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The Israeli Law Professors' Forum  
for Democracy

## The Israeli Law Professors' Forum for Democracy

### Position Paper No. 11: Violation of Women's Rights as a Result of the Proposed Regime Changes in Israel

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The Israeli Law Professors' Forum for Democracy, an ad hoc voluntary and politically independent group of experts on Israeli law and specifically Israeli public law, views with grave concern the apparent intention to abolish the independence of the judiciary in Israel, to subordinate it to the government and the partisan political considerations of the executive branch, to undermine the independent status of the Attorney-General and the legal advisors to government ministries, and to violate human rights.

In this position paper, and in view of such intention and its implications, we relate to the foreseeable violation of women's rights, as reflected in the government's composition and appointments, in the coalition agreements, in the legislative bills proposed by coalition members, and in the actions and declarations of the government and its members.

\* We, members of the Israeli Law Professors' Forum for Democracy, hold different academic views regarding the details of the various reforms proposed by Israel's 37th Government to change Israel's democratic regime. However, we are united in the opinion that the government's proposals - which overall constitute an unprecedentedly severe attack on the independence of the judiciary, the Attorney General and government legal advisors, the police, the military, and public broadcasting - will seriously damage the rule of law and Israel's democratic character. Therefore, we joined this forum to make our professional opinion available to the public at this fateful time. The position papers or other professional materials produced by us reflect the prevailing position among the members, even if they are not unanimous. The list of the Forum's members and all its position papers (in Hebrew) are available at <https://lawprofssforum.org>. Follow us on Twitter: <https://twitter.com/lawprofssforum>. Contact us: [lawprofssforum@gmail.com](mailto:lawprofssforum@gmail.com).

**The conclusion of this position paper is that the totality of actions, commitments, and legislative changes initiated by the government and the coalition will amount to a mortal blow to the rights of all women in Israel, and to a regression in their situation in the gravest manner since the establishment of the state.**

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# Violation of Women's Rights as a result of the Proposed Regime Changes in Israel

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## **INTRODUCTION**

In certain respects, particularly in matters concerning personal status, the state of Israel from its very establishment in 1948 sacrificed the rights of women on the altar of political considerations, to placate religious authorities. Consequently, in some areas of the law, women in Israel suffer daily violations of their basic freedoms under a system of religious law that denies their basic rights and is administered by courts on which they are forbidden from serving as judges. Despite significant progress in women's struggle for equality and freedom over the years, there remain islands of extreme inequality. Now, the new coalition government is set on expanding these islands by allowing fundamentalist religious views and the extremist rabbis who dictate them to govern almost all aspects of women's rights.

At the same time, the coalition has declared it has no intention to initiate or support laws for the advancement of women's rights or measures aimed at eradicating the rising violence against women. While the absolute male majority in the coalition (of 64 Knesset members only 9 are women) with zero representation of women in the appointments to senior positions in government and the public service, is accepted as if only a natural fact of life. Women have disappeared and been silenced in all branches of the new government, and this in itself calls into question the legitimacy of its resolutions.

## **A. WOMEN'S EXCLUSION AND GENDER SEGREGATION**

### **Background**

The phenomenon of segregation between men and women in the public sphere for reasons of religion first started towards the end of the millennium, under the pressure of haredi (ultra-orthodox) public leaders who argued for making the public sphere accessible to the haredi population. The first petitions to the High Court of Justice (HCJ) submitted by the Israel Women's Network in 1997, challenged the gender segregation that had been introduced into public transport and professional

training. The court preferred not to intervene at the time, reasoning that it was an internal haredi affair, and advised that the petitions be removed.<sup>1</sup>

In the following decade, the court's policy of non-intervention together with the action of state authorities to institutionalize and finance separate frameworks resulted in the spread of women's segregation and exclusion in the public sphere, like fire in a field of thorns. The HCJ gave its first principled judgment on gender segregation in 2010, when it ruled that segregation on busses may not be forced. Justice Elyakim Rubinstein wrote: "The operator of public transport (like any other person) may not tell, request or instruct women where to sit in the bus just because they are women, or what they may wear, and they may sit in any seat they wish... When I re-read the lines I just wrote, I wonder to myself how it is at all necessary to write them in Israel of 2010. Have we returned to the days of Rosa Parks?"<sup>2</sup>

In 2013, the report of a team appointed by the Attorney-General to examine the phenomenon of women's exclusion in the public sphere, determined: "The phenomenon which manifests in what is often referred to as 'women's exclusion' is a grave phenomenon characterized by the discrimination of women as women. This discrimination is radical and unsettles the fundamental grounds of Israel's democratic regime, which recognizes the human value of the person as a person."<sup>3</sup> The report called upon the pertinent public authorities to act in a speedy, efficient and determined manner so as to put a stop to expressions of exclusion and segregation within their field of responsibility or influence. The government adopted the report in 2014 and all the relevant ministers were charged with its implementation.<sup>4</sup>

Nonetheless, neither the report nor the court ruling covered all the areas touched by segregation, and despite attempts to reduce the phenomena of segregation and exclusion in certain areas they kept spreading in others, such as higher education, the military, and professional training programs, inter alia with the encouragement of the state. The phenomenon of segregation became one of the acute centers of conflict between women's rights and the coercion of religious views in the public sphere. Only the endless work of feminists - secular, religious and haredi as one - to put an end to these illegal phenomena and seek redress through the courts to enforce women's legal right to equality, slowed down the spread of segregation.

In 2020, the HCJ ruled that local government authorities in communities with a religious majority have a legal obligation to open swimming pools in their locality to hours of mixed swimming, not only segregated ones, and that segregation is the exception to the rule of providing services without sex difference.<sup>5</sup> In 2021, the HCJ ruled on the constitutionality of sex segregation in higher education programs for

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<sup>1</sup> HCJ 5079/97 Israel Women's Network v. Minister of Transport (unpublished.)

<sup>2</sup> HCJ 746/07 Regan v. Minister of Transport (2011), paragraph 19 of Rubinstein J's opinion.

<sup>3</sup> Report of the Ministry Team on the Phenomenon of Women's Exclusion in the Public Sphere, Ministry of Justice (7 March 2013) para. 12.

<sup>4</sup> Government Resolution 1526, 30 March 2014.

<sup>5</sup> HCJ 3865/20 Shukrun v. Kiryat Arba Local Council et al., 7 October 2020.

haredi men. The court found that segregation in academic studies violates the equality and human dignity of women students. Nevertheless, it held (by a majority of 3 to 2) that under certain conditions such violation might meet the limitation clause in Basic Law: Human Dignity and Liberty, and it therefore allowed the practice of separate study tracks to continue. The court made some striking comments about the disproportionate and nonessential character of the segregation in some of these programs and gave an order to reduce the harm to women students, as well as to women lecturers whose equal employment opportunity was affected since they are not allowed to teach classes of men.<sup>6</sup>

## **Foreseeable changes with the new coalition**

### ***Segregation and exclusion in employment, academia and cultural events***

The religious Zionist and haredi political parties received commitments to permit gender segregation by law in their coalition agreements with the Likud. The planned legislative amendments will eliminate the legal protections that guarantee women's right to equality and freedom in the public sphere, reduce their autonomy and freedom from discrimination, and violate their human dignity in all areas of life: public space, employment, commerce and consumerism, leisure activities and more.

The coalition agreements state that the Prohibition of Discrimination in Products, Services and Entrance to Entertainment and Public Places Law, 2000 will be amended so as to "prevent harm to a private business that refrains from providing a service or product due to religious belief, and on condition that such service or product is not unique and a similar alternative is accessible within the geographical proximity at a similar price."<sup>7</sup>

The proposed bill, which has already been submitted to the Knesset, would permit businesses to impose segregation of men and women, require of women modest dress as a condition for providing its services, and even to prevent any admission to women during certain hours. The proposed law would also permit providers to refuse to give service to Arabs and members of the LGTB community. What is more, the language of the coalition agreement and legislative bill implies that a business owner may refuse to sell a product or give a service on the basis of their client's preferences.<sup>8</sup> In other words, the scheme would permit any business owner to impose in their business the removal and exclusion of women as both customers and employees, in order to attract customers who do not wish to receive services from women or in their presence.

