

Employment Law and Labour Market Transitions in Israel:

The Case Study of Flexicurity Retirement Strategy in Israel

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*The perpetual favoring of younger men merely for their youth, in filling jobs within the competence of older men makes for unemployment. It would not have happen in a socialist community with employment unified. In an individualist community it is an anti social act and should be recognized as such.*²

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² WILLIAM H. BEVERIDGE, FULL EMPLOYMENT IN A FREE SOCIETY 71 (1944).

1. Introduction

In 1944 Lord Beveridge had already admitted that "[an] *older man, once he has lost a job, finds it harder than a young man to get a new one*".³ But Lord Beveridge had also expressed his view that "*In any large single undertaking... there is always a certain number of old man's places... kept for those who have grown grey*".⁴ Moreover "*technical progress... may just as well work in favor of age, by making sheer physical vigour less important*".⁵ Eighty years later it seems that technical progress as well as the collapse of the Fordist labour market and major changes in the welfare state have all together worsened the material and social conditions off those who have grown grey.

This paper is the first attempt to analyze Israel's retirement law using TLM and Flexicurity frameworks.⁶ The transition between work and retirement was

³ LORD BEVERIDGE, FULL EMPLOYMENT IN A FREE SOCIETY 70 (1944).

⁴ Lord Beveridge *Economica* (Feb. 1937) quoted in LORD BEVERIDGE, FULL EMPLOYMENT IN A FREE SOCIETY 71 (1944).

⁵ LORD BEVERIDGE, FULL EMPLOYMENT IN A FREE SOCIETY 69 (1944).

⁶ I use here TLM and Flexicurity both as analytical frameworks and as normative tools. On TLM see JACQUELINE O'REILLY, INMACULDA CEBRIAN & MICHEL LALLEMENT, *WORKING TIME CHANGES: SOCIAL INTEGRATION THROUGH TRANSITIONAL LABOUR MARKETS* (2000); JAAP DE KONING & HUGH MOSLEY (EDS.), *LABOUR MARKET POLICY AND UNEMPLOYMENT. IMPACT AND PROCESS EVALUATIONS IN SELECTED EUROPEAN COUNTRIES* (2001); GUNTHER SCHMID & BERNARD GAZIER (EDS.), *THE DYNAMICS OF FULL EMPLOYMENT – SOCIAL INTEGRATION THROUGH TRANSITIONAL LABOUR MARKET* (2002); KLAUS SCHOMANN & PHILIP J. O'CONNELL (EDS.) *EDUCATION, TRAINING AND EMPLOYMENT DYNAMICS. TRANSITIONAL LABOUR MARKET IN THE EUROPEAN UNION* (2002); RALF ROGOWSKI (ED.), *THE EUROPEAN SOCIAL MODEL AND TRANSITIONAL LABOUR MARKETS (STUDIES IN MODERN LAW AND POLICY)* (2009); GUNTER SCHMID, *FULL EMPLOYMENT IN EUROPE, MANAGING LABOUR MARKET TRANSITIONS AND RISKS* (2008); NICK VAN DEN HEUVEL (ED.), *ACTIVE AGEING. EARLY RETIREMENT AND EMPLOYABILITY. SPECIAL ISSUE* (2006); JAAP DE KONING (ED.) *THE EVALUATION OF ACTIVE LABOUR MARKET POLICIES: MEASURES, PUBLIC-PRIVATE PARTNERSHIP AND BENCHMARKING* (2007). On Flexicurity see RUDD JA MUFFELS (ed) *FLEXIBILITY AND EMPLOYMENT SECURITY IN EUROPE – LABOUR MARKETS IN TRANSITION* (2008); Ton Wilthagen & Ralf Rogowski, *The Legal Regulation of Transitional Labour Market* in *THE DYNAMICS OF FULL EMPLOYMENT – SOCIAL INTEGRATION THROUGH TRANSITIONAL LABOUR MARKET* 233 (Ed. By Gunther Schmid & Bernard Gazier, 2002); Ton Wilthagen, Frank Tros & Harm van Lieshout, *Toward 'Flexicurity'? Balancing Flexibility and Security in EU Member States* (Invited Paper for the 13th World Congress of the International Industrial Relations Association, Belin, 2003) www.tilburguniversity.nl/faculties/frw/research/schoordijk/flexicurity/publications/papers/fxp2003_3.pdf; Frank Tros, *Flexicurity and HR-strategies for Older Workers: A Comparative Appraisal of Four European Countries* 7 (2005) www.siswo.uva.nl/tlm/root_files/WorkP05-13Tros.pdf.

