

# **I S R A E L**

**Updated Shadow Report information**

**by**

**The Ruth and Emanuel Rackman Center  
For the Advancement of the Status of Women**

*With the support of the EU*

**Assessing Israel's progress in implementing the International  
Convention on the Elimination of All Forms of Discrimination  
Against Women (CEDAW), With a focus on Article 16**

**For the CEDAW 68<sup>th</sup> session  
(23 October -17 November 2017)**

**October 2017**

*This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of the Rackman Center and can under no circumstances be regarded as reflecting the position of the European Union*

## **Abstract of the Shadow Report submitted by Rackman Center in June 2016**

### **Updated for October 2017**

The Rackman Center for the Advancement of the Status of Women was founded in 2001 in order to promote the status of women in family law, and to put an end to gender discrimination and inequality in Israeli society. The Center is a legal-social institution functioning within the academic establishment and dealing with the promotion gender justice in family law in Israel, while remaining committed to Jewish values and to the principles of Israel as a Jewish and democratic state.

In June 2016, Rackman Center submitted to the Committee a shadow report, relating mainly to article 16 of the convention. The detailed report comprised an updated review of the principal problems in Israeli Family Law. In November 2016, The Committee sent a list of issues for Israel's reference and in June 2017, Israel presented The Committee with the sixth report on its behalf.

This abstract of the report submitted in June 2016 was put together in preparation for The Committee's meeting due in October 2017. It refers to the state's response on issues of marriage and family relations.

For further details and references, please consult the full report available on The Committee's website.<sup>1</sup>

### **1. Introduction**

Israel signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1980 and ratified it in 1991, subject to its reservations to Articles 7(b) and 16 of the Convention. To this day, Israel has submitted to the Committee six reports. The last report was submitted on June 15<sup>th</sup>, 2017.

Throughout the years, The Committee has given Israel several recommendations regarding issues of marriage and Family Law, but none of them was implemented - except for raising the minimum age of marriage to 18 years (to be detailed below).

---

<sup>1</sup>  
[http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ISR/INT\\_CEDAW\\_NGO\\_ISR\\_24219\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ISR/INT_CEDAW_NGO_ISR_24219_E.pdf)

## **2. Background information – the law governing marriage and divorce in Israel**

In Israel, Marriage and divorce are conducted according to the personal law which applies to each individual. The personal law applying to Israeli citizens is usually determined in accordance with the religious community to which they belong, and is actually the religious law of this religious community. For example, the personal law of Jews is the Torah Law (*halacha*), which reflects the Orthodox perception of the Jewish law. The practical implication of the above said is that there is no option for civil marriage and divorce in the State of Israel – these are governed by the religious law alone.<sup>2</sup>

The construction of gender in the Jewish law of marriage and divorce, as it is understood and practiced in rabbinical courts in Israel, results in unequivocal inferiority of women. In a nutshell, Jewish law conceives of marriage as a unilateral transaction in which the man betroths the woman, while the opposite doesn't apply. This sanctions inequality and discrimination regarding spousal obligations and rights during the course of marriage, as well as harsh limitations over the process of divorce, with harmful consequences to women.<sup>3</sup>

Another unique problem in Israel is the race for jurisdiction. As noted above, the State of Israel granted the religious courts exclusive jurisdiction over matters of marriage and divorce. However, there are many issues to be settled beyond the divorce itself, such as the division of property, alimony, child support, child custody, child education, etc. According to Israeli law, the Civil Court has jurisdiction parallel to that of the rabbinical courts over these matters. Practically, this means that filing a lawsuit at one court prevents the other from addressing the issue.

