



Israel Religious Action Center



Israel Movement for Reform
and Progressive Judaism

Excluded, For God's Sake: Gender Segregation and the Exclusion of Women in Public Space in Israel

Third Annual Report – December 2013



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In loving memory of Dick England z"l, Sherry Levy-Reiner z"l, and Carole Chaiken z"l.
May their memories be blessed.

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Preface

This is the third annual report issued by the Israel Religious Action Center (IRAC) on the subject of gender segregation and the exclusion of women. It provides a detailed and up-to-date examination of these phenomena in the Israeli public domain in 2012.

The picture presented here is the product of IRAC's ongoing monitoring of instances of gender segregation and the exclusion of women, and of our extensive work in this field. Many of the cases detailed in this report embody powerful personal stories of women who showed courage and commitment in trying circumstances. This report also highlights a further example of determination in the struggle to uproot segregation and exclusion: cases involving women who, with our assistance, submitted small claims following instances of segregation. Although these claims resulted in compensation of just a few hundred dollars in each instance, they have played an important role in changing the reality on the ground. Bus drivers who formerly imposed segregation on their bus routes and burial societies that forced segregation on mourners are among those who have been motivated to change their actions after losing cases in the Small Claims Courts.

The partners in this report include Orthodox women and men who are committed to the principle of modesty but oppose segregation. Another group of partners are concerned individuals from diverse backgrounds in Israel and abroad who are demanding an end to this phenomenon. This report details more cases of segregation and exclusion than its predecessor. However, thanks to the tireless work of IRAC and other organizations that have joined us in this struggle, the Israeli government recognized over the past year that it must

confront this issue and established an interministerial committee to examine the phenomenon.

As this report was nearing publication, we learned that the attorney general has taken various steps to eliminate segregation and exclusion, including a recommendation to enact legislation defining the exclusion of women as a criminal offense. This is certainly a step in the right direction. We will continue to monitor the situation, and I sincerely hope that next year's report will reflect a substantial reduction in the scale of this phenomenon.

Anat Hoffman

Executive Director

Israel Religious Action Center

Introduction

Since 2001, the Israel Religious Action Center (IRAC) has monitored instances of the exclusion of women and segregation between women and men. These practices are imposed at the demand of an extremist section within the Haredi (ultra-Orthodox) public. Demands for segregation first drew public attention in 1997 and have since grown exponentially. The phenomenon began with demands to separate men and women in public buses, and later spread to numerous other public places, such as health clinics, schools, cemeteries, sidewalks, private businesses, and gatherings held by public bodies. The demand for segregation was initially perceived as relating solely to the physical separation of men and women, but has since expanded to include a prohibition on women performing or singing in public, the exclusion of women from various functions in the Israel Defense Forces, the removal of women's images from the public domain, and the imposition of modesty requirements in public spaces. In 2010, IRAC published the first report of its kind reviewing the exclusion of women and gender segregation in the public domain in Israel. The report, which was launched in the Knesset and distributed widely, became an important tool in monitoring the phenomenon and in drawing public attention to the problem. In 2011 IRAC published a second report revealing the expansion of the phenomenon from demands for physical separation to the silencing of women's voices at public events and in the media and the removal of their images in the media. The report also detailed a growing number of cases in which women were excluded from municipal events and the provision of services, the placing of signs demanding that they observe extreme modesty standards, and so forth.

In the previous report we noted that although the phenomenon of segregation and exclusion was worsening, there were also signs of growing public awareness of the problem. Towards the end of 2011 a wave of public protest erupted against segregation and exclusion. The reactions came from

all sides of the political spectrum and from diverse sections of the Israeli and international public. Prime Minister Benjamin Netanyahu declared that the exclusion of women is unacceptable;¹ President Shimon Peres criticized the phenomenon;² Adina Bar-Shalom, the daughter of former Chief Rabbi Ovadia Yosef z"l, went on public record as opposing the exclusion of women;³ and even the US secretary of state mentioned the issue and criticized the increasing trend towards extremism in the exclusion of women in the Israeli public domain.⁴ At the same time, and as noted above, individual citizens and civic groups increasingly sought to protest against segregation and the exclusion of women in the public domain.⁵ In 2012 the Coalition against the Exclusion of Women was formed. The coalition brings together some twenty civil society organizations and engages in media and public work on the subject.

¹ Barak Ravid "Netanyahu: The exclusion of women is an issue on which secular Jews will not be willing to compromise," *Haaretz* Online, November 27, 2011.

² Arik Bender "Peres attacks the exclusion of women: 'Public spaces must not become an arena for discrimination,'" *Ma'ariv* NRG, December 12, 2011

³ Tali Farkash "Rabbi Ovadia's daughter: Exclusion of women is not sanctioned by the Torah," *Ynet*, November 28, 2011

⁴ Yitzhak Ben-Horin, "Clinton: Concerned at the deterioration of democracy in Israel," *Ynet*, December 4, 2011.

⁵ An example of such a group are IRAC's "Freedom Riders" (Tofsot Makom): male and female volunteers that seek to monitor the implementation of the Supreme Court ruling and to ensure that all passengers on buses can freely choose where to sit. The volunteers make short journeys on bus lines that are known to be problematic, embark by the front door and sit toward the front of the bus. The goal is to set an example for Haredi women, showing that they can also sit in the front. This helps raise awareness and emphasizes to male and female passengers alike that things have changed and that segregation is no longer to be enforced. "Uncensored" is a project of the "Jerusalemites" movement led by Rabbi Uri Ayalon. The project focuses on restoring images of women to public billboards in Jerusalem. The movement also produced posters featuring women activists that were then displayed on balconies and windows of private homes. This campaign sparked considerable interest: groups of citizens rode on buses in order to end segregation, and large-scale protests were held to oppose the ban on women singing, violence against women, and the exclusion of women in Beit Shemesh.

Despite these positive developments, Israeli society continued to suffer from the exclusion and silencing of women in 2012. As this third report makes clear, there has not been any reduction in the number of incidents of exclusion, nor in the range of fields in which it is encountered. This phenomenon continues to be manifested in public services, private companies and the public domain. On the one hand, a significant decrease has been seen in incidents of violence and harassment directed at women passengers on buses who wish to sit in the front of the vehicle. On the other, we are seeing a rising number of incidents involving gender segregation at public events, particularly those organized by local authorities. In most cases, the local authority or public body responds by claiming that they are unaware of the legal prohibition on such segregation and will refrain from this practice in the future. Such promises are not always adhered to, however. The numerous incidents described in this report clearly indicate that the exclusion of women in the public domain in Israel is a widespread phenomenon, and that ongoing and persistent monitoring is essential until this scourge is completely eradicated.

Noa Kantman, a religious young woman who was attacked recently while traveling on a bus, comments: "I know that the place where people should sit in a bus is not something that is written in the religious texts; they invented a religious law." As we noted in our previous reports, one of the most important developments in this field is that voices from within the Orthodox and Haredi communities are increasingly speaking out against exclusion and segregation. Haredi society is not homogenous and should not be seen as a monolithic block adhering to uniform opinions and ways of life.⁶ The Haredi community includes diverse factions and approaches and a significant proportion of Haredi men and women see the demands for segregation as an undesirable trend towards extremism that is harmful

⁶ See: *Haredim in Israel – Integration without Assimilation* (eds. Immanuel Sivan and Kimi Kaplan, Van Leer Institute, Hakibbutz Hameuchad), 224, 276.

to women and men alike. Many of those who oppose segregation do so anonymously due to their concern that they will be seen as disassociating themselves from the Haredi community.⁷ Media discussion of segregation and exclusion allowed some of these voices to rise to the surface: anonymous telephone calls tentatively seeking support in the struggle were replaced by clear statements of opposition to these phenomena. This trend included not only established Orthodox organizations such as Kolech and Emunah that have launched legal and public campaigns against segregation and exclusion, but also declarations by leaders and public figures (men and women alike) from the Religious-Zionist and Haredi communities. Those speaking out in this manner included the late Rabbi Ovadia Yosef z"l, Rabbi Dov Lipman (who now serves as a Member of Knesset for the Yesh Atid party), and the late Rabbi Menachem Froman z"l. In the Knesset elections held in January 2013, some Haredi women urged their fellows not to vote as long as the Haredi parties refuse to include female candidates on their lists; they even established a Facebook group to this end, under the slogan "Can't stand – won't vote." These examples suggest that many women and men in the Haredi sector oppose segregation and exclusion and support action by the state and other official bodies to curb this phenomenon.

As the report shows, it is wrong to depict the demand for segregation as reflecting the desires of Haredi society as a whole. No less importantly, the report also emphasizes that the public domain in Israel cannot be simplistically divided into one area that belongs clearly to the Haredi population and another that belongs to general society. As the instance of segregated bus lines proves, it is not possible to define specific routes that serve a population interested in segregation – if such a population indeed exists. The same principle applies to clinics situated in neighborhoods with a Haredi character but which serve diverse populations. In this respect, the

danger of a "slippery slope" pattern is apparent. Segregation that began on bus lines traveling within clearly Haredi neighborhoods soon spread to mixed neighborhoods and to public domains that have a clearly general character such as the IDF, which has seen a growing trend to exclusion.

Accordingly, it is important to reject any attempt to create separate spaces for Haredim and others, and to impose a dichotomous distinction between "Haredi" neighborhoods, where segregation will be imposed, and "secular" neighborhoods where segregation will not be permitted. In a liberal state, the public domain should reflect the common and shared values of liberty and equality; Accordingly, this domain must be open equally to all, regardless of gender. As the examples presented in this report show, this phenomenon does not relate solely to religious or cultural practices observed within the Haredi community, but to basic services used by all citizens in which segregation or modesty standards are imposed, or where demands are raised to limit the visibility of women. We must nurture a single, common public domain that is respectful, egalitarian and democratic.

The same principle applies regarding the army. In recent months, the subject of the equal burden of service has been raised on the public and political agenda. The desire to increase the number of Haredi men performing military service was established as a goal in the coalition agreements of the new government. The Plessner Committee, which previously discussed this issue, recommended various steps in order to ensure that Haredi men enjoy a "single-sex drafting process" and an "environment free of women." This constitutes a grave instance of exclusion and raises real concern that the army may adopt broad-based discrimination against women in order to integrate Haredi soldiers in the IDF. Just as the public domain cannot be divided, neither is it possible to divide the IDF, which is the army of the entire people, into one section that grants equality to women and another that excludes them. This report presents numerous instances in which women in the IDF have been excluded in order to avoid offending the religious

⁷ The Committee to Examine Transportation Arrangements in Public Transport on Lines Serving the Haredi Public, Concluding Report (2009), section 23 E.

sentiments of Haredi recruits. The current trend seems to be to force young women serving in the IDF to pay the “cost” of recruiting Haredi men, in the form of exclusion from various roles in the army, including command roles, in order to permit Haredi men to serve without encountering women. It is unacceptable that women should be expected to relinquish the gains they have made in integration in the IDF because of the desire to recruit Haredi men. Military service provides young Israeli men and women with their first encounter with the adult world. Their experiences during this period play an important role as they enter the world of work, both in terms of the skills they acquire and in terms of the standards they come to accept. Accordingly, it is extremely important to continue to insist on the full integration of women in the army, even if significant numbers of Haredi men begin to perform military service. The exclusion of women in the IDF, including the creation of “women-free” environments, conveys a grave message to women that their mere presence has a negative impact. Such practices also gravely violate women’s right to equality in the public domain.

A further trend revealed in the report concerns the approach of local authorities to the phenomenon of segregation. Many local authorities seem to perceive the Haredi public as a monolithic sector and assume that this population is interested in gender segregation. This approach continues to be particularly evident in the case of the Jerusalem Municipality. Accordingly, any event intended for or planned in cooperation with this community is considered to require segregation, if not the complete exclusion of women. This policy is applied without examining the demands for segregation in accordance with the tests established in law. To give one example, the Hebrew year 5772 (2011-12) marked the end of the four-year cycle of studying the Babylonian Talmud. Large-scale events were held in Haredi communities to celebrate this occasion, and millions of shekels of public funds were allocated for this purpose. Screens were erected in Haredi neighborhoods so that women could watch the events from a distance. The municipality ignored the role women play in Haredi society by enabling

men to devote themselves to study of the Talmud. Moreover, women traditionally participate in celebrations in the Haredi world, and accordingly there was no justification for their exclusion in this instance. The municipality assumed that all men had studied and completed the six tractates of the Babylonian Talmud and were therefore entitled to participate in the event, while women were categorically excluded.

Raising these issues on the public agenda is an important part of the response to the phenomenon of segregation and exclusion. However, verbal condemnations are inadequate unless they are accompanied by vigorous government action to uproot this phenomenon. In 2012 the Interministerial Committee on the Exclusion of Women was established by the government and headed by Minister Limor Livnat, chair of the Ministerial Committee for the Advancement of the Status of Women. The committee’s work led to the publication of a circular by the director-general of the Ministry of Religious Services ordering the removal of signs in cemeteries imposing segregation on mourners. The circular also emphasized that burial societies must allow women to make eulogies and to accompany the deceased up to the grave and must refrain from excluding women. In accordance with the committee’s guidelines, the Ministry of Transportation established a hotline to receive public complaints of segregation in buses, and the ministry’s director-general issued a circular detailing the expected response of drivers when the rights of women passengers are infringed. However, we have since learned that this hotline is no longer operational. In addition, the attorney-general established a special team in the Ministry of Justice, headed by Attorney Sarit Dana, to address the problem. The team published a detailed report presenting recommendations for responding to the exclusion of women. The conclusions of the report, submitted 16 months after the team was established, are unequivocal and require the authorities to prevent the exclusion of women. To date, no significant action has been taken to enforce these conclusions. Uprooting the phenomenon of segregation and exclusion will require forceful and long-term action by the government,

including a clear and firm policy that will create negative incentives for those who seek to impose demands for segregation or who engage in actions that exclude women. As we have proposed in the past, this action should include the establishment of hotlines for women who have been injured by segregation or exclusion; the rapid investigation of complaints; disciplinary and criminal action against those responsible for segregation or exclusion; and training for civil servants and local government employees regarding the illegal nature of segregation and exclusion and the need to respond forcefully when such practices are demanded. Unless and until the government formulates a clear policy and defines red lines in this field, the phenomenon of segregation will continue to spread and Haredi elements will continue to apply pressure on decision makers and politicians. The final section of this report presents detailed policy recommendations.

The purpose of this report, therefore, is to document instances of the exclusion of women over the past year; to identify trends in this field; and to illuminate the phenomenon itself and the manner in which it is introduced. A further goal is to encourage critical public discussion focusing on the price women pay in return for the desire to integrate the Haredi population in domains where they have not previously been present. By way of example, the report presents opinions for and against the integration of Haredim in academic studies and in the army, against the background of the demands for gender segregation that are inevitably raised in the context of such efforts to promote integration. The report also aims to present policy guidelines consistent with the Jewish and democratic character of the State of Israel and with Israeli and international law.

This report presents:

1. Findings from the field concerning segregation of women and men and the exclusion of women. The findings are classified under the following headings: Gender segregation in the public domain; prohibition of public appearances and women's singing; exclusion of women from positions in

the IDF; exclusion of women from the public domain; and the imposition of modesty requirements. The report includes a selection of opinion articles examining the initiatives to impose gender segregation as part of the efforts to integrate significant numbers of Haredim in the IDF and in academic studies.

2. An analysis of the Jewish religious requirement for segregation and the status of women in Judaism. The goal of this chapter is to offer a proper interpretative approach to the sources showing that the demand for segregation is not necessarily supported by Jewish religious texts. This analysis emphasizes that sources and interpretations can be found that are consistent with providing reasonable space for women and men in the public domain of the State of Israel, as a Jewish and democratic state.
3. A legal analysis of the demand for gender segregation in the public domain, with reference to both Israeli and international law.
4. Recommendations for ways to respond to demands for segregation and exclusion in the public domain, with the goal of reinforcing an egalitarian and common public domain, while respecting diversity, liberty, freedom of religion and freedom from religion for all.

A. Factual Findings

Segregation in the Provision of Public Service

1. Segregation on buses

■ End of the one-year trial period in accordance with the Supreme Court ruling regarding gender segregation in public transport (HCJ 746/07)⁸

On January 5, 2011, the Israeli Supreme Court granted its ruling regarding gender segregation in public transportation, in response to a petition submitted by IRAC. The Court established that any arrangement requiring segregation between men and women in public transportation is inconsistent with the provisions of Israeli law.⁹ In its ruling, the Court established a one-year trial period “intended to examine whether the deliberate and coercive arrangements, including the accompanying manifestations of violence, have been reduced.”¹⁰ The trial period began 30 days after the granting of the ruling and continued for over a year.

On September 12, 2012, after the termination of the trial period, the Ministry of Transportation presented IRAC with its findings. On the basis of the trial year, the Ministry of the Transportation reached the conclusion that “no direct relationship can be found between the opening of the rear doors for the boarding of passengers and the seating arrangements applied by the Haredi sector.” Accordingly, and since the ministry has already decided that all buses equipped with automatic ticket machines will allow passengers to board by the rear doors, it recommended that bus drivers continue to

open the rear doors. The minister of transportation also decided that the hotline established during the trial year would continue to operate. The ministry will undertake special inspections on certain lines where specific complaints have been received.

IRAC’s own investigations show that allowing passengers to board by the rear doors channels Haredi women to the rear seats. However, even on lines on which Haredi women board by the front door, they usually move to the back before sitting down. The report of the Ministry of Justice team responsible for examining the phenomenon of the exclusion of women argued that passengers should not be allowed to board by the rear doors on all the lines that were formerly considered “Mehadrin” (gender-segregated) lines. However, it is hardly surprising that segregation is continuing to be imposed on many lines, in view of the fact that the coercive arrangement operated for many years without any action being taken. Extremist elements in the Haredi community continue to maintain this arrangement, mainly through a process of social regimentation. Accordingly, IRAC is continuing to monitor routes that were defined in the past as “Mehadrin” lines in order to ensure that no illegal segregation is being enforced; that the buses display stickers stating that each passenger may sit where he or she wishes; and that the drivers are not acting in any way to enforce gender segregation, and are helping to protect the passengers’ right to sit where they choose.

Over the past year, drivers appear to have become more aware of their obligation to help protect passengers’ right to choose where to sit. However, IRAC has continued to receive complaints of enforced segregation on buses. In such cases, we help the women involved to submit complaints and suits for compensation against the bus company and the driver. IRAC’s public and legal work in this field seeks not only to monitor and document developments on these lines, but also to pressure the Ministry of Transportation and the public transport companies to improve their supervision in order to prevent gender segregation on buses, and to take criminal and disciplinary action

⁸ HCJ 746/07, Naomi Regan v Ministry of Transportation, unpublished.

⁹ See Excluded, for God’s Sake: Gender Segregation and the Exclusion of Women in Public Space in Israel, 2010, 5.

¹⁰ See HCJ 746/07, para. 42.

in appropriate cases. The objective is the complete eradication of this illegal practice.

Over the past year, IRAC continued to operate our “Freedom Riders” project, in which volunteers board bus lines where gender segregation is known to occur. Women volunteers sit in the front of the bus in order to “break” segregation through their own actions. Testimonies we have received from Haredi women show that the presence of non-Haredi women in the front of the bus helps to encourage Haredi women who also want to sit in the front. Through this action we seek to end the de facto segregation imposed on Haredi women on the lines that were formerly known as “Mehadrin” lines where women were routinely forced to sit in the back of the bus.

Moriah Shaham, a student in the Department of Hebrew Literature in the Hebrew University of Jerusalem, is one of the volunteers in the project. She describes her experiences:

The first time I heard about the “Freedom Riders” was when I saw a notice they put up on the Mt. Scopus campus. They were inviting people to come to a discussion about segregation on buses. I didn’t go to the meeting, because the whole business seemed to be too aggressive and argumentative. Some time after that I spoke to a friend of mine who was volunteering in the project, and after our chat I decided to join. I am a religious woman myself, I live in Beit Shemesh and I use these bus lines regularly, and that’s exactly why this issue bothers me and I feel committed to act. Today I am the coordinator of the “Take a Seat” project in Beit Shemesh.

The first time I got on a bus and sat down in the front I was scared and full of adrenalin. I wondered whether it was a mistake to get involved in all this. But gradually I got used to it. I encountered all kinds of reactions during my bus journeys. One time a group of men shouted at me: “Who are you to try to judge and educate us?” Another time a Haredi man demanded that the driver stop and put me off the bus. Several times people quoted the verse

“whoever breaks through a wall may be bitten by a snake” (Ecclesiastes 10:8). People sometimes asked me why I was doing something just for the sake of it. Some people also tried to speak to me politely, for example saying “A daughter of Israel would move to the back.” A group of women made room for me and invited me to sit with them in the back of the bus. I must say that sometimes I felt I was being impolite and was bothering people. I had some conflicts and doubts about the whole campaign. Was I really doing the right thing? But in the final analysis I realized that ideology and direction are more important than a feeling of discomfort or the possibility that I might be seen as impolite.

It’s important for me to talk to people. Once I approached a group of women sitting in the back of the bus and pointed out that they could also sit in the front. They replied that they also don’t believe in this segregation, but they accept it because they want to respect the men, and because good manners require them to do so. I think it’s valuable to try to change attitudes – not so much among extremist elements, but among people who don’t feel entirely comfortable with the reality that has been imposed on them, but who are afraid to object. We are helping them to create a reality where it will be natural and normal for them to do so. I’ve heard that the number of reports of harassment and bullying has fallen since the project started. It’s important that we continue. As religious and secular people, we must not accept a situation where our public space acquires this kind of character.

Women who are interested in joining the project are invited to contact IRAC.

■ Posters advocating segregation on buses

Several times over the course of the year, posters appeared on walls in Haredi neighborhoods urging the public to continue to sit separately in buses –

women in the back and men in the front. In January 2012, for example, the following poster appeared:

**“As instructed by the rabbis, may they live for many good days, Amen
Travel according to the Halacha
The Jewish people is proud to keep Torah and the commandments
Men – in the front section
Women – in the rear section
And so we will also enjoy Divine protection
May your camp be holy
All the glory of the King’s daughter is on the inside”**

A notice bearing the same message was also placed inside Egged buses, for example on line 56, which connects the Ramat Shlomo neighborhood of Jerusalem with the city center. After IRAC alerted Egged and the municipality to these notices, they were removed.

■ Enforcement of segregation on buses

This section details incidents of enforced segregation on buses reported in 2012:

“I don’t want any trouble”

On July 16, 2012, two women in Kiryat Ata boarded an Egged number 998 bus heading for Bnei Brak. Immediately after they boarded, the driver asked them to move to the back, adding that he “didn’t want any trouble.” When the women asked why they could not sit in the front, the driver replied that they could sit where they wanted, as long as they behaved respectfully and “did not cause any trouble.” Shortly after the journey began, one of the passengers approached the driver and complained about the two women

sitting in the front of the bus. The driver asked them to move to the back, explaining that they were making him feel uncomfortable. The women initially refused to move seats. After being asked to do so several times, and since there was no sign in the bus stating that they were entitled to sit wherever they chose, they eventually moved to the back.¹¹

A driver ignores the harassment of a female passenger

On August 10, 2012, a 19-year-old female soldier boarded a bus heading from Shoham to Jerusalem. Although one of the passengers attempted to prevent her from boarding by the front door, the soldier eventually boarded the bus. She was then harassed by fellow passengers who commented on her clothes (she was not in uniform) and instructed her to move to the back of the bus. According to the soldier’s mother, the driver did not help the young woman at any stage, although he observed what was happening. Due to the hostile atmosphere on the bus the soldier got off before it reached her destination. Egged announced that the driver would be summoned to a clarification and that drivers would receive guidance in how to act in such instances.¹²

The front door is for men only

On November 5, 2012, A. wanted to board a Superbus number 11 on Rav Herzog St. in Beit Shemesh on her way to work. After the bus stopped, the driver refused to open the front door and made a gesture indicating that A. should board the bus by the rear door. A. gestured to the driver that she needed to pay him and asked him to open the front door, but he refused. Eventually the driver opened the front door, possibly because several men at the bus stop also wanted to board the bus. After A. entered the bus, she

¹¹ This incident was experienced by two IRAC volunteers on one of their journeys.

¹² <http://www.iba.org.il/bet/bet.aspx?type=1&entity=864523>

pointed out to the driver that he is required to open the front door so that she can board. He argued with her and refused to give her his details. IRAC helped A. to submit a claim for compensation at the Small Claims Court against the driver and Superbus. The case is pending.

“No woman will sit next to me. It is forbidden”

On October 23, 2012, N. boarded a number 480 bus at the central bus station in Jerusalem. She chose to sit in one of the front seats behind the driver. A Haredi man on the seat next to the window, adjacent to the seat where N. chose to sit, began to shout at her. He moved so that he was sitting on both the seats, screaming “No woman will sit next to me. It is forbidden.” N. was not willing to give up the place she had chosen and asked the driver several times to request that the passenger vacate the seat and to help her realize her right to sit where she had chosen. However, the driver did not respond to her requests and simply ignored her. After about five minutes, another passenger suggested that the Haredi man move to sit next to him and he did so. N. was therefore able to sit in her chosen place.

A sticker was displayed in the bus stating that any passenger may sit where they choose, and that harassing a passenger regarding seating places is liable to constitute a criminal offense. Despite this, the driver deliberately ignored the commotion and N.’s appeal for help. When N. asked for his details, he initially refused to provide them and spoke to her scornfully and disrespectfully. He even threatened to take her to the police, though he did not do this. With IRAC’s help, N. submitted a claim for compensation which is still pending.

■ Ruling of compensation by the Small Claims Court in cases of segregation

As noted, the ruling in HCJ 746/07 Naomi Regan et al. v Ministry of Transportation determined that the enforcement of segregation on buses is unlawful, and that drivers who enforce segregation or fail to protect female passengers facing harassment will be liable to damages claims. IRAC has helped victims to submit small claims for damages in accordance with the Prohibition of Discrimination in Products, Services and Entry to Places of Entertainment and Public Places Law, 5761-2000 (hereinafter: “the Prohibition of Discrimination Law.”)

Financial compensation for a girl who was ordered by the driver to move to the back of the bus

On September 22, 2011, B., a female high-school student, boarded a Superbus number 11A bus in Beit Shemesh together with several of her female schoolmates in order to return home. The group of girls boarded the bus and sat in the front section. After some time, two Haredi men boarded the bus. Since there was no room on the bus, they stood next to the girls. At this point, the driver asked B. and her friends to move to the rear of the bus, so that the two Haredi men could sit in the front section. Although B. and her friends felt humiliated and angry about this demand, they did not believe that they could disobey an explicit instruction from the driver, and accordingly moved to the rear. The same day, B. and her mother telephoned Superbus, and the company informed them that a clarification would be undertaken with the driver. With IRAC’s help, B.’s mother also submitted a claim for compensation to the Small Claims Court in Beit Shemesh in accordance with the Prohibition of Discrimination Law. In a ruling granted on July 5, 2012, the court stated that “this constitutes a case

of grave discrimination entailing humiliation and injury to her dignity.”¹³ The court ruled that the driver was to be considered responsible since “he not only failed to act to ensure passengers’ rights, as required of him, but also demanded that they move to the rear section of the bus in gross violation of the right of the plaintiff and her friends to sit wherever they chose.”¹⁴ The court also determined that Superbus was responsible for the actions of its driver while he was performing his work.¹⁵

The court ordered that A. be paid NIS 12,000 in compensation, in addition to NIS 1,000 in legal costs.¹⁶ Superbus and the driver requested permission to appeal to the District Court, but this was denied.¹⁷

A segregated bus line to the segregated beach in Herzliya

On August 31, 2011, V. and her friend sought to board a Dan number 98 bus traveling from Bnai Brak toward the beach in Herzliya. This line operates only during the summer, and its final destination is the segregated beach in Herzliya, which is open for men and women on separate days. When the bus arrived, the driver opened only half the door, spoke to V.’s friend (a man) and told him that only he could board the bus. When V. insisted on boarding the bus, the driver told her: “As far as I am concerned, I couldn’t care, but it bothers them [the other passengers on the bus].” The driver said that if the other passengers agreed that V. could board the bus then he would also

¹³ Small Claims (Beit Shemesh), 2917-10-11 Ariel Marsden v Halil Nagdi.

¹⁴ Para. 18 in the ruling.

¹⁵ Para. 21 in the ruling.

¹⁶ <http://www.mako.co.il/news-law/legal/Article-89bd8de8dc67831017.htm/news-law/legal/Article-89bd8de8dc67831017.htm>

¹⁷ http://www.court.gov.il/BookReader/getbook.asp?path=%5C%5CIDCNFSV01%5Cidc_rep_17_ository2%5C465%5C788%5Cf77549b6c74a4b5fae0cb1a08a3fb261&OlvDataProto=file&Language=Hebrew&Hebrew=1&ReaderStyle=ILCourts&h=DA1170F9EC572F00DCB2-C1781A4504E8&OnePageMode=1

agree, but this was not the case. The driver also refused to allow a Haredi woman who was standing next to V. to board the bus.

Dan bus company defined line 98 as a segregated bus line. On Monday, Wednesday and Friday it was intended for men, while on Sunday, Tuesday and Thursday it was intended for women. In a timetable published on its website during the summer, Dan explicitly noted this segregation. In a telephone conversation between V. and Dan’s service center, she was informed that on the day she attempted to board the bus, the line was intended for men only.

Following the driver’s refusal to allow her to board the bus, V. submitted a claim for compensation at the Small Claims Court in Tel Aviv – Jaffa, with IRAC’s assistance, in accordance with the Prohibition of Discrimination Law. On July 5, 2012, the court accepted V.’s suit and awarded her NIS 3,000 in compensation.¹⁸

“Ask everyone, this is a ‘Mehadrin’ line”

On October 3, 2011, B. boarded an Egged number 56 bus in the Ramat Shlomo neighborhood of Jerusalem heading for the city center. The bus was empty and B. sat down in the front. After stopping several times, the bus began to fill up. Two Haredi women passengers asked B. to move to the rear section of the bus. After she declined, a Haredi man also asked her to move to the back. When B. refused to do so, the young man demanded that she ask the driver what she does do. B. spoke to the driver and asked him whether she should move to the back. The driver replied that this was a “Mehadrin” line. B. drew the driver’s attention to the sticker displayed in the bus stating that every passenger has the right to sit in any vacant seat. Nevertheless, the driver insisted that this was a “Mehadrin” line. To support his comments,

¹⁸ Small Claims 8558-11-11 Kraislin v Dan Public Transportation Company Tel Aviv – Jaffa.

the driver pointed at the other passengers on the bus, who were seated in a segregated manner. "Ask everyone," he said, "this is a 'Mehadrin' line." The Haredi passenger who asked B. to move places continued to harass her throughout the journey. After 20 minutes B. got off of the bus.

B. submitted a complaint to Egged and to the Ministry of Transportation, which invited her to give testimony to its Investigations Department. Replying to her complaint, Egged stated that "according to Egged's procedures, there are no Mehadrin lines and the segregation on these lines is purely voluntary. Egged drivers are instructed to state to any passenger who approaches them that they may sit in any place they like. If they are not asked, however, they do not interfere in the seating arrangements. In an examination undertaken by the disciplinary supervisor in Jerusalem, including a clarification with the bus driver, it emerges that the driver's version of the events differs from that presented by B. He states that he made it clear to her that the seating arrangements are a matter among the passengers, and that Egged permits this and does not intervene on any side."

With IRAC's assistance, B. submitted a claim for compensation to the Smalls Claim Court in Jerusalem in accordance with the Prohibition of Discrimination Law. On August 10, 2012, the court accepted B's claim and awarded her NIS 8,000 in compensation.

Passengers shout at a woman and force her to move to the back of the bus

On March 28, 2011, N. attempted to board an Egged number 40 bus on Golda Meir Boulevard in Jerusalem. The bus driver refused to allow her to board through the front door and began to move away from the bus stop before stopping and opening the rear door so that female passengers could board the bus. After she boarded the bus, N. noticed that the passengers were seated in a segregated manner – men in the front and women in the

back. N. subsequently submitted a complaint through the bus company's website but did not receive any reply.

In another incident, on August 10, 2011, N. boarded the number 40 bus at the same stop, this time by the front door. She stood next to the driver, who was the same employee who had refused to open the front door for her in the previous incident. A passenger seated in the first row told N. that this was a "Mehadrin" line and that she should move to the rear of the bus. An argument developed between the two passengers, with N. repeatedly emphasizing that the other passenger could not dictate where she should sit. The male passenger announced that he would teach her where she should sit, and began to stand up with the goal of making the woman move against her will. At this stage, another passenger expressed support for the woman, and a shouting match erupted in the front section of the bus, close to the driver. Throughout this incident, the driver made no effort to intervene, but merely stated meekly that everyone should calm down. N. subsequently complained to Egged, but the company rejected her complaint.

