule of law maintains that the fundamental concept is *universalism*, i.e., universal obedience to and abidance by the law.¹¹⁰ “The core element of the rule of law is that law applies in equal measure to the

¹⁰⁴ Gibson and Caldeira (1996), *supra note 4*, at 55.

¹⁰⁵ James L. Gibson, Jeffrey Sonis and Sokhom Hean, *Cambodians’ Support for the Rule of Law on the Eve of the Khmer Rouge Trials*, 4 International Journal of Transitional Justice, 377–396 (2010), at 383

¹⁰⁶ James L. Gibson, *Changes in American Veneration for the Rule of Law*, 56 DePaul Law Review, 593-614 (2007), at 599.

¹⁰⁷ Gibson (2004a), *supra note 80*; Gibson (2004b), *supra note 80*, at 5.

¹⁰⁸ Eric G. Jensen and T. C. Heller, BEYOND COMMON KNOWLEDGE: EMPIRICAL APPROACHES TO THE RULE OF LAW, Stanford, CA: Stanford University Press (2003); Brian Z. Tamanaha, ON THE RULE OF LAW: HISTORY, POLITICS, THEORY, New York: Cambridge University Press (2004).

¹⁰⁹ For a discussion *see*, for instance, Tamanaha (2004), *supra note 112*; Jeffrey Kahn, *The Search for the Rule of Law in Russia*, 37 Georgetown Journal of International Law 353-410 (2005); Randall Peerenboom, *Let One Hundred Flowers Bloom, One Hundred Schools Contend: Debating Rule of Law in China*, 23 Michigan Journal of International Law, 471-544 (2002); Kathryn Hendley, *Are Russians Still Soviet? An Analysis of the Efforts to Introduce Adversarialism to the Russian Arbitrazh Courts*, 23 Post-Soviet Affairs 240-274 (2007)

¹¹⁰ Gibson and Caldeira (1996), *supra note 4*, at 55; James L. Gibson and Amanda Gouwls, *Support for the Rule of Law in the Emerging South African Democracy*, 42 International Social Science Journal, 173-191 (1997); James L. Gibson, *Russian Attitudes towards the Rule of Law: An Analysis of Survey Data*, p.77, in D. J. Galligan & M. Kurkchian, (eds.), LAW AND INFORMAL PRACTICES: THE POST-COMMUNIST

powerful and the non-powerful and that legal institutions have sufficient authority and independence to make the remedies imposed against the powerful meaningful.”¹¹¹ Although law that brings about undesirable outcomes should be altered, this change must be achieved through lawful, non-arbitrary procedures.¹¹²

In contrast to *particularism*—the perception that law should give way to such goals as efficiency or feeling of fairness—*universalism* demands that law be universally complied with.¹¹³ “To the extent that people are willing to follow the law only if it satisfies some external criterion, the rule of law is compromised.”¹¹⁴ Of course, universalism is an ideal, not a reality; and people probably override universalism—if that implies rigidity and formalism.

A second feature of the rule of law is its applicability both to the state and to the citizens. Gibson asserts that “...the referent for the rule of law need not be limited to the state; instead, the concept refers to both the citizen and the state. Just as the authorities ought to be constrained by legality in a law-based regime, individual citizens must respect the rule of law in their own behavior.”¹¹⁵ According to this definition, the self-interests of both rulers and ruled are secondary, law must prevail until it is changed via legitimate democratic procedure.¹¹⁶ The rule of law is pertinent to the state—through its institutions and civil servants—and also its individual citizens. “Ultimately, the ideal of a

EXPERIENCE, Oxford: Oxford University Press (2003); Gibson (2004a), *supra note* 80; Gibson (2004b), *supra note* 80, at 5.

¹¹¹ Kathryn Hendley, *The Spillover Effects of Privatization on Russian Legal Culture*, 5 *Transnational Law & Contemporary Problems* 33-64 (1995), at 41.

¹¹² Gibson (2004a), *supra note* 80; Gibson (2004b), *supra note* 80, at 5; James L. Gibson, Gregory A. Caldeira and Lester K. Spence, *Why Do People Accept Public Policies They Oppose? Testing Legitimacy Theory with a Survey-Based Experiment*, 58 *Political Research Quarterly*, 187-201 (2005), at 187.

¹¹³ Gibson and Gouwls (1997), *supra note* 114; Gibson (2004a), *supra note* 80; Gibson (2004b), *supra note* 80, at 5.

¹¹⁴ Gibson et al. (2005), *supra note* 116, at 190. Also see, Gibson (2007), *supra note* 110, at 599:

“...without a culture that rejects the sublimation of law to other more pressing objectives, the rule of law cannot function effectively.”

¹¹⁵ Gibson (2004b), *supra note* 80, at 11.

¹¹⁶ Gibson et al. (2010), *supra note* 109.

legal culture grounded in the rule of law is that citizens view law not only as a sword available exclusively to the regime, but also as a shield with which they can protect and advance their own interests against other citizens and even against the state.”¹¹⁷

b. *Individual Liberty*

Attitudes towards the concept of *individual liberty* constitute an important feature of legal culture.¹¹⁸ In contemporary society, *individual liberty* is in tension with an interest of preserving social order; this conflict gives rise to the question of the degree of willingness to sacrifice liberty for social order and the extent to which disorder is tolerable in order to preserve individual liberty.¹¹⁹

Legal systems are designed to promote a balance between protecting individual liberty and upholding social order by placing restraints on the liberty of individuals. Scholars suggest that these “...struggles over the extent of individual liberty constitute the very heart of most legal systems.”¹²⁰ Therefore, research on legal culture must take into account individuals’ perceptions of the degree to which individual liberty may be sacrificed on the altar of social welfare.

c. *Neutrality of Law*

Another component of legal cultures is individuals’ perception of *neutrality of law*. Perception of law as being neutral enhances an individual’s view of law as being applied equally and promoting social welfare. On the other hand, others may look at law, not as neutral, but as a repressive instrument, a means of social control. Rather than viewing law as impartial and not aligned with the interests of a specific group or segment of population, such individuals regard it as benefiting a specific group of individuals, rather than the whole society.

¹¹⁷ Hendley (1995), *supra note* 115, at 42.

¹¹⁸ Gibson and Caldeira (1996), *supra note* 4.

¹¹⁹ Gibson et al. (1992), *supra note* 77; Gibson and Caldeira (1996), *supra note* 4, at 55.

¹²⁰ Gibson and Caldeira (1996), *supra note* 4, at 61.

The perception of the neutrality of law can be represented by a scale ranging from the view of law as a highly neutral, equal instrument, to the perception of law as partial, promoting the interests of dominant socio-economic groups at the expense of the less fortunate or less powerful.

d. Rights *Consciousness* and Modes of Dispute Resolution

Scholars of law and society perceive individuals' views of the appropriate way to resolve disputes—e.g., formally or informally—as yet another facet of legal culture.¹²¹ Hamilton and Sanders include in the scope of legal culture "...the informal resolution of wrongdoing in everyday life, including the decision (conscious or otherwise) that some matter is not one for formal legal handling."¹²² Similarly, in their 1991 article, Hamilton and Sanders mention: "citizens' attitudes, values, and judgments about whether it is appropriate to take disputes to law, how to conceptualize a dispute, and how disputes are to be settled. Such values are part of a society's *legal culture*."¹²³

Societies differ in the willingness of individuals to pursue their rights in courts. Members of some societies are eager to pursue their rights, others are "shy about litigation."¹²⁴ While a number of factors—such as procedural barriers—influence individuals' propensity to pursue, or avoid, litigation,¹²⁵ cultural factors are perhaps the

¹²¹ Friedman (1985), *supra note 50*; V. Lee Hamilton, Joseph Sanders, Yoko Hosoi, Zensuke Ishimura, Nozomu Matsubara, Haruo Nishimura, Nobuho Tomita and Kazuhiko Tokoro, *Punishment and the Individual in the United States and Japan*, 22 *Law & Society Review*, 301-328 (1988); Bierbrauer (1994), *supra note 3*.

¹²² Hamilton et al. (1988), *supra note 125*, at 302 (footnote).

¹²³ Joseph Sanders and V. Lee Hamilton, *Legal Cultures and Punishment Repertoires in Japan, Russia, and the United States*, 26(1) *Law & Society Review*, 117-138 (1992) at 120.

¹²⁸ Friedman (1975), *supra note 21*, at 212.

¹²⁵ Kimberlianne Podlas, *Broadcast Litigiousness: Syndi-Court's Construction of Legal Consciousness*, 23 *Cardozo Arts & Ent. L.J.* 465-506 (2005), at 478 (also footnote 95 and the accompanying text).

most pervasive.¹²⁶ “*Legal culture* may also affect the rate of use, that is, attitudes towards whether it is right or wrong, useful or useless, to go to court...”¹²⁷

Perceptions of means or appropriate ways to resolve conflicts differ. Research demonstrated that this disparity can be attributed to various factors.¹²⁸ In light of the above, investigations and analysis of legal cultures should include inquiry into the personal preferences for various modes of conflict resolution.

III. THE CURRENT RESEARCH

A. RESEARCH OF LEGAL CULTURE: CHOOSING THE POPULATIONS

Although scholars vary in the definitions given to the term *legal culture*, there is general agreement that the interrelations of social structure, law and culture are extremely complicated. This complexity poses major conceptual and empirical problem.¹²⁹ One promising direction—although not without its special complications is to examine legal culture in comparative perspective.¹³⁰ This is the subject of this research.

As Friedman noted, “There is no such thing as the public; to understand legal culture, one must carefully define a relevant public; for various issues, this will be a different group of people.”¹³¹ Virtually any society can provide a socio-legal investigator with a fruitful field for research. However, a number of features would likely yield the most insights. These elements include heterogeneity of backgrounds, disparity of legal backgrounds and close interaction with representatives of different cultures.

¹²⁶ Austin Sarat, *Exploring the Hidden Domains of Civil Justice: "Naming, Blaming, Claiming" in Popular Culture*, 50 DEPAUL L. REV. 425-452, at 452; Podlas (2005), *supra note* 129.

¹²⁷ Friedman (1975), *supra note* 21, at 16.

¹²⁸ For instance, studying individuals’ attitudes about behavior with regard to wrongdoing and conflict, Bierbrauer found significant variation between representatives of individualistic and collectivistic cultures (Bierbrauer (1994), *supra note* 3). In earlier studies, Engel and Ellickson discovered patterns of avoidance of formal law as the means of dispute resolution among individuals belonging to the same social group (Engel (1984), *supra note* 61; Ellickson (1986), *supra note* 61).

¹²⁹ Rokumoto K, *Cultural Factors in Comparative Socio-Legal Analyses*, p. 69 (1995), in Nelken, David, (ed.), *COMPARING LEGAL CULTURES*, Dartmouth Publishing Company Ltd. (1997), 69.

¹³⁰ Nelken (1997), *supra note* 31.

¹³¹ Friedman (1969), *supra note* 16.

First, the legal cultures of populations that include individuals from heterogeneous backgrounds, differences in ethnic, religious and cultural characteristics would be especially interesting. The *legal environment* of individuals is also relevant.¹³² By *legal environment*, I do not necessarily mean the legal experiences of individuals and their interactions with legal authorities, which are—of course—also important. Rather, since the focal point of this work is the *patterns of legal cultures*, the legal context of the *society* in which an individual resides is highly relevant. Individuals who underwent changes in their legal environment—e.g., due to migration—can provide a researcher with a fascinating perspective.

Furthermore, the *legal environment* is not the sole element that people experience differently through globalization and migration. The consequences of close interaction of individuals from diverse societies and cultures are far reaching. Such contact influences various spheres of their reality, including individuals' attitudes towards law and legal issues. Therefore, groups that interact with representatives of many cultures constitute yet another fascinating field for socio-legal research.

B. ISRAELIS AS POTENTIAL SUBJECTS OF A RESEARCH OF LEGAL CULTURES

In light of these considerations, the Israeli population appears to be a good setting for research on *legal sub-cultures*. Israel is a state containing groups of varied ethnic, cultural and religious backgrounds. Multiple waves of Jewish immigration, together with the non-Jewish populations of Arabs, Druze,¹³³ Bedouins and representatives of other ethnicities residing in Israel contribute to this diversity.

This diversity of the Israeli society continues to fascinate scholars; some researchers consider Israel to be “an ideal setting for studying the dynamic relationship

¹³² More on this point *see* in Tapp and Levine (1974), who assert that the development of legal judgments “is affected substantially by the nature of “legal” environments” (June Louin Tapp and Felice J. Levine, *Legal Socialization: Strategies for an Ethical Legality*, 27 Stan L. Rev. 1-72 (1974), at 5).

¹³³ The Druze—who are located primarily in Lebanon, Israel, and Syria—are a religious community, which is considered to be an offshoot of the Ismaili Islam.

among immigration, multiculturalism, and ethnic conflict because it is a country that is heavily based on immigration and constantly preoccupied with the absorption of immigrants.”¹³⁴ This deep diversity within Israeli society along national, ethnic, religious, ideological and class lines—reinforced by socioeconomic gaps and power disparities¹³⁵—makes Israel a very “pluralistic and multicultural”¹³⁶ society. While both Israeli and American societies are pluralistic and characterized by several cleavages, scholars suggest that “[I]n contrast to those in the United States, Israeli cleavages are more intense, more superimposed, less cross-cutting, and more political in nature.”¹³⁷ Due to its heterogeneity, Israel constitutes an interesting case study to explore perceptions and attitudes towards social concepts within its diverse segments of populations.¹³⁸

Moreover, Israel is a relatively new society with little common tradition of clearly defined social, cultural or political norms.¹³⁹ Rather, it contains a complex mixture of cultural concepts, attitudes and norms, which mutually influence or are influenced by one another.¹⁴⁰ Israel is a “divided country, torn by sharp social tensions that come to the fore in problematic relationships between the various groups that compose it...the

¹³⁴ Majid Al-Haj, IMMIGRATION AND ETHNIC FORMATION IN A DEEPLY DIVIDED SOCIETY – THE CASE OF THE 1990S IMMIGRANTS FROM THE FORMER SOVIET UNION IN ISRAEL, Brill Leiden-Boston (2004a), at 2; see Arye Rattner, *Structural Models of Injustice and Illegalism in Israel*, 14(4) *Journal of Quantitative Criminology*, 379-396 (1998), at 383: “Israeli society provides an ideal setting for the study of illegalism by majority and minority groups in view of the social division between Jews and Arabs”; also see Majid Al-Haj, *The political culture of the 1990s immigrants from the Former Soviet Union in Israel and their views toward the indigenous Arab minority: A case of ethnocentric multiculturalism*, 30(4) *Journal of Ethnic and Migration Studies* 681–696 (2004b).

¹³⁵ Sammy Smoocha, ISRAEL: PLURALISM AND CONFLICT, Berkeley: University of California Press (1978), at 258.

¹³⁶ Al-Haj (2004b), *supra note* 138, at 681.

¹³⁷ Michal Shamir and John Sullivan, *The Political Context of Tolerance: The United States and Israel*, 77(4) *The American Political Science Review*, 911-928 (1983), at 915.

¹³⁸ Al-Haj (2004b), *supra note* 138; Rattner (1998), *supra note* 138.

¹³⁹ Yoram Peri, *The Rabin myth and the press: Reconstruction of the Israeli collective identity*, 12(4) *European Journal of Communication*, 435–458 (1997).

¹⁴⁰ Gershon Shafir, *Israeli society: A counterview*, 1(2) *Israel Studies*, 189–213 (1996); Shifra Sagy, Emda Orr and Dan Bar-On, *Individualism and collectivism in Israeli society: Comparing religious and secular high-school students*, 52(3) *Human Relations*, 327–348 (1999).

social cleavages are distinctive features of Israeli democracy, and the situation is not expected to improve in the near future.”¹⁴¹

Another exceptional feature of Israeli society is the fact that a large proportion of its population consists of immigrants. In addition to their diverse cultural understandings and experiences, these individuals bring legal knowledge, notions and perceptions shaped in different legal environments and based upon the concepts and axioms of different legal systems.

Immigrants from the former Soviet Union (FSU) in particular, comprise a relatively large proportion of the Israeli general public. Comparison of the *political* culture of FSU immigrants with that of other segments of the Israeli population “..might provide some fruitful insights...” due to the fact that it is “...marked by their Soviet past.”¹⁴² It appears natural that the same statement can be made with respect to their *legal* culture as well.

Since Jewish population is widely dispersed around the world, the legal systems and environments of immigrants’ backgrounds differ, often substantially, and even include systems that no longer exist, such as the Soviet Union. Through immigration, notions and attitudes based upon these disparate legal realities find their way into the Israeli society.

Moreover, in addition to the consequences of immigration, Israel offers the possibility of studying the implications of emigration *from* Israel. Many Israelis have

¹⁴¹ Asher Arian, Michael Philippov and Anna Knafelman, *Auditing Israeli Democracy – 2009: Twenty Years of Immigration from the Soviet Union*. Jerusalem: The Israel Democracy Institute, 2009 http://www.idi.org.il/sites/english/PublicationsCatalog/Documents/Democracy_Index%2009.pdf (last viewed in May, 2011), at 107.

¹⁴² Michael Philippov and Evgenia Bystrov, *All by Myself? A Paradox of Citizenship Among the FSU Immigrants to Israel*, 258 in Guy Ben-Porat and Bryan S. Turner (ed.), *THE CONTADICTIONS OF ISRAELI CITIZENSHIP: LAND, RELIGION, STATE*, Routledge: 2011, at 265.

established residence outside Israel.¹⁴³ Israelis abroad tend to live in communities of like immigrants, thus patterns of settlement of the Israeli émigrés appear to be communal; this feature facilitates the study of these communities.¹⁴⁴

Lastly, it should be noted that although these factors make Israeli population a good subject for a study focused on legal sub-cultures, the issues of multiculturalism and ethnic diversity and the questions and concerns that arise with respect to these, are not peculiar to Israel. As Tyler notes: “Ethnic diversity is the projected future of the United States... [which] is becoming a mosaic society, in which distinct subgroups coexist within a common framework”¹⁴⁵ In his opinion, it is the multiculturalism—rather than the diversity itself—that presents a challenge to the viability of democratic institutions, since: “One of the most important of these values [*Western political, legal, and social values- added*] is respect for law and legal authorities.”¹⁴⁶

Many contemporary societies—and Israel and the U.S. are among them—profess a model of society that supports the moral and cultural values of diverse groups, “recognizing their validity and incorporating them into overall societal values.”¹⁴⁷ Tyler asserts that although “...motivation to remain separate should not be exaggerated... it

¹⁴³ According to the data published by the Central Bureau of Statistics in Israel (CBS), the number of Israelis residing abroad at the end of 2005 is estimated to be between 530,000 and 560,000. According to the CBS, this statistic was calculated in the following manner: since the foundation of the State of Israel in 1948 until 2005, approximately 650,000 Israelis left the country for a long period of time (including those who died abroad). As a result, the number of the emigrants was further decreased by the approximate number of the deceased, which is 90,000-120,000.

¹⁴⁴ Steven J. Gold, *Israeli Immigrants in the United States: The Question of Community*, 17(4) *Qualitative Sociology*, 325-363 (1994); Steven J. Gold, *Patterns of economic cooperation among Israeli immigrants in Los Angeles*, 28 (1) *International Migration Review*, 114-135 (1994); Steven J. Gold, *Gender, Class, and Networks: Social Structure and Migration Patterns among Transnational Israeli*, 1(1) *Global Networks*, 19-40 (2001)

¹⁴⁵ Tyler (2000), *supra note 4*, at 983.

¹⁴⁶ Tyler (2000), *supra note 4*, at 983. Also, see p. 1015, where Tyler maintains that “[A]s nature of American society changes toward a mosaic model, the question of whether and how democratic processes can be maintained becomes natural to discussion of public policy.”

¹⁴⁷ Tyler (2000), *supra note 4*, a 987. Also, see Lieberson and Waters (1987), *supra note 10*.

should be recognized, and its implications explored.”¹⁴⁸ This study is aimed at exploring different legal cultures within one diverse society.

C. PREVIOUS RESEARCH OF THE ISRAELI LEGAL CULTURE AND THE NEED FOR THE CURRENT STUDY

The current research is not the first attempt to explore Israeli legal culture. However, as will be evident below, this study is the first attempt to explore in depth the legal cultures of particular segments of the population, as well as to gather detailed data with respect to motivations that underlie them.

In contrast to the current effort, previous research explored the Israeli culture on a larger scale, sacrificing more nuanced data. For instance, in his 1994 study, Rattner investigated the attitudes towards the law and the legal system held by the majority and one of the minority groups in Israel: the Jews and the Israeli Arabs.¹⁴⁹ This survey of a sample of 750 subjects found large discrepancies between Jewish and Arab attitudes towards the law, the legal system. Compared to the Jewish subjects, Israeli Arabs—as members of a minority group—expressed a higher level of perceived injustice in the law and the legal system and granted it a lower degree of legitimacy.

Another study that aimed at comparing the attitudes of the same two groups—Jews and Israeli Arabs—towards the law was carried out by Rattner in a 1998 study.¹⁵⁰ In this study, the author attempted to link socioeconomic status to the notion of perceived injustice and legal disobedience. This research was based on data gathered by means of a telephone survey conducted in April, 1995 among a national random sample of 1,866 adults: 901 Jews and 965 Israeli Arabs. The findings of this research were that the two surveyed populations—Jews and Israeli Arabs—perceive the issues of legitimation and the possibility of ‘taking the law into their own hands’ differently. For instance, Arabs—as members of a minority group—tended to justify unlawful or law-breaking behavior in

¹⁴⁸ Tyler (2000), *supra note 4*, at 987.

¹⁴⁹ Arye Rattner, *The margins of justice attitudes towards the law and the legal system among Jews and Arabs in Israel*, 6(4) *International Journal of Public Opinion Research*, 358-370 (1994).

¹⁵⁰ Rattner (1998), *supra note 138*.

ideological terms. Among the Jewish population, on the other hand, such ideological justification is atypical and is usually limited to individuals who belong to the extreme margins of society, and political zealots (who have only a slight chance of being represented in a random sample of this type, due to their small numbers within the general Jewish population.)¹⁵¹

However, as previously discussed, contemporary Israeli society includes more ethnicities, religions and cultures than merely Jews and Israeli Arabs. The study conducted by Yagil and Rattner in 2002 was based on the data received from three surveys administered at different times among members of the general Jewish population, Yeshiva (religious seminary) students, ultra-orthodox Jews, and settlers in the territories.¹⁵² The aim of this study was to examine the effect of religiosity and political ideology of these groups on disobedience to law among the Israeli citizens.

The researchers found that the acceptance of the rule of law and the levels of the individuals' commitment to legal obedience differed among the representatives of the different groups. Furthermore, a comparison of the group's attitudes *before* and *after* controversial legal and political events indicated that such events have a generalized effect on the degree to which population abided the law. The authors concluded that individuals' beliefs influence their obedience to the law: "the results of three surveys conducted at different times and with different respondents show consistent effects of citizens' belief systems on legal obedience."¹⁵³ For instance, religiosity was found to affect two aspects of commitment to the rule of law, namely (1) orthodox respondents showed a stronger belief in the supremacy of religious laws over state laws than other citizens and (2) they also showed more negative attitudes toward law enforcement authorities and less trust, compared to secular respondents. In addition, the readiness to

¹⁵¹ Rattner (1994), *supra* note 153, at 395.

¹⁵² Dana Yagil and Arye Rattner, *Between commandments and laws: religiosity, political ideology, and legal obedience in Israel*, 38 *Crime, Law and Social Change* 185–209 (2002).

¹⁵³ Yagil and Rattner (2002), *supra* note 156, at 204.

take the law into one's own hands was found to be stronger among ultra-orthodox respondents than among the other respondents.

In their 2004 study, the same authors concluded that “the willingness to take the law into one's own hands on ideological grounds is predicted by non-commitment to the law, perceptions of procedural justice, and alienation.”¹⁵⁴ In this study, the authors examined used data from three identical surveys, conducted in three consecutive years. The surveys were conducted among the following groups: general Jewish population, ultra-orthodox Jews, settlers in the territories, and Israeli Arabs. The purpose of the study was to examine interrelationships among procedural justice, alienation, attitudes toward the law, and the willingness to take the law into one's own hands on ideological grounds. The authors suggest that “the differences between the groups in their attitudes toward the law and the legal system are related to the multi-cleavage nature of Israeli society, in particular, the religious cleavage (orthodox vs. secular Jews) and the national cleavage (Jews vs. Arabs).” It is, therefore, evident that various groups in Israel hold different notions of the rule of law and their commitment to the latter varies by its nature and degree of commitment.

As to the community of the FSU immigrants, the findings of the 2005 research conducted by Yagil and Rattner, suggest that the FSU immigrants and Arabs who strongly identified with their own ethnic group (e.g., by voting for political parties that represent their group) attributed less procedural justice to the police and the courts than did weak identifiers.¹⁵⁵ In this research, Yagil and Rattner conducted telephone surveys in order to examine and to compare the attitudes toward the legal system of three groups: old line Israeli Jews, Jewish immigrants from the FSU (who immigrated to Israel in the

¹⁵⁴ Rattner and Yagil (2004), *supra note* 105.

¹⁵⁵ However, one observation and caveat must be made about this conclusion: Yagil and Rattner (2005), *supra note* 105, at 12: “although alienation and in-group identification were conceptualized in this research as independent variables, it is possible that the procedural justice attributed to authorities affects alienation rather than the other way round.”

1990's) and Israeli Arabs. Compared to other Israeli Jews, the FSU immigrants “expressed a lower sense of obligation to comply with state laws, stronger belief in the supremacy of other laws, and stronger willingness to take the law into their own hands than did veteran Jews.”¹⁵⁶

Unlike studies based on large-scale survey data, this study explores in depth the views and attitudes, focusing on small samples of three population groups. By doing so, I hope to produce a more accurate and multifaceted picture of the respondents' attitudes, focusing on the key notions of *legal culture*—rule of law, valuation of personal liberty, legal alienation, attitudes toward the courts and modes of dispute resolution.

This project aims to expand knowledge of legal sub-cultures, and may shed light upon the significance of the legal sub-cultures for policymakers, who would be able to increase effectiveness by taking into account the disparities of the perceptions of different segments of the population.¹⁵⁷

Moreover, notions of legal culture examined by this research—such as the attitudes towards liberties and the rule of law—constitute an important part of political culture as well. This facet is particularly significant for Israeli democracy, since Israeli society is a society of immigrants coming from disparate, not necessarily democratic, political cultures, and bringing with them a variety of values. Democratic political culture is vital for the stability of the democratic system, particularly in the case of Israeli democracy—which functions under many external and internal constraints; therefore, assessment of values is essential for preserving and advancing Israeli democracy and identifying aspects potentially harmful to its resilience.¹⁵⁸

¹⁵⁶ Yagil and Rattner (2005), *supra note* 105, at 11.

¹⁵⁷ Tyler notes that the main difficulty in trying to manage diverse societies is “finding social policies that will be acceptable to all individuals and groups”, in Tyler (2000), *supra note* 4, at 983.

¹⁵⁸ Arian et al. (2009), *supra note* 145.

Additionally, despite the fact that many Israelis reside abroad, the absence of a description of their legal culture and its underlying motivations constitutes a gap in the current literature. This study will address these issues.

D. CURRENT STUDY

The current study is focused on the legal cultures of the following groups of Israelis: (1) immigrants from the Former Soviet Union (FSU) who reside in Israel; (2) Israeli secular Jews; and (3) members of the Israeli Diaspora in the ‘Silicon Valley’ (Santa Clara, CA).¹⁵⁹ The research is based upon in-depth interviews.

1. Immigrants from the Former Soviet Union to Israel

Mass immigration from the Former Soviet Union that occurred during the late 80’s-early 90’s¹⁶⁰ as a product of the changing Soviet reality of *glasnost*¹⁶¹ and *perestroika*¹⁶² has further added to the Israeli population and complicated its structure.¹⁶³ The accepted view among scholars seems to be that this immigration was motivated by

¹⁵⁹ The reasons for the exclusion of other segments of the Israeli population are both theoretical and practical. Since previous research has found some initial differences in the perceptions of such concepts as the rule of law among Israeli Jews and the FSU immigrants (Yagil and Rattner (2002), *supra note* 156), it is fruitful to attempt to gather further insight into the nuances and the notions underpinning such legal concepts.

¹⁶⁰ This immigration wave is considered to be among the largest the world has seen (Rachel M. Friedberg, *The impact of migration on the Israeli labor market*, 116 *Quarterly Journal of Economics*, 1373-1408 (2001)).

¹⁶¹ *Glasnost* is a term introduced by Mikhail Gorbachev, the last General Secretary of the Communist Party of the Soviet Union and the last head of state of the USSR before its dissolution. *Glasnost* refers to the freedom of information and a policy of transparency of the actions of the government institutions in the Soviet Union. This word appeared in 1985-1990 as a part of the program of reforms referred to as *Perestroika* (see hereafter).

¹⁶² *Perestroika* is a term introduced in 1985 by Mikhail Gorbachev to describe the economic reforms. The meaning of the Russian word *Perestroika* is "restructuring," referring to the restructuring of the Soviet economy. The goals of *Perestroika* included combating corruption and the abuse of privilege by the political and elite classes.

¹⁶³ FSU immigrants have many means of cultural and ethnical self-expression: such as “Geshet Theater,” literary almanacs, a radio station and television programs, which are partially sponsored by the Israeli government (Eliezer Ben-Rafael, Eliezer Olshtain and Idit Geijst, *Identity and Language: The Social Insertion of Soviet Jews in Israel*, 313, in Eliezer Leshem and Judit T. Shuval (eds.), *IMMIGRATION TO ISRAEL*, Transaction, New Brunswick and London, (1998); Horowitz, Tamar and Elazar Leshem, *The immigrants from the FSU in the Israeli cultural sphere*, 291, in Moshe Sicron and Elazar Leshem (eds.), *PROFILE OF AN IMMIGRATION WAVE: THE ABSORPTION PROCESS OF IMMIGRANTS FROM THE FORMER SOVIET UNION, 1990-1995*, Magnes, Jerusalem, (1998), (Hebrew); Alek Epstein and Nina Kheimets, *Immigrant intelligentsia and its second generation: Cultural segregation as a road to social integration?*, 1(4) *Journal of International Migration and Integration*, 461-476 (2000)).

economic concerns and political instability of the Soviet Union before its collapse.¹⁶⁴

Unlike the earlier waves of immigration to Israel, the members of the immigration wave of the 90's were motivated by push factors—i.e., the desire to emigrate from the USSR, and then the FSU—rather than by the wish to live in Israel.¹⁶⁵

During the years of the Soviet regime in the USSR, Soviet Jewry formed a distinct ethnic minority group. However, this population was cut off from its religion and traditions and assimilated, willingly or not, embracing the Russian language and Russian-Soviet secular culture and tradition. Thus, upon immigration to Israel, the FSU immigrants had poor—if any—knowledge of the Hebrew language and of the religious¹⁶⁶ and cultural traditions of the Jewish people.¹⁶⁷

Under Soviet rule, Jews gradually became the most educated ethnic group in the Soviet Union. Despite the common bursts of anti-Semitism in Russia and other Soviet Republics, many Soviet Jews occupied high academic, managerial and cultural professions.¹⁶⁸ This high level of education and rich cultural background played an important role in setting the Russian-speaking community of the immigrants from the FSU apart from other Israeli ethnic groups.

¹⁶⁴ Yoav Peled and Gershon Shafir, *BEING ISRAELI: THE DYNAMICS OF MULTIPLE CITIZENSHIP*, Cambridge: Cambridge University Press (2002); Larissa Remennick, *RUSSIAN JEWS ON THREE CONTINENTS: IDENTITY, INTERGRATION AND CONFLICT*, New Brunswick, NJ: Transaction Publishers (2007).

¹⁶⁵ Elazar Leshem and Moshe Lissak, *Development and consolidation of the Russian community in Israel*, 136 in Shalva Weil (ed.), *ROOTS AND ROUTS: ETHNICITY AND MIGRATION IN GLOBAL PERSPECTIV*. Jerusalem: Magnes Press. (1999); Robert J. Brym, *Jewish Emigration from the Former USSR: Who? Why? How Many?*, 177-193 in N. Lewin-Epstein et al. (eds.) *RUSSIAN JEWS ON THREE CONTINENTS: MIGRATION AND RESETTLEMENT*. London: Frank Cass. (1997).

¹⁶⁶ Due to their historical origins in the former USSR, which discouraged and sometimes even prosecuted religious practices, the majority of the immigrants from the FSU is secular (Al-Haj (2004b), *supra note* 138).

¹⁶⁷ Horowitz and Leshem (1998), *supra note* 167.

¹⁶⁸ Tamar Horowitz, *Integration or Separatism?*, 1, in Tamar Horowitz (ed.), *CHILDREN OF PERESTROIKA IN ISRAEL*, University Press of America, Maryland (1999); Moshe Lissak and Elazar Leshem, *The Russian intelligentsia in Israel: between ghettoization and integration*, 2 *Israel Affairs*, 20-36 (1995).

a. *Immigrants from the FSU as a separate group within the Israeli society*

In contemporary Israeli reality, the immigrants from the FSU constitute a distinct ethnic group within a multi-ethnic, multicultural society. In fact, today these immigrants form the largest single group in Israel according to their country of origin.¹⁶⁹

The FSU immigrants in Israel form a distinct ethnic group characterized by their “closed social networks, ethnic information sources, strong desire to maintain ethnic-cultural continuity, and the fact that the ethnic component (a Jew from the FSU or immigrant from the FSU) is central for self-identification.”¹⁷⁰ It appears that this separate identity is a result both of ethnic-cultural pride and pragmatic considerations.¹⁷¹

Furthermore, the tendency of the FSU immigrants to preserve their pre-immigration values and behavioral patterns is often construed by the Israeli society as unwillingness to become integrated.¹⁷² This situation is best described by the term ‘integration without assimilation’.¹⁷³

b. *The support of the FSU immigrants of the Russian cultural, political and other institutions*

After their immigration to Israel, the FSU immigrants demonstrated a strong desire to maintain their unique cultural identity. Research suggests that the separatist nature of the communities of the FSU immigrants in Israel can be observed in various aspects of their lives: among others, these immigrants actively support Russian cultural, political and educational institutions; they continue to speak the Russian language and teach it to

¹⁶⁹ Majid Al-Haj, *Identity Patterns among Immigrants from the Former Soviet Union in Israel: Assimilation vs. Ethnic Formation*, 40(2) *International Migration*, 49-70 (2002); Elazar Leshem and Moshe Sicron, *THE SOVIET IMMIGRANT COMMUNITY IN ISRAEL*, New Hampshire: University Press of New England (2004).

¹⁷⁰ Al-Haj (2002), *supra note* 173, at 49.

¹⁷¹ Al-Haj (2002), *supra note* 173.

¹⁷² Majid Al-Haj and Elazar Leshem, *Immigrants from the Former Soviet Union in Israel: Ten Years Later*, A Research Report 2000, The Center for Multiculturalism and Educational Research. University of Haifa.

¹⁷³ Philippov and Bystrov (2011), *supra note* 146.

their children; and to develop and consume Russian-speaking media. Remennick notes that, “Former Soviet Jews have been molded by Russian Soviet culture, which they cherish and wish to preserve and transfer to the next generation.”¹⁷⁴ In 1996–97 alone, FSU immigrants established some 300 formally recognized NGOs in the fields of education, culture and welfare services.¹⁷⁵ The immigrants’ cultural organizations are especially noteworthy in the fields of the performing arts, libraries and cultural clubs, which have played a major role in maintaining Russian culture among FSU immigrants in Israel and in strengthening cultural continuity with the home country.¹⁷⁶

In his 2004 study, Al-Haj dealt, among others, with the issues of whether the FSU immigrants are oriented toward assimilation within the existing ethno-cultural structure or toward the preservation of their own cultural uniqueness and the attitudes of these immigrants toward the ethno-national character of Israel.¹⁷⁷ This research was based on a nationwide survey conducted in 1999 on a representative sample of 707 adult immigrants (18 years and older) who came to Israel between January 1990 and July 1999, followed by data collection from two focus group and a complementary survey in 2001.

Among other conclusions, FSU immigrants “manifest a strong desire to maintain their cultural–ethnic continuity...Indeed, immigrants have already created their own cultural and community organizations side by side with their desire to participate in existing organizations...immigrants have a great potential for expanding the pluralistic structure of Israeli society and for institutionalizing a sort of multicultural ideology.”¹⁷⁸

¹⁷⁴ Larissa Remennick, *The Russian-Jewish Transnational Social Space: An Overview*, 4(1) *Journal of Jewish Identities*, 1-11 (2011).

