

SHADOW REPORT

Suggested Issues for Consideration Regarding Israel's 6th
Periodic Report to the UN Committee on the Elimination of Discrimination against
Women (CEDAW)

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Submitted by:
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Israel Religious Action Center (IRAC)

The public and legal advocacy arm of the Reform Movement in Israel, IRAC was founded in 1987 with the goals of advancing pluralism in Israeli society and defending the freedoms of conscience, faith, and religion. Today IRAC is the preeminent civil and human rights organization in Israel focusing on the issues of religion and state and is the leading Jewish organization that advocates on behalf of a broadly inclusive Israeli democracy, infusing social justice advocacy with the spiritual energy and humane worldview of Progressive Judaism. For the past decade, IRAC has been the leading Israeli organization dealing with the phenomenon of exclusion of women and segregation between men and women in the public sphere.

Question 14 – Participation in Political and Public Life

In response to this question, the State has referred to the report of the Inter ministerial team to prevent the exclusion of women from the public sphere (hereinafter: "the report").

At the outset, it should be noted that IRAC has been fighting exclusion of women and segregation between men and women in the public sphere since 2002.¹ In the past 20 years, radical elements within the Ultra Orthodox society demanded segregation between men and women in the public sphere, relying on modesty requirements. The State responded by accepting those requirements – which were opposed not only by the secular public but also by many Ultra Orthodox, who felt this is an "invented tradition" which was never practiced anywhere and anytime in Jewish history.

After years of ignoring the subject, the abovementioned report signaled that the State has finally understood the grave infringements of basic rights of equality and human dignity embedded in such practices, which convey the message that the mere presence of a woman in a public place causes harm to others. The report unequivocally stated that practices of gender segregation are illegal under Israeli law and should be abolished.

Since the publication of this report, IRAC has been working hand in hand with the deputy Attorney General in order to enforce the recommendations of the report. While there have been improvements in some areas, in other contexts gender segregation remains a continuing problem.

The 2016 State comptroller's report no. 67B (published May 2017) addressed the issue of exclusion of women in the public sphere and criticized the State for not fully enforcing the abovementioned report. The State comptroller remarked that the State failed to initiate criminal proceedings in cases of discrimination (although discrimination in public services and public places is considered a criminal offence under Israeli law), and in general refrained from initiating systematic and effective actions against exclusion of women, thereby leaving the matter to the discretion of each governmental ministry. The State Comptroller stated this reflects **a passive and inadequate approach which does not fulfill the State obligations under international treaties.**

In addition, recently, due to pressure exerted by the Ultra Orthodox parties, the Attorney General decided to backtrack from the Justice Ministry's firm attitude fighting exclusion of women. **This signals a dangerous turn of events, which might cause a grave setback to the struggle against gender segregation in the public sphere.** Please see attached an article by C.L. "In Backtrack, Israel to Go Soft on Inclusion of Women in Public Sphere", Haaretz, September 28, 2017.²

In Annex I, the State has detailed concrete steps taken following this report in a variety of contexts, which will be addressed below.

Segregation on buses

¹ 2011 Report published by IRAC on the issue of gender segregation:
<http://www.irac.org/userfiles/Excluded.%20For%20God's%20Sake%20-%20Report%20on%20Gender%20Segregation%20in%20the%20Public%20Sphere%20in%20Israel.pdf>

² <https://www.haaretz.com/israel-news/.premium-1.814686>

On 2007, IRAC filed a petition to the High Court of Justice, regarding segregated bus lines, where men boarded from the front door and sat at front of the bus, and women boarded from the back door and sat at the back of the bus. Women who did not obey the rules were subject to verbal and physical harassment (HJC 746/07).

