

IRAC Center in Jerusalem for Religious Pluralism – Background Papers

Marriage in Israel

Background

Israel inherited its system of registering marriage from the Ottoman Empire via the British.¹ Under this system only religious authorities — the Orthodox-controlled Chief Rabbinate, mosques and churches — have the power to officiate marriages. There is no Israeli authority empowered to perform civil marriages. Among the most ardent opponents of this situation have been the Reform and Conservative Movements. Both movements are prevented from officiating at weddings in Israel as a result of the Orthodox control over religious authority in Israel.² The Israel Religious Action Center is one of the leading groups pressuring the government through the courts to promote freedom of choice in marriage.

Jurisdiction Over Marriage in Israel

Marriages in Israel are tied to the religious status of a couple. Jews must turn to the office of the local Orthodox Rabbinate in order to have a valid marriage. The Law of Rabbinical Courts (Marriages and Divorces) - 1953 - establishes that matters of marriage of Jews in Israel, whether citizens or residents, are under the exclusive jurisdiction of Orthodox rabbinical courts and are to be performed 'in accordance with the law of Moses and Israel.'³ However, legal marriages performed outside of Israel are recognized. Thus all couples who choose to wed in a Reform service must also be married outside of Israel in order to be recognized as a married couple. The first legal outcome of not getting married legally outside of Israel in addition to the Reform service is that the couple will not be able to register as spouses. Rather, the couple would hold the legal standing of a "publicly known couple," a form of common-law recognition that does not equate to marriage.⁴

Israeli weddings performed privately, which includes Reform and Conservative ceremonies (i.e. not performed by a member of the local Rabbinate), do not entitle a couple to a marriage certificate and are ineffective for registration and other economic benefits such as residence, health, education, insurance and taxation. [The Law of Penalties -1977- establishes criminal punishment (up to six months imprisonment) for anyone who performs a wedding ceremony without the Rabbinate, knowing that the action is against the law.⁵

It is not possible for a Jew and a non-Jew to be legally married in Israel. Either the non-Jewish partner must convert to Judaism or the Jewish partner must convert to the religion of the other.⁶

Getting Married in Israel: a Jewish Couple's Only Option

A Marriage ceremony performed by an Orthodox rabbi is the only mechanism for a Jew to be legally married to another Jew in Israel. Forcing two Jews to get married through the Orthodox establishment in Israel is a clear violation of freedom of religion.

Having only the option of an Orthodox wedding means that many secular Israeli couples are forced to marry through the Rabbinate even though it is against their beliefs. The bride must go to the mikvah, oftentimes an unpleasant experience. The Rabbinate often tries to teach Orthodox family values by forcing the bride and sometimes the groom to go to classes, and teaching them about "family life" as a pre-condition for marriage. A widow whose husband died childless must receive a "chalitza" (release) from her brother-in-law, if living. A divorced person must be able to show that he/she has been divorced religiously. A member of the House of Cohen may not marry a divorced woman in Israel.

In addition, there are over 300,000 Jews in Israel who identify as Jewish and not as any other religion, but do not qualify as Jews according to Halacha and therefore cannot get married in Israel. Officially, they are considered by the Rabbinate to be "without religion."

Recognition of Marriages Performed Outside of Israel

Marriages performed for Jews outside of Israel that are valid in the foreign country in which they were performed receive retroactive recognition by the State of Israel. This includes civil marriages and non-Orthodox marriages. Citizens of Israel who marry in the course of a visit to a foreign country or travel abroad for this purpose will also receive such recognition.⁷ Today, Cyprus is the most popular destination for Israelis seeking to get married abroad due to its close proximity. Also, Cyprus is well aware of the lack of civil marriage in Israel and has developed a significant industry to provide this service to the many thousands of Israelis that come there every year to be married. In 1951, the Supreme Court of Israel ruled that marriages performed outside Israel, if conducted by a rabbinical court in accordance with halacha (Jewish law), must be recognized in Israel. In 1962, the Supreme Court determined that the Ministry of the Interior must register as married all couples who married in a civil marriage abroad, even if either or both of the couple were citizens of Israel.