The choice of forum is likely to have critical significance for the debating parties, since the legal tools used by the courts and religious tribunals, as well as rules of procedure, rules of evidence and the worldview of the presiding judges in the two instances are unequivocally different. This has a direct impact on the courts' ruling. As a result of the above, each one of the divorcing parties rushes to be the first to file a suit in the legal forum perceived by it as the more favorable regarding his or her case. This process is called The Race for Jurisdiction, and it is problematic in many respects. Among other things, it prevents the opportunity to settle the dispute using alternative methods. Lawyers are obliged to recommend that their client file a suit as soon as possible, in order to avoid the other party's choice of forum, and this naturally escalates the conflict to a point of no return. In addition, filing suits regarding the related issues in the religious courts is often used in order to establish an artificial barrier between the woman and the civil court, thus pressuring women to give up rights they are entitled to under the general law for the sake of obtaining the divorce itself.

---

<sup>2</sup>Except of couples which both spouses have no religion. As of 2010 couples who has no religion can register in at the Civil Marriage Registrar. Couples who belongs to different ethnic communities can divorce at the Family civil courts.

<sup>3</sup> Halperin-Kaddari, Ruth. 2000. "Gender Construction under Halachic Marriage and Divorce Laws," Talpiot, Vol. 22, pp. 451-464 (Hebrew).

It should be noted that at the end of 2014, the Litigation Settlement for Family Disputes Law (An early settlement of the conflict), 2014, was enacted, and is now in effect. This law was originally intended to prevent the jurisdiction race described above, but it in fact creates a new form of jurisdiction race (more details on that matter can be found in the June 2016 report).

The above-portrayed legal condition sets the stage for many problematic phenomena in Israeli Family Law. We will now address, in short, the issues referred to in the June 2016 shadow report, while focusing on matters presented to Israel in question no. 24 (in the “List of issues and questions prior to the submission of the sixth periodic report of Israel”) – regarding marriage and family relations.

### **3. Gett Refusal**

According to the Jewish religious law, both spouses need to give their consent to the divorce. Since the Jewish religious law is the applicable law when dealing with divorce of Jews in Israel, the result is that today there is hardly a way to dissolve marriages of Jews in Israel without the consent of both spouses. While a man deprived of a consented divorce can carry on with his life uninterruptedly and even remarry (in exceptional cases), a woman devoid of the right to divorce (Gett) faces severe sanctions. If she gives birth to another man's child, this child will be considered a “*Mamzer*”- a status entailing a number of sanctions, including the inability to marry within the Jewish community, except with other bastards or converts. This is while children fathered by a married man outside the marriage, prior to his divorce, are not stigmatized. A woman who is deprived of a Gett is called *Agunah* or *Mesorevet Gett* (For further details please consult the full report).

The plight of an *Agunah* or *Mesorevet Gett* is indeed the most extreme expression of women's inferiority under Jewish family law. But not only women who end up as *Agunah* or *Mesorevet-Gett* are affected. Giving the husband the power to refuse a divorce and "bargain" it leads to the abuse of this superior power against many divorcing women. Some of them are actually extorted by their husbands and forced to renounce their legal rights and make financial concessions in exchange for a divorce.<sup>4</sup>

There are some solutions to the problem within the religious law – ways to “skip” the demand for the husband's consent to the Gett – but the rabbinical courts refrain from using them.

The Rabbinical Courts Law (enforcement of divorce judgments), 1995 ("the Sanctions Act") was enacted in order to help the courts compel refusing spouses to grant their wives a Gett. This law allows the court to impose various sanctions on the refusing spouse. However,

---

<sup>4</sup> As mentioned above, women too can refuse a divorce, but their extortion power is limited. It is assumed that some of the recalcitrant wives simply refuse the husband's demand that they would give up their legal rights in exchange for a divorce [See: Halperin-Kaddari R., *The Missing Women's Enigma: The Scope of the Get Refusals Predicament in Israel*, **Being A Jewish Woman** (Vol.5, Tovah Cohen ed.) (2009) 83-95]

according to data collected by Rackman Center in relation to the degree of implementation of the Sanctions Act,<sup>5</sup> it is evident that The Sanctions Act is currently not applied or implemented by the rabbinical courts in a manner that properly addresses the issue of Gett refusal in Israel.

The Gett refusal department, which was established a few years ago within the rabbinical courts, deals mainly with locating Gett refusers whose place of residence is unknown. Despite its efforts and achievements in settling several Gett refusal cases, the department has not succeeded in reducing the number of Agunah cases in Israel.