On 2011, the Supreme Court accepted our petition and declared gender segregation on public buses illegal. However, even after the decision, bus drivers continued to order women to move to the back of the bus – in contradiction to the Supreme Court's decision. We assisted 7 women in filing civil suits against the bus companies and bus drivers, demanding damages under the Prohibition on Discrimination Law. Most of the suits were accepted by the courts, which ordered the bus companies and the bus drivers to pay damages to the plaintiffs in amounts ranging between 2,500 NIS – 13,000 NIS. Today bus drivers rarely ask a woman to move to the back of the bus, but passengers sometimes harass a woman who refuses to move back.

The Ministry of Transportation must continue monitoring bus lines which were formerly segregated in order to make sure no segregation is forced upon the passengers, and that bus drivers assist women who are being harassed because they refuse to move to the back of the bus.

Segregation on Flights

In recent years there is a growing phenomenon where Ultra Orthodox passengers refuse to sit next to women on flights. The flight attendants ask women to switch seats, thereby causing humiliation and agony to a woman who was asked to move solely because of her gender.

In June 2017, the court accepted a suit IRAC filed on behalf of a woman who was ordered to change her seat on an El Al flight, at the request of an ultra orthodox passenger, due to her gender. El Al was ordered to pay damages to the plaintiff and to instruct all its employees as to the need to treat all passengers equally and to refrain from asking a passenger to switch seats due to his or her gender (C.C. 15488-03-16).

Segregation in cemeteries

Most cemeteries in Israel are operated by religious burial companies, which often try to enforce gender segregation in funerals and sometimes do not allow women to eulogize their loved ones.

Since the circular by the Ministry of Religious Services has been issued in 2013 – which prohibited gender segregation in funerals and allowed women to give eulogies during the ceremony – IRAC has been monitoring cemeteries to make sure that the circular is being enforced.

We have filed complaints regarding infringements of the circular in the following cemeteries: Ofakim, Beer Sheba, Bnei Brak, Herzliya, Hadera, Maale Adumim, Atlit, Petach Tikva, Netanya, Pardes Hana, Shlomi, Yokneam, and Jerusalem & Rehovot (those two last cities were the subject of the legal proceeding mentioned in Annex I – c.c. 38824-07-14). Following our complaints, segregation practices have ceased in these locations. In one court case (S.C.C. 33424-02-12) where the plaintiff was not allowed to eulogize her father, the burial company was ordered to pay damages in the amount of 33,000 NIS.

However, we have no information regarding the situation in other cemeteries in Israel. **The Ministry of Religious Services should monitor the situation in all cemeteries to make sure segregation is not practiced and women receive equal treatment.**

Segregation in Health Clinics

Up until the guideline of the Ministry of Health was published in June 2013, some health clinics had segregated entrances, segregated waiting areas or segregated buildings. In some places there were modesty signs, requiring patients to dress modestly while entering the clinic. The 2013 guideline ordered the abolition of separate buildings and entrances and allowed segregated waiting areas as long as there is a mixed waiting area as well. An additional 2014 guideline ordered all modesty signs taken down.

IRAC has filed complaints regarding segregation and modesty requirements in health clinics in Jerusalem, Beit Shemesh, Bnei Brak, Netanya and Ashdod.

The Health Ministry should monitor the different health clinics to make sure segregation and modesty requirements are not being enforced on either the patients or the workforce.

Exclusion of female images in advertisements

In some cities (i.e. Jerusalem, Bnei Brak, Beit Shemesh) female images are not being shown at all in advertisements posted on billboards, on buses or in advertisements inside health clinics, due to an intentional policy of either the municipality, the bus company or the health clinic, of excluding images of women because of modesty requirements and so as not to offend the Ultra Orthodox public.

After a legal process conducted a few years ago (HJC 39/12), buses in Jerusalem began showing female images on advertisements posted on buses. However, some cities (e.g. Bnei Brak) retain their policy of not showing female images of women. In addition, oftentimes female images on public billboards (e.g. in Jerusalem) have been defaced and no sanctions have been taken against the criminals by the municipality or the police.