¹⁷⁵ Elazar Leshem and Moshe Lissak, *The formation of the “Russian” community in Israel*, 4(19) *Yehudei Brit Hamoatzot Bimaavar*, 47–66 (2000) (in Hebrew), at 48.

¹⁷⁶ Narspy Zilberg, Elazar Leshem, and Moshe Lissak, *The Community of Immigrants from the FSU. Messages of Seclusion, Integration or Assimilation* (in the Russian Press and the Cultural Clubs). Jerusalem: The Hebrew University of Jerusalem, Selbert Center for Israeli Research, Research Report (1995).

¹⁷⁷ Al-Haj (2004b), *supra note* 138.

¹⁷⁸ Al-Haj (2004b), *supra note* 138, at 693.

This conclusion is based on findings that show that “FSU immigrants strongly support the maintenance of autonomous educational, cultural, and political institutions...”¹⁷⁹ They also find it important for their children to be familiar with Russian culture, to know the Russian language and to be educated in Russian language schools.

c. *The Russian language and its continued use by the FSU immigrants*

This separate identity of the FSU community is fostered by their continuing use of the Russian language. In her study of the key role of host language acquisition, Larisa Remennick conducted a survey of a representative national sample of 804 post-1989 immigrants using personal interviews of respondents in their homes.¹⁸⁰ Among other factors, the researcher found that the FSU “immigrants add Hebrew (and to some extent English) to their core linguistic and cultural menu, which remains Russian.”¹⁸¹ Remennick suggests that this combination of Hebrew and Russian “gradually leads to the formation of bilingualism and biculturalism already in the first and 1.5-generations (i.e., immigrants who moved to Israel as children or adolescents).”¹⁸²

d. *The FSU immigrants and the Russian language media*

By the 1995, there were some 50 Russian-language newspapers and magazines in Israel, including major daily newspapers, supplements, weeklies and local newspapers, as well as monthly and bi-monthly magazines and other irregular publications.¹⁸³ The Russian-speaking media also includes an official radio station (Radio Reka) and local TV channels.¹⁸⁴ However, this flow of information to the Russian-speaking community was not the only effect of the Russian-speaking media in Israel. In the opinions of some

¹⁷⁹ Al-Haj (2004b), *supra* note 138, at 693.

¹⁸⁰ Larissa Remennick, *Language acquisition, ethnicity and social integration among former Soviet immigrants of the 1990s in Israel*, 27 *Ethnic and Racial Studies*, 431-454 (2004).

¹⁸¹ Remennick (2004), *supra* note 184, at 451.

¹⁸² Remennick (2004), *supra* note 184.

¹⁸³ Lissak and Leshem (1995), *supra* note 172.

¹⁸⁴ Leshem and Sicron (2004), *supra* note 173.

scholars, in the unique environment that developed in the mid-late 90's, the Russian-speaking media had an important and distinctive role that originated in the ideology of a *melting-pot*: the press became a means of socialization, as it enabled the Russian-speaking community to receive important information regarding the norms, values, customs and culture of their new country in their native language. The Russian immigrants had to adapt to Israeli society and to become familiar with its primary ethos. Under these circumstances, the Israeli Russian-speaking press acted as a cross-cultural mediator; it was the instrument to achieving socio-cultural integration.¹⁸⁵ Its role is especially significant in light of the fact that these media are accessed by a large proportion of the members of the Russian-speaking community and constitute its primary, and in some instances—the only—source of information about Israel's cultural and political life.

Other researchers argue that although these media, in essence, enabled the FSU immigrants to become more knowledgeable about and active in the social and political affairs of their new country, the Russian-speaking media also advanced the preservation of the FSU immigrants' cultural heritage.¹⁸⁶ As a result, the Russian-speaking media may, in fact, be regarded as fueling separatism, because the media allowed a strategy of cultural segregation to emerge.

Interestingly, studies show that even increased periods of residency in Israel have not affected the consumption of Russian language products, including the media, by the Russian-speaking population; and that this community is characterized by a relatively moderate use of the media in Hebrew. In their 2002 study, Adoni et al. conducted two separate telephone surveys of Russian immigrants in Israel and Arab citizens of Israel during late June and early July 1996.¹⁸⁷ The sample of the FSU immigrants, randomly drawn from a cumulative nation-wide database of Russian immigrants that had been established and continuously updated by the polling company, consisted of 786

¹⁸⁵ Horowitz and Leshem (1998), *supra note* 167.

¹⁸⁶ Narspy Zilberg and Elazar Leshem, *Russian-language and immigrant community in Israel*, 12(3) *Revue Europeenne des Migrations Internationales*, 173–91 (1996).

¹⁸⁷ Hanna Adoni, Akiba A. Cohen, Dan Caspi and Nelli Elias, *The consumer's choice: Language, media consumption and hybrid identities of minorities*, 27(1) *Communications* 411-436 (2001).

respondents, all of whom were born in the former Soviet Union and immigrated to Israel between 1989 and 1998. The mean age of the FSU immigrants in this study was 44.4, with a median of 44. The results of the research reveal that 44.9% of the Russian-speaking community are high consumers of Russian-speaking media and low consumers of the Hebrew-language media, whereas 26.1% consume the Russian-language and the Hebrew-language media in equal amounts; only 18% consume primarily Hebrew-language media.

The Russian-language media, in short, function both as an intermediary between the two communities—the FSU immigrants and the Hebrew-speaking Israelis—and also as an indicator and supporter of separatism.

2. Members of the Israeli Diaspora in the ‘Silicon Valley’

As opposed to the FSU immigrants to Israel—which captured scholars’ attention for over two decades and has been the subject of voluminous research—the characteristics of the Israelis in the Silicon Valley remains somewhat obscure. Nevertheless, one can plausibly make some extrapolations from research on the general migration to the Silicon Valley, and on the Israeli communities in other areas of the United States.

Research of immigration trends to the Silicon Valley shows that during the past decades it became a site that attracted highly skilled labor, in particular “entrepreneurial, creative, and ambitious people who seek to leverage their talent.”¹⁸⁸ The immigrants in the Silicon Valley differ from the traditional foreign suppliers of low-cost jobs.¹⁸⁹

Israel and Silicon Valley have a long history of collaboration. These collaborations were established due to Israel’s large reservoir of scientific talent, founded in its military

¹⁸⁸ Jerome S. Engela and Itxaso del-Palacio, *Global networks of clusters of innovation: Accelerating the innovation process*, 52(5) *Business Horizons*, 493-504 (2009).

¹⁸⁹ AnnLee Saxenian, *Silicon Valley’s New Immigrant High-Growth Entrepreneurs*, 16 *Economic Development Quarterly*, 20-31 (2002); Engela and del-Palacio (2009), *supra note* 192.

needs, and the influx of scientific expertise coming from successive waves of immigration from the former Soviet Union.¹⁹⁰

As a result of these factors, in the course of the last decades many Israeli professionals and their families have relocated to this area. The Israelis in the Silicon Valley are what the sociological literature terms ‘professional immigrants’: they “receive legal status, command English language skills, and have educational credentials valued by the receiving labor market...have access to jobs and social positions equal to those of the native middle class.”¹⁹¹ In addition to high education and socio-economic status, the majority of this population is young¹⁹² and secular. Israeli migrants’ are part of “...’the new immigration’-the movement of skilled and educated persons from non Western societies to Western Europe and North America.”¹⁹³

Although in many Western societies Israeli emigrants are among the largest Jewish migrant populations and have somewhat similar social, cultural and other characteristics with native-born Jews in those societies, they reveal dissimilar patterns of adaptation; most notably, they are unwilling to identify with host societies.¹⁹⁴ Interestingly, while some of the Israeli migrants remain abroad for long intervals of time and become incorporated into the host societies, “...they seldom describe themselves as nationals of the host country, socialize almost exclusively with other Israelis, frequently describe their intention to return home...”¹⁹⁵ Studies found that even decades of having a

¹⁹⁰ Engela and del-Palacio (2009), *supra note* 192.

¹⁹¹ Gold (1994a), *supra note* 148, at 326.

¹⁹² The 1990 U.S. Census shows that 79 percent of them in New York and 70 percent in Los Angeles are under age 44. Steven J. Gold, *THE ISRAELI DIASPORA*. Seattle. University of Washington Press, 2002. Also, *see* Jewish Community Study Summary Report for 2004, <http://www.sjcf.org/aboutjcf/localcommunity/study/PDFs/JewCommStudy.pdf> ; http://www.cbs.gov.il/www/hodaot2011n/11_11_101e.pdf (last viewed on October 2011).

¹⁹³ Gold (2002), *supra note* 196, at 46.

¹⁹⁴ Steven J. Gold, *From Nationality to Peoplehood: Adaptation and Identity Formation in the Israeli Diaspora*, 13(2) *Diaspora*, 331-358 (2004).

¹⁹⁵ Gold (2004), *supra note* 198, at 332.

home in the U.S. do not cause many of the Israelis to refer to themselves as Americans; on the contrary, they often continue asserting their plans to return home to Israel.¹⁹⁶

3. Israeli Secular Jews

Israeli Jews are the third group whose attitudes and perceptions with respect to the laws and the legal system were investigated and analyzed by this research. This population is, by far, the largest among the segments investigated by this research. According to the data of the Israeli Central Bureau of Statistics, in 2009, out of the Israeli population of about 7.5 million people, about 75% of the Israeli population identifies itself as Jews.¹⁹⁷

Furthermore, the general Jewish population encompasses individuals with a range of disparate characteristics; these can be classified into many categories.¹⁹⁸ Similar to any other ‘general’ population, the individuals belonging to the Israeli Jewish population vary with respect to their demographic characteristics—such as age, level of education, locus of residency and other., the Israeli Additionally, Jews differ with respect to their—or their ancestors’—countries of origin, i.e., Jews of mainly central and eastern European ancestry are called ‘Ashkenazi’, while, ‘Sephardic’ are Jews of Iberian, Near Eastern, or North African origin.

In addition to the aforementioned categories, the Israeli Jews vary with respect to their attitudes towards religion and observance practices, ranging from atheists to ultra-orthodox. Recent statistical data gathered by the Israeli Central Bureau of Statistics with respect to the attitudes of this population concerning religion reveal that about 43% of the

¹⁹⁶ Natan Uriely, *Patterns of identification and integration with Jewish Americans among Israeli immigrants in Chicago: Variations across status and generation*, 16(1) *Contemporary Jewry*, 27-49 (1995); Gold (2002), *supra note* 196.

¹⁹⁷ The Israeli Central Bureau of Statistics. http://www1.cbs.gov.il/population/demo_prop09.pdf (viewed in October 2011).

¹⁹⁸ Scholars noted various characteristics of the Israeli Jewish population. For instance, Yechezkel Dar, Rachel Erhard and Nura Resh, *Perceiving Social Cleavages and Inequalities The Case of Israeli Adolescents*, 30(1) *Youth Society*, 32-58, 1998, at 35, name seven social divisions within the Israeli Jewish population: five resource-related—namely, class, education, ethnicity, locus of community residence, and gender; and two belief-related, i.e., politics and religiosity.

total Jewish population above the age of 20 described themselves as “secular” or “not religious.”¹⁹⁹

According to the design of this study, the group of the Israeli Jews was comprised of individuals who share certain characteristics, such as high socio-economic status, high education level, particular age brackets and secular views.²⁰⁰ In addition, these individuals reside in the center of Israel. Both the reasons that underlie this choice and the particular characteristics of this group are discussed in detail in Methodology Chapter.

IV. METHODOLOGY

This Chapter contains a discussion of the methodological issues. Part A, opens with the research question posed, and includes an account of the research design. In this Part, I also discuss the method employed for the data collection and the analysis procedures—particularly focusing on evaluating the aspects of legal culture which are the focal point of this work. Part A concludes with an extensive discussion of methodological considerations and limitations of this research. In Part B, I present the descriptive characteristics of the respondents.

¹⁹⁹ The Israeli Central Bureau of Statistics, http://www.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st07_04x&CYear=2011 (last viewed in October 2011).

²⁰⁰ Within the Israeli society, the major differentiation with respect to religion is associated with the levels of religious practice and identifications. Although studies demonstrate a continuum of religiosity with no definite boundaries, (Hanna Ayalon, Eliezer Ben-Rafael and Sephen Sharot, *Secularization and the Diminishing Decline of Religion*, 27 *Review and Religious Research*, 193-297 (1986)), individuals tend to describe themselves as ultra-orthodox, religious, traditional, or secular (Hanna Ayalon, Eliezer Ben-Rafael and Sephen Sharot, *Religious, Ethnic and Class Division in Israel: Convergent or Cross Cutting?*, p.279, Zvi Sobel and Benjamin Beit-Hallahmi (eds.), *TRADITION, INNOVATION, CONFLICT: JEWISHNESS AND JUDAISM IN CONTEMPORARY ISRAEL* (1991)). Here, the term 'secular' is used as it was used by the respondents for self-definition. However, this term is used not only by those conducting an utterly non-religious life-style; it is quite possible that individuals who do not identify themselves as Orthodox, but belong to a wide range of religious orientations—from Messorati (traditional) to atheist—would define themselves as secular.

A. RESEARCH DESIGN

1. Research question

This research focuses on the effects of migration on the legal culture. The central question is: what notions, concepts and rationales inform or motivate attitudes toward law? I attempt to tackle this question, and to examine differences among cultural groups in their attitudes, by focusing on the legal sub-cultures of three groups of Israelis. Does the legal culture of these groups vary—and if so, how? In particular, what has been the impact of migration, on the attitudes towards law?

The three groups are: (1) immigrants from the FSU who immigrated to Israel between the years 1990 and 1994²⁰¹ and who since then reside there, (2) Israeli secular²⁰² Jews, and (3) members of the Israeli Diaspora in the ‘Silicon Valley’ (Santa Clara, CA.)

2. Research Method

In order to answer the research questions set forth by this research, I employed in-depth individual interviewing of a non-representative sample of the population. A number of reasons underpinned the selection of this approach. In this research, a method that uses such interviews can provide deeper insight and new perspective on the questions posed. This research aims to capture and describe the nuances of the individuals’ attitudes and socio-legal perceptions. These notions are multifaceted and rich in detail; in-depth interviews are particularly suited for such investigation.

The design does suffer from certain inherent flaws, such as the sacrifice of generalizability. However, it allows me to gain access to multi-layered, detailed data, shedding light on issues previously overlooked by empirical research in the area, which

²⁰¹ According to the Israeli Central Bureau of Statistics, during this period about 500,000 immigrants from the countries of the FSU arrived to Israel (<http://www.cbs.gov.il/www/population/ussrp/diag2.pdf>, last viewed in June 2011).

²⁰² Although the Israeli Jewish population encompasses individuals with different religious views, ranging from ultra-orthodox to anti-religious, this research concentrated on the secular Jewish population. This focus was made in order to pinpoint the disparities that stem from migration; as discussed below, the respondents were selected in a manner that allowed maximum similarity in other characteristics. This research excluded ‘religiosity’ because it might influence the legal culture of individuals, interfering with the comparison of legal cultures.

focused on general notions, using survey data. This method enabled me to acquire a broader and more extensive perspective of the views of the subjects of research than would be possible using a survey tool alone.

3. Data Collection

The current study analyzes the data gathered in the course of 102 in-depth interviews that were conducted in the Silicon Valley, CA, and in Israel between August 2009 and February 2010 with representatives of the three groups mentioned. In course of the study, I conducted 38 interviews with respondents of the FSU group and 32 interviews with respondents of each of the other two groups. On average, the interviews lasted 38 minutes. According to the choice of each respondent, the interviews were conducted in the Hebrew, English or Russian languages.²⁰³ Prior to conducting the interviews, the questions were tested in a pilot study that was conducted in the Silicon Valley, CA, and in Israel in June-July 2009.

Due to the unavailability of a comprehensive sampling framework, I employed a ‘convenience’ sampling technique to recruit participants for this research. At the first stage, I sent an announcement about this research through personal acquaintances in some of the high-tech firms in Israel and the Silicon Valley. The respondents²⁰⁴ either contacted me or my acquaintances, who referred them to me directly. Thereafter, I scheduled appointments for conducting the interviews in the places chosen by the interviewees, in offices or coffee shops. It is important to mention that the choice of the high-tech companies was not random, as it was guided solely by the feasibility of

²⁰³ Often the interviews were conducted in two languages, e.g., when the Israelis in the Silicon Valley chose to conduct the interview in English, but then switched to Hebrew in course of the interview, or when the FSU immigrants while being interviewed in Hebrew, used Russian terms when they felt these are more precise to express their feelings. For instance, as will be discussed in the following chapters, one of the FSU respondents who interviewed in Hebrew used a Russian word to describe her negative feelings towards an act of ‘snitching’.

²⁰⁴ The differentiation was done in the announcement stage, since the ad explicitly called for secular individuals of former Soviet or Israeli origins. Effectively, the only parameter by which the respondents were singled out was whether they grew up and were educated in Israel—the requirement for the group of the Israeli Jews.

In this research 95% of the Israeli interviewees (both in Israel and in Silicon Valley) were born in Israel; the remaining group lived in Israel since childhood (age of 1-3.)

announcing the research, i.e., by having a personal contact willing to act on my behalf. The announcements were sent out twice in each company.

4. Data Analysis

a. Questionnaire Design

The interview schedule²⁰⁵ was developed in a way that explored key directions in the legal culture literature that formulated this research. A prototype interview was assessed for the appropriateness and clarity of the questions in course of a pilot study.

The interview schedule opened with questions collecting demographic data, such as year of birth, year of immigration (if relevant), marital status, employment information etc. The substance of the interviews contained three types of question. In the first part, the respondents were presented with abstract questions juxtaposing different interests and principles; these questions are based on Gibson and Caldeira's 1996 study of the legal cultures of Europe and were replicated by subsequent research.²⁰⁶ The responses were recorded using a four-point scale—agree strongly, agree, disagree and disagree strongly.²⁰⁷

In the second part of the interview, rather than asking the respondents to agree or disagree with abstract statements and propositions, the interviewees were required to make a judgment about some hypothetical, yet mundane scenarios (vignettes). The use of relatively concrete and straight-forward vignettes enabled me to gain insight into the nature of the trade-off between various attitudes and notions about proper legal conduct.

Studies have employed vignettes "...to elicit cultural norms derived from respondents' attitudes to and beliefs about a specific situation and to highlight ethical

²⁰⁵ The interview schedule is attached as Appendix A.

²⁰⁶ Gibson and Caldeira (1996), *supra note 4*; Yagil and Rattner (2002), *supra note 156*.

²⁰⁷ Although the questionnaire contains a fifth category—'refuse'—for respondents who decline to provide an answer, none of the interviewees used this category.

frameworks and moral codes.”²⁰⁸ This result is obtained by highlighting “... selected parts of the real world that can help unpack individuals' perceptions, beliefs, and attitudes to a wide range of social issues.”²⁰⁹ In a similar venue, Gibson—who used vignettes in his research of various aspects of legal culture—asserts that they “...have the virtue of mundane realism through verisimilitude, in the sense that they depict a set of circumstances that are concrete and easily understood by the respondents.”²¹⁰ Although some scholars stress the limitations present when vignettes are used—such as the potential difference between individuals' perceived and actual behavior—this method remains a useful tool for social research.²¹¹

In this study, the first vignette addressed the respondents' attitudes with respect to dispute resolution and their propensity to alter their own behavior in order to comply with specific laws. Its various scenarios described such instances as the respondents' propensities to comply with a hypothetical law by reporting the car accident to police, resolving monetary damages resulting from the incident and other.

The second vignette dealt with illegal workplace discrimination. Among others, this vignette and its various scenarios tested the respondents' inclinations to seek judicial assistance in resolving their disputes and investigated the considerations that underlie the decision to appeal to the courts.

The interviews concluded with a third part, which consisted of two sections. In the first section, I documented respondents' judgments about various aspects and

²⁰⁸ Christine Barter and Emma Renold, “I wanna tell you a story”: *Exploring the application of vignettes in qualitative research with children and young people*, 3(4) *International Journal of Social Research Methodology: Theory & Practice*, 307-323 (2000), at 310.

²⁰⁹ Rhidian Hughes, *Considering the vignette technique and its application to a study of drug injecting and HIV risk and safer behavior*, 20(3) *Sociology of Health and Illness*, 381-400 (1998).

²¹⁰ James Gibson, *Challenges to the Impartiality of State Supreme Courts: Legitimacy Theory and “New-Style” Judicial Campaigns*, 102(1) *American Political Science Review*, 59-75 (2008), at 64.

²¹¹ For a review of the literature on theoretical limitations of using vignettes see Barter and Renold (2000), *supra* note 212.

functions of the Israeli courts (recorded on a ten-point scale), as well as data about their personal experiences with the courts—either as plaintiffs or defendants.

The last section investigated the interviewees' dispute resolution preferences. The respondents were asked to state their opinion of the likelihood of their initiating legal action in certain instances, such as contesting in court an unjustified traffic ticket and filing miscellaneous claims against individuals or governmental organizations.²¹²

The questionnaires for the FSU immigrants and the Jewish Israelis were identical, except for the demographic section, which—for the FSU immigrants—included additional questions about the year of immigration, and from which republic they had immigrated. The questionnaire in the Silicon Valley includes additional demographic questions relevant to this group—questions about immigration status in the U.S., the year and the reason for relocation to the U.S. etc. In addition to questions about the Israeli legal system—identical to the questions used in the interviews with the respondents of the other two groups—the questionnaires for the Silicon Valley respondents also included questions about their attitudes to the American legal system.

In addition to the answers to specific questions provided by the respondents in the course of the interviews, I recorded additional information that they chose to share with me. These data include such details as the accounts of personal experiences relevant to the responses,²¹³ explanations of the rationales behind the statements and perceptions, and others. This left me open to pursue issues and ideas that first came up in the interviews.

b. *Data Analysis*

The interviews conducted in the course of this study generated rich data with respect to the respondents' attitudes, perceptions and beliefs about the law and legal system and the motivations underpinning them. The data analysis included both intra-

²¹² The Israeli National Insurance Institute (Bituach Leumi) and the Israeli Tax Authorities (Mas Hahnasa).

²¹³ For instance, while unambiguously declaring that he would take responsibility for his actions by providing his details in an instance of a car accident when the owner of the damaged car is absent, one of the respondents mentioned that a similar situation occurred to him in the past and he failed to act in such manner (interview 5 with the FSU immigrants).

and inter-group comparisons and is supported by direct, verbatim quotations in English translation and paraphrases from the interviews.

To analyze the findings, I used a multilevel comparative approach; this method takes into account both within- and between-group differences.²¹⁴ At the first stage, intra-group comparisons were conducted in order to discover patterns or recurring themes. The findings are reported in the Results Chapter.

The goal of this analysis was to reveal patterns that consistently diverge—or concur—between the groups. A cautionary note should be made at the outset. First, the research focuses on small and purposefully selected samples; it is, therefore, not fully representative of the population. Moreover, although the schedules of the interviews were identical for all the respondents,²¹⁵ the interviewees were offered the possibility to provide supplementary information and to share personal anecdotes about their experiences and encounters. This method allowed me to gain more understanding about their legal cultures, and their motivations.

5. Methodological Limitations

As discussed, the sampling technique employed in this study was purposeful and non-random; and the sample size was small: 38 individuals representing the FSU group and 32 interviewees representing each one of the other two groups. Naturally, one can legitimately question the conclusions derived from this research; however, such design served to promote a number of important objectives. The interviews provided deep, detailed, and suggestive insights into attitudes, notions and motivations; and at the very least suggest hypotheses for further research on the legal culture of the groups studied.

Moreover, due to the fact that the samples are similar to each other along the observable dimensions²¹⁶—other than the migration status that is of interest—it is

²¹⁴ Adam Przeworski and Henry Teune, *THE LOGIC OF COMPARATIVE SOCIALINQUIRY*, Inquiry New York: Wiley-Interscience (1970).

²¹⁵ The exception was the Silicon Valley group, who—in addition to the questions about the Israeli legal system—were asked about their attitudes to the U.S. legal system as well.

²¹⁶ While one cannot unequivocally discard the possibility that the disparities are founded in some unobserved parameters, the design of this research makes this possibility less plausible. This is due to the

plausible that the differences that were discovered across the groups reflect the differences among these populations.²¹⁷

Furthermore, in course of the interviews, the responses to the standardized questions were probed to elicit further detail. This approach allowed me to obtain richer and more contextualized data with respect to the attitudes and perceptions of the interviewees. In order to facilitate the inter-group descriptions, I compare the responses to the standardized questions. It should be noted that the qualitative data—collected using non-standardized techniques—are consistent with the discovered quantitative differences. Therefore, while it is possible that this ‘mixed’ approach may have introduced biases, it appears that the differences in results reflect the reality.

The last issue that must be taken into account is the question of reliability. I had to rely on self-reporting. This method raises the possibility of misreporting by the informants, who could use self-justifications, provide answers that are aimed at enhancing their own image and fail to report behaviors or preferences that they perceive awkward, embarrassing or socially stigmatized.

Naturally, one cannot entirely and unequivocally eliminate the possibility that the interviewees provided untruthful, self-serving reports. Nonetheless, there are reasons to trust the responses. In addition to the assurance of complete confidentiality and anonymity of the respondents, the interviews asked individuals to react to hypothetical scenarios (vignettes); none of the questions asked individuals to disclose any illegal behavior or criminal acts on their part. Furthermore, some of the interviewees admitted, on their own accord, instances of legal disobedience; one interviewee, for example,

fact that the respondents for this study were selected in a way that minimized differences other than their origin—in the case of the FSU immigrants—and their current place of residence—in the case of Israelis in the Silicon Valley. As discussed in the last section of this Chapter, the only other difference that was discovered in course of this study—i.e., the respondents’ political outlooks—is representative of the general Israeli population; its implications are discussed in depth in the Discussion Chapter.

²¹⁷ The populations in question comprise of individuals who share particular characteristics, such as high education, belonging to the middle to upper-middle class, non-religiosity; and (in Israel) living in urban centers. These characteristics, as well as the reasons that underlie the choice thereof, are extensively discussed in the last section of this Chapter—the section on the descriptive results.

reported failing to notify and give details to the owner of a car the interviewee had damaged.²¹⁸

Moreover, the design of the questionnaire—which investigated each separate element both by direct questions and by vignettes—allowed me to compare each individual’s reactions. It provided me with a tool to discover and describe inconsistencies. Also, I mostly could claim kinship with any of the individuals in each of the groups;²¹⁹ I was able to develop a high level of rapport with the interviewees that helped ensure trust. It is unlikely that respondents felt pressured into providing me with a particular picture.

Similarly, a related concern that interviewees wanted to provide answers to please or impress the researcher—which is relevant to any interview-based research—does not appear to pose a serious problem. First, the respondents are all highly educated individuals of high socio-economic status. Throughout the interviews, they exhibited a high level of self-confidence, which is apparent—for instance—from statements that they expected to be treated by the courts better than average citizens.²²⁰

Second, as mentioned above, some respondents reported information about their own behavior that they deemed to be dishonorable or knew to be illegal. For instance, in response to a question whether it is necessary to obey a law he considers unjust, one of the FSU respondents stated that he will obey only if the law is just and that he will disobey the law if he can.²²¹

Moreover, the possibility of misleading or self-serving reporting going unnoticed is implausible due to the design of the questionnaires, which subjected the elements of

²¹⁸ Interviews with FSU immigrants; interview #5.

²¹⁹ I am fluent in their languages and share the same social background: I immigrated from the FSU in the 90’s, but was socialized in Israel in predominantly Israeli Jewish community and spent 4 (at the time of the research) years living in the Silicon Valley. Furthermore, due to the fact that by design, all of the respondents have high education, I doubt that they were intimidated by the interview or trying to impress me.

²²⁰ For instance, due to high education (interviews with Israeli Jews, interviews #5, 12); better understanding of the procedures (interviews with Israelis in Silicon Valley; interviews #11, 16); having more money for a good attorney (interviews with FSU immigrants; interview #5; interviews with Israeli Jews, interview #10).

²²¹ Interviews with FSU immigrants; interview #35.

the legal culture to a double scrutiny—by being investigated both by direct questions, and indirectly, by means of vignettes. This design used as a tool to expose potential inconsistencies, thereby significantly minimizing the possibility of such inconsistencies going undetected.²²² The implemented design minimizes—if not refutes—the plausibility of misinformation ‘slipping under the radar’ in course of the analysis of the findings.

B. RESEARCH SAMPLE – DISCRIPTIVE RESULTS

As previously stated, the participants in this research are a non-representative sample of individuals of both genders, who belong to one of the following groups: (1) immigrants from the FSU who immigrated to Israel between the years 1990 and 1994 and who since then reside there, (2) Israeli secular Jews, and (3) members of the Israeli Diaspora in the ‘Silicon Valley’ (Santa Clara county, CA.) In the course of the study, I conducted 38 interviews with respondents of the FSU group²²³ and 32 interviews with respondents of each of the other two groups. None of the participants were compensated.

The respondents were selected in a manner that allowed maximum similarity in the following characteristics: level of education, socio-economic status, area of residence and age.²²⁴ In addition, the respondents of this research are all secular individuals.

²²² An example of such inconsistency in the reporting (although, apparently, non-deliberate) are the discovered attitudes of Israeli Jews and Israelis in the Silicon Valley towards the rule of law, which are extensively discussed and demonstrated in the Discussion Chapter.

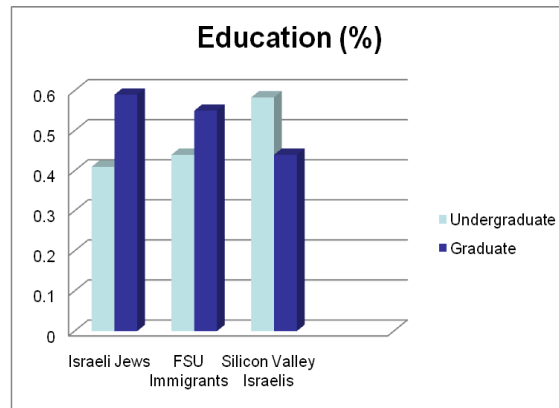
²²³ Respondents of the FSU group immigrated before or immediately after the collapse of the Soviet Union from different republics. The republics of the respondents’ origin are as follows; the largest segment—20 individuals—immigrated to Israel from Russia; 7 from Belorussia; 5 from Ukraine; 2 from Moldova and 1 respondent from each of the following: Latvia, Uzbekistan, Georgia and Kazakhstan. This picture is fairly representative of the general FSU population (see the Israeli Central Bureau of Statistics, at http://www.cbs.gov.il/shnaton61/st04_04.pdf, last viewed in June 2011).

²²⁴ Legal culture is affected by many variables. For instance, see MacAulay, who asserts that “[W]e should not be surprised to discover that legal ideas differ as we consider class, gender, race, region, religion and the amount of direct experience people have with police officers, administrative agencies or courts” (Stewart MacAulay, *Popular Legal Culture: An Introduction*, 98(8) *The Yale Law Journal*, 1545-1558 (1989), at 1547). Similarly, research that investigated cultural change discovered that demographic factors, such as age, religion, and the socioeconomic status are possible sources of variation in this process (John W. Berry and David L. Sam, *Acculturation and adaptation*, at 291–325 in John W. Berry, Marshall H. Segall, and Cigdem Kagitcibasi (eds.), *HANDBOOK OF CROSS-CULTURAL PSYCHOLOGY: SOCIAL BEHAVIOR AND APPLICATIONS* (Vol. 3). Boston, MA: Allyn & Bacon. (1996)). Further discussion on the significance of ‘age’ variable in determining the development of concepts related to authority, rules, aggression and justice, see Tapp and Levine (1974), *supra note* 136, at 18-19, and the accompanying footnotes (74-77).

1. Education

Studies have demonstrated that the level of an individual's education has implications for her attitudes towards law, legal institutions and authorities.²²⁵ In order to eliminate the potential influence of disparate levels of education on respondents' attitudes, all of the interviewees selected for this study hold an undergraduate degree or above. Figure 1 demonstrates the education levels for all the respondents.²²⁶

Figure 1



2. Economic status

Similar to—and correlated with—the level of education, an individual's socio-economic status might influence her legal culture.²²⁷ In order to minimize the features that could be attributed to economic status—rather than migration, which is the focus of the current research—all of the interviewees are of high socio-economic status.²²⁸

It should be mentioned that this feature of the FSU respondents is not typical of the general FSU segment of the Israeli population, who—as a group—constitute a low-

²²⁵ Gibson and Caldeira (1996), *supra note 4*.

²²⁶ In absolute numbers the levels of education are as follows: FSU immigrants: 16 respondents hold undergraduate degrees, 21 respondents hold graduate degrees; Israeli Jews: 13 respondents hold undergraduate degrees, 19 respondents hold graduate degree; Israelis in the Silicon Valley: 17 respondents hold undergraduate degrees, 15 respondents hold graduate degree.

²²⁷ Yagil and Rattner (2005), *supra note 105*.

²²⁸ This information was obtained indirectly, namely, in addition to being employed in professional high-tech jobs—which is inherent in my research design due to the selection method discussed below—all of the interviewees reported being employed at least 3 years prior to the interview.

status community.²²⁹ However, this selective approach was necessary in order to hold socio-economic status constant for all three groups.

3. Area of residence

All the Israeli respondents reported residing in the center of Israel (Jerusalem/Tel Aviv areas). This too makes the FSU respondents somewhat different from the rest of the FSU population, the majority of who reside in the Israeli periphery.²³⁰

4. Age

In order to eliminate potential implications of age on the attitudes of the respondents, the interviewees were selected in a way that minimizes their age differences. The mean age for the FSU immigrants was 40.42, with standard deviation of 7.51. For the group of the Israeli Jews, the mean age was 35.81 with standard deviation of 7.04. The mean age of the last group—the Israelis in the Silicon Valley—was 41.9, with standard deviation of 7.27.

It should be noted that although the consequences of age cannot be eliminated completely, the approach here allows me to conclude that disparities between the notions and perceptions of different groups plausibly stem from elements other than their age.

5. Secular views

Individual religiosity was investigated by directly asking individuals to define their level of religiosity, as well as by asking about attendance at religious services. Although a few²³¹ of the respondents described themselves as being ‘traditional’, rather than ‘secular’, they reported the same practices as the respondents who defined themselves as ‘secular’. Namely, the number of times of attendance of synagogue varied between zero and two-three per year (i.e., High Holidays) for all the interviewees. None of the respondents reported religious practices, such as observing Shabbat.

²²⁹ Yagil and Rattner (2005), *supra note* 105; Arian et al. (2009), *supra note* 145; Philippov and Bystrov (2011), *supra note* 146.

²³⁰ Arian et al. (2009), *supra note* 145; Philippov and Bystrov (2011), *supra note* 146.

²³¹ FSU immigrants: 1 respondent defined himself ‘traditional’, Israeli Jews: 4 respondents defined themselves ‘traditional’, Israelis of the Silicon Valley: 1 respondent defined himself ‘traditional’.

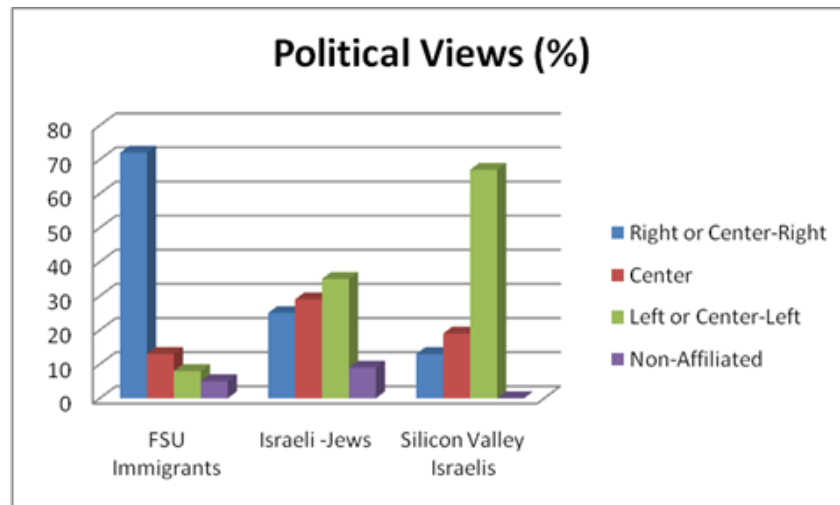
6. Political views

One element that differed between the FSU group, on the one hand, and the respondents of the other groups was their political attitudes (Figure 2). Of the FSU respondents 26 (i.e., 2/3) reported right or center-right views. Additionally, 3 respondents of this group supported the left or the center-left, 2 respondents claimed to be unaffiliated and 5 reported being affiliated with the Israeli political center.²³²

With 3 respondents reporting being unaffiliated and 1 respondent refusing to answer, the Israeli Jewish respondents were almost equally divided between the right or center-right wing (8 respondents), the left or center-left wing (11 respondents) and the center (9 respondents).