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<sup>6</sup> HCJ 8010/16 Berezon et al. v. State of Israel et al., 12 July 2021.

<sup>7</sup> Section 91 of the Agreement between the Likud Faction and the Shas Faction (28 December 2022); section 97 of the Agreement between the Likud Faction and the Religious Zionist Faction (28 December 2022); Section 91 of the Agreement between the Likud Faction and the Yahadut HaTorah Faction (28 December 2022)

<sup>8</sup> The Prohibition of Discrimination in Products, Services and Entrance to Entertainment and Public Places (Amendment – Harm to Religious Belief) Bill, 2022 (12 December 2022).

As a result, it is likely we will soon see men-only advertisements for jobs in banks, cellular companies, health care funds and private businesses, so as to answer the newly invented right of men who so wish to avoid the company of women and receive service from men only. Workplaces will refuse to accept women and prefer to employ men who can provide service to both men and women, and women clients of service providers (secular and haredi alike) might be forced to use separate side entrances far from the eyes of men. These phenomena might sound imaginative and fantastic, but it is important to know that they are already manifesting. For example, around ten public libraries in Jerusalem are open only during segregated hours; in some of the academic institutions that offer programs to haredi students, women do not provide secretarial office services for students who are haredi men but are replaced with male administrative workers; women in the military are completely distanced from haredi soldiers, even when it comes to clerical services such as gear distribution or canteen sales.

Women who volunteer for Magen David Adom (MDA), the national provider of emergency medical services, are physically attacked when they come to offer aid by those who are bothered by their sex; women are not evacuated by ambulance if their dress is immodest; and last year MDA held an honor event for religiously observant volunteers at the Tel Aviv Cultural Center, which women entered through a side entrance in the parking lot while men used the main entrance. In view of the expected changes in the law MDA has already announced that the paramedics course for national service volunteers due to open in July, will for the first time be conducted with gender segregation for all participants, including secular, at the request of haredi and religious candidates.<sup>9</sup>

It is almost needless to say that when services are segregated the quality of the services and spaces allocated to men are significantly better than those allocated to women, as is already evident today. Legislation of a new right for haredi and religious men to insist on segregation on grounds of religious belief, would effectively eliminate the right of women to equality in the public sphere and the employment and consumer markets.

Another serious aspect of the coalition agreements is that the law will be amended so as "to anchor the possibility of holding for haredi and religious people who so wish, cultural events or study programs that are intended for such public or are of a clear religious character, out of consideration for their religious beliefs and needs, including with gender segregation. In such conditions segregation will not amount to prohibited discrimination."<sup>10</sup> The wording seeks to create an appeasing impression that we are concerned with limited events in religious and haredi localities. But in fact it is a sweepingly broad license to hurt and wrong both religious and secular women at a multitude of cultural and educational events. The planned law would allow the discrimination of women participants in such events with less room and budgets. It is expected to have negative impact on the possibility of secular women to take part in public and national events and ceremonies, not just their singing but standing on stage

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<sup>9</sup> Ynet News, 9 February 2023 <https://www.ynet.co.il/news/article/rywi009zao>

<sup>10</sup> Section 91 of the Agreement between the Likud Faction and the Shas Faction (28 December 2022); section 97 of the Agreement between the Likud Faction and the Religious Zionist Faction (28 December 2022); Section 108 of the Agreement between the Likud Faction and the Yahadut HaTorah Faction (28 December 2022).

and speaking too. Only this year, a woman IDF officer was barred from leading a military ceremony at the Western Wall.

According to the plan, segregation will also become lawful without any limitation as regards all kinds of higher education programs. Consequently, the segregated academic tracks of study that were limited so far to haredi students only, will be open to national religious men and anyone else who declares that he does not wish to study with the second sex. The segregated study programs will also be extended to graduate studies, contrary to the judgment of the HCJ in the matter.<sup>11</sup> And segregation would be permitted, according to the proposed wording, not just in classrooms but all over the campus where studies take place, including corridors, courtyards and cafeterias, likewise contrary to the court's ruling. The spread of segregation will further hurt women lecturers who are already facing difficulties in finding employment and gaining tenure in the academic institutions that currently allow segregated undergraduate studies, since they are not permitted to teach men whereas the men lecturers may teach women so that their employment is more lucrative for the institution.

Lastly, the license to hold segregated studies is likely to extend to professional training programs, where they have been forestalled until now thanks to the courts' stand on the right to equality between the sexes.

### ***Harm to women serving in the military***

The new government is planning to subject the Chief Military Rabbi (CMR), to the Chief Rabbinate of Israel in matters of religious law - halakha. According to the coalition agreements and a legislative proposal already tabled in the Knesset, the IDF Chief Rabbi will be chosen by a committee which will be external to the military and headed by the president of the Council of the Chief Rabbinate. The CMR will not be required to have any past experience in the military other than completing regular service in any role, he will be raised from his present rank of Brigadier-General to the rank of Major-General, and will be considered part of the General Staff.<sup>12</sup> What is more, the CMR will not be subordinate to the Chief of Staff in halakhic-professional matters, but to the Council of the Chief Rabbinate, despite the fact that this body objects to women's enlistment in the IDF, not to mention their equal integration in the army and in combat roles. Thus, the CMR might use his new rank and authority on the one hand, and his subordination to the Chief Rabbinate on the other, to demand that women's integration in combat units be curtailed and to order religious soldiers to refuse to serve together with women and near them.

### ***Freedom of dress and movement in the public sphere***

The coalition also proposed a bill to impose a penalty of six months prison on women who come to the Western Wall in immodest dress, or pray there not in accord with "the custom of the place", as defined by the Rabbi of the Wall.<sup>13</sup> The proposal would give the haredi rabbi total control over the plaza of the Western Wall and over the conduct of women who come to sightsee or to pray there, regardless of their religious faith. The

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<sup>11</sup> HCJ 8010/16 Berezon et al. v. State of Israel et al., 12 July 2021.

<sup>12</sup> Chief Military Rabbi Bill, 2022 (26 December 2022).

<sup>13</sup> Preservation of the Sanctity of the Western Wall and its Plaza Bill, 2022 (19 December 2022).

declared purpose of the bill is to prevent the Women of the Wall from holding prayer services in the plaza, which include reading the Torah and wearing prayer shawls according to their custom.<sup>14</sup> In fact the powers to be granted to the Rabbi of the Wall are far broader and they include the coercion of a stringent etiquette of modesty and strict rules of visit and prayer, segregated, for all. In response to the public outcry, Prime Minister Netanyahu declared the bill would not be promoted at this stage, but he did not make a commitment that it would not be promoted at all.

## **Summary**

Some of the said arrangements, such as different aspects of women's exclusion from the public sphere and gender segregation, were struck down in the past by the courts as illegal because of their severe violation of women's right to dignity and equality under Basic Law: Human Dignity and Liberty. Therefore, a prior condition for the legitimation of women's exclusion and segregation is the enactment of the radical changes under discussion in the Knesset, which aim to cripple the independence of the judiciary by changing the professional process of appointing judges and submitting it to political control, restricting the courts' power of judicial review over the Knesset and the government, and neutralizing the legal advisors to the government and its ministries.