Modesty Signs

In Beit Shemesh, huge signs are hung in central locations demanding all women to dress modestly, or to refrain from walking on the sidewalk near a synagogue. Women who are not dressed modestly enough – in the eyes of extremists – have been verbally and physically attacked – cursed and spat upon, stones thrown at them, etc.

IRAC has filed a civil suit for damages against the Beit Shemesh Municipality on behalf of 4 Orthodox women living in Beit Shemesh. On January 2015, the court accepted the suit and ordered the municipality to pay damages in the sum of 60,000 NIS (c.c. 41269-02-13).

Since the signs were not taken down by the municipality we filed another petition which was accepted by the court on June 2016 (petition 49319-05-15). The municipality did not obey the court's decision. Therefore, we filed a request under the Contempt of Court Law, which was accepted and the municipality was ordered to pay a fine of 10,000 NIS a day until the signs are

taken down. The municipality appealed this decision to the Supreme Court. The appeal is still pending. 5 signs are still hanging in the streets of Beit Shemesh.

Modesty signs also exist in the Ultra Orthodox Jerusalem neighborhood of Mea Shearim. The municipality refuses to take the signs down, since they have been posted many years ago.

Segregation in Public Libraries

In Jerusalem, 9 public libraries operate in a segregated manner – the opening hours are divided between men (and boys) and women (and girls).

Complaints filed by us to the Municipality did not elicit any response and the segregation remains.

Segregation in Conferences and Events

Segregation occurs in some municipal events, mainly in Jerusalem, where the municipality offers segregated events aimed at the Ultra Orthodox population. Under the report, gender segregation is allowed only in religious events, involving a ritual ceremony. In practice, many cultural events (concerts, summer activities) are offered in a segregated manner, and sometimes even offered to men only, thereby excluding women altogether.

Segregation at the Western Wall

For over 30 years, Women of the Wall – a group of Orthodox, Conservative and Reform women – have been praying at the women's section of the western wall every new moon – the beginning of the Jewish month. They have been subject to continuous harassment because they pray out loud, read from the Torah and wear prayer shawls – practices that Ultra Orthodox find unacceptable when practiced by women. The police and the ushers of the Western Wall Heritage Foundation fail to protect Women of the Wall and to allow them to practice their right to pray according to their beliefs. In addition, the Reform and Conservative movements conduct non segregated prayers and currently do not have a proper and respectable area at the western wall to do so, since the main plaza is separated to e men's sections and a women's section and there is no respectable mixed section which is a part of the holiest site of the Jewish people.

On January 2016, the Israeli government passed a decision, according to which an egalitarian section would be built at Robinson's arch, which is next to the main plaza of the wall. The egalitarian plaza would be part of the Western Wall and would be managed by a council in which both Women of the Wall and the Reform and Conservative movements would have representatives.

However, after the decision passed, public outcry by the Ultra Orthodox caused the government to freeze its previous decision, thereby preserving the discrimination practiced against women and non Orthodox Jews) who wish to pray at the western wall in a non Orthodox manner and currently do not have a proper and respectable solution.

A petition in this regard is pending before the Supreme Court (HJC 145/13).

Segregation in the Army

In recent years, in order to encourage ultra Orthodox men to join the Israeli army, the IDF promises Ultra Orthodox soldiers that they would have "women free" service, i.e., they would serve in bases where women are not allowed to enter and they would not have a woman commander.

Religious soldiers are entitled to refrain from being in physical contact with a female soldier, or from being in a situation where a male soldier would be alone with a female soldier. In combat units, religious soldiers (but not officers) are entitled to serve in male - only units.

Complaints lodged with the army have not yielded any change in this policy, which gravely infringes upon the rights of female soldiers.