profusely discussed by the European commission as well as by many European writers among them TLM researchers.⁷ Despite its major importance, this transition was not discussed in a similar manner by the Israeli Parliament (the Knesset) or in the Israeli academic literature.⁸ As emphasized in the European literature, workers who retire from work after a long career are in a major risk of social exclusion.⁹ For a lot of workers work is much more than a way to make ends meet.¹⁰ Work is a way of taking part in community life, building a social network and gaining respect. Retirement therefore presents a huge social risk – the risk of becoming poor, the risk of loosing one's self identity, the risk of loosing co-workers' friendships, the risk of loosing one's part in society – the risk of social exclusion.

In this paper I analyze the ways in which Israeli Law – including legislation, collective agreements and the Civil Service Regulation – regulates the transition between work and retirement. In the first part of the paper I will describe the changes in Israel's welfare state which makes it into a very interesting case study. In the subsequent parts I will analyze Israeli legal regulation of the transition between work and retirement in the past and in the present. I will point to the places where the Israeli

⁷ See NICK VAN DEN HEUVEL, WIM HERREMANS, PETER VAN DER HALLEN, CHRISTINE ERHEL & PIERRE COURTIUOX, (EDS.) ACTIVE AGEING, EARLY RETIREMENT AND EMPLOYABILITY (2006); Pierre Courtioux and Erhel Christine, The national models of senior's employment in Europe and the TLM perspective: http://www.siswo.uva.nl/tlm/confbuda/papers/papers_files/The_national_models.pdf; Commission of the European Communities, *Towards a Europe for All Ages – Promoting Prosperity and Intergenerational Solidarity*, Communication from the Commission (Brussels 21.5.1999) http://ec.europa.eu/employment_social/soc-prot/ageing/com99-221/com221_en.pdf; Luc Behaghel & Jerome Gautie, From Internal to Transitional Labour Markets? Firms Restructuring and Early Retirement in France (March 2006, Centre d'Etudes de l'Emploi) . http://www.siswo.uva.nl/tlm/confbuda/papers/papers_files/jcb.pdf; De Koning J. and A. Gelderblom, *Incentives to promote longer working lives* paper for the Thematic Review Seminar 'Comprehensive Strategies for Active Ageing' Brussels, 20 April 2005 SEOR: Rotterdam <http://www.seor.nl/media/publications/incentives-promote-longer-work-lives.pdf>.

⁸ For an exception see Ruth Ben-Israel & Gideon Ben-Israel, *Senior Citizens: Social Dignity, Status and Representative Association* 9 LABOUR, SOCIETY AND LAW 229 (2002). About Israeli new retirement legislation see below.

⁹ On social exclusion see Colette Fagan & Michel Lallement, *Working Time, Social Integration and Transitional Labour Markets*, 25, 33- 37 *WORKING TIME CHANGES* (Jacqueline O'Reilly, Inmaculada Cebrian & Michel Lallmen, 2000).