In November 2016, the state attorney issued a directive regarding the policy of prosecution and sanctions against violators of rabbinical court's orders to grant a Gett. While this directive clearly indicates that the state acknowledges the problem, it does not constitute a sufficient solution for it. Its first shortcoming is the fact that it only refers to Forced Gett decisions, which are quite rare – in most cases the rabbinical courts order a Recommended or Obligatory Gett. Moreover, it is unlikely that persistent Gett refusers, who violate a Forced Gett order and are not deterred even by civil incarceration, will be discouraged by a criminal sanction. Furthermore, the problem cannot really be solved as long as the power to grant a Gett is reserved solely to men. Only a solution allowing for the termination of marriage even without both parties' consent could decrease the number of Agunah cases in Israel.

Two grave and far-reaching trends have developed in recent years in the rulings of the rabbinical courts. The first is the legitimization of posing conditions for the provision of a divorce. Typically, the conditions have to do with monetary issues, such as a husband's demand that the woman waives payments already ruled in her favor. In such cases, once the husband sets conditions on granting a divorce, he is considered as the willing party, and the woman herself is considered to be a recalcitrant party. The second and more severe trend we witness is the practice of retroactive divorce cancellation. Today, the rabbinical courts reserve the right to revoke a woman's divorce retroactively, even when the husband had already remarried. The state claims this is not a commonly practiced procedure – and indeed it is not - but the fact remains that Gett cancellation is still a legitimate option in the rabbinical courts.

**Rackman Center recommends:**

1. It is recommended to increase the courts' practice of their powers according to the Sanctions Act to apply sanctions against recalcitrant husbands who refuse to divorce.
2. It is recommended to transfer the procedural burden for the implementation of the Sanctions Act from the women to the rabbinical courts. If the husband doesn't grant his wife a divorce within two months after the ruling is given, the court should activate the sanctions without requiring the wife's involvement in the procedure.

---

<sup>5</sup> Halperin-Kaddari R, Adelstein-Zekback T., Pi Project: Supervision Enforcement and Implementation of Family Law in Israel; Report No. 1 ,The Rabbinical Courts Law (implementation of Divorce Judgments), 1995,The Ruth and Emanuel Rackman Center, Bar Ilan University.

3. It is recommended to establish a system within the courts that would follow-up on extra-long proceedings, as well as oversee and monitor the restriction orders given, and the degree of implementation of the Sanctions Law.
4. It is recommended to publish the Rabbinical Courts' decisions, in order to increase criticism and prevent legitimization of divorce extortions.

#### **4. Civil marriage in Israel**

Since matters of marriage and divorce are handled exclusively by the religious courts of the religious communities, there is no legal option to marry in Israel in a civil ceremony recognized by the state. As a result, couples who do not wish to marry in a religious ceremony or are not allowed to do so because of religious restrictions cannot marry in Israel.

One possible solution for that problem is to marry abroad in a civil ceremony. But although Israel recognizes marriages conducted abroad, it does not allow the couples to divorce in a civil procedure within its domain (in case both spouses belong to the same religion). A couple married abroad and registered as married in Israel is required to divorce in the religious courts of Israel.

The Israeli government does not promote the option of civil marriage in Israel.

**Rackman Center recommends** to enact a law allowing for civil marriage in Israel and ensuring all citizens complete freedom of choice between civil marriage and religious marriage.

#### **5. A growing number of court decisions for joint custody and the abolishment of the Tender Years Presumption**

Custody of children in Israel is regulated by the Legal Capacity and Guardianship Law - 1962, according to which in the absence of an agreement between the parents regarding the custody of the child, the court may determine the physical custody "provided that children up to the age of six shall be with their mother, as long as there are no unusual circumstances to determine otherwise." This provision, known as the "Tender Years Presumption", determines that in most cases the best interest of a child up to the age of six is to be in his mother's physical custody, but the presumption can be contradicted in specific cases.<sup>6</sup> Legal custody (lately referred to as parental responsibility) is always equally shared between both parents, regardless of the physical custody.