Exclusion of Women on a public Radio Station

In 2009, Kol Beramah – an Ultra Orthodox radio station – received a license by the state and began its broadcasts. The policy of the station was complete exclusion of women – no women were allowed on air. Whereas there is a religious debate in Jewish law as to whether one is allowed to hear a woman's voice singing, there is no religious rule barring one to hear a woman talk. Nevertheless, the radio station practiced this discriminatory practice, excluding women altogether from its broadcasts.

On August 2012, IRAC has filed a class action suit, on behalf of Kolech – a feminist orthodox organization, against the radio station. On September 2014, the district court decided that the case is suitable to be heard as a class action, and that the station violated the Prohibition on Discrimination Law. An appeal by the Station to the Supreme Court was rejected. The Supreme Court ruled that exclusion of women from the station is illegal (Rq. C. A. 6897/14).

The case is still being heard before the district court regarding the amount of damages the station should pay to the group of women who were hurt by the discrimination.

As of January 2014, the station changed its policy and is allowing women to be heard on its broadcasts. There are only 2 female anchors among the station's 40 anchors.

Question 18 – Higher Education

Maharim Program

The State includes details about the "Maharim program" – 15 special campuses for the Ultra Orthodox community which were established in the last 5 years – but fails to mention that these campuses are segregated in two ways:

1. Ultra Orthodox campuses which are segregated from the general campus serving the general public; and
2. Gender segregated campuses – complete separation of male students from female students.

In addition, Female lecturers are not allowed to teach male students, while male lecturers are allowed to teach students of both sexes. For instance, IRAC filed a complaint regarding a woman who was denied a job because of her gender, since the students were ultra orthodox men.

Recently, the Council for Higher Education decided to extend the Maharim program for an additional 5 years, thereby continuing the segregation and exclusion of women for an

additional significant period. A petition in this regard is pending before the Supreme Court (HJC 6500/17).

Question 21 – Health

A few religious hospitals employ discriminatory practices on religious grounds:

1. IVF proceedings were offered only to couples married under religious law. Couples married in a civil ceremony, unmarried couples or single women - were denied the treatment.
2. Refusal to conduct abortions.
3. The process of tubal ligation was conditioned upon an approval of the hospital's Rabbi.

The Health Ministry failed to intervene despite complaints.

In Backtrack, Israel to Go Soft on Inclusion of Women in Public Sphere

Under pressure from ultra-Orthodox, attorney general agrees policy should be 'more suited' to religious way of life

C.L Sep 28, 2017 1:55 AM

Attorney General A.M. has come to an agreement with heads of the religious and ultra-Orthodox parties to soften the Justice Ministry's policy on the inclusion of women in a meeting Wednesday, so that it would be "more suited to the religious and ultra-Orthodox way of life".

At the meeting, lawmaker, Interior Minister and United Torah Judaism lawmaker threatened to advance legislation that would codify the religious public's right to hold gender-segregated events. Justice Minister A.S backed their position.

In the end M., agreed to formulate a policy that will less stringently interpret the 2013 government decision on the matter. All in attendance also agreed that there would be no public statements on the issue, so as not to disrupt the implementation of the new policy.

Following considerable publicity of a series of incidents involving issue of women's exclusion from the public sphere, such as women being banned from Haredi radio broadcasts and the ban on ads featuring women on buses, then-Justice Minister T.L and then-Culture Minister L.L decided to take on the issue in 2013.

The attorney general set up a committee of jurists that formulated recommendations, which were adopted by the cabinet. Deputy Attorney General D.Z was tasked with implementing the recommendations.

D.Z was vigorous in her enforcement approach, angering the religious parties. For example, last year, when Haaretz revealed that a pre-Yom Kippur prayer gathering in Rabin Square was to feature only male singers, D.Z told Tel Aviv Mayor R.H that the city should not have issued a permit for the event, which was eventually canceled due to the controversy.

That same summer D.Z instructed the Jerusalem municipality to include women singers in a public prayer event, ordered a divider between men and women removed at a second Simchat Torah event and even reprimanded local authorities for maintaining separate beaches for men and women.