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Israel Movement for Reform
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EXCLUDED, FOR GOD'S SAKE: Gender Segregation and the Exclusion of Women in Public Space in Israel

Second Annual Report – January 2012



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PREFACE

I am proud to present this comprehensive and updated report on gender exclusion in the public domain in Israel in 2011. The report is based on the ongoing work of the Israel Religious Action Center in monitoring and responding to instances of gender segregation and the exclusion of women in Israel.

Many of the cases discussed in this report reflect the personal stories of women who showed commitment and courage under trying circumstances. I would like to pay tribute to those who sat where they wished on the bus, called us to ask for advice, and refused to submit to the demands for segregation.

Those involved in this report include Orthodox women and men who are committed to the value of modesty but oppose gender segregation. Other partners come from diverse circles in Israel and abroad and share a commitment to end the scourge of segregation. These partners and others have led large-scale public protest against gender segregation in Israel in recent months.

This growing coalition gives room for optimism regarding the future. If we continue to struggle together against segregation and exclusion, our 2012 report may be much shorter, to the benefit of Israeli society and the forests.

Anat Hoffman

Executive Director, Israel Religious Action Center

INTRODUCTION

*“Is it really even necessary to state that it is forbidden to **coerce** or **order** a woman to sit in the back rows on the bus...? Is it really necessary to state that men who **harass** a woman who sits outside the intended area... thereby commit a forbidden act and are liable to criminal prosecution? Does not any rational person, whether secular, religious, or Haredi, understand this without explanation?”*

From the ruling of Justice Rubinstein in HCJ 746/07 Naomi Regan v Ministry of Transportation.

Since 2001, the Israel Religious Action Center (IRAC) has monitored instances of the exclusion of women and gender segregation imposed by extremist elements within the Haredi (ultra-Orthodox) population in Israel. These demands for segregation were first noted in 1997, and have since expanded, reaching unprecedented proportions in 2011. Then phenomenon began with the demand for gender segregation on buses, but has since widened to include such public places as medical clinics, schools, cemeteries, sidewalks, private businesses, and conferences held by public bodies. The demand for segregation was first identified in the context of a physical segregation between men and women, but other manifestations have also been recognized. For example, this report includes new phenomena, such as the prohibition on public performances by women and on singing by women; the exclusion of women from positions in the Israel Defense Force (IDF); the exclusion of women from the public domain; and demands for modesty in public spaces. These phenomena have continued despite the ruling granted by the Supreme Court at the beginning of 2011 in a case involving segregation in buses. The court ruled that gender segregation is unlawful, violates the dignity of women, and has no place in a democratic society.

In 2010, IRAC published a pioneering report reviewing the exclusion of women and gender segregation in the public domain in Israel. The report, which was released at an event in the Knesset and distributed widely, became an important tool for monitoring the phenomenon and bringing it to the attention of the public. This year’s report also seeks to provide an up-to-date and comprehensive review of attempts to create and enforce new norms based on gender segregation and exclusion of women in the public domain, and to clarify the unlawful nature of such attempts.

In last year’s report, we noted that almost all the demands for segregation are manifested in an effort to push women to the back, physically and figuratively. This underlines the origins of such demands in patriarchal approaches that seek to perpetuate a gender-based hierarchy. Last year, most of the demands for segregation involved situations where men occupied the front section of public space, while women were relegated to the rear. In this report, however, there are also many instances in which women are completely excluded from public space, or an entirely separate space is created for them, silencing their voice. The trend to silence women’s public voice attracted considerable public attention, particularly in such contexts as the deliberate exclusion of women from public billboards in Jerusalem, and incidents when religious soldiers refused to participate in army events that included singing by women performers.

The trend toward the exclusion of women from public space is also manifested in efforts to conceal or subdue their visibility. The demand for modest dress, which was previously confined to the places of residence and meeting places of specific religious groups, is now spreading into the general public domain; where such demands were already present, they are becoming increasingly extreme. By way of example, it was recently reported that a special “modesty certificate” has been introduced for shops in the town of Sderot. The certificate is awarded to businesses that undertake to ensure that their employees are dressed modestly and that their advertisements maintain similar standards.¹ In Beit Shemesh, which has become a benchmark for extremism in the exclusion of women, shops have been forbidden to display immodest clothes in their windows, red clothing has been outlawed, and numerous incidents have been reported in which violence has been used to enforce modesty rules and gender segregation. The police response has been ineffective, abandoning the women involved to the rising tide of violence.² In a recent case, Na’ama, a girl who attends Orot School in Beit Shemesh, has been unable to walk the few hundred meters from her home to school without suffering curses and spitting attacks from a minority of local Haredim who oppose the presence of the national-religious school in the area.³

Na’ama’s ordeal is not an isolated or exceptional incident. As this report shows, the number and severity of incidents involving exclusion and gender segregation have increased sharply, as has the level of associated violence. Gender segregation and the exclusion of women have spread into all fields of public life: the physical public domain, the media, official bodies such as the IDF and state gatherings (such as the prohibition against women going to the podium to receive an award at an official government ceremony); and the concealing of women’s visibility, whether through the enforcement of modesty rules in shops or through their exclusion from major advertising campaigns. This is a dangerous and retrograde trend that seeks to confine women to the private domain and to traditionally “feminine” roles as service providers and supporters for male-dominated systems in which men are the key actors and enjoy public recognition and influence.

The rising phenomenon of exclusion and segregation in the public domain has apparently been mirrored by growing public awareness of this trend. Toward the end of 2011, a wave of protest erupted in Israel against gender segregation and the exclusion of women. The objections to this phenomenon came from all sides of the political spectrum and from broad public circles in Israel and abroad. Prime Minister Netanyahu declared that the exclusion of women is unacceptable,⁴ and President Shimon Peres also opposed the phenomenon.⁵ Adina Bar-Shalom, the daughter of Rabbi Ovadia Yosef, spoke out against the exclusion of women,⁶ and even the US secretary of state mentioned the subject, criticizing growing extremism in the exclusion of women from the public domain in Israel.⁷ At the same time activist groups and other citizens became more active in efforts to protest against gender segregation and the exclusion of women from the public domain in Israel.⁸

One of the most significant developments that have been seen since the subject of segregation and exclusion hit the headlines is the growing presence of voices within the religious and Haredi communities that oppose this phenomenon. Haredi society is far from monolithic: it is a mistake to regard this community as a “black crowd” holding identical opinions and maintaining a uniform way of life.⁹ Haredi society is comprised of numerous sects and factions, and there is a diverse range of attitudes regarding the demands for segregation. Many Haredi men and women see the demands for segregation as an undesirable and extreme phenomenon that is harmful to both women and men. However, many

Haredim who oppose segregation express their opinions anonymously out of concern that they will be perceived as dissenters.¹⁰ The media attention to the subject of segregation and exclusion brought some of these voices into the open, and anonymous expressions of support for the struggle against the phenomenon were accompanied by clear statements opposing this unacceptable trend. Alongside Orthodox organizations such as Kolech and Emunah, which seek to use legal and public means to combat the phenomenon, statements have also been made by leaders and key public figures from the religious Zionist community and from within the Haredi sector. Examples of figures who have spoken out against segregation and exclusion include Rabbi Ovadia Yosef, MK Rabbi Haim Amsalem, Rabbi Dov Lipman, and Rabbi Menachem Froman. Such comments indicate that many women and men in the Haredi community oppose segregation and exclusion and want action by the authorities to curtail this phenomenon.

These expressions of support have encouraged individuals in the Haredi sector to speak out openly against gender segregation. Dozens of Haredi protesters participated in a demonstration in Beit Shemesh and joined the calls to end segregation: “As Haredi residents of Beit Shemesh, we condemn the violence and the extremists here, and we are interested in continuing to live in peace and quiet.”¹¹ In addition to participating in demonstrations, some Haredi women have bravely acted by themselves to combat segregation by sitting in the front section of buses. Yocheved Horowitz, a Haredi woman, became a prominent example of such activism after insisting on her right to sit at the front of a bus on a line that was until recently defined as segregated. In an interview for Haaretz, she stated:¹²

“That people tell a woman to go to the back of the bus and repeat this like a mantra – ‘Women to the back’ – is outrageous.

[...]

The expression ‘to the back’ shows that that’s the main thing. The word [back] shows how much men scorn women. It’s like in South Africa when the blacks were several rungs below the whites. And it’s a huge blasphemy, to behave like that. The Torah strictly forbids us from behaving like that. It’s called ‘villainy invoking the Torah.’

People cite all kinds of statements from the Sages, and in that way cover their wickedness and hatred for women. And that is the worst of all, because women have not studied those things. And they don’t know what is correct and what isn’t.

[...]

We’re talking about an idea, a concept. About the fact that women are not marionettes. They have a body, a soul, a spirit. They have feelings. And a man is supposed to respect a woman more than his own body. The Rambam says something that is the basis of all peace in the home: ‘He should honor her more than his own body, and love her like his own body.’”

It should be recalled, however, that while such comments have attracted considerable public attention, they represent a minority of Haredim willing to speak out on the issue. Many Haredi men and women who oppose segregation are afraid to do so in public, in case this leads to their being ostracized in the society in which they live.

As this report shows, the demand for gender segregation cannot be accepted as one that is representative of Haredi society as a whole. Equally important, it emphasizes that it is impossible to

divide public space in Israel into a domain that belongs exclusively to the Haredi population and a domain that belongs to the general population. The experience regarding gender-segregated buses shows that Israeli cities, or the country as a whole, cannot be divided into areas that specifically serve a population interested in segregation (if such a population exists). The same principle applies to clinics situated in neighborhoods with a Haredi character, but which serve a diverse population. There is a clear risk here of a “slippery slope” – segregation that begins on bus lines serving neighborhoods with a strong Haredi character soon spread to mixed neighborhoods. As this report shows, the phenomenon is now spreading to public spaces with an inherently general character, such as the IDF, which includes diverse sections of the population.

Against this background, it is important to reject any attempt to delineate separate areas for Haredim and secular Israelis, and to apply a dichotomic distinction between “Haredi neighborhoods,” where a regime of gender segregation will be imposed, and “secular” neighborhoods where segregation will not be permitted. In a liberal state, the public domain must reflect the general and shared values of liberty and equality, and, accordingly, must be accessible to all in an equal manner. As the examples described above show, this phenomenon does not involve religious or cultural practices maintained within the Haredi community, but relates to basic services used by all citizens in which segregation is imposed, or where demands are raised to impose modesty rules on women and restrict their visibility. We must ensure that all Israelis enjoy a common, dignified, egalitarian and democratic public domain.

An additional trend raised by the report is the attitude of the authorities to the phenomenon of segregation. Many authorities – the Jerusalem Municipality is a prominent example – perceive the Haredi public as a monolithic society, and assume that this community is interested in segregation. Accordingly, any event intended for this population, or run in cooperation with the Haredi community, is considered to require segregation, without examining the demand for segregation in accordance with the criteria established by law. This approach was illustrated when we contacted the Jerusalem Municipality regarding a “rights’ fair” for residents of Jerusalem. The publicity for the event stated that gender segregation would be ensured. The municipality replied that the fair was intended for Haredi residents from the neighborhood of Bayit Vagan, and that the residents themselves had requested that gender segregation be imposed. A representative of IRAC visited the fair, and saw that, in practice, no segregation was imposed. When visitors to the fair were asked whether it was not supposed to be a segregated event, they replied that they did not believe that there was any need for segregation at an event of this type; indeed, they were surprised by the question.

Raising this issue on the public agenda is an important step toward combating the phenomenon of segregation and exclusion. However, condemnation is insufficient, and must be accompanied by vigorous action by the state to uproot this phenomenon. The Ministerial Committee for the Advancement of the Status of Women held a special session to discuss the issue, and has even established a committee charged with recommending ways in which the government can act to combat segregation. However, it remains to be seen whether such steps will be effective.¹³ The eradication of the phenomenon of segregation and exclusion requires dynamic and long-term action by the government, based on a firm and clear policy creating negative incentives against demands for segregation and against actions that exclude women. Such steps could include establishing hotlines to receive complaints from women who have been the victims of segregation or separation, and ensuring that complaints are investigated quickly and that disciplinary and criminal action is taken against those responsible. Bodies that

practice segregation or exclusion could be penalized by a cut in public funding. Civil servant and local government employees should undergo training regarding the illegal nature of segregation and exclusion and the need to respond forcefully when this phenomenon is encountered. Until the government formulates clear policy on this subject, including the establishment of clear lines, the phenomenon of segregation will continue to expand. For detailed policy recommendations, please see the final chapter of this report.

The objective of this report is to ensure that the issue of segregation and exclusion remains on the public agenda and to indicate relevant trends by documenting instances in the public domain and by illuminating the manner in which these are imposed. A further objective is to propose policy guidelines consistent with Israel's character as a Jewish and democratic state and compatible with Israeli and international law.