If these changes are passed, the way will be open for the coalition to enact laws that discriminate against women and violate their basic rights, without judicial review of the legislation and without any other checks on the government. In anticipation, many more bills have been submitted to the Knesset since the elections, whose chances of being legislated and withstanding review in the past were slim to say the least, such as a law that would allow segregation in nature reserves and another that would allow the addition of more segregated beaches.<sup>15</sup>

## **B. EXPANDING THE JURISDICTION OF RABBINICAL COURTS**

### **Background**

Today, under the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law, 1953, the powers of the rabbinical courts are limited to marriage and divorce, including matters related to divorce such as questions of child custody and parental responsibility if included in the application for divorce. Other matters concerning children may also be brought by agreement to the rabbinical court, but it has no jurisdiction over the division of property. In any event, the jurisdiction of the rabbinical courts is limited to the sole context of marriage and divorce. Proposals to

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<sup>14</sup> The Women of the Wall have been leading an ongoing legal struggle for the equal right to pray at the Western Wall since HCJ 257/89 Anat Hoffman v. The Rabbi of the Wall, 26 January 1994.

<sup>15</sup> Regulation of Bathing Places (Amendment – Designation of Times for Segregated Bathing in Nature Sites) Bill, 2023 (30 January 2023); Regulation of Bathing Places (Amendment – Determining Places for Segregated Bathing) Bill, 2023 (6 February 2023).

expand their jurisdiction have been cropping up ever since the HCJ ruled in 2006, that it was limited to the matters given to them under the marriage and divorce law and they may not therefore arbitrate other civil disputes.<sup>16</sup> So far these bills have not reached advanced stages of legislation.<sup>17</sup>

### **Foreseeable changes with the new coalition**

Two of the Likud's coalition agreements – with the Religious Zionist and Shas parties – contain a commitment to expand the power of the rabbinical courts to hear cases about *dinei mammonot* (monetary matters) and other civil affairs presently outside the scope of their jurisdiction. Some of the agreements refer to the power of adjudication while others refer to arbitration. The agreement with the Religious Zionist party provides that "the government will work towards a legislative arrangement that restores to the rabbinical courts the power to hear and determine monetary affairs, with the consent of the parties."<sup>18</sup> The agreement with Shas provides that "the government will work towards legislation that empowers the rabbinical courts, with the consent of the parties, to hear and rule upon monetary matters, and determines that the rabbinical courts shall have jurisdiction over any civil affair that might serve as the subject of an agreement, if the concerned parties expressed their consent in writing and in cases in which one of the parties is a member of the religion of the court."<sup>19</sup>

As might have been expected, a bill submitted by Shas and Yahadut Hatorah Knesset members to expand the jurisdiction of the rabbinical courts to the arbitration of disputes, was on the agenda of the meeting of the Ministerial Committee for Legislation on 19 February 2023.<sup>20</sup> This time, a coalition majority in support of the bill, and others like it, is assured. The import is the creation of a comprehensive system of law in accordance with *din Torah*, Jewish law, in parallel with the system of civil law.

In other words, two legal systems, based on different bodies of laws and founded on different perceptions of justice, will operate under the wings of one state. The one based on laws designed by the Knesset through courts loyal to the principles of democracy. The other, according to halakha, an unwritten body of law, through courts on which a considerable number of those serving as judges are not committed to the laws enacted by the Knesset or the rulings of the civil courts. Moreover, the halakhic legal system was developed by men only within a patriarchal social order. It reflects and preserves patriarchy, by its very nature it gives more power to men, and to this day it professedly excludes women from serving as judges. In addition, the

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<sup>16</sup> HCJ 8638/03 Simah Amir v. The Great Rabbinical Court, P.D. 61(1) 259.

<sup>17</sup> For example, Rabbinical Courts Jurisdiction (Arbitration) Bill, 2015 (8 June 2015); Rabbinical Courts Jurisdiction (Jurisdiction by Consent) Bill, 2021 (28 June 2021).

<sup>18</sup> Section 110 of the Agreement between the Likud Faction and the Religious Zionist Faction (28 December 2022).

<sup>19</sup> Section 109 of the Agreement between the Likud Faction and the Shas Faction (28 December 2022).

<sup>20</sup> Rabbinical Courts Jurisdiction (Arbitration) Bill, 2023 (2 January 2023).

rules of procedure are substantially different from those in the civil courts, including with respect to the capacity of women and non-Jews to testify.

Those in support of expanding rabbinical powers flag the point that only with the consent of the parties will a civil dispute be heard by a religious court. However, full and true consent can only exist between two equal and balanced forces. There is concern that in many cases consent to adjudication will be forced on the weak party, particularly women. For example, in situations where one holds authority over the other, such as employer and employee; where there is a large disparity between the parties in terms of bargaining power or resources at their disposal; or where there is community pressure to use the religious courts. The first to be affected will be haredi women, who will always be urged to turn to them. For example, women working in the haredi educational network will find it difficult to resist pressure to resolve an employment dispute in the rabbinical court, rather than in the labor court according to civil law. Past experience teaches that the rabbinical courts consistently gave preference to the economic interests of the employer educational network over the rights of women kindergarten and schoolteachers.<sup>21</sup>

For Jewish women in Israel in general, the hardest impact will be felt in the context of divorce disputes. According to the proposed law it will be possible to "consent" to litigate matters concerning the division of property before the rabbinical court, in contrast to the legal situation today. The "consent" of a woman going through divorce proceedings to litigate the division of property in a rabbinical court is always forced and coerced, since it is put to her as a condition for the husband to give her the *get* (bill of divorce), or as a condition to some other agreement related to the children. The legal reality is that women are pressured to accede to various conditions that their husbands demand in exchange for giving the *get*. It is certain to say that extension of the rabbinical courts' jurisdiction will add powerful ammunition to the husbands' arsenal, who will be supported by courts which consider the demand that they hear the dispute according to religious law to be a reasonable and even warranted condition for the woman to receive a *get*. This is an opening to grave violations of the rights of divorcing women, perhaps the most serious that Israel's legal system has known for years.

We should bear in mind that Jewish law as now applied in the official rabbinical courts is discriminatory and problematic for women and others. The law that will apply to adjudication or arbitration before the rabbinical courts will be *din Torah*, which is interpreted today according to the ultra-conservative worldview of the rabbis serving as judges on behalf of the establishment. The rabbinical courts are already exercising their power of adjudication unlawfully over issues bound up in marriage and divorce, as they are ruling according to *din Torah* where the law obliges them to rule according to civil law, such as in matters of property.<sup>22</sup>

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<sup>21</sup> Ron S. Kleinman, "All According to the Custom of the State? Halakha and View in the Rulings of the Official Rabbinical Courts in Employment Disputes," 2019 *Mehkarei Mishpat* 141.

<sup>22</sup> For example, HCJ 1000/92 Bavli v. The Rabbinical Court, PD 48(2) 221; FHHJ 8537/18 Anonymous v. The Great Rabbinical Court in Jerusalem (24 June 2021).

## **Summary**

Expanding the authority of the rabbinical courts to cover civil law disputes will create a comprehensive legal system parallel to the judiciary, based on a system of religious law that discriminates against women and professedly excludes women from serving as judges. In practice, this means that there will be two separate legal systems existing in one state, each based on a different body of law and different conceptions of justice. Jewish women in general will be affected most in the context of divorce proceedings, where they will be forced "to consent" to the jurisdiction of the rabbinical court in matters till now adjudicated in the family courts.

## **C. VIOLENCE AGAINST WOMEN, DOMESTIC VIOLENCE, AND THE ISTANBUL CONVENTION**

### **Background**

The reality of life teaches that Israel is not equipped today for effectively combating the phenomenon of violence against women and domestic violence, as is evident from the drastic increase in the number of such incidents during the Covid crisis.<sup>23</sup> In recent years, thirty women have been murdered annually by their present or past partners. The State Comptroller published a report on "Combating the Phenomenon of Domestic Violence" last year and pointed to a series of deficiencies in the way the authorities handle the phenomenon, including the absence of a definition of the phenomenon of domestic violence in the law, failure to train social workers in the field, and lack of action to locate families at risk. At the same time, the inter-ministerial program to prevent and treat domestic violence has not been fully funded or implemented, despite its adoption by the government in 2017.<sup>24</sup> And, last year Israel was about to join the Istanbul Convention - the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence - with broad support in the outgoing government, but the dispersion of the Knesset prevented it from doing so.