¹⁰ P.E BENNER, STRESS AND SATISFACTION ON THE JOB (1984); M. ICHODA, EMPLOYMENT AND UNEMPLOYMENT (1982)..

regulations are in line with the recommendations of the Expert Group on Flexicurity.¹¹

2. The transformation of Israel's Welfare Regime

Israel serves as an interesting case study for the regulation of the transition between work and retirement. While there are a lot of similarities between Israel's welfare regime and a few small European countries such as the Netherlands, Israel is not part of the European Union and is not subject to, or even directly exposed to the European Union's recommendations.¹² Therefore the Flexicurity Strategy which was implemented to a great extent in Denmark and in the Netherlands has not been imported to Israel. Moreover the European Flexicurity discussion and Framework are not a central part of the Israeli social dialogue.¹³

Using Esping-Anderson's distinction, Israel could be easily described as a corporatist regime with some social democratic elements.¹⁴ A long list of collective agreements regulates Israel's industrial relations. Israel has been in the past a very unionized society. Although during the late 1980s the *Histadrut*, Israel's major employment union, lost much of its power the Histadrut is still highly involved in Israeli public policy. Approximately thirty percent of Israeli workers are still

¹¹ See Flexicurity Pathways – Turning hurdles into stepping stones (Report by the European Expert Group on Flexicurity, June 2007) .

http://ec.europa.eu/employment_social/employment_strategy/pdf/flexi_pathways_en.pdf.

¹² Similarities between Israel and the Netherlands include their size as well as their corporatist characteristics. On the similarities between small states in Europe see PETER J. KATZENSTEIN, *SMALL STATES IN WORLD MARKETS: INDUSTRIAL POLICY IN EUROPE* (1985).

¹³ Although as I will show in this paper in fact Israeli social partners reached collective agreements that are similar to that of the Flexicurity strategy.

¹⁴ Gosta ESPING-ANDERSON, *THE THREE WORLDS OF CAPITALISM* 26- 29. Esping-Anderson acknowledges in his book that each country might have a few elements from several welfare regimes. (Ibid). Stier, Lewin Epstein and Braun describe Israel's welfare regime as a conservative-corporatist welfare state with a high level of support to mothers' employment. Haya Stier, Noah Lewin Epstein, Michael Braun, *Welfare Regimes, Family Supportive Policies, and Women's Employment along the Life-Course*, 106(6) *AMERICAN JOURNAL OF SOCIOLOGY* 1731, 1740 (2001). Guy Mundlak claims that the industrial relations and labour law in Israel changed from a European style of corporatism to a model of pluralism. GUY MUNDLAK, *FADING CORPORATISM – ISRAEL'S LABOUR LAW AND INDUSTRIAL RELATIONS IN TRANSITIONS* (2007).

unionized.¹⁵ Collective agreements and extension orders still play an important role in the design of workers rights and in labour relations. The Israeli National Insurance Institute provides at least some of its benefits, such as old age benefits and children allowances, to all Israeli citizens on a universalistic base. In that sense the level of "comodification" of the Israeli welfare state is low.

Even though the Israeli labour market seems to be much similar to a few European corporatist countries than to the liberal American welfare regime, in the past few decades Israel adopted more and more characteristics of a "liberal welfare regime".¹⁶ In the past few decades Israel's governments have promoted a policy of privatizations and of reduction in universal programs.¹⁷ New welfare reforms are targeted towards low income workers, usually working class people who became state dependants.¹⁸ Israel has imported from the US two programs both directed towards low income workers: The Wisconsin-type Welfare to Work program (which aims to bring welfare clients back to the labour market by privately run training) and a

¹⁵ GUY MUNDLAK, *ibid*, 43- 44.

¹⁶ The adoption of liberal characteristics is part of a process of retrenchment of the Israeli welfare state. In that sense Israel's retrenchment process is similar to the one that was discussed at length in public policy literature. See PAUL PIERSON, *DISMANTLING THE WELFARE STATE? REAGAN, THATCHER AND THE POLITICS OF RETRENCHMENT* (1994).

¹⁷ About the Israeli privatization process see Israel Government Companies Authority, *The Privatization Process in Israel* (Presentation before the IMF, December 2003). <http://www.mof.gov.il/beinle/prsnt2003-7731.pdf>; Daphne Barak-Erez, *The Public Law of Privatization: Models, Norms and Challenges* 30 TEL-AVIV U. L. REV. 461-515 (2008) [HEBREW]; EYAL PELEG, *PRIVATIZATION AS PUBLICIZATION: PRIVATIZED BODIES IN PUBLIC LAW* (2005) [Hebrew]; Yair Barak, *The History of Privatization in Israel* (draft 9.12.2007). Internet site: http://www.kibbutz.org.il/hazan/hafrata/headlines-yair_barak_9.12.07.doc [Hebrew].