With IRAC's help, N. later submitted a suit against Egged at the Small Claims Court in Jerusalem in accordance with the Prohibition of Discrimination Law. She also submitted a complaint to the Ministry of Transportation. In the ruling in her case, Registrar Sigal Albaz found that the claim should be rejected because N. had failed "to meet the burden of proof to prove her alleged factual version." The registrar chose to prefer the bus driver's version of events to that of N., and even ruled that N. must pay NIS 500 in legal costs.

The registrar ignored the fact that even according to the driver's version his behavior was completely contrary to the law and to Egged's own instructions, which require that drivers intervene whenever a passenger is harassed. IRAC's position is that the driver should have clarified unequivocally that the plaintiff had the right to sit in the front of the bus and that harassment constitutes a criminal offense. The driver should intervene to ensure that

every passenger could sit wherever they choose on the bus and should take action whenever coercion is encountered, and not only in instances of physical violence. Accordingly, we contacted the Ministry of Transportation and Egged and asked them to clarify to the bus driver and to Egged that the driver's conduct was unlawful. N. was offended that the court did not believe her version and even imposed costs on her, and accordingly she chose not to appeal the ruling.

■ Segregation at stands issuing a transportation smart card

On July 5, 2011, a Haredi couple was walking along Yaacov Meir Street in Jerusalem and noticed two stands issuing a smart card for use on public transportation. The couple stood in line in order to receive their cards. When the husband's turn came, the card was duly issued, but when his wife asked to receive a card, she was told that these stands did not serve women, and that the stand for women was situated on a neighboring street. The woman went to the other location, where just one stand had been provided. After a protracted wait, she finally received her smart card.¹⁹

In her complaint, the woman stated: "It is difficult to describe the sense of humiliation, anger and offense I felt after this unpleasant experience. I am willing to respect the religious practices of others, provided they respect me. I must emphasize that I am a Haredi woman, but I am not willing for people to refuse to provide me with a public service just because I am a woman." The woman contacted Kolech (the Religious Women's Forum) on this matter, and Kolech and IRAC complained to the Ministry of Transportation. In response, the ministry instructed the CityPass company to refrain from gender segregation in issuing the smart cards. With IRAC's assistance, the woman also submitted a claim to the Small Claims Court in Jerusalem in accordance with Prohibition of Discrimination Law. In a ruling

issued by agreement on June 5, 2012, the woman was awarded NIS 2,500 in compensation.

2. Segregation in funeral halls and cemeteries

For many years, funeral halls and cemeteries around Israel have imposed gender segregation, as detailed in the Excluded, For God's Sake reports in 2010 and 2011. Segregation in funeral halls and cemeteries includes three key aspects: requiring men and women to stand separately in the area in which eulogies are made, sometimes with a physical partition and with signs delineating areas for men and women; prohibiting women from making eulogies (a prohibition which is directly contrary to a court ruling from 2007 in a petition submitted against a Petach Tikva burial society); and segregation during the funeral procession to the grave, with the men going first and the women following on behind. In some extreme instances, women have been prevented from standing inside the building where the eulogy ceremony takes place and from accompanying the body to the grave; the women mourners were only allowed to approach the grave after the funeral ended.

It is important to emphasize that even if the burial society official does not explicitly demand segregation, the presence of signs imposes an atmosphere of segregation in a manner that prevents the family of the deceased from objecting. In the setting of a funeral, the mourners are naturally ill-placed to object to the demands for segregation, even if they do not agree with this policy, both because of their fragile emotional state and out of a desire to avoid confrontation at such a sensitive time.

We are aware of segregation at funeral halls and cemeteries in Petach Tikva, Sderot, Ashkelon, Ofakim, Netanya, Jerusalem, Yavne, Tiberias, Herzliya, Rehovot, Elyachin, Migdal Ha'emek, Kiryat Gat and Yeruham.

¹⁹ <http://www.ynet.co.il/articles/0,7340,L-4106124,00.html>

The Interministerial Committee on the Exclusion of Women, headed by Minister Limor Livnat, examined the subject of segregation in funeral halls and cemeteries, among other issues. The committee recommended that the Ministry of Religious Services should issue a director-general's circular instructing burial societies and religious councils to allow women to make eulogies and to accompany the deceased to the grave. It was also determined that the minister of religious services should ask the Chief Rabbinate Council to issue an unequivocal ruling regarding the status of women in burial ceremonies.

Following the discussions of the interministerial committee, it was decided that licenses for the operation of burial societies will include the condition that the Chief Rabbinate alone will be responsible for Halachic rulings regarding burial procedures, and not local rabbis. The committee noted a long-standing ruling by Chief Rabbi Yona Metzger stating that, from a purely Halachic perspective, there is no prohibition on women making eulogies.²⁰

We urged the Ministry of Religious Services to issue the proposed circular as soon as possible. We also asked the ministry to require burial societies applying for renewed licenses to ensure the egalitarian treatment of women and men and remove signs imposing gender segregation. On March 3, 2013, Minister Limor Livnat, head of the Ministerial Committee on the Status of Women and of the interministerial committee, held a further meeting at which she announced that the director-general of the Ministry of Religious Services had issued a circular on February 27, 2013. The circular included the following instructions:²¹

²⁰ <http://www.ynet.co.il/articles/0,7340,L-4170889,00.html>; <http://www.kipa.co.il/now/48664>. 20
html ; <http://news.nana10.co.il/Article/?ArticleID=902878> ;
<http://www.ynet.co.il/articles/0,7340,L-4170889,00.html>

²¹ Circular of the Director-General of the Ministry of Religious Services dated February 27, 2013 and entitled "Director-General's Circular regarding a Burial Ceremony." Available on the website of the Ministry of Religious Services.

- Burial societies will permit women to make a eulogy at any place in the cemetery where eulogies are made, unless the family of the deceased objects to this.
- The burial societies will permit women to accompany the deceased unless the family has explicitly requested a different practice.
- Women and men will not be segregated during the various stages of the funeral ceremony. No signs will be erected ordering segregation and no permanent or temporary barriers will be installed for this purpose. In cases when the family has expressed its wish that part or all of the funeral be segregated, the burial society may assist the family in directing mourners for this purpose.
- A burial society that acts contrary to these rules will face action and its license may be revoked.²⁰

IRAC is continuing to monitor the implementation of these guidelines, particularly the removal of segregation signs from cemeteries throughout Israel. Any complaints on this matter may be submitted to IRAC.

Individual instances of exclusion in cemeteries

■ Petach Tikva: Women outside the fence: "please dress modestly"

In February 2012, M's grandfather passed away. Her grandfather had five daughters. During the funeral, which was held in Petach Tikva, the body was taken toward the open funeral yard. The women mourners, including the deceased's daughters, were asked to stand outside the fence and were not permitted to participate in the procession toward the grave. After the traditional prayers, the rabbi who performed the ceremony began to make

a speech about the modest dress required of Jewish women: "I ask the attention of the ladies present here. Just as you dress modestly in winter because of the cold, you should also dress in this manner in summer... Because of your modesty in winter, we have had plenty of rain this winter. Please dress modestly."²²

■ Sderot: "Her soul will not be able to rest"

On January 4, 2012, the newspaper *Yediot Acharonot* published a report about a funeral held at the cemetery in Sderot several months earlier. The cemetery has installed a barrier separating men and women in the covered eulogy area. Only men are permitted to make eulogies. During the funeral, a representative of the burial society announced over the cemetery's PA system that women should remain in their places; only men were permitted to accompany the deceased. The announcer instructed the women to rise only after the last man had left the area. The announcer even declared that any woman who would accompany the deceased, would not be admitted to paradise: "Her soul will not be able to rest, and she will suffer the 'tortures of the grave.'"²³

■ Ashkelon: Men to the right, women to the left

In October 2011 G.'s mother passed away unexpectedly. She was buried on November 1, 2011 in Ashkelon. Before the eulogies began, the rabbi who conducted the ceremony on behalf of the burial society asked the men to stand to the right side and the women to the left in order to ensure segregation. He did so without asking the family about its preferences. Although the mourners felt that this demand was contrary to their worldview, they acquiesced due to the sensitive nature of the ceremony. At the end of

January 2012 G. wrote to Mr. Eli Yifrah, the director of the Ashkelon burial society. In response to the letter, Mr. Yifrah called G. and stated that he could not understand why G. had not asked the person directing the ceremony not to impose such segregation. However, it is obvious that the burial society bears the obligation not to impose segregation on the mourners. At such a sensitive time, the family should not be required to speak out and object to the segregation.

■ Ofakim: "Satan pleads his case when he sees women standing by the grave"

S.'s grandfather passed away in February 2012. On the morning of the funeral, S.'s aunt met with a representative of Ofakim burial society at the city cemetery where the ceremony was due to be held. During the meeting, S.'s aunt was informed that the practice at Ofakim cemetery is that women mourners do not participate in the funeral procession, but remain behind the line beyond which Cohanim (priests) do not advance. S.'s aunt stated her objection to this practice. During the ensuing argument, the representative of the burial society claimed that "Satan pleads his case when he sees women standing by the grave." It was eventually agreed that the women mourners would be able to accompany the deceased.

At the beginning of the funeral, during the eulogies, a barrier separated the women and the men. Although the burial society ostensibly agreed to allow women to accompany the deceased to the grave, during the ceremony itself the rabbi appeared to act to prevent this. After the eulogies, the rabbi who directed the funeral quickly left for the grave with the stretcher bearing the deceased. The men, who were standing closer to the path leading to the grave, followed him. By the time the women reached the grave, the body had already been interred.

²² <http://www.facebook.com/muli.holtzman/posts/10150638453049083>

²³ <http://www.masorti.org.il/page.php?pagelId=758>

■ Ofakim: A daughter cannot eulogize her father and the women mourners must follow behind the men

R.'s father passed away at the beginning of 2011. While he was alive, R.'s father had on various occasions asked her to speak in his name and on his behalf. Accordingly, after he died, it was obvious to R. that she would speak at his funeral. In her emotional turmoil following her father's death, R. found it difficult to write down her thoughts, but she eventually managed to pull herself together and prepare a eulogy in her father's memory on behalf of her whole family. When the time came for the funeral, the family and friends gathered at the cemetery in Ofakim. After arriving at the cemetery, the male and female mourners were asked to stand separately. When R. sought to recite her eulogy, a representative of the burial society told her that she could not do so. Instead, it was suggested, a male relative such as a brother or uncle could speak. When R. insisted that she wished to speak, the representative of the burial society offered to read out her prepared eulogy. Despite R.'s insistence, the representative of the burial society refused to change his position. Due to her fragile emotional state, R. acquiesced to the discriminatory demand.

During the funeral procession, the men went first, while the women were asked to follow on behind. R.'s sister, who was in the front section, was asked to move to the back.

With IRAC's assistance, R. submitted a claim for compensation against the burial society at Small Claims Court in accordance with the Prohibition of Discrimination Law. On June 15, 2012, the court accepted the claim and awarded R. NIS 31,900 in compensation.²⁴ In his ruling, Judge Amit Cohen wrote:

This is not a case when the defendant can be pardoned for the injustice it caused to the plaintiff. This is an irreparable injustice, and as she attested R. will carry to her last day the sense of a missed opportunity to say farewell properly to her late father.²⁵

■ Netanya: A barrier to separate men and women

On January 14, 2011, S. attended the funeral of a close friend at the cemetery in the Shikun Vatikim neighborhood of Netanya. As the family and friends gathered in the plaza outside the funeral hall, they were amazed to discover that large plant pots had been placed across the plaza, dividing it into two sections. As the ceremony began, the rabbi who was conducting the ceremony on behalf of the burial society went up to the microphone and, to the mourners' amazement, asked the men to stand to one side of the partition and the women to the other. Although many of those present objected to this discriminatory demand, they refrained from speaking out due to the sensitive nature of the ceremony. Accordingly, they had no choice but to follow the rabbi's instruction. S. was obliged to move to the section allocated for women, and was separated from acquaintances with whom she had come to the funeral.

In a subsequent visit to the cemetery, S. saw that signs had been erected imposing the segregation between men and women. A sign stating "men" was placed on one side of the plaza, and a sign bearing the legend "women" on the other.²⁶

With IRAC's assistance, S. submitted a claim against the Netanya burial society in accordance with the Prohibition of Discrimination Law. In its statement of response, the burial society related to the rabbi's request at the beginning of the ceremony for men and women to stand separately,

²⁵ Small Claims (Beersheva) 33424-02-12 Michaeli Davidian v Burial Society

²⁶ <http://www.ynet.co.il/articles/0,7340,L-4073320,00.html> news/education/1.1601058/
<http://www.haaretz.co.il>

²⁴ Article in Makor Rishon: <http://www.ifat.com/VT/Item.aspx?ID=4049563>;
<http://www.ifat.com/VT/Item.aspx?ID=4046920>

claiming that “these requests were introduced following repeated requests by the public who wishes to maintain this practice, and they do not entail improper discrimination in accordance with any law.”

A hearing of S.’s claim was held on November 14, 2012. During the hearing, the representative of the burial society claimed that there is a particular prayer during which the Halacha demands that men and women be segregated. In the remaining sections of the funeral, the burial society maintains the centuries-old practice of segregating men and women. The burial society added that in order to avoid claims of discrimination, it ensures that sometimes the men stand on the left and the women on the right, while other times the arrangement is reversed. This claim is obviously absurd. The discrimination is not due to the particular side on which men and women are required to stand, but to the act of gender segregation itself. At the end of the hearing the registrar decided to refer the case to the Magistrate’s Court. As the proceedings continue, IRAC is seeking not only compensation for S., but also a court order instructing the burial society to remove the segregation signs at the cemetery.

3. Segregation in health clinics

For several years the Health Maintenance Organizations (HMOs) Clalit, Meuchedet and Leumit have operated clinics that impose segregation between men and women, as well as demands for modest dress.

As early as 2007 IRAC began to correspond with Clalit and Meuchedet concerning clinics in Beit Shemesh that impose such segregation. Clalit HMO confirmed that it operates a clinic in Beit Shemesh intended for the Haredi population at which gender segregation is imposed. It stated that this is a special service for Haredi residents adapted to meet their specific needs. Clalit added that the segregation is not imposed in a discriminatory manner but “out of respect for the population of women who, of their own choice, are interested in receiving medical services without the presence of

men, on the one hand, and the population of men interested in receiving medical services without the presence of women, on the other.” The letter then detailed the rights of a patient to receive a medical service without the presence of members of the opposite sex. We must reiterate that our warning letter related to segregation in waiting rooms in which no medical service is provided, and not to treatment rooms. Accordingly, considerations of privacy and physical modesty are irrelevant. The position of the HMO as reflected in its letter of reply implies that an approach that seeks to observe the legal provisions and prevent the segregation of men and women and the imposition of modesty demands is a coercive and intolerant one. The reality is the opposite.

Meuchedet HMO also confirmed that it runs clinics with separate waiting areas for men and women. It claimed that this arrangement is welcomed by the public and is not imposed by way of discrimination but out of consideration for modesty and religious rules preventing contact between men and menstruating women. With the exception of these responses from 2011, we did not receive any further replies to our correspondence with Clalit and Meuchedet.

The legal advisor of Leumit HMO informed us that Leumit runs three clinics in the Jerusalem area in which those who so wish may use single-sex waiting areas (alongside non-segregated waiting areas). The HMO does not enforce this segregation and does not oblige its employees or visitors to observe any particular dress code.

In our correspondence with the HMOs and the Ministry of Health, we emphasized that the introduction of segregation between men and women or the imposition of strict dress codes in health clinics, or in any other state service, is clearly contrary to the law and to court rulings and must be halted immediately. Accordingly, all signs imposing gender segregation or requirements for modest dress (“modesty codes”) must be removed from clinics. It must be recalled that the mere presence of signs instructing those

using the clinics to observe segregated entrances, separate waiting areas, and modest clothing rules is illegal insofar as it is discriminatory and violates the dignity of those requiring the HMO's services.

As of the time of this writing, the Ministry of Health has not replied to our correspondence on this matter.

The interministerial team established by Minister Limor Livnat did not discuss the subject of segregation in HMOs due to lack of time, despite the request to examine this matter by IRAC (which participated in the committee's hearings) and others.

In its final recommendations, the team established by the attorney-general to examine the issue of gender segregation and the exclusion of women in public places proposed that all signs in HMO branches imposing segregation should be removed since these constitute prohibited segregation. In its comments on the team's conclusions, IRAC noted that signs conditioning the provision of service on modest dress should also be removed. The following is a list of HMO clinics in which segregation of men and women is imposed, or where signs or rules requiring modest dress have been reported.

■ Meuchedet clinics in Beit Shemesh

- **Heftzibah** – a sign is displayed in the clinic stating “Please consider the residents’ feelings and dress modestly.” The clinic also has separate waiting areas for women and men and a separate civil defense area.
- **Nachala Umenucha** – a sign is displayed in this clinic declaring: “This clinic serves the Haredi public. We thank you for respecting the feelings of this public. Please come to the clinic in modest dress.” The clinic has a separate waiting area for men.

- **Ramat Nof** – a sign is displayed in the clinic stating: “Please consider the residents’ feelings and dress modestly.” Once again, this clinic has separate waiting areas for women and men.

■ Meuchedet clinics in Jerusalem

- **Shivtei Yisrael** – this clinic has signs indicating separate entrances for men and women. In practice, only the women’s entrance is open.
- **Yechezkel** – a sign is displayed in this clinic stating: “This clinic serves the Haredi public. We thank you for respecting the feelings of this public. Please come to the clinic in modest dress.”
- **Ramot** – this clinic also displays a sign stating: “This clinic serves the Haredi public. We thank you for respecting the feelings of this public. Please come to the clinic in modest dress.”

■ Clalit clinics in Jerusalem

- **Dvora Hanevi’a** – this clinic has two separate entrances labeled “Mehadrin Women” and “Mehadrin Men.” Inside the clinic there are separate waiting areas for women and men. Each section of the clinic displays a detailed and strict dress code demanding that women in immodest dress place a gown over their clothes.²⁷ IRAC has received reports suggesting that the clinic prohibits its female employees from wearing pants to work.

²⁷ The code also includes the following prohibitions: “Complete segregation between men and women will be arranged from the entrance to the clinic, including a separate administrative office, separate waiting rooms, male physicians for men and female physicians for women. It is obligatory to publicize that clients coming to this clinic must respect it by way of modest dress appropriate to the spirit of the place. A client who appears at the clinic in immodest dress will be given a modest gown to place over the clothes by the appointed staff member at the entrance; in children’s clinics (boys up to the age of 13 and girls up to the age of 12), patients may see a male or female physician, but there will be separate waiting rooms for those

■ Leumit clinics in Beit Shemesh

- **Yehuda Hanassi** – a sign is displayed in this clinic stating: “In this clinic, service will be given in modest dress.” The clinic has two entrances, but the men’s entrance is closed. Inside the clinic there are separate waiting areas for women and men and separate computer stations.
- **Heftzibah** – this clinic has separate waiting areas for women and men.

■ Leumit clinics in Jerusalem

- **Shivtei Yisrael** – a sign is displayed in this clinic stating: “Please adhere to modest dress.” This clinic also has separate waiting areas for women and men.

4. Segregation in institutions of higher education

In February 2012, reports appeared in the media claiming that the Council for Higher Education (CHE) had approved a plan to make higher education accessible to the Haredi sector in order to encourage this population to integrate in the job market. As part of the plan, the CHE will encourage institutions of higher education to establish academic frameworks adapted to the particular needs of the Haredi population. These frameworks will concentrate on applied professions and will be located close to the main Haredi population centers. According to the reports, the universities involved will run separate study days for men and women and the campuses will have separate entrances.²⁸

accompanying the children to prevent mingling; the pharmacies will be segregated with separate lines and a separate waiting area.”

²⁸ <http://www.ynet.co.il/articles/0,7340,L-4187703,00.html>;
<http://www.calcalist.co.il/local/articles/0,7340,L-3561697,00.html>

Following these reports IRAC contacted the CHE. In our letter, we emphasized that encouraging men and women from the Haredi sector to acquire a higher education in order to integrate in the job market is a welcome initiative. However, the creation of special study tracks for Haredim within the framework of public universities, including the introduction of segregation between men and women, is inconsistent with the requirements of the law. Academic institutions should be made accessible by providing men and women with tools for acquiring an education (such as preparatory courses and financial assistance) and by establishing frameworks that are physically accessible to the main Haredi population centers. However, the goal of encouraging the integration of Haredim in the job market cannot overrule the basic principle of equality between the sexes. The CHE should not allocate resources for the establishment of separate frameworks within public universities and public facilities should not have segregated entrances. Universities belong to the public as a whole, and they should not establish tracks for a specific section of the population in which gender-based restrictions are imposed.

We also argued that it is important to consider the ramifications of such an initiative. The creation of separate higher education frameworks for women and men, funded by the state, may later lead to demands to provide segregated employment for Haredi graduates. The goal of making places of employment accessible to the Haredi public is also important, but it must be ensured that this is not done at the expense of women.

A detailed reply from the Planning and Budget Committee of the CHE and a meeting between IRAC, representatives of the CHE, and Professor Manuel Trachtenberg emphasized the social goal of increasing the participation of the Haredi population in the job market. The Haredi sector is currently characterized by some of the highest poverty rates in Israel and by an extremely low level of participation in the higher education system. The

CHE believes that this objective will only be met if consideration is shown for the social sensitivities of this population.

IRAC believes that the proposal to create separate frameworks for higher education raises numerous legal, ideological and principled difficulties. The formation of a distinct framework for the Haredi sector is based on the “separate but equal” principle, which has been rejected by the courts. Segregation conveys a message of inferiority to women and may lead to their displacement as lecturers from tracks attended by Haredi students. Segregation in the classroom may also lead to segregation in other services, such as the library, cafeteria and office services.

Segregated frameworks for women and men constitute an exception to the principle of equality. The design of these study tracks should include only the minimal segregation arrangements necessary in order to secure the objective. The goal should be to facilitate the increased participation of the Haredi sector in academic studies while causing the least possible damage to the principle of equal participation in the public domain. It is also important to avoid a situation where the provision of segregated tracks is subject to the approval or supervision of rabbinical committees, which are liable to acquiesce to the demands of the most extreme section within the Haredi public concerning the content of the studies, the identity of the lecturers, and other aspects.

IRAC is continuing to monitor the plans to enhance the access of the Haredi population to academic institutions.

Opinion:

The Need to Integrate Haredim in Higher Education

Position of the Planning and Budget Committee of the Council for Higher Education*

A. The Haredi population

According to the Organization for Economic Cooperation and Development (OECD)- report on Israel, the level of poverty in Israel is the highest of all the 34 OECD member countries, particularly among the younger population. The main reason for this is the low rate of participation in the work force in the Haredi sector and the Arab sector.

In July 2010 the government adopted a resolution to encourage employment among Haredim, noting the national need to integrate the Haredi sector into the job market. This decision was based on data showing that the integration of Haredim in the job market is a cardinal challenge and a catalyst for socioeconomic growth in Israel. The recommendations of the interministerial committee established as part of the above-mentioned government resolution were adopted in Government Resolution No. 2614 dated December 19, 2010. The government resolution is based on a recognition that social and cultural change cannot be made suddenly, but should be introduced in a slow and gradual manner, while providing the necessary time for adaptation and providing Haredim with tools and skills that will facilitate their integration in the economy.

* The Committee's opinion was sent in response to a request from IRAC dated March 19, 2012.

Various attempts have been made to estimate the size of the Haredi population in Israel. These estimates are currently in the range of 8-11 percent of the population (some 600,000 – 800,000 people). A total fertility rate of approximately 6.5 children leads to a growth rate in the Haredi sector of approximately seven percent a year. A further statistic indicating the size of the Haredi population and its growth relative to the non-Haredi population is that in 2010 some 25 percent of first-grade students studied in Haredi education frameworks, compared to just 6.3 percent in 1990.

The Haredi sector is characterized by low rates of participation in the workforce. In a typical Haredi household the husband is a Torah student who does not work on a regular basis, while the woman is the main breadwinner in the home, although in most cases she works in an irregular manner and on a part-time basis. This situation is due to numerous obstacles in employment, including the Haredi lifestyle, the need to care for a large number of children, and the support system for the non-working population. The combination of low employment rates and a large number of children leads to a significant incidence of poverty in the Haredi sector and to a high level of dependence on welfare mechanisms and on various transfer payments. Approximately 55 percent of Haredi families are poor.

The employment rate among Haredi men is particularly low, at approximately 40 percent (the rate among Jewish men is twice this figure). The employment rate among Haredi women is higher – approximately 57 percent, though this is still significantly lower than the rate among non-Haredi Jewish women, which is approximately 74 percent.

Significant differences exist between men and women in the Haredi population in terms of post-elementary education, readiness for studies, and openness to participate in studies. In most cases, Haredi men currently come to academic studies at the age of 23 or above, when they already have families. Most of them have a minimal background in all the core subjects and have no familiarity with academic learning habits. By contrast,

Haredi women usually reach academic studies in the 18-23 age range, when some of them are already married and have children. Most of them have a significant background in core subjects studied in post-secondary seminars in the framework of the “Szold tests.” After high school, most Haredi women continue to study in the post-secondary seminary in the 13th and 14th grades until they marry. These frameworks teach various topics in the framework of a diploma track or technical engineering studies.

B. Making higher education accessible to the Haredi sector

The process of integrating the Haredi population in higher education entails numerous challenges due both to the subjective obstacles facing Haredi students and to systemic difficulties. These obstacles make it difficult for Haredi students to reach the higher education system and are also reflected in high dropout rates.

Economic obstacles. As a generalization, the average Haredi family has a low socioeconomic background. Specific characteristics of this sector, including early marriage, large families, and dependence on various forms of support, create significant financial difficulties. The acquisition of higher education, particularly in practical vocations that are in demand in the market, requires a considerable investment of time and does not permit the student to work during the period of studies. For Haredi men, who lack a relevant academic background, this task may be impossible. Moreover, a Haredi man who studies in a Kollel receives a living stipend and various other forms of support from the community and the state. Commencing academic studies leads to the withdrawal of this support and exacerbates the individual's economic situation still further. Although Haredi women have an academic background, they also face a complex economic reality. The women are the main breadwinners in the family, and their participation in academic studies, therefore, creates considerable difficulties.

Cultural and social obstacles. The Haredi sector attaches ideological and symbolic importance to the fact that a Haredi man devotes all his time to Torah studies. This occupation also constitutes an important factor in the ability to secure a suitable match for marriage. The rabbis are opposed to secular studies, but this opposition is less forceful in the case of women, in order to enable them to go out to work and thereby help the men to devote themselves to full-time Torah studies. On the other hand, Haredi men can study alongside the non-Haredi population, whereas Haredi society will not permit women to study in non-Haredi frameworks.

Academic obstacles. Haredi men face considerable gaps that hamper their ability to cope with academic studies. The difficulties are particularly prominent in the sciences and mathematics, as well as in English. These gaps require longer periods of study in preparatory courses and in the studies themselves. Conversely, the preparatory courses are too long for women who have participated in the “Szold tests” and generally reached a high level. This situation impairs their motivation to complete the preparatory course and move on to higher education.

Obstacles preventing employers from reaching the Haredi public. In addition to the difficulties discussed above, many potential employers do not even consider turning to the Haredi public. Employers do not see the Haredi public as a reserve for the workforce and do not usually approach personnel companies specializing in the placement of Haredi employees. In a survey, 94 percent of employers stated that “the absence of segregation of men and women” constitutes a factor preventing the possibility of employing Haredi worker. Surprisingly, Haredim themselves attach very little importance to this aspect, and such segregation is found in only 8.2 percent of the businesses in which Haredi workers are employed. This example highlights the manner in which a lack of information about the genuine needs of Haredi employees may prevent them from entering the workforce. Moreover, information about government programs designed

to encourage the employment of Haredim is limited. Many employers are unaware of these programs or do not take advantage of them.

Higher education in the Haredi sector. In the 2010-11 academic year, 6,149 Haredi students studied in the higher education system. Of this number, 3,626 attended budgeted institutions (mainly the Haredi College in Jerusalem, the Haredi Bnei Brak College under the auspices of Bar Ilan University, Haifa University and the Higher Institute of Technology). The remainder attended non-budgeted institutions (mainly Ono Academic Campus). The institution that teaches the largest number of Haredi students is the Higher Institute of Technology (HIT). HIT currently operates three separate tracks for Haredim: Lustig and Da’at for Haredi women (in Ramat Gan and Jerusalem) and the Naveh Institute for Haredi men, which operates on the campus of the Lev Institute. The two “platforms” in Haredi Bnei Brak and in Jerusalem teach approximately 1,800 students. The remaining students are dispersed in various institutions. The areas of study offered by the budgeted institutions are relatively diverse, with an emphasis on practical vocations. By contrast, the students in the non-budgeted institutions study only law and business administration.

C. The need for special frameworks for the Haredi sector

In light of the above, it is hardly necessary to reiterate the great importance of integrating the Haredi population in higher education. The low participation rate of the Haredi population in the workforce and its high growth rate make it imperative to address this problem on the national level. Accordingly, the CHE and the Planning and Budget Committee, as the bodies responsible for higher education in the State of Israel, consider themselves responsible for increasing the proportion of the Haredi population in higher education and hence in employment.

The government of Israel, and particularly the Ministry of Finance and the Office of the State Comptroller, have attached significant weight to

promoting the integration of the Haredi sector in the higher education system, and have authorized the CHE and the Planning and Budget Committee to promote this policy.

Over the past year, the CHE and the Planning and Budget Committee have engaged in a detailed examination of the possibilities for enhancing the access of the Haredi population to higher education. The process included visits to institutions that currently operate in Haredi society and an in-depth examination of the challenges they face; meetings with students in order to understand their obstacles and difficulties; and meetings with various bodies active in the field. On the basis of the data and information collected, the action plan and the character of the new frameworks were then consolidated. Detailed descriptions were prepared and an appropriate budgeting model was developed.

It should be noted in this context that significant change and the inclusion of the Haredi public in higher education (albeit not to the extent we would like) have been seen solely in special frameworks for this sector. By contrast, our examinations show that the number of Haredi students participating in the regular programs of universities and colleges is extremely low. Accordingly, the solution that will secure the desired outcome of increasing the number of Haredi students in the system as a whole requires specific attention to this population. To the best of our understanding, an approach that fails to address the special cultural needs of the Haredi population will not secure the desired change. Moreover, it must be emphasized that the goal of the program is to enable any Haredi interested in higher education to acquire this in a setting that relates to his needs and beliefs. It is not our intention to educate the Haredi public in a manner that is contrary to its worldview and beliefs. To attempt to do so would lead us to fail in our objective, and the State of Israel stands most to lose from such a situation.

In addition to the above, we should emphasize that the task of establishing frameworks for Haredim will be imposed on the existing institutions of

higher education, and they will bear full responsibility for the management and operation of the Haredi frameworks. It is not our intention to establish "Haredi" institutions of higher education. Moreover, the frameworks will be confined solely to the teaching of bachelor's degrees and will draw on the resources and infrastructures of the parent institution. In addition, the Haredi framework will be established adjacent to the parent institution, with the goal of enabling diverse study fields and maintaining a high academic standard. This format will enable the segregation needed in order to enable the Haredi population to acquire higher education and integrate in high-quality employment while exploiting existing resources and infrastructures. The establishment of these frameworks alongside the parent campus strikes a balance between segregation and integration and will facilitate the integration of the Haredi population in employment and in society.

The goal of the program is to establish new frameworks for Haredim alongside the budgeted universities and colleges in accordance with the guiding rules. A Haredi framework (HF) adjacent to these institutions will include a separate physical framework (i.e. a separate building) with suitable conditions for the needs of Haredi students (segregation of men and women, etc.) This framework will have its own managerial structure, including a director / responsible function and secretarial services.

The geographical proximity of the HF to the parent institution will enable a situation whereby the faculty teaching in the HF is identical to the faculty teaching in the parent institution. This will also ensure that a wider range of study fields are open to Haredi students and will facilitate access to the infrastructures of the parent institution. It is important to note that in choosing the location of the HF, attention should also be given to considerations relating to the nature of the HF's surroundings, access to public transportation, proximity to the main Haredi population centers, and so forth. At a later stage the possibility will be considered of enabling cooperation between institutions that are in close geographical

proximity in order to expand the supply of study fields and exploit existing infrastructures. In this scenario, the administrative responsibility for the HF will be imposed entirely on one institution, while other institutions may offer additional study fields.

Encouraging the absorption of students in the regular departments of the parent institution: In addition to establishing the HFs and enhancing the platforms, the model will also encourage the absorption of students in the regular departments of the institutions. The goal of this aspect is to integrate Haredim in academic departments in which it is not possible to open specific tracks (such as medicine) and to encourage Haredi students to continue on to advanced degrees.