The majority (21) of the Silicon Valley respondents, on the other hand, reported belonging to the left or center-left. Only 4 of these respondents reported identifying with the right or center-right views and 6 respondents identified with the center.²³³

Figure 2



²³² These findings are somewhat representative of the general FSU population, who tends to vote for right-wing parties and candidates (see, for example, Ken Goldstein and Zvi Gitelman, *From ‘Russians’ to ‘Israelis’?*, at 246, in Alan Arian and Michal Shamir (eds.) *THE ELECTIONS IN ISRAEL*, 2003. Jerusalem: The Israel Democratic Institute (2003); Tamar Horowitz, *The increasing political power of immigrants from the former Soviet Union in Israel: from passive citizenship to active citizenship*, 41(1) *International Migration*, 47-75 (2003)).

²³³ One respondent of this group refused to answer.

V. RESULTS

In the previous Chapter, I discussed the design of this research, and provided descriptive details of the interviewees. In the current Chapter, I present the findings from the data gathered in the course of the interviews. It should be mentioned that the issues discussed hereafter are not organized in the order they were presented to the respondents.²³⁴ Rather, I have rearranged or skipped some of the questions, in order to provide a more coherent and clear narrative of the research findings.

Although in the following discussion the data are separated into five sub-sections—namely, attitudes towards the rule of law, valuation of personal liberty, the notions of neutrality of the law, dispute resolution preferences and attitudes towards the courts—it is clear that these attitudes are closely interrelated and complementary to one another. For instance, Gibson and Caldeira, who investigated the legal culture of 14 European countries, found in their study “a fairly strong correlation between the measures of attitudes toward rule of law and legal alienation.”²³⁵ The authors concluded that attitudes towards the rule of law, the neutrality of the law and valuation of personal liberty “...are reasonably well integrated...”²³⁶

Furthermore, some questions relate to more than just one of the elements of legal culture examined by this study. For instance, although whether a respondent has consulted with an attorney and/or filed a legal claim within the past 10 years is relevant to the preferred mode of dispute resolution, it could also reflect the respondent’s attitude towards the rule of law, or serve as an indication of her perception of the courts.

Nevertheless, separating the questions into distinct topics serves an important purpose, as it simplifies the complex task of identifying, evaluating and comparing perceptions across the groups of interest. Furthermore, such organization of the data allows me to display the results of the research in a transparent and consistent manner.

²³⁴ For the full and accurate questionnaire, see Appendix A.

²³⁵ Gibson and Caldeira (1996), *supra note 4*, at 68.

²³⁶ Gibson and Caldeira (1996), *supra note 4*, at 68.

A. ATTITUDES TOWARDS THE RULE OF LAW

Individuals are unlikely to object to the rule of law in principle;²³⁷ therefore, one need not ask a general question whether government or the citizens should be free to ignore the law.²³⁸ As in earlier studies, this research counter-posed the rule of law with other cherished values, thus requiring the respondents to attach to the concept a relative value as part of a trade-off with some other important interest.²³⁹ The attitudes towards the rule of law were examined both with respect to individuals' and the government's obligation to abide by the law.

1. Rule of Law Constrains on the Individuals

In order to examine the extent of the perceived duty of citizens to obey laws, the respondents were presented with statements pitting the rule of law against other values. The first such value was the perception of justice: "It is not necessary to obey a law you consider unjust." Another question counter-posed the rule of law against expediency: "Sometimes it might be better to solve problems immediately rather than wait for a legal solution." Lastly, I tested notions about 'grey area' in the law by asking the respondents whether "It's alright to get around the law as long as you don't actually break it."²⁴⁰

The attitudes towards individuals' obligation to follow the letter of the law were further investigated by the 'car accident' vignette.²⁴¹ Among others, this vignette

²³⁷ Individuals find it difficult to apply abstract norms to particular situations; various interests receive different relative values when individuals are required to make trade-offs (Darren W. Davis and Brian D. Silver, *Civil Liberties vs. Security: Public Opinion in the Context of the Terrorist Attacks on America*, 48(1) *American Journal of Political Science*, 28-46 (2004), with respect to civil liberties.

²³⁸ Gibson (2007), *supra note* 110.

²³⁹ Gibson and Caldeira (1996), *supra note* 4; Gibson (2007), *supra note* 110.

²⁴⁰ As discussed in the Chapter on Methodology, these questions were replicated from the study on the European legal cultures by Gibson and Caldeira (Gibson and Caldeira (1996), *supra note* 4).

²⁴¹ This vignette depicted a hypothetical scenario in which the respondent witnessed a car driving off without leaving a note for the owner—despite the legal requirement—after it hit a parked car. The respondents were presented with further scenarios, which investigated their potential behavior in various instances.

examined the respondents' propensity to modify their behavior in order to comply with law.²⁴²

Both groups of the Israeli respondents—i.e., the Israeli Jews and the Israelis in the Silicon Valley—demonstrated inconsistency in their attitudes towards the rule of law. With respect to the *individuals'* obligation to abide by the rule of law, the overwhelming majority of these respondents²⁴³ asserted—at least in principle—their unconditional support for the rule of law. The respondents of these groups maintained that even an unjust law must be obeyed.²⁴⁴

However, interestingly, the perceptions of these interviewees were not as homogeneous when they were presented with a question that targeted their attitudes towards the permissibility of stretching the boundaries of the law. While unequivocally rejecting defying a law even when it is perceived to be unjust—thereby appearing to exhibit an *unconditional* support for the rule of law—about ½ of the Israeli Jewish respondents and almost 2/3 of the Silicon Valley respondents stated that it is alright to get around the law as long as you don't actually break it.

The comparison of these results with the responses to a 'car accident' vignette suggests that in practice it is hard to live up to the noble ideals of obeying the law. For instance, when asked whether their behavior would be modified in order to comply with a particular law,²⁴⁵ only 1/2 of the Israeli respondents and 1/3 of Silicon Valley respondents affirmed their commitment to obey the law. Other respondents rationalized their disobedience by asserting that the particular law is unfair or wrong,²⁴⁶ too much

²⁴² In this scenario, the respondents were asked whether they would report a particular accident to police; thereafter, respondents whose initial answer was negative were asked whether their answer would change if they were legally required to make such report.

²⁴³ Out of both of these groups, only two respondents who belong to the Silicon Valley group agreed with the statement that it is not necessary to obey the law one considers unjust, i.e., demonstrated conditional support for the rule of law.

²⁴⁴ One of the interviewees belonging to the group of Israeli Jews stated that traffic laws are an exception to the rule that the law must be obeyed irrespective of personal perception of how just it is.

²⁴⁵ The majority of the responses to the question about reporting the accident to police on their own accord were negative; only 1 respondent belonging to the group of Israeli Jews and 3 respondents belonging to the Silicon Valley group asserted their willingness to contact the police without being obligated to do so by law.

²⁴⁶ E.g., interviews with Israeli Jews, interview # 4; interviews with Israelis in Silicon Valley, interview #17

trouble,²⁴⁷ cannot be enforced²⁴⁸ and stating that their willingness to obey depends on the severity and the probability of the punishment.²⁴⁹

Analysis of the responses discovered that the inconsistency was pervasive in the responses of the individuals belonging to both Israeli groups. For instance, although she affirmed the duty to obey the law even when it is unjust, one of the Israeli respondents stated that she would not obey a particular law in the ‘car accident’ vignette, because it is ‘unfair.’²⁵⁰ Interestingly, one of the in the Silicon Valley respondents even deemed circumventing the law in Israel to be necessary.²⁵¹

The FSU respondents, on the other hand, did not accord the rule of law with an unlimited support either with respect to *individual citizens*, or with respect to *government*. Approximately 1/3 of these respondents agreed that an individual may disobey laws she considers unjust. Some of the respondents stated that their behavior would depend on the morality of the law in question: “I would obey [the law] only if it is just...if [I] can disobey, I will ...”;²⁵² or the logic behind it: “...if [the law] is really illogical, then no [I would not obey].”²⁵³

Additionally, over 2/3 of these interviewees demonstrated the willingness to ‘get around’ the law, when such actions were perceived to be serving their interests. In addition to the considerations of convenience, one of the interviewees explained his reply

²⁴⁷ E.g., interviews with Israeli Jews, interview # 7; interviews with Israelis in Silicon Valley, interview # 6, 29.

²⁴⁸ E.g., interviews with Israeli Jews, interview # 27.

²⁴⁹ E.g., interviews with Israeli Jews, interview # 1.

²⁵⁰ Interviews with Israeli Jews #5: when responding to questions about a car-accident vignette, the respondent stated that she would not contact the police as a witness, even if she were required to do so by the law, because “such law is unfair.”

A Silicon Valley respondent, who similarly disagreed with the proposition that one can disobey a law he considers unjust, stated that it is permissible to defy a law because “...sometimes a law is not justified” (interviews with Israelis in Silicon Valley, interview # 15).

²⁵¹ Interviews with Israelis in Silicon Valley, interview # 32.

²⁵² Interviews with FSU immigrants, interview # 35.

²⁵³ Interviews with FSU immigrants, interview # 12.

by stating that "...if it is possible to get around [the law], then should do so," by stating that one needs "...to educate the system."²⁵⁴

Moreover, less than 1/3 (11) of the FSU respondents reported their willingness to adjust their behavior in order to comply with a legal directive.²⁵⁵ The reasons for disobedience provided by the rest of this group fall into three main categories. One category questioned the law itself—the logic behind;²⁵⁶ for instance, one of these respondents maintained that one must think for himself and "...not obey the law blindly."²⁵⁷ The second rationale for defying the law was the inconvenience that would be caused to the respondents by abiding by the law; the interviewees stated that acting in accordance with this particular law "... complicates life"²⁵⁸ and is time-consuming.²⁵⁹ Finally, some attributed the refusal to alter their behavior and obey the law to negative opinions about the police: "...the police are not interested in this type of thing."²⁶⁰ Additionally, one respondent attributed his refusal to the prevailing cultural norms: "...this [acting in accordance with this law] is not the culture."²⁶¹

The FSU immigrants support the law, but feel that certain principles—such as fairness, logic, or even mere convenience—can override the obligation to abide by the law. It appears that their perceptions are quite similar to those of the respondents of the Israeli groups, who—while *unanimously* rejecting the possibility of limiting the abstract duty of legal obedience—were, nevertheless, inclined to take into account different circumstances when deciding whether to obey a particular law. Possibility of legal

²⁵⁴ Interviews with FSU immigrants, interview # 29.

²⁵⁵ In the car accident vignette, the respondents were asked whether they would report the accident to the police; thereafter, the respondents whose initial answer was negative were asked whether their answer would change—i.e., whether they *would* report the accident to the police—if the law prescribe such action. The majority of the responses to the first question—i.e., reporting the accident to the police on own accord—were negative; only 2 respondents belonging to the FSU group claimed that they would contact the police on their own accord, i.e., without being obligated to do so by the law.

²⁵⁶ Interviews with FSU immigrants, interview # 22.

²⁵⁷ Interviews with FSU immigrants, interview # 30.

²⁵⁸ Interviews with FSU immigrants, interview # 26.

²⁵⁹ Interviews with FSU immigrants, interview # 25.

²⁶⁰ For instance, interviews with FSU immigrants, interviews # 2, 3, 10.

²⁶¹ Interviews with FSU immigrants, interview # 16.

defiance was entertained not only when the law was perceived as unfair or clashing with moral values or interfering with personal advantage; some respondents declared their willingness to defy a law as a matter of mere convenience.²⁶²

2. Rule of Law Constraints on the Government

To test the perceptions of the law as unnecessarily rigid and confining²⁶³ and to investigate views about the scope of governmental actions, I posed two questions with respect to the government: “The government should have some ability to bend the law in order to solve pressing social or political problems” and “in times of emergency, the government ought to be able to suspend law in order to solve pressing social problems.”²⁶⁴

With respect to the perceptions of the legitimate scope of governmental actions, the three groups demonstrated disparate opinions. The Israeli Jews demonstrated leniency towards governmental non-compliance with the law; 1/3 of these respondents supported the right of the government to bend the law due to pressing social or political problems, almost 2/3 maintained that pressing social problems suffice to allow the government to suspend law.

The Silicon Valley respondents attributed the government the broadest scope of action. Almost ½ of the Silicon Valley respondents supported the government’s right to bend the law in order to solve pressing social or political problems.²⁶⁵ When the social problems that demanded suspension of a law by the government were depicted as amounting to a national emergency, almost 2/3 of these respondents granted the government the right to circumvent the law.

²⁶² E.g., interviews with Israeli Jews, interview #7; interviews with Israelis in Silicon Valley, interview # 6, 29 stated that it is too much trouble to obey, i.e., to notify police.

²⁶³ Gibson (2007), *supra note* 110.

²⁶⁴ Gibson and Caldeira (1996), *supra note* 4.

²⁶⁵ Although located in the U.S., similar to the respondents of two other groups, the Silicon Valley respondents were asked about the *Israeli* government.

The FSU immigrants, on the other hand, imposed the most rigid constraints on the government. The majority of these respondents demonstrated clear preference for limiting the governments' power; only ¼ of this group granted the latter the right to 'bend' or circumvent the law in order to solve pressing *social* or *political* problems'.²⁶⁶ Even when faced with a question about *social problems that amount to a national emergency*, only ½ of these respondents granted the government the right to suspend law in order to urgently deal with such problems.

The assessment of these data in light of the respondents' views with respect to the responsibility of *individuals* to abide by the law²⁶⁷ indicates that the FSU respondents are more likely to favor rule of law constraints on the government than they are to accept these constraints on themselves. Although some of the other respondents were similarly reluctant to grant the government excessive power—"The government must obey the law not less than I do"²⁶⁸—as a group both the Silicon Valley Jews and, to a lesser extent, the Israeli Jews were more willing to allow the government freedom in bending the laws when particular interests—such as pressing social problems or emergency—were juxtaposed with the duty of strict abiding by the letter of the law.

3. The Rule of Law and Political Affiliation of the Legislature

Not surprisingly, the actual political make-up of the government appears to be irrelevant to respondents' attitudes towards potential legal disobedience. In order to test the connection between political preferences and attachment to the rule of law, the

²⁶⁶ Less than 1/3 of the respondents confirmed the right of the government to bend the law in order to solve pressing social problems. One respondent distinguished between the types of problem, denying the government to bend the law in order to solve pressing *political* problem, but confirming its power to do so in order to solve pressing *social* problem (interviews with FSU immigrants, interview #35). Although not asked about security emergencies, several respondents stated that this is the only instance when the government should be allowed to bend or suspend a law (interviews with FSU immigrants, interviews # 3, 19, 27).

²⁶⁷ As discussed above, approximately 1/3 of the FSU respondents agreed that one may disobey the laws she considers unjust, and over 2/3 of these respondents demonstrated willingness to circumvent the law.

²⁶⁸ Interviews with Israeli Jews, interview #15.

respondents were asked whether “It is not necessary to obey the laws of a government that I did not vote for.”²⁶⁹

All of the respondents in all the groups disagreed with this statement; disparities were found only with respect to the extent of the disagreement.²⁷⁰ The statements of FSU interviewees suggest that it is the *substance* of the laws—rather than the *political affiliation* of the Legislature—that has implications for the potential disobedience.²⁷¹

The responses suggest that respondents belonging to all the groups do not condition their legal obedience upon the political ideology of the law-makers. This is not to say that these individuals would follow the letter of the law unconditionally; rather, their potential disobedience would not be motivated by political affiliation irrespective of the substance of the laws in question.

B. VALUE ATTACHED TO INDIVIDUAL LIBERTY

The tension between individuals’ aspirations for personal freedom and autonomy and the value of living in an orderly society is well-known in scholarly literature. For instance, Etzioni notes that “...*there is a fundamental contradiction between the society's need for order and the individual's quests for autonomy* [sic].”²⁷² I examined the relative value that the respondents attach to personal liberty through responses to the following statements: “Society shouldn't have to put up with those who have political ideas that are extremely different from the majority” and “It is better to live in an orderly society than to allow people so much freedom that they can become disruptive.”²⁷³

²⁶⁹ Gibson and Caldeira (1996), *supra* note 4, at 55.

²⁷⁰ 1/3 of the FSU respondents stated that they ‘strongly disagree’ with the statement, while among the groups of Israelis—both in Israel and in the Silicon Valley—2/3 demonstrated similar sentiments.

²⁷¹ For instance, some of these respondents stated: “...Depends what laws” (interviews with FSU immigrants, interview #12); “Depends on the law, if I did not vote [for the government that passed the law], it does not mean that the law is bad” (interviews with FSU immigrants, interview # 26).

²⁷² Amitai Etzioni, *The Responsive Community: A Communitarian Perspective*, 61(1) *American Sociological Review*, 1-11 (1996), at 3.

²⁷³ Gibson and Caldeira (1996), *supra* note 4, at 55.

Both groups of Israelis demonstrated similar notions. While, the majority of these respondents supported an orderly society,²⁷⁴ these individuals demonstrated strong support for personal freedom and tolerance towards extremist ideas. In particular, over $\frac{3}{4}$ of the respondents in Silicon Valley supported personal freedom for radical political ideas; $\frac{2}{3}$ of the group of the Israeli Jews supported this view. These interviewees stated that “[It is] important to allow pluralism,”²⁷⁵ and “...people need a chance to be [free]...”²⁷⁶

The immigrants from the FSU, on the other hand, revealed disparities in their valuation of freedom over order between the freedom of *actions*, and the freedom of *ideas*. With respect to the first, this group demonstrated a predominant preference for stability and order in society, over exercises of individual freedom that jeopardize this order.²⁷⁷ Only a small fraction (5) of the respondents stated that individual freedom must be preferred even when it disrupts the stability of the society. Other respondents of this group demonstrated a strong preference for stability over freedom,²⁷⁸ with a few respondents supporting their position with statements such as, “...significant deviance must be punished.”²⁷⁹

On the other hand, when the notions of freedom were represented by radical *ideas*—rather than by *physical* actions—the responses of the FSU immigrants were divided equally, with the proponents of liberty stating that society should exercise tolerance “as long as the opinions do not become reality or actions”,²⁸⁰ and that society

²⁷⁴ $\frac{2}{3}$ of the respondents of the group of the Israeli Jews and $\frac{3}{4}$ of the Silicon Valley group.

²⁷⁵ Interviews with Israelis in Silicon Valley, interview #19.

²⁷⁶ Interviews with Israelis in Silicon Valley, interview #24.

²⁷⁷ These respondents stated that they oppose to acts of individual freedom that might inconvenience others, such as blocking of the highways by protesters.

²⁷⁸ Although one interviewee contended that ‘too much’ order is not desirable; the respondent gave the example of Germany and the U.S. as countries with “too much” order (interviews with FSU immigrants, interview #16).

²⁷⁹ Interviews with FSU immigrants, interview # 7.

²⁸⁰ Interviews with FSU immigrants, interview # 8.

should "...not limit freedom of speech, but limit disturbing actions, like demonstrations and closing roads."²⁸¹

However, it should be noted that some of these respondents demonstrated only limited support for freedom of ideas. Particularly, these respondents displayed mixed notions, expressing tolerance for *some* ideas, but not others. The ideas that were mentioned that did not deserve tolerance were those that denied the right of the State of Israel to exist, or propaganda that incites to violence.²⁸²

These findings—of disparities between the FSU immigrants and other Israeli respondents—are consistent with general research on the political culture of Israelis. For instance, Arian et al. found “pronounced differences...between the political culture of the Jewish old-timers and that of the FSU immigrants, who have less liberal attitudes concerning rights.”²⁸³ In the current study, the FSU interviewees—compared to the respondents of the other groups—demonstrated weaker attachment to personal freedom; these attitudes are exemplified by statements such as the following, “[Y]ou cannot allow too much freedom...there should be order in democracy.”²⁸⁴

C. PERCEPTIONS OF THE NEUTRALITY OF LAW – LEGAL ALIENATION

Individuals differ in the degree to which they perceive law as neutral—i.e., an instrument that promotes the general welfare, as opposed to interests and wellbeing of particular segments of the population. The term ‘legal alienation’ is the view that describes law as promoting the specific values of some hegemonic group, rather than the values of the society as a whole.²⁸⁵ Legal alienation can reduce the level of the support that citizens grant to laws and legal authorities²⁸⁶

²⁸¹ Interviews with FSU immigrants, interview #9.

²⁸² For instance, one of the respondents, although supporting the freedom of ideas, stated that ideas that cause disruption must be punished (interviews with FSU immigrants, interview # 7).

²⁸³ Arian et al. (2009), *supra* note 145, at 11.

²⁸⁴ Interviews with FSU immigrants, interview # 29.

²⁸⁵ Gibson and Caldeira (1996), *supra* note 4.

²⁸⁶ Rattner and Yagil (2004), *supra* note 105.

In order to measure the extent of perceived legal impartiality, this study used the following statements: “It is rare that law is on my side; usually, I find laws to be restrictive and against my interests”; “My interests are rarely represented in the law; usually law reflects the views of those who want to control me”; and “The ultimate basis of the law should be the values of the people, not the values of the dominant political, economic and social powers.”²⁸⁷

1. *The Ultimate Basis of the Law*

The respondents were asked whereas the law should be based on the values of the *people*, or on the values of the *dominant political, economic and social powers*. The majority of both Israeli groups agreed with the statement that the law should be based on the values of the people. Less than 1/5 of this group disagreed. The reason behind the opinion of the minority was that the law should not or cannot represent all of the population; rather law should be “more enlightened, more moral.”²⁸⁸

Only one interviewee of the Silicon Valley group disagreed with the statement that the values of the people should be the basis of law. Another respondent qualified her answer: “[The law should be based on the values of the people] but no religious law in family law.”²⁸⁹

The majority of the FSU immigrants agreed with the statement that the law should be based on the values of the people; although some of the respondents were willing to exclude some groups.²⁹⁰ However, some of these respondents distinguished between Israel and other Western countries, stating and that Israel is a “special case due to the

²⁸⁷ Gibson and Caldeira (1996), *supra note 4*, at 55.

²⁸⁸ Interviews with Israelis Jews, interview #20.

²⁸⁹ Interviews with Israelis in Silicon Valley, interview #29.

²⁹⁰ For instance, one of the respondents stated that “...depending on which country; the law should take into consideration the opinions of all the groups” (interviews with FSU immigrants, interview # 37).

tension between being a democratic and a Jewish state,”²⁹¹ and that “Israel is not ready for democracy.”²⁹²

2. *The Restrictive Nature of the Laws*

As a group, the Israeli Jewish respondents did not show signs of significant legal alienation. Only 5 interviewees of this group felt that laws were restrictive. Similarly, only 7 of these respondents maintained that the laws are often based on the interests of those who want to control them.

Similarly, the Silicon Valley respondents consistently disagreed with the statement about the restrictive nature of the laws. Only two of these respondents contended that laws are restrictive; one respondent limited the scope of her response solely to the US laws,²⁹³ while the other, maintained that in general, “[T]he law is good for the society but not for individuals.”²⁹⁴ Similarly, only 1/8 (4) of these respondents agreed with the statement that Israeli laws reflect the views of those who want to control them.²⁹⁵

In comparison with the opinions articulated by the interviewees of the other groups, the FSU immigrants appear to perceive the law as less neutral than the other respondents. While the majority of the FSU respondents did not demonstrate perceptions of being manipulated—“I do not feel like a marionette”²⁹⁶—about 1/3 (11) of these respondents agreed that rather than *their* interests, laws usually reflect the views of the groups who want to control them, the ruling powers: “[A]s a rule, the laws represent the

²⁹¹ Interviews with FSU immigrants, interview #27 This tension comes from the fact that founding the law on the values of all the citizens of Israel would mean taking into consideration the notions of those populations who deny the existence of Israel as a Jewish state.

²⁹² Interviews with FSU immigrants, interview #37.

²⁹³ Interviews with Israelis in Silicon Valley, interview #32.

²⁹⁴ Interviews with Israelis in Silicon Valley, interview #9.

²⁹⁵ In all of the interviews—including the interviews in Silicon Valley—called for respondents’ opinions with respect to the Israeli—rather than the American—law. The fact that the interviewees in Silicon Valley viewed the *religious* laws in particular as being restrictive (interviews with Israelis in Silicon Valley, interviews #24, 29), demonstrates that indeed the respondents had the *Israeli* laws in mind.

²⁹⁶ Interviews with FSU immigrants, interview #8.

population, but—in the end of the day—there are reservations in favor of the ruling powers.”²⁹⁷ The most common reason for these views was of economic nature, such as the tax laws.²⁹⁸

Furthermore, although the majority of the FSU respondents demonstrated solidarity with Israeli laws—only about 1/5 (7) of the FSU respondents agreed with the proposition that Israeli laws were ‘restrictive’²⁹⁹—they did not necessarily express strong support for the laws. For instance, while disagreeing with the proposition that the laws are restrictive and against her interests, one of the interviewees made the remark that the laws are not restrictive because one can always circumvent them.³⁰⁰

D. PERCEPTION OF CONFLICT AND DISPUTE RESOLUTION PREFERENCES

In order to discover individuals’ preferences and patterns of preferred modes of dispute resolution, the respondents were presented with two hypothetical vignettes. One of the vignettes described a case of monetary damage that occurred as a result of a car accident; the other vignette presented an instance of illegal workplace discrimination.

In addition to these vignettes, the respondents were asked whether they were likely to initiate legal actions in certain instances. Some scenarios concentrated on different type of claims or courts—such as contesting in court an unjustified traffic ticket

²⁹⁷ Interviews with FSU immigrants, interview # 27.

²⁹⁸ Interviews with FSU immigrants, interviews # 5, 23.

²⁹⁹ Not surprisingly, many of the respondents identified Israeli tax laws as being limiting and oppressive. Israeli taxes are extremely high due to a vast defense budget and the fact that a small population of workers is supporting a large population of children and nonworking adults, to an extent unheard of in other developed countries. These taxes constitute a burden on the residents, primarily on educated individuals, who pay a disproportionate share of taxes (*see* Erik D. Gould and Omer Moav, *Israel’s Brain Drain*, 5(1) *Israel Economic Review*, 1–22, (2007), at 18.

³⁰⁰ Interviews with FSU immigrants, interview # 11.

and filing a claim for NIS 10,000³⁰¹; other scenarios described various potential defendants—e.g., individual citizens or governmental organizations.³⁰²

1. Governmental Organizations as Potential Defendants and the ‘Black List’

With respect to attitudes towards suing governmental organizations, I obtained mixed results. This issue was tested by both indirect and direct questions. Respondents were first asked about how much money at stake would—in their view—justify filling a claim against an individual or a company in various circumstances. Thereafter, the respondents were asked about the amount that would justify filing lawsuits against governmental organizations, namely the Israeli National Insurance Institute and the Israeli Tax Authorities. Lastly, the respondents were asked to rank how challenging it is, in their view, to sue an individual, the National Insurance Institute and the Tax Authorities.

The Israeli Jewish respondents demonstrated a strong commitment to pursuing their legal rights against governmental organizations through courts. With respect to the National Insurance Institute, all but one respondent³⁰³ asserted their willingness to contest its decision; as to the Israeli Tax Authorities, all of the respondents maintained they would take legal action.³⁰⁴ Some of the interviewees expressed strong negative sentiments against these organizations, such as: “One must fight them [the National Insurance Institute], they try to cheat” and “They [the Israeli Tax Authorities] are the biggest thieves.”³⁰⁵

Only three Israeli Jewish respondents felt there was a “black list” as a type of retribution system devised by governmental organizations. Interestingly, two of these

³⁰¹ According to the Israeli Central Bureau of Statistics, in 2009 the monthly average income for Israeli workers was NIS 8,108 (http://www1.cbs.gov.il/www/hodaot2010n/26_10_046e.pdf last viewed in March, 2010).

³⁰² Additionally, the respondents in the Silicon Valley were asked about filing a claim for US\$ 10,000; filing a claim for a debt of US\$ 4,000 and contesting the decisions of a health insurance company.

³⁰³ Interview with Israeli Jews, interview #29.

³⁰⁴ One of the respondents stated that he does not know what his actions would be with respect to both questions.

³⁰⁵ Interviews with Israeli Jews, interview # 7.

respondents, nonetheless, stood by their initial statements that they would not hesitate to file lawsuits against governmental organizations.

The Israeli Jewish respondents were almost equally divided between those that felt it is easier to sue a governmental organization than an individual, and those who thought it was more difficult. One respondent said: “I pay to bituah leumi [the National Insurance Institute] and [the Israeli Tax Authorities] over the years, so I have more incentive to sue when they screw me.”³⁰⁶ Some thought the courts preferred the weaker party, which increased their chance to win.³⁰⁷ Other interviewees, on the other hand, perceived it to be more difficult to challenge governmental organization because these entities know the procedures better, employ good lawyers,³⁰⁸ or because the courts are biased in favor of governmental institutions.³⁰⁹

As a group, the Silicon Valley respondents demonstrated notions similar to those of the Israeli Jews. Although some of these interviewees demonstrated reluctance to sue governmental organizations—justifying their responses by statements such as: “Mas Hahnasa [Israeli Tax Authorities] is a superpower”³¹⁰—none of them believe in the existence of a ‘black list’ or any other type of retribution scheme.

The opinions of the FSU immigrants, on the other hand, differed from the Israeli groups. Over ¼ of the FSU respondents were reluctant to challenge governmental organizations in court, because of fear of repercussions: “I will be on their [governmental organizations] ‘black list’.”³¹¹ These respondents were willing to suffer immediate financial loss rather than file a legitimate claim.

On the other hand, although some of the other respondents of this group were not afraid of retribution system, they expressed a sense of powerlessness in the face of

³⁰⁶ Interviews with Israeli Jews, interview # 22.

³⁰⁷ Interviews with Israeli Jews, interview # 23.

³⁰⁸ Interviews with Israeli Jews, interview #24.

³⁰⁹ Interviews with Israeli Jews, interview #14.

³¹⁰ Interviews with Israelis in Silicon Valley, interview #23.

³¹¹ Interviews with FSU immigrants, interview #36.

governmental organizations, felt an inability to ‘fight the system’. For instance, one of the interviewees stated: “I do not believe that a private citizen stands a chance against governmental institution...”,³¹² while another asserted that “...a citizen has very little chance against the State.”³¹³ These findings are supported by other research on the FSU population, which found similar reluctance to challenge governmental organizations and a perceived incapacity to influence policy, local politics, or the community.³¹⁴

About half of the rest of this group viewed it easier to sue a governmental organization rather than an individual,³¹⁵ and half felt there is no difference between going to court against an individual or a governmental organization. Some interviewees declared that they would be more determined to sue governmental organizations, making statements such as, “I would be harder on them [governmental organization]”³¹⁶ and “I think I pay enough [taxes].”³¹⁷ Additionally, some of the respondents perceived that the enforcement of a judgment against a governmental organization is easier, or said that they would sue these organizations in order to “educate the system.”³¹⁸

2. *Negative Perceptions of Reporting Misbehavior*

One unexpected pattern that emerged with respect to the differences between the attitudes of immigrants from the FSU and the other respondents concerns reporting information about misconduct, or misdemeanor. Such reporting—even to an injured party, rather than to the law-enforcement authorities—was viewed by some of these interviewees as an act negatively labeled as ‘*ratting*’.

³¹² Interviews with FSU immigrants, interview # 3.

³¹³ Interviews with FSU immigrants, interview # 26.

³¹⁴ Arian et al. (2009), *supra note* 145.

³¹⁵ It should be noted that one of these respondents differentiated between the National Insurance Institute and the Israeli Tax Authorities, maintaining that although it is easier to sue the National Insurance Institute than an individual, it is not so with respect to the Israeli Tax Authorities.

³¹⁶ Interviews with FSU respondents, interview # 24.

³¹⁷ Interviews with FSU respondents, interview # 17.

³¹⁸ Interviews with FSU respondents, interview # 28.

These attitudes were revealed with respect to the car accident vignette, when only some respondents in the FSU group refused to provide the owner of the damaged car with details about the other car involved in an accident (e.g., by leaving a note). These interviewees justified this attitude by stating that they were not ‘*snitches*’. Moreover, their sentiments did not change—i.e., they declined to report the accident—even when presented with a hypothetical that legally required them to inform law-enforcement authorities about the incident. These respondents consider reporting of misconduct unethical or dishonorable. The reasons varied from general “...you do not do something like that”³¹⁹ to “It’s our Russian upbringing; one does not snitch.”³²⁰

Only members of the FSU group expressed this norm. Other respondents justified reporting as a way of helping the injured party—the owner of the damaged car—to obtain compensation for damages. Some respondents were willing to supply evidence, to punish the perpetrator—the careless driver—for not taking the responsibility for her actions. However, this incorporation of the concept of dishonorable, even reprehensible, conduct—‘*ratting*’—with respect to exposing the wrongdoing and reporting it even to a fellow citizen was found to be an angle proposed solely by the individuals belonging to the FSU immigrants’ group.

3. *Perceptions of Turning to Courts as Dishonorable Conduct*

The second vignette targeted respondents’ perceptions of dispute resolution. The first scenario depicted a ‘friend’ who was fired due to her ethnicity (Ethiopian or Russian Jew in Israel) or gender; the respondents were asked whether she should file a law-suit against her employer. Further scenarios of this vignette targeted other perceptions of the respondents, such as their own willingness to engage in litigation and the rationales behind it.

³¹⁹ Interviews with FSU immigrants, interview #17.

³²⁰ Interviews with FSU immigrants, interview #32; in the Russian language, the words that were used by these respondents—‘*donostchik*’ and ‘*stukach*’— are derogatory slang denoting the action of turning someone in.

The Israeli Jews and the Silicon Valley respondents viewed potential pursuit of the legal form of action—filing a lawsuit—in one of the two fashions. Some interviewees perceived it to be a matter of the principle of pursuing one’s rights; disregarding the chances for favorable outcome, they asserted that the injured party should take legal action against the discriminating employer.³²¹ The second type of perception was based on the quality of the evidence. The respondents who displayed the latter view maintained that the injured party should take into account the chances of winning, because discrimination claims are particularly hard to prove.³²²

However, interestingly, only among the FSU immigrants were individuals who ascertained that seeking the courts’ assistance is—at least in some instances—*dishonorable*. These respondents maintained that a more respectable and proper behavior is to “walk away” and “forget about the whole matter.”³²³ For instance, when presented with a hypothetical about a ‘friend’ who considers suing an employer for discrimination, one of the female FSU respondents stated: “I would not suggest her [friend] to get dirty.”³²⁴ Another male respondent stated that he would not sue, because he is not the type of a person who “...gets money off of people, like millions from Coca Cola.”³²⁵

These notions of perceived *honor* as being incompatible with filing law-suits—at least on the basis of workplace discrimination—were not reasserted by any of the respondents who belong to the other two groups. It should be noted, however, that further analysis of the responses of the interviewees who attached notions of dishonor to initiating legal proceedings revealed mixed patterns. Although I will discuss this in further detail in the next Chapter, it should be mentioned that the reluctance to support litigation proceedings in the case of work discrimination did not predict disinclination to file lawsuits in other instances. Interviewees who fervently opposed pursuing

³²¹ For instance, interviews with Israelis in Silicon Valley, interview # 24; interviews with Israeli Jews, interview # 22.

³²² For instance, interviews with Israelis in Silicon Valley, interview # 17; interviews with Israeli Jews, interview #16.

³²³ Interviews with FSU immigrants, interview # 29.

³²⁴ Interviews with FSU immigrants, interview # 13.

³²⁵ Interviews with FSU immigrants, interview # 21.

discrimination cases were, however, inclined to do so to retrieve a monetary debt or to contest an unjustified traffic ticket.

E. VOLUNTARY COMPLIANCE BASED ON MORAL PRINCIPLES

Scholars of law and society have devoted much thought and research effort in an attempt to pinpoint the motives behind voluntary compliance with legal directives.³²⁶ The findings of the current study³²⁷ support previous conclusions that *moral* feelings play fundamental role in decisions to obey (or to defy) laws.³²⁸ It is the significance of individuals' moral judgments that led Tyler and Darley to conclude that in order "[T]o sustain its moral authority, the law must be experienced as consistent with people's sense of morality."³²⁹

As part of the 'car accident' vignette, the respondents were presented with a scenario in which they were responsible for a car accident. Thereafter, the interviewees were asked whether they would comply with the letter of the law by acknowledging their responsibility and notifying the party who suffered the damage.³³⁰

The vast majority of the respondents asserted their readiness to take responsibility for their own misconduct by leaving their details to the owner of the damaged car. However, these interviewees did not justify this conduct by referring to it as legal requirement. Rather, the rationales stressed a citizen's duty, or morally right behavior, or reciprocity (i.e., expected behavior from others). A few respondents justified their willingness to abide by the law in terms of fear of prosecution, in case there had been a

³²⁶ For instance, see Tyler (1990), *supra note 62*; Tyler (2000), *supra note 4*; Tyler and Darley (2000), *supra note 62*.