This report presents:

- 1.** Factual findings from the field relating to the segregation of women and men and the exclusion of women. The findings are classed under the following headings: gender segregation in the public domain; the prohibition of appearances and singing by women; the exclusion of women from positions in the IDF; the removal of women from the public domain; and the imposition of modesty requirements.
- 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.
- 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: GENDER SEGREGATION IN THE PUBLIC DOMAIN

Segregation in the provision of public services

1. Segregation on buses

■ The Supreme Court ruling regarding gender segregation in public transportation (HCJ 746/07)¹⁴

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 and a number of women injured by segregation (HCJ 746/07, Naomi Regan v Ministry of Transportation). In a long and closely-reasoned ruling, the Supreme Court established that the arrangement for gender segregation on buses that pertained at the time the petition was submitted was illegal, and that any arrangement requiring segregation between men and women in public transportation is inconsistent with the provisions of Israeli law.

The court granted binding status to the report of the committee established by the Ministry of Transportation, which determined that segregation on buses is unlawful, and prohibited the publication or depiction of bus lines as “Mehadrin” lines (i.e. lines where gender segregation is imposed). The court further ruled that the right of women who oppose segregation to dignity, equality and freedom from religion outweighs the right of Haredim to freedom of religion and protection of their religious sentiments. Coercive gender segregation entails humiliation and directly injures the core of the constitutional right to dignity without legal authority.

The court established that segregation constitutes an improper attempt by one group to impose a specific cultural practice on the entire public, since the “Mehadrin” lines do not belong to the Haredi public. Public transportation in Israel belongs to Israeli society as a whole, and forms part of the public domain shared by all sections of the population – those who are interested in segregation, and those who are not. Accordingly, coercive segregation causes grave injury to equality and dignity.

The court emphasized that the state cannot shirk its responsibility for the actions of coercive passengers or impose the liability for these actions on the public transportation operators. The state’s obligation in this respect is a positive one: it must act by all means at its disposal – through the administrative inspection of public transportation and through criminal law – to protect passengers’ constitutional rights.

The court noted that its determination regarding the illegality of the segregation arrangements enables relief to be received from different fields of law:

- Submitting claims for compensation in accordance with the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law, 5761-2000 (hereinafter: “the Prohibition of Discrimination Law”) by women injured by segregation, since the exception established in the law permitting the segregation of men and women under certain conditions does not apply to segregation in public transportation.

- A claim on account of other damage torts and on account of the violation of constitutional rights.
- Criminal action to indict passengers who violate the Transportation Regulations, which prohibit a passenger from acting in a manner liable to cause damage or inconvenience to another passenger.
- Administrative action – the committee report determined that manifestations of coercion or violence will provide the inspector of transportation without grounds for considering the abolition of lines on which such incidents occur.

In practical terms, the court ordered that signs be placed in buses on lines that had imposed gender segregation emphasizing that every passenger is entitled to sit in the place of his/her choice, and that any violation of this right constitutes a criminal offense. The court also ordered that announcements regarding the abolition of the segregation arrangements be published in the general and Haredi press, and that drivers receive appropriate guidance clarifying their obligation to protect the rights of passengers.

Regarding the possibility of opening the rear door of the bus for passengers, in order to facilitate boarding by passengers who wish of their own free will to sit in a segregated manner, the court ruled that an additional one-year period of examination should be undertaken (after the end of the period of examination established in the committee's report) in order to examine whether this possibility does not, in practice, lead to coerced segregation. The Supreme Court instructed the Ministry of Transportation to increase oversight of bus lines in order to determine whether forced segregation was occurring. At the end of the period, the minister of transportation will be able to reconsider the practice of opening all the doors of the buses in order to permit passengers to board. If the minister finds that this is possible, he will be able to consider extending this arrangement to additional lines. The court noted that the ruling could also be relevant regarding the light rail system in Jerusalem and elsewhere; in other words, according to the ruling, it will not be possible to select certain carriages in the light rail system and impose segregation in them.

IRAC subsequently monitored the implementation and enforcement of the ruling with regard to segregation, signs on buses, the instructions given to drivers, the publication of the report on the website of the Ministry of Transportation, publicity relating to relevant lines, and a comparison of transportation fees.

As the end of the examination year approaches, IRAC has collated findings gathered from its investigative journeys. The findings show that the phenomenon of segregation is continuing at full pace: in 65 journeys out of the 101 undertaken over the course of the year on various lines, comments were made when a woman sat toward the front of the bus or attempted to board through the front door. In some cases the comments were made by passengers, and in others by the drivers. In 22 of these instances, the driver played an active role in enforcing segregation, or passengers did not confine themselves to a comment and used verbal violence against a woman passenger who failed to obey the segregation rules.

In light of these findings, IRAC intends to ask the Minister of Transportation to order drivers not to allow passengers to board through the rear door, in order to ensure that the situation in these lines is the same as all other public transportation lines in Israel.

■ Signs on buses

Since the Supreme Court issued its ruling IRAC has been monitoring compliance with the Court decision requiring signs to be displayed in buses emphasizing that every passenger may sit wherever he/she chooses. IRAC has notified the Ministry of Transportation of a significant number of cases in which these signs have been removed (the signs are stickers that can easily be peeled off). When female passengers have asked the drivers about the absence of the signs, the replies have been evasive: drivers have claimed that the matter is unimportant, or that they cannot do anything about it. To the best of our knowledge, no solution has as yet been found for this ongoing problem.

■ Information about bus lines on the Egged website

The website of the Egged bus cooperative (which operates a large proportion of the bus lines in Israel) does not provide easy access to information about lines that were formerly defined as “Mehadrin” lines with gender segregation. By way of example, a search for a bus line connecting Jerusalem and Arad yields the result that there is no direct line connecting the two cities. Despite the existence of line 554, which connects Jerusalem and Arad directly, and which was formerly defined as a “Mehadrin” line. The root of the problem seems to be that the automatic search on the website relates only to lines that connect the central bus stations in the various cities. While “ordinary” lines depart from the central bus station, the former “Mehadrin” lines do not. Only users who are aware of the existence of the line can access details by actively entering the line number. Moreover, the English-language version of the website still defines these lines as “Mehadrin” lines.

The result of this situation is that these lines, which offer a significantly quicker and cheaper service than other lines, continue to serve mainly the Haredi sector, which is aware of their existence, rather than the public as a whole. This is completely contrary to the court ruling, which emphasizes that these lines belong not to the Haredi population but to the Israeli public in general.

The Ministry of Transportation has informed us that Egged is currently developing a new website. Among other changes, the revised site will correct these problems. However, we were not informed when the work on the new website will be completed.

■ Behavior of bus drivers

Despite the court ruling, IRAC received complaints over the past year regarding inappropriate behavior by drivers who refused to defend the right of women passengers to sit wherever they choose, and even acted to impose segregation, in complete violation of the ruling. It also emerged that the guidelines given to the drivers by Egged were problematic. For example, the complaints revealed that drivers have been instructed not to intervene in arguments between passengers – an instruction that is contrary to the court ruling. We emphasized to the bus companies that they must instruct drivers to take proactive action to assist a woman passenger in the event of an argument among the passengers regarding the seat where she chooses to sit or her use of the front door. Below we offer a sample of instances brought to IRAC’s attention. In these cases, IRAC helped the women to submit an official complaint against the drivers, and in some cases civil suits were submitted in accordance with the Prohibition of Discrimination Law.

Egged line 40

On March 28, 2011, a woman 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, in such a manner that the woman could only enter through the rear door. Although the woman was angry at this, and offended that others were dictating to her how she should board the bus, she was obliged to enter through the rear door in order to reach her destination on time.

In another incident involving the same woman, bus line, and driver, the woman boarded the bus through the front door and stood by the driver. A passenger seated in the first row told her that this was a "Mehadrin" line and that she should move to the rear of the bus. The woman replied that she was aware that, according to the Supreme Court ruling, and according to the sticker displayed on the bus, the passenger did not have the right to tell her where to sit, and she was free to sit in the front section. The passenger began to shout at the woman, while she repeated that he could not dictate where she was to sit. The 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. After several stops, a seat close to the driver became vacant and the woman sat down. Throughout this incident, the driver made no effort to intervene.

The woman submitted complaints to Egged, but these were rejected. She has since submitted a suit against the driver and Egged in accordance with the Prohibition of Discrimination Law.

Egged line 497

On October 4, 2011, a woman boarded an Egged number 497 bus at a stop just after the city of Beit Shemesh. The bus was heading towards Bnei Brak. She sat in the front section of the bus and, after a few minutes, several passengers began to ask her to move to the rear, claiming that this was a "Mehadrin" bus. The woman replied that she did not wish to sit in the rear, and that the bus was not a "Mehadrin" line. Two passengers stood up and moved toward the woman. One of them began to shout and weep, claiming that he was heartbroken and that he paid for this bus and now people were coming and ruining it for him, and this was why his children cannot board the bus. He made these comments in front of all the passengers, in a loud voice and very close to the driver. Several passengers told the woman that she was causing the man such terrible heartache and she should move to the rear. The woman attempted to ask the passengers to stop shouting at her and to point out that their demands were not in accordance with the Halacha, but they continued to shout at her. Eventually, fearing for her safety, the woman began to cry and moved to the rear of the bus, with a profound sense of shame and insult.

Throughout the journey, the bus driver did nothing to protect the woman against the fury of the other passengers, and to explain that she was entitled to sit in the front section of the bus. When one of the passengers began to remove the sticker stating that all passengers may sit where they choose, the driver finally intervened, telling the passenger to "stop taking out your anger on the bus – the bus isn't to blame."

The woman has submitted a complaint to Egged and the Ministry of Transportation.

Eged line 56

On September 18, 2011, a man and woman boarded an Egged number 56 bus in the Ramat Shlomo neighborhood of Jerusalem, heading for the city center. As they began their journey, a young Haredi man approached the couple and demanded that the woman move to the rear of the bus. The woman refused to do so, and the passenger continued to harass the couple. The man turned to the driver and asked him to inform the other passenger that all passengers are permitted to use any vacant seat, but the driver refused to do so.

After the passenger realized that his shouting was failing to secure the outcome he desired, he got off the bus and blocked its way with his body, preventing it from continuing, while shouting at length. Once again, the driver did nothing, but merely waited for a few minutes until the young man stopped blocking his way. He even allowed the man to get back on the bus. The passenger subsequently dramatically tore off the sticker stating that every passenger may choose where to sit on the bus. Other passengers asked the driver to speak to him about this, but he again refused to do so.

The woman has submitted a complaint to Egged and the Ministry of Transportation.

Another incident occurred on the same line approximately one month later. On October 3, 2011, a woman boarded an Egged number 56 bus in Ramat Shlomo, heading toward the city center. The bus was empty and she sat in the front section. After a few stops, the bus began to fill up, and two Haredi women asked her to move to the rear section. After she declined to do so, a Haredi man also asked her to move to the rear. When she refused, he demanded that she ask the driver. The passenger asked the driver whether she should move to the rear, and he replied, "This is a 'Mehadrin' line," despite the fact that the woman drew his attention to the sticker stating that each passenger may use any vacant seat. In response, the driver pointed to the other passengers on the bus, who were seated separately, and said, "Ask them all – this is a 'Mehadrin' line."

The woman has submitted a complaint against Egged and the Ministry of Transportation, and has also submitted a claim in accordance with the Prohibition of Discrimination Law.

Eged line 451

On December 16, 2011, Tanya Rosenblit boarded an Egged number 451 bus from Ashdod to the Givat Shaul neighborhood of Jerusalem. Haredi passengers cursed her and demanded that she move to the rear of the bus. When she refused, Haredi passengers prevented the bus from beginning its journey. A policeman called to the scene by the driver also attempted to persuade Ms. Rosenblit to move to the rear. After she refused, the driver began the journey.¹⁵ In a column Ms. Rosenblit published on the Ynet website, she described what happened after she boarded the bus and sat behind the driver:¹⁶

One of the passengers was unwilling to sit down and stayed on the stairs next to the driver the whole trip, yet another passenger decided to create a commotion. He prevented the driver from shutting the door and called his friends, who arrived at the site and gathered around the bus. There were about 20 of them, they spoke in Yiddish, and it appeared as though a small rally was organized to claim that this bus is theirs, via a deal with the Egged company, and that whoever boards it must adhere to the community's demands. They repeated this claim in Hebrew too, even though the driver attempted to explain to them

that this is a regular Egged bus route and is not defined as a 'kosher' one.

... Nobody bothered to turn to me and ask me to do what seemed so logical to them – for me to move to the back. They made do with pointing at me, calling me names, and expressing outrage over Egged's failure to safeguard their rights...

The driver, who saw he could not continue, called the police. When the police officer arrived, he traded a few words with the driver, spoke at length with the organizer of the spontaneous protest, and then boarded the bus in order to ask me whether I am willing to respect them and move to the back of the bus. He repeated the question twice... I replied that I showed enough respect for them with my modest dress and that I cannot humiliate myself in order to respect someone else... How could it be that a man in this day and age feels that a woman is not worthy of sitting before him? How would he feel if his mother, sister or daughter encountered such contempt?