D. Ensuring equality

In order to enable gender-segregated studies in the Haredi sector, the solution has been chosen that balances the right to cultural variance and freedom of will of the students and institutions, on the one hand, alongside strict adherence to the principle of human dignity and equality in the public domain.

Accordingly, the CHE has decided to permit study tracks that include segregation of men and women, provided that they meet the following conditions:

1. Registration to the special track will be open to any person who wishes to study in it without any discrimination, and in accordance with the conditions detailed above.
2. The segregation arrangements will merely be recommended. They will not be enforced by the institution, and the institution will take disciplinary action against any person who uses pressure in order to enforce these arrangements and comes under the institution's disciplinary jurisdiction.

3. The segregation arrangements will be egalitarian in terms of the learning conditions of men and women.
4. The content of the studies will be identical to that current in the institution, and will be determined solely by the academic functions in the institution, as usual.

In interpreting the principle of equality, the court has ruled that the allocation of funds from the state budget must be substantively – rather than formally – egalitarian, but the priorities and differences must be based on substantive considerations consistent with the principle of equality, rather than on improper considerations (see HCJ 1113/99 Adalah – The Legal Center for the Rights of the Arab Minority in Israel v Minister for Religious Services, 44(2), 164, p. 172).

Substantive equality requires egalitarian behavior toward people or institutions when the distinction between them is not relevant to the matter at hand and does not justify different treatment. For the purpose of allocating support, as for other purposes, the principle of equality imposes an obligation in two stages: In the first stage, the obligation is to determine in an egalitarian manner what is the equal group; in the second stage, the obligation is to behave in an egalitarian manner within the equal group. For the purpose of determining the relevant equal group, consideration should be given to the purpose of the law, the substance of the matter, the basic values of the legal system, and the special circumstances of the instance (see HCJ 1438/98 Masorti Movement v Minister of Religious Services, 53(5) 337, pp. 362-3).

E. Conclusion

In Israel there are sectors of the population that have limited access to higher education. This situation mitigates against the integration of these groups in the general population and exacerbates social gaps. The integration of

these sectors in the higher education system in Israel is a national challenge and constitutes one of the objectives of the long-term plan for the higher education system.

The decision of the Council for Higher Education to encourage the integration of the Haredi sector in higher education, and consequently in the national economy, effectively constitutes a tool for enhancing equality within the population in the state in terms of meeting the civil burden by providing this sector with a genuine possibility to integrate in the system.

As noted above, the social objective of enhancing the participation of the Haredi population in the job market, and to this end in the higher education system, cannot be achieved suddenly but must be implemented with due sensitivity to the social complexities entailed. The required change is a substantive cultural and social one relating to the way of life of Haredi society, which has educated its sons to devote all their time to Torah studies. This approach has created obstacles to integration in the higher education system. The change cannot be achieved through a dramatic revolution in this way of life, but rather by enabling Haredim to integrate in the higher education system while respecting the culture of this sector.

Cultural and religious differences lead us to a recognition that only by enabling academic studies in separate and suitable frameworks will it be possible to ensure that the system is accessible to this sector. The establishment of the frameworks adjacent to the parent campus, while striking a balance between segregation and integration, will assist in the integration of the Haredi population in employment and in society.

The report of the Public Commission on Economic and Social Change, headed by Prof. Manuel Trachtenberg, also addressed the subject of the integration of the Haredi sector in employment, among other issues. The report noted that such integration must be undertaken through a gradual process and while drawing on the values and culture of the Haredi population.

Providing an opportunity to open separate study frameworks for the Haredi population, under the auspices of the institutions of higher education, while ensuring that the programs studied in these frameworks are identical in academic terms to those studied on the campuses of the institutions themselves, and while ensuring the principles detailed above, including principles ensuring equality in admissions and in study conditions and including the non-enforcement of the segregation arrangements, does not constitute improper discrimination, since it is intended to provide distinct attention to different groups in accordance with their difference and for a proper purpose.

Opinion: Gender Segregation in Legal Studies

Can legal studies take place while segregating women and men?

Prof. Menny Mautner

A. The university cannot separate people in its discussions

A university has three principal goals.

The first goal is to pursue **knowledge for its own sake**, i.e. the acquisition of knowledge motivated by the human desire to understand the world. Such knowledge may imbue humans with spiritual enrichment and enhance their understanding of the human condition.

Knowledge for its own sake is distinct from **instrumental knowledge**. The latter is knowledge humans seek to acquire in order to use it as a tool for advancing objectives that are considered of value, above and beyond the inherent value of knowledge itself. These objectives are determined by considerations that go beyond those forming the foundation of the university's operations.

The second goal of the university is to **preserve the knowledge** accumulated in the university.

The third goal is to disseminate the university knowledge among humans for the purpose of their spiritual and intellectual enrichment.

The university's operations are based on the presence of egalitarian discourse among all those who have an interest in university knowledge, without any distinction on the grounds of nationality, sex, gender, status, race, and so forth, provided that they are willing to accept the three basic operating rules of the university: Reliance on knowledge produced in the

past; the activation of the unique research procedures of the university; and the use of the university's unique mechanisms for argument, reasoning and persuasion.

Since the university is interested in the production of knowledge for its own sake, its operations assume that all humans per se, belonging to different national, social, cultural and gender groups, may enrich the processes of research and discussion that take place in the university. Indeed, it is for these reasons that prestigious universities take active steps to ensure that their teachers and students include people who come from diverse groups in terms of nationality, sex, gender, status, race, and so forth.

It follows from the above not only that the university cannot exclude any persons from its ranks, but also that the university cannot exclude any persons from the discussions that take place therein. University discussions conducted in a manner whereby only certain groups of humans participate therein are partial and defective and undermine the university's ability to meet its goals successfully – principally the goal of achieving knowledge. This is true even if the other groups, which are excluded from certain discussions, maintain their own separate discussions in the university.

Law studies must take place in the university. The goals of the faculties of law must be the general goals of the university: To secure knowledge for its own sake relating to the legal phenomenon as this has been manifested in different places and times; to preserve this knowledge; and to disseminate it. More specifically, law studies should address the effort to understand the normative significances of law and its social ramifications, including an effort to understanding those who "win" and "lose" from law. As part of these studies, all those who have an interest in the legal phenomenon should participate alongside each other, coming from different and diverse groups in terms of nationality, sex, gender, class, race, and so forth. A university that does not facilitate joint activity of such people in its research and

discussions on law will be a defective and damaged university that fails to meet the central goals that underlie its activities.

It is evident from the above that we cannot accept a format of university law studies whereby research and discussion take place in a situation of gender segregation. The study of law and discussions about law should take place by means of mutual enrichment of all those belonging to all national, social, cultural, and gender groups.

B. The faculty of law as a vocational school

The faculty of law is not only an academic department but also a vocational school. A vocational school is a distinct institution from a university. It does not maintain the first goal of the university, i.e. securing knowledge for its own sake. Instead of knowledge for its own sake, the vocational schools aspire to secure instrumental knowledge that can serve its graduates successfully in their professional activities. Neither does the second goal of the university – preserving knowledge – apply in the case of the vocational school. The only goal of the university that applies to the vocational school is the third goal: disseminating knowledge. Again, however, this goal appears in an instrumental form, and not for the purpose of spiritual and intellectual enrichment.

Since the vocational school does not seek to secure or preserve knowledge for its own sake, but only to disseminate knowledge of instrumental value, as distinct from spiritual and intellectual value, the basic principles underlying its activities differ completely from those underlying the university's activities. Accordingly, there is ostensibly no reason why a vocational school should not maintain its studies while segregating women and men. However, it must be absolutely clear to all those involved: in such an instance, this is not a university, but a vocational school. However, as I shall show below, such segregation is nevertheless impossible due to considerations relating to the nature of civil society in a liberal state.

C. The three spheres of life in the liberal state

The university is also a central institution of the civil state, and one of its important purposes is to develop human and social insights in a manner that is independent of the perceptions and interests of the institutions of state and of powerful social institutions, and particularly the market (in this respect, the university is analogous to literature, the theater, cinema, and the plastic arts). A liberal state maintains a separation between the private sphere, on the one hand, and the sphere of civil society and politics, on the other. Within the private sphere, individuals are free to exclude and to discriminate against others (for example, an individual – but not a corporation – may be selective in renting out a residential apartment). In the sphere of civil society and in the sphere of the state, there must be absolute equality. Such equality cannot tolerate the exclusion or segregation of certain groups of humans.

Accordingly, even if the essence of the vocational school as an institution, which as noted differs completely from that of the university, ostensibly permits the segregation of men and women in the studies it maintains, as long as the vocational school undertakes its activities within the confines of the civil society of the liberal state, the presence of segregation between men and women within this institution cannot be sanctioned. The principle of equality, which must apply absolutely in the civil society of a liberal state, must also apply to the vocational school that operates within the confines of liberal civil society.

D. Gender segregation within the framework of the Haredi community

Non-liberal communities (usually religious communities) refrain from implementing the norm of equality not only in the private sphere but also within the sphere of civil society and the sphere of politics. By way of example, the Haredi community excludes women from its institutions of

Torah education, and as a result also from its legal and political institutions (political parties). The question of the extent to which the liberal state should tolerate such practices of discrimination and exclusion is a complex one that cannot be clarified here. However, assuming that discrimination and exclusion are tolerated by the state, there is no reason why a non-liberal community such as the Haredi community should not maintain vocational schools for legal studies within its civil society which, like all the activities in the community, will also be based on segregation of men and women. One thing must be clear, however: This is not a university but a vocational school; and this is not an activity undertaken within the civil society of the liberal state, but one undertaken within the framework of the civil society of the non-liberal community. Just as the basic principles behind the operation of the university must be maintained without reservation, and just as it is important to recognize the distinction between a university and a vocational school, so the liberal state must also guard the observance of the norm of equality in its civil society without reservation, including in the vocational schools that operate within this society.

Some might argue that Israel's economy and society will benefit if the "regular" universities and vocational schools for legal studies enable Haredi men and women to pursue studies. Since Haredim will not be willing to participate in these studies in the absence of gender segregation, they should be allowed such segregation within the framework of their studies in the universities and schools of law. The argument that law studies by Haredim will benefit the state seems to be correct, but I do not believe that such benefit warrants deviation from the basic principles established above. The university cannot exclude any person from its ranks and discussions and cannot impose segregation of humans during its discussions. A vocational school operating within the civil society of the liberal state must also maintain the norms of equality. If the Israeli economy and society will indeed benefit from Haredim studying law, and if it is indeed a condition for such studies that they will maintain gender segregation, the solution lies in

my comments above: there is no reason why the institutions of the Haredi group should not maintain these studies, and this group already maintains gender segregation in all its activities.

Some might continue to argue that since Haredim are accustomed to gender segregation in all aspects of life, they should be allowed to maintain such segregation in the framework of their legal studies in universities and schools of law. However, the response to the previous claim also applies in this instance. On the one hand, there can be no compromise regarding the basic principles concerning the operation of the university and the actions of the civil society of the liberal state. On the other, since the Haredim are in any case accustomed to gender segregation in all aspects of their life, they will be able to continue to maintain such segregation in the frameworks for the study of civil law established within their separate community frameworks.

5. Exclusion of women in a "preventive driving" course

Women drivers who attempted to register for a "preventive driving" course (obligatory courses for drivers who have accumulated a certain number of traffic violations) on Fridays in the Jerusalem and central regions were told that they could not do so, since the course was intended for men only. The course is operated by franchisees, but is an official framework of the Ministry of Transportation. In a report on the subject on Channel Two news, the Ministry of Transportation stated that it addresses the needs of the entire driving population and offers "according to demand, special classes that do not replace the courses for the general driving population." The Amal-Hesegim chain, which operates the course, stated that "courses are occasionally opened to meet the special needs of the population in the area, in addition to mixed courses and not in their place."²⁹

6. Special course for female Kashrut supervisors

In January IRAC received a complaint from a woman who applied to join a course for Kashrut supervisors offered by the Eliya Institute,³⁰ which provides training for adults from the religious and Haredi communities in Jewish religious vocations. The institute rejected her request and informed her that she could not be accepted for the upcoming course, since this was intended for men. However, the institute added that if she organized a group of women it would be possible to run a course for them, though they would not receive a diploma. We contacted the Eliya Institute and the Chief Rabbinate Council and warned that the institute's policy restricting Kashrut supervision training to men only violated the Prohibition of Discrimination Law, which applies the principle of equality to suppliers and

²⁹ <http://www.mako.co.il/news-israel/local/Article-9bfab393f3b1531018.htm&Partner=rss>

³⁰ <http://www.machon-eliya.co.il/150541/%D7%90%D7%95%D7%93%D7%95%D7%A-30%D7%9E%D7%9B%D7%95%D7%9F-%D7%90%D7%9C%D7%99%D7%94>

service providers such as the institute. We noted that in accordance with the decision of the Chief Rabbinate Council from 2004, women are permitted to work as Kashrut supervisors. Accordingly, there is no Halachic reason why they should not be trained for this position. The course is held under the inspection of the Chief Rabbinate Council, and the Rabbinate is therefore legitimizing the infringement of the right to equality, freedom of vocation, the right to equal opportunities and the dignity of the women involved.

At the same time, the national-religious women's movement Emunah developed a course for women Kashrut supervisors and is currently awaiting the approval and recognition of the Chief Rabbinate in order to ensure that the graduates of the course will be able to take the Rabbinate's exam and receive a diploma on its behalf.

Most of the female Kashrut supervisors who are currently in employment work in closed laboratories due to considerations of modesty; a minority serve as supervisors in businesses with the approval of the relevant local rabbi. The Office of Chief Rabbi Yona Metzger stated that it had not received any formal request on this matter. The office added that there is no reason why a woman should not serve as a Kashrut supervisor, and that the reason why the course was not opened was probably that there were not enough women who wished to participate.³¹

Six months after Emunah contacted the Chief Rabbinate, media reports claimed that courses for Kashrut supervisors are open to men only "for reasons of modesty." A letter of reply received from the Chief Rabbinate in August 2012 stated that the Rabbinate was still discussing the matter. The letter enclosed an excerpt from the minutes of the discussion. Among other remarks, Rabbi Avraham Yosef declared that "in the past I wrote a grounded letter to one of the greatest Torah scholars in Israel who employs a woman in an abattoir. I proved that this practice is contrary to the Halacha

³¹ <http://glz.co.il/newsArticle.aspx?newsid=104729>

in many respects, apart from the numerous problems that can arise from the employment of women as supervisors.” The Rishon LeZion (Sephardi Chief Rabbi) Shlomo Amar was quoted as claiming that “this is not a purely Halachic discussion about whether it is permitted to employ women as supervisors, but forms part of an effort by various organizations interested in encouraging public discussion regarding the subject of the equality of women in public life.”³² Emunah subsequently submitted a petition to the Supreme Court demanding that the Chief Rabbinate be instructed to recognize its course for female Kashrut supervisors. Unless such recognition is secured the graduates of the course will be unable to find work in the field. The petition is pending.

7. Jerusalem Day: Segregation in the Flag Parade

On May 20, 2012, the traditional flag parade was held to mark Jerusalem Day. During the parade, male and female ushers stopped passers-by in central Jerusalem and directed them to create a separate route for women. When a number of people expressed their objection to this practice, the ushers claimed that they were working in cooperation with the police. In response, the Jerusalem Police emphasized that segregation had not been coordinated with them. They claimed that the incidents involved “foolish comments by a handful of ushers, made solely on their own behalf and contrary to the agreement with the police.”³³

8. Exclusion of female lecturers at the High School for Technology in Jerusalem

The High School for Technology in Jerusalem is a well-known academic institution in the Religious-Zionist community. The institution receives

³² <http://www.ynet.co.il/articles/0,7340,L-4302772,00.html>

³³ <http://news.nana10.co.il/Article/?ArticleID=898503> ; <http://room404.net/?p=52834>

state funding and operates separate campuses for women and men (the Tal Institute and the Lev Institute, respectively). The Tal Institute, which provides academic and religious studies for young women, employs both female and male lecturers. However, the Lev Institute for men employs only male lecturers. A report on the subject on Galei Tzahal radio quoted a response from the school: “Due to the special character of the institution, the population that attends it, and the desire to meet the needs of this population, it has been determined since its establishment that women do not give lectures to male students.”³⁴

9. Establishment of a rabbinical supervisory committee in Magen David Adom

A report published in *Haaretz* on June 25, 2012 claimed that Magen David Adom (MDA) was planning to establish a “Judaism and Halacha Committee” in order to consider and recommend procedures and means for enabling religious Jews to volunteer in the organization. According to the report, the issues to be discussed by the committee included relations between the sexes, science and religion, and other aspects. The committee was to be headed by Rabbi Shmuel Eliahu, the Rabbi of Tzfat, and the members would include Rabbi Yossi Ben Shahar, Rabbi Professor Avraham Steinberg, and Rabbi Yigal Shifran.³⁵

Following the publication of the article, IRAC contacted the management of MDA and noted that, assuming the report was correct, the proposed committee was improper and inconsistent with the nature of the MDA as an organization. In terms of the practical impact on the role of women in the MDA, the reports suggested that this initiative could lead to the restriction of women volunteers and employees in the organization. The demand to impose “modesty rules” in terms of the work of male and female volunteers

³⁴ <http://glz.co.il/newsArticle.aspx?newsid=106596>

³⁵ <http://www.haaretz.co.il/news/health/1.1739841>

is a significant aspect that could restrict the activities of women due to demands for segregation. In addition, segregation could also affect the provision of medical care by men or women to members of the opposite sex. The question arises as to whether a team consisting solely of men, formed in accordance with the instructors of the committee, would be able to provide an appropriate medical response when called to assist a woman.

According to the report, the decision to establish the committee was the result of pressure from the Haredi community, which had complained of a lack of modesty and mingling of the sexes, particularly in the Jerusalem district, where MDA has many Haredi employees and female national service volunteers. It was also noted that although MDA does not currently have any guidelines on this matter, "in branches where there are a large number of religious and Haredi volunteers, segregation is customarily maintained on a voluntary basis, so that the ambulance teams consist only of men." As noted, the formulation of guidelines relating to modesty and segregation could harm the many women volunteers and employees who currently work in MDA. Regrettably, past experience shows that when an organization makes gestures toward the Haredi community, it is women who pay the price. Even if the possibility is accepted of providing for separate areas for male and female volunteers in the station or at the emergency standby point, no restrictions should be imposed on the roles that women can fill as medics, drivers, or paramedics. Ambulance teams should not be comprised solely of men. Indeed, in the case of urgent medical need among the religious and Haredi communities, it is particularly important that ambulance teams include women in order to respond to the needs of women patients who may prefer to be helped by a woman in times of distress.

10. Magen David Adom standby point for men only

Magen David Adom (MDA) announced that it intends to establish an emergency standby point in the Beit Yisrael neighborhood of Jerusalem for

men only. The facility will employ exclusively male paramedics, physicians, medics, and drivers. Women will not be able to fill any of these positions or to volunteer at the facility. MDA claimed that the decision was taken at the request of some of the local residents. However, many local residents fail to understand this demand and believe that it was made by extremist elements and is not required by the Halacha. MDA replied that it does not understand why the decision attracted attention and that it is merely trying to respond to the residents' needs. Some residents pointed out that if the facility is intended to serve the neighborhood it must also include women, since at least half of the local residents are female.³⁶

11. Segregation on an El-Al flight

In August 2012 we contacted El-Al airline on behalf of a woman who experienced segregation of women and men in the seating arrangements during one of the company's flights. On June 13, 2012, D. boarded an El-Al flight from New York to Tel Aviv. On entering the cabin, she noticed that a Haredi man was sitting in her seat, next to two other Haredi men, rather than in his allotted seat, presumably because he did not wish to sit next to a woman. D. spoke to a steward who asked the Haredi passenger to move so that she could take her seat, but the passenger refused to do so. The steward acquiesced at this point and asked D. to sit in another seat temporarily so that the plane could depart. D. had specifically requested an aisle seat for medical reasons, while the replacement seat she was given was a middle seat. After take-off, the steward made no attempt to speak to the passenger who had taken D.'s place, but merely apologized to her and offered her snacks and a drink. The steward spoke to D. again on this matter

³⁶ <http://www.youtube.com/watch?v=HOY9jR86K18>

after several hours, but by this point D. was tired and preferred to remain in her place.³⁷

D. subsequently submitted a complaint to El-Al customer service. In a telephone conversation with a customer service representative, D. was told that since the company has encountered similar problems in the past, it was consulting with a rabbi concerning the seating demands of Haredi passengers.

After D. requested help from IRAC, we contacted El-Al and emphasized that this incident reflected an improper and illegal practice of gender segregation on the company's flights, with the acquiescence of the plane crew. El-Al is required to maintain an egalitarian and respectful approach to all its passengers, male and female. The crew should ensure that women are not displaced from their allocated seats due to the demands of Haredi passengers, just as a bus driver is required to protect the rights of female passengers to sit where they choose. Cabin crew cannot adopt a policy of refraining from intervening: they must take a proactive approach in order to ensure that the rights of women passengers are maintained.

In response, El-Al denied any suggestion of discrimination on its flights, and emphasized that it does not promise to allocate any specific seat to a passenger. IRAC responded by reiterating El-Al's obligation to protect passengers' right to sit in their intended seat, and to refrain from demanding that men or women sit in a particular place for reasons of modesty. If a member of the cabin crew received a request for a seat change due to considerations of modesty, it is important that this be presented to passengers as a request, and not a demand. Moreover, the alternative seat should not be less preferable than the passenger's original seat. For

³⁷ <http://www.mako.co.il/travel-news/israel/Article-27202258f6b0931006.htm>;
<http://www.glz.co.il/newsArticle.aspx?newsid=110868>

example, a passenger with a window seat should not be asked to move to a middle seat.

Air travelers who encounter similar problems are asked to tighten their safety belts and contact IRAC.

12. Segregation barriers on airplanes

In February 2012, it was reported that during an El-Al flight from Belgium to Israel, a group of Haredi passengers erected a barrier on the airplane. According to the passengers, crew members claimed that this happens occasionally and that the crew permits this, while allowing other passengers who are bothered by this practice to move seats. The barriers remained in place until the plane landed. The article quotes El-Al as responding that "this was an exceptional incident that is not in accordance with the company's flight service procedures. It must be emphasized that flight safety was not impaired. The company will study and examine the issue."³⁸

After the incident was reported in the media, and following a complaint by the organization Hiddush, El-Al announced that it is working to prevent such occurrences and to inculcate its procedures. Flight crews have been asked to ensure that such incidents are not repeated.³⁹

³⁸ <http://www.globes.co.il/news/article.aspx?did=1000726242>; <http://zon.co.il/loadPage.php?id=78095>

³⁹ <http://www.kikarhashabat.co.il/%D7%A9%D7%91%D7%95%D7%A2%D7%95%D7%AA-39%D7%91%D7%9B%D7%95%D7%AA%D7%9C.html>
<http://www.mako.co.il/news-israel/local/Article-87836734d5ab531018.htm?utm>

13. Segregation on sidewalks

■ Water libation celebrations in Jerusalem

In recent years, segregation has repeatedly been imposed between men and women in the Meah She'arim neighborhood of Jerusalem during the water libation ceremony, which takes place during the festival of Sukkot. Two years ago, Jerusalem city councilor Rachel Azaria petitioned the Supreme Court, claiming that the police was failing to prevent this unlawful segregation. The Supreme Court accepted the petition. In 2011, Azaria submitted a further petition after a segregation fence was erected opposite Toldot Aharon Yeshiva. The petition was withdrawn after the police promised to prevent the erection of the fence. In 2012, the police attempted to reach a compromise ahead of the event. It was decided that two safety barriers would be established, as well as an eight-meter fence opposite Toldot Aharon Yeshiva. In contrast to past practice, it was agreed that the barriers would not be covered, and that no ushers or signs would be used to enforce gender segregation.⁴⁰

IRAC received reports from people who attended the celebrations claiming that ushers were present on the scene. A net was placed over the fences and signs were displayed imposing gender segregation. After social activists arrived to examine whether the barrier had been removed a commotion ensued during which Haredi youths threw stones at policemen. One of the stones struck Issa Issawat, a photographer for Yediot Acharonot, who was evacuated for treatment by Magen David Adom. The police claimed that the segregation was not imposed by force and the ushers were actually unpaid medics. The police promised to remove the signs.

⁴⁰ http://www.haaretz.co.il/news/education/1.1832932#Scene_1 40
<http://www.bhol.co.il/article.aspx?id=45042>

14. Segregation and prohibition on girls riding bicycles in a playground

Moshav Komemiyut in southern Israel has just one playground where the local children can play during their leisure time. Signs around the playground proclaim "Permanent segregation in times of entering the playground." The signs detail specific hours for boys and girls. On weekdays, boys may use the playground between 1:00 and 3:00 pm. Mothers may use the playground with boys and girls up to the age of seven between 3:15 and 5:45 p.m., after which it is again available to boys until 8:00 p.m., and then for mothers and their daughters until 10:00 p.m. On Fridays, mothers and daughters may use the playground from 11:00 a.m. to 1:45 p.m., while boys may play there from 2:00 p.m. until the beginning of Shabbat, when it is allotted to mothers and daughters again. A similar pattern of segregation is imposed on Shabbat itself.⁴¹ As noted at the bottom of the signs, the rules were introduced by the governing committee of the moshav, which requests that residents observe them and "refrain from violating the permanent arrangements." The signs are intended for visitors to the moshav as well as residents: "Visitors and hosts, and residents in general, are asked to supervise and ensure the application of the said requirements. The public is also requested to obey monitors responsible for ensuring spiritual and educational conduct."

Another sign displayed on the fence of the playground states that the dress code must be upheld and that there must be no deviation from the modesty rules. Moreover, the sign prohibits girls from riding bicycles of any kind. Many residents of the moshav, as well as visitors, have expressed their distaste at the imposition of segregation in a playground. By way of example, the columnist Moshe Ossdeutscher from the Haredi website "BeChadrei Charedim" described this segregation after visiting the moshav. "My joy vanished at once when I discovered that even children are being dragged into unnecessary extremism. This surprised me, since we are not

⁴¹ <http://news.walla.co.il/?w=/90/2595007>

talking about buses or streets where 'promiscuity' is rife, but of an evidently innocent playground whose sole purpose is to allow children to work off some energy during their leisure hours. This situation proves that extremism is spreading to areas we would never have dreamt would reach such a situation and our parents could not have imagined." This case is further evidence of the coercive enforcement of segregation by extremist elements within the Haredi community, against the wishes of many. This approach prevents the public from using a facility at any time of day as it chooses, even in the case of a public facility intended for small children.

15. Segregation in taxis

On August 27, 2012, the local news website "*mynet*" published a report entitled "Haredim leaving Egged in favor of taxis." The report claimed that due to the congestion on buses in Jerusalem, elements in the Haredi community in the city had reached an agreement with a local taxi company to operate a taxi line connecting Bar Ilan intersection and the Givat Shaul neighborhood. The cost of the journey would be similar to that of a bus journey – some seven shekels a journey. For the present the taxis were intended for men only; at a later point it was planned to introduce taxis for women.⁴²

Following the report, we contacted the Ministry of Transportation and warned that if the report was correct, the proposed arrangement was unlawful. The ministry replied that it was not aware of the proposal and had never authorized the operation of a taxi line for men only.

⁴² <http://www.mynet.co.il/articles/0,7340,L-4270860,00.html>

Segregation in Conferences and Events Organized by Public Bodies

16. Exclusion of women at a conference of the Puhah Institute on the subject of innovations in gynecology and Halacha

The Puhah Institute (Fertility and Medicine in accordance with the Halacha) provides guidance, consultation and assistance in the fields of fertility and gynecology in accordance with the spirit of the Halacha. The institute receives funding from the Ministry of Health and the Ministry of Religious Services. In January 2012 the institute held its 12th national conference, entitled "Innovations in Gynecology and Halacha." When the conference program was published – focusing mainly on issues and dilemmas facing women and aspects of women's sexuality – it emerged that only male experts had been invited to give lectures. Not a single woman expert appeared on the program. Moreover, at conferences of the Puhah Institute women were seated behind a barrier or in a separate room and were unable to participate in the discussions held during the conference.⁴³

Kolech (the Religious Women's Forum) has contacted the conference organizers in recent years and demanded that women be enabled to participate in the conference. The forum has also demanded that women experts be invited to make presentations. Kolech emphasized that a conference discussing women's bodies and fertility, while denying women the opportunity to make their voices heard, objectifies women. Despite efforts to engage in dialogue with the heads of the Puhah Institute, Kolech's demands were not met. Following the establishment of the Coalition Against the Exclusion of Women, Kolech asked the member organizations of the coalition to oppose the intention of the Puhah Institute to exclude women from its conference. Due to widespread public criticism of the conference and direct appeals by Kolech to physicians who were scheduled

⁴³ <http://news.walla.co.il/?w=/90/1891297>

to give lectures, these physicians began to announce one after another that they were canceling their participation. Meanwhile, the Ethics Board of the Israel Medical Association published a decision condemning the exclusion of women and warning that this phenomenon is liable to be manifested in the health system in the receipt and provision of medical services as well as in publications, conferences and awards for professional achievements. The decision states that a physician should refrain from granting active or tacit recognition or approval to actions contrary to equality of the sexes and should not countenance the exclusion of women. With one exception, all the physicians who were due to give lectures at the conference withdrew their participation. The coalition also demanded that the Ministry of Health condemn the conference.⁴⁴

17. Exclusion of women from a combat course at Bnai Yehuda Community Center in the Golan Heights

On January 23, 2012, Israel Radio reported that Bnai Yehuda Community Center in the southern Golan Heights was preventing girls from participation in a combat fitness class ahead of military service. The decision had been taken due to the participation of some religious boys in the class. According to the report, the community center had never previously imposed segregation between boys and girls. In response, the Golan Regional Council stated: "The Golan Community Center runs diverse activities and groups for all the youths in the Golan. One of the goals of the community center is to engage religious and secular youths in joint dialogue. This year the "Acharai" group [combat fitness] was chosen as a group for secular and religious boys in order to build bridges and provide activities to bring the two populations closer together."⁴⁵

⁴⁴ <http://www.ynet.co.il/articles/0,7340,L-4172629,00.html> 44
<http://www.ynet.co.il/articles/0,7340,L-4171624,00.html>
<http://www.ynet.co.il/articles/0,7340,L-4171894,00.html>

⁴⁵ <http://www.iba.org.il/bet/?entity=816499&type=1>

18. Exclusion of women from the committee on Moshav Eitan

On December 14, 2012, *Haaretz* published a report entitled "Women's revolution in the committee on Moshav Eitan." The report revealed that approximately one year ago, the committee on Moshav Eitan resigned due to a conflict of interests. Three women members of the moshav – Dr. Gili Givati, Ofira Hadad, and Rina Mazuz – founded an independent women's committee and asked the head of Shafir Regional Council, Asher Aberjil, to approve their body as an appointed committee pending new elections. The approval was duly granted. In the recent elections for the moshav committee, a women's list won three seats while the opposing list won two seats, both occupied by men. The report noted that the moshav rabbi had in the past opposed the participation of women alongside men on the committee. After the elections, residents of the moshav asked the rabbi to approve the participation of women on the committee. According to the report, the rabbi did not oppose the women's presence, but requested that men and women should not sit together on the committee for reasons of modesty, and that the committee should consist entirely of either men or women. Efforts are now underway to find a solution to the problem.⁴⁶ IRAC contacted the legal advisor of the Ministry of the Interior and asked him to clarify that the rabbi's attempts to prevent men and women from sitting together on the committee is unlawful, and that segregation of men and women entails discrimination and violation of women's dignity. It was also emphasized that the law does not grant the rabbi any authority to intervene in the affairs of the elected committee.

19. A segregated Haredi market

On March 13, 2012, the website "*mynet*" reported⁴⁷ that a conference had been held the previous summer to discuss the establishment of a segregated

⁴⁶ <http://www.haaretz.co.il/news/education/1.1885861>

⁴⁷ <http://www.mynet.co.il/articles/0,7340,L-4201762,00.html>

market in Jerusalem. A committee had been formed to consider ways to put the proposal into practice. The report noted that a site had recently been chosen for the planned Haredi market on a 2.5-acre site close to Har Khotzvim industrial zone. The report quoted a comment by Jerusalem city councilor Shlomo Rosenstein:

*The intention is to establish a market that will be similar to Machane Yehuda and will be completely kosher. **There will be no interaction between men and women on the site and the sexes will be completely segregated.** We are in touch with several merchants in the market, some of whom claim that they intend to open branches in the Haredi market.*

On March 16, 2012, a further report on this subject was published by the Jerusalem local newspaper *Kol Ha'ir*. The report included a response by the municipality stating that it was unaware of the initiative and did not intend to approve gender segregation in the public domain.

Following these reports IRAC contacted Mayor Nir Barkat and emphasized that the establishment of a gender-segregated market is contrary to the ruling of the Supreme Court in *Naomi Reagan v Ministry of Transport* and contrary to the provisions of the Prohibition of Discrimination Law.