In November 2006, the Israeli Supreme Court ruled that civil marriages of Jewish couples who could have wed in Israel, but chose to marry abroad, have full legal recognition as a marriage for the purpose of Israeli law (overruling the decision of a rabbinical court which had determined that a religious court had the authority to decide the validity of a civil marriage conducted abroad). While the state for many years has treated these marriages as valid, their actual legal status was not clear. The Supreme Court recognized the importance of the right to family life and it acknowledged the fact that thousands of Israelis choose to marry abroad. Therefore, it was necessary to recognize the validity of such marriages.⁸

Burial in Israel

Background¹

Burial in Israel is a service granted by the state to the different religious sects in Israel. This issue is controversial when the deceased is not identified as having a religion or the deceased's religion is in question; this issue is complicated by the fact that there is only one location for a public alternative burial ceremony. While the service for burial in a public cemetery is provided by the state and is funded by the National Insurance Institute and the local authorities, private services for alternative burial options can be expensive.

Jewish Burial in Israel²

Burial for Jews is placed into the hands of the Orthodox Chevrot Kadisha, or burial societies which are affiliated with the local authorities and the local religious councils. These organizations are responsible for the management of cemeteries, and they decide the character of the burial ceremonies carried out and declare different restrictions and prohibitions, such as prohibiting the engraving of a deceased's name in a foreign language, or the use of a non-Hebrew date on the gravestone, or even preventing women from giving eulogies. Additionally, they collect enormous fees for reserving a specific burial plot next to one's deceased spouse. If the deceased is not considered Jewish by Halacha, despite identifying as a Jew or having made Aliyah as a Jew, the Chevra Kadisha will not perform the burial or permit the deceased to be buried in a Jewish cemetery.

As a result of immigration from the Former Soviet Union, many people have come to Israel who are not Jewish, or have a "doubt" concerning their Jewishness, or "lack a religion" by the Rabbinate's definition (those who identify as Jews but do not have a Jewish mother). In order to find a compromise, sections for those of "doubted Jewish identity" have been added in several Jewish cemeteries throughout Israel. Unfortunately, these sections are limited in number and are scattered throughout the country, and neither satisfy nor console bereaved families who consider their loved ones to be Jewish. This is a particularly emotional issue for families of Israeli soldiers (mainly from the FSU) who were killed during their service -- they were Jewish enough to die for their country, but not Jewish enough to be buried in a Jewish cemetery. In addition, victims of terrorist attacks whose Halachic Jewish status was questioned are also buried in these sections.

Alternative Burial Ceremonies³

In recent years, the demand for alternative burial ceremonies has grown. In 1986, the Menucha Nechona, or “Rest in Peace,” burial society was founded in Jerusalem. The stated purpose of Menucha Nechona is to provide a Jewish burial ceremony that is either in the spirit of liberal Judaism, or secular. Throughout the years, other similar organizations have been founded in Israel, and today these organizations are under the same umbrella organization.

Since the authorities have refused to cooperate with these organizations and allocate land for the purpose of burials, in 1988 Menucha Nechona petitioned the High Court of Justice to obligate local authorities to recognize it and its fellow organizations as burial societies, and to grant them land for this purpose. In 1992, the Supreme Court ruled that the Minister of Religious Affairs must give this organization a license to operate as an organization for burial affairs and that the Israel Land Administration must allocate land for this purpose “within a reasonable period of time.”

Only in 1996, after a second petition to the High Court of Justice, was land allocated for alternative cemeteries. At the same time as this struggle was taking place, the Knesset passed the Alternative Burial Law, which guarantees the establishment of alternative cemeteries throughout Israel. However, to date there is only one public civil cemetery in Israel, on the outskirts of Beer Sheva, where the burial is paid for by national health insurance. This single cemetery does not have the capacity to accommodate the need for civil burials in Israel. There is also the option for a secular burial on Kibbutzim and Moshavim, but burial plots in these cemeteries are expensive.