³²⁷ On a cautionary note, it should be mentioned that the data discovered in course of this research is based on the interviewees' *reported* behavior; no data on the *actual* behavior are available.

³²⁸ Tyler (1990), *supra note 62*, at 57, 64-66, 68: arguing that individuals are less willing to follow legal rules when those rules are not supported by their moral values; Paul H. Robinson & John M. Darley, *JUSTICE, LIABILITY, AND BLAME: COMMUNITY VIEWS AND THE CRIMINAL LAW*, Boulder, CO, US: Westview Press. (1995), at 201; Tyler and Darley (2000), *supra note 62*.

³²⁹ Tyler and Darley (2000), *supra note 62*, at 719.

³³⁰ "If you were the driver who hit the parked car, would you leave a note for the car's owner?"

witness to the accident.³³¹ However, only three respondents—one FSU immigrant and two Israelis from the Silicon Valley³³²—asserted that their readiness to comply is based on the fact that this behavior is required by law.³³³

Of course, theoretical readiness to take responsibility and to report one's own misconduct does not necessarily predict actual behavior. For instance, although one of the FSU respondents stated—like other interviewees—that he would leave a note with his details on the damaged car, he admitted that such an incident had occurred in the past and that he failed to report, even though he was aware that failing to report was against the law.³³⁴

F. ATTITUDES TOWARDS THE ISRAELI COURTS

Respondents were asked to rate various elements of the performance of courts—its role in dispute resolution, the fairness of the decisions and the fairness of the way the courts treat people and handle problems. They were also asked about their encounters with the legal system—including court proceedings and seeking the advice of legal counsel—within 10 years prior to the interviews.

In addition to the questions that investigated the general attitudes towards the courts, the respondents were presented with particular scenarios that examined their perceived willingness to use courts as a mechanism for dispute resolution. These scenarios involved the instances when courts' involvement could be initiated by the respondents, as plaintiffs in different types of law-suits.³³⁵

³³¹ Interviews with Israelis in Silicon Valley, interview #27; interviews with FSU immigrants, interview #19; interviews with Israeli Jews, interview #14.

³³² Interviews with FSU immigrants, interview # 27; interviews with Israelis in Silicon Valley, interviews # 14 and 27.

³³³ As a side note, it should be mentioned that such theoretical readiness to take the responsibility and to report their own misconduct does not necessarily predict actual behavior should similar circumstances arise. For instance, although one of the FSU respondents stated—similarly to the other interviewees—that he would leave a note with his details on the damaged car, he reported that such incident has occurred in the past and that he failed to report, even though he was aware that doing so—i.e., failing to report—was against the law (interviews with FSU immigrants, interview #5).

³³⁴ Interviews with FSU immigrants, interview #5.

³³⁵ This as opposed to the cases when individuals must seek courts' involvement—as in case of a divorce—or when her appearance is required by law, for instance, as a defendant.

It should be noted that, overall, the respondents of the FSU group were most prone to refuse to answer the questions about their perceptions of the courts, claiming lack of knowledge. However, the majority of the respondents reported having no first-hand familiarity with the courts; rather, their opinions with respect to the latter are largely based on other sources, such as media and friends.

The ‘in court’ experience of the rest of the interviewees has been minimal. In particular, six individuals in the group of the FSU interviewees reported personal experience with the judicial system through filing the total of eight claims within ten years prior to this research. A similar number of the Silicon Valley respondents reported filing claims in the Israeli courts,³³⁶ while ten Israeli Jewish respondents group reported 12 instances of initiating court proceedings. These experiences were limited to minor issues, such as traffic,³³⁷ family,³³⁸ labor³³⁹ and small claims courts.³⁴⁰

While in general these experiences were not reported to be disappointing—either in terms of the outcome, or in terms of perceived judicial fairness³⁴¹—some respondents felt some bias on the part of the judges. For instance two of the Israeli Jewish respondents reported their disappointment with the traffic court, because of perceived bias and favoritism towards the police;³⁴² in the words of one of these respondents, the hearing

³³⁶ Additionally, two interviewees of this group reported initiating court proceedings in the U.S.

³³⁷ The Traffic Courts have jurisdiction in matters regarding the commission of traffic offences, and offences relating to vehicles, as specified in various laws.

³³⁸ The Family Courts have jurisdiction in matters of personal status, such as inheritance, child support, maintenance, guardianship, adoption and civil disputes between family members where the relationship is relevant to the dispute.

³³⁹ The Labor Courts have jurisdiction over numerous matters related to employment, such as disputes between workers and employers, protective labor laws, collective disputes, disputes between a union and its members or an employer and his association, pension matters, workplace equality, administrative matters relating to workers, etc.

³⁴⁰ The Small Claims Courts have jurisdiction over civil claims filed by a plaintiff individual (no representation) for sums not exceeding a specified amount that is being amended from time to time (currently NIS50,000).

³⁴¹ For instance, an interviewee stated that even though she is unhappy with the outcome, she is very likely to file a claim should similar circumstances arise (interviews with Israelis in Silicon Valley, interview # 22).

³⁴² Interviews with Israeli Jews, interview #17 and 20.

was “a game that has been fixed.”³⁴³ Another FSU respondent stated that “...in Israel, it is easier to pay [then to take legal actions through courts].”³⁴⁴

While overall, the interviewees exhibited more or less moderate satisfaction with the general performance of the courts, certain issues—such as bureaucracy of the judicial system and lengthy proceedings—were identified by the respondents as the most problematic and burdensome. Additional issues that decreased satisfaction with the Israeli judiciary system were the perceived preferential treatment of elites, outdated or irrelevant laws, light punishments and Israel’s lack of a constitution.³⁴⁵ Moreover, some interviewees mentioned the High Court of Justice as a body whose actions impair their overall satisfaction with the Israeli judiciary.³⁴⁶

Although there was no specific question about attitudes towards the Israeli High Court of Justice (HCJ), many FSU respondents showed a negative perception of this court. These respondents stated that the HCJ is biased and promotes an agenda. One respondent called it illegitimate. The reason for this attitude was the scope of the decisions of the HCJ: “...not everything should be under judicial review”³⁴⁷ (e.g., the work of the Israeli Defense Forces should be immune and “they [the HCJ] should not meddle in politics.”³⁴⁸

Two interesting points should be mentioned with respect to attitudes towards the HCJ. First, only FSU respondents brought up the issue of the HCJ;³⁴⁹ none of the interviewees of the other groups singled out HCJ from the general Israeli court system. The second noteworthy issue is the fact that respondents who mentioned the HCJ, demonstrated negative attitudes towards it; no one singled out the HCJ for praise.

³⁴³ Interviews with Israeli Jews, interview #17.

³⁴⁴ Interviews with FSU immigrants, interview # 1.

³⁴⁵ For instance, interviews with FSU immigrants, interviews # 4, 8, 9, 10, 14, 28.

³⁴⁶ For instance, interviews with FSU immigrants, interviews # 4, 10, 22, 27.

³⁴⁷ Interviews with FSU immigrants, interview # 5.

³⁴⁸ Interviews with FSU immigrants, interview # 34.

³⁴⁹ These interviewees mentioned their views with respect to HCJ when asked the following question: “Overall, how good a job are the courts doing?”

With respect to perceived discrimination by the Israeli courts, the majority of the FSU respondents mistrusted judicial impartiality; only a small group (6 individuals) had faith in the neutrality and the objectivity of the judges. However, the interviewees differed with respect to the nature of the perceived judicial partiality and bias. About half of the respondents maintained that the bias is systematic because the judges belong to a higher class and are partial towards individuals of similar status, and also the police and persecutors. One of the respondents stated that in court the judge "...would take the word of police-officer over mine."³⁵⁰ Systematic prejudice against Arabs and Russians was also mentioned. Conversely, other respondents stated that the partiality of the courts is based on individual preferences and inclinations of each judge: "A judge is a human being."³⁵¹

On the other hand, both of the Israeli groups—the Israeli Jewish respondents and the Silicon Valley respondents—were more prone to view the Israeli judicial system as impartial. Almost half of the respondents of each of these groups affirmed their view that the courts treat everyone equally. As to the rest of the interviewees, while the Israeli Jewish respondents were divided almost equally between those who attributed the bias to personal preferences of judges and those who perceived the bias to be systematic,³⁵² the majority of the Silicon Valley respondents concurred with the latter opinion.³⁵³

Interestingly, while most FSU respondents were doubtful of the impartiality of the Israeli courts, these respondents did not seem to expect the courts to treat them badly. Almost 2/3 (23) respondents of this group expected the courts' attitude towards them to be similar to the attitude towards an average citizen, while three individuals expected a preferential treatment, because of ability to hire an experienced counsel, or being female,

³⁵⁰ Interviews with FSU immigrants, interview # 30.

³⁵¹ Interviews with FSU immigrants, interview # 3.

³⁵² Interestingly, although numerous respondents mentioned 'ethnicity' as the reason for judicial bias, they were not unanimous in its effects: e.g., while some respondents maintained that Arabs are mistreated by the courts (interviews with Israeli Jews, interview # 9), others claimed that they are treated better (interviews with Israeli Jews, interview # 23).

³⁵³ Among elements that were perceived as enhancing one's chances of succeeding in court were low education (interviews with Israelis in Silicon Valley, interview # 10); being Jewish orthodox or being politically affiliated with the right wing (interviews with Israelis in Silicon Valley, interview # 14); high education or ethnicity (interviews with Israelis in Silicon Valley, interview # 19); white collar status (interviews with Israelis in Silicon Valley, interview # 32).

or their good command over the Hebrew language.³⁵⁴ Only two respondents of this group predicted that a person such as themselves—i.e., a person of similar age, ethnicity, sex and income—would be treated worse than others, because of Russian origins, or lack of connections.³⁵⁵

The majority of the respondents of each of the Israeli groups predicted that the courts would treat them the same as others; six Israeli Jewish interviewees and eight Silicon Valley interviewees expected better treatment. The Silicon Valley group attributed this to better education and better finances (to hire high-quality legal representation);³⁵⁶ no respondents of this group expected to be mistreated by the courts.

G. ISRAELIS IN THE SILICON VALLEY: THE U.S. VS. ISRAELI LEGAL SYSTEM

The Israelis in the Silicon Valley provided information on attitudes toward the American legal system.³⁵⁷ Although we have no data on *behavior*, interesting perceptions emerged. These interviewees reported a higher level of obedience to law on their part in the U.S. than in Israel, and their higher trust in the U.S. legal system, the law-enforcement and judicial authorities.

1. Higher level of obedience in the U.S.

As indicated above, some Silicon Valley respondents claimed that they more readily obey the law in the U.S. than in Israel. The most frequently used rationale was that a high level of obedience to law is part of “...American local culture.”³⁵⁸ One of the respondents stated that “[I]n Israel, social norms allow one to disobey law more than

³⁵⁴ Interviews with FSU immigrants, interviews # 5, 25 and 32 respectively.

³⁵⁵ Interviews with FSU immigrants, interviews # 13 and 23 respectively. The remaining 9 respondents of this group refused to answer the relevant question.

³⁵⁶ Interviews with Israelis in Silicon Valley, interviews # 5, 11 15, 18; interviews with Israeli Jews, interviews # 5, 12, 31.

³⁵⁷ Naturally, it is hard to talk about the ‘general’ U.S. legal system; the laws and legal culture of the U.S. differ on many levels, starting with the level of the states. Presumably, the respondents’ perspectives of the ‘American legal system’ are based on their experiences in Silicon Valley. The term ‘American legal system’ is used here merely to reflect the way the respondents were describing their attitudes.

³⁵⁸ Interviews with Israelis in Silicon Valley, interview 27.

here [in the U.S.]”³⁵⁹ Another interviewee asserted that her experience of over 7 years in the US taught her about “the significance of the law.”³⁶⁰ In a similar venue, ‘getting around the law’ was perceived to be a part of the Israeli cultural norms; “...more OK in Israel, because [there law is] perceived differently.”³⁶¹

Other respondents identified their foreign status as a reason for a higher level of legal obedience. For some, this position was related to concern about their legal status. A few of the interviewees asserted that they would be more meticulous about complying with laws and regulations because they are legal aliens.³⁶² For others, being a foreigner translated into limited familiarity with the American legal system,³⁶³ or American culture and mentality.³⁶⁴

2. Higher trust in the U.S. legal system

An interesting finding emerged with respect to the perceptions that the Silicon Valley respondents hold with respect to the U.S. legal system, in comparison to the Israeli legal system. These interviewees expressed more trust and reliance on the U.S. system. For instance, one of the respondents stated that, except for the issues of employment, citizens in the U.S. have better legal protection than the citizens of Israel,³⁶⁵ while another interviewee reported that in Israel she feels that the state is against her interests, whereas in the U.S., it is for the citizens.³⁶⁶ Yet another respondent maintained that “[I]n comparison to America, there is less trust in the authorities in Israel... [in the

³⁵⁹ Interviews with Israelis in Silicon Valley, interview #19.

³⁶⁰ Interviews with Israelis in Silicon Valley, interview #16. The same interviewee stated that “...it is nice to live in a country that respects the law,” relating to her life in the U.S.

³⁶¹ The respondents gave an example of lying about a child’s age, in order not to pay child’s entrance fee to an amusement park, as something that would never be done in the US because of the norms that are customary here (interviews with Israelis in Silicon Valley, interview #16).

³⁶² Interviews with Israelis in Silicon Valley, interviews # 18, 30.

³⁶³ Interviews with Israelis in Silicon Valley, interview # 18.

³⁶⁴ Interviews with Israelis in Silicon Valley, interview # 27.

³⁶⁵ Interviews with Israelis in Silicon Valley, interview # 8.

³⁶⁶ Interviews with Israelis in Silicon Valley, interview #26.

U.S. there is a] feeling that the law has more authority and power.”³⁶⁷ Only one respondent of this group stated that the U.S. laws are more restrictive and against her interests than the Israeli laws.³⁶⁸

These favorable notions about the U.S. system, interestingly, were not correlated with the legal status of the respondents. For instance, a respondent who reported holding a U.S. visa—as opposed to American citizenship—stated that “[I]n Israel there is a feeling that [the law] is more against me, here [in the U.S.] more for the citizens.”³⁶⁹ Another visa-holder stated that she would be more reluctant to dispute an unjustified traffic ticket in the Israeli court due to perceived bias in favor of law-enforcement officers.³⁷⁰

In addition to the favorable perception of the legal system as a whole, a higher level of trust was displayed also with respect to U.S. law enforcement and judicial authorities. One respondent asserted that in the U.S. he would be more willing to call the police, because “...here [in the U.S.] it [police] is more trustworthy.”³⁷¹ Other respondents stated that in the U.S, the police are more trustworthy and responsive; while in certain instances—e.g., with respect to the ‘car accident’ vignette—when they would not approach the police in Israel, they would be less reluctant to do so in the U.S.³⁷² Yet another respondent stated that in the U.S. there is more justice in courts.³⁷³

It should be mentioned that these perceptions of the U.S. legal system are not necessarily based on first-hand experience. Only two of the Silicon Valley respondents reported appearing in the U.S. courts.³⁷⁴ When asked about the basis for their opinion about the U.S. legal system, the respondents reported that these perceptions are based on general knowledge of norms and customs.

³⁶⁷ Interviews with Israelis in Silicon Valley, interview # 25.

³⁶⁸ Interviews with Israelis in Silicon Valley, interview # 32.

³⁶⁹ Interviews with Israelis in Silicon Valley, interview # 28.

³⁷⁰ Interviews with Israelis in Silicon Valley, interview # 25.

³⁷¹ Interviews with Israelis in Silicon Valley, interview # 25.

³⁷² Interviews with Israelis in Silicon Valley, interviews # 26, 31.

³⁷³ Interviews with Israelis in Silicon Valley, interviews #7, 12.

³⁷⁴ These matters involved one small claim, and one traffic issues.

Thus, Israeli respondents in Silicon Valley attribute more justice and credibility to the American judicial system than to the Israeli one. Interestingly, this is not only opinion of the respondents who plan to remain in the U.S. permanently; rather, the majority of *all* Silicon Valley respondents—including those who plan to repatriate back to Israel—asserted their trust in the U.S. legal authorities.

VI. DATA ANALYSES – THE THREE LEGAL CULTURES

In this Chapter, I analyze the findings that were presented in the previous Chapter. In addition to describing the legal sub-cultures, I discuss their origins and the motives that underlie them. In order to provide a coherent, systematic and persuasive narrative of the research findings, the following discussion of the legal sub-cultures is organized into three parts corresponding to the three separate groups.

As will become apparent, while some of the elements of the respondents' legal cultures stem from their past experiences, others have undergone changes as a result of their immigration to Israel or relocation to Silicon Valley. This Chapter concludes with a section that addresses elements that instigate the preservation or change of attitudes; what features lead to modifications or retention of perceptions.

A. THE ISRAELI JEWS

In this section, I present findings on the legal culture of Israeli Jews. These results were also used as baseline criteria; data on the legal culture of the Israeli Jews were used to compare and assess findings with respect to the two groups of migrants: the immigrants from the former Soviet Union and the Israelis in Silicon Valley.

One must be mindful of the fact that while the results of this research shed light upon the legal culture of urban secular Jews in Israel, with high socio-economic status and high education, this is not representative of the general population of Israeli Jews. Many Israelis vary significantly from the respondents of this study; some of these disparities may influence their attitudes towards the law, legal system and legal authorities.

1. Israeli Jews and the Rule of Law

In this research, two types of attitudes towards the rule of law were examined: (1) attitudes toward the rule of law and *individuals*, and (2) attitudes toward the rule of law and the actions of the *government*. In particular, this study explored the respondents' perceptions of the extent to which individuals and the government are subject to and bound by the letter of the law.

At first glance it may appear that the Israeli Jewish group supports meticulous legal obedience by *individuals*, while demonstrating leniency for certain instances of legal disobedience by the *government*. However, this conclusion is misleading. In fact, a more accurate account of the findings is that the respondents of this group are quite lenient towards both types of disobediences—i.e., by individuals and by the government. Rather, it appears that perceived *social desirability*³⁷⁵ precludes these respondents from openly admitting their position, causing them to demonstrate stronger support for the authority of the rule of law and its restrictions on the actions of individuals than on the government.

This conclusion is derived from the discrepancy in the responses with respect to individuals' and government' perceived obligation to abide by law. On the one hand, with respect to the *government*, the Israeli Jewish respondents demonstrated leniency towards legal noncompliance, when it was described as promoting some interest.³⁷⁶ On the other hand, the nature of the obligation to obey law on the part of *individuals* was asserted to be binding and all-inclusive. This is demonstrated by the fact that—with the sole exception of one interviewee, who perceived the traffic laws to be an exception to the rule that law must be obeyed irrespective of any factors—not even the considerations of fairness were deemed to permit individuals to defy a law on their own accord. Even

³⁷⁵ As discussed hereafter, it appears that these respondents stigmatize the idea of defiance of the rule of law; they perceive unconditional adhering to the rule of law to be socially desirable and are unwilling to admit—perhaps unconsciously—that oftentimes their views contradict this value.

³⁷⁶ As reported in more detail in Chapter V, almost 1/3 of these interviewees supported the right of the government to suspend law, when such actions were said to advance the resolution of “pressing social or political problems.” This number rose to almost 2/3 of the respondents when the problem amounted to “social emergency.”

when the question described the law as being unjust, none of these respondents justified noncompliance by *individuals*.

However, I maintain that the issue at hand is of the *perceived social desirability*—rather than the actual attitudes and beliefs—due to the inconsistency demonstrated by the respondents of this group. Although, at the outset of the interviews all of the respondents were united in their rejection of supporting any type of individual disobedience—stating that defying an unjust law is wrong and that citizens must use lawful tools to change the law³⁷⁷—they accepted, and even supported, individual noncompliance when the questions depicted particular instances, rather than abstract values. Namely, while proclaiming unswerving adherence to the rule of law regardless of the potential outcomes generated by it—e.g., even when the law is perceived to be unjust—these respondents permitted circumventing or defying the law when presented with particular instances (vignettes). Interestingly, considerations that were perceived to be sufficient to allow individual disobedience were not solely those of moral values, notions of justice or the seeming fairness of the law;³⁷⁸ rather, matters of mere personal convenience,³⁷⁹ or of perceived potential sanction³⁸⁰ sufficed.

Moreover, the respondents of this group did not consistently affirm their commitment to legal obedience, using various reasons for lack of compliance, at least in the particular circumstances described by the vignette. The rationales varied between those that focused on the particular law—such law is “...not important enough”—and those that concentrated on the act itself: complying with the law would be “too much trouble...”³⁸¹ Additional reason provided by one of the respondents was that instead of

³⁷⁷ Interviews with Israeli Jews, interview # 25.

³⁷⁸ E.g., interviews with Israeli Jews, interview # 4; interviews with Israelis in Silicon Valley, interview #17.

³⁷⁹ E.g., interviews with Israeli Jews, interview # 7; interviews with Israelis in Silicon Valley, interview # 6, 29.

³⁸⁰ E.g., interviews with Israeli Jews, interviews # 1, 27.

³⁸¹ Interviews with Israeli Jews, interviews # 17 and 7, respectively.

changing his actions in order to comply with the law, he would "...think what is the goal of the law and think of maybe another action that would fulfill it."³⁸²

The ease of electing to defy laws is well exemplified by the statement of one of the interviewees, who maintained that "even though there is law, everything is relative."³⁸³ This notion of allowing individuals not to abide by the law, and the swiftness of the respondents' stated decisions to circumvent the law were in direct conflict with their earlier unanimous unequivocal assertions that individuals must obey the law and that this obligation is unconditional.

To resolve this contradiction, I suggest that the interviewees may be influenced by what they believe to be the socially desirable response when presented with abstract questions about the obligation of individuals to abide by the rule of law. It appears that rather than adhering to the rule of law *per se*, the Israeli Jews *stigmatize the idea* of defiance of the rule of law. While unanimously proclaiming that individuals have the unconditional obligation to abide by the law, these respondents support circumventing or disregarding the law when it promotes their personal interests, even as a matter of a mere convenience. Proclaimed adherence to the rule of law seems based on *pretense*, that is, from the respondents' desire to project a favorable self-image.

A few points of interest should be emphasized here. While I believe that some of the responses with respect to the rule of law are dictated by perceived social desirability, this is not to say that these interviewees were purposely misleading. Rather, it appears that these respondents were unconsciously led to answers in that way, because they feel the rule of law is an important value, on the one hand, but bend their views—without perhaps realizing it—in some situations.

Second, as discussed in more detail elsewhere in this Chapter, the inter-group comparison discovered noteworthy differences in respondents' perceptions of the rule of law and the obligations that it imposes on individuals. Respondents of all the groups were

³⁸² Interviews with Israeli Jews, interview # 17.

³⁸³ Interviews with Israeli Jews, interview # 31.

in accord with respect to the basis of individual compliance, stating that it is founded in considerations of morality and individual consciousness, rather than in the laws themselves. Only a few respondents, in the Israeli Jewish group, asserted their readiness to obey a particular law because it is a legal requirement or due to the fear of punishment. The overwhelming majority of these respondents attributed their expected compliance to considerations of morality and proper behavior, "...it [acting in accordance with a particular law] is fair."³⁸⁴

Third, a comment should be made with respect to the disparity in attitudes, between the perceived obligation to adhere to the rule of law by individuals and by the government. Israeli Jews felt compelled to proclaim their unyielding support to the rule of law—declaring the individuals must unconditionally obey the law—but agreed that government had a right to circumvent law, in order to promote various interests. These attitudes give rise to the question of the perceived difference between the individuals and the government in the eyes of the respondents. Why did the Israeli Jews profess strict commitment with respect to individuals' adherence to the rule of law? Perhaps allowing individuals to defy the law according to their own perceptions and convictions poses the risk of anarchy, while allowing the government to circumvent law in order to promote important public goods may appear to be less alarming.

The attitudes toward noncompliance shown by Israeli Jewish respondents does not necessarily imply that they do not value the rule of law or are oblivious to its significance for the proper functioning of a democratic society. The fact that these respondents assert that law may sometimes be overridden by other more pressing interests, should not be treated as a general defiance of the rule of law. Rather, possibly, while appreciating the significance of the idea of the rule of law, in practice these respondents find it acceptable to 'cut corners' in order to promote other interests. The value that the Israel Jewish respondents place upon living in a stable and orderly society that adheres to the rule of law becomes evident from the following section.

³⁸⁴ Interviews with Israeli Jews, interview #15.

2. Israeli Jews and the Valuation of Individual Liberty

As demonstrated by the detailed findings in the Results Chapter, the Israeli Jewish respondents place high value on the notions of freedom and personal liberties. While demonstrating a preference to live in an orderly society, this group championed personal freedom and tolerance towards individuals expressing radical political ideas. These respondents further testified to their commitment to support and promote the individual freedom by asserting their readiness to suffer certain negative consequences when personal liberties are exercised by others. An example for such tolerance, provided by one of the respondents, was being physically inconvenienced by protesters who are blocking highways and intersections.³⁸⁵

However, the willingness of the respondents to tolerate disorder, even in the name of individual liberty, was not unlimited. While—as discussed above—the majority of this group supported individuals' right to express extreme political idea, these respondents also expressed an aspiration to live in an orderly society. Even when they considered the fact that oftentimes adherence to order results in restricting some freedoms, these interviewees asserted that the interest of the orderly and stable society must be balanced against the aspiration for individual freedom.

The interviewees maintained that society should not be disrupted by individuals exercising excessive or unlimited freedom, "...freedom is very important, but there is a black line [i.e., limit]."³⁸⁶ However, while the respondents realized that freedom needs to have boundaries, defining the clear measures or indications for the latter proved to be a complex task.

While the exact boundaries of the 'excessive freedom' remain obscure, the vast majority of the respondents of this group provided some insights into their perceptions of the limits of the freedom of speech.³⁸⁷ These interviewees drew the line for supporting the freedom of speech at a discourse that can be considered as an incitement to

³⁸⁵ For instance, interviews with Israeli Jews, interviews # 9.

³⁸⁶ Interviews with Israeli Jews, interview # 25.

³⁸⁷ Plausibly, the example of the freedom of speech was disproportionately used by many of the respondents due to it being woven into the pattern of daily life, e.g., through media reports.

violence,³⁸⁸ or against the existence of the State of Israel.³⁸⁹ They contended that such particular exercises of the freedom of speech must be prohibited.

These assertions of limits to individual freedom are not surprising; nor should these boundaries be interpreted as a weakness of support for personal liberties. Rather, they demonstrate the respondents' awareness of the delicate balance between freedom and other important interests of the society, such as the balance between the freedom of speech and the incitement to violence or criminal activity.

3. Israeli Jews and Perceptions of the Neutrality of the Law - Legal Alienation

The extent of the legal alienation of the respondents was examined by investigating their opinions of Israeli laws, the interests these laws serve and the perceived degree of their restrictiveness. The vast majority of Israeli Jews demonstrated solidarity with the laws.³⁹⁰

It should be emphasized that disagreement with propositions about unjustifiably restrictiveness of law, or the objectives that the laws serve, does not necessarily imply overall approval or support for the laws. For instance, one interviewee, although not judging the laws to be excessively restrictive or opposed to his personal interests, expressed his dissatisfaction with the law: “[I]n Israel, there is no connection between laws and morality.”³⁹¹

But overall these respondents do not feel alienated from the laws. While this group did not judge the laws to be perfect, they, nevertheless, did not appear to feel unduly oppressed or restricted.

³⁸⁸ For instance, interviews with Israeli Jews, interviews # 18, 21.

³⁸⁹ Interviews with Israeli Jews, interview # 31.

³⁹⁰ As discussed in The Results Chapter, only 5 of the Israeli Jewish respondents asserted that they found Israeli law to be overly restrictive and that it is usually opposed to their interests. Similarly, only 7 of these respondents supported the suggestion that the Israeli laws reflect the interests of some hegemonic groups; rather than their own interests; or that the laws often promote the interests of groups who want to dominate or control them.

³⁹¹ Interviews with Israeli Jews, interview # 17.

4. The Ultimate Basis of the Law

Like other respondents, the vast majority of the Israeli Jewish group felt that the popular values should be the basis of law. Only a few respondents qualified their answers to stating that the laws should be based on “more moral values”³⁹² or “on universal values.”³⁹³

Some of the respondents did acknowledge the fact that the heterogeneity of Israel’s population complicates following the principle that laws should be based on popular values. The vast disparities in perceptions and values of the various segments of this population makes agreement on the basic values impractical.³⁹⁴ For instance, one of the interviewees asserted that “...in Israel the situation is complicated, and there are many groups with their own values, that view justice in disparate manner, and have different leaders who they listen to.”³⁹⁵

5. Israeli Jews and Perceptions of Conflict and Dispute Resolution

Israeli Jews expressed strong commitment to pursuing legal rights, whether through the court system or alternative modes of dispute resolution. These attitudes were expressed with respect to various potential disputes, such as unjustified traffic tickets; suing an employer for work-place discrimination of the respondents; and filing claims with the ‘small claims’ courts.³⁹⁶

Interestingly, the primary concern was not always pragmatic—such as the chance of positive outcomes of litigation and the strength of the evidence. Rather, oftentimes these respondents merit initiating legal proceedings *on principle*, even when lacking firm

³⁹² Interviews with Israeli Jews, interview # 20.

³⁹³ Interviews with Israeli Jews, interview # 25.

³⁹⁴ It should be emphasized that the individuals who recognized the multifaceted nature of the Israeli reality did not disagree with the majority; similar to the other respondents, they did not oppose to the idea that the laws should be based upon the values of the people. Rather they were conscious of the significant gap between the abstract ideal of founding the laws on the values of the people and the complex reality of successfully achieving this task.

³⁹⁵ Interviews with Israeli Jews, interview # 17.

³⁹⁶ The amounts that would merit such a claim ranged from NIS1500 (~\$450) to NIS2000 (~600\$), with a few respondents naming amounts as low as NIS700 (\$200) and as high as NIS50000 (\$14700).

evidence.³⁹⁷ These respondents stated that sometimes one must turn to court “to prove a point.”³⁹⁸ Similarly, rather than acting according to practical and pragmatic considerations, some respondents reported that they would fight—or expect others to do so—for just outcomes to prevent the issue from recurring: “so people will see and fear, so it will not happen the next time around.”³⁹⁹

In a similar venue, the Israeli Jewish group demonstrated a strong commitment to pursuing their rights when the opponent was described as a governmental agency, rather than an individual. Except for one respondent who stated that the National Insurance Institute is “...not something I want to deal with”,⁴⁰⁰ all the interviewees of this group asserted their willingness to contest the decision of this organization if the decision was perceived to be unjust. Likewise, all of these interviewees asserted their readiness to engage in legal proceedings, opposing the Israeli Tax Authorities, if they believe the latter to be at fault.

These attitudes—such as the readiness of the respondents of this group to engage in conflict resolution and to initiate legal actions despite pragmatic considerations—appear to demonstrate certain litigiousness on the part of Israeli Jews. It should be noted, however, that although this group showed willingness to press claims, and assert rights—both against individuals and governmental organizations⁴⁰¹—these individuals do not seek quarrels or encourage disputes. Many of the respondents stated that they preferred to avoid disputes. The decision to proceed to protect their rights through dispute resolution mechanisms depends, among other factors, “...on the headache [i.e., the hassle caused by

³⁹⁷ For instance, over 1/3 (12) of the Israeli Jewish respondents asserted that in certain instances—such as in cases of work-place discrimination—one might sue on principle (for instance, interviews with Israeli Jews, interviews # 22, 32).

³⁹⁸ Interviews with Israeli Jews, interview # 3.

³⁹⁹ Interviews with Israeli Jews, interview # 2.

⁴⁰⁰ Interviews with Israeli Jews, interview # 29.

⁴⁰¹ With respect to a possibility of the existence of governmental retribution system, the vast majority of this group did not find it to be conceivable. However, interestingly, despite the fact that three of these respondents thought some type of a retribution system might exist, two of them stood by their initial position, asserting their readiness to challenge the decisions of governmental organizations in courts.

attempting to resolve the dispute through courts or other means].”⁴⁰² These respondents maintained that facing a dispute, sometimes one should walk away to preserve one’s peace of mind.⁴⁰³

Therefore, although it is possible that in comparison with some other cultures, the Israelis are litigious people, strongly rights-conscious,⁴⁰⁴ individuals often choose “peace of mind.”⁴⁰⁵ They choose to walk away from disputes even in instances when pursuing claims right to be financially profitable or emotionally satisfying. This conclusion is further supported by the first-hand experience of the interviewees with the courts which—as discussed later—like that of respondents in the other two groups, has not been extensive.⁴⁰⁶

Interestingly, it appears that, at least partially, the reluctance of Israeli Jews to get involved in disputes stems from their fear of retaliation. In contrast with respondents of the other groups—who either demonstrated fear of repercussions on the part of governmental agencies (the FSU immigrants) or none at all (the Israelis in the Silicon Valley)⁴⁰⁷—some of the Israeli Jewish interviewees were afraid of repercussions on the part of individuals. These respondents indicated their reluctance to become involved in disputes—even as an eye-witness of a car accident—stating that “[I]n Israel, there is no feeling of [personal] security...[I] do not want to get involved” and “[I]n Israel people are scary...even a small dispute can lead to stabbing.”⁴⁰⁸

⁴⁰² Interviews with Israeli Jews, interview # 4.

⁴⁰³ Interviews with Israeli Jews, interview # 24.

⁴⁰⁴ See, for instance, Ran Hirschl, *Israel's Constitutional Revolution: The Legal Interpretation of Entrenched Civil Liberties in an Emerging Neo-Liberal Economic Order*, 46 *The American Journal of Comparative Law*, 427-452 (1998), at 434: “Israel’s legal culture has also witnessed an “Americanization” characterized, inter alia, by a rise of a “culture of rights” and voluminous civil litigation...”

⁴⁰⁵ Interviews with Israeli Jews, interview #24.

⁴⁰⁶ As will be discussed more extensively hereafter, the respondents reported the total of 12 instances of initiating court proceedings within 10 years prior to the interviews.

⁴⁰⁷ One of the Silicon Valley respondents stated that if she witnesses a car accident in Israel, her willingness to report the details of the perpetrator would depend “in which neighborhood [‘good’ or ‘bad’] it occurred” (interviews with Israelis in Silicon Valley, interview # 10).

⁴⁰⁸ Interviews with Israeli Jews, interview #8 and 12, respectively.

In a similar manner, some respondents asserted that willingness to get involved as a witness depends on how the perpetrator looks,⁴⁰⁹ “if he [the perpetrator] looks like someone that I do not want to get involved, then no.”⁴¹⁰ Yet another respondent asserted that “the fear is of the criminals, not the enforcement.”⁴¹¹

These notions of insecurity with respect to personal safety and wellbeing are not necessarily founded in incidents personally experienced by the respondents of this group. Rather, as described by some of the interviewees, there is a general sense of lack of personal security. It should be emphasized that although in Israel ‘security issues’ are usually associated with the problem of terrorism, in this case the respondents attributed their sense of lack of personal security to everyday crime or to instances of random violence.⁴¹²

These impressions of insecurity and fear of violence displayed by the interviewees are strengthened by their lack of trust in the ability of law-enforcement authorities to protect them adequately and assure their safety. Although this research did not specifically concentrate on exploring perceptions of the performance of the law-enforcement agencies—such as the police—these attitudes, nevertheless, surfaced in course of the interviews. For instance, correlation was found between the individuals’ fear of the perpetrators and their reluctance to involve police.⁴¹³

Similarly, lack of personal security may be attributed to the perceived performance of Israeli courts. Respondents maintained that the inadequacy of sanctions—routine in ‘light’ sentencing—prevents a decrease in crime.⁴¹⁴ ‘Light’ sentencing was

⁴⁰⁹ Interviews with Israeli Jews, interview #19.

⁴¹⁰ Interviews with Israeli Jews, interview # 17.

⁴¹¹ Interviews with Israeli Jews, interview # 24.

⁴¹² For instance, to illustrate these sentiments of insecurity due to violence, one of the interviewees mentioned an incident when a person was stabbed in course of a dispute about a parking spot (interviews with Israeli Jews, interview # 24).

⁴¹³ Namely, the interviewees who asserted fear of the perpetrator in response to the ‘car accident’ vignette were disinclined to report the accident to police, and were less likely to change their response even when faced with a hypothetical law that required them to do so.