20. Beersheva Zoo open to the Haredi public only

Visitors who came to the Beersheva Zoological Gardens during the intermediate days of Pesach, in March 2012, found signs at the entrance declaring: "The zoo is closed today. Entrance to the Haredi public only." According to media reports, visitors were asked to park their vehicles approximately one and half kilometers from the entrance to the zoo and to board specially-arranged buses to take them to the entrance. Several secular families were not permitted to board the buses. At the entrance to the zoo, women were handed shawls to cover their shoulders. The playgrounds in

the zoo were segregated into areas for boys and girls.⁴⁸ In response, the Beersheva Municipality stated: "As part of the range of events held during the intermediate days of Pesach, it was decided to hold a happening for the religious public in the Zoological Campus. Contrary to the claims, entry to the event, which was a great success, was not restricted to the religious sector, and any person who wished to participate was allowed to enter without delay. Religious and secular Jews live side-by-side in Beersheva in harmony, and will continue to do so in the future."⁴⁹

21. A bridge for men only

As part of the celebrations in honor of the memory of Shimon Bar Yochai, which are held each year on Lag Ba'Omer on Mt. Meron, a "Mehadrin" bridge was constructed for use by men only. The Ministry of Tourism, which provided some NIS 2 million toward the cost of the bridge, informed *Haaretz* that "a bridge is currently being erected at the entrance to the compound of the tomb of Bar Yochai for the safety of pedestrians. The bridge was constructed lawfully, under supervision, after receiving permits, and in accordance with the requirements of the police." The Israel Police, meanwhile, stated that they had not made any such demand.⁵⁰

22. A first at the Israel Museum: Separate visiting hours for women and men

On July 23, 2012, *Haaretz* published a report stating that the Israel Museum had decided to introduce separate opening hours for women and men in an effort to attract Haredi visitors to an exhibition entitled "Hasidim: Not Just Black and White." The exhibition opened approximately one month before the report appeared and was on display through December 2012. The report

⁴⁸ <http://www.nrg.co.il/online/54/ART2/357/239.html>

⁴⁹ <http://www.ynet.co.il/articles/0,7340,L-4215209,00.html>

⁵⁰ <http://www.haaretz.co.il/news/education/1.1703715>

quoted Mr. Shai Yamin, head of the museum's Marketing Department, as claiming that the segregation was imposed solely in the exhibition, and only during special hours when the museum is usually closed, such as in the evening or on Tuesday morning. He added that the measure was taken in response to demand from the Haredi public.⁵¹

Following the publication of the report, IRAC contacted Mr. James Snyder, the executive director of the Israel Museum. Our letter noted our surprise that the museum, as an institution that embodies liberal culture and is based on the values of ideological pluralism and mutual enrichment between different sections of society, had submitted to the dictates of zealots who impose their demands on the Haredi general public through threats and intimidation. IRAC also emphasized that segregation in the museum is not only gravely defective in moral terms, but is also unlawful. The letter noted that public institutions tend to regard the entire Haredi public as interested in segregation and automatically decide to implement segregation in events intended for this public, without examining whether this is really necessary and whether such an arrangement is lawful. If the museum itself enforces separate visiting hours for men and women it will not be possible to prevent it, even if significant sections of the Haredi public oppose such restrictions. Moreover, defining separate hours for museum visits by Haredim conveys a problematic message suggesting the need for segregation between Haredim and other sections of the population in Israel. It thereby encourages extremists who seek to raise ever-higher walls between the Haredi population and society at large.

The museum's director of customer service replied that "the Israel Museum states that it does not and did not intend to enforce separate visiting hours for men and women. The museum is just as it has always been – open to all and welcoming every person. If a group contacts us and asks to arrange a private guided visit to the Hasidim exhibition outside regular opening hours,

⁵¹ <http://www.haaretz.co.il/news/education/1.1783098>

it will be processed accordingly, just like any other group." This response did not explain how the museum would respond to a group that requested to visit the museum outside regular opening hours. However, from telephone conversations with the representative of the museum and with the deputy executive director, it emerges that groups of Haredi men were promised that they would be allocated a male guide, and that no women would be present in the museum during their visit.⁵²

23. Exclusion of women from a ceremony to mark the completion of the cycle of Talmud study funded by the Jerusalem Municipality

On July 30, 2012, events were held in Jerusalem to mark the end of the four-year cycle of daily Talmud study. Although the events were organized and financed by the Torah Culture Division in the Jerusalem Municipality, women were not allowed to participate. The first event was held in Teddy Stadium in the city and attended by tens of thousands of participants – all of them men. The second event was held close to the light rail station at Ammunition Hill and was attended by some 10,000 men. Women were not allowed to participate and it was publicized that the tickets were "for [male] Torah students only."⁵³

The day before the events, Kolech, the Justice for Women Center, and IRAC contacted the Jerusalem Municipality and requested details of the event in the light rail compound. The municipality replied that the event was "for invited guests only." This was in contrast to press reports suggesting that the event was open to anyone who wished to purchase a ticket. The municipality added that those interested should contact the Ariel company for further

⁵² http://www.youtube.com/watch?v=l4up5nY_7v0&feature=youtu.be;
<http://www.youtube.com/watch?v=KPVBEqZ624k&feature=youtu.be>

⁵³ <http://www.mynet.co.il/articles/1,7340,L-4259855,00.html> 53
<http://www.ynet.co.il/articles/0,7340,L-4281274,00.html>

details. Ariel referred us to Effect Productions, and a representative of this company stated that it was not possible to purchase a ticket for the event since they had sold out just a few hours after the sales points opened. When we inquired whether women could attend the event, we were informed that “there is no service center for women.” Instead, the representative explained, screens would be erected in various locations around the city to broadcast the event so that women could watch. Since the organizations only learned of these facts shortly before the event, we could only contact the municipality after the fact.

In our letter to the municipality, we warned that the organization and funding of an event from which women were deliberately excluded is completely contrary to the municipality’s obligation to act in an egalitarian manner. Even in the case of a religious event intended for the Haredi public, there is no legal authorization to hold a male-only event. The municipality cannot ignore the population of women in the Haredi sector and cannot sanction their exclusion from events for this sector. Funding events for the Haredi population without the participation of women, particularly central and large-scale events such as those held to mark the completion of the cycle of Talmud study, means that women do not enjoy equal access to the budgets allocated to the population to which they belong. This also means that women cannot participate in religious events that are also significant to them. It should be noted that Haredi women participate in many other religious celebrations.

The initial response of the Jerusalem Municipality stated that “the event was intended for men only, since women do not study Gemara.” The municipality added that women were able to travel to Bnai Brak for a special evening event for the wives of Talmud students. After the organizations again contacted the municipality, it changed its position. A further reply stated that “the declarative and practical policy of the Jerusalem Municipality is to prohibit activities that exclude women, with the exception of unusual cases

in which gender segregation is required and is consistent with the tests established in case law and in accordance with any law.” The municipality promised to draw conclusions from the events described here.

24. Segregated tours in the City of David

On August 8, 2012, the website “*mynet*” reported that notices had appeared in the Haredi press urging the Haredi population to visit the excavation site in the City of David in special tours for Haredi families. The article revealed that the adaptation of the tours to Haredi families included, among other provisions, the arrangement of separate groups for women and men. In addition, an audiovisual presentation that includes narration by a woman would not be shown to the men’s groups. The management of the City of David Association stated that it had not published the special advertisements for the Haredi population and that it was not initiating segregated groups. “We are a booking center. Any guide who organizes a group of visitors interested in a tour contacts us, and the tour takes place in accordance with the arranged schedule, without any intervention in the tour group.”⁵⁴

25. Eight-year-old boys and girls separated during a summer camp

On August 2, 2012, the website “*mynet*” reported that during a joint visit to the Dead Sea by a religious summer camp and a secular camp from the Har Homah neighborhood of Jerusalem, separate bathing times were imposed on the boys and girls. One of the organizers even told a second-grade girl wearing a bikini that she was “not modestly dressed.” The parents were unaware of these conditions. Mr. Herzl Yechezkel, chairperson of the Har Homah Community Administration, stated in response: “If the claims are

⁵⁴ <http://www.mynet.co.il/articles/0,7340,L-4265654,00.html>

correct, this is a serious incident.” He added that he intended to examine the case in depth.⁵⁵

26. Exclusion of women at an awards ceremony of Haifa Municipality

The Haifa Municipality holds an annual ceremony at which the mayor gives awards to 18 senior residents who have contributed to public and municipal life over the years. The recipients are chosen by a public committee. In August 2012 media reports suggested that while in previous years six of the recipients had been women, the members of the committee were now objecting to this.

Deputy Mayor Ms. Hedva Almog, who heads the committee to select the recipients of the award, stated that she would not allow the ceremony to go ahead unless the committee included at least one-third women among the recipients. All the female representatives of the various factions on the municipal council who are members of the committee eventually recommended women, with the exception of the Haredi factions, which claimed that they could not identify a worthy female recipient. Accordingly, Almog announced that for the present she would not convene the committee.⁵⁶

27. Segregated cultural events for Haredim in Machane Yehuda market

On September 19, 2012, the website “mynet” reported that representatives of the Haredi community had originally opposed the holding of the “Balbasta” events in Machane Yehuda market (cultural events held around

the market area). However, the report claimed, the representatives were now discussing the holding of separate events in the Geula neighborhood meeting strict modesty requirements. The intention was that the events for the Haredi population would feature Haredi singers and ensure segregation of men and women. The article quoted the municipality as saying that it “welcomes any positive initiative intended to benefit the residents and business owners.”⁵⁷

28. Exclusion of women at an official event of Holon Municipality during Sukkot

On September 25, 2012, *Haaretz* reported that Holon Municipality was planning to hold an event in the municipal theater during the festival of Sukkot for fathers and sons, in cooperation with the Haredi radio station Kol Barama. The municipal website noted that “the event is intended for fathers and sons from the Haredi public.”⁵⁸ Kolech (the Religious Women’s Forum) contacted the mayor of Holon on this matter, and also contacted the ticket office at the theater, which stated categorically that the tickets were on sale solely to fathers and sons.

In its letter to the mayor, Kolech emphasized that as an organization that represents religious and Haredi women it was surprised to hear that Holon Municipality had decided to ignore half the members of these communities in the city and to organize and budget an event for this public while completely ignoring the women and girls. The forum added that the total exclusion of women and girls from the event was inconsistent with the municipality’s obligation to ensure equality and avoid improper discrimination. The municipality’s decision to hold the event in cooperation with the radio station *Kol Barama* was also surprising, given that the station

⁵⁵ <http://www.mynet.co.il/articles/0,7340,L-4263304,00.html>

⁵⁶ <http://www.nrg.co.il/online/54/ART2/394/167.html> ;
<http://radiohaifa.mediacast.co.il/article.aspx?id=12088>

⁵⁷ <http://www.mynet.co.il/articles/0,7340,L-4281992,00.html>

⁵⁸ <http://www.holon.muni.il/Lists/List1/DispForm.aspx?ID=2001&Source=http%3A%2F%2Fwww%2Eholon%2Emuni%2Eil%2Fpages%2FEvents%2Easpx>

does not broadcast women singing or speaking and has been the object of a well-reported public and legal struggle for this reason.

The legal advisor to Holon Municipality replied that the event was not budgeted by the municipality, although it was being held under its auspices, the advertisements bore the municipal logo, and it was publicized on the municipality's own website. The reply added that a parallel event was being held for women, though no details were provided of this. When Kolech inquired about the event, it was informed that this involved the screening of Tali Avrahami's film "Angels in White," which tells the story of a Jewish heroine during the Holocaust. The municipal website did not provide any information about such an event.

After receiving the legal advisor's response, Kolech again contacted the municipality and asked whether it was truly convinced that screening a film about the Holocaust was a fitting way to enable women in the religious and Haredi sectors in the city to mark the water libation ceremony, and whether this event truly constituted a parallel occasion to the event for men only, which featured performances by several singers. In her reply, the legal advisor to the municipality reiterated her claim that the segregated event for men was not funded by Holon Municipality but was produced and held under the responsibility of the radio station *Kol Barama*. The legal advisor rejected Kolech's claim that the municipality was acting in a non-egalitarian manner.

29. Segregation at a "Hakafot" event in Kiryat Shemona

Residents who arrived at the main "Hakafot" event (dancing held to mark the festival of Simchat Torah at the end of Sukkot) were surprised to find that the municipality and the religious council had erected barriers to separate men and women. Many residents were unsure why the barriers were needed. In previous years the dancing had taken place in separate circles of women and men, but no barriers had been used to separate the

two groups. In an article in "nrg Ma'ariv," Mayor Rabbi Nissim Malka stated that "the municipality participates in the production of the Hakafot event, but it is led by the religious council."⁵⁹

30. Women excluded from a "Hakafot" event in Petach Tikva

On December 8, 2012, "Hakafot" were held in the plaza outside Pinto Community Center in Petach Tikva. The event was organized by an association that used the facilities of the community center and issued public invitations to the local residents to participate in the celebrations. During the event, the MC urged the participants not to impair the sanctity of the occasion and asked women to refrain from dancing. He even added, "Not a single woman is to dance or I will shut off the electricity." The MC several times invited the men to dance, while emphasizing that the invitation was not directed at the women. Residents of the Neve Dekalim and Schiffer neighborhoods of the city contacted the mayor after the event and demanded that he issue an instruction prohibiting discrimination against women in the activities at the municipal community center. The residents of Neve Dekalim neighborhood noted that most of the residents are from secular families whose members serve in the security forces.

31. Segregation at a "Hakafot" event in Rosh Pina

A resident of Rosh Pina contacted Kolech's legal advisor and reported that the upcoming central "Hakafot" event was due to include segregation between women and men, and that a barrier was to be established across the yard in order to prevent mixed dancing. The resident noted that this was the first time that the "Hakafot" event in Rosh Pina would be segregated in this manner, and asked the legal advisor whether such an arrangement is lawful.

⁵⁹ <http://www.irac.org.il/> הקפות 20% עם 20% גדר 20% הפרדה

It was clarified that any municipal event must not include segregation, and that this also applies to “Hakafot.”

32. Segregation at a municipal library in Holon

The municipal library in the Tel Giborim neighborhood of Holon operates separate days for women and men: Sunday and Wednesday are reserved for women and girls, while Monday and Thursday are intended for men and boys. Residents may borrow a book on the days allotted to the opposite sex, but cannot remain in the library longer than needed for this purpose. The municipal website notes that the library is segregated, and this was also confirmed by the library staff.⁶⁰

Segregation in Private Businesses

33. The “Heimische Essen” restaurant in Jerusalem

In March 2012 it was reported that the “Heimische Essen” restaurant in the Rechavia neighborhood of Jerusalem had acquiesced to pressure from local Haredi activists and decided not to employ women as waitresses on Thursday evenings, the traditional “night out” for the Haredi public.⁶¹ According to other reports, the source of the demand was the Kashrut authority of the religious court of Agudat Yisrael, which provides a “Mehadrin” certificate for the restaurant.⁶² Chaim Safrin, the owner of the restaurant, commented in an article in *Haaretz* that he “intended to strike a balance that will enable us to continue to employ women every day of the week.” He added that he had contacted the religious court and explained that over 60 percent of his clientele are themselves women, “and we need to provide service for everyone.” Safrin also noted that he had received the instruction some three

⁶⁰ <http://www.mynet.co.il/articles/0,7340,L-4302119,00.html>

⁶¹ <http://www.mynet.co.il/articles/0,7340,L-4199694,00.html>

⁶² <http://www.haaretz.co.il/news/education/1.1663360>

weeks before the date of publication of the article, but had nevertheless continued to employ waitresses on Thursday evenings. Following the media reports, the movement “Be Free Israel” launched a campaign against the restaurant and urged consumers to boycott it.⁶³ IRAC contacted the restaurant and demanded that it reject the restriction on equality. As far as we know, the situation eventually remained unchanged and the restaurant owner continued to employ women on all days of the week.

Prohibition of Public Appearances and Singing by Women

34. Exclusion of women on the *Kol Barama* radio station

On December 16, 2010, the newspaper *TheMarker* published a report entitled “Claims against *Kol Barama* Radio Station: Women not Allowed on Air.” The report quoted the position of the radio station: “The station does not broadcast women’s voices, on the recommendation of the Halachic supervisory committee established in accordance with the conditions of the franchise of the Second Television and Radio Authority.” IRAC contacted the Second Television and Radio Authority and demanded that the *Kol Barama* station (which services the Sephardi Haredi community) be instructed to reconsider its decision to completely prohibit the broadcasting of women’s voices and to refrain from employing women at the station.

The authority subsequently engaged in extensive discussions on the subject and held a hearing for the station. At the end of October 2011, the legal office of the Second Television and Radio Authority informed us that they had reached an agreement with the station. The agreement was also reported in the media, and included the following points:

⁶³ <http://www.haaretz.co.il/news/education/1.1663360> 63;
<http://www.news1.co.il/Archive/001-D-292097-00.html>

- News events will be broadcast live, even if a woman (such as a female minister or member of Knesset) is speaking. Contrary to its current practice, the station will not broadcast delayed reports in order to censor women's voices.
- If a response is required from a female holder of a public office, this will be broadcast on air in her voice.
- Within a month, the station will begin to broadcast a one-hour program once a week enabling female listeners to go on air, in order to "continue the gradual and coordinated approach to their integration in the broadcasts." This represents one hour out of the 168 hours of broadcasting on the station each week.

The outcome of the agreement is that just one hour a week will be devoted to women and, when necessary, reactions from women public figures will be allowed. On December 22, 2011, the Council of the Second Television and Radio Authority approved the arrangement, effectively authorizing the exclusion of women from the *Kol Barama* station.⁶⁴

Following the publication of the agreement, IRAC again contacted the Second Television and Radio Authority and warned that the proposed arrangement perpetuates discrimination in the radio station's broadcasts, is unreasonable and disproportionate and, accordingly, would not withstand judicial review. The arrangement continues to injure women who listen to the station and wish to make their voices heard and constitutes gross discrimination on the grounds of sex. Such an arrangement does not even come close to one that could be defined as proportionate.

At the beginning of April 2012, the chairperson of the Second Authority, Ilan Avisar, decided to reduce the number of hours the station is required

⁶⁴ <http://www.reform.org.il/Assets/mudarot.pdf>, pp. 37-8.

to enable to women to go on air from six to just four.⁶⁵ Avisar used his double vote as chairperson to pass the decision after a tie in the number of votes in the council.⁶⁶ Following the decision, five members of the council contacted Minister of Culture Limor Livnat to express their objection to the change. Livnat also expressed her displeasure at the decision. In a letter to the chairperson of the council, she noted: "I was surprised several days ago to hear from five members of the council that at a time when the legality of the controversial decision is being examined, against the background of the demand to ensure the full integration of women in the station's broadcasts, the council of the Second Authority convened and made an outrageous decision... I believe that, as chairperson of the Second Authority Council, your duty is to ensure the full integration of women in the broadcasts, as of other sectors." Minister Livni urged Avisar to convene the council in order to reconsider the subject.⁶⁷

Avisar rejected the criticism of his initiative and declared: "We must take into account that what is at stake here, on the one hand, are considerations of multiculturalism. On the other hand, we have a culture war here with elements who are attempting to attack the Haredim for all kinds of reasons, whether from the direction of the Reform, feminist groups and other groups... To make such a fuss about four hours instead of six, when these four hours are more significant in terms of the presence of women, seems petty to me."⁶⁸ During a discussion held by the Second Authority Council, a poll was presented that had been undertaken by the Midgam company among the station's target audience (which includes traditional, religious and Haredi Mizrachim). The poll showed that 80 percent of the listeners would continue to listen to the station if it broadcast women's voices.⁶⁹

⁶⁵ <http://www.globes.co.il/news/article.aspx?did=1000738209>

⁶⁶ <http://192.118.97.191/article/view/314100>

⁶⁷ <http://192.118.97.191/article/view/314100>

⁶⁸ <http://www.haaretz.co.il/news/education/1.1683891>

⁶⁹ <http://www.news1.co.il/Archive/001-D-294619-00.html>

Reacting to the survey results, Avisar stated that “the economic factor is not the point. These numbers are significant. Approximately one-third of the target audience, i.e. the Haredi population, replied that it would stop listening to the station.”⁷⁰

In August 2012 IRAC filed an application, in cooperation with Attorney Assaf Fink, to approve a class action suit against *Kol Barama* on behalf of Kolech (the Religious Women’s Forum). The suit requested an order instructing the station to desist from excluding women, as well as financial compensation for female listeners injured by the exclusion of women in the sum of NIS 104 million. The suit was based on a survey of women listeners to the station showing that 30 percent were injured by the exclusion of women. It should be noted that this is a groundbreaking suit: class action suits submitted by organizations on behalf of the injured parties are rare in Israel, and this is the first ever such suit relating to the issue of the exclusion of women.

The station’s statement of response argued that Kolech is not competent to submit the application since it has not been proven that the injured women face any difficulty in doing so themselves. It was further argued that the use of a class action suit as an indirect means of attacking the decisions of the Second Authority should not be permitted. *Kol Barama* argued that they do put women on the air, and that often when they have sought to do so there has been no response. Moreover, the station argued that the grounds of discrimination in accordance with the Prohibition of Discrimination Law do not apply, since the service in question by its nature and essence is directed for Sephardi Haredi women interested in this service. Accordingly, there is no cause to grant a decree that would thwart the station’s purpose and violate the freedom of expression and religion of Sephardi Haredi, preventing them from using a public resource.

⁷⁰ <http://www.haaretz.co.il/news/education/1.1683891>

Both the interministerial team on the issue of the exclusion of women headed by Minister Limor Livnat and the special team established in the Ministry of Justice discussed the legality of the agreement between the Second Authority and *Kol Barama*, according to which the station broadcasts women’s voices only on a partial basis. The team headed by Minister Livnat expressed in the strongest possible terms its criticism of the ongoing exclusion of women on the station, and the failure of the Second Authority to stop this exclusion. The Ministry of Justice team that examined the exclusion of women also criticized the arrangement. At a meeting of the interministerial committee on March 3, 2013 attended by representatives of IRAC, Attorney Sarit Dana, the head of the team, clarified that the station’s refusal to broadcast women’s voices infringes women’s right to equality, dignity and freedom of expression, and accordingly is unlawful: “Preventing a woman from expressing herself and making her voice heard merely because she is a woman is a gross example of discrimination on the grounds of sex that entails humiliation and injury to human dignity. This approach is based on the perception that a woman has no right to be heard like other humans, and that her appearance on the air, if this is indeed permitted, constitutes an act of generosity on the station’s part.” In conclusion, the deputy attorney-general establishes that: “We do not believe that the defense concerning the unique character of the Sephardi – Torah-true community for which the station is intended, although this is an important value in its own right, can justify the grave injury as described to the basic rights to equality, human dignity and freedom of expression.”

The team’s examinations showed that the station’s claim that broadcasting women’s voices would significantly reduce its audience are incorrect and that the inclusion of women’s voices actually increased the station’s audience. Accordingly, the team instructed the station to broadcast women’s voices fully within six months, and to enable the employment of women as broadcasters on the station.

35. Prohibition on women's singing at a Hanukkah candle lighting ceremony at Ben Gurion University of the Negev in Beersheva

A vocal ensemble from Ben Gurion University of the Negev was invited to appear at an official candle lighting ceremony at which the university's rabbi was due to recite the blessings. The Office of the Dean of Students informed the ensemble, which includes men and women, that it would not be able to appear since "the rabbi cannot be here when you are singing." The ensemble was initially informed that its appearance had been cancelled, but later the time of the performance was brought forward so that the ensemble would sing before the rabbi arrived.

Following this incident, IRAC contacted the university's legal advisor who clarified the details of the case with the executive director and the dean of students. The advisor claimed that the case had nothing to do with a prohibition on women's singing. The ensemble was supposed to appear at the beginning of the ceremony with a medley of songs. The executive director of the university was due to offer his greetings, and finally the rabbi was to light the candles. They claimed that after the ensemble began to present various demands as a condition for performing they informed it that it would not be appearing.

In a further conversation with the legal advisor and the executive director, it was argued that the case actually involved two separate events. The dean had suggested that the ensemble perform a medley of Hanukkah songs in the student center, while later a candle lighting ceremony was held. The officials claimed that the two events are unrelated.

36. No solo performances by women singers at a conference of youth movements

On May 8, 2012, the website "ynet" reported that women singers would not be able to make solo performances on stage at an upcoming conference

of the youth movements. The report claimed that the religious youth movement Bnai Akiva had conditioned its participation in the event on an assurance that no women singers would appear. Yuval Segal, the chairperson of the Youth Council in Kfar Sava, announced that the prohibition would apply "only" to a woman performing alone on the stage, and not to women singing as part of a choir. He added that after the demand was raised, a meeting of representatives of the youth movements was held and the decision regarding women's singing was made democratically. Meanwhile, Bnai Akiva claimed that it had not conditioned its participation in the event on the absence of women singers, and suggested that the decision had been made out of respect for the movement.⁷¹

Following this incident, Kfar Sava City Council decided that the municipality will boycott events that exclude women and will not provide them with funding, as it had done with the conference of youth movements.⁷²

37. Mayor of Modi'in Illit and other senior officials leave an event when they realize that women policemen will be singing

In August 2012 a ceremony was held to inaugurate a new police station in Modi'in Illit. At one point in the ceremony, when two policewomen were about to sing, Mayor Yaacov Gutterman and other senior figures quickly moved into another room in the station in order to avoid hearing the singing. After the women finished singing, Gutterman and the other officials returned to the ceremony. Since women also participated in singing the national anthem at the end of the ceremony, the officials also left early. A source in Modi'in Municipality commented: "I hope this was just a lack of intention and not malicious, or worse still – the result of ignorance. Although things were resolved relatively calmly, I hope the police will learn

⁷¹ <http://www.ynet.co.il/articles/0,7340,L-4225934,00.html>

⁷² <http://cafe.themarker.com/post/2674382>

from this incident." The Police District responded that it found the officials' actions unacceptable and that "the subject would be reviewed to prevent any recurrence."⁷³

38. Lev Institute prevents Ayelet Shaked from participating in political panel because she is a woman

The student union at the Lev Institute, a religious academic institution for men in Jerusalem, planned to hold two debates between candidates from the Bayit Yehudi political party in August 2012. The invited speakers were Minister Daniel Hershkowitz, MK Zevulun Orlev, and Ayelet Shaked (who was elected to the Knesset in January 2013). Shaked was due to participate in a panel of young politicians alongside two men. When the management of the institute learned that Shaked was scheduled to participate in the gathering, it demanded that the Student Union prevent her talking to the audience. In order to avoid a situation where only the men on the panel would talk, the union canceled the panel in which Shaked was due to participate. The Lev Institute stated in response that "the event in question was a student event held on the initiative and the full responsibility of the student union at the school, without the involvement of the institute's management."⁷⁴

39. Young woman removed from the stage during a Pesach show in Modi'in

A young woman was invited onto the stage during a magician's show in Modi'in during the intermediate days of Pesach. However, at the request of Haredim in the audience, she was immediately told to leave the stage and replaced with a man. The show was organized by Modi'in Municipality. The magician asked a volunteer to come onto the stage for one of his tricks. As soon as the young woman reached the stage, a Haredi woman approached

⁷³ <http://www.ynet.co.il/articles/0,7340,L-4263372,00.html>

⁷⁴ <http://www.haaretz.co.il/news/politi/theplog/1.1812166>

the magician and told him that many of the members of the audience were disturbed by the involvement of a woman in the show. The magician asked the volunteer to leave the stage and invited a man to come up in her place. Some members of the audience objected to this decision and the show was interrupted for several minutes. The magician emphasized to *Haaretz* that he had taken his decision on the spur of the moment and had not wanted to offend anyone, but merely to respect the feelings of the majority of the audience. Modi'in Municipality responded that "immediately after the director of the Culture and Events Division learned of the incident, he came and gave an unequivocal instruction that nothing of this kind must happen, and the show continued in its regular format. Immediately thereafter, a further clarification was issued regarding all the performances held in Anava Park, emphasizing that only municipal employees may make changes and issue orders, and not any other person."⁷⁵

40. Deputy Minister Litzman leaves conference to avoid hearing female students sing

On February 16, 2012, it was reported that Deputy Health Minister Litzman had left the First Israel Conference for Child Safety after a choir of 12-year-old girls went onto the stage to sing. When the deputy minister learned that a choir consisting mainly of girls was due to perform, he explained that he needed to leave the auditorium in order to make a telephone call. His associates confirmed to *Haaretz* that Litzman had left due to the performance, adding that he customarily removes himself from any place where women's singing can be heard, in accordance with his way of life and beliefs; and that "there is no need to apologize for this." However, they added that "he left because he had to deal with the problem of the hospital nurses."⁷⁶

⁷⁵ <http://www.haaretz.co.il/news/education/1.1684881>

⁷⁶ <http://www.haaretz.co.il/news/education/1.1642832>

Exclusion of Women in the IDF

Women's singing in the IDF

41. Chief Rabbinate forms committee to oppose women's singing in the IDF

On January 19, 2012, it was reported that the Chief Rabbinate Council had established a committee responsible for promoting an arrangement to prevent religious soldiers from being forced to hear women's singing. The committee was to be headed by Rabbi Shmuel Eliahu (the rabbi of Tzfat) and Rabbi Yaacov Shapira, the head of the Mercaz Harav Yeshiva, and would enter into negotiations with the Ministry of Defense. According to Rabbi Eliahu, "Religious soldiers should not be pushed out of the army and placed in a situation where they have to decide between their loyalty to God or to the army." In an interview on Israel Radio, Rabbi Eliahu commented on the decision by General Orna Barbivai, head of the IDF Manpower Division, requiring soldiers to participate in official ceremonies even if they include women's singing. He claimed that this policy could lead the religious public to refrain from joining the army. Rabbi Eliahu also suggested that the Chief Rabbinate should propose that the IDF should not be permitted to coerce religious soldiers into hearing women's singing – something that infringes their religious and Halachic way of life.⁷⁷

42. Religious soldiers ask for ear plugs to avoid hearing woman singers at a Holocaust Memorial Day ceremony

A group of religious soldiers who joined the Intelligence Corps a month before Holocaust Memorial Day requested permission from their commanders to use ear plugs or personal music players in order to avoid

hearing the women singers during the ceremony. The commander of the Field Intelligence School decided not to agree to the request, but instructed that they be permitted to enter the ceremony with Psalm books they could read during the performances by the women singers. The IDF Spokesperson stated that "at state and official events, such as the event in question, all soldiers will participate and there is no room for discretion on the part of their commanders... It is important to emphasize that women's singing is permitted and common at events and ceremonies in the IDF, while taking into consideration the target audience and the nature of the event."⁷⁸

43. Haredi flotilla sailors boycott Memorial Day ceremony due to women's singing

Soldiers from the Haredi Nachal brigade who were serving at the Flotilla base in Atlit threatened to boycott the ceremony for Memorial Day for Fallen Soldiers since they anticipated that the event would include women's singing. In an article published on April 23, 2012 on the *Walla!* website, the chairman of the Association for the Torah-True Soldier, Eliahu Laks, stated that "13 of the 15 soldiers in the unit have informed us that they intend to request a transfer from the Navy due to the manner in which they are being treated." Laks claimed that some of the soldiers planned to try to obtain sick leave passes so that they could refrain from attending the ceremony without disobeying an order. According to the report, the same group of soldiers previously asked their base commanders to change the format for the morning drill, during which they are required to stand next to women soldiers from the unit, but their request was denied. The Association for the Torah-True Soldier contacted General Orna Barbivai, head of the IDF Manpower Division, and warned that these incidents suggested that the Flotilla base is not equipped to receive soldiers from the Haredi Nachal

⁷⁷ <http://www.kipa.co.il/now/47379.html>

⁷⁸ <http://www.nrg.co.il/online/1/ART2/361/192.html?hp=1&cat=875&loc=2> 78;
<http://www.bhol.co.il/article.aspx?id=40087>

brigade. The association suggested that Haredi soldiers should not be posted to this base in the future. The IDF Spokesperson stated: "As part of the project, Haredi soldiers are integrated in specific technical vocations in the Navy and enjoy special conditions in order to maintain a Haredi way of life alongside their military service. The ceremony in question was held in accordance with the orders and procedures... The vast majority of the soldiers are satisfied with their service and interested in signing on for the standing army, with the exception of two soldiers who have not found their place in the project."⁷⁹

Exclusion of women from positions in the IDF

44. Rabbis prevent the head of the IDF Manpower Division from meeting with Haredi combat soldiers

According to a report published on the "*nrg Ma'ariv*" website on January 29, 2012, General Orna Barbivai, head of the IDF Manpower Division, refrained from meeting soldiers from the Nachal battalion Netzach Yehuda when she visited the unit due to pressure from rabbis. The commander of the battalion, Lt.-Col. Amitai Segal, had wanted Barbivai to hold a discussion with the soldiers, but due to the pressure from the rabbis she met only with officers and permanent army employees in the unit. One of the opponents of a meeting between Barbivai and the combat soldiers was Lt. Ariel Eliahu, the battalion's rabbi, who accompanied Barbivai during her visit. Eliahu told his associates that throughout the visit he was careful to ensure that the general did not approach the combat soldiers and that the orders would be maintained. The rabbi claimed that he had personally approved Barbivai's visit to the unit, "provided that she did not meet anyone defined as Haredi." The IDF Spokesperson confirmed that Barbivai visited the battalion and met with officers, NCOs and combat soldiers staffing a guarding post. The

⁷⁹ <http://news.walla.co.il/?w=/2689/2527448> ; <http://www.bhol.co.il/article.aspx?id=40149>

Spokesperson added: "At no point during the planning of the visit was any request forwarded to meet soldiers, and we are not aware of any problem in this regard."⁸⁰

45. Two settlements in Mateh Binyamin Regional Council declare that they do not wish female soldiers to enter their communities

On March 1, 2012, the website "*Hakol Hayehudi*" reported that the governing committee of the settlement of Harasha had decided to make do without IDF security and to attend to its own security following a decision by the IDF to station women soldiers in the community. The soldiers were due to be posted to the settlement as part of the routine security operations undertaken by the IDF, and were scheduled to spend one week guarding positions and the gate to the settlement. The residents decided that they would guard the settlement by themselves pending the arrival of a guarding detail consisting solely of male soldiers. Ilan Giat, the settlement spokesperson, explained that "our military security coordinator is a man and the standby unit consists of men. The entire security system is run by men. We are not in the custom of mixing men and women and, accordingly, we also prefer to maintain segregation in this area."⁸¹

A few days later, on March 4, 2012, the website reported that the residents of the settlement of Achiya had also announced that they did not want women soldiers to enter their community and would guard themselves. Itzik Hazut, the settlement secretary, explained that "as a Torah-true settlement, we have decided that women soldiers will not enter due to Halachic problems relating to modesty and so forth."⁸²

⁸⁰ <http://www.nrg.co.il/online/1/ART2/331/414.html?hp=1&cat=875&loc=2>

⁸¹ <http://www.hakolhayehudi.co.il/?p=26506>

⁸² <http://www.hakolhayehudi.co.il/?p=26593>

46. Exclusion of women from the drafting process for Haredi soldiers

The IDF website provides a description of the “New Dawn” project for integrating Haredi men in military service. The program is intended for Haredim who join the army at a relatively late stage (age 22-26). The participants receive vocational training as computer programmers or technicians, on the assumption that these professions will help them to make a livelihood when they return to civilian life. As part of the efforts to adapt to the way of life of the Haredi soldiers, the website states that the recruits will enjoy a protected framework in which they will not have to come into direct contact with women. They will undergo a “gender-based draft process” so that they will not meet women on their induction day. The command chain up to the level of platoon commander will consist solely of men. The working environment for “New Dawn” soldiers is exclusively male for the entire duration of their service: Soldiers will not be posted in the same room as women on a permanent basis, and soldiers will not have a direct commander who is a woman. According to the government resolution adopted in 2011, by 2015 some 2,400 Haredi soldiers will be drafted each year to the New Dawn framework. In addition, since 1999 the IDF has also operated the Haredi Nachal framework, whereby young men aged 18-21 who are not studying in yeshiva perform two years of service followed by one year of studies. This framework promises a segregated battalion experience, without women and on a separate base of their own.