In 2005, the Minister of Justice established a public committee that was requested to examine the existing rules for sharing and dividing parental responsibility when the parents live apart, whether it be for reasons of separation and divorce or because the parents never lived

---

<sup>6</sup> In Israel, unlike other countries, guardianship of children is of both parents, and in case they do not live together they may agree on who will be the child's guardian. Guardianship can be determined regardless of the question of custody.

together from the onset ("Schnitt Committee"). In 2011, the Schnitt Committee submitted its conclusions. The Committee recommended to abolish the Tender Years Presumption and replace it with a joint parental responsibility arrangement that would be determined according to the best interest of the child and various parameters such as the child's needs and wishes, the parental qualities of each parent, the extent to which each parent cared for the child in the past, and the parents' willingness and ability to enable a relationship between the child and the other parent. Additionally, the Committee recommended the abolition of the "custodial parent" construct, and a change of the custody law terminology currently in effect. In 2012, the Ministry of Justice published a law memorandum which adopted the Committee's recommendations.

The Schnitt Committee's recommendations and the memorandum have not yet become a binding law in Israel, but their publication did in fact create a substantial change: the status of the Tender Years Presumption among experts and social workers preparing custody evaluations for the courts dramatically diminished, leading to a growing number of recommendations for joint custody. Judges were influenced in a similar manner, and began to rule in favor of joint physical custody even when the parental conflicts were great and there were serious communication problems between parents, amounting sometimes to total disconnection<sup>7</sup>. In addition, the actual number of custody disputes in Israel has increased, particularly where one of the parents demanded joint custody. All of this happens despite the current social reality in Israel, where women are still the primary caretakers of their children.<sup>8</sup>

Along with joint custody rulings, Family Courts have significantly decreased the amounts of child support payments in cases of joint custody. Since the amount of child support that a husband should pay his children has a direct effect on his economic situation, it seems that some fathers have begun to use custody suits as a tool for reducing the amount of child support they are required to pay (the more time a father spends with his children, the less child support he has to pay), or as a tool to extort economic concessions from women. The supreme court expressed this concern in a decision given recently by an extended tribunal (919/15), and ruled that before a joint custody is granted the courts must make sure that the application was submitted for genuine reasons.

---

<sup>7</sup> See: FamC 26751/09 N.L. v. A.L. (11.1.13), FamC 1701/05 G.H v. G.D. (12.2.08) and FamC 16291-10-09 R.S. v. N.Y. (3.4.13) but this judgment was revoked in a later discussion, FamC 56895-05-12 N.Y. v. R.Y. (26.10.14) This ruling contradicts the District Court's ruling regarding the essential conditions for joint custody: nearby residences, good communication between the parents etc. see FamA (TA) 55785-02-12 (20.9.12) K.S v. A.S. Nevo Legal Database (By subscription, in Hebrew) It should be noted that in situations of grave conflict between the parents, joint custody arrangements were found to be the worse for children, see Haker D., Halperin-Kaddari R., Decision rules in custody disputes - on the dangers of the Parent likelihood illusion in gendered reality, Law and Governance 2013, p. 152-153, and McIntosh, J. E., Smyth, B., & Keleher, M. (2010). Parenting arrangements post-separation: Patterns and outcomes, Pt. II: Relationships between overnight care patterns and psycho-emotional development in infants and young children. North Carlton, Australia: Family Transitions.

<sup>8</sup> Herbst A., Kaplan A., self-processing of data from scientific research made by B.Y. and Lucil Cohen Institute within an International Project examining the division of labor in the family .International Social Survey Program (ISSP) , 2012

**Rackman Center recommends that:**

1. Before making a decision about custody, the judges must take into account allegations of domestic violence.
2. The Tender Years Presumption should not be abolished without setting a legal alternative that would ensure stability and certainty, prevent lengthy procedures that are harmful to women and children, and prevent extortion of women.