⁴¹⁴ In addition to investigating respondents’ general attitudes towards the courts and perceptions of the fairness and adequacy of their decisions, the interviews posed specific questions with respect to the respondents’ perceptions of the courts’ handling of criminal cases. The criminal justice system was rated

attributed to the perceived philosophy of punishment—that is, the system was oriented towards the rehabilitation of criminals instead of the protection of the citizens⁴¹⁵—or, to the partiality of the courts.⁴¹⁶

Such perceptions of the criminal justice system as too lenient and ‘soft’ on crime are neither novel, nor unique; much research has noted public perceptions of ‘softness’ on crime, fed by media reports, in various countries.⁴¹⁷ The Israeli Jews interviewed are an example of generally law-abiding citizens who imagine that crime could be contained, if only the sanctions were severe enough.

To sum up this section, it appears that while aware of their rights and of the means for protecting them, the Israeli Jews display caution. They do not seek disputes, oftentimes opting for suffering some certain financial loss—the amount of this varies—in order to preserve their ‘peace of mind.’

Another consideration is the fear of potential repercussions. However, in contrast to respondents of the FSU group—who demonstrated concern about repercussions from governmental organizations—the Israeli Jews were concerned with potential acts of violence by individuals. This fear of violence is, in turn, linked to perceptions of inefficiency of police and inadequate sanctioning by the courts.

Not surprisingly, additional elements that bear significance for the inclinations of the individuals to initiate adjudication proceedings are their perceptions of and attitudes towards the Israeli justice system. After all, if the judiciary is perceived to be partial or promoting foreign interests, it cannot function as a credible arbiter of individuals’

considerably lower than the civil one. However, one should be mindful of the fact that more respondents were not able to rate the later—stating that they have no knowledge of perceptions thereof—due to the fact that media coverage generally focuses on criminal, rather than on civil, cases.

⁴¹⁵ Interviews with Israeli Jews, interview #14.

⁴¹⁶ For instance, one of the interviewees asserted that the courts show favoritism to the members of minorities (interviews with Israeli Jews, interview #23).

⁴¹⁷ Research asserts that often misinformed and erroneous perceptions of the lack of firm response to delinquent behavior on the part of the criminal justice system is based on the media who provide disproportionate coverage to stories about erratic or ‘light’ sentencing judgments (see, for instance, Michael Hough and Julian Roberts, *ATTITUDES TO PUNISHMENT: FINDINGS FROM THE BRITISH CRIME SURVEY*, Home Office Research Study no. 179, London: H. M. Stationery Office (1998); M. Gillespie, E. McLaughlin, S. Adams and A. Symmonds, *MEDIA AND THE SHAPING OF PUBLIC KNOWLEDGE AND ATTITUDES TOWARDS CRIME AND PUNISHMENT*, London: Rethinking Crime & Punishment (2003)).

disputes. The following section will discuss attitudes of Israeli Jews towards the justice system.

6. Attitudes towards the Israeli Courts

As discussed, the first-hand experience and familiarity of the interviewees of this group with the Israeli court system has been minor.⁴¹⁸ Such proceedings were rare for all groups in this study. The nature of the proceedings was also similar, involving small claims courts, traffic courts, and labor disputes in specialized labor courts. Israeli Jewish respondents were reluctant to begin legal proceedings, even though this group was claimed to be assertive with regard to protecting rights.

Although, overall, these respondents displayed reasonably favorable opinions with respect to the Israeli courts, this was a limited approval. What dissuaded the respondents in civil disputes was bureaucracy, the slow pace of litigation,⁴¹⁹ bias and partial treatment on the part of individual judges or of the system,⁴²⁰ or the forces—such as the government⁴²¹—that influenced the judges.

About ½ of the respondents of this group stated a belief that proceedings were impartial. Those who saw bias were divided between those who attributed this to the personal preferences and inclinations of the judges, and those who felt bias was systematic.⁴²² Bias was sometimes seen in two directions. For instance, while some respondents viewed belonging to an ethnic minority—e.g., the Israeli Arabs—to lessen the chances of a successful outcome, others were convinced of the opposite effect.⁴²³ Although about half of this group doubted the impartiality of Israeli courts, most predicted that individuals with personal characteristics similar to their—in age, ethnicity, sex and income—would receive the same treatment by the courts as an average citizen.

⁴¹⁸ In course of the 10 years prior to the current research, only 10 respondents began court proceedings (12 instances in all).

⁴¹⁹ For instance, interviews with Israeli Jews, interviews # 16, 18, 19, 20.

⁴²⁰ Interviews with Israeli Jews, interviews # 9, 12, 16.

⁴²¹ Interviews with Israeli Jews, interview # 23.

⁴²² 7 and 10 respondents, respectively.

⁴²³ Interviews with Israeli Jews, interviews # 7 and 23, respectively.

Interestingly, while none of the respondents in this group envisioned themselves as mistreated or discriminated against by courts, some of the interviewees reported that their perceptions of bias were based on personal experience. For instance, two of the interviewees reported disappointment with the traffic court, maintaining that the court showed bias and favoritism towards police officers.⁴²⁴ One of these asserted that his case was "...a game that has been fixed."⁴²⁵ He further reported that he would refrain from pursuing his rights under similar circumstances, because it would be his word against the word of the police-officer and the courts tend to believe the police.

Other respondents mentioned a lack of justice and fairness of decisions. For instance, one of the interviewees stated that "they [the courts] look for an easy resolution, not for justice...the court uses settlements to try to prevent future cases."⁴²⁶ Other respondents of this group maintained that "it [the court] calms the situation, and doesn't solves problems,"⁴²⁷ and that due to the pressure by the courts, most of the cases are settled, which does not achieve justice.⁴²⁸

Overall, the Israeli Jewish respondents showed favorable views of the Israeli judiciary; nevertheless, perceptions of fairness and impartiality were mixed. While attributing certain attitudes of partiality and bias, either to individual judges or to the system as a whole, these respondents did not expect themselves to be disadvantaged or discriminated against—in the light of the fact that these respondents are members of a high-status group, due to high education and socio-economic status. One might even have expected more interviewees to predict some degree of preferential treatment; the fact that

⁴²⁴ Interviews with Israeli Jews, interview #17 and 20.

⁴²⁵ Interviews with Israeli Jews, interview #17.

⁴²⁶ Interviews with Israeli Jews, interview #20.

⁴²⁷ Interviews with Israeli Jews, interviews # 5.

⁴²⁸ Interviews with Israeli Jews, interview #10.

only a small group of these respondents asserted such expectations may be because they do not like to admit such expectations.⁴²⁹

While a few respondents had some personal experience with the courts and the judicial system, the majority of this group reported that their opinions and perceptions were based primarily on media coverage, or—to a minor extent—upon stories told by colleagues, relatives or friends. This can explain why some of the respondents found it difficult to provide answers to some of the questions about the attitudes toward courts, or satisfaction with the courts' performance.

However, among Israeli Jewish respondents the number of the interviewees who found it difficult to provide a response because of lack of knowledge and familiarity with the subject was considerably less than that of members of the other groups. While this may be because Israeli Jews are more reluctant to admit ignorance than other groups, an alternative explanation may be more plausible—that is, that these respondents actually have better knowledge of the system. This knowledge is not necessarily founded on the personal experience, which was similar among the individuals of all the groups, but from their social networks, and their greater consumption of Israeli media.

B. THE ISRAELIS IN THE SILICON VALLEY

Prior to proceeding with the discussion of the findings with respect to the legal culture of the Israelis in the Silicon Valley, a few paragraphs should be devoted to some descriptive facts with respect to this group. As will become evident later, these elements are relevant to the discussion of this group's legal culture.

The first aspect is the motivation for emigration. The vast majority of these respondents relocated to Silicon Valley in pursuit of employment opportunities for themselves or their spouses. The remaining three interviewees of this group initially relocated to pursue a graduate degree and then remained to work in the area.

⁴²⁹ 6 Interviewees who expected to receive some degree of preferential treatment attributed this expectation to their high education, the quality of representation that they would be able to get, and being normative citizens (interviews with Israeli Jews, interviews # 5, 12, 31).

Second, the immigration status of these respondents varies, although none of them are illegal aliens. At the time of the interview, 21 of the respondents of this group held Green-cards or were U.S. citizens, three respondents reported being in the midst of Green-card application process, and eight respondents held visas.

An additional aspect relevant to the discussion of legal culture is the amount of time they lived in the U.S., and the nature of their stay—permanent, or temporary. At the time of the interview these respondents had lived in CA for nine years on average.

20 respondents (i.e., 2/3 of this group) reported that they plan to return to Israel.⁴³⁰ On the other hand, 12 respondents maintained that they would definitely remain in the U.S. (for respondents with the U.S. citizenship), or “...would try to stay”⁴³¹ (in case of visa-holders).

As a side note, it is interesting to highlight that these interviewees were extremely frank, even though Israeli immigrants to the U.S. usually are reluctant to accept their stay in the host country as permanent.⁴³² On the other hand, some recent studies have indicated that “...emigration, long stigmatized among Israelis, is now seen in a different light, reflecting demographic, economic and ideological changes in Israeli society ...”⁴³³

⁴³⁰ The question asked about the likelihood of the respondents living in Israel 10 years from the time of the interview. The responses were recorded on a four-point-scale. The respondents who asserted their plans to return to Israel were divided almost equally between ‘very likely’ (11 respondents) and ‘likely’ (9 respondents).

⁴³¹ Interviews with Israelis in Silicon Valley, interview # 31.

⁴³² Drora Kass and Seymour Martin Lipset, *Jewish Immigration to the United States from 1967 to the Present: Israelis and Others*, 289, in Marshall Sklare (ed.), *UNDERSTANDING AMERICAN JEWRY*, New Brunswick, N.J. (1982); Natan Uriely, *Rhetorical Ethnicity of Permanent Sojourners: The Case Of Israeli Immigrants in the Chicago Area*, 9 *International Sociology*, 431-445 (1994).

Israeli emigration—also known as ‘yerida’—i.e., descent—bears a social stigma; it is the opposite of ‘aliya’ (going up), denoting immigration to Israel (Mirra Rosenthal and Charles Auerbach, *Cultural and Social Assimilation of Israeli Immigrants in the United States*, 26(3) *International Migration Review*, 982-991(1992); Steven J. Gold and Bruce A. Phillips, *Israelis in the United States*, *American Jewish Yearbook*, 51–101 (1996)). Scholars trace the Israeli emigrants’ reluctance to identify with the country of settlement to their Israeli socialization, which “...demands that Jews and especially Israelis must live in and identify with Israel in order to protect the Jewish people, as well as their religion and culture, from the twin threats of oppression and assimilation in other people’s countries” (Steven J. Gold and Rona Hart, *Transnational Ties During a Time Of Crisis: Israeli Emigration, 2000 To 2004*, *International Migration*, 1468-2435 (2009), at 1469).

⁴³³ Gold and Hart (2009), *supra note* 435, at 1492.

Although prior to the late 1990s, Israelis were unlikely to admit a desire to emigrate permanently, "...recent emigrants more readily admit that their move is not temporary."⁴³⁴ Therefore, although negative sentiments towards emigration from Israel appear to have changed—at least to a certain degree—some of the respondents who asserted the likelihood of their return to Israel may have been misinforming, consciously, or not.

Finally, although many of the Israelis in the Silicon Valley spoke of plans to stay permanently in the U.S., the majority reported being more involved—through media and friends—with Israeli political and social life than with American.⁴³⁵

I will try to shed light on cultural changes that took place among members of this group, and to pinpoint the origins of particular attitudes, as to whether imported from Israel or acquired as a result of relocation in California. This task is particularly challenging, because there are no data on the legal culture of this group at the time they relocated to the Silicon Valley. Although the design of the current study allows me to draw certain inferences, by comparing this group's legal culture with that of Israeli Jews, it must be admitted that any conclusions are exploratory in nature.

1. Israelis in the Silicon Valley and the Rule of Law

Research uncovered a few notable disparities, as well as parallels, between Israelis in Silicon Valley and Israeli Jews, with regard to attitudes toward the rule of law. Not surprisingly, cultural surroundings have important implications for the formation of attitudes towards the rule of law.

The two groups of Israelis have similar attitudes about the *individuals'* duty to abide by the law. While expressing views that the obligation of individuals to abide by the law is unconditional, both Israeli groups permitted various considerations to interfere with this obligation in particular circumstances. The discrepancies in the attitudes, on the

⁴³⁴ Gold and Hart (2009), *supra note* 435, at 1494.

⁴³⁵ For instance, the respondents reported watching Israeli TV, reading Israeli newspapers on-line etc.

other hand, consist of the perceived supremacy of the rule of law on the actions of *government*.

a. The Rule of Law and Individuals

The respondents of both groups of Israelis interpreted the duty of individuals to obey the law inconsistently. With respect to the abstract duty to abide by the law, the interviewees declared that the obligation of individuals to follow the letter of the law was unconditional.⁴³⁶ These notions remained constant even when the law was depicted as unjust; in such cases, the respondents maintained that the unjust law must be altered through existing legal apparatus—such as the Knesset—but that individual disobedience was not justified.

However, despite this seemingly unyielding commitment to the grand idea of legal obedience, in specific instances the respondents allowed some leeway with regard to the duty of the citizens to abide by the law. Interestingly, for respondents of both groups, these grounds for deviation⁴³⁷ were not solely based on fairness; for some, even mere convenience and expediency⁴³⁸ was enough to tip the scales. As Justice Oliver Wendell Holmes suggested, general principles do not determine concrete behavior.⁴³⁹

Moreover, when a particular law was described as being vague, the interviewees in Silicon Valley tended to interpret it in a way that promoted their own interests. This position was similar to the responses of the Israeli Jewish interviewees, who interviewees considered it to be permissible to circumvent the law.⁴⁴⁰

⁴³⁶ The proposition that defying an unjust law is justified was rejected nearly unanimously, with only two interviewees of the Silicon Valley group asserting that it is not necessary to obey a law one considers unjust.

⁴³⁷ E.g., interviews with Israelis in Silicon Valley, interview #17.

⁴³⁸ E.g., interviews with Israelis in Silicon Valley, interview # 6, 29.

⁴³⁹ In *Lochner v. New York*, 198 U.S. 45, 76 (1905) (Holmes, J., dissenting): “General principles do not decide concrete cases.”

⁴⁴⁰ On a cautionary note it should be mentioned that it is possible that some of the Silicon Valley respondents do not perceive ‘getting around the law’ to be illegal *per se*. As a result, allowing such behavior does not necessarily imply disregard for laws and disrespect towards the rule of law. However, even if this is the case, in other instances similar permissive attitudes towards defying laws were demonstrated by these interviewees. For instance, 2/3 of this group rejected modifying their behavior in order to comply with a hypothetical law, for various considerations, including those of convenience.

While both groups of Israelis displayed inconsistencies between unconditional support for the duty of individuals to abide by the law in the abstract, but only limited support in practice, these attitudes differ greatly from those of the FSU immigrants. But inconsistency in attitudes by Israelis raises the question of credibility of the responses. Perhaps the attitudes of interviewees of all three groups with respect to the rule of law were similar—i.e., they justify non-compliance—and that the answers of Israelis were dictated by a desire to say what was socially approved of.

Still, why would this be so only for the two Israeli groups, and not the FSU immigrants? Why would social stigma have fewer consequences for the FSU immigrants, who consistently restricted the scope of individuals' legal obedience?

A possible reason for the attitudes of the Israeli respondents lies in their background. Being brought up in a democratic society that, at least nominally, values the law and universal abidance to the letter of the law, the Israeli respondents felt obliged to assent a commitment to obey the law.

b. The Rule of Law *and* the Government

The inconsistency mentioned—unconditional obligation to obey the law, but approval of circumventing or defying the law in specific instances—was demonstrated by almost all Israelis with respect to *individuals*. However, Silicon Valley Israelis were considerably more lenient with respect to restrictions that the law places upon actions of the *government*.⁴⁴¹ The Silicon Valley respondents granted the government broader freedom to circumvent the law, compared to the other two groups. Israeli Jews were somewhat stricter than Silicon Valley Jews with respect to the duty of the government to obey the law; FSU immigrants placed the most restrictions on government.

This disparity between the attitudes of FSU immigrants and the other two groups of Israelis can be accounted for in terms of their backgrounds. Brought up in a democratic society, both groups of Israelis have no—or less—negative experience with omnipotent

⁴⁴¹ The questions called for judgments about permissible scope of action of the Israeli government. 15 respondents of this group supported the government's right to bend the law for social or political reasons; and 18 respondents permitted it to suspend the law when social problems amounted to a national emergency.

government such as the FSU immigrants; perhaps this is why the Israelis were willing to grant the government broader discretion. This disparity in background allowed Israelis of both groups to exhibit more trust in the government, overlooking—to some extent—the dangers of overreaching state power.

The Silicon Valley respondents systematically demonstrated more favorable attitudes towards the law and legal authorities of the U.S., than Israeli authorities. As a group, they perceive American authorities to be benevolent, promoting justice and supporting the interests of the citizens to a larger extent than is true in Israel. Although the relevant questions explored perceptions of the scope of actions of the *Israeli* government, it is possible that the trust that the Silicon Valley group affords to the American government, and the confidence in its benevolence, led these respondents to tolerate broader freedom of action on the part of the Israeli government as well. But the sample is small; and one can do little more than speculate.

The wording of the questions could have had an impact on responses. The first question called for an opinion about whether government could bend the law to solve pressing social or *political* problems. In Israel politics continues to be a heated subject for debate. It is plausible that respondents who reside in Israel were more reluctant than respondents in Silicon Valley to allow the government to bend the law for political gain. This postulation is supported by the fact that with respect to the second question in this rubric—which contained no association with politics—the responses of the Israeli Jews were similar to those of respondents in Silicon Valley.⁴⁴²

It appears, therefore, that while supporting the idea of the rule of law, the Israelis in the Silicon Valley are willing to tolerate—to a certain extent—actions that defy it, both on the part of individuals and of the government. However, while openly endorsing the right of the *government* to circumvent the law in certain instances, this group claimed individuals had an absolute duty to abide by the law; but in the course of further investigation, the limits of this belief become clear.

⁴⁴² 2/3 of these respondents allowed the government to suspend law in face of pressing social problems.

The attitudes of this group might be attributed to their Israeli background; but they may have been influenced also by perceptions that developed in the U.S. In a separate section of the Discussion Chapter we will address questions about preservation or alteration of attitudes on the part of immigrants.

2. Israelis in Silicon Valley and Individual Liberty

As we mentioned, some attitudes of Israelis in Silicon Valley towards the rule of law appear to be influenced by experiences in Israel, while other perceptions appear to be the product of their relocation to California. On the other hand, it is hard to attribute the attitudes of this group toward personal liberty to one of these factors or the other.

This uncertainty stems from the fact that the disparities between the perceptions of the respondents of this group and the Israeli Jews do not appear to be significant.⁴⁴³ A similar outcome was discovered with respect to the desire of respondents to live in an orderly society.

One should be mindful of the fact that disparities in the findings might be attributed to the small sample size of the groups. Alternatively, the fact that Silicon Valley respondents expressed broader endorsement of personal freedom, along with more expansive support for an orderly society than Israeli Jews, could be attributed to their experiences in the U. S.

Silicon Valley respondents reported that they perceive both principles—freedom and order—to be the corner stone of American society.⁴⁴⁴ They see U.S. culture as promoting individual liberty, while adhering to strict requirements of law and order. For instance, some of the respondents stated that the laws in the U.S. promote individual

⁴⁴³ The reasons that Silicon Valley respondents gave in support of individual freedom were that “[It is] important to allow pluralism” (interviews with Israelis in Silicon Valley, interview #19); “People need a chance to be [free]...” (interviews with Israelis in Silicon Valley, interview #24).

⁴⁴⁴ It should be emphasized that due to the fact that we are examining the notions that underlie reported attitudes, the issue at hand is *perceived* values, rather than the reality. Therefore, we are not interested in the question of the value that American society places on the interests of individual liberty and order; it suffices to say that the respondents attribute such values to it.

freedom more than the Israeli laws;⁴⁴⁵ another asserted that her experience of over 7 years in the U.S. taught her “the significance of the law.”⁴⁴⁶

It is, therefore, plausible that because of experiences in the U.S. perceptions and value attached to principles of freedom and order Israelis in Silicon Valley changed attitudes in comparison with their fellow citizens who remained in Israel. These experiences caused the respondents of this group to attach higher value to the individual liberty, while upholding significance of an orderly society.

3. Israelis in the Silicon Valley and Neutrality of Law - Legal Alienation

Like the Israeli Jewish and FSU immigrant respondents, the element of legal alienation of the Israelis in the Silicon Valley was investigated with respect to the Israeli laws. These attitudes are evaluated and discussed in this section. In addition to the Israeli laws, the interviews explored the legal alienation of the Silicon Valley group with respect to the American laws. These attitudes will be addressed separately in the last part of this section, which is dedicated to the perceptions of these respondents of the American legal system vs. the Israeli one.

As a group, Silicon Valley respondents perceived Israeli law to be neutral, nearly unanimously rejecting the presumption of the oppressive nature of the laws.⁴⁴⁷ Similarly, the vast majority of these respondents disagreed that the law usually reflects the views of those who want to control them.⁴⁴⁸ Silicon Valley respondents are the least legally alienated group of the three; the FSU immigrants have the strongest attitudes of legal alienation; perceptions of Israeli Jews fall in-between these two extremes. Of course, the sample is quite small.

⁴⁴⁵ Interviews with Israelis in Silicon Valley, interviews #25, 26.

⁴⁴⁶ Interviews with Israelis in Silicon Valley, interview #16.

⁴⁴⁷ One respondent of this group stated that the laws are oppressive and against her interests, limiting the scope of her response solely to the US laws (interviews with Israelis in Silicon Valley, interview #32). Another respondent maintained that “The law is good for society but not for individuals” (interviews with Israelis in Silicon Valley, interview #9).

⁴⁴⁸ Interviews with Israelis in Silicon Valley, interview #28: the interviewee stated that in Israel she feels that the state is against her interests, whereas in the U.S. the law is for citizens’ interests.

As indicated above, the issue of legal alienation of the Israelis in the Silicon Valley was examined with respect to *Israeli* laws. However, it would be wrong to assume that these perceptions are unaffected by their current environment and, more importantly, of their *perceptions* of this environment. Overall, Israelis in Silicon Valley view American law and legal authorities in a positive light, as promoting the interests of the citizens and individual freedom. It is possible, therefore, that these positive attitudes towards the American legal system are shifted, to some extent, to the Israeli legal system as well.

Such shift of attitudes would not necessarily affect the perceptions of the respondents when they are asked to compare—putting side by side—the two systems. Indeed, as already discussed, when comparing the American and Israeli legal systems, these individuals consistently view the first in a more positive light, attributing to it more justice and freedom. However, when asked to focus specifically on Israeli laws, legal system or authorities, these individuals may draw upon their positive perceptions of the American system.

4. The Ultimate Basis of the Law

Not surprisingly, these respondents of this research expressed similar notions about the ideal basis of law; it should be founded on the values of the people. This is not to say that all the respondents would agree with any particular values and laws that are based on these values. While agreeing with the general principle that law should be based on the values of society, some of the respondents acknowledged that, in practice, it is hard to reach an agreement on values and that the latter differ, often considerably, among different segments of the population.

Such disagreement with the values of particular segments of the population was expressed by one of the Silicon Valley respondents, who excluded in her answer groups holding religious views: “[The law should be based on the values of the people] but no

religious law in family law.”⁴⁴⁹ Similarly, another respondent from Silicon Valley stated that basing law on the values of society was unrealistic and just not feasible.⁴⁵⁰

5. Israelis in Silicon Valley and Perceptions of Conflict and Dispute Resolution

Overall, attitudes with respect to dispute resolution expressed by Israelis in Silicon Valley were akin to those displayed by the Israeli Jews. This is not to say that respondents agreed with respect to the exact circumstances that warrant judicial involvement or other dispute resolution methods. Naturally, depending on their personal preferences and perceptions, individuals differed in their opinions of when they would involve the courts or appeal decisions of various authorities.

These differences reflect the variation in the attitudes of individuals based on such considerations as the nature of the issue, the degree of emotional involvement, the expected time needed to resolve the matter, the overall costs and the chance of success. However, unlike FSU respondents, when considering whether certain circumstances merit legal action, none of the Israelis of the Silicon Valley respondents examined potential reliance on the courts through the prism of honor and respectful behavior. Additionally, like the Israeli Jewish respondents—and in contrast with the FSU interviewees—the Silicon Valley respondents rejected the idea that the government had some kind of retribution system.

6. Israelis in Silicon Valley and Legal Obedience

Like the interviewees of other groups, the Israelis in Silicon Valley expressed moral considerations as motives for obeying the law. Only two respondents of this group stated a readiness to obey some particular law because it is a legal requirement or due to a fear of sanction.⁴⁵¹ The overwhelming majority of the respondents attributed their expected compliance to considerations of morality and proper behavior.

⁴⁴⁹ Interviews with Israelis in Silicon Valley, interview #29.

⁴⁵⁰ Interviews with Israelis in Silicon Valley, interview #27.

⁴⁵¹ Interviews with Israelis in Silicon Valley, interviews #14 and 27.

Silicon Valley respondents feel that U.S. culture supports conformity to law more than Israeli culture. In light of this fact, one might have expected these respondents to express higher rates of willingness to comply with the law, compared to the Israeli Jews. Yet, this group stated readiness to modify behavior in order to comply with legal requirements was similar to that of the other group.⁴⁵²

7. Attitudes of the Israeli Diaspora in Silicon Valley towards Israeli Courts

Like the other respondents, opinions of Israeli courts expressed by the Silicon Valley group are based upon media coverage or stories they heard from friends. Only a small fraction of these interviewees reported personal encounters with Israeli courts. Only six Israelis in Silicon Valley had begun judicial proceedings within ten years prior to this research.⁴⁵³ As with the other groups, these were proceedings in magistrates, traffic, labor and small claims courts.

Overall, Israelis in Silicon Valley were more satisfied with the Israeli judicial system than Israeli Jews. The Silicon Valley respondents attributed better ability to solve problems, more fairness of decisions and better treatment of citizens, to the Israeli courts.

Both groups of Israelis had similar views of the impartiality of the Israeli judiciary—about half of each group perceived it to be biased—respondents differed with respect to the nature of the bias. Most Silicon Valley respondents believed the bias to be systematic—bias on the basis of socio-economic class, education, religion and political views⁴⁵⁴—Israeli Jews attributed it to the particular preferences or opinions of individual judges.

As discussed above, it is plausible that the attitudes and notions of the Israelis in Silicon Valley are influenced by their host society, and by their perceptions of that society. It is possible that positive attitudes of respondents towards the American courts

⁴⁵² With this respect, 15 Israelis in Silicon Valley and 17 Israeli Jews claimed that they will modify their behavior to comply with law.

⁴⁵³ Interviews with Israelis in Silicon Valley, interviews # 5, 6, 16, 18, 22 and 28.

⁴⁵⁴ Some of the elements that were perceived as being able to enhance one's chances of succeeding in courts were low education (interviews with Israelis in Silicon Valley, interview # 10); being Jewish orthodox or being politically affiliated with the right wing (interviews with Israelis in Silicon Valley, interview # 14); high education or ethnicity (interviews with Israelis in Silicon Valley, interview # 19); white collar (interviews with Israelis in Silicon Valley, interview # 32).

shift, to some extent, to color their opinions about Israeli courts as well, increasing disparities in the attitudes of this group and Israeli Jews.

8. Israelis in Silicon Valley: the U.S. vs. the Israeli Legal System

Israelis in Silicon Valley expressed interesting attitudes toward the American legal system.⁴⁵⁵ Although measuring actual *behavior* of the respondents and their obedience to law is beyond the scope of this research, the interviewees reported a higher level of legal obedience on their part in the U.S. than in Israel, and higher trust in the American legal system, the law-enforcement and the judicial authorities.

a. Higher level of obedience in the U.S.

As indicated above, some of the Silicon Valley respondents claimed that they more readily obey the law in the US than in Israel. These interviewees gave a number of reasons to support this position. The most frequently used rationale was that a high level of legal obedience conforms to the social norms in the U.S.⁴⁵⁶ One interviewee asserted that her experience of over 7 years in the US taught her about “the significance of the law,” and that “...it is nice to live in a country that respects the law,” relating to her life in the U.S.⁴⁵⁷ Similarly, ‘getting around the law’ was perceived to be an aspect of Israeli culture; “...more OK in Israel, because [there] perceived differently.”⁴⁵⁸

⁴⁵⁵ Naturally, it is hard to talk about the ‘general’ U.S. legal system; the laws and legal culture of the U.S. differ on many levels, starting with the level of the states. Presumably, the respondents’ perspectives of the ‘American legal system’ are based on their experiences in Silicon Valley. The term ‘American legal system’ is used here merely to reflect the way the respondents were describing their attitudes.

⁴⁵⁶ “...the American local culture.” (interviews with Israelis in Silicon Valley, interview #27). Another respondent stated that “[I]n Israel, social norms allow one to disobey law more than here [in the U.S.]” (interviews with Israelis in Silicon Valley, interview #19).

⁴⁵⁷ Interviews with Israelis in Silicon Valley, interview #16.

⁴⁵⁸ The respondents gave an example of lying about a child’s age, in order not to pay a child’s entrance fee to an amusement park, as something that would never be done in the US because of norms that are customary here (interviews with Israelis in Silicon Valley, interview #16). Even legal requirements that are viewed as common courtesy—such as leaving a note after damaging someone’s car—was perceived to be more frequent in the U.S., with one of the interviewees stating that here, guilty parties “...always leave notes” (interviews with Israelis in Silicon Valley, interview #15).

Other respondents identified their being foreigners as a motive for a higher level of legal obedience. For some, this position was related to concern about their legal status. For instance, a few of the interviewees asserted that they would be more meticulous about complying with laws and regulations because of the fact that they are legal aliens.⁴⁵⁹ For others, being a foreigner translated into a limited familiarity with the American legal system,⁴⁶⁰ or the American culture and mentality.⁴⁶¹

b. Higher trust in the U.S. legal system

An interesting finding emerged with respect to perceptions that Silicon Valley respondents held with respect to the American legal system, in comparison to the Israeli system. Interviewees expressed more trust in and reliance on the American system. For instance, one respondent stated that, except on issues of employment, citizens in the U.S. have better legal protection than citizens of Israel.⁴⁶² Another interviewee reported that in Israel she feels that the state is against her interests, but in the U.S. it is for the citizens' interests.⁴⁶³ Yet other respondents maintained that, "[I]n comparison to America, there is less trust in the authorities in Israel...[in the U.S.] there is a feeling that the law has

⁴⁵⁹ Interviews with Israelis in Silicon Valley, interviews # 18, 30.

⁴⁶⁰ Interviews with Israelis in Silicon Valley, interview # 18.

⁴⁶¹ Interviews with Israelis in Silicon Valley, interview # 27.

One should be mindful of the cultural differences between Israel and the U.S. In broad terms, the U.S. is characterized as embracing a rights-based liberal ethic of individualism (Gary J. Jacobsohn, *Alternative Pluralisms: Israeli and American Constitutionalism*, 51 *Comparative Perspective Review of Politics*, 159–189 (1989)); in the Israeli society—on the other hand—more collective values prevail (Peter B. Smith, Mark F. Peterson and Shalom H. Schwartz, *Cultural Values, Sources of Guidance, and their Relevance to Managerial Behavior: A 47-Nation Study*, 33 *Journal of Cross-Cultural Psychology*, 188–208 (2002)). These disparities may result in different attitudes or behaviors in these two countries. For instance, some scholars find deference to legal authority in Israel to be low (Yagil and Rattner (2002), *supra note* 156). Yet others demonstrate the unwillingness of Israeli employees—compared to their American colleagues—to engage in social enforcement (whistle-blowing), suggesting that it is caused by greater social solidarity combined by a shorter tradition of the rule of law (Sarat (1977), *supra note* 52) in Israeli society (Yuval Feldman and Orly Lobel, *Decentralized enforcement in organizations: An experimental approach*, 2 *Regulation & Governance*, 165-192 (2008)).

⁴⁶² Interviews with Israelis in Silicon Valley, interview # 8.

⁴⁶³ Interviews with Israelis in Silicon Valley, interview #26.

more authority and power”,⁴⁶⁴ and that, “Here [in the U.S.] the law is very clear, but not in Israel.”⁴⁶⁵

Similarly, in various circumstances American law was perceived to provide the citizens with better protection than the Israeli system. For instance, the issue of workplace discrimination was perceived to be taken more seriously in U.S. courts.⁴⁶⁶ Interestingly, only one respondent of this group stated that the U.S. laws are more restrictive than Israeli law, and more against her interests.⁴⁶⁷

It is worth noting that these notions that the U.S. legal system is superior and gives individuals better protection, were not related to the legal status of the respondents. For instance, a respondent who held a U.S. visa stated that “[I]n Israel there is a feeling that [the law] is more against me, here [in the U.S.] more for the citizens.”⁴⁶⁸ Another visa-holder maintained that she would be more reluctant to dispute an unjustified traffic ticket in the Israeli court, because of what she saw as bias in favor of law-enforcement officers.⁴⁶⁹

A higher level of trust was also expressed with respect to the law enforcement and judicial authorities in the U.S. One respondent asserted that in the U.S. he would be more willing to call the police, because “...here [in the U.S.] they [police] are more trustworthy.”⁴⁷⁰ Other respondents stated that in the U.S., police are more trustworthy and responsive; in certain instances—e.g., with respect to the ‘car accident’ vignette—they would not approach the police in Israel, but would be less reluctant to do so in the U.S.⁴⁷¹ Yet another respondent stated that there is more justice in the American courts.⁴⁷²

⁴⁶⁴ Interviews with Israelis in Silicon Valley, interview # 25.

⁴⁶⁵ Interviews with Israelis in Silicon Valley, interview #30.

⁴⁶⁶ Interviews with Israelis in Silicon Valley, interview #29.

⁴⁶⁷ Interviews with Israelis in Silicon Valley, interview # 32.

⁴⁶⁸ Interviews with Israelis in Silicon Valley, interview # 28.

⁴⁶⁹ Interviews with Israelis in Silicon Valley, interview # 25.

⁴⁷⁰ Interviews with Israelis in Silicon Valley, interview # 25.

⁴⁷¹ Interviews with Israelis in Silicon Valley, interview # 26, 31.

⁴⁷² Interviews with Israelis in Silicon Valley, interviews #7, 12.

Although prevailing, these favorable notions of the American legal authorities were not unanimous. For instance, two respondents said they were likely to contest an unjustified traffic ticket in Israel, but reluctant to do so in the U.S.⁴⁷³ Another respondent believed that an American court would be more biased in favor of a police-officer than the Israeli court.⁴⁷⁴ But these were exceptions.

These perceptions about the American legal system were not necessarily based on first-hand experiences. Only two of the Silicon Valley respondents reported appearing in U.S. courts.⁴⁷⁵ When asked about the basis for their opinions about the U.S. legal system, respondents reported that these were based on general knowledge of norms and customs.

Israeli respondents in Silicon Valley, in short, attribute more justice and credibility to the American judicial system and legal authorities than to those in Israel. And this is true not only of respondents who plan to remain in the U.S. on a permanent basis; but also to most of those Silicon Valley respondents who say they plan to repatriate to Israel.

9. Summary: Perceptions of Israelis influenced by the U.S. experience

The legal culture of Israelis in Silicon Valley differed, to a certain extent, from the legal culture of Israeli Jews. Since according to the design of this study, both groups were selected in a way that minimized all other disparities except for location—Israel or the Silicon Valley—these disparities can be attributed to that fact.

This is not to say that every aspect of legal culture in which the two groups of Israelis differed must reflect the legal culture of the host society. While particular aspects of change could be attributed to the local legal culture, they might also stem from specific experiences of Israelis in Silicon Valley.⁴⁷⁶

⁴⁷³ Interviews with Israelis in Silicon Valley, interviews #5 and 6. It should be mentioned that the fact that both of these interviewees lived in the U.S. for a period of less than 3 year could account for this view.

⁴⁷⁴ Interviews with Israelis in Silicon Valley, interview #9.

⁴⁷⁵ These matters involved one small claim, and one traffic issue (interviews with Israelis in Silicon Valley, interviews10 and 12 #). It should be noted that both interviewees stated that they are unlikely to initiate court proceedings should similar circumstances arise again in the future.