Egged condemned the incident and expressed its regret at this growing phenomenon. The company added that its instructions are that “no segregation is to be created or enabled on a bus unless it is voluntary, since every person sits where they desire.”¹⁷ The Minister of Transportation ordered an investigation into the details of the incident.¹⁸

Superbus line 11A

On September 22, 2011, A., 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 A. and her friends to move to the rear of the bus, so that the two Haredi men could sit in the front section. Although A. 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. In a suit submitted to the Small Claims Court in Beit Shemesh in accordance with the Prohibition of Discrimination Law, A. describes her feelings:

“It is difficult to describe the sense of humiliation, anger and insult I felt after the journey. All I wanted was to choose where I want to sit on a bus. I cannot accept that a driver for a public bus company sends me to sit in the back of the bus just to make room for a man at the front of the bus.”

The same day, A. and her mother telephoned Superbus, and the company informed them that a clarification would be undertaken with the driver.

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

On February 9, 2011, at nine o'clock in the morning, a woman boarded an Egged number 319 bus in Rehovot. When the driver saw that the woman was planning to sit in the front section of the bus, he told her firmly that she must sit in the rear section. The woman replied that there is a Supreme Court ruling stating that segregation is illegal. The driver replied that this was of no interest to him, and that the court had made this ruling “because the secular hate the Haredim.” The driver added that what matters is the will of the public, and the public has determined that this is a “Mehadrin” line. The woman emphasized that she is religious herself, and is also part of the public, but that she wishes to

sit in the front section of the bus. The driver responded scornfully.

When the woman asked why there was no sticker in the bus stating that each passenger may sit where he/she chooses, the driver replied that there was no need for such a sign, since this was a “Mehadrin” line. It should be noted that all the other women in the bus were sitting in the rear section. Two passengers told the woman that she was not entitled to sit in the front of the bus. When she refused to move, they told her that she was “breaking out of the [permitted] limits.”

With IRAC’s assistance, the passenger submitted a claim at the Small Claims Court in Rishon Lezion against the driver and against Egged in accordance with the Prohibition of Discrimination Law. In the ruling, the judge accepted the claim and ruled that the incident constituted grave and illegal discrimination on the grounds of sex. The judge further ruled that both the driver and Egged bear liability for the discriminatory behavior, since the bus did not display a sign stating that each passenger may sit where he/she chooses; since Egged failed to prove that it had brought to the driver’s attention the guidelines issued following the Supreme Court ruling, stating that women may sit anywhere on the bus; and since Egged is the driver’s employer, and therefore bears liability for his behavior. The judge ruled compensation of 3,500 NIS in the woman’s favor, as well as legal costs in the sum of 500 NIS.

■ Posters advocating segregation on buses

In December 2011, posters were displayed in Haredi neighborhoods around Jerusalem emphasizing that “the arrangement on ‘Mehadrin’ buses is continuing, whereby men board from the front, and women board through the rear door and sit in the rear section, and this is to be pointed out pleasantly.” The announcement adds that “if the driver refuses... to open both doors, a complaint should be submitted to Egged and the Ministry of Transportation.” In addition, posters were posted on billboards and bus stops announcing a new line, number 422. The format of the announcement was as follows:

Line 422 Mehadrin

A holy letter from our Rabbi Maran Rabban Yosef Sholom Elyashiv Shlita

From the comments of Maran:

This is not a protective fence or a special restriction, but the placement of religion
on its true base

[...]

Men to the front – women inside

We contacted the mayor of Jerusalem and the legal advisor to the municipality regarding these announcements, emphasizing that they include statements that are completely contrary to the Supreme Court ruling outlawing coerced gender segregation in public transportation. Despite the explicit ruling, a campaign continues in the Haredi sector to retain gender segregation on public transportation lines. The wide distribution of these posters is part of this phenomenon and is misleading the public regarding the current legal arrangement. We also emphasized that placing posters around the city requires authorization from the municipality, which has the authority to inspect the posters displayed within its area of jurisdiction and to prohibit their display. If a permit was requested to display these announcements, this should naturally have been denied, in view of the fact that they include unlawful statements. If the posters were displayed without a permit, the municipality should act immediately to remove them.

In response, the Jerusalem Municipality informed us that, insofar as the posters were displayed without a permit, the municipal inspection system would attend to the matter, either by issuing reports or by removing the announcements. Regarding the substantive arguments in our letter, the municipality claimed that it was unclear whether the content of the posters was contrary to the relevant Supreme Court ruling, since the announcement related to the opening of the rear door of the bus, which the court ruled should continue to be opened during the one-year examination period.

We again contacted the municipality, pointing out its erroneous interpretation of the ruling, and emphasizing that the announcement misinterprets the court ruling, and misleads the public in two respects – both by using the improper term “Mehadrin line” and by explicitly stating that the rear door is intended for women only, rather than for any passenger who chooses to use it to board the bus.

A further response from the Jerusalem Municipality revealed that the posters had indeed been displayed without a permit and, accordingly, an instruction had been issued to cover them. No further response was forthcoming regarding the substantive arguments concerning the court ruling. In response to our letter regarding line 422, the municipality replied that it was acting to remove signs that had been placed without permission.

■ Ongoing segregation on bus lines following the court ruling

Segregation on bus lines to the Western Wall at Passover 2011

Ahead of the Intermediate Days of the festival of Passover in 2011, posters bearing the following text were posted around Jerusalem:

Wonderful News

The lines that reach the Western Wall – 1, 2, 3 during the Intermediate Days,
both outgoing and returning –

Will be in Mehadrin format*

Men: board through the front door and sit in the front section,

Women: board through the second door and sit in the inner section (and pay on leaving the bus). Very important: women should obtain a transfer ticket, multiple journey card, or monthly pass in order to board through the second door without having to pass among the men. Most of the drivers open the second door, so if a driver does not do so, we will ask him politely.

Remember: It's in our hands!!

This segregation arrangement was created after the Supreme Court issued its ruling prohibiting the enforcement of such arrangements in buses. Moreover, the lines mentioned above were not among those lines that would be permitted to continue allowing passengers to board through the rear door during the one year examination period established by the Committee to Examine Transit Arrangements in Public Transportation. Accordingly, even if some passengers request this, the rear door is not to be opened for boarding passengers on these lines.

In response to our inquiry, Egged stated that it did not agree with the initiative and the announcements, which were not coordinated with the company. We were also informed that the rear doors are also opened on additional lines in Jerusalem due to the high volume of passengers utilizing public transportation during Passover, without any connection to the Haredi public or to the demands for segregation.

Segregation on lines in Ashdod at Shavuot

On June 21, 2011, *Haaretz* published a report stating that, on June 4, a Haredi local newspaper in Ashdod called "Opening the Week" published an announcement bearing the logo of Egged, and specifying bus transportation arrangements around the festival of Shavuot:¹⁹

*The buses from 2:15 through 3:30 p.m. will leave from several centers, each departing once it is full, with two buses departing together, **one for families and the other for men only, supervised by an onsite inspector!!!...***

Please refrain from calling me at this time, but contact the onsite supervisor, Haim Ze'ev Malach...

The announcement also detailed the departure points of buses to Ashdod on the evening after the festival, for example "From 7 Yirmiyahu [Street, in Jerusalem], for men only, between 9:45 p.m. and midnight." (Emphases added)

The response of Egged, as quoted in the article, was that the advertisement was a forgery and was prepared without the company's knowledge, using its logo unlawfully. Egged stated that it intended to use all means at its disposal to prevent the recurrence of such incidents. It was also noted that, in practice, the buses on these lines indeed carried men only, since there was no demand for the service from women at the time.

Segregation on lines to the Western Wall at Sukkot 2011

During the Intermediate Days of the festival of Sukkot in 2011, stewards in fluorescent vests, equipped with megaphones, were stationed at the bus stop for lines 1 and 2 close to the Western Wall. The stewards repeatedly announced that men should board the bus from the front and women from the rear. These stewards, who were employed by the "Team 5" company, were accompanied by inspectors from Egged. The stewards stood by the front and rear doors of the buses, directing women to board through the rear door and men through the front. During a conversation between Anat Hoffman, the head of IRAC, and Commissioner Niso Shaham, commander of the Jerusalem District Police, the police undertook to act immediately to halt the activity of the stewards and inspectors.

Segregation on buses to a ceremony at the tomb of the Prophet Samuel

Haaretz reported on June 2, 2011 that the Ministry of Religious Affairs, in cooperation with the Civil Administration in the Territories, imposed strict gender segregation during a ceremony at the site of the tomb of the Prophet Samuel. The segregation began in the buses that transported the participants in the event, and continued in separate access routes and within the tomb compound itself.²⁰

2. Segregation at stands issuing a transportation smart card

CityPass company holds the franchise for the operation of the light rail system in Jerusalem. Ahead of the inception of the light rail system, the CityPass company placed stands around the city for issuing a personal smart card for use on the city's transit system.

On July 5, 2011, a Haredi couple was walking along Yaacov Meir Street in Jerusalem and noticed a stand issuing the smart card. 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.

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."

After IRAC contacted the Ministry of Transportation, the ministry instructed CityPass to refrain from gender segregation in issuing the smart cards.

3. Segregation in shared taxis between Jerusalem and Bnei Brak

On July 3, 2011, the website of Hiddush – Freedom of Religion for Israel reported that gender segregation was being imposed in shared taxis traveling between Jerusalem and Bnei Brak.²¹ The article described an incident from the previous week when a man boarded a shared taxi heading for Jerusalem at Bar Ilan interchange. The man was forced to leave the taxi after one stop since the women passengers refused to allow him to sit next to them.

4. Plan to allocate a segregated carriage on the light rail system

Ahead of the inception of the light rail system in Jerusalem, the Ma'ariv website reported on June 4, 2011 that Haredim were demanding that the system provide "Mehadrin carriages" in which gender segregation would be imposed. As of the time of writing, there is no gender segregation in any of the light rail carriages.²²

5. Woman on train asked by praying men to move to another carriage

A reporter for Channel 10 television who was traveling by train from Beit Shemesh to Tel Aviv was asked to move to another carriage by several men who were praying in the carriage where she was sitting. Channel 10 news reported that this was not an isolated incident, and that they had received several similar complaints. In response, the management of Israel Railways stated that "the train carriages

are purely a means of transportation,” and urged any woman who finds herself in a similar situation and who faces a demand to move to another carriage to call the inspector.”²³

6. Segregation on flights of Sun d’Or airline

On March 17, 2011, the television program “Savings Program” on Channel 2 broadcast a report claiming that Sun d’Or airline operates flights on which women and men are completely segregated in seating on the plane.²⁴ The report quoted a passenger who boarded a Sun d’Or flight from Poland to Israel, and immediately before boarding discovered that the flight was segregated. The passenger stated that one of the organizers of the flight stood at the terminal entrance and explained that the flight was “according to a Mehadrin format” – women were to board first and sit in the rear section of the plane, followed by the men who were to sit in the front. As a result of this coercive segregation, the passenger was unable to sit next to his wife for the duration of the flight. The passenger, who was apparently himself Haredi, stated that there are other Haredi passengers who are opposed to segregation, but who are afraid to express their opposition, with the result that segregation continues unabated.

The customer service department of Sun d’Or was quoted in the report as stating that Haredi travel agencies purchase plane tickets, or hire the entire plane, and in such cases segregation is imposed between men and women. Regarding the specific flight mentioned in the report, Sun d’Or stated that this was a charter flight hired by a wholesale tourism operator who was also responsible for the seating arrangements. In a conversation with IRAC, Sun d’Or President Betzalel Kavart expressed a similar position, claiming that when the company leases the plane to a wholesale operator, the operator can arrange the seating as it sees fit.

In contrast to the position of the president of Sun d’Or, the Ministry of Transportation informed us that, in light of the ruling regarding buses, coercive segregation of men and women is not to be permitted on flights. The ministry added that “if flights take place in which a policy of coercive segregation of the passengers on the basis of gender is applied, the Ministry of Transportation and Safety will consider its steps in order to uproot this improper policy.”

7. Segregation in health clinics

Clalit Health Clinic in Beit Shemesh

On March 25, 2011, the newspaper Hamevasser reported that Clalit Health Services had opened “Mehadrin” clinics in Beit Shemesh – one intended for men and the other for women.²⁵ According to the report, the full segregation of services at the clinics is in response to a request by the city’s rabbis. A review of the website of Clalit Health Services reveals that the services provided at the women’s clinic are more limited than those at the men’s clinic.

We contacted Clalit Health Services, whose legal advisor stated in response that the establishment of clinics meeting “the requirements of modesty and segregation” customary in the Haredi sector was in response to a request from broad circles in the Haredi public. The legal advisor did not believe that the segregation was injurious to women, but was imposed out of respect for the Haredi public, which

is interested in segregated medical services. He argued that it is actually the position that opposes segregation that entails coercion.