## **6. Marriage of minors**

Most religious communities in Israel acknowledge marriage of minors. According to reports made to the authorities, 4,000 minors get married in Israel every year. These figures do not necessarily reflect the full scope of the phenomenon, since not all those who marry in violation of the law inform the population registry about their marriage. The result is a huge gap between the actual number of cases of underage marriages and the number reported to the authorities.

In order to struggle with this phenomenon, The Marriage Age Law-1950 ("The Marriage Age Law") was amended in 2013 to the effect that minimum marriage age was raised from 17 to 18. The amendment also added four important components to the law: (1) The age of 16 was set to be the youngest possible age for submitting marriage permit applications (2) It was decided that pregnancy will no longer be considered a unique circumstance that justifies underage marriage. (3) The state authorities were required to provide the Israeli parliament with an annual report about the application and enforcement of the Marriage Age law. (4) The legal treatment of offenses under the Marriage Age law has been transferred from the police to the state attorney office.

These amendments reflect the state's intolerance towards underage marriage, and its willingness to fight the phenomenon. However, the implementation of the law is met with great difficulties, and it seems that significant resources and efforts will be needed in order to make the law effective. Thus, for example, the law states that marriages conducted in violation of the law constitute grounds for filing a request to dissolve the marriage, and that those who conducted the marriage or supported it are liable to the penalty of a fine or up to two years in prison. In practice, there are almost no requests for the dissolution of such marriages, and no indictments are submitted against those violating the law.

As for enforcement, in May 2016 the state attorney has issued a new directive ordering that criminal proceedings should be carried out against any person or entity participating in the arrangement of minors' marriage.<sup>9</sup> But recent data shows that the number of investigations and indictments is small and insignificant, in comparison with the number of cases known to the authorities.

---

State Attorney's Guideline No. 2.20 titled "The prosecution Policy regarding the Marriage of a minor's offence"<sup>9</sup>

**Rackman Center recommends:**

1. To combine stricter enforcement and preventive activities carried out by authorities dealing with minors at risk of premature marriage.
2. To instruct the Marriage Registrar by law to report any suspicion of retrospective registration of underage marriage to the police.
3. To determine that the Israeli Police should initiate investigations regarding underage marriage.
4. To create a national plan aimed at the prevention of underage marriages, which will include increased enforcement and educational programs.

**7. Bigamy and Polygamy**

According to the Israeli Penal Code, polygamy constitutes a criminal offense which entails up to five years imprisonment. The main problem is that law is not enforced.

We do not know what is the actual number of polygamy marriages in Israel per year. The actual number of polygamy cases is higher than the number of complaints submitted every year, and higher than the number recorded in the Population Registrar. Most of the polygamous marriages in Israel are held within the Bedouin society. Researchers estimate that about 30% of the marriages in Israel's Bedouin society are polygamous, and many argue that the rate has even increased over the last decade. Israeli police data shows that there is little enforcement of the polygamy prohibition within this population. The police claims it is a complex phenomenon that is not perceived by the society in which it exists as a criminal offense, and therefore few cases are reported. This also leads to limited cooperation with the police, and consequently there are few investigations and a significant difficulty with gathering evidence<sup>10</sup>.

In January 2017, the Israeli government decided to set up an inter-ministerial committee that would address the polygamy problem (decision no. 2345). This decision has not yielded any results so far, and we do hope to see some improvement in the near future.

**Rackman Center recommends:**

1. To restrict by means of legislation the appointment of polygamous men to positions in the civil service.
2. To increase enforcement through indictments and prosecutions.
3. To raise the awareness of Muslim women to the option of adding a marriage provision in pre-nuptial agreements that prevents the husband from marrying another woman.

---

<sup>10</sup> There, page 4-5.