⁴⁷⁶ On a cautionary note, it should be mentioned that one possible alternative explanation is that these disparities can be attributed to some unknown features that are shared by the individuals of this group. For

C. IMMIGRANTS FROM THE FORMER SOVIET UNION

In this section I concentrate on the FSU immigrants, describe their legal culture and discuss the elements that motivate their attitudes and perceptions. On a cautionary note, it should be mentioned that due to unavailability of detailed data with respect to this population's notions of and attitudes towards the law and legal institutions upon their immigration to Israel, methodologically, it is impossible to conclusively map the processes of their legal socialization. Without a sound point of reference, determining whether, and to what extent, the legal culture of these individuals underwent transformation in their new environment is unfeasible. Nevertheless, we can speculate about the roots of the attitudes of this group. Moreover, although some of the prevailing perceptions, values and attitudes of the FSU immigrants are the result of their pre-Israeli experiences, it is plausible that they have been affected by the Israeli legal, political and cultural discourse and power-structures.

The FSU immigrants who were interviewed in course of this research immigrated to Israel in the early 90's, during 'the great exodus' of the Soviet Jews.⁴⁷⁷ By the time this research was conducted, these respondents constituted a more or less integral part of the Israeli society for about two decades; they lived among Israelis, worked in Israeli companies and—although they never got rid of the accent—spoke fluent Hebrew.

To what extent has their legal culture ceased being 'Soviet Russian Jewish' one and became 'Israeli' legal culture? Have their legal attitudes been altered and to what extent do they resemble those of the legal culture of the Israeli Jewish majority?

Russian Jews come from a particularly complex background; although they spoke Russian and identified with the Russian culture,⁴⁷⁸ they remained a minority stigmatized and discriminated against. Effectively, they were "culturally Russians, but legally and

instance, the fact that these individuals relocated to the U.S. while the Israeli Jewish respondents remained behind might suggest that the Silicon Valley group possesses some qualities that differ between the groups.

⁴⁷⁷ The immigrations dates were between 1990 and 1994.

⁴⁷⁸ Yoram Gorlizki, *JEWS. THE NATIONAL QUESTION IN THE SOVIET UNION*, Graham Smith (ed.). London. (1990).

socially Jews.”⁴⁷⁹ Furthermore, as Horowitz wrote in 1996, the social and economic philosophy of the FSU immigrants is rooted “in their socialization under the Communist regime and their post-perestroika encounter with the Western world.”⁴⁸⁰ Can the same be assumed about their legal culture two decades after their repatriation to Israel?

Although coming from a significantly different environment, it was plausible to expect that after two decades of socialization in Israel, the legal culture of these respondents would be quite similar to that of the general Israeli population,⁴⁸¹ represented in this research by the Israeli Jewish group. This expectation is based on the assumption that while individuals’ native cultural and social patterns play a very important role, the culture of the host society—the immediate surroundings—is an equally important variable in structuring perceptions and attitudes. Therefore, while the FSU immigrants and the Israeli Jews come from different cultures—and, thus, possess certain disparities that are anchored in their distinct identities—it is plausible to expect that two decades of interaction and socialization in Israel made an impact upon the legal culture of the immigrants, making it more like that of the rest of the population.

The findings of this research suggest that ‘you can take the FSU immigrants out of the Soviet regime, but you cannot take the Soviet regime out of the FSU immigrants’. Even after decades spent in significantly different—more liberal and democratic—society, the environment into which these respondents were born and where they were educated and socialized has left its mark upon their notions and perceptions. As Hendley asserts, “[T]he role of law as handmaiden to politics during the Soviet era is well-documented and deeply engrained in the psyche of Russians.”⁴⁸² These subjects display

⁴⁷⁹ Zvi Gitelman, *ASSIMILATION, ACCULTURATION, AND NATIONAL CONSCIOUSNESS AMONG SOVIET JEWS*. Ann Arbor: University of Michigan (1972).

⁴⁸⁰ Tamar Horowitz, *Value-Oriented Parameters in Migration Policies of the 1990s: The Israeli Experience*, 34(4) *International Migration*, 513–537 (1996), at 513.

⁴⁸¹ Naturally, I do not presume that ‘general Israeli population’ is homogeneous, nor do I imagine that this population shares identical views on different aspects of legal culture. Rather, I expected the FSU immigrants to demonstrate similar patterns to those of other Israelis.

⁴⁸² Hendley (1997), *supra note* 83, at 231.

certain attitudinal patterns that can be attributed to years of perceptions shaped by Soviet ideological apparatuses and the life in the USSR.

With respect to the research on *political* attitudes of the FSU immigrants, studies insist on looking at the Soviet and post-Soviet cultural background.⁴⁸³ Research on *legal* attitudes, perceptions and behavior—i.e., legal culture—would be incomplete if it did not consider the Soviet element in their personal history.

Research on political culture of FSU immigrants maintains that this population retained—to a certain extent—patterns of political behavior characteristic of the Soviet regime. For instance, Arian et al.—who conducted a survey of the general FSU population in Israel—assert that, “[O]n the twentieth anniversary of the beginning of immigration from the FSU, many immigrants express views that bring to mind the patterns of political behavior in the Soviet regime.”⁴⁸⁴ Similarly, Philippov and Bystrov—who conducted a comparative study of citizens’ perceptions of their power to influence governmental decrees and directives—found that, “[E]ven 20 years after the beginning of mass immigration to Israel, we find significant differences in both political attitudes and behavior between the immigrants and the rest of Israelis in the sphere of citizens-and-state relations.”⁴⁸⁵ The scholars conclude that the *political* culture of Israeli FSU immigrants is substantially “based on their native political outlook,”⁴⁸⁶

Our research showed that the *legal* culture of the FSU immigrants differs from that of the Israeli Jewish group. This disparity may well be due—to a large extent—to the system of values and beliefs forged under Soviet Rule.

This study has not detected any correlation between different attitudes and other variables—such as age and gender—within the FSU group. The lack of a generational gap is particularly worthy of noting, since one could have expected that individuals who

⁴⁸³ Philippov and Bystrov (2011), *supra* note 146, at 262.

Arian et al. (2009), *supra* note 145, at 88.

⁴⁸⁵ Philippov and Bystrov (2011), *supra* note 146, at 266.

⁴⁸⁶ Philippov and Bystrov (2011), *supra* note 146, at 259.

socialized and were educated—at least for several years—in Israel would display more “Israeli” attitudes, rather than reproducing the patterns of ideological orientations of their parents and parroting their beliefs. It is possible that this result is due to a small sample size; however, interestingly, the research on the immigrant’s *political* culture discovered a similar lack of correlation. For instance, Philippov, who investigated FSU immigrants’ voting patterns, found that “...differences in education, gender, age and the amount of time since their immigration to Israel impact minimally on their voting patterns.”⁴⁸⁷

In the following sections, I will discuss particular attributes of the legal culture of the group of the FSU immigrants, evaluating them in light of the findings with respect to the other interviewed groups.

1. FSU Immigrants and the Rule of Law

Studies that explored Soviet rule and the Soviet legal system⁴⁸⁸ describe it as one that has no history of respect for the rule of law comparable to the Western tradition;⁴⁸⁹ Hendley notes that “[B]y almost any definition, the “rule of law” has been mostly absent.”⁴⁹⁰ Moreover, scholars noted that “[T]he rule of law had no place in the Soviet political system”⁴⁹¹ and that “...the former soviet culture was the antithesis of a legal culture grounded in the rule of law.”⁴⁹² An understanding that law is an instrument

⁴⁸⁷ Michael Philippov, *1990s Immigrants from the FSU in Israeli Elections 2006: The Fulfillment of Political Dreams of Post-Soviet man?*, 138, in Asher Arian and Michal Shamir (eds.), *THE ELECTIONS IN ISRAEL*, 2006, New Brunswick: Transaction Publishers (2008).

⁴⁸⁸ While we start the discussion with the Soviet rule, it is interesting to note that even in the more distant past, the imperial Russia’s tradition of the rule of law was different than Europe’s; for instance, Finner noted that “[T]he most striking and important contrast between [pre-nineteenth century] Russia and the rest of Europe was that the country had no tradition of what we have called ‘law-boundedness’..” Samuel E. Finer, *THE HISTORY OF GOVERNMENT FROM THE EARLIEST TIMES: EMPIRES, MONARCHIES AND THE MODERN STATE*, Oxford University Press (1999), at 1407.

⁴⁸⁹ Leonard Orland, *Insulting the Soviet President and Other Political Crimes in Mikhail Gorbachev's Rule of Law State*, 5 Connecticut Journal of International Law, 237-270 (1989); John B. Quigley, *The Soviet Union as a State under the Rule of Law: An Overview*, 23 Cornell International Law Journal 205-226 (1990).

⁴⁹⁰ Kathryn Hendley, *Assessing the Rule of Law in Russia*, 14 Cardozo J. Int’l & Comp. L. 347-392 (2006), at 351.

⁴⁹¹ Kahn (2005), *supra note* 113, at 380.

⁴⁹² Hendley (1995), *supra note* 115, at 42.

designed to protect the interests of ordinary citizens from arbitrary actions by the state or other individuals was absent from the Soviet concept of law.⁴⁹³ Rather, law under the Communist Rule focused on promoting the interests of the Soviet State and the Communist Party; it was used to protect them from the people.⁴⁹⁴

Not surprisingly, this system has left its marks upon the attitudes of the FSU respondents, who—as a group—demonstrated weaker commitment to the rule of law than the respondents in the other groups. As opposed to their Israeli counterparts who—at least nominally—asserted their unrestricted commitment to the rule of law, the FSU immigrants did not afford it unlimited support. Subjective notions of justice, morality or logic prevailed over the value of universal obedience to law; these reasons were provided by some of these respondents as such that may justify—or, even, warrant—disobedience to law.

Such directness with respect to their pragmatic, materialistic, and self-serving approach distinguishes the FSU respondents from the other interviewees. It seems that for some of these individuals circumventing the law is a natural and acceptable behavior.⁴⁹⁵ In a sense, these responses demonstrate the skill “to survive and to seek better conditions,” acquired during the Soviet regime.⁴⁹⁶

⁴⁹³ Hendley (1997), *supra note* 83, at 230-231.

⁴⁹⁴ Orland (1989), *supra note* 493; Quigley (1990), *supra note* 493, at 206, writes that in the USSR “the concept [of the rule of law] was viewed until recently as reflecting the false legality found in Western states. A 1956 Soviet legal dictionary defined *pravovoe gosudarstvo* [a state based on the rule of law] as “an unscientific concept depicting the bourgeois state as one in which there is supposedly no place for arbitrariness on the part of the executive authority and where, supposedly, the law and legality reign.’ The concept, according to the dictionary, is used “in a demagogic way” by the bourgeoisie of many countries “in its class interests” in order “to inculcate harmful illusions in the masses, to mask the imperialist essence of the contemporary bourgeois state and its law.’ The concept as used in bourgeois states was “directed against the revolutionary movement of the working class, and from the time of the emergence of socialist states, against them.”

⁴⁹⁵ For instance, interviews with FSU immigrants, interview # 11. It is interesting to note the resemblance between this and similar statements and Hendley’s observation of the legacy of the Soviet-era expectation “to get around (*oboyti*) the rules” rather than to employ them (Kathryn Hendley, *Enforcing Judgments in Russia’s Economic Courts*, 20 Post-Soviet AFF. 1 (2004), at 61-62.

⁴⁹⁶ Philippov and Bystrov (2011), *supra note* 146, at 273.

In addition, bypassing or circumventing the law was perceived as legitimate by a majority of the FSU respondents, who chose to interpret ambiguities to promote their own interests. Some of these interviewees went a step further, demonstrating clear disregard for law, as long as one is ‘smart’ enough about breaking it. As one of the interviewees asserted, “[Y]ou are not a thief if you haven’t been caught.”⁴⁹⁷

However, while treating the authority of the rule of law over individuals with a certain degree of disregard or condescension, the FSU immigrants become its champions and fierce protectors when the subject of legal restriction is the government. With respect to the perceptions of the legitimate scope of governmental actions, the FSU immigrants imposed rigid constraints.

It appears that the fact that the law has been “traditionally seen as an instrument of Communist Party control, rather than as a device to restrain the arbitrary exercise of power by the state or the party”⁴⁹⁸ left its marks upon the perceptions of the FSU immigrants. Although the relevant questions focused on the *Israeli* government—whose practices, although oftentimes equivocal, do not amount to the pervasive nature of Communist Rule—the majority of these respondents demonstrated clear preference for limiting governments’ powers. These interviewees denied the government the right to bend law in order to solve pressing *social* or *political* problems. Even when faced with a question about *social problems that amount to a national emergency*, the pattern remained; these respondents were reluctant to grant the government the right to suspend law in order to urgently deal with such problems. Assessment of these data in light of the respondents’ notions of the responsibility of *individuals* to abide by the law⁴⁹⁹ indicates that members of this group are more likely to favor rule of law constraints on the government than to accept these constraints on the individuals.

⁴⁹⁷ Interviews with FSU immigrants, interview # 6.

⁴⁹⁸ Orland (1989), *supra note* 493, at 238.

⁴⁹⁹ As discussed above, approximately 1/3 of the FSU respondents agreed that one may disobey the laws she considers unjust, and over 2/3 of these respondents demonstrated willingness to circumvent the law.

Such rigidity with respect to the limits of the scope of governmental authority may represent the surfacing of the sentiments of mistrust and suspicion with respect to authorities that developed as part of the interviewees' experience under the Soviet Rule, when law became "and instrument used by the Soviet political elite to further policy goals of the Communist Party, and to serve their personal needs."⁵⁰⁰ It appears that these attitudes have shifted—to some extent—towards the Israeli government as well, inducing this group to demand fervent adherence to legal directives when they are constraining the authority of the government.⁵⁰¹ These respondents were more willing to bear with severe social problems than to demonstrate flexibility by allowing the government to solve such problems by circumventing or bypassing the law.

One may legitimately argue that due to unavailability of historical data with respect to the attitudes of these respondents at the time of immigration to Israel, we cannot credibly determine whether these views are similar to the original perceptions of the FSU immigrants. Perhaps these individuals developed mistrust towards the Israeli government as part of their *post*-immigration experience.

However, the comparative component of our research design points toward the conclusion that wariness towards the authorities is rooted—at least to some extent—in the *pre*-immigration experiences and encounters of this group. This conclusion is based on the fact that Israeli Jews—as well as the Silicon Valley respondents—were willing to grant the government the right to suspend or circumvent the law, when the FSU immigrants refused to do so. Therefore, although the views of the FSU immigrants may have undergone some change as a result of experiences in Israel, the attitudes discovered

⁵⁰⁰ Hendley (1995), *supra note* 115, at 41. Also, see Donald D. Barry, *The Quest for Judicial Independence: Soviet Courts in a Pravovoe Gosudarstvo*, in Barry (ed.), TOWARD THE 'RULE OF LAW' IN RUSSIA: POLITICAL AND LEGAL REFORM IN THE TRANSITION PERIOD, Armonk, N.Y.: M.E. Sharpe (1992).

⁵⁰¹ This research did not address the question of whether there are particular aspects or characteristics of the Israeli government that led to these attitudes supporting limitations in the power of the government. It is possible that these notions and attitudes would remain towards any other government. On the other hand, it is also possible that some particular characteristics of the Israeli government trigger these perceptions. For instance, one of the FSU respondents stated that although in general he supports the view that a government should be allowed to bend the law in order to solve pressing social problems, he disagrees with the statement in case of the *Israeli* government (interviews with FSU immigrants, interview #21).

by the current research—i.e., attitudes that these immigrants hold after almost two decades in Israel—still differ significantly from those held by the other respondents.

Moreover, studies of political culture of the FSU immigrants make an interesting suggestion with respect to the differentiation that Russian immigrants make between State law and the public arena, and their private world. According to these studies, this population prefers not to have much to do with the authorities and, therefore, if the law is unjust, individuals should find ways to cope with it, trying to improve their own condition.⁵⁰² As a result of this situation, "...to the Russian mind, a politician who breaks the law is corrupt, while a regular citizen who does the same is acting in accordance with the traditional creativity of the Russian people."⁵⁰³

Although less plausible, one possible explanation for disparities in attitudes towards the rule of law should be mentioned here. In general, the population of the FSU immigrants is considered to be—and perceives itself to be⁵⁰⁴—of a low socio-economic status.⁵⁰⁵ Previous research suggests that identification with low status groups is negatively correlated with support for legal authorities and the rule of law. For instance, Yagil and Rattner, who examined the views of Israelis, including FSU immigrants, found that members of low status groups showed less respect for state laws and demonstrated more willingness to take the law into one's own hands.⁵⁰⁶

Therefore, our respondents were chosen in a way that minimizes disparities in social status. The social status of the FSU respondents selected for this research—which may be unrepresentative of the general FSU population—is similar to the social status of the other respondents. Discrepancies in perceptions cannot, therefore, be attributed to socio-economic status.

⁵⁰² Michael Philippov, *Ex-Soviets in the Israeli Political Space: Values, Attitudes, and Electoral Behavior*, Research Paper 3, April 2010, <http://www.israelstudies.umd.edu/articles/research-paper-3.pdf> (last viewed in June, 2011).

⁵⁰³ Philippov and Bystrov (2011), *supra note* 146, at 265.

⁵⁰⁴ Subjective perceptions of class membership are comprised of economic success, as well as a general evaluation of the individual's place in society (Arian et al. (2009), *supra note* 145).

⁵⁰⁵ Remennick (2007), *supra note* 168; Arian et al. (2009), *supra note* 145; Philippov and Bystrov (2011), *supra note* 146.

⁵⁰⁶ Yagil and Rattner (2005), *supra note* 105.

Moreover, in the interviews, most FSU respondents did not demonstrate notions of perceived self-inferiority. For instance, the responses to the question about expected treatment of the interviewees by the courts—similar to, better or worse than the average citizen⁵⁰⁷—demonstrate that the vast majority of these respondents expect the courts to treat them similar to, and a few expect to be treated better than, the average person.

Therefore, although social status may be relevant in other instances—such as in the aforementioned 2005 study by Yagil and Rattner—the potential of relying on it as the explanation in the current research design is, if at all, limited. Rather, it appears that the legal socialization of the FSU immigrants under the Soviet regime continues to shape, at least to some degree, their perceptions of the Israeli system as well. Similar to the research that discovered that in Russia “...legal culture of distrust persists to some extent to the present day and has stymied efforts to reform the legal system,” this study discovered that this legal culture persists—to certain extent—among the FSU immigrants in Israel.⁵⁰⁸

This conclusion is further strengthened by research that discovered the apparent consistency of the immigrants’ political attitudes and behavior. Arian et al. found that, over the years, the immigrants’ attitudes were more stable than those of the general Jewish population.⁵⁰⁹ It is plausible, therefore, that the group’s attitudes towards the rule of law have not undergone radical changes since their repatriation to Israel; and that the fact that during the Soviet times law was “a force imposed above by the state”⁵¹⁰ and courts were “firmly under the thumb of the Communist Party”⁵¹¹ still affects these attitudes.

⁵⁰⁷ Question asked “Do you feel that people like yourself, that is people of your age, ethnicity, sex and income, receive the same treatment from the courts as the average citizen, or are people like yourself treated better or worse than the average citizen?”

⁵⁰⁸ Hendley (2006), *supra note* 494, at 352.

⁵⁰⁹ Arian et al. (2009), *supra note* 145, at 107.

⁵¹⁰ Hendley (1995), *supra note* 115, at 42.

⁵¹¹ Hendley (2006), *supra note* 494, at 352.

2. FSU Immigrants and Valuation of Personal Liberty

Some individuals are willing to put up with more disorder for the sake of liberty than others; these attitudes constitute “an important part of a political or legal culture.”⁵¹² Scholars have noted that “[O]ne of the enduring tensions in Russian political culture is that between order and liberty.”⁵¹³

Some prior research has focused on valuation of personal liberty as part of immigrants’ political culture and attitudes.⁵¹⁴ This research found that, “[T]he *Post-Soviet man* [sic] supports most individual liberties, but expresses quite a number of reservations.”⁵¹⁵

As discussed in the previous Chapter, although the FSU respondents value freedom and appreciate its vital significance for a democratic society, they are less willing—compared to the other respondents—to accept negative consequences when it is exercised by others. Moreover, even when no immediate negative implications are observed or suffered, these respondents limit the scope of freedom of speech. For instance, they support freedom of expression, as a general rule, but refuse to accept some types of criticism of the State of Israel.

As will be elaborated further, these attitudes may stem from the previous experiences of these individuals under the Soviet regime. However, before discussing the possible connection between their past and the findings of this research, I will recap the latter, highlighting the points of interest.

First, the FSU group displayed disparities in valuation of personal freedom over social order between the freedom of *actions*, and the freedom of *ideas*. The vast majority of these respondents were reluctant to support the right of citizens to exercise freedom when it resulted in an inconvenience or interruption of their daily routine. Actions that

⁵¹² James L. Gibson, *The Struggle between Order and Liberty in Contemporary Russian Political Culture*, 32(2) Australian Journal of Political Science, 271-290 (2010), at 286

⁵¹³ Gibson (2010), *supra note* 516, at 271.

⁵¹⁴ Arian et al. (2009), *supra note* 145; Philippov and Bystrov (2011), *supra note* 146.

⁵¹⁵ Philippov and Bystrov (2011), *supra note* 146, at 259.

were perceived to be disruptive to the order and stability of society included, for instance, blocking the highways by the protesters.

Second, although freedom of ideas was perceived to be more acceptable and deserving forbearance than freedom of actions, even with this respect only half of this group supported personal liberty to express oneself. Moreover, it appears that even among the interviewees who endorse freedom of ideas, the extent of this support was narrower and less all-encompassing than that demonstrated by respondents of the other groups; while nominally supporting the freedom of ideas, many FSU immigrants restricted the essence of the ideas that should be tolerated. For instance, some of these respondents demonstrated no tolerance towards views denying the State of Israel its Jewish character,⁵¹⁶ or those that delegitimize the existence of the State of Israel.⁵¹⁷

The findings that the FSU immigrants tend to support restraining the scope of personal freedom are consistent with the existing research on the political culture of the FSU immigrants.⁵¹⁸ Plausibly, these attitudes can be attributed to the relatively higher value that the FSU immigrants attach to life in an orderly and stable society than the value they attach to personal liberties.

Interestingly, studies that examined the attitudes of the contemporary Russian population found individuals' preference for order and stability over freedom and democracy. Although these current views are thought to be linked to the developments of the 1990s—when many middle-class Russians were sent back into poverty, thus causing them to associate ongoing difficulties with the demise of the empire⁵¹⁹—it appears

⁵¹⁶ It should be mentioned that 'Jewish nature' as not used by these respondents in religious sense. Rather, they used the term to mean that the State of Israel is a homeland of the Jewish people.

⁵¹⁷ Although the attitudes of the FSU immigrants in countries other than Israel are out of scope of the current study, it should be mentioned that research has found that the Russian-speaking community on the U.S. demonstrates similar attitudes (Remennick (2007), *supra note* 168, at 197).

⁵¹⁸ For instance, Arian et al. assert that "[A]s far as political integration is concerned, prominent gaps emerged between the political culture of FSU immigrants and those of the public, in general. As a rule, the immigrants' attitudes are less democratic." Arian et al. (2009), *supra note* 145, at 108. Philippov and Bystrov (2011), *supra note* 146, at 259 maintain that "The undemocratic culture and tradition imported from the Soviet Union constitutes an important component in the immigrants' political culture in Israel."

⁵¹⁹ Michael Rywkin, *Russia: In Quest of Superpower Status*, 30 *American Foreign Policy Interests*, 13–21 (2008).

similar notions were present before the collapse of the Soviet regime.⁵²⁰ It is plausible that the FSU immigrants retained these notions since their immigration to Israel.

The other side of the coin is the inherent disrespect or disbelief of the FSU immigrants of the personal liberties. This attitude can be attributed to the fact that born and educated in the years of Soviet regime, these individuals lack the same fundamental confidence in individual rights and respect for personal liberties that characterize Western democracies.

In a similar venue, Arian et al. propose that the FSU immigrants' support for freedom of expression together with intolerance of expressions of harsh criticisms has its roots in their pre-immigration experiences.⁵²¹ The authors suggest that while these respondents were politically socialized during the *perestroika* era—thus internalizing the values of freedom of expression (*glasnost*)—"public criticism of the establishment was not acceptable in that political culture and, particularly, at the time of a security threat."⁵²²

A comment should be made concerning the political views of the respondents. As discussed in detail in the chapter on methodology, political attitudes of the respondents

⁵²⁰ Brown argues that "the relative absence of pluralist and democratic political structures during a historically long period should make it less than surprising that attachment to individual political liberties, and support for their institutionalization, remains weak" (Archie Brown, *Ideology and Political Culture*, at 18, in Seweryn Bialer (ed.), *POLITICS, SOCIETY, AND NATIONALITY INSIDE GORBACHEV'S RUSSIA*, Boulder, CO: Westview Press (1989), cited in Gibson et al. (1992), *supra note 77*, at 333). Also see Zaslavskaya (Tatyana Zaslavskaya, *THE SECOND SOCIALIST REVOLUTION: AN ALTERNATIVE SOVIET STRATEGY*. Trans. Susan M. Davies with Jenny Warren. London: I. B. Tauris (1990), at 198) who argues: "[I]t is unfortunate that neither Russian prerevolutionary nor Soviet politics developed strong traditions of genuinely democratic relations. People have paid the price for centuries of serfdom and autocratic tyranny and decades of lawlessness under Stalin and Brezhnev. They either did not have the chance to acquire or have lost the culture of political and national tolerance, social dialogues conducted with mutual respect, collective attempts to find a compromise, and sensible agreements reached by striking a balance between conflicting interests. The low level of political culture has led to measures to extend democracy being perceived by certain groups as the right to fight for their interests by any methods including undemocratic ones" (cited in Gibson et al. (1992), *supra note 77*, at 333).

⁵²¹ Arian et al. (2009), *supra note 145*.

⁵²² Arian et al. (2009), *supra note 145*, at 63.

differed across the groups. As opposed to the respondents of the other groups, who expressed predominantly left or center views, the vast majority of the FSU respondents reported belonging to the right or center-right political parties.⁵²³ Scholars explain this mass support of the FSU immigrants for the Israeli right-wing parties by their “exceptional political outlook” which is “characterized by weak democratic values, authoritarian tendencies, and a low level of trust in political effectiveness.”⁵²⁴ Plausibly, it is the disparity in political agenda that induces the FSU immigrants to be less tolerant towards certain acts that constitute exercise of personal freedom, e.g., opposition to the State of Israel being defined as a Jewish state.⁵²⁵

It appears that, relatively to the respondents of the other groups, the FSU immigrants attach lower value to personal liberties. These attitudes can be interpreted in terms of relative high valuation of social order and stability, or low inherent commitment to freedom, as a result of which, the individuals from the FSU are unwilling to endure any inconvenience in the name of liberty.

Evidently, we should not underestimate the role of experiences, values and beliefs of the former Soviet citizens, in shaping their current attitudes; it appears that two decades of socialization in Israel were not enough to alter their attitudes towards notions of liberty and order. Even if some changes have occurred, they were not substantial enough, because these attitudes still considerably differ from the attitudes of their Israeli counterparts.

3. FSU Immigrants and Perceptions of the Neutrality of Law

With respect to the perceived neutrality of law, the FSU interviewees demonstrated attitudes comparable to those of the Israeli Jews, expressing solidarity with the law, with only a fraction agreeing that the Israeli laws are unduly restrictive. Some disparity between the attitudes of the two groups arose with respect to the notions the

⁵²³ These attitudes depict fairly well the attitudes of the general FSU population (*see* Goldstein and Gitelman (2003), *supra note* 236; Horowitz (2003), *supra note* 236). Even the “Russian” media tends to be more right-wing than the Israeli one (Arian et al. (2009), *supra note* 145).

⁵²⁴ Philippov (2007), *supra note* 491, at 136.

⁵²⁵ Interviews with FSU immigrants, interview #3.

perceived basis of the laws, with more FSU respondents agreeing that the law typically reflects the views of those who want to control them. However, due to the small sample, this difference is not significant enough to be indicative about their respective legal cultures.

It is apparent that although not necessarily content with all the Israeli laws, the FSU respondents do not feel unduly burdened or restricted by them; nor do they feel controlled, excessively restricted or manipulated. As one interviewee put it: "I do not feel like a marionette."⁵²⁶

On the other hand, a small portion of the respondents demonstrated some degree of legal alienation. These respondents justified their attitudes by claiming that the Israeli laws restrict personal freedom, particularly in that they impede economic development, for instance by imposing excessive taxation.⁵²⁷

Although the majority of the FSU respondents supported the notion of the perceived neutrality of the Israeli law, one caveat must be offered. In discussing legal alienation, scholarly literature differentiates between those who view the law as consensual, neutral and promoting the interests of the "entire citizenry"⁵²⁸ and those who perceive it to be a restrictive tool that benefits a particular group or segment of population.⁵²⁹ Inherent to this distinction is the assumption that individuals are found on a continuum between these two positions, e.g., the more the law is perceived to be neutral, the less it is viewed as restrictive and *vice versa*.

However, this study found that the perception of some of the FSU respondents, that the laws were not restrictive or against their interests, was not because they thought law to be neutral. Rather, these interviewees viewed circumventing the law as a 'way out', stating that the laws are not restrictive or limiting because, "...it is always possible

⁵²⁶ Interviews with FSU immigrants, interview #8.

⁵²⁷ Interviews with FSU immigrants, interviews # 5, 23.

⁵²⁸ Gibson and Caldeira (1996), *supra note 4*, at 60.

⁵²⁹ Gibson and Caldeira (1996), *supra note 4*.

to get around the law.”⁵³⁰ Sentiments that laws are not restrictive thus do not necessarily imply perceptions of legal neutrality.

4. Perception of Conflict and Dispute Resolution Preferences of the FSU Immigrants

a. *Reporting misbehavior: “I am not a snitch”*⁵³¹

Negative attitudes of some of the FSU immigrants towards acts broadly labeled as whistleblowing—an exposure of wrongdoing, such as reporting misconduct—became apparent from the terms these respondents used to describe it: ‘*ratting*’, or being a ‘*snitch*’. The respondents ascribed these negative attitudes towards acts of informancy⁵³² to ethics, morality and “Russian education.”⁵³³

Throughout history, informancy has had a distinctively negative meaning for Russians.⁵³⁴ This attitude has deep historic roots. After the Great October Socialist Revolution of 1917, the Communist Party wanted citizens to report others whose opinions could threaten the regime. The power of the Soviet totalitarian regime was further reinforced by making failure to inform—the ‘noninformancy’—illegal and severely sanctioned.⁵³⁵ In addition to legal measures, informancy was socially promoted through making it part of civic duty.⁵³⁶ But, informancy gained a very negative connotation in Russian culture and language.⁵³⁷

This entrenched disdain towards informancy sheds light upon the reaction of some of the FSU immigrants, who expressed a reluctance to report misconduct. Not only

⁵³⁰ Interviews with FSU immigrants, interview # 11.

⁵³¹ Interviews with FSU immigrants, interview #17.

⁵³² Following scholarly literature, I use the word ‘informancy’ to define acts of supplying the authorities with information about citizens whose views and actions threatened the state.

⁵³³ Interviews with FSU immigrants, interviews # 17, 32.

⁵³⁴ Jasmine Martirossian, *Russia and her Ghosts of the Past*, 81, in R.A. Johnson (ed.), *THE STRUGGLE AGAINST CORRUPTION: A COMPARATIVE STUDY*, New York: Palgrave Macmillan (2004).

⁵³⁵ Martirossian (2004), *supra note* 538, at 96.

⁵³⁶ For instance, Pavlic Morozov became a legend for turning in his father for hiding and storing food supplies, instead of turning them over to the State; his father was consequently executed.

⁵³⁷ Scholars have observed Russian words denoting informancy convey negative perception; this differs from a more neutral or positive connotation of a mere act of exposing wrongdoing (Martirossian (2004), *supra note* 538, at 91).

did these individuals oppose reporting wrongdoing to authorities—i.e., the police—they were reluctant to pass information to the injured party in order to assist her in obtaining adequate compensation. The language used by these interviewees to describe the act is significant. The Russian words that were used by these respondents—‘*donostchik*’ and ‘*stukach*’— are words of derogatory slang denoting the action of turning someone in.

Interestingly, this attitude of disdain towards whistleblowing was not correlated with age; it came from younger as well as older respondents. This fits into other findings about the political attitudes of the FSU immigrants. For instance, on the basis of a review of the political opinions of young ex-Soviet immigrants, Philippov concluded that “To a certain degree, there is a sense that immigrants not only brought with them “Soviet” stances that they adapt to Israeli reality, but that they retained and apply these stances in the socialization of the new generation growing up in Israel.”⁵³⁸

Thus, FSU immigrants retained—to a certain extent—their aversion towards actions perceived as informancy. Since not a single one of the respondents of the other groups voiced similar opinions, those negative perceptions of informancy were unlikely to have been acquired in Israel.

b. Perceptions of turning to Courts as dishonorable conduct

Another intriguing finding with respect to modes of dispute resolution of the group of the FSU immigrants involves a perception that seeking the courts’ assistance is—in certain instances—*dishonorable*. These respondents contended that rather than filing lawsuits and dragging the disputes to courts, a more ‘respectable’ mode of action is to abandon the matter and to ‘walk away’.⁵³⁹ It should be emphasized that these perceptions were not found to be absolute; some respondents who supported avoiding legal proceedings in certain instances, such as in case of work discrimination, were not reluctant to do so in other instances, e.g., filing a lawsuit for a monetary debt or contesting in court an unjustified traffic ticket.

⁵³⁸ Philippov (2010), *supra note* 506, at 11.

⁵³⁹ Interviews with FSU immigrants, interviews # 13, 21.

These mixed notions suggest that the idea that turning to courts is dishonorable, is not unconditional, but depends on the circumstances, such as the type of case or the amount at stake. For instance, it is possible that condemning a discrimination suit as dishonorable is based on dislike of this cause of action,⁵⁴⁰ while a claim to recover a debt was not perceived to be problematic. Or, the disparity of the attitudes might be due to the perceived potential damage: the damage—finding an alternative position—was not viewed to be particularly harsh in case of discrimination but the result of revocation of the driving license appeared to be more severe. Emotional or other considerations may also play an important role in a judgment about whether going to court is dishonorable.

These perceptions seem to be rooted in pre-immigration experiences. The idea that going to court is dishonorable—at least in discrimination cases—was not assured by any respondents in other groups.

c. Voluntary compliance based on moral principles

The findings presented indicate that—at least in some instances—*moral*, rather than legal, considerations play a fundamental role in decisions to obey, or to defy, laws. These perceptions were common to respondents in all three groups.⁵⁴¹

But though obedience is approved of, even when it costs money—e.g., paying for damage to a car—so long as obedience deemed to be moral, responses were different when the legal requirement was not perceived to be backed up by notions of morality. Many respondents stated that they would defy a law that requires reporting the accident to police as a witness.⁵⁴²

We should address the issue of the credibility of commitment to self-report misconduct. Although respondents' statements that they would report their own

⁵⁴⁰ For instance, some of the interviewees questioned the plausibility of being discriminated against because of ethnicity—i.e., being Russian (interviews with FSU immigrants, interview #7), or due to any other reason (interviews with FSU immigrants, interview #24).

⁵⁴¹ Only one FSU immigrant and two Israelis from Silicon Valley claimed that their readiness to comply was based on a legal requirement (interviews with FSU immigrants, interview # 27; interviews with Israelis in Silicon Valley, interviews # 14 and 27).

⁵⁴² Some interviewees stated that their own morality is what matters (interviews with Israeli Jews, interview # 12), or that they would disobey because “it is not a fair law” (interviews with Israeli Jews, interview # 4).

misconduct do not prove actual behavior on their part, these responses are instructive. First, the vast majority of the respondents stated that they are prepared to self-report misconduct and suffer financial repercussions when such behavior was viewed as being ‘morally right’. However, the respondents were not unified in their commitment to obey the law as a witness—i.e., suffering no financial repercussions—when such behavior was not regarded as rooted in morality. It appears, therefore, that even if the commitment to self-report is overstated, the fact that the respondents were tempted to exaggerate in the first instance but not in the second testifies to the fact that it is the ‘moral’, rather than the ‘legal’ component that causes individuals to view behavior as appropriate.

d. Governmental Organizations as Potential Defendants and the ‘Black List’

As we saw, FSU immigrants are often reluctant to challenge governmental organizations, partly for fear of repercussions. Some individuals are afraid that they could be placed on the ‘black list’, which—according to them—is maintained by the Israeli Social Security and Tax Authorities for purposes of retribution.

It is remarkable that two decades after their immigration to Israel, respondents still felt powerlessness, and were unwilling to deal with governmental institutions. These feelings of inability ‘to beat the system’ and reluctance to try were voiced even when the respondents were deprived or disadvantaged due to a ‘mistake’ of authorities. As one of the interviewees stated, an individual “...has very little chance to beat the state.”⁵⁴³ In light of the disparities between the attitudes of the FSU immigrants and other respondents of this research,⁵⁴⁴ one can conclude that feelings of powerlessness with respect to the government are the product of previous experiences under the Soviet regime by FSU immigrants.