Clalit further claimed that the court ruling regarding buses does not apply to clinics, and that many other clinics are available in the city that provide a non-segregated service, so that there is no injury to equality. Clalit added that since medical treatment inevitably entails personal and physical exposure, sensitivity is needed toward the individual and, “when possible, consideration should be shown regarding his personal modesty and faith” (this despite the fact that the segregation is imposed in the waiting rooms). In a comment in the media, the representatives of Clalit Health Services claimed that the purpose of the segregation was to ensure that medical services are available to different population groups; accordingly, they had accepted the request for segregation from Haredim in Beit Shemesh.

In our reply to Clalit Health Services, we emphasized that even if other, non-segregated clinics are available in the city, this does not justify the imposition of segregation in the clinic. We also emphasized that the Haredi sector is not monolithic, and that many members of this sector oppose segregation. If an illegal demand for segregation is raised, Clalit should clarify to those involved that it cannot acquiesce to such demands, just as a demand to open a clinic for Ashkenazi Jews only would be rejected. In our letter, we emphasized that when people require medical treatment, it is particularly important to ensure that they can be accompanied by someone of the opposite sex (such as an elderly parent assisted by their son or daughter, or a man or woman assisted by their partner).

Meuchedet health clinic in Jerusalem

The health clinic of Meuchedet in the Romema neighborhood of Jerusalem imposes segregation of men and women in the waiting room, including signs relating to the demand for segregation.

8. Segregation in funeral halls and cemeteries

For many years, funeral halls and cemeteries around Israel have imposed gender segregation, as detailed in the last year’s Excluded, For God’s Sake report. 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 Petach Tikva burial society (*chevra kadisha*);²⁶ 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; only after the funeral ended were the women allowed to approach the grave (we have heard of this practice in Moshav Elyakhin, and even in Jerusalem).

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 Netanya, Ofakim, Yavne, Petach Tikva, Tiberias, Herzliya, Rehovot, Elyakhin, Migdal Ha'emek, Yeruham and Jerusalem.

Netanya

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.

Throughout the funeral, S. felt a sense of humiliation, anger and insult at being forced to stand on the women's side, separately from the men: "I don't understand how, in a public place such as a cemetery, someone can tell me where to stand just because I'm a woman. I don't understand how someone can order me to stand separately from my friends, who are men, at a difficult time when we are paying our respects to a close friend. After the eulogies, the burial service went ahead in a normal manner, but I could not overcome the feeling that something wrong had happened here and had badly offended me."

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.

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, 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."

Ofakim

At the beginning of 2011, R.'s father passed away. While he was alive, R.'s father had repeatedly asked her to speak in his name and on his behalf on various occasions. 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. R. cried throughout the funeral procession: "I was crying because my father had died, but no less than that, I was crying because I was not given the chance to say goodbye to him properly, as I know he wanted, just because of an extremist whim on the part of the burial society staff. I still feel this sharp sense of a missed occasion."

Jerusalem

On October 26, 2011, A. attended her mother's funeral. The deceased had six daughters and no sons. At Shamgar funeral house in Jerusalem, men and women were segregated and A. was not allowed to speak – this privilege was confined to the grandson and son-in-law of the deceased. A curtain separated men and women, and signs instructed the mourners as to where they should stand.

During the burial itself, after all the mourners gathered by the grave, the burial society staff instructed the women (including the daughters of the deceased) not to stand close to the grave, but to the side at some distance. Only after the burial society staff left the area, A. offered some remarks by the graveside.

9. Segregation at stations for the distribution of gas masks

In February 2011, Galei Tzahal broadcast a report stating that the Home Front Command had recently begun to distribute civil defense kits at post offices in the Haredi cities of Elad and Rekhasim, and that the service would soon be initiated in Bnei Brak.²⁷ The distribution was undertaken "in holy purity," with separate lines for men and women. In some places, male staff distributed the kits to men, and female staff to women. Elsewhere, all the kits were distributed by men.

A report on this subject also appeared on the News 24 website, stating that, before the distribution station opened in Elad, the director of the Security Division in the municipality asked the post office staff responsible for the process to ensure that the station be adapted to meet the Haredi character of the city. The request was met, and accordingly, as the article reported, "there are two entrances, one for men and one for women, and the measurements are undertaken by male and female post office staff, while maintaining modesty."²⁸

We contacted the Ministry of Communication and the Ministry of Defense on this matter. The Ministry of Defense accepted our demand that Israel Post end the segregation at the entrance to the station in Elad and inside the station itself. Following our complaint, the Home Front Command emphasized its instruction that any person may stand in whichever line he or she chooses. The Ministry of Communication stated that "since the process of fitting the gas masks sometimes involves touching the face of the person being fitted, those who so prefer are enabled to receive the fitting service from a person of the same gender – men for men, and women for women."

10. Segregation in the employment office in Carmiel

A report published on the Ynet website on December 18, 2011 revealed that the Employment Office in the city of Carmiel sets aside separate days for male jobseekers, who are requested to come to the office on Sundays, and female jobseekers, who are asked to come on Tuesdays.²⁹ The first time jobseekers come to the office, they may attend on any day of the week, but thereafter gender segregation is imposed. The article reported that the Employment Office had claimed that it is “more convenient to provide service for men and women on separate days... It prevents stress and chaos in the waiting room and is more esthetic.”

The article quoted Yossi Farhi, the director of the Employment Services Board, as stating that there is no legal problem with the segregation, since it is not coercive but is imposed at the request of the Druze sector. He added that the office serves mainly the Arab and Druze sectors, who “have requested to have separate days,” and that the office has observed this practice for many years, including in the period before it moved to Carmiel, when it was located in the Druze town of Beit Jan.

We contacted the director of the Employment Services Board and clarified that even if the segregation is imposed at the request of members of the Arab and Druze sectors, this demand came only from male members of these sectors; no-one asked the women for their opinion. Such a request cannot justify the presence of this discriminatory practice, which, as has been noted, is unlawful. Regarding the claim that the segregation is not coercive, we emphasized that the different treatment of Jewish women (who are “permitted” to receive service on the days allocated for men) and Arab women (who are not) is in itself discriminatory and illegal. The definition of separate days for men and women leaves citizens with little choice but to obey the dictate. Effectively, therefore, this practice constitutes the imposition of segregation on jobseekers.

11. Segregation in a project to encourage higher education in the Haredi sector

At the beginning of November 2011, it was announced that the Ministry of Education intended to provide scholarships to help cover the cost of tuition fees for students from the Haredi sector attending academic courses. According to the announcement, which was published by the Office of Coordination, Control and Teaching Personnel, the scholarships would be provided for students attending bachelor degree courses at a recognized institution of higher education that offers curricula for the Haredi sector for at least two years, in at least two academic fields, and for both men and women (including pre-academic preparatory courses). The scholarship would cover up to 33 percent of the tuition fee, provided that the annual fee was between NIS 8,000 and NIS 30,000.

Section 2(D) of the conditions states:

“The student attends an educational institution maintaining a separate study system for women and men, according to the following alternatives:

A. The institution maintains a study system for a recognized academic degree, and provides directly the ancillary services for women and men in the same building, on separate study days.

B. The institution maintains a study system for a recognized academic degree, and provides

directly the ancillary services for women and men in separate buildings or in separate classrooms.”

We contacted the Ministry of Education on this matter, noting that while we welcome the provision of financial support for Haredi men and women who wish to engage in academic studies, there is no reason to condition this assistance on the maintenance of segregated study frameworks. The ministry should also support a Haredi, or a person from the Haredi community who has adopted a non-Haredi way of life, who wishes to attend a non-segregated university. In response, the Ministry of Education announced that, following IRAC’s comments, it had re-examined this condition. After completing its re-examination, the Ministry of Education had formulated a further alternative that does not include the requirement of segregation. To the best of our knowledge, the ministry has not yet published the amended list of criteria reflecting this additional alternative.

12. Segregation in preventive driving classes

In June 2011, the *Mynet Jerusalem* website reported that the Ministry of Transportation had begun to operate segregated preventive driving classes for men and women.³⁰ The segregated courses take place on different days from those for other drivers.

13. Segregation at a candle-lighting ceremony on the Karakal Battalion base

Women soldiers serving in the Karakal Battalion were asked to sit at the back during a Hanukkah candle-lighting ceremony on their base. A Hassidic singer was invited to the event, and asked the women soldiers to move to the back and their male peers to sit at the front. Some of the female soldiers left the event, while others complained to their commanders. The IDF stated in response that the singer’s demand “was inconsistent with the practice in the IDF, and was imposed without the commander’s knowledge and contrary to the briefing. The IDF views this incident seriously.”³¹

14. The Western Wall

Segregation in access to the Wall and in the upper plaza at Shavuot

Ahead of the festival of Shavuot in 2011, the Kikar Hashabbat website reported that posters had been posted around Jerusalem asking women to refrain from coming to the Western Wall on the night of the festival.³² The posters also detailed separate routes by which women and men should reach the Western Wall for the morning prayers on the day of the festival. According to the announcement, women should reach the Wall via Jaffa Gate, while entry via Damascus Gate was reserved for men only.

Another report revealed that a partition would be installed in the entire plaza area by the Western Wall, including the upper plaza, which is not usually segregated.³³ We contacted the Israel Police on this matter, and the police subsequently promised that if it learned of any segregation, it would act to halt it.

Segregation in access to the Western Wall plaza during the Intermediate Days of Sukkot

During the Intermediate Days of the festival of Sukkot in 2011, we learned that segregation between men and women had been imposed in the area around the Western Wall, including partitions across the entire plaza from Dung Gate. According to photographs and reports we received, a partition was installed to separate men and women before the security inspection, and this continued through to the upper plaza. The segregation was enforced by means of signs and by stewards employed by the Western Wall Heritage Foundation.

After we contacted the commander of the Jerusalem District Police, the district's legal advisor informed us that he had discussed the matter with the relevant area police commanders, and had issued instructions on the matter to police personnel deployed in the area. The legal advisor promised that if the police learned of gender segregation in the public domain, it would act to halt this.

15. Segregated Sidewalks

Jerusalem – Mea She'arim

Ahead of the festival of Sukkot in 2011, posters were displayed around Jerusalem urging women not to enter Mea She'arim Street during the water libation celebrations, which form part of the festival. The announcement asked women to use alternative routes (such as Shivtei Israel Street) in order to reach their homes, "and thereby help avoid mingling." Reports on this subject in Haaretz and on the *Kikar Hashabbat* website noted that the Toldot Aharon Hassidic sect was spending a large amount of money in order to hire stewards who would be stationed on the streets in order to enforce the segregation and in order to install partitions.³⁴

Following the publication of the announcements, we met with Commissioner Niso Shaham, commander of the Jerusalem District Police, with the goal of preventing illegal segregation on the streets of Mea She'arim during the festival. At the meeting, we were informed that Toldot Aharon Yeshiva would only be permitted to install a partition fence in the area within 15 meters from the entrance to the yeshiva.

Jerusalem city councilor Rachel Azaria petitioned the Supreme Court against the imposition of segregation in the area around Toldot Aharon Yeshiva. Responding to the petition, the justices noted with displeasure that the previous ruling of the Supreme Court regarding segregated sidewalks had not been enforced.³⁵ The district police commander undertook in court not to permit the installation of fences in the streets of Mea She'arim without permits; if fences were established, they would not be covered with jute. Segregation actions, including the presence of stewards, would be ended immediately, and a police liaison would be appointed to receive and coordinate public complaints on the subject. The justices noted the trend toward increasingly extreme patterns of gender segregation, and determined that this injures the residents of the neighborhood and constitutes the injurious domination of the residents by a minority in the neighborhood.

Beit Shemesh

On Hazon Ish Street in Beit Shemesh, close to a synagogue, a large sign urges women passersby to cross to the other side of the road due to the "sensitive location." Women who cannot cross the road are asked not

to dawdle in the area and to move on quickly. The Beit Shemesh Municipality has refused to act to remove the sign, claiming that to do so “will only increase the placement of similar signs around the city.”³⁶

After news of the sign spread, and after a Channel 2 News team filming in the area was attacked, police officers from the Special Patrol Unit came to remove the sign. A confrontation ensued, but no arrests were made. A few hours later, local residents returned the sign to its original place.³⁷

Segregation in conferences and events organized by public bodies

16. Tribute to the security forces organized by the Jerusalem Municipality

In November 2010, an attorney who serves in a combat unit in the reserves contacted IRAC. He told us that he had attempted to buy tickets for his wife and himself for a tribute performance organized by the Jerusalem Municipality in honor of the security forces. The performance was held in the International Conference Center on December 8, 2010. When he attempted to purchase the tickets, the man was surprised to learn that he would be unable to sit together with his wife at the event. While he would be able to sit in the stalls, his wife would be required to sit in the gallery. The website Bimot, which enabled online ticket purchases for the event, published similar information. The website noted that tickets for the stalls were on sale for men only, while women could only purchase tickets for the balcony.