On the fall of universal programs and on the rise of means tests programs see Avraham Doron, *The design of the Israeli Welfare State 2000- 2005*. Internet site: http://www.taubcenter.org.il/files/H2007_Welfare_Policy_2000-2005.pdf. 51 - 53 [Hebrew].

¹⁸ Esping-Anderson describes the liberal welfare state regime as a regime where "benefits cater mainly to a client of low income usually working class, state dependant". Esping-Anderson, *supra* note 14, at p. 26. One of the characteristics of Esping-Anderson's Social- Democratic state is its system of universal benefits and de-commodification which stand in contrast to the liberal welfare state means tested assistance. See Gosta ESPING-ANDERSON, *THE THREE WORLDS OF CAPITALISM* 26- 27; NEIL GILBERT, *TRANSFORMATION OF THE WELFARE STATE: THE SILENT SURRENDER OF PUBLIC RESPONSIBILITY* 136 (2002).

program of Negative Income Tax which is based on the American Earned Income Tax Credit.¹⁹

The counter-influences from social democratic, corporatist and liberal welfare regimes together shape the Israeli regulation of the transition between work and retirement. But, the transformation in the nature of the Israeli welfare state is not the only change that influences Israel's retirement law. The meaning of *Change in the Nature of the Regime* is that not only the Israeli welfare state has changed but the whole *Regime of Accumulation* has changed.²⁰ In the last few decades Israel's model of work has changed from Fordist to Post-Fordist. During the fifties and eighties the typical Israeli employment model was based on a single primary breadwinner who built a one lifelong career in the same workplace. The workers in Israel's large public sector and workers in other unionized sectors were employed under similar conditions based on seniority, tenure tracks and early retirement arrangements. Several causes led to the Israeli move from Fordism to Post-Fordism. Among them one might mention globalization, trends of specialization especially in the Hi-Tech industry and an increase in women's participation in the labour market.²¹ The result of the shift from Fordism to TLM is the withdrawal from Beveridge's ambition to provide full employment to all.²² The new Israeli post fordist model of work is now characterized by labour market transitions: transitions between jobs, transitions between employment and unemployment, transition between full time and part time work,

¹⁹ On the American and British welfare to work programs see AMIR PAZ-FUCHS, *WELFARE TO WORK – CONDITIONAL RIGHTS IN SOCIAL POLICY* (2008); ANDREAS CEBULLA, KARL ASHWORTH, DAVID GREENBERG, ROBERT WALKER, *WELFARE TO WORK: NEW LABOUR AND THE US EXPERIENCE* (2005).

²⁰ On the term - Regime of Accumulation see ROBERT BOYER, *THE REGULATION SCHOOL: A CRITICAL INTRODUCTION* (1990).

²¹ Vered Kraus writes about Israeli women who entered the labour market during the 70s. See VERED KRAUS, *SECONDARY BREADWINNERS – ISRAELI WOMEN IN THE LABOUR FORCE* 32- 39 (2002).

²² Cf: Gunther Schmid, *Foreword, WORKING TIME CHANGES* (Jacqueline O'Reilly, Inmaculada Cebrian & Michel Lallmen, 2000).

transition from work and taking care of family members and transitions between work and retirement.²³

3. Transition between Work and Retirement in the Corporatist- Fordist Regime

The Israeli corporatist-fordist welfare regime maintained a certain balance between flexibility and security. This balance kept senior workers from social exclusion. The typical fordist worker entered the labour market after obtaining education and stayed in the same workplace until retirement (the legal retirement age was 65 for men and 60 for women).²⁴ Due to the high number of unionized workers as well as high numbers of workers in the civil service a lot of workers worked with job security and in the framework of tenure tracks.²⁵ During retirement pensioners received a decent Pay as you Go Defined Benefit pension which enabled them to keep the same standard of living they were used to before retirement. Early voluntary retirement plans provided employers with numerical flexibility.²⁶ A stable body of collective agreements and social dialogue maintained the balance between flexibility and security.²⁷