It is interesting to compare the findings of this study with the findings of the research that investigated the attitudes of Russian citizens in the post-Soviet era; it too found reluctance of individuals to confront authorities, concluding that “the idea that law

⁵⁴³ Interviews with FSU respondents, interview # 26.

⁵⁴⁴ None of the Silicon Valley respondents and only three of the Israeli Jewish respondents felt some kind of retribution system existed.

could be used by ordinary citizens to protect themselves from arbitrary or illegal actions by the state...was viewed as unrealistic..."⁵⁴⁵

5. FSU Immigrants and their Attitudes towards the Israeli Courts

a. *General Satisfaction and the Perceived Fairness of Courts' Decisions*

The FSU interviewees exhibited moderate satisfaction with the overall performance of the courts; like the respondents in the group of Israeli Jews, they identified court bureaucracy and lengthy proceedings as issues that raise a particular concern. Although not very satisfied with the Courts' work, the respondents showed moderate trust in the fairness of the decisions made by the courts, attributing to the courts slightly more justice in criminal than in civil matters.⁵⁴⁶

Although not asked specifically about the High Court of Justice (HCJ), many FSU respondents expressed negative opinions about the HCJ. These respondents felt that the HCJ promotes a certain agenda. Interestingly, no one stated a positive opinion among those who mentioned the HCJ.

There is a widespread view that the HCJ is a politicized body, identified with a left-wing agenda; most FSU respondents are right-wing. Surprisingly, although the HCJ is also viewed by many as promoting the separation of Church and State—a view the FSU respondents share—their political views dominated, leading to negative judgments about the HCJ.

⁵⁴⁵ Kathryn Hendley, *Rewriting the Rules of the Game in Russia: The Neglected Issue of the Demand for Law*, 8 E. Eur. Const. Rev. 89-95 (1999), at 89. Similarly, Gel'man maintains that "the 'legacy of the past' [i.e., the use of informal institutions against the arbitrary rule and repressive practices of the Russian state] has been indispensable and ...the dominance of informal institutions is likely to continue indefinitely in Russia's political regime" (Vladimir Gel'man, *The Unrule of Law in the Making: The Politics of Informal Institution Building in Russia*, 56(7) Europe-Asia Studies, 1021-1040 (2004), at 1023).

⁵⁴⁶ In comparison, Israeli Jews demonstrated higher degrees of satisfaction with the performance and fairness of the decisions of the courts.

b. Perceived *Discrimination* by the Courts

The majority of the FSU respondents expressed mistrust in judicial impartiality, with only a small fraction asserting their faith in the neutrality and objectivity of the judges.⁵⁴⁷ But interviewees differed with regard to the *nature* of the bias between respondents who maintained that the bias was systematic,⁵⁴⁸ and those who felt that the biases of the courts were based on individual preferences and inclinations of judges.⁵⁴⁹

Interestingly, the higher degree of mistrust towards the courts expressed by the FSU immigrants, in comparison to the Israeli Jews, did not seem to preclude the former from potential use of litigation. Similarly Hendley, who—interviewing Russian managers—noted the “sense of resignation about the legal system”, but found that “this hopelessness did not correlate with litigation behavior.”⁵⁵⁰ This finding led her to conclude that “apathy regarding law and high levels of litigation can coexist.”⁵⁵¹

We can identify two potential roots for the mistrust in judiciary by FSU respondents. First, a historical cause: the suspicion of authorities entrenched in decades of repressions and ‘iron hand’ rule by the Communist Party. As a result of the Party’s influence over the judges,⁵⁵² “people came to distrust courts, viewing them not as apolitical arbiters of disputes, but as tools of the Party.”⁵⁵³ Plausibly, the Soviet-era legacy of citizens’ reluctance to mobilize law—which was “a product of dissatisfaction with laws that often contradicted one another and with the administrative acts...that complicated their implementation, not to mention abiding doubts about the courts’

⁵⁴⁷ The Israeli groups, on the other hand, had more favorable views of the judiciary, with almost half of each group expressing confidence that the courts treat everyone equally.

⁵⁴⁸ I. e., that the judges belong to a higher class and are partial toward individuals of similar status, police and persecution.

⁵⁴⁹ “[A] judge is a human being” (interviews with FSU immigrants, interview #3).

⁵⁵⁰ Hendley (2001), *supra note* 93, at 75.

⁵⁵¹ Hendley (2001), *supra note* 93, at 75.

⁵⁵² George Ginsburg, *The Soviet Judicial Elite: Is It?*, 11 Rev. Socialist L.293-312 (1985); John Quigley, *Law, Reform and the Soviet State*, 28 Colum. J. Transnational L. 59-76 (1990). For a discussion of the mistrust of the Soviet citizens of *arbitrazh*—i.e., economic tribunals—see Stanislaw Pomorski, *State Arbitrazh in the U.S.S.R.: Development, Functions, Organization*, 9 Rutgers-Cam L. J., 61-116 (1977).

⁵⁵³ Hendley (1995), *supra note* 115, at 41.

independence”⁵⁵⁴—still shapes the attitudes of the FSU immigrants, inducing their mistrust of legal authorities—and Israeli judiciary, among them.⁵⁵⁵

Research of the attitudes in the post-Soviet Russia found considerable persistence of perceptions and attitudes.⁵⁵⁶ Hendley suggested that while from the outside, the post-Soviet system may look different, “to citizens, the bottom line is the same. The powerful are able to manipulate both the substance of law and the outcome of specific cases.”⁵⁵⁷ Plausibly, the same perception is shared by the FSU immigrants in Israel.

Alternatively, it is possible that this group’s social position—as immigrants and minority—has shaped their current perceptions. The respondents were selected in a way that minimized certain disparities—such as socio-economic status. Yet, the FSU immigrants seem in many cases not to have absorbed the cultural ethos of Israel.

These two potential grounds for the immigrants’ attitudes are not necessarily contradicting. Immigrants’ inherited mistrust of authority may be reinforced by experiences as members of a minority in Israel.

Interestingly, the majority of the FSU respondents predicted that a person such as themselves—i.e., a person of similar age, ethnicity, sex and income—would not experience biased treatment on the part of the courts. Only two respondents predicted worse treatment (due to their Russian origins or due to lack of connections.) On the other hand, three interviewees expected a preferential treatment because of various factors, such as their chance to hire expensive and skilled legal representation.⁵⁵⁸ While these individuals—as part of the FSU segment of population—have attitudes of suspicion and mistrust towards authorities, individually they do not feel oppressed or persecuted.

⁵⁵⁴ Hendley (1999), *supra note 548*, at 89.

⁵⁵⁵ This mistrust of law can be exemplified by a Russian proverb, still in use today: the law is like the shaft of a wagon; it goes wherever you turn it [*zakon kak dyshlo - kuda povernul, tuda i vyshlo*].

⁵⁵⁶ Hendley (1999), *supra note 548*; Hendley (2006), *supra note 494*.

⁵⁵⁷ Hendley (1999), *supra note 548*, at 90.

⁵⁵⁸ Interviews with FSU immigrants, interview # 5.

6. FSU Immigrants: Conclusion

I have presented the somewhat complicated views and attitudes of laws and legal reality shown by the FSU immigrants. Just as Soviet *political* culture affects the immigrants' current voting patterns,⁵⁵⁹ their Soviet past is relevant to their current legal culture. Similarly to the research of the legal culture in the post-Soviet Russia that discovered that "[T]he Soviet past weighs heavily on Russian present,"⁵⁶⁰ this study discovered that even after two decades in Israel the legacy of the Soviet past remains powerful, affecting the attitudes and perceptions of the FSU immigrants. Therefore, similar to an observation that in Russia "making sense of the role of law over the past requires some knowledge of what came before,"⁵⁶¹ to make sense of the perceptions and attitudes of the former residents of Russia we must consider their Soviet past.

So what legacy has the Soviet rule left to the former Soviet citizens? Scholars noted that these individuals are characterized by deeply rooted antipathy toward law.⁵⁶² It appears that "[D]ecades of watching law being used in a crudely instrumental fashion in order to serve the various ends of the Communist Party have taken their toll."⁵⁶³ The lack of autonomy of law⁵⁶⁴ and the ability of the Communist elite to manipulate legal proceedings and to dictate courts' rulings led Soviet citizens to conclude that "power trumps law, that "telephone law" is more potent than written legislation."⁵⁶⁵

⁵⁵⁹ Philippov (2010), *supra note* 506, at 7.

⁵⁶⁰ Hendley (1995), *supra note* 115, at 63.

⁵⁶¹ Hendley (2006), *supra note* 494, at 351-352.

⁵⁶² Hendley (1999), *supra note* 548, at 89. Krygier maintains that antipathy to law characterized not only the republics of the U.S.S.R., but was common throughout the Soviet bloc (Krygier (1990), *supra note* 107, at 640-647). Hendley argues that these attitudes were induced by the highly instrumental use of law by Soviet style regimes (Kathryn Hendley, TRYING TO MAKE LAW MATTER: LEGAL REFORM AND LABOR LAW IN THE SOVIET UNION. Ann Arbor, MI: University of Michigan Press, 1996).

⁵⁶³ Hendley (1999), *supra note* 548, at 89.

⁵⁶⁴ The lack of autonomy of law is reflected in both: the Party's ability to determine the substance of the law and to dictate results of judicial proceedings (Hendley (1997), *supra note* 83, at 230).

⁵⁶⁵ Hendley (1999), *supra note* 548, at 89. More on 'telephone justice' in Kathryn Hendley, 'Telephone Law' and the 'Rule of Law': *The Russian Case*, 1 Hague Journal on the Rule of Law, 241-262 (2009).

To a large extent, FSU immigrants retain the attitudes, values, and modes of thought that were widespread during their Soviet experience. Their certain disregard for law, perceived inability to fight the system and perception of judicial partiality are examples of the notions that were characteristic of the Soviet period and still, to a large extent, continue to characterize the Russian citizens.⁵⁶⁶

It appears that, indeed, well-established patterns of behavior are hard to change.⁵⁶⁷ Moreover, the fact that no generational disparities were discovered within this group points to the conclusion that these individuals not only adapt their ‘Soviet’ outlook to Israeli reality, but that this attitude affected—to a certain extent—the socialization of the new generation growing up in Israel.

Analyzing the change of the attitudes of the citizens of post-Soviet Russia—and, in particular, of the Russian businessmen—Hendley argues that “merely rewriting the rules and reforming legal institutions, while necessary, is not sufficient to change behavior.”⁵⁶⁸ Instead, she continues, the reliance on law will increase “only when embedded in the context of a state possessing political authority and an economy based on a functioning market.”⁵⁶⁹ While, possibly, the trust of and the reliance on the law expressed by the FSU immigrants is higher than that of the Russian citizens, the period of two decades that these immigrants resided in Israel—a state that possesses ‘political authority and an economy based on a functioning market’—did not suffice in order to erase their previous attitudes and perceptions of a certain mistrust of and skepticism towards the law.

⁵⁶⁶ See, for instance, Hendley (1997), *supra* note 83, at 246, asserting that in Russia “[R]hetoric about the importance of law currently falls on deaf ears”; Hendley (1999), *supra* note 548.

⁵⁶⁷ Scholars have noted the persistence of legal culture and behavioral patterns, even when the law and institutions undergo expansive changes. For instance, Hendley—who examined attitudes towards dispute resolution among Russian businessmen after the collapse of the Communist Regime—asserts that they adjusted their old tactics of dispute resolution to the new reality, continuing to avoid the formal legal instruments, such as invoking legal remedies against nonperformance (Hendley (1997), *supra* note 83, at 246). Hendley notes that these attitudes persisted even though the institutional structure has been almost completely reformed (also, see Alexander M. Yakovlev, *STRIVING FOR LAW IN A LAWLESS LAND: MEMOIRS OF A RUSSIAN REFORMER*. Armonk, NY: M.E. Shapre, 1996, at 128).

⁵⁶⁸ Hendley (1997), *supra* note 83, at 246.

⁵⁶⁹ Hendley (1997), *supra* note 83, at 246.

D. ANTECEDENTS OF MIGRANTS' LEGAL CULTURE – MEASURING LEGAL ACCULTURATION

The roadside signs “Buckle up. It's the law,” which are common along many highways in the United States, are based upon the presumption that individuals' behavior, at least in certain instances, depends on whether or not the behavior—such as buckling up—is reinforced by the letter of the law. But, naturally, the perceptions and attitudes of the drivers and the passengers towards law vary; would the statement “it's the law” be equally effective to influence the behavior of individuals from different backgrounds? Even if we assume that in the eyes of the majority of Americans norms gain adherence simply by virtue of being re-enforced by the Legislature, does the same effect occur in the case of individuals whose perceptions and attitudes formed in different environments, such as migrants? And, if not, what are the elements that cause this disparity? In short, as Licht suggests, the “Buckle up. It's the law” campaigns “capture the gist of contemporary debates on social norms and the law.”⁵⁷⁰

Indeed, by investigating the legal cultures of three different segments of the Israeli society, this research attempted to tackle the issue of the antecedents of attitudes and perceptions that constitute individuals' legal culture. While focusing on the elements that underlie different notions, this research was designed to particularly concentrate on the relationship of migration and legal culture.

More specifically, the previous sections concerned two approaches that were employed in this research in order to expand our knowledge and understanding of the legal cultures and to illuminate their underlying rationales. In the first place, we discussed the legal culture of each individual group whose perceptions and attitudes were investigated in course of this study. Undoubtedly, the descriptive evidence of particular legal-cultural attitudes and perceptions of various segments of population is—in itself—fascinating. However, in addition to the illustrative value, the findings of this study

⁵⁷⁰ Amir N. Licht, *Social Norms and the Law: Why Peoples Obey the Law*, 4(3) *Review of Law and Economics*, 715-750, 2008, at 716.

corroborate the results of previous research, asserting that the variability of legal cultures goes beyond the borders of nation-states.⁵⁷¹

In the second place, an intra-group comparison allowed us to expand the discussion beyond the description of the current perceptions and attitudes of each group. It provided a point of comparison that informed and nourished the discussion of the change—or persistence—of the notions that constitute *legal culture*, allowing us to describe and trace, at least speculatively,⁵⁷² the changes of the legal cultures of the migrant groups.

Moreover, I suggest taking a step back from the narrow perspective of the specific individuals interviewed in course of this study—or even the groups they belong to—engaging instead in a deeper investigation of the antecedents of the legal-cultural attitudes of individuals when their social environment changes, e.g., migrants. This direction can reformulate our understanding of the underlying motives and rationales that mold the shape of individuals' notions and attitudes that constitute legal culture.

Therefore, rather than being restricted to the immediate setting of the Israeli society, the findings should be evaluated through the prism of the phenomenon of migration. Acting as an intervening variable, migration—and its accompanying experiences—can influence and transform the attitudes and perceptions prevalent in the immigrants' native cultural setting. The intra-group comparison that was possible due to the particular design of this research, allows expanding the discussion by suggesting plausible origins of the discovered attitudes and perceptions. Although—as mentioned elsewhere in this work—we lack any data from long-term monitoring of the perceptual and attitudinal changes, such comparison informs the discussion of the transformations that these cultural legal perceptions possibly underwent as a result of the change in the environment and migration experiences of the two migrant groups.

⁵⁷¹ For instance, *see* Friedman (1975), *supra* note 21, at 223; Bierbrauer (1994), *supra* note 3; Gibson and Caldeira (1996), *supra* note 4; Tyler (2000), *supra* note 4.

⁵⁷² The methodological challenges of the findings that prevent taking a more decisive stand on the conclusions with respect to the change that the perceptions underwent were discussed extensively in previous sections. I will, therefore, refrain from repetition.

The following Section is organized as follows. I begin with a brief review of the scholarly literature from the research in various disciplines that studied the phenomenon of acculturation; these fields include sociology, anthropology and cross-cultural psychology. The relevance of this literature to the issues considered here lies in the fact that the theoretical perspectives developed by the scholars who explored the issues of culture and migration could also inform and enrich our understanding and account of the changes that occur in the *legal* cultures of migrants. In this review, I focus, in particular, on the contextual factors that these studies identified as being relevant to the process of acculturation.

In the second part of this Section, I engage in the discussion of the factors that could account for the change in the legal-cultural perceptions of the migrant groups. In particular, I concentrate on the contextual factors of emigration that were identified by acculturation research as influencing this process and its outcomes. Concretely, using the empirical data gathered in course of this research as well as the findings of relevant studies, I explore the characteristic elements of the process that the migrant groups were—and still are—undergoing, and speculate about the relationship between the latter and the findings of the legal cultures of these groups.

I conclude this Section with final remarks on the complex relationship between the change in the cultural environment—e.g., as a result of migration—and in individuals' legal culture, calling into focus the need for developing theoretical and empirical framework for capturing and accounting for the richness and complexity of the change in legal culture that accompanies migration.

1. Legal Acculturation

Hereafter, I attempt to emphasize the importance of the future research and development of the theory of *legal acculturation*. I argue that integrating insights from

cross-cultural psychology,⁵⁷³ social psychology, and sociology—disciplines that have produced a knowledge base that has laid the theoretical and empirical foundations of acculturation research—can greatly enrich the theoretical understanding of the relationship of legal culture and migration, and illuminate its practical relevance.⁵⁷⁴

In particular, I further explore the link between the change in individuals' environment and the transformation of their own legal cultures. I suggest that theoretical and empirical frameworks for creating measures that capture the complexity of the change in legal culture that occurs as a result of migration would equip researchers with better knowledge-base for understanding the nature of the factors influencing this process. Both current scholarship and public policy-makers would benefit immensely from a more complete theory and better understanding of how individuals' legal cultural attitudes and perceptions adapt to the changes in their cultural environment. This is especially significant in this day and age of globalization, when individuals from different legal cultures come into continuous close contact with one another.

However, prior to engaging in the discussion of *legal acculturation*, my use of this term must be elucidated. Similarly to many other concepts investigated by this research, *legal acculturation* is infused with various meanings and, in course of the years, was used by scholars to describe different phenomena. Legal historians, for instance, have told a tale of acculturation referring to the process in which one group adapts itself to another, with the dominant group effectively imposing their perceptions of correct behavior on the members of the subordinate group.⁵⁷⁵ For these scholars, legal acculturation is “a process of transformation whereby a nation that utilizes a non-

⁵⁷³ This discipline remains largely untapped by legal scholars, with a few notable exceptions, such as Amir N. Licht, *Social Norms and Law: Why Peoples Obey the Law*, 4(3) Review of Law and Economics, 715-750 (2008).

⁵⁷⁴ The research that is focused on the crossroad of migration and cultural change attempts to discover how individuals, whose perceptions and patterns of behavior formed in one cultural context, react to living in a new cultural environment. Similar to the change in the general culture—which, in addition to the academic interest, poses practical issues of public policy (John W. Berry, *Multicultural Policy in Canada: A Social Psychological Analysis*, 16 Canadian Journal of Behavioural Science, 353-370 (1984))—the change in the legal culture of individuals has vast theoretical and practical implications.

⁵⁷⁵ Ross (1993), *supra* note 40.

Western legal system adopts a more civilized Western legal system.”⁵⁷⁶ They study the dynamic process of exchange among various legal cultures, exploring, for instance; Ross, for example, explored “the imposition of English control on non-English groups, the consequences of legal misunderstandings, and the ability of Indians, Germans, Dutch, and free blacks to manipulate the English legal system,”⁵⁷⁷ during the colonial period.

The path taken in the discussion that follows is different. Namely, focusing on two groups of migrants, I employ the term *legal acculturation* to describe the consequences of the interaction of a migrant group—whose legal culture formed in a certain environment under particular conditions—with the legal culture of the dominant group of the host society.

Two cautionary notes are in order. First, in defining the *legal acculturation* for the purposes of the following discussion, I concentrated on the implications for the legal culture of the *migrants* that follow their interaction with the *dominant* group. The findings of the legal-cultural attitudes of the ‘dominant’, or ‘majority’ group of the Israeli population—that of the Israeli Jews—are also used by this research as the point of reference for comparing the legal cultures of the migrant groups.

Naturally, the legal culture of the *dominant* group is hardly the sole legal culture that might—and probably does—influence the legal culture of migrants. Rather one might plausibly assume that migrants’ attitudes and perceptions are affected—among other factors and to a different extent—by the various legal cultures of different groups that inhabit the society;⁵⁷⁸ in fact, the more diverse—along ethnic, religious, socio-

⁵⁷⁶ Charles R. Venator Santiago, *The Uses and Abuses of the Notion of Legal Transculturation: The Puerto Rican Example*, 13 Berkeley La Raza L.J. 441-452 (2002), at 443.

⁵⁷⁷ For comprehensive discussion, see Ross (1993), *supra note* 40, at 37.

⁵⁷⁸ For instance, research of the acculturation of Hispanics living in the United States found that this group of migrants may not be acculturating “to the majority”, but instead they may be adopting the norms of their *barrio*, i.e., a neighborhood with a relatively high proportion of immigrants and minority members where some characteristics of the traditional Hispanic community are maintained (Raymond Buriel, *Cognitive styles among three generations of Mexican-American children*, 6 Journal of Cross-Cultural Psychology 417-429 (1975)).

economic and other parameters—the society is, the richer the ‘mixture’ of the legal cultures that may affect the legal culture of the immigrants.⁵⁷⁹

The second issue that should be emphasized is that the *legal acculturation*—just as the general acculturation⁵⁸⁰—is a two-way street, where the perceptions and attitudes of the dominant group can be influenced by those of the immigrant community, not solely *visa versa*. While this last statement is yet to be proved empirically, it seems—nevertheless—plausible that a certain degree of *exchange* that occurs between the host and the migrant cultures would also entail a certain degree of mutual exchange of their *legal* cultures, when the attitudes and perceptions of law and legal authorities of one group are influenced by those of the other.

Nevertheless, and quite understandably, the impact of acculturation is greater for the members of the non-dominant groups, such as immigrants.⁵⁸¹ Hence, most researchers who study the phenomenon of acculturation focus on the changes that occur in the group and individuals that are being acculturated to a host, dominant culture.⁵⁸² As a result, acculturation is often defined as “those psychological and social changes that groups and

⁵⁷⁹ While recognizing the different and unequal influences and changes that exist during acculturation particularly in culturally plural societies, I employ the term *dominant* to refer to the relative power in a diverse society (see John W. Berry, *Immigration, Acculturation, and Adaptation*, 46(1) *Applied Psychology: An International Review*, 5-68 (1997)).

⁵⁸⁰ The process of *acculturation* is one that entails cultural changes that stem from contact between two cultural groups; the classical definition of acculturation holds that this process “...comprehends those phenomena which result when groups of individuals having different cultures come into continuous first-hand contact with subsequent changes in the original culture patterns of either or both groups” (Robert Redfield, Ralph Linton, and Melville J. Herskovits, *Memorandum on the study of acculturation*, 38 *American Anthropologist*, 149–152 (1936), on 149). Acculturation entails the social and psychological exchanges that take place when there is continuous contact and interaction between individuals from different cultures (Berry (1997), *supra note* 583; Andrew G. Ryder, Lynn E. Alden, and Delroy L. Paulhus, *Is Acculturation Uni-dimensional or Bi-dimensional?*, 79 *Journal of Personality and Social Psychology*, 49–65 (2000)).

⁵⁸¹ John W. Berry, *Psychology of acculturation: understanding individuals moving between cultures*, in, *APPLIED CROSS-CULTURAL PSYCHOLOGY*, Brislin RW (ed.). Sage: Newbury Park, CA; 232-253 (1990); Colleen A. Ward, Stephen Bochner, Adrian Furnham, *THE PSYCHOLOGY OF CULTURE SHOCK*, Routledge, London (2001); Paul N. Lakey, *Acculturation: a Review of the Literature*, *Intercultural Communication Studies* XII-2 (2003).

⁵⁸² Leopoldo J. Cabassa, *Measuring Acculturation: Where We Are and Where We Need to Go*, 25 *Hispanic Journal of Behavioral Sciences*, 127-146 (2003); Berry and Sam (1996), *supra note* 228.

individuals experience when they enter a new and different cultural context.”⁵⁸³ It is, therefore, not unreasonable to focus on the issue of the legal acculturation of the migrants, as opposed to the members of the dominant group.

The research of acculturation discovered changes that follow this process. These changes can be observed across a number of different domains such as attitudes, values and behaviors.⁵⁸⁴ While it was once assumed that through the process of acculturation, non-dominant groups—such as migrants—would move from their previous way of living to a way resembling that of the dominant society, “this assimilationist or melting pot conception of the goal of acculturation, the process that leads to it, and its outcome has now been replaced.”⁵⁸⁵ Rather “cultural groups throughout the world have not disappeared, and cultural homogeneity has not resulted from intercultural contact.”⁵⁸⁶ In light of the above, the exploration of the *legal* cultures of different migrant groups and their comparison with the legal cultures of the dominant segments of populations are highly relevant, because we cannot assume that the legal culture of the migrants would necessarily convert into the dominant culture.

Studies discovered that the changes in the perceptions and the volume of behavioral shifts that result from acculturation are related to the way in which the individuals go about this process, i.e., their acculturation strategies.⁵⁸⁷ In addition to the

⁵⁸³ Cabassa (2003), *supra note* 586, at 128.

⁵⁸⁴ Berry (1997), *supra note* 583; Israel Cuéllar, Bill Arnold, and Roberto Maldonado, *Acculturation Rating Scale for Mexican Americans-II: A Revision of the Original ARSMA Scale*, 17(3) *Hispanic Journal of Behavioral Sciences*, 275-304 (1995); Ryder et al. (2000), *supra note* 584.

⁵⁸⁵ John W. Berry, *Acculturation: Living successfully in two cultures*, 29(6) *International Journal of Intercultural Relations*, 697–712 (2005).

⁵⁸⁶ Berry (2005), *supra note* 589.

⁵⁸⁷ The contemporary research of acculturation views the latter as a phenomenon that involves two basic dimensions: maintenance of original cultural identity and maintenance of relations with other groups (Berry (1997), *supra note* 583). From this structure, scholars derive four acculturation strategies: integration, separation, assimilation and marginalization. Integration refers to those individuals who value both cultural maintenance and intergroup relations. Those who advocate cultural maintenance but do not value intergroup relations are described as separatists. Assimilation refers to a rejection of cultural identity and the adoption of the host culture. Marginalization describes those who value neither cultural maintenance nor intergroup relations. Those who practice the strategy of integration are hypothesized to experience the fewest difficulties in adaptation.

degree of behavioral shift, studies discovered that the disparity in the chosen strategy of acculturation often entailed consequences for various spheres of migrants' life, such as their well-being and mental health.⁵⁸⁸ While this study did not measure the disparate acculturation strategies of individuals, it is quite plausible that the *legal acculturation* of individuals is similarly influenced by their individual adaptation strategies, among other factors.

Moreover, in addition to the ideological and behavioral shifts that accompany acculturation, it seems reasonable to expect changes in legal-cultural attitudes and perception as well; it is reasonable to presume that these changes follow the *legal acculturation* of individuals. Going back to the road-signs mentioned in the beginning of this Section, we can expand the questions explored by this research to include the following: assuming that the sign 'it's the law' is comparable with the legal culture of the majority in the sense that it can steer individuals' behavior in the desirable direction,⁵⁸⁹ would it be as effective with respect to the behavior of migrants? Would these individuals eventually adhere to the dominant legal culture or would they maintain the general traits of the legal culture of origin, if the two are different?

As often happens in social research, the answer to this question is not unequivocal, but would vary from one context to the next.⁵⁹⁰ Nevertheless, it appears that the research on acculturation is one promising direction that could inform our

⁵⁸⁸ John W. Berry and Choung U. Kim, *Acculturation and mental health*, 207, Pierre R. Dasen, John W. Berry, N. Sartorius (eds.), *HEALTH AND CROSS-CULTURAL PSYCHOLOGY*, Sage, Newbury Park (1988); Colleen A. Ward, *Acculturation*, in *HANDBOOK OF INTERCULTURAL TRAINING*, (2nd edn), Dan Landis, R.S. Bhagat (eds). Sage: Thousand Oaks, CA. (1996); Colleen Ward and Arzu Rana-Deuba, *Acculturation and adaptation revisited*, 30(4) *Journal of Cross Cultural Psychology*, 422-442 (1999); Michael J. Curran, *Across the water—the acculturation and health of Irish people in London*, Trinity College, and Allen Library, Dublin (2003).

⁵⁸⁹ It is of little consequence for the current discussion what the 'desirable' direction is, or who should dictate it. Rather, the focus here is on the legal culture of individuals, who would be induced to act in a particular way to comply with a letter the law.

⁵⁹⁰ Here, it seems fitting to quote Richmond, who maintained that "in sociology, theoretical explanations are necessarily probabilistic, not deterministic. Human agency implies an element of choice and ensures that some degree of uncertainty is always present, even when the choices in question are severely constrained by external conditions. There is no simple cause and effect relationship between a specific event and its consequences" (Anthony H. Richmond, *Reactive Migration: Sociological Perspectives on Refugee Movements*, 6 *J. Refugee Stud.*, 7-24 (1993), at 8).

understanding of the process that the legal cultures undergo as a result of migration. In particular, integration of the findings of the cross-cultural psychological research that has investigated the core cultural values can serve as a starting point for the development attitude measures related to the change of legal culture.⁵⁹¹

Paraphrasing scholars' statements with respect to acculturation,⁵⁹² we can state that the driving mechanism of the research of *legal acculturation* should be a search to understand what happens to the *legal culture* of individuals who have developed in one cultural context when they try to adapt and live in a new cultural environment. Similarly to the process of acculturation, in the process of *legal acculturation*, an individual who is a participant in a culture contact situation is influenced both by the external culture, and by the changing culture of which the individual is a member.⁵⁹³ It should be emphasized that "not every individual enters into, and participates in, or changes in the same way";⁵⁹⁴ rather even within the same acculturative environment individuals differ in the process and the outcomes of acculturation.

Drawing on the findings of the cross-cultural research of acculturation, socio-legal scholars would be well advised to incorporate *contextual factors* into the research of legal acculturation; these factors can provide us with a fuller understanding of the process of legal acculturation and the elements that influence it. Context—that is, the way migrants enter the process of legal acculturation, and the way they cope with the legal culture of the new environment—may tell us why, for example, some migrants (unlike non-migrants) might consider it dishonorable to file law-suits for workplace discrimination, or notify an injured party of the identity of someone who did them damage. Considering contextual factors may advance our understanding of factors that

⁵⁹¹ For instance, since research of legal culture demonstrated the significance of collectivistic vs. individualistic outlook for individuals' preference of modes of dispute resolution, research on legal acculturation can investigate how values (such as collectivism) change with levels of acculturation in different groups of migrants (Bierbrauer (1994), *supra note 3*).

⁵⁹² Berry (1997), *supra note 583*; Cabassa (2003), *supra note 586*, at 132.

⁵⁹³ See Graves, who introduced the concept of psychological acculturation (Theodore D. Graves, *Psychological acculturation in a tri-ethnic community*, 23 *South-Western Journal of Anthropology*, 337–350 (1967)).

⁵⁹⁴ Berry (2005), *supra note 589*, at 698.

may hinder or aid the experience of legal acculturation.⁵⁹⁵ While the current research did not develop measures to access the contextual factors and their relationship to the views expressed by the migrant groups in this study, we can, nevertheless, discuss the findings in light of the general characteristics of these groups and their environments. The following section is dedicated to this discussion.

2. Evidence from the Current Research

Different societies have disparate legal systems and contexts of legal culture that might affect the legal-cultural perceptions and attitudes of the newcomers. While embarking on the task of understanding the effect that the interaction with a new society has on legal cultures of migrants, and the nature of its relation to the contextual factors of acculturation, we should be mindful of the fact that the current research did not attempt to measure or describe the process of acculturation of the two migrant groups. By design, the task of evaluating the acculturation processes that these groups were—and still are—undergoing was left to engage future researchers.

Rather, the goal of this study was twofold. First, this study aimed to provide a detailed and comprehensive description of the legal cultures of the groups in question. Its second objective was to discover the changes that plausibly occurred in the legal cultures of the migrant groups and to develop a framework that allows theorizing about the relationship between the acculturation, including its contextual factors, and such changes.

As demonstrated previously, both groups of migrants do not appear to have retained their former—*pre*-migration—views intact;⁵⁹⁶ nor have their attitudes undergone a complete transformation, causing them to eschew their previous beliefs, completely adopting the attitudes of their respective host societies. In fact, the legal cultures of these groups appear to comprise of mixtures of attitudes and perceptions; while retaining much of their former outlook, these groups incorporated some new opinions, values and attitudes. This conclusion is consistent with the research on the relationship of migration

⁵⁹⁵ For an expansive discussion of the significance of contextual factors for acculturation *see* Berry and Sam (1996), *supra note* 228.

⁵⁹⁶ The plausibility of this conclusion, in spite of the obvious limitation of unavailability of similar research on the eve of the migration of these groups, has been extensively discussed elsewhere in this dissertation and, thus, does not warrant further consideration.

and general cultural trends, which discovered that individuals who move from one cultural environment to another develop a new set of attitudes that combines their prior views with some changed features that could be attributed to their experiences in the host society.⁵⁹⁷

The findings of such complex amalgam of attitudes and perceptions warrant further exploration into the question of the consequences of migration for one's legal culture. What instigates the modifications of some perceptions of legal culture? What are the factors that determine whether a particular element of legal culture would be preserved or would undergo a change as a result of close interaction with the host society?

It appears that the culture of immigrants—legal or other—cannot be explored without considering and accounting for the *contextual* factors of migration; these factors provide researchers with a fuller comprehension of the individuals' adaptation and how the acculturation process came about.⁵⁹⁸ “Considering prior immigrating experiences, the immigration context and the settlement process help us understand the mechanisms and forces that affect acculturation and provide a more holistic view of this cultural experience.”⁵⁹⁹ The context of acculturation process—which includes such issues as how it was entered, how cultural differences are coped with—can assist in identifying and describing the factors that may influence the acculturation experience.⁶⁰⁰

It is naturally to expect that—just as with the acculturation⁶⁰¹—the process and the implications of the *legal* acculturation would vary among individuals. For instance,

⁵⁹⁷ See, for instance, Berry (1997), *supra* note 583, at 6, arguing that individuals who move from one cultural context to another develop “some complex pattern of continuity and change in how people go about their lives in the new society.” Additionally, contrary to the expectation that the acculturation with the host society would increase with length of residence, and would be accompanied by a decline in the affiliation to the culture of origin, the findings point to a mixed pattern (for a review, see Dina Birman and Edison Trickett, *Cultural Transitions in First-generation Immigrants*, 32(4) *Journal of Cross-cultural Psychology*, 456–77 (2001)).

⁵⁹⁸ Cabassa (2003), *supra* note 586.

⁵⁹⁹ Cabassa (2003), *supra* note 586, at 142.

⁶⁰⁰ Berry and Sam (1996), *supra* note 228.

⁶⁰¹ Berry (2005), *supra* note 589, at 698.

with respect to the respondents of the current study, one would not be surprised to discover that the legal acculturation of migrants to Western, democratic societies, differs according to their countries of origin, due to the cultural distance between the countries.⁶⁰² In particular, when immigrating to Western democratic societies, those who spent the majority of their lives under the ‘Iron Fist’ of the Communist Party may well undergo a different process of legal acculturation than that experienced by the individuals who grew up and socialized in a society that adheres to Western democratic traditions. Thus the fact that the cultural gap between the societies of migrants’ origin and the host societies has consequences for acculturation process is hardly unexpected.

However, the element of the society of origin does not exhaust the list of contextual factors that could affect the process and the outcome of legal acculturation. Numerous personal, demographic variables—such as age, and reason for immigration—that have been shown to be highly relevant to the adaptation in the host cultures⁶⁰³—may well be significant for reshaping migrants’ legal cultures as well.

In addition to the individual demographical characteristics, the research of acculturation demonstrated that contextual factors, mentioned above, have a direct impact on how individuals adapt to a new culture by prompting and influencing cultural change. These factors can be roughly separated into three categories:⁶⁰⁴ the *prior immigration context*,⁶⁰⁵ the *immigration context*,⁶⁰⁶ and the *settlement context*.⁶⁰⁷ Scholars contend that attention to the contextual factors can “facilitate a deeper understanding of how

⁶⁰² See, for instance, Ward, who argues that “...successful adaptation during cross-cultural transitions is more difficult when large, compared to small, differences exist between original and host cultures”.

(Colleen Ward and Antony Kennedy, *Where's the "Culture" in Cross-Cultural Transition?: Comparative Studies of Sojourner Adjustment*, 24 *Journal of Cross-Cultural Psychology*, 221-249 (1993), at 225.