We contacted the mayor of Jerusalem and city councilors. The legal advisor to the municipality replied that although he agreed that, in principled and substantive terms, gender segregation should not be imposed at a tribute to the security forces, conditions existed justifying partial segregation at the event. The advisor argued that the target population for the event was the religious and even Haredi population (adding that, due to an error, this had not been apparent in the publicity). Accordingly, it was reasonable to assume that part of this public was interested in segregated seating, since it would not otherwise be able to attend the event. However, the legal advisor suggested that the auditorium be divided into sections, in some of which men and women would be able to sit together, while in others segregated seating would be provided.

17. Performance by the singer Yaniv Ben Mashiah at the Mann Auditorium in Tel Aviv

The Tel Aviv Municipality, which is the principle funder of the Mann Auditorium, a major cultural and entertainment venue in the city, let the auditorium for a performance by the singer Yaniv Ben Mashiah. The singer demanded that full gender segregation be maintained at the performance. The seats close to the stage were reserved for men, while the rows to the rear of the auditorium were reserved for women.³⁸

18. Religious cultural events in Haifa

The Haifa Municipality decided to extend the annual religious cultural events program to include the Haredi sector. A report published on April 13, 2011 reveals that the events would take place “in holy purity,” with separate hours for males and females, and with total segregation at the entrance to the compound.³⁹

19. Passover 2011 happening organized by the Jerusalem Municipality

The Torah Culture Division of the Jerusalem Municipality planned a series of events and activities for the general public for the Intermediate Days of Passover. Press reports⁴⁰ claimed that one of the main events would be on the theme of old and new forms of transportation. The happening, which was to be held in the International Conference Center and the adjacent car parks, would include separate compounds for men and women, with full segregation, even in the case of children. In other words, mothers would be unable to attend the event with their sons, and fathers would be unable to accompany their daughters.

20. Municipal rights fair in Jerusalem

In May 2011, we learned that the Jerusalem Municipality was intending to hold a special “rights fair” for residents of the neighborhoods of Bayit Vagan, Ramat Sharet, Malha and Beit Hakerem. The purpose of the fair was to provide residents of these neighborhoods with information about municipal rights, eligibility for housing benefits, National Insurance rights, the rights of the elderly, and so forth. The publicity flyer for the event stated that the opening hours would be 6:00 – 7:30 p.m. for women and 7:30 to 9:00 p.m. for men.

In response to our inquiry, the municipality informed us that the fair was intended for Haredi residents of Bayit Vagan, and that the residents had requested that segregation be maintained.

A representative of IRAC visited the fair, and saw that, in practice, no segregation was imposed: during the period allotted for women, both men and women visited the fair. When visitors to the fair were asked whether it was not supposed to be a segregated event, they replied that they did not believe that there was any need for segregation at an event of this type; indeed, they were surprised by the question. After seeing that, in practice, the fair went ahead without segregation, we again contacted the municipality and pointed out the inaccuracy of its assumption that any event for the Haredi sector must include gender segregation – a position which, as noted, does not reflect the desire of the residents that attend such events.

21. Meeting of the Executive Forum of the newspaper Hamodi'a at the International Conference Center

On July 7, 2011, Ynet reported that women who were interested in attending the “Executive Forum” event organized by the newspaper Hamodi'a, which was held at the International Conference Center, were not allowed to enter, as the event was intended for men only.⁴¹ Women who insisted on participating

were sent to watch the conference by closed circuit television in a side room. The conference is a major gathering, attended this year by Finance Minister Yuval Steinitz, Jerusalem Mayor Nir Barkat, and Bank Hapoalim CEO Zion Kenan, among others.

22. Employment fair for the Haredi public

In July 2011, the Ministry of Industry, Trade and Employment and the Jerusalem Municipality published posters stating that an employment fair for the Haredi public would be held at the International Conference Center on July 24, 2011. The event was sponsored by the ministry and the municipality, and participants were expected to include the Employment Service, JDC-Israel, the Jerusalem Development Authority, and the National Civil Service Authority. The intention of the fair was to present various companies, factories, colleges and other organizations. The announcement revealed that the event was to be segregated, with women invited to attend from 10:00 a.m. to 1:30 p.m., and men from 2:00 p.m. to 6:00 p.m.

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We contacted the Jerusalem Municipality about the planned segregation. In response, the Legal Advisor's Division of the municipality rejected our argument that segregation in itself injured equality and human dignity. The letter of reply also claimed that the ruling relating to segregation on buses was not relevant to this instance, and that "even if there are members of the Haredi public who are not interested in segregation, this does not prevent us from taking into consideration the large majority of [this] public which requests this."

23. Creative and experiential days at Uri Zvi Greenberg Heritage House

Uri Zvi Greenberg Heritage House, which operates under the auspices of the Culture Division of the Jerusalem Municipality, included in its summer program two creative and experiential days for young people, including visits, writing activities and workshops. The program detailed segregated program tracks for boys and girls.

24. Initiative to establish a segregated Haredi market

In August 2011, *Mynet Jerusalem* reported that members of the Haredi political factions had decided to work to establish an alternative market to Machane Yehuda market in Jerusalem. The Haredi market was to be established between the neighborhoods of Ramot and Ramat Shlomo.⁴² The initiative reflected dissatisfaction among Haredim with various events held in the market, and with some of the restaurants in the area. The Haredi market was planned to operate two days a week, on a segregated basis: the market would be open for men only in the morning, and for women only in the afternoon.

25. Segregation at an "Israeli Journey" event in the IDF

On September 8, 2011, Ma'ariv reported that IDF commanders instructed women soldiers to move from the stalls to the balcony during an event, following complaints from soldiers from the Haredi

Nachal unit.⁴³ The event formed part of the “Israeli Journey” program, a week-long experience for soldiers in order to “clarify, consolidate and strengthen their Jewish, Israeli and Zionist identity.” Participants in the event, at Heikhal Shlomo in Jerusalem, included soldiers from the Haredi Nachal unit alongside women soldiers from the Karakal Battalion. At the beginning of the event, the women soldiers sat in the front rows, while the Haredi soldiers sat in the balcony above. After a while, the Haredi soldiers began to complain that they could not be present at the event due to the modesty laws, since they could see the women moving and dancing from their places. Some of the soldiers asked to leave the auditorium, and the commanders allowed them to do so. Following the soldiers’ complaints, an order was given to swap places, so that the male soldiers would sit in the front rows, while the women would move to the balcony. The women soldiers were told that if they did not do so, they would have to leave the event.

26. Segregation at the main “Second Hakafot” event in the IDF

On October 20, 2011, approximately one hundred women soldiers left the main “second Hakafot” ceremony of the IDF (held to mark the festival of Simchat Torah at the end of Sukkot), which was held in Eshkol Regional Council. The women soldiers left after being forced to celebrate by themselves. Religious officers present at the celebration obliged the women to move to a fenced-off and closed area separate from the dance floor.⁴⁴

27. Simchat Torah celebrations in Mevasseret Zion

During the Simchat Torah celebrations in Mevasseret Zion at the end of the festival of Sukkot in 2011, which were sponsored by the local council, those present were asked to separate into two groups, one for men and one for women. Dozens of local residents left the event in protest. In a report on the event published in the local newspaper *Kol Ha’ir* on October 28, 2011, Mr. Arye Shamam, the head of the local council, was quoted as saying: “Even in a secular Jewish community, most of the population observe the religious laws in accordance with the accepted Orthodox practices, including the segregation of men and women in areas where Torah scrolls and rabbis are present. Since this was a religious event and we wanted the rabbis to participate, the approach I instructed was to enable everyone to live in peace with each other, so that those who wished to be in a segregated area had that opportunity. The segregation of women and men was only implemented in a small area where the Torah scrolls and rabbis were present, while the rest of the compound where the event took place had a mixed crowd for the enjoyment of those celebrating.”⁴⁵

28. Segregation at polling booths in neighborhood elections

On November 23, 2011, *nrgMaariv* reported that the elections for the community administration in the Geula and Bucharian neighborhoods of Jerusalem would take place on a segregated basis.⁴⁶ The elections are an official process under the responsibility of the Jerusalem Municipality. The article claimed that the committee responsible for organizing the elections in these neighborhoods had taken the decision unanimously, and that if the elections were not segregated, the rabbis would order the residents to boycott them.

The Jerusalem Municipality discussed the issue at a meeting on the subject of the community administrations in the city, where members spoke against the idea of holding segregated elections. At the end of the meeting, it was decided to engage in dialogue with the neighborhood rabbis in an attempt to overcome the differences of opinion regarding the format for the elections.

In response to the article, the Jerusalem Municipality stated that it had unequivocally determined that segregated elections would not be held, since this is unlawful.

The elections went ahead and were not segregated. However, extremists created disturbances in Mea She'arim neighborhood, attempted to prevent women from voting, and defaced the polling booth. As a result, the elections in this neighborhood were disqualified.⁴⁷

29. Segregation at a lecture at Hadar Beitenu Community Center in Haifa

On December 5, 2011, Dr. Avshalom Kor gave a lecture at Hadar Beitenu Community Center in Haifa entitled "What's your family name and what does it mean? The history of Jewish family names through the Diaspora communities." The lecture was sponsored by the Torah Culture Department in the municipality. A report published on the *nrgMaariv* website⁴⁸ revealed that stewards at the entrance to the lecture directed men to rows 1-5, women to rows 6-10, while couples who insisted on sitting together were relegated to rows 11-12 at the back of the room. At the beginning of the event, one of the organizers took to the stage and asked those who had not obeyed the segregation instructions to move places. The article quoted the municipality as claiming that "these are events organized by the Torah Department for decades for the Haredi public according to the accepted standards of this public, and we have never received any complaints about the matter."

We contacted Haifa Mayor Yona Yahav and asked the municipality to refrain from imposing segregation at municipal events, even if these are intended for the Haredi public.

30. Plan to exclude women from an event organized by Chabad and Rehovot Municipality

On December 14, 2011, the media reported that an event was due to take place that evening at Shazar School in Rehovot to mark the "redemption festival."⁴⁹ posters displayed around the city ahead of the event stated that it was intended for men only. The posters bore the names of Chabad House and the Torah Department of Rehovot Municipality. One of the organizers of the event was interviewed by Ynet and explained that "usually, in our population, if the man comes, then the wife stays at home to look after the children. In any case, if a woman comes to the event, we will find her a separate place."

Rehovot Municipality stated in response that the posters about the event were not authorized and did not meet its procedures, since it was not involved in organizing or funding the event. The municipality added that it had asked the organizers to ensure that "the event held in a public venue will be open to the entire public."

31. Segregated Hanukkah events for boys and girls in Petach Tikva

The Haredi Education and Jewish Heritage Culture Unit in the Petach Tikva Municipality held events at a municipal cultural center to mark the festival of Hanukkah. Gender segregation was imposed on members of the public who attended the events⁵⁰ One of the plays at which boys and girls were required to sit separately was intended for children aged 4-12, while other plays at which total segregation was imposed were described as intended for “all the family.” Segregation was also imposed at other events for local residents, with separate plays for boys and girls. A Hanukkah party was also restricted to boys only. The Petach Tikva Municipality stated in response that “one children’s play is held at the cultural center with segregated seating for the Haredi public.”

Segregation in private businesses

32. Segregated checkout counters at a minimarket in Mea She’arim

In June 2011, Israel Radio reported that the director of a minimarket in the Mea She’arim neighborhood of Jerusalem had decided to open a checkout line for men only, under pressure from the residents.⁵¹

33. Segregated checkout counters at Rami Levi supermarket in Beitar Illit

On December 30, 2011, the newspaper *Yediot Yerushalayim* reported that the Rami Levi Shikma Marketing chain had decided to introduce four gender-segregated checkout counters at its branch in the Haredi city of Beitar Illit, two for men and two for women. The decision was apparently taken in response to a demand by several rabbis in the city.⁵² The chain stated in response that the sign “For men” had been placed over just one checkout counter, staffed by a man; if a woman asked to receive service at this counter, she would not be refused. Rami Levi added that it did not recall who raised the demand for a separate counter, but that this did not constitute a problem.

34. Separate hours and checkout counters at the Yaacobi Brothers supermarket in Ramat Shlomo

In August 2011, the local newspaper *Zman Yerushalayim* reported that the owners of the Yaacobi Brothers supermarket in the Ramat Shlomo neighborhood of Jerusalem had decided that the store would be open for men only between 8:00 p.m. and 9:00 p.m. During this hour, the salespeople in the store would also be men only. On Fridays and the eve of festivals, two segregated checkout counters for men and women would be provided in separate areas of the shop.⁵³

Following the publication of the report and public criticism of the decision, the owners of the supermarket decided to remove the segregation in the store.⁵⁴

35. Total segregation at a fish shop in Mea She'arim

IRAC learned that the Dag-Yam fish shop in the Mea She'arim neighborhood of Jerusalem imposes total gender segregation. A sign at the entrance declares "total segregation," and the shop has separate entrances for men and women. A curtain divides the two sections of the shop.⁵⁵

36. Separate entrances to the Jerusalem Gate banqueting hall

The Jerusalem Gate banqueting hall introduced a separate entrance for men only, so that men arriving at events can enter the hall directly.⁵⁶

37. Segregated lectures at a housing fair in Modi'in Illit

On May 9, 2011, the newspaper *Yated Ne'eman* reported that a housing fair was due to be held in the Haredi city of Modi'in Illit. The report stated that the event, organized by the real estate company *Gur Ba'aretz*, would include fully-segregated lectures.