### **Foreseeable changes with the new coalition**

In none of the coalition agreements is there a chapter dedicated to combating violence against women and domestic violence. Instead, section 106 of the

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<sup>23</sup> Between 2019 and 2020 there was a 26% increase in the total number of calls to the "118" welfare emergency hotline from domestic violence victims requesting help; a 12% increase in the total number of applications to centers for the treatment of domestic violence; and an 11% increase in the number of complaints opened by the police about physical violence and threats among couples. The Knesset Research and Information Center, Aggregation of Data on Domestic Violence and Particularly Violence Against Women, 21 November 2021.

<sup>24</sup> The State Comptroller, Series of Reports on Local Government Review, Combatting the Phenomenon of Domestic Violence, 2021.

agreement with the Religious Zionist states that "the government will not approve Israel's joining the Istanbul Convention." The Istanbul Convention is the convention of the Council of Europe on preventing and combating violence against women and domestic violence.<sup>25</sup> It is considered to be the most important and effective instrument for states to deal with these phenomena, and constitutes the internationally accepted standard in the field. The convention's point of departure is that violence against women is "a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men," and that it cannot be effectively combated without a holistic approach that addresses its roots. Violence against women is a broad phenomenon that includes domestic violence, sexual harassment, rape, forced marriage, crimes in the name of "family honor" and female genital mutilation.

The Convention is divided into several chapters around principles of prevention, protection, prosecution and matters of general policy and cooperation. It is based on the assumption that no single agency or institution can handle violence against women and domestic violence on its own. An effective response to such violence requires a comprehensive policy of coordinated action by many different actors. The Convention requires state members to take an integrated approach of co-operation among state agencies and non-governmental organizations, as well as with local and regional authorities. Its aim is that policy for the prevention of violence against women and domestic violence should be carried out at all levels of government and by all the relevant bodies and institutions.

In April 2022, Israel received an official invitation from the Council of Europe to join the Istanbul Convention. This was the outcome of years of thorough groundwork by the Ministry of Justice in preparation for signing the convention subject to certain reservations and interpretive comments that would protect the sovereignty of the state of Israel. Except that then voices were raised against Israel joining the Convention. The main outcry was against two sections in one article of the Convention (out of tens) that concerns migration and asylum, on the pretext that it would cause a breach in Israel's borders and the country would be flooded by millions of women victims of domestic violence. Those opposed to signing the Convention ignored the fact that Israel's signature was to have been subject to several reservations and declaratory interpretations concerning matters of migration and asylum, and it was clear that joining it would change nothing in Israel's migration policy and law. The baseless objections to joining the Convention diverted public debate from the main goal of eradicating domestic violence and protecting its victims.

There is no doubt that the underlying reason for blocking Israel from signing the Convention was the objection to any initiative that would advance gender equality and undermine the structure of the patriarchal family, invoking the ludicrous argument that interfering in domestic violence is a violation of family autonomy. Similar arguments were made in the 23<sup>rd</sup> Knesset when the first reading of a bill to

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<sup>25</sup> Council of Europe [Convention on Preventing and Combating Violence Against Women and Domestic Violence](#), 11 May 2011

include economic violence in the Domestic Violence Prevention Law, 1991 was voted down. Those voting against did not hesitate to point to the articles in the Convention that call for education about gender equality and women's rights as the most dangerous ones for "Israel's sovereignty as a Jewish state", drawing an apparently direct line between Judaism and violence against women. The same elements that aborted Israel's joining the Istanbul Convention are identified with those currently in power. It is not surprising that the coalition agreement between the Likud and the Religious Zionist party includes a commitment to not join the Convention.

It is evident in other ways too from the conduct of the present government since its formation, that it disclaims responsibility for combating violence against women and domestic violence. For example, a bill for using electronic handcuffs to monitor men who have been issued a protection order, which passed its first reading right before the previous Knesset dispersed and was of full consensus among the welfare and law enforcement authorities, is not being advanced in any way.<sup>26</sup> Various statements to the media indicate that in this field too, the government will disown all the measures taken by the previous government. Not one coalition Knesset member attended a meeting of the Committee for Gender Equality on implementation of the national plan of action for the prevention and treatment of domestic violence, on January 30. On the other hand, in response to the last terrorist attacks, the Security Cabinet the ministerial committee for national security, decided to speed up the process of licensing firearms, without at all considering the ramifications for women's personal security, or that between 2019 and 2021 in one third of the cases of women murdered with firearms the weapon was held under license.<sup>27</sup>

Moreover, there is already significant criticism of the police and state prosecution because many complaints against suspects of violent crimes and sex crimes against women and children are closed, and because of the huge number of plea bargains.<sup>28</sup> The changes proposed by the coalition to restrain the discretion of the H CJ and eliminate the standard of reasonableness for judicial review, remove the barriers to enacting laws that violate principles of equality and human dignity, and downgrade Basic Law: Human Dignity and Liberty, can be expected to leave the executive and legislative branches without the supervision of the courts, and leave the women and

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<sup>26</sup> The Prevention of Domestic Violence (Technological Surveillance to Ensure Performance of Protection Orders, and Risk Assessment – Temporary Provision) Bill, 2022 (4 July 2022).

<sup>27</sup> The Gun on the Kitchen Table nongovernmental coalition is leading an initiative to reduce the distribution of light weapons and its resultant violence, to promote practices that lessen deadly violence against women and in families, and to subject the private security industry in Israel to public accountability and review. Among other things, the project is pushing for the immediate implementation of the law that orders the collection of security firearms at the end of a work shift, in order to save lives of women and men and to protect thousands of innocents from their menace. The project is the product of a research study published in 2009, which exposed an invisible aspect of the security and guarding services industry in Israel – a statistically significant phenomenon of the murder of daughters and family members by security guards. Around the time of its publication, the Firearms Law, 1949 was amended in 2008, to add section 10c(b) which provides that a permit to carry arms issued by a security company to a guard shall be limited to his area of employment. In 2018 the coalition came together with women's organizations and petitioned H CJ against new and wider criteria for receiving gun licenses.

<sup>28</sup> The State Prosecution Annual Report, 2021.

children victims of those crimes with even less recourse to support and relief that they have today.<sup>29</sup>

## **Summary**

In an unprecedented manner, the coalition agreement between the Likud and the Religious Zionist Party includes a commitment to not join the Istanbul Convention, which is currently regarded as the most important and effective tool for countries to deal with these phenomena and the internationally accepted standard for doing so. Other coalition actions also indicate the government is disclaiming responsibility for combating violence against women and domestic violence.

## **D. HARM TO WOMEN'S REPRESENTATION IN THE KNESSET, THE GOVERNMENT AND SENIOR POSITIONS**

### **Background**

The foundation of women's equal status in Israeli society was laid down in the Declaration of Independence, which stated that "the State of Israel will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex." This principle was anchored in 1949 when the first Knesset determined in its ground rules that "it would provide complete and full equality for women ... in the life of the state, the society and the economy and in the entire legal system." These principles were restated in 1951 as a guarantee that Israel would act for full equality between men and women.

Women's right to proper representation in the civil service in general, in public bodies, national policy making teams, and senior positions in particular, was established in sections 6c and 6c1 to the Women's Equal Rights Law, 1951 and in section 15a to the State Service (Appointments) Law, 1959. These laws set down the obligation to ensure proper representation of women at all levels. Section 12 of the State Service Law expressly applies its provisions to the appointment of director-generals in government ministries, and to "appointments by way of tender, employment without tender, and appointments de facto." The Supreme Court has interpreted the duty of proper representation broadly, and clarified the importance of its application and implementation in relation to women in focal centers of decision making and in senior positions in particular. It has also underlined the importance of the duty to take active and concrete measures and do the maximum in order to guarantee equal representation.<sup>30</sup>

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<sup>29</sup> See the position paper of the Israeli Law Professors' Forum for Democracy on the ramifications of the legal reform in the criminal law.