Opinion: Is the Integration of Haredim in the IDF Liable to Exacerbate the Exclusion of Women in the Army?

Yohanan Plessner, former Member of Knesset and head of the committee that examined the integration of Haredim in the IDF

I believe that it is possible to integrate Haredim in the army on a significant scale. This can be done by creating dedicated programs for Haredim that take into account their special needs. Together with the Ministry of Finance, the public committee I headed formulated special plans for drafting Haredim while responding to their special needs.

In terms of the principled approach, we are effectively proposing a return to the formula introduced by David Ben-Gurion. A fixed and limited quota will be provided for outstanding yeshiva students who will continue to enjoy exemption from military service on the ground that “their Torah is their vocation.” The majority of young Haredi men, however, will be drafted for military service. The drafting process will be introduced gradually over a period of five years in order to accommodate the need for Haredi society to inculcate this change. Young men will be able to begin military service at different ages. Some will be drafted at the age of 18, but it will also be possible to join the army at the ages of 20 and 22. Some of those drafted will be able to complete their studies in a higher yeshiva before beginning military service.

The committee developed a blend of three types of drafting for Haredim:

1. Combat battalions. These constitute the moral basis for the integration of Haredim in the army. Young Haredi men will join the army to perform combat service and will play their part in defending the nation. They will have their own units along the lines of the Haredi Nachal. In other words,

they will join the army as a group. They will undergo a drafting process during which they will not meet girls; neither will they have direct women commanders.

2. Young Haredim will serve in vocational and technical frameworks. These frameworks will provide vocational training that will enable the recruits to integrate in technical and vocational functions in the army. This training may also help them to find employment in the civilian market at a later stage.
3. Young Haredim who join the army at a later stage, at the age of 22, or who have a limited profile will serve in professional frameworks such as the Israel Prison Service, the police, or the firefighting service. Again, such service creates possibilities for employment after they complete their military service, such as employment as civilian workers in the defense system. These frameworks will be prioritized for Haredim. At a lower level of priority, Haredim will also be placed in welfare-related functions.

As the former head of the committee, I see no reason why women should be harmed as the result of the integration of Haredim in the army. All the tracks are currently open to women. No position will be closed to any woman. Neither will any Haredi soldier enjoy special privileges. He will have to work with women. Even now, some of the young Haredim join units outside the conscript army, and those who join the army serve in separate units – closed islands. As I mentioned above, there will be three more Haredi battalions. The “New Dawn” framework (the technical track) is a framework for service that takes place with women, although the young Haredim are not required to sit in the same room as women. This situation is not ideal, but it will enable the integration of Haredim. We have to make adjustments in order to enable them to bear the defense burden. It is impossible on the one hand to demand that Haredim be drafted to the army, while at the same time imposing practices on them that are contrary to their worldview. They should be enabled to maintain their way of life while serving in the army.

Their way of life includes segregation of men and women. Accordingly, and by way of a compromise, I see no problem with requiring young Haredim to serve alongside women, but without demanding that they serve in the same room when they perform vocational and technical functions. This ensures equality for women and enables the segregation that is important to the Haredim.

Opinion: Drafting Haredim to the IDF and the Exclusion of Women

Hannah Kahat, founder of Kolech – The Religious Women's Forum

The question of the ramifications of drafting Haredim regarding women in the IDF should be examined in light of the new phenomenon of the exclusion of women in Israel.

Old photographs of the Western Wall show that in the past, even in Jerusalem and within the Haredi community, the relations between men and women took place within normal confines. There was segregation, there was a modesty code, but there was also a common public domain, even at the Western Wall. Over the past decade something has gone wrong. Increasingly strict practices are being introduced that border on hysteria and on an obsession with preventing any proximity between the two sexes. This approach has come to dominate the public discourse of the Haredi world: possibly under the influence of the fundamentalist Muslim world; possibly by way of a subconscious reaction to the advances that have been made in the status of women; possibly as the result of the process of segregation and isolation of the Haredi world from society at large; and possibly under the influence of permissive and highly sexist discourse that has developed in the Western world and may also have come to dominate the consciousness of Haredi men. Strict norms are also spreading within the national-religious community and extending into society at large in situations when Haredim are present. The impact of permissiveness on Haredi men is reflected in the concept of "sinful thoughts" and is based on the perception of women as mere sex objects.

I recall as a young child in Meah She'arim that my grandmother explained to me why the Arabs had separate entrances for men and women to their homes and to public buildings where celebrations were held. The reason, she claimed, was their "evil instinct" is very strong and they are constantly preoccupied with bad thoughts. It now emerges that these same factors, perhaps even in a more extreme manner, have in recent years encouraged an artificially extreme distancing of the sexes, leading to a significant intensification of segregation. And not only segregation, but also exclusion since, in most cases, segregation is achieved by displacing women from the public domain and returning them to their homes.

In a subconscious manner, fears relating to the changing status of women appear to have fueled the struggle against the presence of women. Segregation of women and men pushes women still further away from the heart of public affairs, from power bases, from information and potential control, limiting their living space and their freedom to engage in action. The exclusion of women and their enforced removal perpetuate their status as sex objects, negate their essence as subjects, and reverse the progress that has been made in advancing their status.

It is worth noting that extremists who deface the images of women on advertisements delete their faces, rather than bodies. This suggests that the struggle is against women per se, rather than against the public display of their body or their immodest appearance. After all, even according to the strictest approaches there is no demand that women cover their faces.

These phenomenon are also sometimes accompanied by the sense that what we may have here is a critical optical illusion. Perhaps these changes do not reflect genuine and profound trends, but rather the imposition by force of new norms by extremists groups such as the "Sicarii" ("*Sikarikim*,") who have adopted the name of the band of zealots in Second Temple times. As in the distant past, this group seeks to impose extremist norms on Haredi society, and even on Israeli society as a whole, that leave other members

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of the community with no choice but to toe the line. This hypothesis is supported by the numerous complaints of violence that have been received from Haredi women, and indeed Haredi men. It is important to note that this social pressure creates an internal competition for religious zeal – those who segregate more strictly or those women who cloak themselves more completely are more admired as religious Jews. This leads to a new cultural and social structure based on a new values system in which men and women who apply stricter rules of segregation and modesty are considered superior and “more religious,” while those who oppose these practices are considered inferior in religious and education terms. This religious approach prevents the possibility of combating this phenomenon and the trend to extremism within the Haredi community.

Alongside all the above, the past decade has also seen a new phenomenon: the increasing integration of Haredi men in the army and in Israeli society. The Haredi Nachal brigade is growing and Haredi men are more willing than in the past to accept a historical change and join the army, and thereafter – participate in the Israeli job market. This change is certainly welcome, and in the long time offers a chance for historical change in terms of greater involvement, enlightenment and liberalization within this society. Heightened social integration may enhance life within this community, with benefits from Israeli society as a whole. For the present, however, the discourse of modesty demands the removal of women and their images. Accordingly, there is substantial cause for concern that women in the army will pay the price for the integration of Haredim. The demand presented by the Haredim is unequivocal: A “sterile” area devoid of women. This has resulted in numerous instances of exclusion when Haredi soldiers enter a unit, battalion or platoon. An increasing number of complaints have been received from women soldiers concerning their exclusion from the platoon in which they served due to the arrival of Haredi soldiers in their company. Women are concerned at a process of increasing religious extremism in the IDF. Accordingly, while encouraging military service by Haredim, it is

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vital to respect the right of every soldier, male and female, to dignity and equality. Any new plan that does not include attention to the gender aspects of service in the IDF may fail to meet the criteria established by the Israeli courts, which reject any discrimination on the grounds of gender. It should not need to be added that this phenomenon has nothing to do with elevated religiosity; on the contrary: the exclusion and humiliation of women verges on their public degradation and violates the commandment “love your fellow as yourself.”

In Israel, young women and men begin their adult lives in the IDF. Accordingly, the army bears a special obligation to ensure strict attention to the principle of equality of the sexes as a central value. This value guarantees that every man and woman in this framework will enjoy the opportunity to realize his or her capabilities and talents to the benefit of society at large – during and after military service.

Exclusion of Women from the Public Domain

47. Advertising

As discussed in the 2012 “Excluded, for God’s Sake” report,⁸³ an aspect of the exclusion of women that has increasingly been seen over the past two years is the removal of women’s images from billboards and street advertisements, particularly in Jerusalem.

Some of the advertising companies claim that they are being sensitive to public feelings, while others argue that the demand for “modest” advertisements comes from the billboard companies. Some of the billboard companies explain that their demands are due to the financial losses they incur when advertisements are defaced, while others allege that unwritten regulations imposed by the Jerusalem Municipality demand that advertisements should be “modest” – that is to say, devoid of women.

The Jerusalem Municipality denies that there has been any change in the municipal publicity policy, and has promised to take firm action against any defacement of “immodest” advertisements. On January 22, 2012, it was reported the Jerusalem Mayor Nir Barkat had decided that any advertising company that deliberately refrained from including women in its materials would be considered to be in violation of its agreement with the municipality and would not be able to continue to display advertisements on municipal billboards. Attorney Amnon Merhav, the legal advisor to the municipality, sent a letter on this subject to a number of advertising agencies, demanding that they “refrain from any action whose outcome is the exclusion of women from advertisements displayed on the municipal advertising facilities.” Attorney Merhav also noted in his letter that “the Jerusalem Municipality reserves its full rights to act against you if it emerges that you are acting in this manner despite the above.” Such action could include the imposition of

heavy fines, as well as the withdrawal of the right to display advertisements in the future.⁸⁴

At the beginning of January 2012, alongside the announcement by the Jerusalem Municipality that it would take action against the advertising companies, the “Jerusalemites” movement submitted a petition to the Supreme Court demanding that it be enabled to display advertisements that feature women’s images on buses throughout the city. The movement submitted the petition after the Canaan advertising agency, which holds the franchise for advertisements on Egged buses in Jerusalem, refused to display a campaign by the “Jerusalemites” that included photographs of women. Canaan and Egged argued that there was reasonable cause to fear that extremist Haredim would vandalize the advertisements and the buses. In correspondence with the municipality, Canaan suggested that the advertisements could appear if the “Jerusalemites” deposited NIS 50,000 to guarantee compensation if damage was caused to the buses.⁸⁵

In February 2012 the state submitted its response to the petition, in which it argued that Canaan and Egged are not entitled to refuse to display an advertisement on the grounds that it includes the image of a woman. Neither are they entitled to condition the displaying of such an advertisement by requiring the client to provide compensation for possible damage to property. The state noted in its response: “Restricting freedom of expression and the content of advertisements in a manner based on gender discrimination perpetuates, reinforces and formalizes an unacceptable social stereotype concerning the exclusion and weakening of women, rather than contributing to the eradication of this phenomenon by including women in advertisements that enjoy considerable attention on public platforms. Removing any sign of the female sex on billboards injures women’s dignity,

⁸⁴ <http://www.nrg.co.il/online/1/ART2/329/012.html?hp=54&cat=402&loc=4>

⁸⁵ <http://www.haaretz.co.il/news/education/1.1606679>

⁸³ <http://www.reform.org.il/Heb/IMPJ/NewsItem.asp?ContentID=833>

right to equality and freedom of expression.”⁸⁶ The state informed the Supreme Court that it had decided to condition the public transportation license on the following: “the license holder will not discriminate in the provision of its services, including in an advertisement displayed in or on the bus, on the grounds of race, religion or religious group, nationality, country of origin, sex, sexual orientation, political view, party political affiliation, personal status or parenthood.”⁸⁷

In August 2012 it was reported that Egged and Canaan had reached an agreement whereby Egged buses in Jerusalem would not include any images of humans – i.e. neither pictures of women nor men would be permitted. According to Egged, the agreement was intended to prevent damage to the buses.⁸⁸ Ron Ratner, the Egged spokesperson, stated that “the agreement does not entail any discrimination between women and men. We reached this decision together with our legal advisors due to the real danger caused to the traveling public and to drivers in Haredi neighborhoods and due to the vandalization of buses, on the one hand, and due to our desire not to violate the Supreme Court’s decision, on the other.”⁸⁹ It was also reported that from October 2013, when Egged’s contract with Canaan was due to expire, the bus company planned to discontinue displaying advertisements of any kind on its buses in the city.⁹⁰ The state informed the Supreme Court that it was opposed to the agreement not to display pictures of humans of either sex, since this was effectively intended to evade the requirement to display women’s images “through an unacceptable pretext.”⁹¹

⁸⁶ <http://www.ynet.co.il/articles/0,7340,L-4196303,00.html>;
<http://www.inn.co.il/News/News.aspx/234351>

⁸⁷ <http://www.ynet.co.il/articles/0,7340,L-4254110,00.html>

⁸⁸ <http://www.themarker.com/markerweek/1.1832148>

⁸⁹ <http://www.haaretz.co.il/news/education/1.1870044>

⁹⁰ <http://www.themarker.com/markerweek/1.1832148>

⁹¹ <http://www.haaretz.co.il/news/education/1.1870044>

In December 2012, despite the agreements described above, Egged buses in Jerusalem (as elsewhere in Israel) displayed election posters produced by Shas featuring photographs of Benjamin Netanyahu and Avigdor Lieberman. The Egged spokesperson claimed that the advertisements had appeared in Jerusalem “by mistake” and had been removed after just a few hours on Egged’s insistence. A few weeks earlier, in November 2012, pictures of humans had appeared on buses throughout Jerusalem as part of a publicity campaign run by Egged itself to mark the launching of a free wifi service on its buses. As part of the campaign, an Egged bus was covered in selected photographs of surfers. According to Egged’s official website, the bus came to Jerusalem several times, among other destinations.⁹²

■ Women disappear from advertisements of a credit card company

Activists campaigning against the exclusion of women claimed that a major campaign by the Isracard credit card company used different advertisements in Jerusalem than elsewhere in Israel. The campaign, which was launched at the beginning of 2012, was based on a series of posters featuring celebrities in the center of the picture. In Jerusalem, however, only male celebrities were included. Posters featuring the actress Gila Almagor, which were widely used in other cities, were not displayed in Jerusalem. Local activists campaigning to restore women’s images to billboards noted the phenomenon and launched a protest on the company’s Facebook page. One surfer asked: “Do you not have any women clients in Jerusalem? Why don’t women appear on the advertisements? Should women in Jerusalem cancel their Isracard credit card?” Others threatened to cancel their credit card with the company.

⁹² <http://www.haaretz.co.il/magazine/tozeret/1.1885520>

The managers of the company's Facebook page responded to the accusations: "Iracard is publishing a national campaign that features both women and men, and has not given any instructions to the advertising company to restrict advertisements in any particular cities. The campaign is being run on television, on billboards and in the digital media. We will be pleased to hear our customers' opinions about the campaign next week, too." The activists refused to halt their campaign and demanded that the company state where in Jerusalem advertisements featuring women had been displayed.

The company went on to blame the billboard company: "The advertisements in Jerusalem are the responsibility of Rapid Ltd., and they should be contacted on this subject." Yogav Talmi, deputy CEO for marketing in Rapid, stated in response that his company had displayed all the materials it had received from the advertising agency. He noted that advertisements on bridges – which were used in this campaign – are less problematic, and the company often displays pictures of women on these platforms. The CEO of the advertising company Bauman Ber Rivnay, which prepared the advertising company, responded that "in recent years, following demands from the franchise holders for billboards in Jerusalem, versions sent to the capital are adapted to meet the local requirements and do not include photographs of women due to concern that Rapid's billboards will be vandalized."⁹³

■ Faces of girls displaying Purim costumes blurred

The toy store chain "The Red Pirate" blurred the faces of girls in its advertisements for Purim costumes in the Haredi press in Beit Shemesh. By contrast, the boys' faces appeared without any modification. "The Red Pirate" claimed that it had not been aware of this practice, which was implemented by the newspapers themselves. The chain added that "since

this is the first time we have encountered this phenomenon, and it occurred just as the newspaper was ready for printing, we were caught unaware. We will be alert to this regarding future advertisements in the Haredi press and we will eradicate this phenomenon. The Beit Shemesh branch of "The Red Pirate" apologizes to any man, woman, boy, or girl who was upset in any way by this publication." The local Haredi newspaper *Chadash BeVeit Shemesh*, which published the censored advertisement, stated that "this is not about excluding women or girls. The advertising company blurred the advertisement at our request out of respect for our reading public – men and woman – who wish to receive a newspaper consistent with their beliefs and way of life. Attempts by people who do not belong to the Haredi public to interfere in the wishes of another group are pathetic and doomed to failure, since Haredi readers will not allow in their homes a newspaper that is not 'clean' and appropriate."⁹⁴

■ Another toy chain blurs girls' faces in an advertisement for Purim costumes

Ahead of the festival of Purim in 2012, the toy store chain "Toy Village" published advertisements for costumes. In the advertisements published in Beit Shemesh, Petach Tikva and Jerusalem, the girls' faces were deleted, while billboards displayed in Jerusalem included only boys' costumers. This incident, which was revealed by the association Hiddush, led to numerous angry comments on the chain's Facebook page. In response, "Toy Village" stated: "We apologize to anyone who was offended and we will take action to change the situation. "Toy Village" serves all sections of the Israeli public. The chain in no way intends to insult or offend women. Some of our clients are Haredim, and we contact them through their media. We did not approve the blurring and defacing of women's pictures. The Haredi public is important to us and we do not wish to offend it, either. To avoid offense, we

⁹³ <http://www.haaretz.co.il/news/education/1.1609383>

⁹⁴ <http://www.ynet.co.il/articles/0,7340,L-4183331,00.html>

will not forward advertisements of this type in the future." A source in the chain explained to "TheMarker" that in the future the advertisements sent to the Haredi press would feature boys only.⁹⁵

■ Exclusion of women from billboard advertisements for the Jerusalem Marathon

In January 2012, ahead of the Jerusalem Marathon, advertisements were posted on billboards around the city. The municipality produced 480 posters for this purpose, 80 of which do not include any images of women. Members of the "Jerusalemites" movement claimed that this is no coincidence, but a deliberate policy on the part of the municipality. The Jerusalem Municipality denied this accusation, noting that it is an active partner in the struggle against the exclusion of women in the city. According to the municipality, the 80 posters that do not feature women were a narrower version of the poster designed to fit smaller billboards.⁹⁶ The municipality did not explain why the narrower version could not have included images of women.

■ Censorship of a program for a performance by a dance troupe

Ahead of a performance of Oriental dance at the Jerusalem Theater in March 2012, the artistic director of the Arabesque dance troupe was asked to censor a poster in which the female dancers were shown with bare abdomens. In the revised version, photoshopping was used to "clothe" the dancers. The request to alter the poster was presented to Arabesque by the festival's producer, who claimed that the Jerusalem Municipality, which is responsible for the artistic side of the festival, would not approve the picture in its original form. Arabesque has participated in the festival for over a decade, but this was the first time it had been asked to change its poster

⁹⁵ <http://www.themarker.com/advertising/1.1645370>

⁹⁶ "Jerusalem Marathon: Some of the advertising posters do not feature women," Sharon Nevot Nir, Kol Ha'ir, January 20, 2012.

picture. The Jerusalem Municipality informed "nrg Ma'ariv" that it "does not exclude women. It initiated the performance and it is publishing the advertisement which consists entirely of women. The program includes all the events of the Arts Festival for all communities and ages, and accordingly it was adapted to them all."⁹⁷

■ Israel Festival

The exclusion of women has also reached the Israel Festival. The "Uncensored" group, which campaigns against the exclusion of women from billboards in Jerusalem, revealed that the posters for the 2012 festival did not include due representation of women. Women only appear in some of the material, and in small and unclear photographs. Yossi Talgan, the executive director of the festival, claimed that this was for financial reasons. On the festival's Facebook page, the organizers claimed that pictures of women appeared on the billboards, but promised "Uncensored" that different publications would be prepared next year.

■ Women removed from billboard posters of a drugstore chain in Jerusalem

In July 2012 it was revealed that the Super-Pharm chain of drugstores was refraining from including women on its billboard posters in Jerusalem. Protest messages appeared on the chain's Facebook page. As the number of complaints grew, Super-Pharm published the following response: "The Super-Pharm chain had no intention of offending women in its posters in Jerusalem. We have heard your arguments and the company executive will discuss them in depth."⁹⁸

⁹⁷ <http://www.nrg.co.il/online/1/ART2/343/182.html?hp=1&cat=402>

⁹⁸ <http://www.holesinthenet.co.il/archives/52034>

■ Advertising agency refuses to display image of Tinker Bell in publicity for the Jerusalem Zoo

At the end of July 2012, the Jerusalem Zoo prepared to launch a new family event. The event was accompanied by publicity including the image of the fairy Tinker Bell. The director of the zoo was interested in expanding the publicity campaign to include posters on Egged buses in Jerusalem, and accordingly contacted Canaan advertising agency. The agency informed him that the company was not willing to display the posters on buses due to the inclusion of Tinker Bell, a female character. A representative of Canaan added: "As of now, we do not display women in Jerusalem."⁹⁹

■ Defacement of advertisements featuring female models in Umm al-Fahm

Advertising posters featuring photographs of female models were defaced in the city of Umm al-Fahm. According to a local resident, "In recent years, women in the Arab sector in Israel have begun to dress in what is considered a more 'Western' style. However, groups of Islamist extremists are imposing terror in Arab cities and shopkeepers are afraid. There is a kind of Talibanization going on here... it's scary."¹⁰⁰

■ Fashion chain resumes use of posters featuring women

In the 2011 "Excluded, for God's Sake" report, we noted that posters displayed in Jerusalem by the Honigman fashion chain "cut off" the head of the television personality Sandy Bar, showing only her clothed abdomen, one hand, and a handbag.¹⁰¹ The company has since ended its exclusion of

⁹⁹ <http://www.mako.co.il/news-israel/local/Article-189f77ab063d831017.htm>

¹⁰⁰ Channel Two News, April 22, 2012:
<http://www.mako.co.il/news-israel/education/Article-ad77c88f9c9d631018.htm>

¹⁰¹ "Excluded, for God's Sake," January 2012, p. 42.

women from its advertisements in the city. Honigman's CEO, Micah Ronen, told "ynet" that "following the incident, I told the billboard franchisee for Jerusalem in no uncertain terms that we would advertise using the same materials in Jerusalem as anywhere else in Israel." Nissim Zohar, owner of Zohar-Hutzot, which holds the franchise for billboards in Jerusalem, added that he is "not willing to assist in discrimination and fought to ensure that the posters were displayed." However, he noted that the posters were displayed in entertainment and shopping centers in the city, and not in religious or Haredi neighborhoods.¹⁰²

48. Face of a terror victim blurred in a synagogue newsletter

An announcement was published in the newsletter "In Love and Faith," which is distributed in synagogues throughout Israel, ahead of a ceremony to mark 11 months since the massacre of the Fogel family from Itamar. The face of the late Ruth Fogel, the mother of the family, was blurred in the publication. The newsletter is published by Machon Meir Yeshiva, which has a standing policy of refraining from presenting pictures of women for reasons of modesty.¹⁰³

49. Face of woman journalist blurred on a poster in Rehovot

An advertisement featuring events intended for the national-religious community in Rehovot invited residents to attend a panel featuring the *Kol Chai* radio broadcaster Yedidia Meir and his wife, Sivan Rahav-Meir, who is a reporter for Channel Two News. The advertisement appeared in the local newspaper *Hed Ha'ir* with Rahav's face blurred. The event was produced by the National-Religious Forum, but the advertisement noted that it was being held under the auspices of Mayor Rachamim Malul and Councilor

¹⁰² <http://www.ynet.co.il/articles/0,7340,L-4205574,00.html>

¹⁰³ <http://reshet.tv/%D7%97%D7%93%D7%A9%D7%95%D7%AA/news/Domestic/internal/Article,88415.aspx>

Shai Kaziuf, who holds the Torah Culture portfolio. Rehovot Municipality explained to *Haaretz* that it had not approved the advertisement and that responsibility for the event, including the publication of the advertisement, rested with the National-Religious Forum. Amitai Cohen, chairperson of the National-Religious Forum, claimed that the local newspaper, which is intended for Haredi residents, had blurred Rahav's face of its own accord, without the knowledge of the members of the forum. He added that the publication in a Haredi newspaper was intended to reach out to the "general public," although the forum itself is intended for the national-religious community.¹⁰⁴

50. Images of women in a Jerusalem toy store covered with stickers

At the "Bambino" toy store in the Ramat Eshkol neighborhood of Jerusalem, white stickers were placed over images of women on boxes containing arm bands and swimming pool toys. The store owner told a representative of the "Uncensored" group that "there is a religious population that will not buy here otherwise."¹⁰⁵

51. Exclusion of women at Shaare Zedek Hospital

On July 13, 2012, MK Nitzan Horowitz published on his Facebook page a photograph of an orthopedic product on sale at Shaare Zedek Hospital in Jerusalem. The product wrapping features a photograph of a woman and a man, but the picture of the woman was covered with stickers while the picture of the man remained visible. The Spokesperson's Office of Shaare Zedek Hospital responded: "This is not hospital policy. The same store at the entrance to the hospital sells packages with unconcealed pictures. The

orthopedic store is operated by an external franchisee, and the branch received this particular batch of products from another branch in [the Haredi city of] Beitar Illit."¹⁰⁶

52. "Oral B" toothbrush: picture of women covered by sticker

On July 30, 2012, "ynet" reported that a customer who purchased a "Oral B Classic" toothbrush manufactured by Proctor and Gamble at a branch of Super-Pharm in Migdal Shalom in Tel Aviv noticed that a sticker had been placed on the product to conceal a picture of a woman and child. Proctor and Gamble responded: "As an international company, Oral B has several production facilities around the world that manufacture, pack, and market products to wide geographical areas including a large number of markets in different countries and populations. Accordingly, the marketing offer is sometimes localized for consumers in each market, including minor changes in the packaging (texts and pictures), based on the desire to respect the way of life of populations and sectors from different religions around the world. This is what happened in this case, too, when a handful of packages intended for the Haredi sector reached other branches in Israel."¹⁰⁷

53. Rubbing salt in the wound: Women excluded from a packet of salt

A packet of salt marketed by the veteran company Salit featured a picture of a woman in a dress and apron. In August 2012 press reports claimed that the company had removed the drawing of the woman from its products. The company's decision to remove the picture provoked public discussion on such an extreme manifestation of the exclusion, involving a mere stylized drawing of a woman rather than an actual figure.¹⁰⁸ Salit claimed that the

¹⁰⁶<http://news.walla.co.il/?w=%2F90%2F2549394>

¹⁰⁷<http://www.ynet.co.il/articles/0,7340,L-4261163,00.html>

¹⁰⁸<http://www.haaretz.co.il/captain/net/1.1809543>

¹⁰⁴<http://www.haaretz.co.il/news/education/1.1626247>

¹⁰⁵<http://room404.net/?p=53068>

drawing had merely been removed from packs of Kosher for Pesach salt in order to distinguish these from the regular product.

54. Haredi college refuses to publish photograph of a female candidate for head of the student union

In elections held at the end of September 2012 for head of the student union at Ono Academic College and the Haredi College in Jerusalem, the candidates included four men and one woman, Ruth Lolian. This was the first year when a woman was allowed to run for the position. In a conversation recorded by Channel Two News with the chairperson of the elections committee, he admitted that Kolian – unlike the four male candidates – had been asked not to display her photograph. Kolian also claimed that the elections in the Haredi College were confined to certain days of the week when men study, so that many female students were unable to participate. The elections committee stated: “According to the decision of the elections committee, it was decided that a voting day would be held for each sex on each campus, and that all students would be able to vote without exception. In the previous elections it was also not possible to vote on every day of the week. It should be added that no announcement was ever issued prohibiting the publication of photographs of female candidates for the head of the student union or the union council. Last year photographs of female candidates were published. We support equality between all the students.” Kolian has submitted a suit on this matter and the case is pending.¹⁰⁹ Kolech, to whom Kolian turned for assistance, and the Israel Women’s Network have submitted applications to join the suit as *amici curiae* and are helping Kolian in her struggle with the student union.