The fordist- corporatist transition between work and retirement was far from perfect. While early retirement plans did provide employees with income security and employers with numerical flexibility they also entailed very high social costs.²⁸

²³ Cf: Gunther Schmid & Klaus Schomann, *Managing Social Risks Through Transitional Labour Markets: Toward a European Social Model*, 22- 24, www.siswo.uva.nl/tlm/. The new labour market is also characterized by high levels of flexibility. On the several types of flexibility see supra note 36.

²⁴The legal retirement age was defined through law for workers in the civil service and through collective agreements for unionized workers.

²⁵ The Israeli civil service regulation and most Israeli general collective agreements include job security frames.

²⁶ The employers designed the early retirement programs in a very attractive way. Therefore although the programs were voluntary a lot of workers chose them.

²⁷ Cf: GUY MUNDLAK, supra note 14, 61- 109.

²⁸ Cf Bernard Casey, *Exit Options from the Labour Force* 379 INTERNATIONAL HANDBOOK OF LABOUR MARKET POLICY AND EVALUATION (ED. GUNTHER SCHMID, JACQUELINE O'Reilly & Klaus Schomann).

Moreover early retirement programs and other passive plans (e.g. unemployment benefits) did not offer a wide range of retirement opportunities to individual workers with individual needs (such as workers who wanted to continue working).²⁹ Another flaw of the Corporatist- Fordist legal arrangements was their preservation of status differentials by providing pension rights mainly to unionized workers and civil service employees.³⁰ The legal arrangements of the regime also helped to reinforce the traditional family by setting an earlier mandatory retirement age to women than to men due to women's "dual roles as mothers and workers".³¹

4. Transition between Work and Retirement in the Liberal-Post Fordist Regime

Although the fordist- corporatist transition between work and retirement was far from perfect it did provide a stable balance between numerical flexibility, income security and job security.³² The delicate balance between flexibility and security was shattered in the post-fordist Israeli labour market. The former standard education-work-retirement sequence has become less and less common as were the chances to enjoy

²⁹ Katrin Hakim emphasizes in her work the connections between legal arrangements and individual needs. See Catherine Hakim, *Lifestyle Preferences as Determinants of Women's Differentiated Labour Market Careers*, 29(4) WORK AND OCCUPATIONS 428 (2002).

³⁰ During the late 40s the Histadrut opposed a proposal to provide relatively high pension benefits to all Israeli citizens instead of the occupational benefits system. See JOHN GAL, SOCIAL SECURITY IN ISRAEL 53-54 (2004) [Hebrew]. In that sense the legal arrangements were very close to Esping-Anderson's description of the historical corporatist-statist legacy, where in his words: "What predominated was the preservation of status differentials; rights, therefore, were attached to class and status. ESPING-ANDERSON, supra note 14, at p. 12.

³¹ The preservation of the traditional family is another characteristic of the corporatist regime according to Esping-Anderson. See Esping-Anderson, supra note 14. Until 1987 most collective agreements forced women to leave the workplace at the age of 60 while men could continue working until the age of 65. One of the justifications for the practice was that: "because of their dual role as mothers and workers women shall leave the workforce earlier". In the Naomi Navo case the Israeli Supreme Court declared that the practice is illegal. Supreme Court HCJ 104/87 Naomi Navo v. National Labour Court and others, PDI 44(4) 749. In 1987 the Knesset enacted the Equal Retirement Age Law 1987. The new Retirement Age Law that was enacted in 2004 replaced the Equal Retirement Age Law.