<sup>30</sup> See inter alia H CJ 94/4541 Miller v. Minister of Defence; H CJ 5755/08 Yael Aran v. Government of Israel; H CJ 2754/02 Israeli Women's Network v. Government of Israel; and H CJ 5660/10 Itach-Maaki v. Prime Minister; as well as dozens of other decisions.

Likewise, Israel's governments have emphasized the importance of applying the requirement of proper representation in a series of resolutions,<sup>31</sup> including (a) No. 2331 (14 December 2014) – in which the government undertook to develop an overall plan of action for gender equality, including the promotion of diverse and equal representation of women in focal decision making; (b) No. 4631 (14 July 2019) – in which the government undertook to take action to realize the world goals for sustainable development by 2030, which include goals of equal representation for women in focal decision making centers; and (c) government resolution No. 454 (18 October 2020) – in which it undertook to advance and integrate women in the state service, with one goal being systematic progress towards proper representation of women in at least 50% senior positions.

## **Changes with the new coalition**

### ***Proper representation***

The present government marks a historical regression in women's representation. The coalition has an absolute male majority – out of its 64 Knesset members only 9 are women (14%). In the Knesset as a whole, women account for a mere 29 of its 120 members (24%).<sup>32</sup> Even before the elections there was a drastic fall in the rates of women's representation in the lists of the coalition party members. The Likud party which heads the government included a few women candidates in its list, mostly in low unrealistic places, while the religious parties positioned only three women and the haredi parties none whatsoever.<sup>33</sup> And among the few women who were included in these lists, some were elected precisely because of their record of activism in opposing women's rights and equality, including their success in obstructing legislation that aimed to protect victims of sexual violence and provide response to domestic violence.

Over the years, several legislative initiatives to set up mechanisms for ensuring equal and balanced representation of women in all political parties failed, in face of the strong opposition of the haredi parties under the banner of objecting to women's basic right to be elected to public office. They produced instead a flip image, denying women's right to participation and representation in their party lists, and thus guaranteeing that approximately twenty seats in the Knesset will be filled permanently by men only.

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<sup>31</sup> Resolution 2331 of the 33<sup>rd</sup> government on "Advancing Gender Equality and Integrating Gender Concepts," 14 December 2014, which was adopted two months after Resolution 2084 on "Adopting the Recommendations of the Commission on Gender Aspects of the State Budget in Israel", 7 October 2014. The same government also adopted Resolution 3664 on "Advancing Gender Equality and Integrating Gender Concepts in Various Areas", 11 March 2018.

<sup>32</sup> Cf. Knesset Information and Research Center, [Women in the Knesset: Aggregated Data after the Elections to the 25<sup>th</sup> Knesset](#).

<sup>33</sup> For information on the Knesset factions and their composition see the [Knesset website](#). See also C Friedberg and A Shapira, [opinion piece](#), Israel Democracy Institute, 8 November 2022.

Once the election results were published in November, in anticipation of the government's swearing-in and the round of senior appointments to follow, tens of women's and human rights organizations appealed to the prime minister elect to act immediately to appoint women in centers of focal decision making and to promote legislation that would guarantee women equal and balanced representation in the party lists for election to the Knesset. They expressed their serious concern that there would be a regression in the number of women appointed to serve in senior positions. Sad to say, their appeal was never answered and within weeks their concern came true.

Tens of appointments to senior government positions and to positions of influence in the civil service were of men only, and among 33 director-general positions in government ministries there were zero women appointed. The number of women chosen to head Knesset committees was only four out of a total of 25. As for the composition of the government, since the state was established only 25 women served as ministers. Until 2020, no more than four served together and in most years, there was either one woman minister or none. The previous government, that was in power for one year, held a record of nine women in the government, approximately one third of the ministers. In the State Security Cabinet, the most influential and powerful body in the state in matters of foreign affairs and national security, until 2020 there was one woman at the most.<sup>34</sup> The present government includes only six women among 30 ministers. And like the government, the State Security Cabinet now includes 17 ministers and deputy ministers with only two women, while there are no women at all on the Shin Bet committee.

Besides the Minister of Transport, all the other women in the present government were either appointed to ministerial positions that never existed before and were invented specially for them, or to junior positions. As already mentioned, among these women are some who earned their high rank and position of influence as opponents of proposals to promote gender equality and measures to eradicate domestic violence. In recent weeks they have declared their intention to continue to do so from their new positions of power. Finally, the government is planning in its first steps to introduce a reform "to ensure governance and the capacity to implement government policy". At the heart of this reform is the intention to cancel the directors-team that was designed to reduce political appointments in government companies, and within which measures are taken to encourage proper representation of women.

This harsh reality signifies a deep regression in the protection of women's basic right to representation in the Knesset and in positions of decision-making and it amounts to a gross breach of the government's duty to guarantee representation of women, and a violation of the law as expressed in numerous court decisions, government resolutions and administrative directives. The government's failure also amounts to noncompliance with Israel's international obligations.

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<sup>34</sup> The National Security Council, [Report on the Integration of Gender Concepts in Emergencies](#).

In 2023, over 4.5 million women are living in Israel, who account for 51% of the population. The lack of proper representation in the Knesset and the government is a harsh blow to the status of women in Israel and can be expected to deeply influence their lives for the worse. In addition, there is the attempt to neuter the power of the judiciary in ways that would restrict the ability of women's organizations to struggle for their rights and gain relief from the courts.

### ***The CEDAW Convention and UN Resolution 1325***

Among Israel's most significant international commitments to women's rights are its commitments to implement the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); UN Resolution 1325; a series of resolutions to integrate women in UN Security Council processes of peace and security; and additional international resolutions requiring strong action to promote women's equal status in society, eradicate discrimination and take steps to promote the equal and balanced representation of women in focal centers of decision making. In particular, the CEDAW Convention provides expressly in Article 7: "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: ... to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government."

The CEDAW committee's General Recommendation no. 23 on women in political and public life, 1997, stresses the duty of states to eliminate discrimination against women in the political life with appropriate temporal or ongoing measures, and to ensure that women enjoy the right to be elected, to be represented equally in every political body, to hold public office and perform all public functions at all levels of government, and to participate in the formulation of government policy. The committee comments that throughout history women were considered inferior and not allowed to participate in public life and serve in public office, and it emphasizes the effects to this day on women's full and equal representation. It stresses, too, the many barriers that women face due to religious beliefs, prejudice and stereotypes, particularly in affairs of peace and security.

To this day in Israel certain senior positions are closed to women or have never actually been given to women, and the situation in reality indicates an ongoing systemic problem of women's under-representation which amounts to a gross violation of the Convention. The CEDAW committee underlined the importance of not merely removing legal barriers but also the need for strict mechanisms to guarantee representation (clear quota and goals) - to offer incentives, determine procedures, invest resources and take special temporary measures.<sup>35</sup>

Likewise, according to the UN Security Council's Resolution 1325, which Israel's government adopted in a historical moment in 2014, states have a duty to ensure increased representation of women at all decision-making levels in conflict

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<sup>35</sup> CEDAW General Recommendation No. 23 on women in political and public life, 1997.

management and peace processes, and to protect women and girls from all forms of violence. The Israeli government's decision to adopt the Resolution referred specifically to the importance of promoting diverse and equal representation of women in processes of peace and security.

The issue of women's under-representation in Israel is a system failure, the result of continuous neglect and of harsh opposition based on religious beliefs, discriminatory attitudes and stereotypes of women as unfit to serve in important security roles. Therefore, from a strategic long-term perspective, only legislative measures that regulate mandatory quota for equal representation of women in each and every party, as is the custom in other western democracies, will ensure substantive change in the future.<sup>36</sup>

## Summary

The present coalition marks a historic setback in the representation of women in the Knesset, government and senior positions, and its actions amount to a gross violation of Israel's duties under the CEDAW Convention to ensure the full and equal participation of women in public life.