55. Statue of a woman in Yehud replaced by a statue of a man

In December 2012, a new square and fountain were inaugurated in the town of Yehud, featuring a statue of a female surfer. Sections of the local religious community claimed that the sculpture of the surfer was immodest and the character’s rear side was prominent. Following the criticism, the municipality decided to replace the statue with one featuring a male surfer. The chairman of the Religious Council, Zaki Vajima, was among those who objected to the statue: “This is a beautiful plaza, but they should have installed a statue of a male surfer, not a female. It’s more modest. In general the sculpture should have been more modest. I hope they’ll think about this in the future.” Councilor Yitzhak Pinker from the Shas faction also noted his objection: “I spoke to the assistant executive director of the municipality and explained that this statue isn’t appropriate for our town... Her rear side is very prominent. It’s not right. When we voted on this issue in the council meeting I opposed the idea of including a statue, because it is prohibited according to the Halacha. A woman in a bathing suit? That’s not modest. Many residents came to me and said that this isn’t suitable for our town... I plan to speak to the mayor and explain why this is problematic. The statue is really immodest, it does not respect the religious public.” The sculptor, Dov Brada, claims that while he was working on the project the municipality asked him to consider the subject of modesty. Accordingly, he ensured that the woman surfer was shown wearing a full-length swimming costume to her knees. The municipality responded: “We respect the religious sector in the town. In a discussion between the mayor and representatives of the religious and Haredi public, it was decided to replace the statue with one of a male surfer.”¹¹⁰

¹⁰⁹<http://www.mako.co.il/news-israel/local/Article-822f9944081ea31004.htm>

¹¹⁰<http://www.mynet.co.il/articles/0,7340,L-4313282,00.html>

Demands for Modest Dress

56. Violence in Beit Shemesh following the removal of segregation and modesty signs

Beit Shemesh has become renowned as the location for some particularly extreme acts of exclusion of women and numerous incidents have been documented involving the use of violence to impose modesty rules and gender segregation. The 2012 "Excluded, for God's Sake" report reviewed the incidents during most of 2011. The media reported the following incidents from the end of 2011 and from 2012:

- December 25, 2011: Special Patrol Unit police and municipal inspectors removed a street sign imposing segregation of women and men in the Nachala Umenucha neighborhood of Beit Shemesh. Some of those present shouted "Nazis" at the policemen and an unidentified individual threw stones. A few hours later the sign was put back in place by the local residents. Earlier the same day, at the same location, Haredim threw stones at a jeep from Channel Two, beat the television personnel and broke a camera.¹¹¹
- December 26, 2011: Violent clashes erupted between Haredi residents and police who again came to remove the road sign imposing segregation between women and men in the Nachala Umenucha neighborhood. Some 300 Haredim chased the policemen, shouting at them, throwing stones, and burning garbage cans. At least one policeman was injured. The same day a team from Channel Ten News that came to film at the site was also attacked.¹¹²

- January 24, 2012: A 27-year-old woman was hanging up an advertisement for the state lottery and was attacked by extremist Haredim shouting "shikse" (a derogatory term for a non-Jewish woman. The men kicked her car, pierced the tires, stole the keys and threw stones at the vehicle. One stone hit the woman on the head, injuring her slightly. The mayor of Beit Shemesh condemned the incident.¹¹³
- June 20, 2012: A woman arrived at a store in the Ramat Beit Shemesh Beit neighborhood. She got out of her vehicle and opened the trunk of her car in order to remove her baby's stroller. Suddenly she was attacked by a volley of gravel thrown at her from all directions. Fortunately, two women from an adjacent store picked up her baby and urged her to take shelter in the store. Some 10 minutes later the woman returned to her vehicle, and once again came under attack when large stones struck the vehicle. According to media reports, the attack was launched because the assailants felt that the woman was dressed immodestly.¹¹⁴

■ Modesty signs in Beit Shemesh

Various signs are displayed around Beit Shemesh urging women to dress modestly. The signs are extremely large and cannot be overlooked. Some of the signs have been placed on buildings on the main streets of the city; others on the walls of commercial centers; and others still on or adjacent to synagogues. The signs are erected as a private initiative and use language that degrades and humiliates women. To the best of our knowledge, the signs were placed without any authorization in locations not intended for the display of signs. It must be emphasized that the signs are displayed on the main street of a city where Haredi, national-religious and secular Jews

¹¹¹<http://www.haaretz.co.il/news/education/1.1600736>

¹¹²<http://www.haaretz.co.il/news/education/1.1601475> ¹¹²<http://news.nana10.co.il/Article/?ArticleID=855304>

¹¹³<http://www.ynet.co.il/articles/0,7340,L-4180179,00.html>

¹¹⁴<http://www.ynet.co.il/articles/0,7340,L-4245135,00.html>

all live. At the entrance to the Ramat Beit Shemesh Beit neighborhood, for example, the following sign is displayed:

**Women passing through our neighborhood are required to appear
In modest dress
Including: a closed blouse with long sleeves, a long skirt,
Not in pants and not in tight or revealing clothing.**

Similar signs can be seen at the commercial center in the Ramat Beit Shemesh Aleph neighborhood on Nahal Kishon St., as well as at the intersection of Ribal and Nahar Hayarden Streets.

On Hazon Ish St., close to the Heikhal Avraham Synagogue, signs bearing the following message are displayed:

**On the instruction of the local rabbi, Shlit"ra
Women are requested
Not to dawdle
On this sidewalk
Which is used for passage by those attending the synagogue**

After IRAC received complaints from religious residents of the city, we contacted the Beit Shemesh Municipality on their behalf and demanded that these illegal signs be removed. We emphasized that presenting demands for modest dress to women on a city street, by means of enormous signs detailing precisely what dress a woman must wear on entering a given street, or demanding that women refrain from using a particular sidewalk simply because it is adjacent to a certain synagogue, entail humiliation, mental anguish and grave injury to the dignity of women who oppose

such demands, yet who are forced to encounter these signs at numerous locations around the city. Like many women residents of Beit Shemesh, the complainants feel insulted and humiliated when they see such signs, which claim to prevent them using a particular sidewalk or condition their entry into a neighborhood or a commercial center on modest dress. This practice also restricts the freedom of movement of women in particular neighborhoods who refrain from using certain streets due to the presence of the signs. The streets of a city are a public domain to which anyone, male or female, should enjoy free and unrestricted access. Shortly before the publication of this report, the Ministry of Justice team formed to discuss the phenomenon of the exclusion of women ordered that all modesty signs in local authorities must be removed. IRAC will continue to monitor the implementation of the recommendations on the ground.

■ **Suit against the modesty signs in Beit Shemesh**

On February 20, 2013, after Beit Shemesh Municipality failed to provide any response to our complaint, we submitted a suit against the municipality and the mayor on behalf of four local women (all Orthodox). The suit demands that the respondents remove the enormous modesty signs that have been erected in various locations around the city. We noted that these signs also support the terror used against women by extremist Haredi elements who attack, curse and spit on women who are dressed immodestly in the assailants' opinion (such as the plaintiffs). The suit also demands payment of compensation to the plaintiffs in the total sum of NIS 100,000 due to the respondents' failure to act lawfully and remove the signs.

57. Black gowns for women at a supermarket in Beit Shemesh

A resident of Beit Shemesh who wished to make purchases at a branch of the Osher Ad supermarket chain in a neighborhood most of whose residents are secular was asked by the guards at the entrance to cover herself in a black

gown, since she was wearing a sleeveless top. "Put this over your shoulders, otherwise someone will have a heart attack," the guard added. The women refused to do so and entered the store without the additional clothing. The following sign is displayed at the entrance to the store: "Dear customers! Please help us to respect all those who come to the store, and dress modestly on your visit here. Thank you for your cooperation." The Osher Ad chain told *"ynet"*: "The chain serves both Haredi and secular customers. The chain respects all its customers and seeks to avoid offending the feelings of any section." Following the publication of the article, the management of the supermarket decided to remove the modesty signs and to stop distributing black gowns. The chain stated: "Following comments from the chain's customers, the branch has decided temporarily to remove the sign in order to formulate a wording that will be acceptable to all customers."¹¹⁵

58. A modesty sign in the Mazkeret Moshe neighborhood of Jerusalem

In August 2012, we contacted the Jerusalem Municipality concerning an illegal sign displayed on Hatavor St. in the Mazkeret Moshe neighborhood of the city:

To a woman passing through our neighborhoods:

We ask you in the clearest possible terms

Please do not pass through our neighborhood

In immodest dress

Modest dress includes:

A closed blouse with long sleeves, a long skirt, not in tight clothing

Please do not upset us by disturbing the sanctity of our neighborhoods

And our way of life as Jews faithful to God and His Torah.

The residents of the neighborhood

¹¹⁵<http://www.ynet.co.il/articles/0,7340,L-4238627,00.html>

We emphasized that the sign was erected without a permit and that its wording humiliates and degrades women. Accordingly, the municipality must act immediately to remove it. Following our complaint the sign was removed by the municipality, which accepted our argument that modesty signs must not be erected in neighborhoods with a mixed (religious and secular) population.

59. A sign in Kiryat Belz in Jerusalem orders women not to dawdle in the neighborhood

At the intersection of Shamgar and Petach Tikva Streets, in the Kiryat Belz neighborhood of Jerusalem, a sign was displayed warning women not to dawdle unnecessarily in the square and in the other streets of the neighborhood at the end of the prayers in the Belz Synagogue, which is situated on the street. The sign adds: "Before the men leave the Beit Midrash Hall, they [the women] should go directly home and not dawdle at all on the street." The sign was erected by the management of the Great Beit Midrash of the Belz Hassidic sect.¹¹⁶

60. Fathers in Ra'anana asked to leave their daughters' dance performance due to modesty concerns

Fathers who came to watch their daughters perform as part of a dance class in Ra'anana were asked to leave the auditorium due to the desire to maintain women's modesty. The fathers were surprised by the demand and told *"mynet"*: "The invitation made no mention of the fact that men would not be allowed to enter. We are talking about nine-year-old girls – our own daughters. What modesty are they talking about?" The management of the club responded that "the club is intended for women, and the performance was held to mark Mother's Day. Many of the girls in the course come from

¹¹⁶<http://www.mynet.co.il/articles/0,7340,L-4242137,00.html>

the religious sector. Of sixty students, only two fathers chose to attend, for some reason. We asked them to respect the girls and women. Regrettably, the comments were taken out of context. One father accepted the request while another made a commotion.”

61. School in Ramat Gan prohibits fathers to attend a Bat Mitzva party for reasons of modesty

Fathers of sixth-grade girls at Noam – Haro’eh State-Religious School in Ramat Gan claimed that they were not allowed to attend their daughters’ Bat Mitzva party for reasons of modesty. Only mothers and grandmothers were invited to the party. One of the fathers suggested that he and the other fathers could participate in part of the event that did not include singing and dancing, but his proposal was rejected. He claimed that the school has adopted Haredi standards of modesty that “go beyond anything reasonable.” The head of the State-Religious Education Council, Rabbi Avi Gisser, commented on the incident: “The council is opposed to the exclusion of the fathers, since such events should have a family character.” Rabbi Gisser added that the school made a miscalculation, and added that “in every school, at least one Bat Mitzva ceremony should be held with the participation of the fathers.”¹¹⁷

62. Examination supervisors at a school in Beitar Illit were asked to leave due to modesty requirements

Three young women who came to supervise standard examinations in mathematics at an elementary school in Beit Illit were not permitted to enter the classroom since the school felt that they were immodestly dressed. The young women were wearing long dresses covering their legs and long blouses covering their arms, but the school still claimed that they were

¹¹⁷<http://www.ynet.co.il/articles/0,7340,L-4208280,00.html>

dressed immodestly because they were not wearing socks reaching above the knees and their clothes were too colorful. The school management also complained that two of the supervisors were 23-year-old and single. Just one supervisor, a married religious woman with her hair covered, was permitted to enter the classrooms. The other three supervisors were not allowed to enter and were forced to wait outside the school gate until the examination was completed. Although the examination in question is a national program requiring external supervision, the Ministry of Education approved the decision by the school management and allowed the school’s own teachers to supervise their students. The Ministry of Education informed “*nrg Ma’ariv*” that “the supervisors came to the educational institution in clothing inconsistent with the character of the institution. The matter was handled by the National Authority for Measurement and Evaluation and the examination was held as scheduled.”¹¹⁸

63. “Modesty Patrols” demand that a Jerusalem resident leave her home

A resident of Jerusalem who lives in the Machane Yisrael neighborhood with her two children received a threatening letter from the “Modesty Patrols.” The letter urged her “to leave our neighborhood, because you have transgressed against the borders of the Torah and the modesty of our neighborhood... This is the only warning.” The woman submitted a complaint to the police, who promised to increase their patrols in the area.¹¹⁹

64. Young man from Jerusalem suspected of spitting on women in “immodest” dress

A young Jerusalem man was arrested on suspicion of assault and making threats after he spat on two young women who he felt were not dressed

¹¹⁸<http://www.nrg.co.il/online/1/ART2/370/841.html?hp=1&cat=402>

¹¹⁹<http://www.haaretz.co.il/news/education/1.1694459>

in a sufficiently modest manner. The police representative stated that two complaints had been submitted against the young man. The suspect's family claim that the incident did not involve the exclusion of women but was a dispute between neighbors.¹²⁰

65. Women's dance and exercise classes in Jerusalem neighborhood of Kiryat Moshe closed on the order of the rabbis

Dance and exercise classes for women held in the evenings at Maimon National-Religious School in the Kiryat Moshe neighborhood of Jerusalem were closed on the orders of the rabbis after operating for over 25 years. The decision was taken by the "Spiritual Steering Committee" of the educational institution, which decided that it was improper for women to dance in the school. After pressure was applied on the principal, he agreed to open the exercise class only. According to Alon Lev, the coordinator of the activity classes, he attempted over a period of many months to reinstate the classes, but Rabbi Doron refused, claiming that "the Spiritual Steering Committee, whose purpose is to provide solutions and guidance regarding Halachic problems relating to the educational institution, has determined that it is improper for women to dance at the school, even when there are no students in the vicinity." Lev contacted the municipality, but was told that it could not intervene in the school's decision regarding the letting of spaces within its buildings. The website "mynet" quoted a response from the municipality: "School principals in the city have a mandate to decide each year to authorize the use of the school buildings in the capital by external groups. In recent years this class has attracted complaints from neighbors about noise. However, the issue will be examined in an effort to resolve the matter."

¹²⁰<http://www.ynet.co.il/articles/0,7340,L-4238130,00.html>

66. Immodest dress in Machane Yehuda Market

Haredi women visiting Machane Yehuda Market in Jerusalem spoke to some women who had come to the market in what they considered "immodest" dress and told them that they must cover themselves when going shopping in the market. It is unclear whether this was an organized Haredi action, but it encountered opposition from the market merchants. The chairperson of the Association of Machane Yehuda Merchants declared: "This will not be accepted, a 'Modesty Patrol' of this type is unacceptable and constitutes a red line for us." The merchants intend to patrol the market and prevent this phenomenon, and to clarify to the 'Modesty Patrols' that they have no place in the market.¹²¹

67. Windows of fashion stores in Bnai Brak vandalized

Shortly before the festival of Shavuot, dozens of windows of fashion shops in Bnai Brak were vandalized and covered with notices demanding modes dress: "The world is not without order and a human is not an animal. All the rabbis have ruled that tight shirts and clothes that are close to the body are an abomination to the Lord and are utterly forbidden." Several shopkeepers complained about the vandalization of their businesses: "In the name of a fraudulent modesty, the vandals permit themselves to damage and usurp the owners of businesses."¹²²

68. Management of a Jerusalem supermarket apologizes after a cashier comes to work in a short skirt

Haredi residents of the Ramot neighborhood of Jerusalem complained to the manager of the "Yesh" supermarket that one of the cashiers was dressed

¹²¹<http://www.mynet.co.il/articles/0,7340,L-4280751,00.html>;
<http://www.mynet.co.il/articles/0,7340,L-4285127,00.html>

¹²²<http://www.bhol.co.il/Article.aspx?id=45149>

in clothes which they considered immodest. The same residents circulated a letter in the neighborhood synagogues asking residents to apply pressure on the branch manager. Some of the notices even advocated a boycott of the branch. A week later, the management of the branch published an apology in the neighborhood newsletter: "We apologize and are taking immediate action to prevent a recurrence of this incident."¹²³

69. Management of Ramot Mall in Jerusalem acquiesces to the rabbis' modesty demands

In March 2012, ahead of the opening of a new mall in the Ramot neighborhood of Jerusalem, it was revealed that the management had signed an agreement with representatives of Haredi residents in the area defining modesty rules for the mall. Among other conditions, it was agreed that no pictures of women would be displayed; female mannequins would not include a head; and background music would not include women singers. The document also includes modesty rules concerning the dress of female employees in the shops and conditions for the advertisements to be displayed in secular neighborhoods of the city: "Advertising materials distributed solely in the secular neighborhoods will be restrained and considerate."¹²⁴ The agreement was revealed after two stores in the mall broke the modesty rules during the festival of Purim. "Nimrod" shoe store and the "Lord Kitsch" store held activities around the mall on Purim, including trampolines and swings. Haredi visitors complained about the activities and announced an immediate boycott of the stores: "There was total and unacceptable mingling [of the sexes] on the site, girls played on the swings and lay on top of each other on the mattresses." In an attempt to end the boycott, the management of the mall promised the rabbis that it would act in cooperation with the Haredi sector. Some of the store owners accepted

¹²³<http://www.mynet.co.il/articles/0,7340,L-4285234,00.htm>

¹²⁴<http://www.mynet.co.il/articles/0,7340,L-4285234,00.html>

the orders, but others objected: "We serve both the Haredi and the secular public, so why should they issue such exceptionally strict instructions?"

The management of the mall claimed that they could not recall signing the alleged agreement, and stated: "We are unfamiliar with the document forwarded by the reporter. The boycott imposed on two stores was the result of a regrettable misunderstanding. Within the positive and pluralistic relations in the Ramot neighborhood in general, and in Ramot Mall in particular, an occasional misunderstanding can sometimes cause anger. In order to smooth things over quickly, the managers of the chains contacted representatives of the local rabbis at the beginning of the week. Thanks to mutual understanding and cooperation, the issues were resolved and it was decided that the boycott would be removed. We regret any discomfort that may have been caused to residents of Ramot and to the Haredi public. The activities held at Purim with the youth movements were run in cooperation with the community administration of the Ramot neighborhood, and we will continue to cooperate with this body."

70. "Immodest" women not allowed to enter a supermarket in Ashdod

A branch of the "Victory" supermarket chain in neighborhood Gimmel of Ashdod refused to allow a woman to shop on the premises after the branch manager claimed that she was immodestly dressed. The manager stated that she must wear a skirt and cover her shoulders in order to enter the supermarket, and after she refused to do so he prevented her from entering. The manager told her: "You are sullyng this place... Look how you are dressed. It's disgusting. I don't even want to have this conversation with you here. This is a privately-owned business and I have the right to demand whatever I like." At the entrance to the branch there is a desk that allocates shawls to women who are "immodestly dressed" so that they can cover themselves. Other women customers submit to this demand. Avi Ravid, the

deputy CEO of the "Victory" chain, responded: "As long as they didn't spit on her or kick her, we are okay. You have to understand that this branch is situated in a Haredi neighborhood and I respect our customers. People who come there should act in keeping with the place. Just as when you come to a synagogue the men and women are separated."¹²⁵

71. A female dentist in Meuchedet HMO faces a demand to dress "modestly"

In July 2012 IRAC received a complaint from A., a reputable dentist employed at a clinic of Meuchedet HMO in a Haredi city. Some 18 months after A. began to work in the clinic, she was told that a patient had complained that she was dressed immodestly. A. was not given any details about the complaint or the complainant, so that she could not respond to the substance of the complaint. From this date, the director of the local clinics told A. that she must come to work in a gown with long sleeves. It should be noted that until this point no complaints had been received about A.'s dress. She had never been required to observe any particular dress code and the subject was not mentioned in her work contract. Like the other physicians at the clinic, A. was accustomed to wearing a short-sleeved gown over her clothes. Her dress was professional and appropriate and no problems were encountered in her work. It must be emphasized that the demand to wear long sleeves was directed solely at A., while the male physicians in the clinic continued to wear short-sleeved gowns. When A. confronted the director of the local clinics on the matter, she was told that a short-sleeved gown is immodest and that if she refused to wear a long-sleeved gown she would be required to leave her position.

A. contacted the Equal Opportunities in Work Commission which wrote to the clinic and clarified that the demand for a female physician to wear different clothes than her male peers is unlawful and constitutes prohibited

¹²⁵<http://news.walla.co.il/?w=/90/252765>

discrimination. In response, the clinic claimed that the dress code applies to both men and women, and that all physicians employed in clinics serving the Haredi population are required to wear long sleeves. A. responds that most of the male physicians continue to wear gowns with short sleeves, or to fold up the sleeves, but only she receives comments about this matter.

We asked the Meuchedet clinic to halt this discriminatory practice and to withdraw the demand for physicians to wear long-sleeved gowns so that female employees can choose freely what kind of gown to wear. We also asked the HMO to apologize to A. and to compensate her for the discrimination she experienced. Meuchedet continues to insist that the case does not involve discrimination and that the demand for physicians to wear long sleeves is intended to show consideration for the public for which the HMO provides medical services.

72. Hotels ranked according to modesty

On July 4, 2012, a report on the website "*nrg Ma'ariv*" claimed that Chief Rabbi Yona Metzger had established a committee to formulate new criteria for awarding Kashrut licenses to hotels.¹²⁶ According to the publication, the Rabbinate plans to rank hotels according to their religious standards and to award between two and five stars for Kashrut. Five star status will be given to a hotel that ensures, among other conditions, strict observance of modesty rules, including a requirement for its employees to wear modest dress. IRAC contacted Rabbi Metzger the same day and warned that such a plan is illegal since it deviates from the Rabbinate's authorities and is contrary to basic principles of equality, dignity, and freedom from religion. On July 22, 2012, the Chief Rabbinate replied that the article was inaccurate, since the subject was still at an early stage of examination and no decision had as yet been taken on the matter.

¹²⁶www.nrg.co.il/qonline/1/art2/383/206.html

B. Gender Segregation in the Jewish Sources

When embarking on an examination of the demand for gender segregation in the Jewish sources, it is worth emphasizing that all the sources we will discuss were written exclusively by men. Throughout most of Jewish history, men alone studied and wrote works of Halacha (religious law). Men created religious laws and rules, interpreted them, and judged accordingly. This reality reflects the patriarchal structure of the ancient world in which the culture of the Jewish people developed. In this culture, women were excluded and perceived as “others” or marginal; enslaved to their fathers and husbands; and entirely at their mercy.

In Halachic literature, the exclusion of women can be seen in the basic assumptions relied upon by countless sages in their work of exegesis: when the Bible uses the masculine plural, this refers to men only; women are only included if they are specifically mentioned. Accordingly, regarding such Biblical verses as those prohibiting injury to others, stealing, or murder, the Sages asked “I have this [before me] only as far as a man is concerned; how then [can we know that it also applies to] a woman?”¹²⁷ Thus, the basic assumption is that women are not bound by the commandments, and the Sages were obliged to make an exegetical effort in order to include them. Needless to say, this approach is the opposite of that in contemporary Hebrew, where masculine forms are usually assumed to refer to both men and women. In other cases, when the inclusion of women was inconsistent with the realities of the time, the exegetical effort was applied to permit exclusion. For example, women were exempted from studying Torah on the basis of the verse in Deuteronomy “you shall teach them to your sons,”¹²⁸ regarding which the exegetical literature emphasizes “your sons – and not

your daughters.”¹²⁹ Over time, the exemption of women from the requirement to study Torah was transformed into a prohibition, according to some Halachic authorities (*poskim*). This was manifested in Halachic comments such as “let the words of the Torah be burned up, but do not let them be delivered to women,”¹³⁰ or “anyone who teaches his daughter Torah, it is as if he had taught her frivolity.”¹³¹ Like the academies of the ancient world, the Beit Midrash (house of study) was selective in admitting students. The Sages controlled this institution, which was deliberately intended for the intellectual elite. No-one considered the possibility of permitting women to enter the Beit Midrash, since they were not even allowed to study Torah.

The principle that women are not to assume positions of authority, such as the roles of rabbi or religious judge, was formulated in a similar manner on the basis of a verse in Deuteronomy: “place a king above you.”¹³² The Sifrei commentary deduces from this “a king – and not a queen,” while Maimonides added: “One does not place a woman on the throne, as it says ‘a king over you’ – not a queen. Similarly, for all offices in Israel, only a man may be appointed.”¹³³ Accordingly, the principle that women are to be excluded from the public domain and separated from men is one that was developed and interpreted in a world in which women had no foothold. To a large extent, this continues to be the reality in Orthodox society since men are still perceived as exclusively capable of filling the functions of rabbinical judges or rabbis – the most important positions in the religious world in

¹²⁹Kiddushin, 29b.

¹³⁰Jerusalem Talmud Sota 16A, chapter 3, halacha 4.

¹³¹Jerusalem Talmud, Sota 20a. Maimonides elaborates on this point: “The Sages ruled that one should not teach them to one’s daughters because the mind of most women is not disposed to study, and they will turn the words of Torah into words of nonsense due to their limited understanding” (Hilchot Talmud Torah 1:13).

¹³²Deuteronomy 17:15.

¹³³Maimonides, Mishneh Torah, Hilchot Melachim Umilchamot, 1:5.

¹²⁷For example, see the Mechilta de Rashbi, 21. See also the Hannah Safrai and Avital Cambell Hochstein, *Women Inside, Women Outside*, Yediot Acharonot Publishers, Judaism Here and Now.

¹²⁸Deuteronomy 11:19.

terms of the creation and interpretation of Halacha.¹³⁴ From this perspective, it could be argued that the exclusion of women from public life and their separation from men served in the past, and continues to serve, primarily as a tool for securing power-based objectives. These norms enable men to enjoy unlimited control over all religious activities in the public sphere, and hence to dictate the limits of women's autonomy and ensure their social inferiority and subjugation to men.¹³⁵

A similar value-based hierarchy regarding women and men can be seen when other concepts identified with women, such as sexuality, are examined, thereby reinforcing the Halachic justification for gender segregation. "The voice of a singing woman equals lewdness" [*erva*, literally "nakedness," the sense being sexually suggestive or provocative],¹³⁶ the Sages claimed, reflecting the perception of women as sinners and seducers who lead men to stumble due to their sexuality, and, accordingly, require the segregation, exclusion and constraint of women. Moreover, the outcome of this position is the subjection of women to a regime of modesty intended to hide women from the eye of an observer by means of covering their body; isolating women socially through their confinement to the private realm; and establishing barriers preventing their bodies from becoming the objects of observation and desire in public through the practices of gender segregation. "Modesty" actually means control of women's sexual being. Women are obliged to conceal their sexuality and must prevent leading men into temptation by their nakedness. It is the sexuality of women –

and not that of men – that is perceived as requiring restraint. The rules of modesty apply primarily to women, and the essential goal is to protect men from women's exuberant and negative sexuality. The following comment by Maimonides is a powerful illustration of this approach:

In a place where it is customary for a woman not to go out to the market place wearing merely a cap on her head, but also a veil that covers her entire body like a cloak, her husband must provide at least the least expensive type of veil for her. If he is wealthy, [the veil must be] commensurate with his wealth.

[He must give her this veil] so that she can visit her father's home, a house of mourning or a wedding celebration. For every woman should be given the opportunity to visit her father and to go to a house of mourning or a wedding celebration as an expression of kindness to her friends and relatives, for [this will have a reciprocal effect], and they will return the visits. For a woman [at home] is not confined in a jail, from which she cannot come and go.

Nevertheless, it is reprehensible for a woman constantly to leave home – once to go out and another time to go on the street. Indeed, a husband should prevent a wife from doing this and not allow her to go out more than once or twice a month, as is necessary. For there is nothing more attractive for a woman than to sit in the corner of her home, as it is written Psalms 45], 'All the glory of the king's daughter is within.'

(Mishneh Torah, Hilchot Ishut, 13:11).

In this Halachic ruling, Maimonides demands the complete concealment of women – not merely a head covering, but the covering of the entire body in a manner reminiscent of the Afghan burka. Maimonides also demands that women be prevented from leaving their houses, while adding the comment that she is not confined in a jail – a comment that suggests that many would feel that the limits placed on her liberty make her tantamount to a prisoner.

¹³⁴IRAC recently submitted a petition on behalf of 11 social organizations demanding the appointment of a woman as director-general of the rabbinical courts, in an effort to secure the first appointment of a woman to an administrative function in the rabbinical court system. The petition was struck out after the minister of justice announced in response that he had not yet formulated his position regarding the capacity of women to submit their candidacy for the position. HCJ 151/11 Center for the Advancement of the Status of Women v Minister of Justice, unpublished.

¹³⁵See Noya Rimlat, "Segregation between Men and Women as Sex Discrimination," Alei Mishpat C 99, 13-100 (Hebrew).

¹³⁶Kiddushin 70a.

This ruling illustrates the fact that concealment on the grounds of modesty is a form of oppression.

The manner in which the Sages chose to interpret the verse “All the glory of the king’s daughter is within,” and their assertion that “a woman’s voice is nakedness” and “one handbreadth of a woman is nakedness,” proved powerful tools in the social exclusion of women from religious functions. This is ironic, since both the latter quotes appear in tractate *Berachot* and are directed at men reciting the Shema prayer, instructing them to refrain from doing so in the presence of an uncovered woman or a woman singing in an erotic manner. The tractate imposes no prohibitions on places where women are to be present, nor on their manner of dress. Only a patriarchal society could transform this rule into instructions for concealing, excluding, and removing women in a manner that structuralizes their exclusion from society at large. Over the generations, this interpretative approach was expanded, establishing gender segregation and perpetuating discrimination against women.¹³⁷

The Song of Deborah and the Song of Miriam – is a woman’s voice “lewdness”?

The factual section of this report details attempts to prevent women singing in public and appearing at public events in general, and in IDF ceremonies in particular, on the basis of the adage that “a woman’s voice is lewdness.” As we noted, this demand provoked public debate in Israel when it was raised by religious cadets who wished to absent themselves from a ceremony at which female soldiers were singing. This phrase has continued to appear in various public contexts and, accordingly, it is pertinent to ask to what extent Israeli society should be willing to take into account the Halachic demand to prevent men from hearing women’s song.

¹³⁷See Hannah Kehat, *Feminism and Judaism – From Confrontation to Renewal*, Ministry of Defense – Laor (Hebrew), p. 130.

As noted above, the expression “a woman’s voice is nakedness” appears in the Gemara, in tractate *Berachot*, page 24a. The Gemara lists several instances that are to be considered nakedness: “A handbreadth of a woman is nakedness;” “a thigh of a woman is nakedness;” “the hair of a woman is nakedness.” The discussion that rules that “a handbreadth of a woman is nakedness” refers to a person reciting the Shema prayer. A Jewish man is required to recite the Shema prayer on going to bed and on rising; accordingly, he naturally does so at home in his wife’s presence. The Sages feared that the man’s attention might be distracted by his wife during his prayer. The Gemara seeks to impose restrictions on the wife’s dress and appearance in order to prevent the husband being distracted while reciting the prayer.

The textual structure of the discussion is striking. Its focus is on the man who is required to read the Shema, while his wife is an object liable to cause a distraction. Only the wife can become “nakedness.” We have no statement that “the thigh of a man is nakedness,” or such like. The woman is liable to present a sexual temptation for the male subject who is mandated to read the Shema. This structure undoubtedly reflects a society in which the man is the subject to whom the commandments refer, while the woman who lives with him must adapt herself to meet his needs. There is no symmetry in the discussion; no discussion of the conditions in which the woman may read the Shema; and no restrictions on the man’s behavior when she does so. What limbs might the man cover? Might his voice distract her attention from the prayer? The woman is ever the potential temptress, and never the object of temptation. She is even exempted from many time-bound commandments (commandments that must be performed at a particular point in time) in order to ensure that she is free to attend to the needs of her husband, children and home. As members of an egalitarian society that views men and women as equal partners in obligations and rights, we can no longer regard such a distorted situation without asking how it might be balanced. This criticism is heightened when we learn that some later *poskim*

sought to extend the concern of “a woman’s voice is nakedness” from the context of reciting the Shema prayer to the public domain as a whole. The discussion then revolved around the question as to whether any women’s voice was considered nakedness, or only the voice of a singing woman. Did the restriction apply to singing specifically intended to seduce the man, or to any singing? Did it refer to the singing of many women together, or of just one woman? And so on and so forth.

In Israeli society, where men and women aspire to be full partners in work, public life, education, the arts and culture, is there any room for the claim that a woman’s voice is “nakedness?” On this matter, there would seem to be little doubt that the Halachic discussion must recognize the ideological and value-based background against which it was composed. The Sages’ discussions in the Gemara took place between the third and fifth centuries CE. The leading authorities on these issues lived in the thirteenth century CE.¹³⁸ These discussions seem to reflect the cultural and social context rather than Halachic debate, and they should be examined in this light. Even contemporary Orthodox rabbis, such as Rabbi David Bigman and Rabbi Avraham Shamma, have argued that the prohibition should be interpreted in a restrictive manner and its social and ideological context placed primarily in the field of the laws of modesty.¹³⁹

Moreover, Judaism does not begin and end with Rabbi Shmuel’s saying “a woman’s voice is nakedness.” It also includes the heartwarming description of Miriam singing a song of thanks after the parting of the Red Sea: “Then

Miriam the prophetess, Aaron’s sister, took a tambourine in her hand, and all the women followed her, with tambourines and dancing. And Miriam sang this song: ‘Sing to the Lord, for he has triumphed gloriously; he has hurled both horse and rider into the sea’” (Exodus 15:20-21). It includes, too, the assertive Song of Deborah: “Hear this, you kings! Listen, you rulers! I, even I, will sing to the Lord; I will praise the Lord, the God of Israel, in song... Until I, Deborah, arose, until I arose, a mother in Israel... Wake up, wake up, Deborah! Wake up, wake up, break out in song!” (Judges, Chapter 5). This song, recited by women, does not provoke criticisms or talks of nakedness and immodesty. The singing and dancing of Miriam and Deborah’s powerful song are integrated in the sacred and canonical text without any criticism at the presence of women in the heart of the public domain, and without any doubt as to their ability to make themselves heard in song and speech.