4. To raise awareness to the problematic nature of polygamy through the Ministry of Education.

## **8. Infringement on women's access to courts in personal status matters**

Legal Aid Law - 1972 states that the Legal Aid Department in the Ministry of Justice will provide legal services to those who cannot afford the costs of such services. Until recently, in matters concerning child custody or support the Legal Aid Department would consider the economic status of the minor, and not that of the parent who filed the application for legal aid - so legal aid was given to practically every woman who had applied for it. In 2012, the greatest portion of legal aid granted in matters of family law was in child support and alimony suits.<sup>11</sup>

In April 2016 the department published new guidelines for examining the financial eligibility of a minor. According to these guidelines, legal aid to minors acting via their parents will only be granted if the best interest of the minor is at serious risk, and within a closed list of such exceptions (temporary relief; a procedure aimed at preventing mental damage or immediate physical harm to a minor; a procedure employed for providing or avoiding psychological, psychiatric or medical assistance to the minor; a procedure in favor of minors with special needs, and paternity suit which constitutes a prerequisite for regulating the status of a minor in Israel and for child support suits from abroad). And so, legal aid in the case of child support suit is now conditioned upon the mother's eligibility, and this leaves many women who raise their children while earning a low salary with no right for legal aid when they file child support suits on behalf of their children. As a result, fewer women will exhaust their children's right to receive child support from their father, their economic situation will further worsen and the fundamental inequality between women and men will prevail.

Another consequence of the new policy is the creation of an artificial parent-child rivalry that, in extreme cases, may even lead to the endangerment of minors. It may also prolong procedures unnecessarily, bring about waste of resources and escalate family feuds.

**Rackman Center recommends** to reconsider the policy change of the Legal Aid Department, and to find a way to preserve women's access to legal assistance and to ensure that the best interests of their children will not be harmed.

## **9. Violence of Men's Organizations**

---

<sup>11</sup> Halperin-Kaddari R. Horovitz K. Sharvit L. (editors) 2014 **Women and Family in Israel statistical Bi-annual Report**. The Ruth and Emanuel Rackman Center, Bar-Ilan University, p. 109-113.

In Israel there are men's organizations which support the rights of divorced fathers and aim at raising public awareness to their suffering throughout the divorce proceedings. Some of these organizations have recently gone beyond legitimate public debate and begun to act in illegitimate ways which include threats, harassment, incitement, persecution, wild cyber and slander campaigns. The main victims of this illegitimate activity are civil servants and officials in the legal and judicial system, judges of the Family Court and welfare workers, as well as legal experts and academics who challenge the views expressed by these organizations.

This illegitimate activity created an atmosphere in which men's organizations opponents are afraid to express their opinions on the matters in concern, whether at court or in the media, or are overly careful when expressing their views on these issues. The result is that the public and legal debate regarding matters of men and women's rights in divorce proceedings has become a violent debate conducted in an atmosphere of terror, negatively affecting the ability of women to fight for their legitimate rights. So far, all complaints to the police regarding cyberattacks and other forms of violence had gone un-investigated, and the authorities seem either indifferent or helpless vis-à-vis this phenomenon.

**Rackman Center recommends** that complaints about violence of men's organizations be investigated and perpetrators be prosecuted when necessary.

## **10. Exclusion of women from the religious establishment**

In Israel, the phenomenon of women's exclusion from the public sphere has expanded in recent years, both in terms of its scope and the variety of life areas it affects. Thus, besides the relatively old phenomenon of gender segregation on buses used by the Orthodox community, in certain towns segregation is also practiced in healthcare centers and cemeteries. Sometimes women are prevented from eulogizing in cemeteries or from participating in certain radio broadcasts. Other aspects of this phenomenon include refraining from advertising images of women on billboards in public spaces, an attempt to designate separate sidewalks for men and women, and more.<sup>12</sup>

The exclusion of women from the public sphere in Israel is particularly evident in the religious establishment, where officials are mostly Orthodox or religious Jews:

**Women don't serve as Judges in Rabbinical Courts** - Israel Rabbinical Courts consist of male judges only. According to the Law of Rabbinical Judges - 1955 (hereinafter: "The Rabbinical Judges Act"), the rabbinical judges must be ordained rabbis. Although it is easier for women to become certified rabbis than to be appointed as judges, according to Jewish law, women are not authorized to be rabbis in the Orthodox sector, and therefore the appointment of women as rabbinical judges is not a viable option. That being said, the restriction is obviously

---

<sup>12</sup> From the report of the team examining the exclusion of women in the public sphere, Ministry of Justice, submitted to the Attorney General on 7.3.2013.

not a mere technical matter. According to the common approach in Jewish law, women cannot serve as rabbinical judges (although there are rabbis who think otherwise). A petition on that issue was filed to the Supreme Court in 2006,<sup>13</sup> but it was denied.