The balanced representation of women in focal decision making is a condition for the legitimacy of a liberal democratic regime. Gender equality in general is a social interest of prime importance and an essential condition for Israel's economic and social resilience. Women's representation has a direct influence on welfare policy and the advancement of various issues related to health communication, education, the reduction of wage gaps, eradicating violence against women and domestic violence, subsidization of childcare, and contending with different forms of economic discrimination.<sup>37</sup> As many studies have shown, the lower the representation of women there comes a decline in a country's index of growth. The key thread that characterizes backward countries around the world is the low status of women and the lack of proper protection of their rights.<sup>38</sup>

The abyss that lies between the riches of Israel's laws, court rulings, government resolutions and international obligations and the situation in actual reality, to the point of virtually no representation of women in government and focal decision

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<sup>36</sup> Letter of the women's organizations to the Prime Minister, 17 November 2022.

<sup>37</sup> A Shapira et al., [Women's Representation in Politics](#), Israel Democracy Institute, policy study no 99, August 2013; K Celis, "Substantive representation of women: the representation of women's interests and the impact of descriptive representation in the Belgian parliament (1900–1979)." *Journal of Women, Politics & Policy* 28.2 (2007): 85-114; R Itzkovitch-Malka and C Friedberg. "Gendering security: The substantive representation of women in the Israeli parliament." *European Journal of Women's Studies* 25.4 (2018): 419-439. For more general discussion see Itzkovitch-Malka, Reut. "Gender in Israel." in *The Oxford Handbook of Israeli Politics and Society* (2020): 211

<sup>38</sup> McKinsey Global Institute Report, [How advancing women's equality can add \\$12 trillion to global growth](#), September 1, 2015 ; Gender Equality and Progress in Societies, OECD Development Centre, <https://www.oecd.org/dev/development-gender/45076029.pdf> ; Elkayam-Levy, [A Path to Transformation: Asking the Woman Question in International Law](#), *Michigan Journal of International Law*. 42 MICH. J. INT'L L. (2021).

making, is a distortion if not a negation of the government's duty to ensure proper representation of women. It shakes the country's resilience and casts doubt on the very legitimacy of the current government and the reasonableness and properness of the resolutions it makes while ignoring and excluding half of the population.

## **E. HARM TO HAREDI WOMEN**

### **Background**

In recent years haredi society has been undergoing tectonic changes in different areas, such as education and politics, and a process of Israelization.<sup>39</sup> The changes are taking place in those fields where haredi women are active. In the labor market they fill senior positions and can also be found at high levels of the civil service. They work as lawyers, economists and publicists, and manage their own private businesses. Still, they come up against concrete ceilings that seem to be impenetrable and impassable. The first is the concrete ceiling that excludes them from the central defining ethos of haredi society: torah study. The second is the concrete ceiling that prevents them entry to haredi political parties and politics, and to the institutions and decision-making centers that shape the face of haredi society.<sup>40</sup>

At the same time, and perhaps in the wake of haredi women's "spring", winds of erasure and exclusion have started to blow in haredi society as expressions of religious extremism and unprecedented regimentation of women's modesty, which undermine hope and initiative.<sup>41</sup> These will spread and grow as a consequence of the planned legal and regime changes. Haredi women are likely to be affected more than others because they suffer from a double marginality, both as women and as members of a patriarchal, hierarchical and authoritarian society in which principles of equality and women's rights are alien and even contrary to its worldview.

### **Changes with the new coalition**

#### ***Lack of political representation***

In societies where political decisions are based on majority rule, minorities tend to suffer under-representation and their voice might go unheard. Rights to representation are meant to prevent this, to ensure the standing of minority groups in decision-making processes, and to protect them from the malevolence of the majority. The justification for the right to representation is based on the assumption that only members of the minority group can represent its interests properly, and

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<sup>39</sup> B Braun, A Guide to Haredi Society: Beliefs and Schools, Am Oved, 2017.

<sup>40</sup> A Tzorfati, From Invisible Women to Present Women: the struggle of haredi women for representation in the 20<sup>th</sup> Knesset, Migdar multidisciplinary academic journal for gender and feminism, volume 4, 2015.

<sup>41</sup> A Rieder-Indurski, And Those Not Seen – Haredi Feminism, Pardes, 2015.

their participation in the game of democracy will allow them to influence its process. Proper representation not only guarantees the status of minorities but also contributes to democracy. Haredi women do not have political representation at either the state or the municipal level in Israel. In fact, this fault exists not only in the haredi sector, but is a general problem in Israeli society and a stain on its democracy.

There is no haredi town in Israel where women sit around the decision-making table, and the two haredi parties in today's Knesset exclude women openly and demonstratively. A Supreme Court ruling ordered that the sections in party by-laws discriminating women were invalid and should be deleted, but it helped only partially. In the course of the hearing, a Yahadut HaTorah representative made it clear that his party had no intention of letting women into its ranks and lists.<sup>42</sup> The empty seats of the haredi Knesset members in all the committees that deal with the special needs of haredi women, prove that they are not represented even formally, certainly not substantively.

The results of the elections have already slashed women's representation in the corridors of parliament and government offices, and it is doubtful that the Knesset will take any action to increase the representation of women in general and of haredi women in particular. The radical legal and regime changes at hand cast a heavy shadow over the possibility that haredi women will find future relief and a change for the better from the High Court of Justice and the judicial system as a whole.

### ***Spreading extremism and expressions of exclusion***

The size of the haredi population reached over 1,225,000 in 2021.<sup>43</sup> The number of women is estimated as half – over 600,000 women, girls and girl children. The integration of haredi women in the Israeli job market has grown rapidly, for the purpose of realizing the ideal of a "scholars' society" in which men dedicate their lives to the study of torah, and the presence of haredi women in the media, hi-tech and computers became widespread.<sup>44</sup> According to the Central Bureau of Statistics, the rate of employment among haredi women in the years 2002-2011 was around 50%, and starting in 2012 it climbed significantly to 68% in 2013. The rate of employment among haredi women is lower than among non-haredi Jewish women – in 2014, 71% of haredi women were employed as opposed to 79.5% of non-haredi Jewish women. Yet the gap between them has been decreasing in recent years. In addition, haredi women used to be trained mainly for teaching whereas they now train in more and more academic programs in a variety of therapeutic professions, including social work, occupational and speech therapy, clinical psychology, and other professions such as graphic and interior design, accountancy, and advocacy.<sup>45</sup>

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<sup>42</sup> HC 1823/15 Tami Ben Porat v. Party Registrar, 10 January 2019; HC 7717/13 Ruth Kolian v. Shas, 2 October 2014.

<sup>43</sup> [Haredi Society Annual Report, 2021](#), Israel Democracy Institute.

<sup>44</sup> M Friedman, The Haredi Woman, in Baruch She'Assani Isha, Yediot Aharonot, 2015, 189-205.

<sup>45</sup> R Ivanboim and L Cahaner, Haredi Women in the 21<sup>st</sup> Century – Family, Community and Society, Israel Institute of Democracy, 2015; L Kolik, The Sense of Job Power and Resilience among Haredi Women in the Employment Market, Technion, Shmuel Ne'eman Institute, 2013.