Gender Segregation in Israel

Background

In the last decade, religiously motivated gender segregation has increased dramatically in Israel. The ultra-Orthodox have voiced growing demands to impose values of modesty on the general public. Additionally, a strong religious presence in the government has led to many instances of gender segregation all around the country, manifesting in different forms. Segregation in Israel often leaves women with unequal and limited access to public services.

Instances of Segregation

Segregation is found throughout both public services and institutions and also in private businesses, primarily in areas that are highly concentrated with Haredim (ultra-Orthodox Jews). There is no uniformity as to where segregation exists and there are currently no institutions that are completely segregated throughout the country. In the public sector segregation exists in areas including: health clinics in Jerusalem which have separate waiting rooms for men and women or even different operating hours by gender, proposed post offices with separate lines by gender, and funeral homes that force men and women to stand separately while grieving, some of which even prohibit women from speaking at funerals. Additionally, in an Education Ministry conference women were asked to sit in the back so men would not be forced to look through them to see the speaker. Also, segregation has become more prominent at the Kotel (Western Wall) where, at ceremonies for new immigrants, the Kotel rabbis asked for separate seating by gender, and a walkway has been added at the back of the Kotel Plaza exclusively for men who wish to walk to pray without coming into contact with women. On certain holidays the Kotel rabbis impose a separation in the entire plaza in addition to the already divided prayer area (which leaves much more space for men than women) and modesty enforcers regularly patrol the Kotel Plaza telling women they are not dressed appropriately and asking coed groups to stop singing together. There have also been attempts to segregate tours of the Kotel tunnels during holidays. Additionally, in recent years, an annual parade in Jerusalem to mark Jerusalem Day, a holiday celebrating the reunification of the city in 1967, has been segregated with separate parades by gender and sidewalks segregated for onlookers.

In the private sector segregation has also increased. In religious neighborhoods, like Mea Shearim in Jerusalem, some stores have different entrances for men and women, restaurants have tables reserved for men, supermarkets offer different times of the day by gender and playgrounds are even reserved at different times of the day for boys and girls. Additionally, another major divide is on the sidewalks, particularly on Friday nights, where men walk on one side, women on the other, and there have been reports of intimidation and yelling by men at women who choose to not follow the posted signs ordering this. There have also been reports of women physically accosted for violating posted segregation orders by groups of religious men.

Bus Segregation

Of all of the aforementioned instances of segregation in Israeli society, none has been as widely publicized and debated lately as the issue of bus segregation. Segregated bus lines, referred to as Mehadrin buses, first started operating in 1997 initially as a trial project in Jerusalem and B'nai B'rak, areas with high numbers of ultra-Orthodox Jews who requested separation from the opposite gender. Since then, the number of Mehadrin bus lines has swelled to around 90 bus lines operating all over the country. These buses are part of the Egged system, which is the national public bus company, meaning it is funded and administered by the government. On Mehadrin bus lines, men enter and sit in the front, women enter and sit in the back of the bus, and modesty requirements for women's dress are imposed, though these requirements are technically voluntary. These bus lines are a result of ultra-Orthodox demands that Egged chose to concede to in order to not lose ultra-Orthodox business. Many ultra-Orthodox do not have cars and rely heavily on public transportation and therefore constitute a high percentage of public transportation users. In many cases, there is no alternative non segregated bus. Often times passengers verbally and physically intimidate to force other passengers to segregate themselves and follow the modesty rules. As a result of a petition by IRAC (see below) in 2008 the Transportation Ministry formed a special committee to oversee the operations of Mehadrin buses. In an extensive report, submitted on October 2009, the committee declared unequivocally that bus segregation, as it is practiced today, is illegal. However, passengers may voluntarily self-segregate. The issue and question of bus segregation in the Israeli legal system looks to set the tone for future fights against segregation in Israel.