**Never has a woman been appointed as a director of the rabbinical courts in Israel.** The Rabbinical Judges Act stipulates that the director of the rabbinical courts should be a rabbinical judge or a person qualified to be elected as a town rabbi. According to the interpretation of this section to date, only men were eligible to be appointed as rabbinical judges or as town rabbis, and therefore, in practice, only men's nominations were considered. Several petitions were submitted over the years, and attempts were made to amend the law, but to no avail.

In 2014, a petition<sup>14</sup> was filed to the High Court of Justice in respect of the appointment of a woman to the position of director-general of the rabbinical courts. At the end of June 2016, the state attorney's office announced - on behalf of the rabbinical courts' president - that **the appointment of a woman as deputy director-general in the rabbinical courts had been approved**. In August 2017, the Supreme Court ruled that the law should be interpreted as allowing for the appointment of a woman for the job, as it is administrative and not religious in nature. The court ordered the addition of a criteria that would allow for women to be appointed as directors: a lawyer holding a master's degree in Jewish Law or Talmud.

**There are no women serving as legal assistants to rabbinical judges** - The appointment of legal assistants to rabbinical judges in Israel is made through tenders published by the management of the rabbinical courts. For many years, the tenders were open for men only, but since 2008 - and as a result of a claim filed against the rabbinical courts<sup>15</sup>- tenders are open to women as well. In practice, this step did not change the situation, since no woman has ever won these tenders, although several women have entered them over the years. In 2015, Rackman Center filed a petition in which the court was required to order the management of the rabbinical courts to hold a tender reserved for women candidates only, for the position of legal assistant.<sup>16</sup> This petition has not yet been heard.

The fact that 50% of the court applicants are women, and that many of them are secular women obliged to use its services, leaves no room for the argument that the Court is the private realm of one certain community. The dimensions, status and influence of this institution require that it implements gender equality and contemporary standards.

---

<sup>13</sup> HCJ 8756/06 MAVOY SATUM Association v. Appointing Rabbinical Judges Commission (2008), Takdin Legal Database 2008(2) 2762 ,(by subscription, in Hebrew) (Isr.)

<sup>14</sup> HCJ 8213/14 Jewish State Movement v. Minister of Religious Services, Nevo Legal Database 2008(2)2762, (by subscription, in Hebrew)(Isr.)

<sup>15</sup> CDR (Jer) 2007/08 Women Justice Center Association v the rabbinical courts administration. ), Nevo Legal Database ,(by subscription, in Hebrew) (Isr.)

<sup>16</sup> PH 28552-11-15 (Jer) Dayan v. Civil Service Commission (Isr.)

In the context of women's representation in public establishments in Israel, it should be noted that explicit legislation mandating adequate representation of women does exist, yet it is almost never enforced, especially not in the religious establishment. Moreover, the very same law which determines women's right to adequate representation, i.e. Women's Equal Rights Law, 1951, states it does not apply on the appointment to religious positions according to the religious law, including the appointment of rabbis and judicial positions in rabbinical courts.

**Rackman Center recommends that:**

1. The State should enact laws stating clearly and unequivocally that the exclusion of women from parties or functions in governmental authorities, including religious judicial instances, is not acceptable.
2. When the separation is a result of the actions of private entities, operating under franchise or license from the State or from other public authorities, the public authority should employ all legal means at its disposal as a supervisor to cease any form of segregation and differentiation constituting a discrimination.
3. The government offices have set goals in terms of appointing women, and stated that failure to meet these goals will result in the decrease of budgets. The State must enforce these directives, and when necessary - decrease the budgets of offices which do not appoint women in accordance to the set goals.