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Exclusion of Women – Questions and Answers

What is meant by the expression “exclusion of women”?

The concept of exclusion of women refers to a range of diverse practices that all entail excluding women from public spheres and creating male-dominated environments – whether through total exclusion of women from the public sphere, or through compulsory gender segregation. Exclusion of women exists in all aspects of society, in many religions, and is due to diverse causes, yet there are significant distinctions between different cultural groups regarding the scope of this phenomenon and its perceived legitimacy.

What has changed now?

Exclusion of women in Israel has existed for many years and retains many familiar expressions in the public sphere, such as those in religious courts and various religious institutions. Within Jewish-Israeli society, exclusion exists in the ultra-Orthodox and Orthodox education systems, wherein there is near total gender segregation between boys and girls. In recent years, this has extended to colleges with primarily Orthodox student bodies, and additional spaces like religious or traditional Jewish youth movements. In addition, spaces intended for populations from various religions now have gender segregated pools or even separate beaches; on public transit, there have been gender segregated bus lines for years.

Nevertheless, in recent years there has been an increase in the demand for segregation between men and women in the general public sphere, and a significant expansion of instances and places in which segregation has been implemented, earning both social legitimacy and even state support. This phenomenon has arisen in the following spheres, among others; the military; academia; the job market; professional training and programs offered by the state (cadets, correctional driving courses); schools; presence in public spaces; on panels and at conferences and in lectures; at performances, parties and cultural events.

There are various reasons for these processes within Jewish society. In short, it is important to note the dramatic expansion of roles held by ultra-Orthodox and ultra-Orthodox-nationalists in various civic, military, and public frameworks; the integration of Haredi men and women in the job market and higher education institutions; and in the backdrop, efforts on behalf of religious public leaders to legitimize various means of excluding women, and recruit the state to enforce them in new public spheres.

Against this backdrop, women among the Israeli public are compelled to cope with the widespread claim that is gaining legitimacy, wherein the presence of women constitutes a “problem” for ultra-Orthodox and ultra-Orthodox-nationalist communities, and that these communities must be considered to enable their participation in mixed-gender spaces. As such, claims arise and demands are made that women must not appear before men; that women may not learn or join trainings or programs with men (and as a result, sometimes there may not be an appropriate course or training for women); that women may not sit beside men on buses, and that they must find an appropriate place to sit by themselves, or have a separate seating area assigned to them – typically at the back of the bus; that women must give up their seats on the train, planes, or the plenum hall of the Knesset, if a man demands it; that women may not sit in front of the stage, or with their families, and enjoy a performance or lecture in any proximity to the performer or lecturer; that woman may not partake in any political, public, or media event, or as part of culture or society, as it is their job to silence their voices and hide their physical presence from the public sphere.

Why is the exclusion of women a violation of human rights?

All instances that entail exclusion of women deny women of any and all backgrounds the choice between different options, compelling them to adjust themselves to different dictates in relation to their presence in the public sphere. Thus, exclusion of women entails severe violation of women’s autonomy, in violating their right to full equality. Furthermore, various means of excluding women violate their right to dignity, as they typically push women back or aside, silencing their voices and thus communicating the harmful message that women are inferior to men.

Over 65 years ago in 1954, the United States Supreme Court delivered the famous *Brown v. Board of Education* ruling, which deemed that the doctrine of “separate but equal” is unconstitutional, as it inherently violates equality and dignity. In accordance with this perspective, it is impossible to safeguard equality under conditions of segregation on the basis of irrelevant criteria, such as nationality, race, sex, and religion. Ever since, the verdict has been repeatedly upheld, as whenever separate services are provided on the basis of such distinctions, the dignity, self-image, and standing of segregated individuals and groups are harmed, creating discriminatory gaps in the quality of service.

Why is exclusion of women harming women from all sectors?

Among other things, exclusion of women implies that no women, whether secular or ultra-Orthodox, may partake in any political, public, or media-related activity connected to the ultra-Orthodox sector, and decreasingly within Orthodox spheres as well (whether being interviewed by ultra-Orthodox press; offering a lecture to ultra-Orthodox men; participating in conferences,

etc.). Women have been removed from buses, were harmed upon walking on the side of the street designated for men, and more. This type of behavior is already preventing women from playing an equal role in society at large: there are an increasing amount of cases wherein women cannot appear before men or offer them lectures; cannot work or learn in any framework; and wherein their images are erased from advertisements, public signage, books and newspapers. Additionally, the demand for gender segregation and concealment of women's presence in the public sphere is expanding to include ever-younger girls. This harms all women's ability to join the job market and make a living, to hold meaningful influential societal roles, to self-actualize and realize their potential, abilities, and desires. It should be noted that exclusion of women also harms men, who are restricted from participating in the public sphere with women and girls.