In the Jewish world it was accepted for generations that a person of economic means could support a poor scholar and provide his earthly needs, and in exchange he would share in the reward of the scholar's good deed. This agreement is called the Yissachar and Zevulun Agreement in which the two tribes, named after Jacob's sons, entered a partnership so that the latter supported the former, and the merit of learning was shared between the two. The haredi ideology updated this agreement by casting men in the role of the Yissachar scholar and women in the role of the Zevulun breadwinner, legitimating the "exchange relationship" between haredi men and women in recent decades. But the power relations went beyond the boundaries of the agreed upon barter as haredi women gained power not only outside the home but inside it too. The burden of making a living was designated to women at first so that their partners might dedicate themselves to the study of Torah, but the gradual transition from teaching and sources of livelihood within the haredi community to other areas which exposed haredi women to the secular world, slowly shook the safe and familiar boundaries of the community.<sup>46</sup>

Haredi women's entrance into the world of employment was an ideological compromise initially, by force of circumstance, since the Jewish view is that women's place is in the home, according to the poetic Hebrew of Psalms 45:14 that "the honor of the king's daughter is internal". It is likely that the shows of exclusion and extremism are a reaction to the power and positions of influence that women attained along the way. The ideal of a "torah home" – in which the husband sits and studies, the wife works and makes a living, and life circles around the study and knowledge of torah - is eroding and caving in precisely because of its enthusiastic fulfilment in actual reality. Women are seen as those who are affecting processes of "secularization" in the haredi society, because their joining the work force came necessarily with the introduction of "the world" into the haredi enclave. The consequence is the aggressive regimentation of women and unprecedented religious radicalization.

- Already today, there are signs that prohibit women from standing on certain sidewalks in haredi neighborhoods, not just in Me'ah She'arim but in Bet Shemesh and Bnei Barak too.
- In the Regan case on glatt-kosher bus services, the HCJ ruled that women may not be forced to sit in the back of the bus, but it allowed women who so wish the option of boarding the bus from the back.<sup>47</sup> Recently there has been a wide campaign to encourage haredi women to choose voluntarily to sit in the back. Billboards, wall posters, notices on bus stops and advertisements in neighborhood newsletters, beseech women to validate their bus tickets at the back door only. Some use the term to ride "the chariots of the Divine" and sit in the back. Since the court's ruling had no effect whatsoever on the social conventions of haredi society, many women "choose" to sit in the back - of their own free will, or not - and the glatt-kosher bus lines have become a

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<sup>46</sup> K Caplan, *The Secret Haredi Discourse*, Shazar Institute, 2007

<sup>47</sup> HCJ 746/07 Regan v. Minister of Transport (2011).

de facto phenomenon which is expected to spread with the foreseeable legislative changes that give full legitimacy to exclusion and segregation in public, out of consideration for the religious belief of those demanding them.

- The current segregation in entertainment events fails to meet minimal requirements of equality in conditions. Haredi women and girls sit at the back, and although the seats allotted them are sold at the same price as the seats sold to men, they are far from the stage with limited view and in other conditions inferior to the seats men are allotted.
- Wherever permission is given to erect a partition in a public space, it indicates to haredi women that they have a duty ("choice") to sit behind it. Similarly, modern haredi men "choose" segregated academic tracks of study, while the number of segregated training courses for those who wish to join the civil service is growing.
- Segregation in the provision of services, such as public libraries, harms haredi men and women who would like to use the services as families, as well as single parent families. A mother might not be able to go with her little boy to the library. Brothers and sisters might not be able to go together.
- Segregation in natural water springs will mean that haredi families cannot enjoy time there together. The anticipated outcome of segregation in nature will be that haredi men and boys will walk and picnic there, whereas the women and girls will be confined to their homes.
- Extending segregation to health care clinics and bank branches, which already exists in certain places, would increase the restrictions on haredi women and limit even more their movement in public.

### ***Silencing of feminist voices***

Haredi women are active in a variety of areas, and one might say that the buds of change in haredi society started in the women's section of the synagogue, behind the curtain. Haredi women have started and built organizations that provide aid to divorced haredi women, promote their political representation, incorporate them in the IDF, strengthen national-haredi schools, prevent sexual offences and bring offenders to justice. Haredi activists, both men and women, undergo heavy community pressure and threats to them and their family members. These are expected to grow and worsen. What is more, the greater the power of the patriarchal authoritarian community, and if the state shirks responsibility for what happens in the public arena and for enforcing the individual's rights there, these organizations are likely to be silenced and their achievements mostly negated.

### ***The glatt-kosher cellular platform***

Today, admission to haredi institutions of study and sometimes synagogues and other community institutions, is conditioned on using a glatt-kosher smartphone. The kosher platform for cellular services was intended to allow total control of haredi society over the individual, it serves mainly for the purpose of facial identification and it assists a virtual "parade of shame" pointing to those who own a phone that is not kosher. Furthermore, the telecommunication companies grant the

Rabbinical Committee for Communication Affairs license to use a special interface in which they have the power to block phone lines as they wish. Access to aid lines for women, divorced women and at-risk youth that are not operated by the community itself, have been blocked accordingly.

### ***Licensing non-academic therapists***

Para-medical professions of occupational therapy, speech therapy and physiotherapy are licensed under the Health Professions Law, 2008. Conditions for receiving a license include an undergraduate academic degree and hours of specialization in practice. A coalition agreement to amend the Law proposes that the Ministry of Health will be authorized to award licenses to practice to candidates who were trained in non-academic seminars and do not hold an undergraduate degree. Recognition of non-academic therapists will deter women from working towards a degree and increase their dependence on the community. On the other hand, it will expose women to sub-optimal professional care.

### ***Extending the jurisdiction of rabbinical courts***

It is an iron rule, without exception, that women may not serve as judges on rabbinical courts, which adjudicate according to the law of *din Torah* and halakha which belittles, excludes and discriminates against women. Extending the jurisdiction of these courts would harm the most vulnerable women in the haredi community – divorcees, women who have left the faith and the community, and women employed by the Shas and independent education pre-school network, which is recognized but not official.

Many haredi women call in to designated women's organizations lines which offer free legal assistance and representation. In 2022, assistant kindergarten teachers in the pre-school network appealed to the Itach-Maaki organization for help claiming a rise in wages for working over the summer months. Assistants in another unofficial yet recognized large haredi network asked for help to counter their employer's attempt to force on them a worsening in their working conditions. Class actions were taken against the two large educational networks, bringing the voice of the teaching assistants as a whole into the proceedings.

These and other actions like it taken year by year on behalf of the weakest and poorest of haredi women, are likely to come to a stop if the jurisdiction of the rabbinical courts is expanded. In cases of divorce, where the woman has left the faith and the community, the only place she has a right to receive custody of her children is in the Family Court. The rabbinical courts prevent almost all contact between women who leave the community and their children.

### ***Guns on kitchen tables***

Soon after the government came into power, the minister for internal security declared his intention to ease restrictions on the licensing of firearms especially for the haredi populace, on the conjecture that the worst terrorist attacks happen there

since there are no weapons to stop them. Until now haredi men have found it difficult to get a firearms license because they do not serve in the military, nor do they live in the Occupied Territories. The new minister promised to make it easier for them to get a license, which means that haredi women in the circle of violence will have to fear a gun on the kitchen table. The activism of women's organizations against the weapon reform will also take a blow.

### ***Official haredi education***

The haredi political parties and the men who control them do not represent women, half of the haredi population, nor do they represent the population called "new haredi" or "Israeli haredi." A major struggle taking place today concerns the expansion of the official haredi educational system to include more core studies for more haredi children. Haredi education has a dramatic influence on Israel's economy and resilience and its future, due to the significant proportion its graduates constitute among the general population, which is expected to reach one third within coming decades. The low level of haredi education, its disassociation from the rest of Israeli society, and the fact that a large portion of the boys are not taught core studies, are all matters of utmost concern as they pose a threat to the flourishing of the country and its citizens, including those belonging to the haredi society.

The National-Haredi Education (NHC) system was established in the 2013-2014 academic year, and it offers a high quality and proven public alternative to the recognized but unofficial haredi education networks. NHC schools teach the full core studies program while preserving the unique haredi halakhic culture, and they thus give haredi children the most basic right in a democratic society – equal opportunity and social mobility. Although NHC schools are official for all purposes, they are not grounded in the law. It was only at the end of 2022 that a director-general directive was issued to regulate their opening and operation.<sup>48</sup> This makes it difficult to open new schools and expand existing ones and impedes transition from the recognized but unofficial network to the NHC. Over the ten years since it was established, the portion of the NHC system in the entire haredi educational system (kindergarten to 8<sup>th</sup> grade) grew from a mere 0.4% to 3.8%, reaching 14,977 children in 197 kindergartens and 68 schools.