Our society seeks to base the relations between men and women on mutual respect and equality and to move beyond the image of the man as a sexual being unable to control his urges. We seek to emphasize the obligation to protect the physical and emotional wellbeing of women while enabling them to play a full role in the public arena, and without their being subjected to objectification or sexual harassment. Accordingly, we must ask whether it is appropriate that our shared public domain will retreat in the face of the demands raised in the name of “a woman’s voice is nakedness.” This context will enable us to examine this saying from a critical perspective, as a saying that seeks to return us to a shared public domain based on temptation and objectification, rather than a dialogue of equals. We must see the Song of Miriam and the Song of Deborah as our proper role model, and adopt a perspective in which a woman’s voice represents the hope for equality, and not an obstacle.

¹³⁸Rabbi Yitzhak of Vienna, the author of *Or Zarua*, lived in the thirteenth century, as did Rabbi Asher Ben Yechiel (“Harash”), who wrote a commentary on tractate *Berachot*, as well as Maimonides, author of the *Mishneh Torah*. Opposing views from the same period were presented by two prominent Ashkenazi authorities of the period, Rabbi Eliezer Halevy and Rabbi Mordechai Ben Hillel.

¹³⁹Rabbi David Bigman, “A fresh look at ‘A woman’s voice is nakedness,’” (in Hebrew) <http://www.kolech.com/show.asp?id=28988> Rabbi Avraham Shamma, “A woman’s voice is nakedness,” *Kolech Newsletter* (in Hebrew), 147. <http://upload.kipa.co.il/media-upload/kulech/12114006-12292011.pdf>

The argument about women's participation in elections as a paradigm for the place of women in the public domain in Israel

In the early twentieth century, shortly after the end of the First World War, a debate erupted among the Jewish community in the Land of Israel regarding universal suffrage. The question was raised in the context of the elections to the autonomous institutions of the Jewish community, and raised the broader issue of the status of women in Jewish society, and the weight to be given to Halachic rules of modesty in a modern society. Opinions among prominent Halachic experts in the Land of Israel and in the Diaspora were divided. Most Halachic authorities argued that women should not be permitted to vote or to stand for election. Most of these authorities belonged to the non-Zionist Orthodox world; they included the leading Halachic authorities of the day in the Diaspora. Some authorities argued that women should be allowed to vote, but not to be elected to public office, while others still argued that there was no Halachic objection to women both voting and being elected. Rabbi Uzziel, who was the chief rabbi of the Land of Israel from 1939 through 1953, took this latter position. At the time of the public debate on this Halachic question, in the early 1920s, Rabbi Uzziel was serving as the Chief Rabbi of Tel Aviv – Jaffa. In 1940, he published his position on the question in a book of response, and described the nature of the fierce public debate:

"This question was a bone of contention in the Land of Israel, and the entire Land was rocked by the issue. Posters and warnings, pamphlets and newspaper articles appeared every morning calling for a complete ban on the participation of women in the elections. Some based their position on the Law of the Torah, while others focused on maintaining the boundaries of morality and modesty; others still spoke of the need to maintain harmony in the home..."

Following this description (which is reminiscent of the storm in Israeli society at the time this current report is being published), Rabbi Uzziel goes on to explain his position on the issue:

"...Because of licentiousness? What licentiousness can there be in a situation where each person goes to the ballot box and delivers the card of his choice? If we were to feel this way, then no life would be possible, and it would be prohibited for men and women to walk on the street, or to enter a shop together, and it would be prohibited to negotiate with a woman, since this would lead to intimacy and licentiousness; and no-one has ever claimed this."

In his comments, Rabbi Uzziel describes a hypothetical situation of segregated sidewalks and shops which even his opponents at the time never imagined or proposed. Yet, in 2011, Rabbi Uzziel's imaginary analogy has turned into reality. Although, as he says, "no-one has ever claimed this," such claims have been raised over the past year, and even put into practice.

Rabbi Uzziel's comments offer a historical perspective on the struggle between Haredim and liberals regarding the shaping of the character of Jewish society in the Land of Israel. In the 1920s and 1940s, it was evident to all that the public domain – buses, shops, sidewalks, and so forth – were open to men and women on an egalitarian basis. In the twenty-first century, Israeli society is forced to confront the erosion of sections of the public domain and their confinement to men only. A review of the Halachic sources will surely provide additional considerations, beyond that of strict rules of modesty. For example, we may turn to tractate *Chagigah*: "Once they brought a *Shelamim* offering to the women's gallery [in the Temple] for women to place their hands on [the ritual to be performed by men with such offerings]. This is not because the placing of hands applies to women. Rather, it was to please them" (*Chagigah* 16b). The Gemara describes a reality in which laying hands on the offering was perceived as a commandment to be performed only by men. Yet there were evidently women who wished to

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take part. The Sages allowed them to do so on the grounds that this “was to please them,” since no Halachic basis could be found for obliging women to perform this act. Even when the Halacha excluded women from a certain commandment, the Sages – when they so wished – could enable them to participate in public ritual. This example offers a model that may be applied as we examine the Halachic sources relating to the place of women in the public domain.

C. The Legal Dimension

Israeli law

The principle of equality

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The principle of equality is one of the foundations of Israeli law – “the life and soul of our entire constitutional system” (Justice M. Landau in HCJ 98/69, *Bergman v Minister of Finance*, Piskei Din 42(3) 749 27(1) 693, 698). Equality means the equal treatment of persons between whom there is no relevant difference (AH 10/69, *Bornovsky v Chief Rabbi of Israel*, Piskei Din 25(1) 7, 35). The Supreme Court explained the rationale for the principle of equality, and the prohibition of discrimination, in the following terms:

There is no more destructive factor for society than the sense of its sons and daughters that they are being treated unfairly; the feeling of inequality is one of the gravest of feelings. It damages the forces that unite society. It damages the individual identity of the human.

HCJ 953/87, Poraz v Mayor of Tel Aviv-Jaffa, Piskei Din 42(2) 309, 332.

The distinction between women and men in the public domain, in the purchasing of services or goods, or in the receipt of official services, such as National Insurance and so forth, constitutes distinction without any relevant difference and, accordingly, violates the right to equality. The Supreme Court has ruled that discrimination on collective grounds – such as sex discrimination – entails the profound humiliation of the victim, and, as such, is contrary to the Basic Law: Human Dignity and Liberty. Supreme Court President Barak ruled that the scope of the right to equality protected by the constitutional value of human dignity is not confined to discriminating entailing humiliation, but to any discrimination, insofar as this negates

the individual's freedom of choice and freedom of autonomous action.¹⁴⁰ Segregating women and men in the public domain negates freedom of choice. When a woman must sit in the back, and not in the front, or must stand in one line rather than another, this violates her autonomous freedom of action.

The right to dignity

In 1992, the Knesset enacted the Basic Law: Human Dignity and Liberty, which establishes the right to dignity of all persons in Israel. The segregation of women and men in public spaces violates dignity and equality in two respects. Firstly, segregation means that men and women in the public domain are defined on the basis of their sex. An individual's right to dignity is violated when he or she is treated on the basis of sex against his or her wishes. Secondly, the right to equality is violated by the act of distinction and segregation.

Gender segregation in the public domain does not relate to men and women as full-fledged humans, but rather as sexual beings, in a context in which they are not interested in such treatment. This violates not only their right to equality, but also their right to dignity.¹⁴¹ Determining that women must sit in the back of the bus, or conceal themselves behind a partition, effectively tells women that men view them as a disturbance and as tempting objects; in order for men to be able to conduct themselves in public space without hindrance, women must accept segregation demands that prevent men from seeing them. Such a message injures the ability of women to define themselves as they choose, and imposes a definition of women as sex objects. Accordingly, such an approach violates women's right to dignity and self-determination. Moreover, the fact that gender segregation usually

¹⁴⁰HCJ 6427/02, Movement for Quality Government in Israel v Knesset, unpublished, sections 35, 38 in the president's ruling.

¹⁴¹See Orit Kamir, *Feminism, Rights and Law*, (2002) (Hebrew).

means the relegation of women to the rear (for example – to the back of the bus), or the concealing of women behind a partition, perpetuates patriarchal patterns intended to prevent the spread of liberal egalitarian ideas in the public domain (including the Haredi domain) by preserving the inferiority of women in Haredi society. Part of a woman's right to dignity, therefore, is that she should not be excluded from the market place or the central section of public space and relegated to its margins.

The Supreme Court has ruled that the "separate but equal" argument entails inherent inequality, since "segregation conveys a sense of offense to a minority group that is excluded, heightens the distinction between this group and others, and perpetuates feelings of social inferiority" (HCJ 6698/95, *Ka'adan v Israel Lands Administration, Piskei Din* 54(1) 258, 279-280). In other words, gender segregation is inherently improper, since it conveys the message that the mingling of the sexes is improper, and that the need for segregation is due to an inherent and negative characteristic of women.

As noted above, the Committee to Examine Transit Arrangements in Public Transportation on Lines Serving the Haredi Public was appointed by the Minister of Transportation on May 11, 2008, in light of the Supreme Court's recommendations in the petition submitted by IRAC. In its concluding report, published on October 26, 2009, the committee established that a regime of segregation on buses constitutes the tangible violation of equality, and particularly women's equality. The committee further established that the violation of equality created by the imposition of gender-based distinctions where these are irrelevant is objective. Accordingly, the fact that some women do not see such segregation as a violation of their rights does not diminish the violation. The Supreme Court adopted this approach in its ruling regarding segregation on buses:

"The current situation relates to bus lines which, even if there are those who believe 'belong' to the Haredi population, are actually available to the entire public – including those users who do not

desire segregation arrangements, whether Haredim or others. These latter passengers, and particularly the women among them, are subjected to segregation arrangements against their will, and sometimes by means of verbal violence or worse. Accordingly, there can be no dispute that this constitutes a grave violation of equality and dignity which is not to be accepted, including in the criminal context.”

HCJ 746/07, Naomi Regan v Ministry of Transportation, section 31 of Justice Rubinstein’s ruling

As a social group, women have suffered – and continue to suffer – from social and cultural exclusion throughout human history. The Feminist revolution, which began toward the end of the nineteenth century, has gradually enabled women to secure basic human rights. Women struggled for their right to vote and to be elected; to acquire higher education; to enjoy equal professional opportunities; and to realize their professional capabilities in an environment free of sexual harassment. Women’s struggle for equality has still not been completed. On average, women earn less than men. Most senior positions are still occupied by men. In Israel, most members of Knesset are men. One in every three Israeli women has experienced sexual harassment. The fact that full equality between women and men has not yet been secured in the public domain is due to the same patriarchal attitudes that, in the past, excluded women from this domain and allocated it to men only. As such, this practice is discriminating and humiliating toward women.

Violation of liberty

Imprisonment and incarceration are not the only ways in which a person’s liberty can be violated. Any restriction on the freedom of movement of individuals constitutes a violation of liberty. Gender segregation in public spaces violates personal liberty, since it classifies humans according to their sex and prevents the individual from moving from place to place as he or

she chooses. The division of public spaces into areas for women and men violates the basic liberty of all citizens to access the entire public domain. The determination that only individuals who are male may enter a given public space grossly violates women’s right to liberty – and vice versa.

Violation of freedom of conscience and freedom from religion

Freedom of religion is a basic right in Israeli law. Initially guaranteed in Israel’s Declaration of Independence, this right is now derived from the constitutional right to human dignity and liberty (Barak, *Legal Interpretation* (Vol. C) (Hebrew), p. 430). The courts have ruled that the concept of freedom of religion and conscience includes freedom from religion. This principle establishes that religious commandments are not imposed – directly or indirectly – on persons who do not observe these commandments and do not wish to do so.¹⁴² On this matter, President Barak commented:

Consideration for matters of religion and the religious way of life is prohibited if the exercising of authority is intended to impose the religious commandments on an individual. Consideration for matters of religion and the religious way of life is permitted if it is intended to manifest the individual’s religious needs... Religious coercion indeed violates the right to freedom of religion and human dignity. Consideration for religious needs is consistent with freedom of religion and human dignity.

HCJ 5016/96, Horev v Minister of Transportation, Piskei Din 51(4) 1, 36.

In this context, a distinction is usually applied between the private domain and the public domain. In the private domain, an individual is free to observe his or her religion; in public, he or she cannot impose religious commandments on others:

¹⁴²HCJ 6024/97, Shavit v Gahsha Rishon Lezion Burial Society, Piskei Din 53(3) 600, 650.

The interest enjoyed by observers of the commandments is great, indeed overwhelming, in their own home, and provided they are requesting something for themselves; as they move away from their home and into the public domain – or into another person's private domain – and insofar as they seek to deny something to another person, so the force of this interest wanes and confronts the interests of others, in the public domain or in their own private domain.

HCJ 3872/93, Mitral Ltd. v Prime Minister, Piskei Din 47(5) 485, 500-501, 506-508.

Individuals who strictly maintain gender segregation may do so in their own homes, but they may not do so in the public domain, even in the case of a Haredi neighborhood, since there are also Haredi men and women who oppose segregation. The public domain in Israel must be free of segregation in order to avoid violating the freedom of conscience and the right to freedom from religion of those who oppose segregation.

The clash between individual rights and offense to religious sentiments

Can the Haredi claim of offense to religious sentiments justify gender segregation in public spaces in which the Haredi public constitutes the main consumer and participant?

In the Horev case, the Supreme Court addressed the legality of the Minister of Transportation's decision to close Bar Ilan Road in Jerusalem to traffic during Sabbath and holiday prayers. Secular residents in the area had petitioned the court to nullify the decision, claiming that it violated their freedom of movement. At issue was the clash between the secular residents' constitutional right to freedom of movement and the offense to the sentiments of the religious residents. In this case, the court ruled that consideration for religious sentiments that does not amount to religious coercion is permitted; however, the decision to prohibit traffic on the

Sabbath causes disproportionate injury to the secular residents' freedom of movement. President Barak noted:

*Injury to sentiments justifying the violation of rights must naturally be grave injury to human sentiments. These are injuries which the individual cannot prevent; in most cases, these are injuries to a 'captive audience...'. The force of the injury to sentiments justifying the violation of a right must be grave, serious and severe. Only comprehensive and profound injury to sentiments – including injury to religious sentiments and the religious way of life – will justify the violation of freedom of expression. **These will be exceptional and special cases which, by their nature, shake the foundations of mutual tolerance.***

HCJ 5016/96, Horev v Minister of Transportation, Piskei Din 51(4) 1, 50-51 (1997).

Does the existence of a common public domain cause such grave injury to religious sentiments as to justify segregation in certain places? The answer to this question raises the question of Israel's character as a multicultural state.

Israel as a multicultural state

As a country that is home to various groups with distinct identities, Israel is undoubtedly a multicultural state. The question is to what extent the state is obliged to enable cultural groups, including illiberal groups, to realize a cultural agenda that is contrary to basic liberal principles, such as liberty and equality, and to the values of pluralism and tolerance. The demand for gender segregation from Haredi society sharply highlights the question as to how far Israel, as a state committed to democratic values, on the one hand, and to Jewish values, on the other, should go in order to respect the wishes of this sector to act in accordance with its way of life. At what point should the state determine that the individual right to liberty, dignity and equality overrides the group's right to realize its own culture?

Before determining the boundaries of the rights of a cultural group in a liberal society, we must define what constitutes a “cultural group.” The definition would seem to include both an objective and a subjective component. The objective component examines parameters enabling us to determine that we are dealing with a national, racial, religious or ethnic group. The subjective component examines the feeling, among the members of the group, that they belong to this group, and the significance of this feeling. The subjective component clarifies a substantial dimension in the formulation of solutions to multicultural dilemmas, namely the dynamic nature of affiliation to a cultural group. People may begin their lives as the members of one group, and later become members of another. Humans change and develop over time; they undergo psychological changes, change their religion, become newly religious, exchange national affiliation for national origin, or reject their original culture and adopt a different one. This is the background against which we should understand the “right of exit” of individuals to leave a cultural group. The right of exit is defined on the basis of the liberal approach that society must act to promote the wellbeing of its members.

The basis for the liberal solution is the assumption that society is comprised of different cultural groups. A person may be religious, may belong to a particular ethnic community, and may be part of a community with a particular sexual orientation. In each case, this identity will have different ramifications on the individual’s life. The liberal objective is to enable the simultaneous realization of these collective cultures in a manner that maximizes the individual’s personal development. Accordingly, the solution is for the state to refrain from intervening directly in the cultural affairs of its citizens.

Individual liberties enable cultural groups to realize their cultural agenda with relative freedom. Accordingly, there need not necessarily be any contradiction between individual liberties and collective cultural needs. On the contrary: individual liberties assume that numerous individuals will

realize the liberties they enjoy in a collective cultural manner. The liberal society is well aware that through defining and realizing collective cultural affiliation, the quality and depth of the ability to secure self-realization is increased. Liberty and expression are far more meaningful when they stem from cultural activity.

One of the basic values that guides cultural realization in a liberal society is tolerance. This component requires that the members of such a society accept the existence of cultural agendas they disagree with or do not identify with. Tolerance is not the same as apathy. I may feel distaste for your culture, but I will still be required to reconcile myself to your ability, and that of your friends, to realize this culture. A cultural group may regard the cultural agenda of another group with hostility. Liberal tolerance means self-control, restrain, and, in some cases, reconciliation to cultural difference in society. Respect for those who differ from us stems from our perception that humans are capable of shaping their own lives as they see fit.

On the basis of these liberal assumptions, we may derive the restrictions that are to be imposed on the cultural agenda in a liberal society with regard to the minority group:

1. The most basic restriction is the negation of the use of physical violence; recognition of the sanctity of human life is the foundation for the conduct of a liberal society. This foundation must not retreat in the face of cultural claims; liberal society cannot compromise on this matter. Prominent examples of this restriction include the rejection of blood feuds and so-called “honor” killings.
2. A further restriction derived from the liberal distaste for violence relates to the tools a cultural group may use in order to enforce obedience of its cultural norms among the members of the group. The “modesty patrols” in Haredi society, for example, use violence to enforce the values of modesty in this society – something that will not be tolerated

within the multicultural liberal framework. The inability to employ such means requires a compromise on the part of many illiberal groups, which must accept this reality. It obliges the cultural groups to accept other competing and contradictory cultural agendas. This increases the probability that the cultural themes of one group will change as the result of life within a multicultural liberal society. Actions in a pluralistic environment will influence all members of society. Only through non-violent social persuasion, and through contributing to their members' wellbeing, will cultures be able to maintain their loyalty.

3. The liberal approach is opposed as a matter of principle to internal restrictions imposed by groups on their members. Individuals should not be coerced into remaining faithful to a fixed cultural pattern in the name of the right to culture. The imposition of such coercive restrictions contradicts the commitment of liberal society to the basic values of autonomy and human dignity. The perception of the cultural content of a group as something that may be susceptible to change prevents the group from using the law to prevent such change. Thus, for example, the court refused to allow a Haredi company that managed apartment buildings to include a clause in a contract stating that the rights of a resident who failed to observe the commandments could be transferred to another observant person. The same logic makes it impossible to use legislation to enforce segregation in buses on members of the Haredi community.¹⁴³ Moreover, the principle behind the existence of different cultural groups in society is the right of individuals to develop or change their identity. It is important to limit the extent to which cultural groups can impose restrictions on their members, in order to preserve the right of exit. Thus, for example, groups must be obliged to provide their members

with a basic education enabling them to be financially independent and, as noted, they must refrain from imposing coercive restrictions.

It is not easy to define the boundaries of liberal tolerance. The main difficulty stems from the fact that the same values – autonomy and human dignity – permit, on the one hand, the presence of illiberal groups within society, but also impose restrictions on their actions. However, even tolerance has its limits, particularly in a democratic and multicultural society. Justice Jubran discussed the limits of tolerance in the ruling on the subject of segregated bus lines:

*The limits of tolerance must be set while balancing the different considerations – recognition for the importance of cultural realization as part of the autonomy of individual will, against the injury caused to basic human rights, such as equality and human dignity, due to the given cultural practice. This balance will determine the limits of tolerance. These limits will delineate the multicultural 'playing field' and determine which cultural agendas will be recognized and respected, and which cultural agendas will be placed outside the multicultural 'playing field.'*¹⁴⁴

In addition to the restrictions noted above regarding the members of the minority group, the group cannot enforce practices that violate the individual rights of citizens who are not part of the minority group, but of the majority group. Since the public domain serves both the members of the minority group and the majority group, the limits of multiculturalism must be established in order to protect individual autonomy against fundamental violation of the right to equality and non-discrimination.¹⁴⁵ Accordingly,

¹⁴⁴Footnote 15 above, section 5 of Justice Jubran's ruling.

¹⁴⁵The Supreme Court determined this matter in its ruling on gender segregation in the Mea She'arim neighborhood, quoting the state's position that it will not permit gender segregation in public spaces: HCJ 6986/10, Jerusalem City Councilor Rachel Azaria v Israel Police, unpublished.

¹⁴³The Committee to Examine Transit Arrangements in Public Transportation on Lines Serving the Haredi Public also noted in its conclusions that such legislation violates fundamental principles and is incompatible with the foundations of the Israeli legal system, system of government and society. Footnote 10 above, p. 58.

once segregation demands move into the general public domain shared by all citizens, they become improper:

Space cannot be given to every cultural practice, and it is not always possible to regard the 'free' will of the member of a certain cultural group as free will; and neither is every 'free will' to be respected. Coercion is coercion, and certainly so when it also entails discrimination.

HCJ 746/07, Naomi Regan v Ministry of Transportation, section J of Justice Rubinstein's ruling

Liberal tolerance must have limits, and does have limits. When these limits are crossed, the right to culture will not prevent liberal society from intervening in the practices of cultural groups that deviate from fundamental liberal principles. The imposition of non-egalitarian values on the majority group by the minority group crosses the limits of recognition for minority rights. The liberal commitment to pluralism and tolerance requires that cultural groups reconcile themselves to the existence of different and contradictory cultural groups. Thus, the Haredi community cannot force women passing through their neighborhood to accept segregation against their will, let alone the forced or violent enforcement of segregation as has been seen on the segregated bus lines. Segregation in Haredi public spaces constitutes a "slippery slope" that is liable to lead to the imposition of discrimination and to the violation of liberty and dignity in a manner that is unacceptable to a liberal society.¹⁴⁶

Another important point to recall is that minority groups themselves are not monolithic. Women often constitute a minority within a minority and, as such, are exposed to injury by the practices of minority groups that enjoy the protection of the majority society in the name of liberal values:

The question of the status of women in Judaism, their inferiority and exclusion from the public sphere, is a matter of concern to some religious women, in general, and Haredi women, in particular, and has been the subject of internal opposition and criticism, manifested in various forms and contexts. Any discussion of the question as to what Haredi women want and need should therefore begin by listening more attentively to the diverse voices that emerge from this group.

Nira Rimlat, "Gender Segregation as Sex Discrimination," footnote 109 above, p. 112.

Women did not create the norms of segregation, which are enforced by men and serve men's interests. They have no possibility to change these norms, and no-one has asked for their opinion on the matter. Accordingly, practices of minority groups that are injurious to women should be regarded with suspicion. Any decision regarding minority cultural rights must be taken with the involvement of the women members of that minority.

Israel's Declaration of Independence establishes that Israel will "ensure freedom of religion, conscience, language, education and culture." However, the right to culture has not been explicitly recognized or defined in Israeli law. The Supreme Court also seems to have taken the position that various cultural practices are subordinate to basic human rights, including, of course, the right to dignity and equality. In HCJ 1067/08, *Noar Kahalacha Association v Ministry of Education*, for example, Justice Meltzer approvingly quotes a comment by Professor Menachem Mautner and establishes:

Since we have applied the obligation to respect human dignity as a justification for refraining from intervening in their cultures, so we must state that, if we locate a group whose culture is not based on human dignity, the validity of that group's claim for the justification of non-intervention in its culture will expire, and the possibility will be opened to intervene in its cultural practices in order to restore the human dignity of its members. After all, it would be an inherent contradiction to permit a group to prevent

¹⁴⁶See: G. Gontovnik, "The Right to Culture in a Liberal Society and in the State of Israel: Living the Contradictions," in: *Economic, Social and Cultural Rights in Israel* (Y. Rabin and Y. Shani, eds.) (Hebrew), p. 619.

intervention in its practices in the name of the need to respect human dignity, while these practices themselves are based on a lack of human dignity.

In accordance with these comments, while the argument regarding the gender segregation arrangement is based on freedom of religion and the prevention of injury to the members of the minority group, in weighing this matter, considerations of human dignity and equality should be those primarily taken into account. This is self-evident, since if we block practices entailing injury to the human dignity of individuals within the group itself, against the members of that group, then it is clearly possible to prevent the group from imposing such practices in the public domain and from injuring the equality of the members of other groups.¹⁴⁷

It should be recalled that the Haredi community has thrived within Israeli society. This is no coincidence. In addition to the political strength wielded by the Haredim, their success can also be explained by the fact that the liberal fundamental values to which Israeli society is committed are those that enable the simultaneous cultural presence of numerous cultural groups, some of which have an illiberal character.

In this context, it is also important to acknowledge that, to date, the Haredi public in the State of Israel has accepted the presence of a common public domain, and has not seen this as injurious to its religious sentiments. The court noted this reality in its ruling on the subject of the segregated bus lines.¹⁴⁸ Gender segregation has been imposed in Haredi society solely for the purpose of religious ritual, or at private events, and Haredi religious rulings have permitted Haredim to move into the public domain in spaces that require both sexes to mingle.¹⁴⁹

¹⁴⁷Footnote 10 above, sections 126-127.

¹⁴⁸Footnote 15 above, section W of Justice Rubinstein's ruling.

¹⁴⁹Halachic ruling by Rabbi Feinstein regarding the use of the subway and buses, Even Ha'ezer, Igrot Moshe (Hebrew), p. 326.

Discrimination contrary to the Prohibition of Discrimination in Products, Services and Entry to Places of Entertainment and Public Places Law, 5761-2000

The Prohibition of Discrimination in Products, Services and Entry to Places of Entertainment and Public Places Law, 5761-2000, establishes the legal foundation for the prohibition of discrimination between men and women in places that provide services to the public. The goal of the law to extend the applicability of the principle of equality in human relations and to prohibit discriminatory practices on the part of private bodies and individuals involved in supplying a product or public service, or in operating a place intended for public use.

The law establishes that:

A person engaged in the supply of a public product or service, or in the operation of a public place, will not discriminate in the supply of the product or the public service, in granting entry to a public place, or in the provision of a service to a public place on the grounds of race, religion or religious group, nationality, country of origin, sex, sexual orientation, opinion, political affiliation, personal status, parenthood or disability.¹⁵⁰

Accordingly, the purpose of the law is to ensure that in private places of a public character, such as clubs, banqueting halls, cafes, and buses, the owner, director, or operator may not dictate a policy of selection and segregation on racist, sexist or other grounds, thereby violating the principle of equality.

However, the legislators who enacted the law were concerned that the sweeping application of the principle of equality to relations in the sphere of private law might injure the rights of religious or traditional communities, such as the Haredi population or traditional Muslim and Druze populations

¹⁵⁰Article 3(A) of the Prohibition of Discrimination in Products, Services and Entry to Places of Entertainment and Public Places Law, 5761-2000.

which, on the grounds of religion, tradition and belief, maintain frameworks of gender segregation.¹⁵¹ Accordingly, a special exception was added to the law permitting segregation between men and women only.¹⁵² This exception establishes that:

*The presence of segregated frameworks for men or women is not regarded as discrimination in accordance with this article, when non-segregation would deny the supply of the product or public service, entry to a public place, or the provision of the service in a public place to part of the public, provided that the segregation is justified, with consideration, inter alia, to the character of the product, the public service or the public place, the extent to which it is vital, the presence of a reasonable alternative, and the needs of the public liable to be injured by the segregation.*¹⁵³

Accordingly, the only segregation officially sanctioned by the law is that between women and men, thereby permitting potential injury to the principle of gender equality. It should be noted, however, that according to the exception in the law, several cumulative conditions are required in order to accept a practice of gender segregation:

- A. Without segregation, a particular group could not make use of the service. It should be emphasized that the interpretation of this condition must

¹⁵¹ Amnon Rubinstein, the chairperson of the Knesset Law, Constitution and Justice Committee that oversaw the drafting of the law, explained this aspect: "My friends, there is a complex society here that includes elements for whom segregation is an accepted practice, not only in vital services, but in every matter; not only among Jews, but also regarding Muslims and Druze, for whom segregation constitutes part of the way of life, and we do not wish to impose on them a different way of life" (minutes of meeting no. 188 of the Knesset Constitution, Law and Justice Committee, the Fifteenth Knesset (October 30, 2000)).

¹⁵² A further exception was established in article 1(D)(1) of the Prohibition of Discrimination in Products, Services and Entry to Places of Entertainment and Public Places Law, 5761-2000, permitting discrimination "when this is required by the character or substance of the product, public service or public place."

¹⁵³ Article 3(D)(3) of the Prohibition of Discrimination in Products, Services and Entry to Places of Entertainment and Public Places Law, 5761-2000.

be objective, since otherwise it could be argued regarding any service that without segregation a particular group would not be able to use the service.

- B. The segregation is justified with reference to the character of the service.
- C. It should be considered whether the service involved is a vital one.
- D. It should be ensured that a reasonable non-segregated alternative is present.
- E. The needs of the public injured by the segregation are to be taken into account.

The discussion in the Knesset Constitution, Law and Justice Committee clarifies that this exception was intended to relate mainly to cultural events in the Haredi sector, and not to services provided in the community or to commercial outlets. The examples quoted during the discussions included segregation in swimming pools, banqueting halls, entertainment performances, and screenings of films.¹⁵⁴ It was specifically mentioned that the exception would not apply to clinics or public transportation. The chairperson of the committee, MK Amnon Rubinstein, noted that "state services are not related to this law." Thus it emerges that the exception was not intended to apply to state services, shops or clinics, but rather to a restricted number of services which, by their nature, create the need for

¹⁵⁴ Thus, during a discussion in the Knesset Constitution, Law and Justice Committee regarding the proposed law, Deputy Attorney General Attorney Joshua Schoffman noted: "We did not want to prevent those matters regarding which there is a consensus, such as the screening of a film for the Haredi public, when there is segregation of men and women, but with the proviso that this is justified with reference to these grounds, since there is a difference between a performance by a singer and something that is another vital service, such as medical service, for the sake of argument." Knesset Constitution, Law and Justice Committee, footnote 125 above.

segregation, such as swimming pools or services confined to the Haredi population, such as cultural events of that community.

Establishment of the Interministerial Team to Address the Segregation of Women

The activities by IRAC and other civil society organizations to combat segregation sparked public protest against this growing phenomenon. In response, the government decided to establish an interministerial team headed by Minister Limor Livnat, who at the time was chairperson of the Ministerial Committee for the Status of Women. The interministerial committee was charged with examining ways to respond to gender segregation and the exclusion of women in the public domain in Israel. The committee began its work on December 13, 2011, and discussed such aspects as gender segregation in buses; the exclusion of women in cemeteries; the exclusion of women at official events, such as the awarding of a prize by the deputy health minister; the exclusion of women in local authorities; and the exclusion of women on the radio station *Kol Barama*. IRAC was a full partner in the discussions and the above-mentioned issues were selected on the basis of material submitted by IRAC. The interministerial team chose not to address other substantial aspects of the exclusion of women covered in this report, such as the exclusion of women in the IDF and in health clinics.

On the initiative of the interministerial team, a legal team was formed to examine diverse issues relating to the exclusion of women. The team issued the following instructions:

- The exclusion of women in cemeteries, including the installation of signs imposing segregation of women and men, preventing women from accompanying the deceased up to the grave, and preventing women from making eulogies, are prohibited acts that are liable to lead to the revocation of the license granted to the burial society.

- Local authorities must remove all signs imposing segregation of men and women and all modesty signs.
- In the field of transportation, the team ordered that passengers not be permitted to board buses by the rear door on lines that were formerly defined as “Mehadrin” lines. The purpose of this rule is to prevent the coercive enforcement of gender segregation in the seating arrangements on the bus, which are often the product of the fact that women are required to board by the rear door.

International law

International law has long recognized a series of basic values that may restrict the power of the state, including the right to gender equality.¹⁵⁵ Equal rights for women have been reaffirmed over the past 25 years in numerous declarations by the international community in the UN Assembly, ratification by member states of their commitment to equality, and acts of legislation and court rulings in different countries enforcing this principle.¹⁵⁶ The fact that certain countries still maintain discrimination and distinction on the grounds of sex should be considered a failure to observe a norm, rather than proof of the existence of a different rule.¹⁵⁷ Accordingly, it is possible that the prohibition against gender discrimination by the authorities constitutes part of international custom law, that is to say – that part of international law that is based on unwritten laws that constitute general custom accepted as law, and which, as such, automatically form part of Israeli law.¹⁵⁸ This

¹⁵⁵Gil-Ad Noam, “A feminist reflection on international public law,” *Law, Gender and Feminism Studies* 190 (Hebrew) (Daphna Barak, Shlomit Yanisky-Ravid, Yifat Biton and Dana Pugach, eds., 2007).