Prohibition of public appearances and women's singing

38. Exclusion of women at an award ceremony for outstanding medical articles

On September 25, 2011, the Ministry of Health held a ceremony to award prizes for outstanding essays in the field of medicine and Jewish religious law. Galei Tzahal radio reported that two women who received prizes were not permitted to go up to the stage, and had to watch the ceremony from the balcony in the auditorium, which was reserved only for women.⁵⁷ Before the ceremony, it was made clear to the women that a condition for receiving the prize was that they agreed that it would be accepted by a man on their behalf. The women's names were not mentioned in full at the ceremony; only their family names were mentioned. The organization Kolech contacted Deputy Health Minister Litzman and the attorney-general, but received no reply. During a discussion of the subject by the cabinet, the civil service commissioner noted that since the ceremony was not held in a government facility, its status was unclear. However, Minister Limor Livnat, chairperson of the Committee of Ministers for the Advancement of the Status of Women, clarified that since the prizes were awarded by the deputy minister, this was an official government ceremony.

39. Women not allowed to light Hanukah candles at a ceremony sponsored by Kiryat Tivon Local Council

The "Secular Tivon" forum in the town of Kiryat Tivon held an alternative candle-lighting ceremony for Hanukkah after the Chabad movement refused to allow a woman to light the candles at a ceremony sponsored by the local council.⁵⁸ The youth counselor from the Ilan youth movement chose an outstanding girl from the movement to light the candle at a ceremony held with the sponsorship of the local council, but was immediately informed that only a boy could fulfill the role. The head

of Young Chabad in Tivon commented: “I was contacted by the community center to continue the welcome activities at the Hanukkiya (the Hanukkah “menorah.”) My only request was that if someone from the youth movement also wanted to say the blessing and light a candle, they should send a boy above Bar Mitzva age. No-one forced the youth movements to come and join in the activity, so why come to the central Hanukkiya, which is the property of Chabad in Kiryat Tivon, and dictate who should light the candle? We are against religious coercion, but at the same time we are also against secular coercion.”

David Arielli, the head of Kiryat Tivon Local Council, commented on the ceremony: “This ceremony isn’t really ours, we are just involved in terms of our logo. With all due respect, this is still Chabad’s Hanukkiya. So what’s the big deal? Instead of being proud that we have an island of sanity and secularism and there is no exclusion of women, people create a provocation. This is a scandal. It’s nothing more than politics of the lowest kind.”

40. 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.”⁵⁹ 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.”

We 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. Since then, the authority has 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:

- 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.⁶⁰

Prior to the publication of the arrangement, Rambam Hospital submitted a complaint to the Second Television and Radio Authority after producers at the *Kol Barama* station refused to broadcast an interview with a female physician from the hospital.⁶¹ A producer from the station contacted the hospital and asked to interview a physician for an item about the problem of vitamin D deficiency among hi-tech workers. The hospital suggested that the station interview Prof. Zofia Ish Shalom, who headed a research team that published a report on this subject, but the producer asked to be referred to a male interviewee. After the hospital declined, the producer chose to cancel the item. A similar incident involved an item on the subject of the medical interns' strike, when the production team from the station emphasized that it wished to interview a male physician, and not a female. The report on the website of TheMarker claimed that, following the incident, the Second Authority is considering imposing financial sanctions on the station in a sum of up to NIS 60,000.

41. Israel Andalusian Orchestra restricts singing by women

The Israel Andalusian Orchestra, based in the city of Ashdod, decided not to include a concert featuring women performers in its regular program for subscribers.⁶² In an announcement sent to subscribers, the orchestra explained that a concert featuring the international singer from Morocco, Francoise Atlan, the cellist Rali Margalit, and the conductor Etti Tevel (all of whom are women) was an optional event: "We are aware that there are those who refrain from hearing singing by women. Accordingly, we have decided to present this concert as an elective event for those interested." The Andalusian Orchestra told Haaretz that it "includes women in special concerts throughout the season, outside the framework of the subscription program," and added: "the Ashdod Andalusian Orchestra has many diverse audiences, and we embrace them all."

42. Exclusion of women at an award ceremony of the Movement for Quality Government in Israel

On December 5, 2011, the Movement for Quality Government in Israel held a ceremony at Tel Aviv University to award its "Knights of Quality Government" prize. Unlike previous years, the movement decided not to invite a female singer to perform during the event.⁶³ After the event, the movement's spokesperson explained, replying to questions from the media, that it had chosen not to invite a female singer out of consideration for two recipients of that year's prize, MK Rabbi Haim Amsalem and Attorney Yoav Lalom, who are both Haredi men. Attorney Eliad Shraga, denied this claim and stated that it did not reflect the movement's position.

43. Knesset choir disbands

The newspaper *Yisrael Hayom* reported that the Knesset choir, which operated for four years, has been disbanded.⁶⁴ The choir of members of Knesset, which included (among others) Zevulun Hammer from the Jewish Home party, Marina Solodkin from Kadima, and Minister Orit Noked from Labor, appeared on various occasions at the Knesset. The choir was due to appear at a formal session to mark the opening of the Eighteenth Knesset, but at the request of representatives of the Haredi parties the performance was cancelled, and an all-male troupe appeared instead. The Knesset Spokesperson commented that "the Knesset management felt that the choir has run its natural course; in any case,

it cannot provide a substitute for performers at the required standard for ceremonies and events at the Knesset. No pressure was applied on this matter from any quarter, Haredi or other.”

44. Prohibition of women’s singing at a school in the south of Israel

A girl student from a state-religious high school in the south of Israel who wanted to participate in a local talent show for young people was forced to leave the competition after her school presented her with a stark choice: either to withdraw from the show or to leave the school.⁶⁶ The ultimatum was presented after the school learned that the girl intended to sing together with men before a mixed audience. The Ministry of Education supports the school’s decision, and referred Channel 2 News, which reported the incident, to the school’s charter, which prohibits the girls from participating in activities contrary to the Halacha, such as singing before men.

45. Violence against girls who sang at an elementary school ceremony in Ashdod

Stones were thrown at students from Tzemach Alef Arts Elementary School in the Chet quarter of Ashdod during a ceremony to mark the 29th of November (the day the General Assembly adopted the United Nations Partition Plan for Palestine).⁶⁷ the day the General Assembly adopted the United Nations Partition Plan for Palestine) Six girls who were taking part in the ceremony sustained light injuries. It is suspected that the stones were thrown by students from the neighboring Lev Torah School, which serves Haredi boys. The school announced that in order to show consideration for the neighboring institutions, when ceremonies are held at school, the volume of the loudspeakers will be reduced, and the times of the ceremonies will be coordinated with the Haredi school.

46. Prohibition on women singing in a high school personal commitment project in Tel Aviv

According to the Judea and Israel association, its Youth Stage club in Tel Aviv is devoted to “inculcating values of involvement, unity and contribution to the community through the performing arts.” As part of the activities, performances take place at the club, but all the performers are male. A single performance, featuring the singer Marina Maximilian, was open to women only. Some 60 young people volunteer at the club as part of a personal commitment project.⁶⁸

When some of those involved asked why women singers could not appear, they were informed that “the desire is to hold events that are open to the entire population, and women’s singing can lead some people to stay away.” Two workers resigned in protest of this policy.

Following an inquiry from Haaretz, which exposed the policy, the Tel Aviv Municipality demanded that the association hold events featuring women’s singing, and threatened to discontinue the association’s permission to receive students on personal commitment projects. The municipality added that the association is autonomous and does not receive municipal support. The director of the association,

Basmat Carmon-Hadani, stated: “Officially and unequivocally – there is women’s singing in the Judea and Israel association. There was a disagreement, but it has been resolved. Things became complicated because the association is headed by a rabbi, and he is uncomfortable with women’s singing.”

47. Women’s singing in the IDF

Over the past two years, as the phenomenon of the exclusion of women from the public domain has spread, the number of reports regarding the presence of this phenomenon within the IDF has increased greatly. What began as isolated incidents soon acquired the character of a systemic trend toward the exclusion of women in the IDF, on the basis of pseudo-Halachic demands by a handful of religious soldiers. The Proper Integration Order, which, as its name implies, seeks to ensure that women soldiers are integrated in all the branches and units of the IDF, has become a cloak hiding the failure to promote women in the IDF and their exclusion from different areas. A report prepared by Dr. Neri Horowitz at the request of Brig.-Gen. Kalifi-Amir, the Women’s Affairs Advisor to the Chief of Staff, claimed that women soldiers are excluded from activities and are not chosen for positions because of their sex.⁶⁹ Dr. Horowitz’s conclusions, which appear in this report under the section relating to the prohibition against performances and singing by women, are not confined to the subject of women’s singing, but to other IDF events in which the IDF imposes segregation. Similarly, Dr. Horowitz’s report addresses the exclusion of women from positions in the IDF.

- At the beginning of September 2011, during a “military heritage” evening held as part of a training course for infantry officers, a number of religious cadets left the auditorium because two women soldiers were included in a singing troupe that appeared as part of the program. They did so despite the fact that their commander ordered them to remain in their seats.⁷⁰ Four cadets who refused to apologize were dismissed from the officers’ course.⁷¹ One of the dismissed cadets petitioned the Supreme Court, which rejected the petition.⁷² Several rabbis, including the IDF chief rabbi, criticized the decision of the commander who ordered the soldiers not to leave the auditorium, and expressed support for the cadets who decided to disobey this order. Three leading religious Zionist rabbis – Rabbis Zvi Taub, Shlomo Aviner and Ammiel Sternberg – sent a letter to the chief of staff demanding that he refrain from coercing religious soldiers into hearing women’s singing.⁷³
- At the end of October 2011, religious cadets attending a service to welcome in the Sabbath on Training Base 1 left the ceremony because it included singing by women. Their departure was coordinated with the commander.⁷⁴
- Following these incidents, Chief of Staff Benny Gantz appointed a committee headed by the chief of the IDF Manpower Directorate, Maj.-Gen. Orna Barbivai. The committee was charged with examining the concept of “proper integration,” with an emphasis on the subject of women’s singing in the presence of religious soldiers. The committee recommended that soldiers be released from unofficial entertainment events. At official ceremonies, such as rallies and memorial evenings, all soldiers would be required to participate. Regarding intermediate instances, commanders would enjoy discretion.⁷⁵
- The head of the IDF Manpower Directorate, who is chairing the committee, made comments on the subject during a special session at the Knesset on November 22, 2011. Maj.-Gen. Barbivai stated that “women should sing on any stage and at any ceremony, out of a respectful and egalitarian approach.” However, she added that the commander enjoyed discretion in particularly sensitive

cases. Barbivai emphasized that women's singing is just part of the broader issue of joint service enabling both sexes to serve together.⁷⁶

- Rabbi Elyakim Levanon, head of Alon Moreh Yeshivat Hesder, responded to the expected recommendations on this subject. He declared that many rabbis would instruct their students to leave events involving women's singing, "even if they are brought in front of a firing squad because of this."⁷⁷ In a radio interview, the rabbi claimed that such instances involve coercion by the army. If his students were to be required to make compromises regarding the religious commandments, he would instruct them not to go to the army, since this would no longer be a Jewish army.

Exclusion of women from positions in the IDF ⁷⁸

- A communications officer who completed a practical course with outstanding results asked to be placed in a particular battalion. Her request was declined because the battalion commander does not want women to serve as headquarters officers. A battalion in the Adjutant Corps had a similar experience.
- In several units, combat soldiers refused to accept instruction from female shooting instructors.
- Students at the Intelligence School asked that female instructors remain behind the desk when teaching lessons.
- Soldiers from Hesder yeshivas protested the presence of female education and service condition NCOs in their battalions.
- The Manpower Directorate thwarted an initiative by the IDF Rabbinate to reword the ceremonial protocol in order to restrict the role of women in laying wreaths at military funerals.
- The commander of a training base in an infantry battalion asked that mixed entertainment troupes not be sent to the base.
- Proposals have been raised to reconsider the scope of work of female trainers in the Armored and Artillery Corps.

Exclusion of women from the public domain

48. Advertising

The exclusion of women from the public domain is not confined to demands for segregation, but aims to displace women from all dimensions of public visibility. A prominent phenomenon in this context, and one that has expanded considerably over the past year, is the absence of women from billboards around Jerusalem.

The Jerusalem Municipality denies that there has been any change in the municipal publicity policy, and promises that it will take firm action against any defacement of "immodest" advertisements. If

this promise were actually realized on an ongoing basis, rather than being raised in response to public pressure, it might have prevented the spread of this phenomenon and assuaged fears among advertisers that posters will be defaced. Despite the municipality's declarations, however, the phenomenon is continuing to expand, while all sides involved in the issue play a blame game.