In the Ministry of Education and haredi society, a nucleus of men and women have been working without cease to allow the growth of the NHC and its strengthening. But to reach more than 30% of haredi education it requires regulation by law, a shift of consciousness in the government, supportive and progressive management, and prioritization. These are unlikely to happen under the new coalition, and the situation of the NHC might even retrogress. The impact on women is apparent, because without core studies for boys the economic burden of supporting the haredi family and society falls for the most part on the shoulders of the haredi women.

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<sup>48</sup> Director-General Directive, [National-Haredi Education Institutions](#), 22 November 2022.

## Summary

Haredi women live in a patriarchal, hierarchical and authoritarian society, have no political representation at either the state or the municipal level in Israel, and are regimented by extremist exclusion and segregation, such as on public buses and at public events. The most vulnerable of haredi women will be those who suffer first under the new government. Areas of utmost concern include the extension of the jurisdiction of rabbinical courts, the low level of haredi education, and the easing of licenses for guns particularly in the haredi populace.

## F. HARM TO ARAB WOMEN

### Background

The present government flagged its intention in the coalition agreements to strengthen Jewish ethno-national supremacy and racist segregation and to promote discriminatory legislation to that end. These will have a negative effect on the Arab Palestinian minority living in Israel, and on women in particular.<sup>49</sup> Arab women in Israel suffer oppression in three respects: as women, as members of a patriarchal society, and as individuals belonging to an underprivileged national minority.<sup>50</sup> This affects the way their rights will be infringed as a result of the regime changes the coalition is leading, and their ability to struggle and defend themselves against such harm.

It should be noted, too, that the government intends to restrict the activities of human rights organizations, which will limit the activity of civil society organizations in Arab society and specifically Arab women's organizations.<sup>51</sup> Planned limitations on the power of the judiciary to put a stop to discriminatory legislation and grant relief to minority groups will harm in particular the rights of Arab women, as a minority within a minority, and their ability to contest discriminatory and racist legislation.

### Changes with the new coalition

#### *Ethno-national segregation and gender exclusion in Arab society*

There are many clauses in the coalition agreements that seek to advance a policy of ethno-national segregation between Arabs and Jews and deepen the judaization of

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<sup>49</sup> [The Road Map to a Regime of Jewish Supremacy](#), Adalah – The Legal Center for Arab Minority Rights in Israel, January 2023, p. 37.

<sup>50</sup> R Aburabia, [Polygamy in Israeli Law](#), 11 Ma'asei Mishpat 2020; 53

<sup>51</sup> [The Road Map to a Regime of Jewish Supremacy](#), Adalah – The Legal Center for Arab Minority Rights in Israel, January 2023, p. 10.

the geographic space by building new settlements in the Negev and the Galilee, as well as to promote discriminatory legislation which would state that such segregation does not amount to prohibited discrimination.<sup>52</sup>

The ethno-national segregation between Jews and Arabs, together with the abovementioned bill to amend the Prohibition of Discrimination in Products, Services and Entrance to Entertainment and Public Places Law so as to permit gender segregation, might legitimate gender segregation practices and strengthen patriarchal forces within Arab society and thus violate women's rights. For example, Ra'am, the United Arab List party, publicized its intention to submit a bill in support of legislation that would allow segregation of men and women in bathing locations in nature.<sup>53</sup>

### ***Migration laws and the right to family life***

The new government seeks to promote a Basic Law: Migration for the purpose of preserving the Jewish demographic majority. Even today the right of Palestinian citizens of Israel to family unification in marriages with partners who are Palestinian residents of the West Bank and Gaza, is deeply compromised compared to the rights of Jewish citizens whose partners enjoy a right to citizenship. The proposed basic law would also block the access of Israeli Palestinians to justice in courts of law, which now monitor the implementation of the few exceptions to the rule and grant citizenship or residency status to Palestinian partners from the West Bank and Gaza.<sup>54</sup> It will violate the right to marriage and family life.

The right to marry is a basic human right according to international human rights law, and it includes the right to found a family without any limitation due to race, nationality or religion.<sup>55</sup> The right to family life has also been recognized as a constitutional right in Israeli law, including in one case concerning family unification (although the court there ruled by a majority of 5 to 4 that its infringement in the circumstances was not disproportionate).<sup>56</sup> Those affected first by the proposed basic law will be Palestinian women on both sides of the Green Line, whose right to marry and found a family will be infringed.

### ***Violence against Arab women***

The coalition's commitment to not join the Istanbul Convention is a breach of the state's duty to protect women in Israel from violence, including Arab women who

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<sup>52</sup> Sections 15 and 19 to the coalition agreement with the Noam party; section 89 to the coalition agreement with the Otzma Yehudit party; section 97 to the coalition agreement with the Religious Zionist party.

<sup>53</sup> Regulation of Bathing Places (Amendment – Designation of Times for Separate Bathing in Nature Reserves) Bill, 2023 (20 January 2023).

<sup>54</sup> Section 93 to the coalition agreement with the Religious Zionist party; [The Road Map to a Regime of Jewish Supremacy](#), Adalah – The Legal Center for Arab Minority Rights in Israel, January 2023, p. 37.

<sup>55</sup> Article 16 of the Universal Declaration of Human Rights, 1948.

<sup>56</sup> HCJ 7052/03 Adalah v. Minister of Interior, 14 May 2006.

suffer from violence and domestic violence in forms specific to Arab society, such as "family honor" murders of women. Moreover, the research literature indicates that Arab women are already discriminated in relation to Jewish women in terms of law enforcement policy and police protection, in cases of violence against women and wife murder in Arab communities.<sup>57</sup> Another study indicates significant gaps between the two groups of Jewish and Arab women as regards the rate of prosecution (94.3% as opposed to 56%) and the percentage of convictions (75% as opposed to 34%), as well as the minimal sentences imposed on offenders in crimes of killing and murdering women, where again when compared to Jewish women Arab women are worse off (14-18 years as opposed to 5.5 years).<sup>58</sup>

### ***Expanding the jurisdiction of Shariya courts***

Action taken to expand the jurisdiction of the rabbinical courts will lead to similar action to expand the jurisdiction of the Shariya courts, which will affect the rights of Arab women for the worse. One of the most significant achievements of the feminist Palestinian movement in Israel together with the Action Committee for Equality in Matrimonial Law, was the 2001 amendment of the Family Court Law, 1995 so as to grant Moslem and Christian women access to the family courts in matters of child custody and support and alimony and strengthen their chance of gaining relief. Any expansion of the jurisdiction of the Shariya courts, together with the rabbinical courts, will mark a serious regression.

### **Summary**

Impairment of the courts' power to put a stop to discriminatory legislation and provide relief to minority groups will particularly infringe upon the rights of Arab women, as a minority within a minority, and will harm their ability to defend themselves against discriminatory and racist legislation. The right of Palestinian women to marry and found a family through family unification with partners on either side of the Green Line, as limited as it is today, might be impaired. Likewise, Arab women might be the first to suffer in terms of their right to protection against violence and murder, from the coalition commitment to not join the Istanbul Convention. And lastly, expansion of the jurisdiction of the rabbinical courts for Jews will most probably come with an expansion of the jurisdiction of the Shariya courts for Arabs, to the detriment of women.

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<sup>57</sup> M Hasan, "The Politics of Honor – Patriarchy, the State and Wife Murder in the Name of Family Honor," in D Izraeli ,et al. (eds.), *Sex, Gender, Politics*, HaKibbutz HaMeu'had, 1999, pp. 267-305.

<sup>58</sup> S Batshun, "[Police Handling in Murder Cases of Israeli Citizen Palestinian Women](#)," *Women Against Violence*, Al Tufula and Israel Women's Network, 2021.

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