³² On the diverse types of flexibility and security see supra note 36.

job security in a workplace.³³ Although the civil service regulation and most general collective agreements still provide tenure tracks fewer workers are subject to them today.³⁴

Since 1995 Israeli governments have passed major pension reforms which led to a privatized Defined Contribution occupational system (DC) in place of the former Defined Benefit (The first pillar of pension benefits are still provided by the state on a universal basis). The governments barely consulted the unions prior to the reforms. In the privatized DC pension system Israeli workers can hardly predict the amount of pension they will receive. Due to the increase in life expectancy, the Israeli Knesset lifted the retirement age to 70 for both men and women and reduced the eligibility to costly early retirement schemes forcing workers to stay in the labour market more years in order to receive barely adequate pension benefits.³⁵ And yet the Israeli labour market does not offer many options of employment for workers who have reached older age (some even suggest "older" to be over 40).

Theoretically the loss in job security could be compensated by other forms of security such as employment security, occupational security or income security.³⁶ But while the former balance between flexibility and security is not maintained anymore the Israeli governments and legislators did not replace it with a new balance, and there

³³ Cf. ERIK DE GIER & AXEL VAN DEN BERG, *MANAGING SOCIAL RISKS TROUGH TRANSITIONAL LABOUR MARKETS* 25 (2005).

³⁴ Moreover, while all of the collective agreements in the public sector provide strong job security, most collective agreements in the private sector do not require consultation with the labour union prior to the dismissal and only require the employer to have a reasonable cause.

³⁵ Retirement Age Law - 2004

³⁶ Ton Wilthagen writes about four types of security (job, employment, income, combination) and four types of flexibility (external and internal numerical, functional flexibility and pay or wage flexibility). Guy Standing defines another three types of security: employability, representation and workplace security. See Rudd Muffels, *Flexibility and Employment Security in Europe: Setting the Scence, FLEXIBILITY AND EMPLOYMENT SECURITY IN EUROPE – LABOUR MARKETS IN TRANSITION* 3, 13 (Rudd JA Muffels ed., 2008); GUY STANDING, *GLOBAL LABOUR FLEXIBILITY* (1999); Frank Tros, *Flexicurity and HR-strategies for Older Workers: A Comparative Appraisal of Four European Countries* 7 (2005) www.siswo.uva.nl/tlm/root_files/WorkP05-13Tros.pdf.

are no signs of policy convergence with the (2007) European Flexicurity Expert Group recommendations: Flexible and secure contractual arrangements and work organizations; Effective active labour market policies; Reliable and Responsive lifelong learning systems; Modern social security systems.³⁷

Although Israel is not part of the European Union, and Israeli legislators did not endorse these four recommendations, Israel's collective agreements with regard to retirement follow these principles in several respects: First, with regard to achieving *responsive lifelong learning systems*: The Israeli civil service regulations and several collective agreements provide options to obtain training and education during several periods in a worker's career. In some sectors collective agreements provide a right for a year (sabbatical) of paid leave. Although these practices are not targeted towards senior workers they do play an important role in keeping them within the labour market and increase their employability.³⁸ The universalistic basis of these lifelong learning schemes minimizes any stigmatizing of senior workers.³⁹ Second, with regard to creating a *modern social security system*: In 2007 Israel's social partners signed a collective agreement that was extended by order of the labour minister. The collective agreement provides mandatory occupational pension to all Israeli workers. Third, with regard to achieving *effective active labour market policies*: Although Israel's collective agreements and civil service regulations do not include a right for part time retirement they do include special jobs for senior workers.⁴⁰ Finally, Israel's social partners have made several efforts to facilitate the transition between work and

³⁷ *Flexicurity Pathways: Turning Hurdles into Stepping Stones* (Report by the European Expert Group on Flexicurity, June 2007)[<http://ec.europa.eu/social/main.jsp?catId=117&langId=en>].

³⁸ On lifelong learning see ERIK DE GIER & AXEL VAN DEN BERG , supra note 33, 37- 41.