⁶⁰³ Berry and Sam (1996), *supra note* 228.

⁶⁰⁴ For complete list see Cabassa (2003), *supra note* 586.

⁶⁰⁵ *Prior-immigration context* includes the factors in the society of origin (political, economic and social environments) and individual factors (demographics, reason for immigration, separation from social support networks etc.)

⁶⁰⁶ *Immigration context* consists of the type of immigration group and route, duration and level of danger in the immigration journey.

⁶⁰⁷ *The settlement context* encompasses factors in the society of settlement (its political, economic and social environment, as well as immigration policies and attitudes toward immigrants), and individual factors, such as demographics during and after settlement, age, legal and residency status etc.)

individuals adapt to a new cultural environment.”⁶⁰⁸ Hereafter I provide some general comments about these categories as applied to the two groups of migrants in this study.

First, the manner in which the acculturating individuals come into this process is one of the principal issues to be considered in the study of acculturation.⁶⁰⁹ Berry identified *voluntariness*, *mobility*, and *permanence* as the key elements to influence how groups enter acculturation.⁶¹⁰ Not surprisingly, individual factors—such as disposition to emigrate, involvement in this decision, and prior contact with the new society—have significant implications for the trajectory that the individual will take in acculturating to a new society.⁶¹¹ Nevertheless, some factors that are relevant to the group as a whole that affect the members’ acculturation experiences can be outlined.

Both groups of migrants investigated by this study—i.e., the FSU immigrants and the Israelis in the Silicon Valley—came into the process of immigration voluntarily—in a sense that they *chose* to emigrate from the Soviet Union and Israel, respectively. However, the process that they underwent differs considerably. For one, in the Soviet, and former-Soviet, Union the FSU immigrants experienced different levels of anti-Semitism and ethnic persecution.⁶¹² Scholars argue that “the emigration of Soviet Jews should be considered another example of the effect of ‘push’ factors”⁶¹³ due to the Soviet

⁶⁰⁸ Cabassa (2003), *supra note* 586, at 131.

⁶⁰⁹ Cabassa (2003), *supra note* 586, at 129.

⁶¹⁰ Berry (1997), *supra note* 583.

⁶¹¹ Cabassa (2003), *supra note* 586, at 130.

⁶¹² See, for instance, Bernard D. Weinryb, *A Note on Anti-Semitism in Soviet Russia (Post-Stalin Period)*, 25(3) *Slavic Review*, 25(3), 523-527 (1966); William Korey, *The Origins and Development of Soviet Anti-Semitism: An Analysis*, 31(1) *Slavic Review*, 111-135 (1972). On anti-Semitism in the era of *perestroika*, see Donna E. Arzt, *Soviet Anti-Semitism: Legal Responses in an Age of Glasnost*, 4 *Temp. Int'l & Comp. L.J.* 163-184 (1990); also, see Perry Romberg, *Service Delivery to Refugees and Immigrants: Toward an Integrated Approach*, 13(9), *Refuge*, 25 (1994), who writes at 25: “Although Gorbachev and his reforms held out the hope of changing the country for the better, the loosening of state controls in Soviet society also had the effect of unleashing rampant nationalism, and with it, the return of old voices of anti-Semitism, blaming the Jews for the ills of the country. The departure of state sanctioned anti-Semitism allowed the rise of grassroots expressions of hate and mistrust toward the Jewish population, manifested through threats and acts of physical violence. In this environment, many Jews held little hope for their future in the former USSR.”

⁶¹³ Kass and Lipset (1982), *supra note* 435, at 281.

anti-Semitism and, particularly, the limits on educational and economic opportunities for young Jews.⁶¹⁴

Moreover, the personal freedoms in the Soviet reality were heavily limited. Only in the 1988 the rule-of-law theme was introduced, when in his address to the Nineteenth Party Conference, M. S. Gorbachev—then the General Secretary of the Communist Party—stated that to achieve the “democratization of the life of the state and society,” the USSR must “move along the path of the creation of a socialist state under the rule of law.”⁶¹⁵ As a result, only in the late 80’s the Soviet government commenced implementing ‘restructuring’ (*perestroika*).⁶¹⁶

This is contrary to the group of the Israelis in the Silicon Valley, whose emigration from Israel can be characterized by their desire to improve their status, acquire and apply professional knowledge and exploit greater economic opportunities.⁶¹⁷ Therefore, while both groups emigrated from their countries of origins *voluntarily*, the degree of their *voluntariness* differs significantly.

Indeed, in the acculturation literature, the dichotomy between *voluntary* and *forced* migration was replaced by a continuum; migrants can be ranged on a continuum between *reactive* and *proactive*. While *reactive* migration is characterized by being motivated by factors that are “constraining or exclusionary, and generally negative in character”,⁶¹⁸ the *proactive* migrants are motivated by factors that are “facilitating or enabling, and generally positive in character.”⁶¹⁹ When viewed as a continuum, the aforementioned disparities between the migrant groups investigated in this research place

⁶¹⁴ Leshem and Lissak (1999), *supra note* 169; Brym (1997), *supra note* 169.

⁶¹⁵ Cited in Quigley (1990), *supra note* 493, at 205.

⁶¹⁶ The ‘restructuring’ was commences in different spheres and includes more protection of the citizens in Soviet courts (John B. Quigley, *The New Soviet Law on Appeals: Glasnost' in the Soviet Courts*, 31(1) *The International and Comparative Law Quarterly*, 172-177 (1988)); reforms to promote greater freedom of expression, i.e., *glasnost* (John B. Quigley, *Freedom of Expression in the Soviet Media*, 11 *Loyola Entertainment Law Journal*, 269-292 (1991)).

⁶¹⁷ Gold (2002), *supra note* 196.

⁶¹⁸ Berry (1997), *supra note* 583, at 16. Also see Richmond (1993), *supra note* 594.

⁶¹⁹ Berry (1997), *supra note* 583, at 15. Also see Richmond (1993), *supra note* 594. The earlier literature on migration motivation defined these contrasting factors as push/pull factors.

them in different positions on the scale of *voluntariness* of emigration. Naturally, the pursuit of economic opportunities and the desire to live in a free society played some role for the migrants from the FSU;⁶²⁰ nevertheless, the *voluntariness* of their emigration appears to be different from that of the Israelis in the Silicon Valley.

Furthermore, the freedom of choice with respect to the country of destination was not similar for the individuals of the two groups. For many of the FSU immigrants, Israel was not necessarily the first choice; rather Israel was a ‘default’ country; one that accepted those who lacked the legal means to enter other, more desirable, destinations. Many of the soviet Jewry preferred to relocate to countries other than Israel—mainly the U.S.⁶²¹—but were prevented to do so by the radical changes in the immigration policies of these countries that tightened the entrance requirements⁶²² following requests from the Israeli governments.⁶²³ “[T]he loss of the United States as a feasible destination for most Soviet emigrants left them no alternative to Israel.”⁶²⁴ The situation is different with respect to the Israelis in the Silicon Valley; rather than being the last resort, the U.S. constitutes the desired destination for these individuals.

⁶²⁰ It should be mentioned that while some of the respondents in this study immigrated to Israel up to about 3 years after the dissolution of Soviet Union, there is no reason to assume that the situation there—with respect to anti-Semitism and such—changed instantaneously with the collapse of the regime. In fact, scholars report that even years after the downfall of the Soviet Union, the anti-Semitic sentiments were on the rise (Betsy Gidwitz, *Anti-Semitism in the post-soviet states*, Post-Holocaust and anti-Semitism. Jerusalem: Jerusalem Center for Public Affairs (2003), <http://www.policyarchive.org/handle/10207/bitstreams/18026.pdf> (last viewed in March 2012).

⁶²¹ See, for instance, John B. Quigley, *FLIGHT INTO THE MAELSTROM: SOVIET IMMIGRATION TO ISRAEL AND MIDDLE EAST PEACE*, Garnet & Ithaca Press, 1997, at 22.

⁶²² DellaPergola writes “[T]he American policy of immigration quotas was especially significant in this regard...After several years of sustained ‘drop-out of Jewish migrants who supposedly had left the Soviet Union directed to Israel, in 1989 the United States stopped granting automatic refugee status to Soviet nationals”, establishing a yearly quota that was subsequently reduced. “Emerging German and Canadian immigration policies also played a significant role in this respect” (Sergio DellaPergola, *The Global Context of Migration to Israel*, 51, in *IMMIGRATION TO ISRAEL: SOCIOLOGICAL PERSPECIVES* (Studies of Israeli Society), Judith T. Shuval and Elazer Leshem (eds.), Transaction Publishers (1998), at 62). Also, see Majid Al-Haj, *Soviet Immigration as Viewed by Jews and Arabs: Divided Attitudes in a Divided Country*, 211, in *IMMIGRATION TO ISRAEL: SOCIOLOGICAL PERSPECIVES* (Studies of Israeli Society), Judith T. Shuval and Elazer Leshem (eds.), Transaction Publishers (1998), at 213.

⁶²³ Quigley (1997), *supra note 625*, at 24.

⁶²⁴ Quigley (1997), *supra note 625*, at 24.

Moreover, the permanence of the settlement in the new country might differ between the two groups. While the majority of the FSU immigrants settled permanently in their new country,⁶²⁵ it is hard to decisively identify the nature of the settlement of the Israelis in the Silicon Valley. As discussed extensively in the Section dedicated to the latter, while some of the Israelis in the U.S. tend to express notions that emphasize the temporary nature of their stay—i.e., notions characteristic of sojourners—due to the negative stigma that is often, although not as extensively as in the previous decades, attached to the phenomenon of emigration from Israel, it is possible that these individuals indeed intend to remain in the U.S. We can note, however, the difference in the legal status that exists between the members of the two groups; this status which has been shown to have implications for adaptation in the host countries.⁶²⁶ While the FSU immigrants received the Israeli citizenship upon their arrival to Israel,⁶²⁷ the process of obtaining the American citizenship for the Israeli immigrants to the U.S. is complicated.⁶²⁸

Finally, a number of factors have been shown to have importance in the society of settlement, i.e. the *settlement context*.⁶²⁹ First, the general orientations towards immigration and pluralism differ across the host societies. While some societies are accepting of cultural pluralism resulting from immigration and support cultural diversity of the various segments of population—representing a positive multicultural ideology⁶³⁰—other societies implement policies that seek to promote assimilation and eliminate diversity; yet, other societies may attempt to achieve the segregation or

⁶²⁵ DellaPergola (1998), *supra note* 622, at 62.

⁶²⁶ Berry and Sam (1996), *supra note* 228.

⁶²⁷ According to the Israeli Law of Return (1950) and the Law of Nationality (1952), every person of Jewish decent or his family members has the right to settle in Israel and to receive Israeli citizenship upon arrival.

⁶²⁸ While many Israelis arrive to the U.S. illegally, these individuals are not relevant to the current study, which—by design—focused on the individuals who entered and remain in the U.S. lawfully.

⁶²⁹ Berry (2005), *supra note* 589.

⁶³⁰ John W. Berry and Rudolf Kalin, *Multicultural and ethnic attitudes in Canada*, 27 Canadian Journal of Behavioural Science, 310–320 (1995). Murphy maintained that a more positive settlement context is provided by the societies that are supportive of cultural pluralism, because such societies are less likely to enforce policies of assimilation or exclusion; and, they are more likely to provide support (H.B.M. Murphy, *Migration and the major mental disorders*, at 221–249, in M. B. Kantor (ed.), *MOBILITY AND MENTAL HEALTH*, Thomas, Springfield (1965))

marginalization of their diverse populations.⁶³¹ In light of the significant implications of the attitudes of the host society on the process of acculturation, the ideologies and policies thereof constitute an important element of ethnic relations research.⁶³²

Both host societies in this research—the U.S. and Israel—have a long history of multiculturalism. However, even societies that accept the ideas of pluralism may vary in the relative acceptance of different cultural, ethnic, and religious groups.⁶³³ The attitudes of the respective host societies of the migrant groups in this study were not in the scope of this research; however, we can imagine various ways in which the migrant's legal cultures can be affected by these attitudes, whether through the allocation of the resources to newcomers, the policies promoting integration or segregation etc.

While rigorous research of the attitudes towards the Israeli Diaspora in the Silicon Valley remains to be conducted, scholars devoted significant effort to exploring and depicting the attitudes prevailing in Israel towards the FSU immigrants. Israelis tend to assign great importance to the ingathering of Jews in the State of Israel; however, although studies discovered overall favorable attitudes towards immigration from the FSU, they also report that the Israeli population placed the immigrants low in the hierarchy of groups that deserve assistance from public funds, and was reluctant to make personal sacrifices for the absorption of immigrants.⁶³⁴ While the FSU immigrants are considered to be a part of the Jewish majority, and are placed higher on the social hierarchy than some of the other segments of the Israeli population,⁶³⁵ they might also be

⁶³¹ Berry (2005), *supra note* 589. It is clear that the policies implemented by the dominant group enforces certain forms of acculturation or constrains the choices of non-dominant. For instance, there is little hope for immigrants' successful integration if the dominant society is not open or inclusive in its orientation.

⁶³² John W. Berry, Rudolf Kalin and D. Taylor, *Multiculturalism and ethnic attitudes in Canada*, Supply & Services, Ottawa 1977; Richard Y. Bourhis, Lena Celine Moise, Stephane Perrault and Sacha Senecal, *Towards an interactive acculturation model: A social psychological approach*, 32 *International Journal of Psychology*, 369–386 (1997).

⁶³³ See, for instance, Berry and Kalin (1995), *supra note* 634; Nadezhda Lebedeva and Alexander Tatarko, *Socio-psychological factors of ethnic intolerance in Russia's multicultural regions*, 507, B. Setiadi, A. Supratiknya, W. Lonner, Y. Poortinga (eds.), *ONGOING THEMES IN PSYCHOLOGY AND CULTURE. Selected Papers from the Sixteenth International Congress of IACCP*, Indonesian Universities Press, Jakarta (2004).

⁶³⁴ Ronni Bar-Tzuri and Y. Hendels, *Attitudes toward Soviet immigrants: An analysis of survey data*, 8 *Kalkaluh l'e'atwdah*, 48-52 (1992) [in Hebrew] (cited in Gabriel Horenczyk, *Immigrants' Perceptions of Host Attitudes and Their Reconstruction of Cultural Groups*, 46(1) *Applied Psychology*, 34-38 (1997).

⁶³⁵ Daphna Canetti-Nisim and Ami Pedahzur, *Contributory factors to Political Xenophobia in a multi-cultural society: the case of Israel*, 27(3) *International Journal of Intercultural Relations*, 307-333 (2003)

perceived as political or economic rivals,⁶³⁶ or as bearers of a foreign culture.⁶³⁷ Some scholars noted that the Israelis' approach to the FSU immigrants "paradoxically combines 'othering' and cultural proselytism, further reinforcing separatist trends in the Russian community."⁶³⁸ On the other hand, researches emphasize a certain movement in the direction of "an integrative approach, if not multiculturalism",⁶³⁹ which includes greater tolerance between the Israelis and the FSU immigrants.

In addition to the contextual elements mentioned above, the two migrant groups in this study also differ with respect to some other factors that have been shown to affect the process of acculturation—such as the linguistic ability and the general knowledge about the host culture.⁶⁴⁰ While the FSU immigrants arrived to Israel with little knowledge of their Jewish cultural heritage, the Israeli folklore, or the Hebrew language,⁶⁴¹ the vast majority of the Israelis in the Silicon Valley arrived with some familiarity of the American culture and speaking—more or less—fluent English.⁶⁴²

⁶³⁶ Majid Al-Haj, *Ethnic mobilization in an Ethno-national State: The case of immigrants from the Former Soviet Union in Israel*, 25(2) *Ethnic and Racial Studies*, 238–257 (2002).

⁶³⁷ Tamar Horowitz, *Determining factors of the vote among immigrants from the Former Soviet Union*, 117, in Asher Arian and Michal Shamir (eds.), *THE ELECTIONS IN ISRAEL 1996*, State University of New York Press, Albany (1999). The animosity towards the FSU immigrants due to their foreign culture is even more acute in light of the previous acculturation research that found a strong desire on the part of the FSU immigrants to maintain the links to their Russian cultural heritage (Sonia Roccasi, Gabriel Horenczyk and Shalom H. Schwartz, *Acculturation discrepancies and well-being: the moderating role of conformity*, 30 *European Journal of Social Psychology*, 323-334 (2000)).

⁶³⁸ Larissa I. Remennick, *Women with a Russian Accent' in Israel: On the Gender Aspects of Immigration*, 6 *European Journal of Women's Studies* 441-461 (1999), at 446. Also, see Fran Markowitz, *Israelis with a Russian Accent*, 35 *Jewish Journal of Sociology*, 97-114 (1993); Lissak and Leshem (1995), *supra note* 172; Eliezer Leshem, *The Israeli Public's Attitudes toward the New Immigrants of the 1990s'*, 307 in Eliezer Leshem and Judith T. Shuval (eds.), *IMMIGRATION TO ISRAEL: SOCIOLOGICAL PERSPECTIVES*, Studies of Israeli Society, Vol. VIII. New Brunswick, NJ: Transaction (1998).

⁶³⁹ Remennick (1999), *supra note* 642, at 446.

⁶⁴⁰ Otto Klineberg and Frank W. Hull, *AT A FOREIGN UNIVERSITY: AN INTERNATIONAL STUDY OF ADAPTATION AND COPING*, New York: Praeger (1979); France J. Pruitt, *The adaptation of African students to American society*, 2(1) *International Journal of Intercultural Relations*, 90–118 (1978)

⁶⁴¹ Horowitz and Leshem (1998), *supra note* 167.

⁶⁴² Studies discovered that prior to their emigration from Israel, Israelis are often familiar with the English language and Western culture, due to their exposure to Western popular culture and educational materials (Zvi Sobel, *MIGRANTS FROM THE PROMISED LAND*, New Brunswick, NJ: Transaction (1986), at 192–193; Steven J. Gold, *Gender, Class, and Networks: Social Structure and Migration Patterns among Transnational Israeli*, 1(1) *Global Networks*, 19-40 (2001)). Scholars maintain that "English is gaining growing importance in contemporary Israel...English has in fact become the second or additional language in all areas of life, to the point that it can hardly any longer be seen as a 'foreign language' but

These key disparities between the two groups add to the political, economic and social differences inherent to their countries of origins: USSR and Israel, as well as their countries of destination: Israel and the U.S.⁶⁴³ Therefore, it is clear that the two groups differ considerably in the *immigration* context and experiences related to the *immigration* and the *settlement*.

An additional important factor discovered by the research of the FSU immigrants and their attitudes is their sense of cultural superiority in comparison to the Israeli culture; indeed, scholars argue that “[T]he demand to preserve Russian culture in Israel is accompanied by a sense of cultural superiority over the local culture in Israel” and that “[T]he FSU immigrants of the 1990s evaluate their own influence on Israeli society as far more positive than that of Israeli society in themselves.”⁶⁴⁴

It is possible that “the feelings of superiority of the FSU immigrants or their expectations continuing their unique cultural patterns in the new surroundings”,⁶⁴⁵ along with other factors discussed above, define and shape—at least to certain extent—their attitudes towards the issues of the legal culture as well. For instance, it is possible that since the FSU immigrants evaluate the Russian culture above the Israeli culture, these feelings ‘spill over’ to their perceptions of the various issues related to the Israeli

would be better described as a ‘nonforeign language’...It is a compulsory subject in all types of high-school graduation, a condition for academic studies in all fields and a requirement for all jobs middle-rank up. A substantial part of all books published in Israel are in English, and so is one of Israel’s major dailies, the ‘Jerusalem Post’. In brief, English is widely viewed as the principal international language and as the principal conveyor of scientific, technological and business knowledge, despite the fact that it has no official status.” (Eliezer Ben-Rafaela, Elana Shohamya, Muhammad Hasan Amarab and Nira Trumper-Hechta, *Linguistic Landscape as Symbolic Construction of the Public Space: The Case of Israel*, 3(1) *International Journal of Multilingualism*, 7-30 (2006), at 12).

⁶⁴³ Acculturation does not take place in a social vacuum; rather, this process occurs within the context of intragroup and intergroup relations; the contextual “societal” factors constitute significant element that influences individual adaptation (Berry (1997), *supra note* 583).

⁶⁴⁴ Moshe Sicron and Elazar Leshem, *The Soviet Immigrant Community*, 81 in Uzi Rebhun and Chaim I. Wzerman (eds.), *JEWS IN ISRAEL: CONTEMPORARY SOCIAL AND CULTURAL PATTERNS*, Brandeis University Press (2004), at 106.

⁶⁴⁵ Sicron and Leshem (2004), *supra note* 648, at 107.

legal culture. As a result, they tend to cling to their previous attitudes, viewing them as being more proper, principled, or honorable than the perceived ‘Israeli’ way.

The findings of this research provide some support for this hypothesis. For instance, one of the FSU interviewees indicated that she is disinclined to provide the details about the perpetrator to the party who suffered damages—let alone to the police—motivating this decision by the sense of morality founded in her ‘Russian’ culture: “[I]t’s our Russian upbringing; one does not snitch.”⁶⁴⁶

Similarly, another FSU respondent expressed her aversion towards filing a lawsuit based on work place discrimination due to her “Russian education,” indicating that suing—at least in these particular circumstances—is not an honorable thing to do.⁶⁴⁷ The fact that these individuals continued to cling to their perceived ‘Russian cultural norms,’ even in the instances when particular behaviors—such as reporting the car accident—was not only depicted as being *acceptable*, but even *required* in the Israeli context, demonstrates the certain degree of supremacy that they attach to their original cultural perceptions.

In addition to the disparities—often significant—in the legal-cultural attitudes between the groups, the findings of this research provide us with the opportunity to speculate about the change of the attitudes held by the members of the migrant groups and the extent thereof. The contextual factors discussed above may, in fact, account for much of the difference between the process of legal acculturation between the FSU immigrants in Israel and the individuals who belong to the Israeli Diaspora in the Silicon Valley.

3. Summary

The aim of the above discussion was to emphasize the importance of developing theoretical and empirical framework for capturing and accounting for the complexity of the change in legal culture that accompanies migration. Specifying and measuring the

⁶⁴⁶ Interviews with FSU immigrants, interview #13.

⁶⁴⁷ Interviews with FSU immigrant, interview #17.

components of *legal culture* that are affected through the process of *legal acculturation*, as well as describing this process, can provide a better understanding of how individuals adapt to these changes and clarify the association that *legal acculturation* has with other types of acculturation. The fact that globalization brought different cultures into intense contact with each other warrants particular attention of the researchers and public-policy makers to the issue of how individuals' legal cultural attitudes and perceptions adapt to these cultural changes.

To understand the process of legal acculturation, research should develop measures that capture basic attitudes, values, and behaviors related to the legal culture and depict the essence of the process of legal acculturation. Both quantitative and qualitative methods may be applied to study the changes that occur throughout this process. In order to better comprehend the relationship between *legal acculturation* and individuals' *legal culture*, scholars should apply measures that take into account contextual factors of migration. Such measures would create and inform a framework for understanding what influences the process of change of legal culture resulting from migration and what particular elements of the acculturation experience influence successfully adapting to a new legal culture.

VII. CONCLUSION

I began this work by placing this research at the intersection of legal, anthropological and public policy studies. Indeed, the study of legal culture must inevitably combine various theories, concepts and research techniques developed in the fields of social sciences, because study of the laws through the normative prism—as have been done by the orthodox legal scholarship—remains woefully ignorant of “the nature of the relationship between a society and the legal rules that operate within it”, which is arguably one of “[T]he most important general legal questions.”⁶⁴⁸

⁶⁴⁸ Watson (1982), *supra* note 55, at 1121.

The letter of the law is not the sole factor shaping the behavior of individuals. In fact, it is quite intuitive that legal obligation—or prohibition—of certain acts does not predict individual actions; studies that concentrate solely on the law are ignorant of its interaction with the behavior of individual citizens. Naturally, the law is a significant factor in shaping behavior; but just as significant is the impact of the legal culture, i.e., the attitudes and beliefs of individuals with respect to law.

In order to function—socially, politically, or economically—society relies heavily on clear and stable rules and directives. It is the legal culture, however, that dictates whether and to what extent these rules operate among different groups within society;⁶⁴⁹ it promotes our understanding of “how the legal system, as an operating system, actually works.”⁶⁵⁰

Legal culture—an imprecise⁶⁵¹ and dynamic⁶⁵² phenomenon as it is—can be studied in many ways. The current research used comparative approach, and explored whether—and how—various aspects of legal culture are affected following the change in individuals’ environment, resulting from migration. In particular, examining the legal cultures of two groups of migrants—immigrants from the FSU to Israel and the Israeli Diaspora in the Silicon Valley—and comparing the findings with the legal culture of the Israeli Jews, this study provided insights into the complex relationship between the individuals’ perceptions of and attitudes towards law, their background and their immediate surroundings.

Much scholarly effort has been dedicated to exploring the antecedents of particular attitudes and notions that constitute legal culture; to investigating factors that influence legal culture and to identifying the mechanisms that may be driving this social

⁶⁴⁹ Friedman (1969), *supra* note 16.

⁶⁵⁰ Friedman (1994), *supra* note 2, at 118.

⁶⁵¹ MacAulay (1989), *supra* note 228, at 1547: “[C]ulture is not a tangible thing with easily identifiable boundaries”; Cotterell (1997), *supra* note 26; Friedman (1997), *supra* note 19.

⁶⁵² Lawrence M. Friedman, *Exposed Nerves: Some Thoughts on Our Changing Legal Culture*, 17 *Suffolk University Law Review*, 529-548 (1983); Friedman (1984), *supra* note 48; Lawrence M. Friedman, *American Legal Culture: The Last Thirty-Five Years*, 35 *St. Louis U. L.J.* 529-538 (1990); Sergio López-Ayllón, *Notes on Mexican Legal Culture*, 4 *Social & Legal Studies*, 477-492 (1995).

phenomenon.⁶⁵³ While the importance of pinpointing the factors that cause individuals' perceptions—such as trust vs. distrust of law, respect vs. contempt of legal authorities—has been widely acknowledged in the scholarly literature, their significance spreads beyond the academic scope. Questions of how to build and sustain individuals' respect for the rule of law and adherence to the legal authorities are paramount for the public policy-makers; in particular, one must resolve these issues in order to design models that deal with the challenges posed by disparate legal cultures.⁶⁵⁴

Indeed, the current research is a step in this direction. This study discovered disparities—often significant—in the expressed attitudes and perceptions of the respondents of the three groups. These differences point to a number of important conclusions.

First, the findings of this study support the conclusions of the previous research that found disparities in the legal cultures between different segments of the Israeli population. This research examined four particular aspects of *legal culture*—support for the rule of law, subjective perceptions of the significance of individual liberty, perceptions of the neutrality of law, and dispute resolution preferences and readiness to pursue rights. Such focus was crucial in the sense that it led to more detailed understanding and more precise mapping of the various faces of the legal cultures of the interviewed groups.

The second element that is emphasized by this study's findings is related to the legal culture of the migrants and the change it undergoes following migration, i.e., their *legal acculturation*. As discussed elsewhere in this work, while the descriptive findings—i.e., the findings that describe and illustrate the legal cultures of the three groups—are

⁶⁵³ For instance, Hendley suggested that creating clear and stable rules in the economic realm—where the potential value of economic laws is demonstrated in a very practical sense—would, over time, cause the respect for laws to “spillover from the economy to other areas”, but recognized the difficulties of this scheme (Hendley (1995), *supra note* 115, at 63).

⁶⁵⁴ Bierbrauer (1994), *supra note* 3 Gibson and Caldeira (1996), *supra note* 4; Tyler (2000), *supra note* 4. Also, *see* Hendley, who observes that, “merely passing new laws and reformulating old laws... while necessary, remains insufficient to cause citizens to embrace law as the means of protecting their interests” (Hendley (1995), *supra note* 115, at 62).

based on empirical data, the conclusions with respect to the *legal acculturation* are speculative in nature, due to the absence of rigorous historical data. Nevertheless, we can contemplate about the origins of various attitudes, as well as outline certain traits and elements that plausibly have implications for the shift, or the preservation, of legal-cultural attitudes.

The last lesson derived from the findings of this research points to the crucial role of legal culture for public policy. The findings call into focus the significant disparities of the attitudes between various groups of population, leading to the conclusion that these differences warrant special consideration on the part of the policy-makers, whose ability to effectively secure desired behavior by means of regulation is linked to the attitudes of the population.

Finally, the idea that law and legal reform are “doomed to failure” if the legal culture is not taken into account is not new.⁶⁵⁵ Friedman notes that while law reformers, traditionally, treat errors and inconsistencies in the legal system technically, legal systems are products of legal culture; and as such, the limits imposed by culture must be taken into account.⁶⁵⁶ The findings of this study provide empirical evidence for supporting this idea, indicating that, when it comes to effective governing, applying the ‘one size fits all’ approach is erroneous, because it fails to acknowledge disparities of their perceptions of and attitudes towards law and legal authorities, in short: their disparate legal cultures.

⁶⁵⁵ Friedman (1994), *supra* note 2, at 130.

⁶⁵⁶ Friedman (1994), *supra* note 2, at 130.

VIII. REFERENCES

A. APENDIX A: QUESTIONNAIRE

Date: _____

Name: _____

- PERSONAL INFORMATION:
 - a. Year of birth _____;
 - b. Year of immigration to Israel (if relevant) _____;
 - c. Republic of Soviet Union from which immigrated (if relevant) _____;
 - d. Marital status _____;
 - e. Year moved to the U.S. _____;
 - f. Number of years lived in the U.S. _____;
 - g. Name all the cities where you lived in the U.S. and the amount of time in each city _____;
 - h. Primary purpose for moving to the U.S. _____;
 - i. Legal status in the U.S. (e.g. citizen, visa etc.) _____;
 - j. Highest level of education obtained _____;
 - k. Language(s) mostly spoken at home _____;
 - l. Current employment status _____;
 - m. Employment status during the past 3 years _____;
 - n. Current city of residence _____;
 - o. Religious affiliation _____;
 - p. How often do you attend a place of worship _____;
 - q. Political affiliation (left/right) _____;
 - r. How did you hear about the study? _____

- ATTITUDE TOWARDS THE RULE OF LAW IN ISRAEL:

Do you agree or disagree with the following statements? Would you say that you *agree strongly, agree, disagree, disagree strongly* with each of the following statements:

	AGREE STRONGLY	AGREE	DISAGREE	DISAGREE STRONGLY	REFUSED
1. It is not necessary to obey a law you consider unjust.					
2. Sometimes it might be better to solve problems immediately rather than wait for a legal solution.					
3. It's alright to get around the law as long as you don't actually break it. 3.a. Does your answer depend whether in Israel or the U.S.?					
4. It is rare that law is on my side; usually, I find laws to be restrictive and against my interests. 4.a. Does your answer depend whether in Israel or the U.S.?					
5. My interests are rarely represented in the law; usually law reflects the views of those who want to control me. 5.a. Does your answer depend whether in Israel or the U.S.?					
6. The ultimate basis of the law should be the values of the people, not the values of the dominant political, economic and social powers.					
7. Society shouldn't have to put up with those who have political ideas that are extremely different from the majority.					
8. It is better to live in an orderly society than to allow people so much freedom that they can become disruptive.					

- OPINION ABOUT THE ISRAELI GOVERNMENT

Do you agree or disagree with the following statements? Would you say that you *agree strongly, agree, disagree, disagree strongly* with each of the following statements:

	AGREE STRONGLY	AGREE	DISAGREE	DISAGREE STRONGLY	REFUSED
9. It is not necessary to obey the laws of a government that I did not vote for.					
10. The government should have some ability to bend the law in order to solve pressing social or political problems.					
11. In times of emergency, the government ought to be able to suspend law in order to solve pressing social problems					
12. Israeli government is corrupt – it only does things for itself and not for the people.					
13. Israeli government only helps the upper class and not the poor.					

- HYPOTHETICAL VIGNETTES:

A. As you are walking out of a store, you observe a car hit another car parked nearby and smash its door. Thereafter, the driver turns the car around and drives off without leaving a note for the owner, despite the fact that he is required to do so by the law. Suppose that you had a pen and a piece of paper on hand and managed to write down the license plate number of the car, as it drives off.

14. a. Would you leave a note for the car's owner? _____ If **NO**, would your answer change if you were required to do so—i.e. leave a note for the car's owner —by law? _____ Why? _____
- b. Would you leave your contact details? _____ Why? _____
- c. Would your answer change if this happened in Israel? _____ Why? _____

15. a. Would you contact the police? _____ If **NO**, would your answer change if you were required to do so—i.e. contact the police—by law? ____ Why? _____
- b. Would your answer change if this happened in Israel? ____ Why? ____
16. a. If you were the driver who hit the parked car, would you leave a note for the car's owner? _____ Why? _____
- b. Would your answer change if this happened in Israel? ____ Why? ____
17. Suppose you left a note with your contact details; now the owner is claiming damages that are much higher than what you estimated. In fact, it is pretty clear that he thinks you are a 'freier' and is trying to exploit the situation and to take advantage of you being an honest person. What would your response be? _____ Why? _____
- B. The next vignette is as follows: few days ago, your friend received a notification that due to market conditions, the company has to let him go. However, he has strong suspicions that the true reason he was fired is, in fact, because he is an Israeli or a Jew, which constitutes illegal employment discrimination.
18. a. Although your friend considers his employer's action illegal, your friend decides not to pursue his rights and to forget about the whole matter. Do you approve of this action? _____ Why? _____
- b. Would your answer change if this happened in Israel? ____ Why? ____
19. Do you think that you would have acted in a similar manner if you were fired because you are Israeli / Jewish? _____ Why? _____
20. Does your answer depend on whether or not you will succeed? Suppose you have good evidence. _____ Why? _____

• **ATTITUDE TOWARDS THE ISRAELI COURTS AND JUDGES:**

21. Overall, how good a job are the courts doing? Please rate on a scale 1-10 (10 being the best mark) and elaborate if you can.

22. In general, how satisfied are you with how well the courts solve problems that come to court? Please rate on a scale 1-10 (10 being the best mark) and elaborate if you can.
-
23. How satisfied are you with the fairness of the decisions made by the courts? Please rate on a scale 1-10 (10 being the best mark) and elaborate if you can.
-
24. Some people say that the courts treat everyone equally, others that they favor some people over others. How about you?
-
25. Do you feel that people like yourself, that is people of your age, ethnicity, sex and income, receive the same treatment from the courts as the average citizen, or are people like yourself treated better or worse than the average citizen?
-
26. Overall, how satisfied are you with the fairness of the way the courts treat people and handle problems? Please rate on a scale 1-10 (10 being the best mark) and elaborate if you can.
-
27. In general, when people appear before courts in civil matters, how often do you think that their cases are resolved in a satisfactory manner?
-
28. How often do citizens receive fair outcomes in criminal trials?
-
29. In general, how often do the courts treat citizens fairly and handle their problems in a fair way?
-
30. During the past 10 years, have you consulted with an attorney with regard to filing a claim in any court?
-
31. During the past 10 years, have you filed a claim in any court? _____
 If **YES**:
- i. How many claims have you filed during the past 10 years? _____
 - ii. In which courts you filed your claim/s? _____
 - iii. How likely are you to file a claim in circumstances similar to those that caused the filling of your claim/s? _____

32. With respect to the following statements, please state your opinion of each statement. On a scale of *very likely*, *somewhat likely*, *somewhat unlikely*, *very unlikely*:

	VERY LIKELY	LIKELY	SOMEWHAT UNLIKELY	UNLIKELY	REFUSED
33. How likely are you to contest in court a traffic ticket that you deem to be unjustified?					
34. How likely are you to file a claim in the "small claims" court with respect to a debt of \$10,000? If SOMEWHAT UNLIKELY/UNLIKELY , what amount would justify a claim? _____ Would your answer change if this happened in Israel? _____ Why? _____					
35. Someone borrowed \$4,000 from you; although he admits the debt and is able to pay, he refuses to do so. How likely are you to file a claim? If SOMEWHAT UNLIKELY/UNLIKELY , what amount would justify a claim? _____ Would your answer change if this happened in Israel? _____ Why? _____					
36. How likely are you to contest the decision of a health insurance company that refuses a claim? If SOMEWHAT UNLIKELY/UNLIKELY , what amount would justify a claim? _____ How about contesting the decision of Bituah Leumi? What amount would justify legal action? _____ What legal action? _____					

37. What factors do you take into consideration when you have to decide whether to file a claim or not?

- GENERAL:

38. How likely it is that you will be living in Israel 10 years from now? _____

May we contact you in the future for a follow up questionnaire? _____

If **YES**, how would you like us to contact you? Please provide contact details

Language of the interview: _____

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