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. By way of example, Nissim Hasson of Zohar Hutzot advertising company, stated in an interview for Ynet: "We shouldn't show women on billboards in Jerusalem. And not only there, but also in Kiryat Malachi, Bnei Brak and Netivot. This is one of several cities in Israel where I cannot put up female images because of the large number of religious people. I have been in billboard advertising for many years. Once, when there was no prohibition, any image of a woman I put on a billboard would result in the structure being burned. That caused crazy losses. So we do not display women in places where there are Haredim."⁷⁹ As noted, the Jerusalem Municipality denies these comments.

■ Israel National Transplant and Organ Donation Center

At the beginning of November 2011, the Israel National Transplant and Organ Donation Center (better known as Adi) published advertisements on billboards and buses encouraging citizens to sign its organ donor's card. The advertisements displayed in Jerusalem and Bnei Brak were different from those in the rest of the country: while the ordinary advertisements included pictures of men and women holding their donor's card, those in Jerusalem and Bnei Brak featured men only.⁸⁰

Following widespread public protest, Adi apologized for the incident, claiming that the Canaan advertising agency, which holds the franchise for bus advertisements, had demanded that the advertisements displayed in Jerusalem and Bnei Brak feature men only.

Adi recently displayed new advertisements around Jerusalem bearing pictures of both men and women.⁸¹

■ Honigman

The fashion chain Honigman produced advertising posters featuring the model Sandy Bar. However, in a separate version of the posters displayed in Jerusalem, Bar's head was "cut off" and the poster showed only her clothed abdomen, a hand, and a bag. The censored advertisement appeared throughout the city, even in neighborhoods that are not Haredi. In an article on the subject in *Ynet*, the CEO of the chain responded: "Honigman behaves just like any other company. According to the guidelines of the billboard company, Zohar Hutzot, posters bearing pictures of women cannot be displayed. We were informed that this is in accordance with the guidelines of the Jerusalem Municipality, which prohibits the displaying of pictures of women in certain parts of the city, where they are liable to offend religious sentiments. It should be emphasized that all the fashion companies act in accordance with these restrictions."⁸²

■ Jerusalem light rail

The light rail system in Jerusalem became operational in the second half of 2011. A safety campaign was launched in preparation for the operation of the system, including numerous advertisements on billboards, buses, bridges and buildings around the city. The entire campaign included only pictures of boys and men.⁸³

■ Fox

The Fox fashion outlet in a mall in the Ramot neighborhood of Jerusalem features only pictures of the company's male model, Noam Tor, while his female counterpart, Bar Refaeli, is excluded. Ynet quoted the company's response: "As a chain that appeals to the entire Israeli public, Fox shows consideration for the Haredi population and does not publish pictures that are unacceptable in the Haredi sector in relevant areas."⁸⁴

■ Studio C

Advertisements for the Studio C fitness gym displayed in Jerusalem include text only, whereas in other parts of the Israel the advertisements include pictures of women. Ynet quoted the company's response: "Studio C is a feminine brand that supports and promotes the health of all women. We have to find solutions enabling us to approach and reach all women."⁸⁵

■ Castro

Billboard advertisements for the Castro fashion chain displayed throughout Jerusalem show only the legs of the model Gal Gadot, whereas the advertisements elsewhere in Israel show her full figure.⁸⁶

■ Regional radio stations

Advertisements displayed in Jerusalem as part of a national campaign to promote regional radio stations did not include pictures of the broadcaster Ofira Asayag, although her picture was displayed in the rest of the country.⁸⁷

■ Prohibition on the display of a campaign against the exclusion of women due to the inclusion of women's pictures

The "Jerusalemites" movement, which is campaigning against the exclusion of women from billboards in the city, launched a campaign under the slogan "Jerusalem's women – pleased to meet you!" The movement contacted Canaan advertising agency, which markets most of the advertising spaces on buses in Israel, but the company refused to display the campaign on buses in Jerusalem.⁸⁸ A sales representative for the Canaan agency explained to activists that the company could be damaged by the campaign: "There is no intention of creating any gender-based or other discrimination, but regrettably, since vandalism cannot be controlled, we have no choice but to refrain from showing pictures of women in cities with a large Haredi population."

Following the company's refusal to display the campaign on buses, the "Jerusalemites" movement and several women residents of Jerusalem petitioned the Supreme Court against the Ministry of Transportation, the Israel Police, the Egged bus company, and the Canaan advertising agency.⁸⁹ The

petitioners asked the court to instruct the Minister of Transportation to condition the granting of a license for the operation of public transportation on an undertaking to avoid any action entailing gender discrimination, and to instruct the police to act vigilantly to enforce the law against those who deface bus advertisements.

49. Kadima's campaign against the exclusion of women defaced

The political party Kadima launched a campaign against the exclusion of women, including posters for display on buses reading "Women at the front – bringing sanity back to Israel." Less than a day after the campaign was launched, a number of Haredi youths in Jerusalem tore down the advertisements from a bus that was parked at a bus stop.⁹⁰

Demands for modest dress

50. Modesty certificate for businesses

In recent months, dozens of businesses in the city of Sderot have signed an undertaking to ensure that their employees are dressed modestly and that their advertisements maintain similar standards. As part of the requirements, women employees are asked not to come to work in clothes with a revealing neckline; sleeves should at least cover their elbows. Businesses that sign the agreement receive a "modesty certificate" from the Mima'amakim group, which is supported by a religious group active in the city. Responding to press reports, the heads of the organization stated that the initiative seeks to "strengthen the city in terms of adherence to the Torah," and claimed that "even people who do not observe the Torah and the commandments will understand the anguish felt by someone who is attempting to raise his children in purity, and who is forced to encounter public representatives who injure this."⁹¹

51. Imposition of modesty rules on a bus in Beit Shemesh

A report on the website *Bechadrei Haredim*⁹² revealed that on September 7, 2011, two Haredi men boarded a "Mehadrin" bus from Beit Shemesh to Jerusalem (the reference is probably to Egged line 418) and began to "inspect the passengers." When the two men inspected the women sitting in the rear section of the bus, they found several who were not dressed modestly enough, in their opinion. The two men demanded that the women leave the bus. The passengers acquiesced to the demand, presumably because they were afraid to confront the men. IRAC contacted the Beit Shemesh Police on this matter, but the police stated that since no complaint had been received, it would not be opening an investigation into the incident.

52. Assault on students at Orot Banot School in Beit Shemesh

Haredi extremists in Beit Shemesh have repeatedly assaulted girls on their way to and from Orot Banot School. The conflict surrounding the school began ahead of the start of the school year in September

2010. The school, which belongs to the state-religious stream, is located opposite homes in a Haredi neighborhood where some residents object to what extremist elements consider “immodest” conduct at the school.⁹³

Throughout the year, extremists come to the school, call the girls offensive names, and shout slogans such as “the Zionists are polluting the neighborhood.” Girls have been spat at and even subjected to violence.

The media recently gave extensive coverage to Na’ama, a student in the third grade at the school, who spoke of her fear every time she walks the 300 meters from her home to the school: “They often scare me and I think that I am going to be injured or something like that.”⁹⁴ Following the publicity surrounding Na’ama, a police detail was sent to accompany the girls on their way to school. Several violence clashes have since occurred between the security forces and Haredi residents. Media crews reporting on the events in the city have also come under attack.⁹⁵

53. Clalit health clinic in Jerusalem

The Strauss medical clinic in Jerusalem, which belongs to Clalit Health Services, asks those using its services to come in modest dress, since the clinic is intended to meet the needs of the Haredi public.⁹⁶ Service representatives for Clalit explained that this is “accepted practice in Haredi cities and in certain branches in Jerusalem.” Clalit claimed that the policy was a private initiative by the clinic to issue a personal notice to the clients, and that this did not reflect Clalit’s position. The clinic promised that the notice would be removed.

54. Clalit health clinic in Tiberias

On July 21, 2011, the website Mynet reported that Clalit Health Services has opened a new clinic in Tiberias intended for the Haredi sector. According to the report, women will be able to receive services from female physicians, and the staff will be modestly dressed.⁹⁷

55. Boycott of the Ma’ayan 2000 chain due to employment of women cashiers

Despite demands from Haredi activists, two food stores in the Sanhedriya neighborhood of Jerusalem have not appointed modesty inspectors and continue to employ women cashiers.⁹⁸ In response, the activists published posters urging Haredim to boycott the shops: “After all the efforts and agreements with the Ma’ayan 2000 shops in our neighborhood, asking them to maintain the boundaries of sanctity and modesty in keeping with the spirit and character of our neighborhood and in accordance with the instructions of the neighborhood rabbis, the matter has still not been corrected and the shops are marred by serious obstacles to modesty in terms of the employees. Accordingly, any person who fears and is anxious for his soul and the souls of his household will refrain from entering the above-mentioned shops.”

56. “Zol Uvegadol” food chain in Jerusalem employs male cashiers only

In response to a campaign by Haredi activists, the “Zol Uvegadol” food chain, which has stores in the Sanhedriya neighborhood of Jerusalem, now employs male cashiers only, in order to meet the modesty demands.⁹⁹

57. Parents asked to wear “modest dress” to army ceremony

Parents who were invited to the closing ceremony of a course for army medics were asked to come in modest dress.¹⁰⁰ The requirement, which was phrased as a demand rather than a request, appeared prominently on the invitation. After the Ynet website exposed the story, the IDF Spokesperson commented that “this wording has appeared on the invitations for a decade and will be examined.”

B. ANALYSIS OF THE STATUS OF WOMEN IN JUDAISM AND THE JEWISH RELIGIOUS DEMAND FOR SEGREGATION

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?”¹⁰¹ 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,”¹⁰² regarding which the exegetical literature emphasizes “your sons – and not your daughters.”¹⁰³ 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,”¹⁰⁴ or “anyone who teaches his daughter Torah, it is as if he had taught her frivolity.”¹⁰⁵ 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 even 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.”¹⁰⁶ 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.”¹⁰⁷

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 terms of the creation and interpretation of Halacha.¹⁰⁸ 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.¹⁰⁹

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],¹¹⁰ the Sages claimed, reflecting the perception of women as sinners and seducers who lead men to stumble due to their sexuality, and, accordingly, required 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 the observer by covering their body; isolating them socially through their confinement to the private realm; and establishing barriers to prevent 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. 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.¹¹¹

■ 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 from 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 a 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.

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 from 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.¹¹² 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.¹¹³

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.

■ 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 that 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 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

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.¹¹⁴ 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.¹¹⁵ 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 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.¹¹⁶ 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:

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, restraint, 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.¹¹⁷ 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.’¹¹⁸

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.¹¹⁹ Accordingly, 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.¹²⁰

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 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.¹²¹

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. 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.¹²³

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 is to extend the applicability of the principle of equality in human relations and to prohibit discriminatory practices by 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.*¹²⁴

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 which, on the grounds of religion, tradition and belief, maintain frameworks of gender segregation.¹²⁵

Accordingly, a special exception was added to the law permitting segregation between men and women only.¹²⁶ 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.*¹²⁷

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 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.¹²⁸ 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 segregation, such as swimming pools or services confined to the Haredi population, such as cultural events of that community.

International law

The scope of international law is not confined to relations between nations; it also addresses the rights of individuals and groups within each nation, and the relations between these groups and the state. International law also recognizes the presence of fundamental values that may restrict the power of the state.¹²⁹ 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.¹³⁰ 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.¹³¹ 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.¹³² This assertion is supported by the practices of states and by norms that have been admitted as tantamount to law.

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.¹³⁴ 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.¹³⁵ Nevertheless, the state's association in a treaty has substantive ramifications in terms of the powers and obligations of the authorities of state.¹³⁶ Even if a treaty lacks the status of law, it enjoys substantial legal status.¹³⁷ 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 negate the legality of that action.¹³⁸ This position is also supported by case law, which regards international law as an important source for interpreting domestic legislation.¹³⁹

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.¹⁴⁰

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:

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.¹⁴¹ 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...*¹⁴²

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.**”¹⁴³

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).¹⁴⁴ 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.¹⁴⁵ 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.¹⁴⁶

The above-mentioned protected groups do not enjoy absolute protection; it is possible that the state will have to impose restrictions on them.¹⁴⁷ 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.¹⁴⁸ 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.¹⁴⁹

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 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.¹⁵⁰ 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.¹⁵¹ 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.¹⁵² 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.¹⁵³ 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."¹⁵⁴ 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 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.¹⁵⁵ 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.¹⁵⁶ 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.¹⁵⁷ 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.¹⁵⁸ Clearly, the opposite is the case: these laws, which motivate segregation in public spaces, substantially injure women's involvement in creating and maintaining a democratic society. 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.