³⁹ The meaning of universal here is that the programs are open to all employees in the workplace and are not targeted only to senior workers. Another advantage of these programs is that they enable employers to receive profits on their expenditures. Cf. De Koning J. and A. Gelderblom, supra note 7.

retirement.⁴¹ In 1993 the social partners signed a general collective agreement which provides senior workers consultation with regard to retirement possibilities.⁴² The civil service regulation and many collective agreements encourage social connections between pensioners and the workplace.⁴³

A closer look at the Flexicurity balance of Israel's social partners reveals the limitations of social dialogue in a liberal post-fordist regime. An examination of the Israeli Flexicurity balance also reveals the limitations of the recommendations of the European Flexicurity Expert Group. Social dialogue was a key part of the European Flexicurity Expert Group recommendations. The Israeli social partners, who designed Israel's retirement law through collective agreements, increased the segmentation of the Israeli labour market benefiting some while worsening the lot of others. Due to the sharp decline in recent years in the coverage of collective agreements only a very small portion of Israeli senior and younger workers now enjoy the new Flexicurity balance, which includes lifelong learning arrangements and a right to move to a new job during old age. The relatively few workers that enjoy these arrangements enjoy job security as well and are therefore not greatly threatened by social exclusion. On the other hand, the weaker non-unionized Israeli workers who work without job security do not enjoy the benefits of the new Flexicurity balance.

The new mandatory occupational pension arrangement had the potential to achieve a new income security for non-unionized workers. The extended collective agreement however mostly worsened the situation for weaker unprotected workers who were not represented in the negotiations. The social partners and the labour minister (who signed the extension order) forced weak non-unionized workers to

⁴¹ In a way that reflects the recommendations of the TLM network. See ERIK DE GIER & AXEL VAN DEN BERG, *supra* note 33, 60-63.

⁴² N. 7012/93 A General Collective Agreement on Retirement Preparation (15.3.93).

⁴³ The Civil Service Regulation, article 82.

allocate money for pension from their low salaries during their working period in exchange for a very poor pension during retirement. Moreover – as I show broadly elsewhere – the new pension arrangement does not properly cover workers during labour market transitions.

5. Conclusion

One of the ancient moral warnings in the bible is: *Do not cast me off in the time of old age* (Psalms, 71:8-9). In this paper I expose the ways in which Israeli law deals with the time of old age and with those who have grown grey. More precisely, this paper is the first analysis of the Israeli transition between work and retirement using TLM and Flexicurity frameworks. I found a great difference between regulation through legislation and regulation through collective agreements of the transition between work and retirement.

One might have expected the state to create through legislation a new balance that corresponds to the new liberal post-fordist regime. That has not transpired. Instead, as I have shown here, the Israeli social partners – unlike the legislators and the executive branch – took the lead and are the ones that constituted a new Flexicurity balance. This new social dialogue-produced-balance seems to follow along a similar (although not an identical) path as the one recommended by the European Union.⁴⁴

The creation of a new Flexicurity balance through collective agreements proves that although the Israeli social partners lost much of their power, they still have the strength to create an Israeli retirement policy. Theoretically, the Israeli case could have served as another proof of the importance of social dialogue in the creation

⁴⁴ *Flexicurity Pathways: Turning Hurdles into Stepping Stones* (Report by the European Expert Group on Flexicurity, June 2007)[<http://ec.europa.eu/social/main.jsp?catId=117&langId=en>].

of a retirement and social policy. This point echoes the writings of many researchers, who wrote about the importance of social dialogue in the creation of a new Flexicurity policy. Although Israel's social partners were not directly aware of the Flexicurity Group Recommendations, by using the tool of social dialogue – recommended by the group – they managed to reach a new Flexicurity balance. But, the Israeli case-study also emphasizes the limitations of social dialogue in a liberal post-fordist regime with low union membership. The most vulnerable Israeli workers were not represented in the social dialogue and the new Flexicurity balance does not apply to them. The results of the new Flexicurity balance in Israel were therefore an increase in labour market segmentation. The Israeli retirement case-study raises difficult questions about the ways to achieve a new Flexicurity balance in a liberal post-fordist regime: Could the legislators alone provide Flexicurity arrangements? What is the place of social dialogue in a liberal Post-Fordist regime? Who should take part in this dialogue, only traditional social partners or perhaps new interest groups as well?