¹⁵⁶Courtney W. Howland, “The Challenge of Religious Fundamentalism to the Liberty and Equal Rights of Women: An Analysis under the United Nations Charter,” *35 Colum. J. Transnat’l L.* 271, 335 (1997).

¹⁵⁷*Ibid.*

¹⁵⁸*Ibid.*

assertion is supported by the practices of states and by norms that have been admitted as tantamount to law.¹⁵⁹

In addition to the inclusion of equality for women as part of custom law, a significant number of international treaties and declarations enshrine the principle of equality and the absence of discrimination, from which the illegal nature of gender segregation arrangements and the exclusion of women in the public domain are derived. Israeli law does not include explicit legislation regulating the status of the international treaties Israel has joined.¹⁶⁰ According to existing law, the validity of the undertakings made by the state in international treaties is limited, since, in the case of a contradiction between a provision established in legislation by the Knesset and a provision established in a treaty in which the state has associated itself, the Knesset legislation will take precedence, even if it was enacted prior to the state's association in the treaty.¹⁶¹ Nevertheless, the state's association in a treaty has substantive ramifications in terms of the powers and obligations of the authorities of state.¹⁶² Even if a treaty lacks the status of law, it enjoys substantial legal status.¹⁶³ Thus, an undertaking made by the state in accordance with an international treaty it has signed has substantial ramifications in determining the legality of the actions of the authorities of state, and the fact that a given governmental action contradicts an undertaking enshrined in a treaty may be sufficient to

¹⁵⁹Ibid. See also HCJ 4542/02, Kav LaOved v the Government of Israel (unpublished, ruling dated March 30, 2006), section 36 of Justice Levy's ruling.

¹⁶⁰Moshe Hirsh, Ruth Lapidoth, Tomer Brodie, Guy Harpaz, Barak Medina, Gil-Ad Noam and Yuval Shani, "The Authority to Make Treaties in the State of Israel: A Critical Analysis and a Proposal for Reform," 14 Forum for International Law, Faculty of Law, Hebrew University, with the assistance of the Davis Center for International Relations, Hebrew University (Hebrew) Law.huji.ac.il/upload/Treaties.doc

¹⁶¹Ibid.

¹⁶²Ibid., p. 13.

¹⁶³Ibid., p. 14.

negate the legality of that action.¹⁶⁴ This position is also supported by case law, which regards international law as an important source for interpreting domestic legislation:¹⁶⁵

An additional interpretative rule reflects the assumption that the laws of state are consistent with the norms of international law to which the State of Israel is committed. According to this assumption, laws will, insofar as possible, be interpreted as consistent with these norms... These interpretative assumptions may only be refuted when the language of the law, or its explicit and particular purpose, are inconsistent with the general values of the system of with international norms.

HCJ 2599/00, Yated – Association of Parents of Children with Down's Syndrome v Ministry of Education, Piskei Din 56(5) 834, 836 (Justice Dorner).

Israel itself has claimed before the various United Nations committees responsible for the implementation of human rights treaties that the law in the State of Israel, as reflected in legislation and case law, generally reflects the provisions of the various treaties in which Israel has associated itself, and that Israel has thereby effectively absorbed the treaties into domestic law.¹⁶⁶

The following sections detail the international tools that enshrine the principles of equality, which may be viewed as an additional conceptual and legal framework for establishing the illegality of segregation:

¹⁶⁴Ibid., pp. 13-14.

¹⁶⁵Ibid., p. 13. See also: Justice Landau in CA 131/67, Kamiar v the State of Israel, PM 22(2) 85, 93 (1968), p. 112; HCJ 4542/02, Kav LaOved Association v Government of Israel (unpublished, ruling dated March 30, 2006), section 37 of Justice Levy's ruling.

¹⁶⁶Prof. Ruth Lapidoth, Dr. Orna Ben Naftali and Dr. Yuval Shani, "The Obligation to Absorb Human Rights Treaties into Israeli Law," 8 School of Law, Academic Track – College of Administration (2004) (Hebrew). www2.colman.ac.il/law/concord/publications/amanot.doc

The United Nations Charter

Signed in 1945, the United Nations Charter (hereinafter: “the Charter”) is the formative document of the United Nations. Israel joined the United Nations in 1949 and, accordingly, is subject to the Charter, as are all the member states. Israel’s commitment to the Charter is also mentioned in Israel’s Declaration of Independence, signed before the State of Israel became a full member of the UN, which notes that the State of Israel “will be faithful to the principles of the United Nations Charter.”

In the preamble to the Charter, alongside such values as promoting peace, security, and tolerance among the nations, the principle of promoting equality between women and men appears.¹⁶⁷ Article 1(3) of the Charter details the purpose of the United Nations, and establishes the prohibition against discrimination:

*To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion...*¹⁶⁸

This principle is repeated in articles 55(C) and 56 of the Charter, which state that the member states of the UN will work in cooperation in order to ensure “universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion.”¹⁶⁹ These articles impose a clear obligation on the state to consider and promote human rights, including with regard to its domestic affairs, and to afford protection to the groups mentioned (on the grounds of race, sex, language or

religion).¹⁷⁰ State provisions applying discriminatory treatment to one group over another inevitably constitute an obstacle for the discriminated group in enjoying human rights and fundamental freedoms.¹⁷¹ The determination that discrimination is unjustified or unreasonable may be made regardless of the intention or motivation behind the discrimination and solely on the basis of an observation of the outcome of the law.¹⁷²

The above-mentioned protected groups do not enjoy absolute protection; it is possible that the state will have to impose restrictions on them.¹⁷³ Accordingly, alongside the obligation incumbent on the state to protect a group, it also bears a parallel obligation to respect the liberty of other groups and ensure that their rights enjoy equal protection.¹⁷⁴ The Charter also clarifies that human rights and fundamental freedoms under the Charter are not dependent on or determined by any particular religious laws and do not stem from any specific religion.¹⁷⁵

Accordingly, the desire of sections of the Haredi population to impose segregated conduct on women and men in public spaces, which, as noted, constitutes discrimination against women, injures the ability of women to enjoy equality and does not enjoy protection in accordance with the Charter, even if its origins lie in religious or Halachic arguments.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (hereinafter: “the Declaration”) is the fundamental document of the international community regarding

¹⁷⁰Howland, footnote 130 above, p. 328.

¹⁷¹Ibid., p. 330.

¹⁷²Ibid., p. 343.

¹⁷³Ibid., p. 330.

¹⁷⁴Ibid.

¹⁷⁵Ibid., p. 330.

¹⁶⁷Charter of the United Nations, Preamble (opened for signing in 1945).

<http://www.un.org/en/documents/charter/index.shtml>

¹⁶⁸Ibid., Article 1(3).

¹⁶⁹Ibid., articles 55-56. Emphases added.

human rights. The Declaration establishes that all humans are born free and equal, and that all are entitled to the rights and freedoms in the Declaration, without distinction of any kind, including discrimination on the basis of race, sex or religion.¹⁷⁶ The Israeli government has ratified the Declaration.

Recognizing the considerable potential for conflict between the different rights and freedoms in the Declaration, article 29 permits the imposition of certain restrictions.¹⁷⁷ According to the Declaration, it must first be determined whether a particular law or action attributed to a state has failed to secure a particular right in the Declaration. At the same time, it must be determined whether the law or action themselves constitute the use of a protected right or freedom.¹⁷⁸ If this is the case, there is clearly a conflict between rights, and the question is whether the law or action establishing a restriction is permitted in accordance with article 29 of the Declaration.¹⁷⁹ Regarding segregation, insofar as this is supported by the state, as in the cases of buses and health clinics, the conflict is between women's right to dignity and equality and the right of those interested in segregation to freedom from injury to their religious sentiments.

In accordance with article 29, the restriction of a right is permitted if it is intended "for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."¹⁸⁰ The article effectively proposes a two-stage approach to examining the legality of the restriction. Firstly, it must be examined whether the securing of recognition for rights leads to a situation in which the realization of a right

¹⁷⁶Article 2 of the Universal Declaration of Human Rights.
<http://www.un.org/en/documents/udhr/>

¹⁷⁷*Ibid.*, article 29; Howland, footnote 130 above, p. 343.

¹⁷⁸Howland, footnote 130 above, p. 343.

¹⁷⁹*Ibid.*

¹⁸⁰Universal Declaration of Human Rights, footnote 150 above, article 29.

by one individual thwarts recognition of a right clearly enjoyed by another. If the answer is in the positive, the right of the former individual must be restricted.¹⁸¹ Does the realization of the right of sections of the Haredi public to avoid injury to their religious sentiments thwart recognition of women's right to equality? The answer, of course, is that it does.

Secondly, it must be examined whether the restriction is intended to meet the just requirements of morality, public order and general justice. This test enables the restriction of rights up to the degree required in order to maintain democracy. The terms "morality" and "public order" are, therefore, understood in the restricted sense of morality and order in the context of democratic principles.¹⁸² Is the restriction on women's right to equality and dignity necessary in order to maintain democracy? These two tests are established in international law and, accordingly, neither domestic law nor religious law can serve as a source in either.¹⁸³ It must be asked whether laws of obedience and modesty constitute permitted restrictions on women's rights because they are required in order to promote the just requirements of a democratic society.¹⁸⁴ Segregation in the public domain undermines the democratic process by seeking to remove half the population from this process.

In order to apply article 29, it must be examined whether the modesty laws, as reflected in certain religious beliefs, act as a permitted restriction on women's rights in accordance with international law. As noted, such injury to women's rights will be permitted only for the purpose of maintaining recognition of the right to religious belief or the right to freedom from injury to religious sentiments, or for the sake of the just requirements of a democratic society.

¹⁸¹Howland, footnote 130 above, p. 344.

¹⁸²*Ibid.*

¹⁸³*Ibid.*

¹⁸⁴*Ibid.*, p. 365.

The international community has accepted certain actions as integral and substantive to the right to hold and manifest religious beliefs.¹⁸⁵ These actions include the right to worship, to maintain places of worship, and to choose religious leaders.¹⁸⁶ All these actions are subject to article 29.¹⁸⁷ The laws of obedience and modesty were not mentioned as falling within the core of religious actions.¹⁸⁸ Accordingly, international law cannot accept injury to the rights granted to women on account of these behavioral codes.¹⁸⁹

It should be noted that article 30 clarifies that the Declaration also applies to a group or individual who seeks to impose a restriction on a right or freedom established in the Declaration. Accordingly, the state is required to act against such individuals or groups.¹⁹⁰ It would seem that the Declaration permits, and possibly even mandates, the outlawing of religious practices that systematically violate women's liberty and right to equality, such as segregation in the public domain.¹⁹¹

The International Covenant on Civil and Political Rights

Article 18(1) of the International Covenant on Civil and Political Rights enshrines freedom of conscience and religion.¹⁹² Article 18(3) details the circumstances in which this freedom may be restricted:

¹⁸⁵Ibid., p. 358.

¹⁸⁶Ibid., p. 345.

¹⁸⁷Ibid., p. 359.

¹⁸⁸Ibid.

¹⁸⁹Ibid.

¹⁹⁰Universal Declaration of Human Rights, footnote 150 above, article 30.

¹⁹¹Howland, footnote 130 above, p. 369.

¹⁹²Article 18A, International Covenant on Civil and Political Rights (opened for signing in 1966).
<http://www2.ohchr.org/english/law/ccpr.htm>

*"Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."*¹⁹³

This article effectively regulates possible clashes between the right to freedom of religion and conscience and other rights, including, implicitly, the right to gender equality, establishing that, in such cases, freedom of religious or belief may be restricted.¹⁹⁴ The word "necessary" may imply that the state is obliged to impose such limitations.¹⁹⁵ Such a requirement is consistent with other international documents, such as the general comment of the UN Committee on Human Rights regarding equality of rights between men and women. Although the comment does not directly mention article 18(3), it establishes that the protection of the right to freedom of religion and belief does not permit any country, group or individual to violate women's right to equality.¹⁹⁶

Israel signed and ratified the covenant in 1991. On joining the covenant, Israel noted its reservation regarding article 9, reserving the right to deviate from this article in a state of emergency, and regarding article 23, which recognizes the right to marry and demands equality between the couple during the marriage and in the case of dissolution.¹⁹⁷ This purpose of this reservation was to maintain the subjugation of personal law in Israel to religious law. However, neither of these reservations has any impact on

¹⁹³Ibid., article 18(3).

¹⁹⁴Frances Raday, "Culture, religion, and gender," 1 I. Con. International Journal of Constitutional Law 663, 678 (2003).

¹⁹⁵Ibid.

¹⁹⁶Ibid.; General Comment No. 28: Equality of rights between men and women (article 3): March 29, 2000. CCPR/C/21/rev.1/Add.10, General Comment No. 28.
<http://www.unhcr.ch/tbs/doc.nsf/0/13b02776122d4838802568b900360e80>

¹⁹⁷Lapidoth, Ben Naftali and Shani, footnote 140 above, p. 19. For Israel's reservations, see:
<http://goo.gl/J9lpB>

Israel's commitment to gender equality in the public domain in accordance with the covenant.

The International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights establishes that member states must ensure the right of any person in their territory, without any discrimination, to enjoy the rights secured therein.¹⁹⁸ A separate article establishes the obligation to "ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant."¹⁹⁹ Gender segregation in public places clearly marginalizes and excludes women and hampers their enjoyment of economic, social and cultural rights.

Israel signed and ratified the covenant in 1991.

The Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women is a broad-based convention including civil, political and cultural rights intended to protect women in their public and private lives.²⁰⁰ This is

the only international human rights instrument that focuses exclusively on women's rights.²⁰¹

The convention is based on the prohibition of discrimination against women, and details a series of steps countries should take in order to combat this phenomenon.²⁰² The convention includes general provisions regarding the elimination of discrimination against women, the advancement of the status of women, and the elimination of prejudice and procedures that entail discrimination against women.²⁰³ The convention even urges countries to change laws, regulations, customs and practices which constitute discrimination against women.²⁰⁴ Discrimination is gauged according to its outcome, without requiring the element of motive, and applies to a wide range of situations and actions in the private and public spheres. The convention imposes an obligation on countries to act to combat discrimination against women wherever this occurs.²⁰⁵

While the International Covenant on Civil and Political Rights regulates the potential conflict between freedom of religion and belief and other rights, including (implicitly) equality, the Convention on the Elimination of All Forms of Discrimination against Women regulates the conflict between social and cultural patterns of behavior and gender equality.²⁰⁶ Article 5 of the convention establishes that:

¹⁹⁸Article 2(2) of the International Covenant on Economic, Social and Cultural Rights (opened for signing in 1966);

<http://www2.ohchr.org/english/law/cescr.htm>

Dr. Hillel Sommer, Tamar Waldman and Einat Yahav, Background Document: The Constitutional Right to Equality (Hebrew), p. 25.

http://huka.gov.il/wiki/material/data/H01-08-2005_13-22-28_shiviona.pdf

¹⁹⁹Article 3 of the International Covenant on Economic, Social and Cultural Rights.

²⁰⁰Madhavi Sunder, "Piercing the Veil," 112 Yale L.J., 1404, 1425 (2003). For the convention (opened for signing in 1979), see:

<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

²⁰¹Madhavi Sunder, footnote 174 above, p. 1425.

²⁰²Gil-Ad Noam, footnote 129 above, p. 218.

²⁰³Sommer, Tamar and Yahav, footnote 172 above, p. 29.

²⁰⁴Sunder, footnote 174 above, p. 1425; article 2(F) of the Convention on the Elimination of All Forms of Discrimination against Women.

²⁰⁵Articles 1, 2 and 4 of the Convention on the Elimination of All Forms of Discrimination against Women; Gil-Ad Noam, footnote 129 above, p. 218.

²⁰⁶Raday, footnote 168 above, p. 665; article 5 of the Convention on the Elimination of All Forms of Discrimination against Women.

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

The concept “cultural patterns” includes religious norms in society, while the term “practices” refers to the manner in which traditional cultural norms are preserved in society. In our opinion, these terms relate to the cultural pattern of conduct that establishes and perpetuates the segregation and exclusion of women in the public domain.²⁰⁷

Accordingly, article 5, together with the obligation incumbent on the state to change laws, regulations, customs and practices which constitute discrimination against women, as established in article 2(F), empower the right to gender equality in the event of a clash with cultural patterns or practices, including religious norms, thereby creating a clear hierarchy of values.²⁰⁸

The State of Israel signed the convention in 1980 and ratified it in 1991. On joining the convention, Israel noted its reservations regarding articles 7(B) and 16 of the convention, refraining from creating a commitment to the convention regarding the appointment of women judges in religious courts, and regarding the adjustment of the laws of personal status in Israel to the provisions of the convention.²⁰⁹ However, these reservations do not have any impact on Israel’s commitment to gender equality in public areas in accordance with the convention.

²⁰⁷Raday, footnote 168 above, p. 678.

²⁰⁸Ibid.

²⁰⁹Lapidoth, Ben Naftali and Shani, footnote 137 above, pp. 25-26. For Israel’s reservations, see:
<http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>

D. Conclusions and Recommendations

The 2012 *Excluded, for God’s Sake* report shows that the phenomenon of the exclusion of women continues to be encountered in public places, in municipal and official events, in the removal of women from the public domain, and in the imposition of modesty demands.

The gender segregation and exclusion of women documented in this report are imposed in the name of religion. We are witnessing a phenomenon in Israel whereby a group of Haredi men belonging to extremist factions is introducing practices of segregation and exclusion that are ostensibly based on religious principle. The underlying argument presented by this group is that due to the religious prohibition on Haredi men to engage in sinful thoughts, they seek to impose restrictions on women. Thus this group seeks to impose the cost of its religious restrictions on the “other,” and in this case – the other is a woman. This conceptual foundation is absurd from the religious perspective, let alone from that of discourse on rights and obligations. If the alleged religious prohibition applies to this group of Haredi men, why is the ensuing restriction imposed on women, rather than on the men themselves? Is it not the essence of a religious restriction that the believer is committed to the relevant principle and seeks to apply it to himself? Similarly, from the perspective of discourse on rights, it is difficult to understand how prohibitions may be imposed on a majority group due to religious restrictions adopted by a cultural minority. Even if we examine the issue in terms of two distinct cultural groups, without determining which is a minority or a majority, it is difficult to understand how the cultural and religious perception of one group can impose prohibitions on the other. A multicultural approach recognizes the ability of a group to impose restrictions on itself (provided that basic rights are maintained), but it does not provide for the possibility that one cultural group can impose its cultural perceptions while infringing the rights of the other group.

This report includes numerous examples confirming that the segregation demands are imposed on women on the basis of the religious needs of a group of extremist Haredi men, and that they are also imposed on Israeli society as a whole in public places that are shared by all. In this manner, Haredi society “exports” the religious cost of observing the commandments according to its interpretation on society at large and expects society to pay the price for its convictions. According to this approach, for example, if Haredi men wish to enjoy segregated public transportation, women must sit in the back of the bus, despite the fact that this is a service intended for the entire population. According to the same logic, in order for Haredim to integrate in the army, the IDF must create “women-free zones” for them. As a result, women soldiers will be unable to serve in command functions in the draft process for Haredim. The price for the value of modesty will be paid by women soldiers and not by the new Haredi recruits. The modesty signs in the city of Beit Shemesh are a further example. On the basis of the demand for modesty, a group of extremists in Beit Shemesh demands that women must not use certain sidewalks in the city. Again, it is women who are expected to pay the price for the men’s strict attention to modesty, and it is women whose freedom of movement is restricted. At the same time, the argument is raised that surrounding society must respect the values of Haredi society as a distinctive cultural group in which modesty is a central value, and must be sensitive to the feelings of this group and avoid causing it offense.

It must be noted here that on the basis of possible concern at offense to feelings, women are asked to relinquish far more substantive rights, such as the right to equality, the right to dignity, and the prohibition against the collective discrimination and humiliation of women. In order to avoid offense to feelings, an effort is being made to violate women’s freedom to sit where they like on a bus, to use the public sidewalk, to participate in public events, and so forth. Basic human rights are violated on the grounds of avoiding offense.

The growing phenomenon of gender segregation and the exclusion of women raises a series of practical and legal questions, as well as questions relating to values. These questions include principled issues which are not discussed directly in this report, but which we hope will receive attention and become the focus of discussion as a result of the report. An example of such an issue is the question of choice, and the nature of free choice against the background of membership of a sharply-defined cultural group. Another issue is the question of the political forces guiding Israel, and the legitimacy granted in Israel in 2013 to illiberal and undemocratic voices.

A few months before the publication of this report in Hebrew, coalition agreements were signed for the formation of the 33rd government of the State of Israel. In these agreements the government promised to combat the phenomenon of the exclusion of women:²¹⁰ “The government will address the issue of the exclusion of women and will examine the use of legal tools to prevent this phenomenon in the public domain.” This undertaking in the formation of the government was accompanied by an additional undertaking to ensure that Haredi society bears an equal share in the burden of military service. In many instances, the implementation of the principle of an equal share in the defense burden and the integration of young Haredi men in various IDF units has entailed the exclusion of women. As we have shown in this report, the IDF’s own website describes a special draft process for Haredim that offers an “environment protected from women.” The practical ramification of this phrase is that women do not play any role in units intended for Haredim and are denied access to command and training functions in these programs. Such an approach is liable to jeopardize the full integration of women in the army and to exclude them from numerous positions. Similar concerns are raised by the plans to

²¹⁰Coalition Agreement between the Yesh Atid Faction and the Likud Beitenu Faction in the Establishment of the 33rd Government.

establish segregated frameworks for women and men in universities and institutions of higher education.

It is to be hoped that the government's commitment to advance the struggle against the exclusion of women will be manifested in meaningful action, including the prioritization of this objective when integrating Haredim in the army and in civilian frameworks. It is important to integrate Haredim in the army, in higher education, and in the economy, but this cannot be done at the expense of the role of women in these important spheres of life. We do not believe that there is or should be any contradiction between the two goals.

We must reiterate that the Haredi public, just like the other groups in Israeli society, is not a monolithic mass that maintains an identical and uniform lifestyle and beliefs. The demands to uproot the phenomenon of segregation and exclusion have not been raised solely by the secular public, but also from within the religious and Haredi sectors in Israel. The facts presented in this report show that practices of segregation and exclusion are not the outcome of a formal demand presented to the authorities. In most cases, they are the result of forceful action and the application of pressure by individuals within Haredi society who attempt to establish accomplished facts. In some cases, segregation is the result of a mistaken assumption on the part of the authorities that the entire Haredi public is interested in and entitled to segregated state services. Segregation is not implemented in a considered manner, based on an examination of relevant needs compared to the price that others are required to pay in return for meeting these needs, with attention to the violation caused to the right to equality and dignity – rights that are protected in accordance with the Basic Law: Human Dignity and Liberty. Over the past year, the interministerial team headed by Minister Limor Livnat, the chairperson of the Ministerial Committee for the Status of Women, has taken welcome official action. Shortly before the publication of this report, the Ministry of Justice team formed to discuss this

issue published its recommendations. These included an unequivocal call to prevent the exclusion of women in cemeteries, including the removal of segregation notices, and in health clinics; the removal of segregation and modesty signs by local authorities; the closure of the rear door of buses on lines that were formerly defined as "Mehadrin" lines; and the demand for the *Kol Barama* radio station to include women's voices without restriction. These recommendations may be evidence of a new, firm stance regarding this phenomenon. It only remains to be hoped that the government will take the necessary measures to enforce the report's recommendations.

Recommendations:

- **Gender segregation should be prohibited in the public domain wherever a service is provided to the public, including services provided by governmental or essentially public companies, such as health clinics, cemeteries, transportation companies and airlines, as well as at conferences and events held by public bodies, even when these take place in overwhelmingly Haredi neighborhoods.**
- **It should be clarified that signs demanding segregated seating or entrances are also unlawful, since they embody an instruction to the public limiting its freedom of movement in the public domain.**
- **Physical segregation must not be tolerated**, including the closure of roads, even for special events, in neighborhoods with a Haredi character. The municipality or police must take proactive steps to enforce the prohibition against segregation, including removing signs that seek to dictate behavioral codes. This prohibition should also apply to sites of historical, national and religious importance, particularly the Western Wall, where segregation should not be extended beyond the lower section of the plaza.
- **The displaying of modesty signs restricting women's dress in the public domain must not be permitted.** The public domain belongs to everyone

and no-one has the right to impose restrictions on the manner in which women may dress, neither by means of signs demanding them to dress modestly nor by means of signs requesting them to do so.

- **The police and municipal inspectors must act in a determined manner and use all legal means at their disposal against those who vandalize signs in which women appear.**
- **The police must take a firm line against anyone who uses violence against women for reasons of modesty. Women should be allowed to appear and sing at any public or state event and at all events held in the IDF.** The approach of some members of the religious public that considers women's singing to be prohibited must not form the basis for refraining from inviting women to appear at such events.
- **The integration of women in the IDF should be subject solely to professional considerations, without any reference to religious considerations.** Certain functions in the IDF must not be closed to women merely because service in these positions is inconsistent with the religious attitudes of certain parts of the public.
- **The integration of Haredim in the IDF must not come at the expense of equality for women in the IDF.** Haredim who join the army must accept that the IDF is a framework of women and men. During the course of their service they will encounter women in professional positions. This fact does not prevent them from maintaining their own particular way of life.
- **Encouraging the integration of Haredim in academic studies and in academia in general must be undertaken while maintaining strict attention to women's equality. Accordingly, arrangements providing separate hours for Haredi men and women will be used to the minimum extent required in order to enable Haredim to participate in these study tracks; women lecturers will not suffer as a result and will**

be able to teach in tracks for Haredim according to their field or area of expertise; and no segregation will be imposed in other services, such as libraries or cafeterias.

- **A mechanism should be established for reducing the public funding provided for governmental or municipal bodies that discriminate against women through unlawful segregation or exclusion, including health clinics, burial societies and municipalities.** No public event funded with taxpayers' money will impose segregation, including municipal events, except insofar as this is consistent with the requirements of the law, and provided that the event also includes a mixed component.
- **A prohibition should be imposed on conferences and events intended for men only, since these violate the Prohibition of Discrimination Law.**
- **Segregation in completely private businesses, such as banks and shops, also violates the right to dignity and equality, and, accordingly, should be prohibited, even in the case of businesses situated within Haredi neighborhoods.** The state should encourage the private enforcement of the Prohibition of Discrimination Law by those injured by segregation.
- **Civil enforcement should be enhanced and encouraged by encouraging women to submit civil suits against the violation of their rights.**
- **Amending the Prohibition of Discrimination Law** in order to clarify the exception to the provision that gender segregation constitutes discrimination. At present, the exception in the law is vague and subject to interpretative debate. The law should be amended so as to permit segregation only in the case of sports facilities, places of prayer, educational institutions and banqueting halls.
- **The inspection by regulators** in the fields of transportation, religious services, health, and the media must be enhanced in order to ensure

that there is no segregation or exclusion. When violations occur, action should be taken using all available forms of enforcement.

- **The state must ensure meaningful enforcement to prevent unlawful segregation or exclusion. Enforcement actions must be taken in cases involving the use of violence, harassment and discrimination against women. Among other actions:**
 - A governmental mechanism should be established to receive complaints regarding segregation and exclusion and to process the complaints rapidly.
 - Action must be taken against those responsible for discrimination, including disciplinary action, criminal action (e.g. against those who deface advertisements) and administrative action (such as canceling permits for transportation lines). Enforcement should be ensured even in cases where no specific complaint has been received.
 - Civil servants, municipal staff and police should undergo training clarifying the grave nature of segregation and exclusion, the illegality of these actions, the need for enforcement, and the enforcement options available to the various authorities.
 - A mechanism should be established to apply economic penalties to municipalities and local authorities that organize or fund events that exclude women.

Know Your Rights: Segregation of Women and Men in Public Spaces

- Public spaces in Israel belong to us all – women and men alike. We all have exactly the same right to be present in the public domain, whether we are in downtown Tel Aviv, Mea She'arim or Ramat Beit Shemesh. It is prohibited and impossible to impose any kind of segregation in these spaces.
- **Israeli law prohibits the segregation of women and men in the public domain.** Examples of such segregation include separate seating arrangements, separate locations for receiving services, separate entrances, or separate lines. Such segregation is contrary to human equality and violates human dignity and liberty. The Supreme Court has ruled that men and women cannot be ordered to sit separately in buses, and that segregation is a form of discrimination. The Supreme Court has also ruled that in public spaces in the full sense of the word, such as city streets, the segregation of women and men is prohibited.
- Segregation is not neutral and does not refer to the equal division of space between men and women. Segregation discriminates against women and seeks to remove them from the public domain.
- Segregation is not part of a longstanding tradition. It is a new and invented "tradition" that is presented in the guise of an old tradition by extremist elements. There is no Halachic justification for segregating women and men in public spaces. Claims that the Halacha justifies segregation in any location (as distinct from a synagogue or private events) is a fiction. This discriminatory practice has only spread in recent years, due to the increasing extremism in certain factions and the lack of consistent action by the authorities.

- Many members of the Haredi community do not accept segregation and many Haredim oppose it, but are afraid to speak out against the phenomenon.
- The Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law, 5761-2000, establishes that any body that provides a public service (whether public or private) may not prohibit against any section of the population, including on grounds of gender. Accordingly, segregation of men and women is illegal discrimination.
- According to the law, segregation of men and women is permitted only in special instances, such as cases relating to physical modesty and privacy (swimming pools, beaches or gyms), or in certain cases involving special leisure-time activities, such as a home study group for Haredi women or the screening of a film in a Haredi neighborhood. **In any case, segregation is never permitted in a state or public service**, even if the service is provided in a Haredi neighborhood, and even if it is provided by a religious organization, such as a *Chevra Kadisha* (burial society).

What can I do if I encounter segregation?

- First of all, it is important that you know that segregation is illegal. You have the right to object if you are subjected to a segregation demand.
- It is important that you record exact details of the incident of segregation or exclusion (date, location, details of the person who made the demand – a bus driver, member of the *Chevra Kadisha*, municipal employee, etc.)
- **You can make a complaint to the relevant government ministry or municipal office**, such as the Ministry of Transportation in the case of buses (to fax number 02-6558903, or through the ministry's website); the Ministry of Religious Services regarding issues related to burial

(to fax number 02-6535825); to the Ministry of Health regarding the health clinics (public complaints – 02-5655969), or to the municipalities regarding municipal events.

- **You can submit a civil suit for compensation due to discrimination** in accordance with the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law, 5761-2001.
 - In order to submit a suit, all that is required is that the discrimination took place (i.e. a demand was made to a woman but not to a man, or the provision of a service involved a condition that was not presented to men). There is no need to prove that damage was actually caused. We also emphasize that even if the segregation appears to be "equal" (such as separate entrances to a building, or the allocation of the same number of hours' service to men and women), the segregation in itself constitutes discrimination and you can submit a suit.
 - The law applies to any place that provides a service, even a private business that provides a service to the public (such as a shop).
 - You can claim up to NIS 50,000 without proving damage. However, you should be aware that the court usually rules much lower sums in suits against discrimination.
 - The most effective way to submit a suit under the law is to submit a suit to the Small Claims Court, where cases are judged quickly, usually in a single hearing. The maximum sum you can claim in the Small Claims Court is currently 31,900 NIS. In the Small Claims Court, the plaintiff (the person making the complaint) represents herself – there is no need for an attorney. Special permission is needed from the court to appeal against the decision of the Small Claims Court.

- You can also submit a suit to the magistrate's court. In this case, it is possible to claim a higher sum, but the process is longer and more complicated, and it may take several years until a ruling is given. In this case, you should preferably be represented by an attorney. An appeal against the decision of the magistrate's court can be submitted to the district court.
- **You can make a complaint to the police.** It must be emphasized that a violation of the Prohibition of Discrimination Law constitutes a criminal offense. If one passenger on a bus harasses another in a manner that causes damage or unreasonable inconvenience to the latter passenger, this also constitutes a criminal offense in accordance with the Transportation Regulations.
- **The Israel Religious Action Center** provides assistance and advice for any person (male or female) who has been the victim of segregation. IRAC's services are provided free of charge. IRAC has been working for a decade to combat segregation of women and men, and is one of the leading bodies in the fight against this phenomenon. We will be happy to help anyone who has been the victim of segregation or who wants to help the campaign on this subject. IRAC can be contacted by telephone – 02-6203211, by email – irac@irac.org.il – or through our Facebook page. It is important to us to hear from you, so that together we can fight this phenomenon!