What is the current legal situation?

Exclusion of women entails discrimination for all intents and purposes. It violates the rights to equality and dignity, and is thus prohibited. In many cases, courts have intervened to put an end to various forms of exclusion of women. The legal debate focuses on the distinction between exclusion and justifiable segregation. Israeli law has permitted specific arrangements for gender segregation over the years, when deemed justified. For example, gender-segregated restrooms and changing rooms at public pools or on the beach are considered legitimate, as the activity necessarily involves disrobing in a physically intimate space. In [Government Resolution 1526 on the topic of the ongoing exclusion of women](#) (Hebrew), it was ruled that segregation is prohibited aside from events of a religious nature. Accordingly, gender segregation in synagogues is permitted, as the activity is inherently religious.

Along with the expansion of this phenomenon in recent years, demands to change the aforementioned criteria have increased, which enable expansive exclusion of women from the public sphere, in circumstances that do not require physical intimacy or religious activities, such as in academic learning environments. On 8.22.2019, the Attorney General published his updated position on the topic of criteria permitting gender segregation at cultural events. His position upholds that in the name of preserving equality, the relevant authority should not enforce gender segregation, as a rule. Yet the Attorney General also determined a list of criteria that enable gender segregation and are not considered discriminatory (including assessing potential alternatives to the event, the voluntary nature of the segregation, the type of population being considered, etc.).

Is the struggle against exclusion of women exclusively secular and anti-religious?

In the language of human rights, the struggle against the exclusion of women stems from a clash between the right to equality and human dignity, and the right to freedom of religion. There also exists tension between individual rights, which essentially protect personal choice, and collective and group rights. When certain rights clash, a balance must be found among them that ensures their realization with minimal possible harm. This was the case when it was decided, for example, to permit gender segregation in explicitly religious activities, or in physically intimate spaces, despite this coming at the expense of equality.

The struggle against exclusion of women is not anti-religious, and is shared by women from many different sectors. Women from Orthodox-feminist organizations have led a long and hard-fought struggle to enable women to run as candidates on the slates of religious parties. Among the religious public, various voices and positions exist regarding the need to segregate women in different spaces: a large portion of the religious public, including women, does not view segregation and exclusion as a degrading element, but rather as a religious obligation or part of a religious way of life. Moreover, some see it as a means for women to partake in public life that was completely unavailable to them until recently. Nonetheless, many among the religious community voice clear and total opposition to the segregation of women and their exclusion from the public sphere.

From a human rights perspective, in the majority of instances, the exclusion of women violates their dignity, autonomy, and equal standing. Additionally, the human rights perspective defends the autonomy of human beings – both women and men alike – to make free and equal choices between different options. Furthermore, even if it is “solely” a call for gender segregation, when women are supposedly guaranteed equal services to those received by men, the outcome quite often indicates that separate is not equal. Most women will receive, if anything, service and treatment that is essentially different and of a poorer quality than that received by men. For example, consider women who sit at the back of the bus, or in the wings of a gender segregated auditorium – sometimes even behind a divider – such that their ability to enjoy a concert or lecture is severely hindered. Additionally, one of the consequences of demanding segregation is that in many cases, women do not receive parallel services to men whatsoever. Thus, the cadets program and correctional driving courses were only offered to men, on the grounds that similar courses for women would be opened at a later, undetermined date. Only following legal intervention were parallel courses for women opened immediately. Sometimes, opportunities for courses and programs are solely offered to men in fields considered “masculine,” while women are offered courses in “care-related” fields, such as education and speech therapy. This reflects an overt gender gap, and gender segregation that prevents the opportunity to freely choose a profession.

Why should communities that have identified gender segregation as a desired part of their way of life not be permitted to do so?

In response to the claim that women's rights to equality and dignity are violated by segregation, and that segregated services cannot be provided while protecting equality, a claim has often arisen in recent years advocating for multiculturalism. The argument states that prohibiting gender segregation harms various communities' ways of life, and their ability to uphold their traditions and religions. An additional claim posits that the women of these communities have identified their preference, and their communities should not be forced to change their way of life. It is further argued that forbidding gender segregation harms women's ability to partake in various events, wherein their presence would otherwise be completely prohibited.

Deliberation on this issue requires a complex balance of values and rights, both of individuals and varying groups. It is possible that there are certain limited scopes of segregation, particularly when it occurs within a religious community and is voluntary (insofar as that may be confirmed), in which there is no need to intervene. However, the phenomenon has expanded from an ostensibly consent-based intra-communal issue, to a matter of coercion with no possible choice for men or women. Even the state has been called upon to enforce this segregation, such that at that moment the phenomenon requires regulation. In our view, considering the violation of human rights and the need to balance needs, narrow binding standards must be established to ensure the protection of human rights for all women in Israel.