The international community has accepted certain actions as integral and substantive to the right to hold and manifest religious beliefs.¹⁵⁹ These actions include the right to worship, to maintain places of worship, and to choose religious leaders.¹⁶⁰ All these actions are subject to article 29.¹⁶¹ The laws of obedience and modesty were not mentioned as falling within the core of religious actions.¹⁶² Accordingly, international law cannot accept injury to the rights granted to women on account of these behavioral codes.¹⁶³

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.¹⁶⁴ It would seem that the Declaration permits, and possible even mandates, the outlawing of religious practices that systematically violate women's liberty and right to equality, such as segregation in the public domain.¹⁶⁵

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.¹⁶⁶ Article 18(3) details the circumstances in which this freedom may be restricted: "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."¹⁶⁷

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.¹⁶⁸ The word "necessary" may imply that the state is obliged to impose such limitations.¹⁶⁹ 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.¹⁷⁰

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.¹⁷¹ 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 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.¹⁷² 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."¹⁷³ 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.¹⁷⁴ This is the only international human rights instrument that focuses exclusively on women's rights.¹⁷⁵

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.¹⁷⁶ 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.¹⁷⁷ The convention even urges countries to change laws, regulations, customs and practices which constitute discrimination against women.¹⁷⁸ 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.¹⁷⁹

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.¹⁸⁰ Article 5 of the convention establishes that:

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.¹⁸¹

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.¹⁸²

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.¹⁸³ However, these reservations do not have any impact on Israel's commitment to gender equality in public areas in accordance with the convention.

D. CONCLUSIONS AND RECOMMENDATIONS

The report *Excluded, for God's Sake* for 2011 details various public places (state and private) that have been the focus of gender segregation, prohibition against women's appearance and women's singing, the exclusion of women from positions in the IDF, the removal of women from the public domain, and the enforcement of modesty demands. As the list of cases presented above shows, segregation and exclusion have touched on every area of life. Despite the Supreme Court's explicit ruling on this subject, and criticism of the phenomenon by public figures, it has continued to grow. The physical and conceptual domains, which were formerly open to both sexes, have become ones in which women's presence is frequently cast in doubt, and a clear trend can be seen to marginalize women with the declared goal of leading to their complete exclusion.

The segregation and exclusion of women do not occur in a vacuum, but are the product of a patriarchal society that seeks to perpetuate a hierarchy between women and men, and to confine women to the private and unseen sphere. The domain to which women are relegated is a restricted one of violence and submission that deprives women of their basic rights. At this point, we must again emphasize that this does not constitute a criticism of Jewish or religious values per se, but of their manifestation in discriminatory and exclusive practices. The public domain should be available and open to any woman.

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 2011 to illiberal and undemocratic voices.

During the weeks preceding the publication of this report, a sharp increase was seen in media coverage and public interest relating to the phenomenon of segregation and exclusion. In the course of the debate, there were those who advocated a separation between secular public space and Haredi public space, so that practices of segregation and exclusion might then be permitted in the Haredi sphere. This suggestion was raised largely in response to the growing violence in Beit Shemesh on the part of a group of extremist Haredim against the non-Haredi residents of the city, including national-religious, traditional and secular Jews. Such calls for the secular public to "disengage" from the Haredi public are not merely undemocratic in their own right, but are symptomatic of the same misconceptions that underpin the coercive application of segregation and exclusion. The call to create two separate spheres seeks to create a "clean" Haredi sphere, within which it will be "legitimate" to impose on the entire Haredi public the customs and beliefs of the most extreme group within the Haredi population, which seeks to impose full segregation and exclusion. Our goal is not to create separate residential domains (if such an idea is even practical – and we have repeatedly argued that in Israel in 2011 this is not the case), but to enable the existence of a single respectful, egalitarian and democratic domain.

In a liberal democracy, the public domain needs to be the “market place”, a space in which any person, male or female, can be present, express their views and participate in creative life, thought, action and public leadership. To exclude 50 percent of the population from this domain is diametrically opposed to the basic values of liberty and equality which are the lynchpins of democracy and, accordingly, is totally unacceptable. As the examples in this report show, this phenomenon does not relate to religious or cultural customs that are maintained within the confines of the Haredi community, but to basic services required by all citizens in which segregation is introduced. As we explained, it is impossible to apply a dichotomic division between neighborhoods labeled “Haredi,” in which segregation will be imposed, and those defined as “secular,” where it will be prohibited.¹⁸⁴

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. This reality has been particularly apparent in recent weeks. The anonymous telephone calls IRAC has long received from these communities expressing opposition to this phenomenon have developed into a wave of open statements in the media by male and female figures from the Orthodox-Zionist and Haredi sectors. Such statements have been made by Adina Bar Shalom, Rabbi Ovadia Yosef, MK Rabbi Haim Amsalem, Rabbi Dov Lipman, and Rabbi Menachem Froman, among others. These comments are conclusive proof that many women and men in the Haredi sector oppose the phenomenon of segregation and exclusion and view it as improper.

Alongside these important statements, we have also, of course, witnessed a growing trend to extremism, reflected in the spread of the phenomenon of segregation and exclusion to new areas of the public domain. The subject of women’s singing, which was not even mentioned in last year’s report, has become a significant arena of action for some religious soldiers in the IDF. The same is true of the exclusion of women from billboards, which, while not a new phenomenon in itself, is now encountered on an unprecedented scale, as additional companies choose to exclude women from advertising campaigns in cities such as Jerusalem and Bnei Brak.

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. Segregation is not based on an examination of needs relative to the price that others are required to pay for this policy, or the injury to their right to equality and dignity – values that are protected in accordance with the Basic Law: Human Dignity and Liberty. Moreover, in some cases, segregation appears to be the result of an a priori assumption on the part of the authorities that the Haredi public is interested in this policy, so that events for this public are planned in a segregated manner or without including women’s singing or speaking. An example of this was the “rights’ fair” held by the Jerusalem Municipality, which was published as a segregated event on the assumption that this is what the Haredi public wants. In practice, the Haredim who came to the event had no interest in segregation.

In light of the above, we recommend the following steps:

- **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.**

- **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.
- **Women must be enabled to appear and to sing at any public or state event and at all events held in the IDF.** The belief of some individuals in the religious public that it is forbidden to listen to a woman's voice cannot justify 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.
- **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 maintenance organization, burial societies and municipalities.** No public event funded with taxpayers' money will impose segregation, including municipal events.
- **A prohibition should be imposed on conferences and events intended for men only**, since these violate the Prohibition of Discrimination Law, insofar as no alternative is provided for women to receive the service.
- **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.** In recent months, suits of this type have begun to be submitted to the courts, as described in the report. The use of this mechanism should be enhanced, as it has proved effective in the past and can be activated immediately.
- **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:**

1. A governmental mechanism should be established to receive complaints regarding segregation and exclusion and to process the complaints rapidly.
2. 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.
3. 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.

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101. For 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.

102. Deuteronomy 11:19.

103. *Kiddushin*, 29b.

104. Jerusalem Talmud *Sota* 16A, chapter 3, halacha 4.

105. Jerusalem 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).

106. Deuteronomy 17:15.

107. Maimonides, *Mishneh Torah*, *Hilchot Melachim Umilchamot*, 1:5.

108. IRAC has submitted two petitions 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 first petition (HCJ 5720/10) was struck out after the court ruled that it was premature, despite the fact that the Ministry of Justice had published an announcement of the appointment of a director-general for the rabbinical courts while failing to clarify that the position was open to women, as the petitioners demanded. The second petition (HCJ 151/11) was rejected on the grounds that a worthy male candidate had been found, and no worthy female candidate had been found; accordingly, the court ruled that the petitioners' arguments were theoretical. The petitioners did not accept this determination, arguing that the Ministry of Justice had not made a proper effort to clarify to women that the position was open to them, since it had not formalized its position on the issue. The petitioners also argued that the Ministry of Justice bore an active obligation to locate a worthy female candidate. HCJ 151/11, *Center for the Advancement of the Status of Women v Minister of Justice*, unpublished.

- 109.** See Noya Rimlat, "Segregation between Men and Women as Sex Discrimination," *Alei Mishpat* C 99, 13-100 (Hebrew).
- 110.** Kiddushin 70a.
- 111.** See Hannah Kehat, *Feminism and Judaism – From Confrontation to Renewal*, Ministry of Defense – Laor (Hebrew), p. 130.
- 112.** Rabbi 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.
- 113.** Rabbi 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>
- 114.** HCJ 6427/02, *Movement for Quality Government in Israel v Knesset*, unpublished, sections 35, 38 in the president's ruling.
- 115.** See Orit Kamir, *Feminism, Rights and Law*, (2002) (Hebrew).
- 116.** HCJ 6024/97, *Shavit v Gahsha Rishon Lezion Burial Society, Piskei Din* 53(3) 600, 650.
- 117.** The 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.
- 118.** Footnote 15 above, section 5 of Justice Jubran's ruling.
- 119.** The 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.
- 120.** See: 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.
- 121.** Footnote 10 above, sections 126-127.
- 122.** Footnote 15 above, section W of Justice Rubinstein's ruling.
- 123.** Halachic ruling by Rabbi Feinstein regarding the use of the subway and buses, *Even Ha'ezer, Igrot Moshe* (Hebrew), p. 326.
- 124.** Article 3(A) of the Prohibition of Discrimination in Products, Services and Entry to Places of Entertainment and Public Places Law, 5761-2000.
- 125.** 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).
- 126.** 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."
- 127.** Article 3(D)(3) of the Prohibition of Discrimination in Products, Services and Entry to Places of Entertainment and Public Places Law, 5761-2000.
- 128.** 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.
- 129.** Gil-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).
- 130.** Courtney 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).

- 131.** Ibid.
- 132.** Ibid.
- 133.** Ibid. 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.
- 134.** Moshe 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
- 135.** Ibid.
- 136.** Ibid., p. 13.
- 137.** Ibid., p. 14.
- 138.** Ibid., pp. 13-14.
- 139.** Ibid., 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.
- 140.** Prof. 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
- 141.** Charter of the United Nations, Preamble (opened for signing in 1945). <http://www.un.org/en/documents/charter/index.shtml>
- 142.** Ibid., Article 1(3).
- 143.** Ibid., articles 55-56. Emphases added.
- 144.** Howland, footnote 130 above, p. 328.
- 145.** Ibid., p. 330.
- 146.** Ibid., p. 343.
- 147.** Ibid., p. 330.
- 148.** Ibid.
- 149.** Ibid., p. 330.
- 150.** Article 2 of the Universal Declaration of Human Rights. <http://www.un.org/en/documents/udhr/>
- 151.** Ibid., article 29; Howland, footnote 130 above, p. 343.
- 152.** Howland, footnote 130 above, p. 343.
- 153.** Ibid.
- 154.** Universal Declaration of Human Rights, footnote 150 above, article 29.
- 155.** Howland, footnote 130 above, p. 344.
- 156.** Ibid.
- 157.** Ibid.
- 158.** Ibid., p. 365.
- 159.** Ibid., p. 358.
- 160.** Ibid., p. 345.
- 161.** Ibid., p. 359.
- 162.** Ibid.
- 163.** Ibid.
- 164.** Universal Declaration of Human Rights, footnote 150 above, article 30.
- 165.** Howland, footnote 130 above, p. 369.
- 166.** Article 18A, International Covenant on Civil and Political Rights (opened for signing in 1966). <http://www2.ohchr.org/english/law/ccpr.htm>
- 167.** Ibid., article 18(3).

- 168.** Frances Raday, "Culture, religion, and gender," *1 I. Con. International Journal of Constitutional Law* 663, 678 (2003).
- 169.** Ibid.
- 170.** Ibid.; 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.unhchr.ch/tbs/doc.nsf/0/13b02776122d4838802568b900360e80>
- 171.** Lapidoth, Ben Naftali and Shani, footnote 140 above, p. 19. For Israel's reservations, see:
<http://goo.gl/J9lpB>
- 172.** Article 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
- 173.** Article 3 of the International Covenant on Economic, Social and Cultural Rights.
- 174.** Madhavi 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>
- 175.** Madhavi Sunder, footnote 174 above, p. 1425.
- 176.** Gil-Ad Noam, footnote 129 above, p. 218.
- 177.** Sommer, Tamar and Yahav, footnote 172 above, p. 29.
- 178.** Sunder, footnote 174 above, p. 1425; article 2(F) of the Convention on the Elimination of All Forms of Discrimination against Women.
- 179.** Articles 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.
- 180.** Raday, footnote 168 above, p. 665; article 5 of the Convention on the Elimination of All Forms of Discrimination against Women.
- 181.** Raday, footnote 168 above, p. 678.
- 182.** Ibid.
- 183.** Lapidoth, 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>
- 184.** See: HCJ 10907/94, *Solodoch v Municipality of Rehovot* (unpublished), where the court ruled that "the great evil of separation and isolationism in residential arrangements, and the creation of closed communities that isolate themselves with social walls, encourage discrimination and social alienation... Separation and alienation among cultural groups encourages hostility and enmity..." Gershon Guntovnik, "Minority Groups that Ask the State to Close Them In: Legal Walls, Social Fences and Discrimination in Housing," in: Amnon Lehavi (ed.), *Gated Communities*, Tel Aviv University, Buchman Faculty of Law (Hebrew), 425, 467-468 (2010).



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