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18 October 2012
2 Heshvan 5773

TO: Mr. Benjamin Netanyahu
The Prime Minister
By fax

Dear Prime Minister,

Re: Establishing a Third Section at the Western Wall

On behalf of the Israel Movement for Reform and Progressive Judaism (IMPJ) and the Israel Religious Action Center (IRAC), we are writing to you on the above-mentioned matter.

The Western Wall

1. The Western Wall, the remnant of the wall that once surrounded the Temple, is the most important religious site for Jews from Israel and the diaspora. As such, the Western Wall attracts numerous pilgrims on weekdays, on Sabbaths and holy days, at significant lifecycle events such as Bar Mitzva celebrations, and so forth. The Wall constitutes a vital Jewish heritage site for all Jews, wherever they may be. The Wall also has national significance as a site that symbolizes the desire to Return to Zion and the strength and vitality of the Jewish nation. Accordingly, it is used for various ceremonies on the Memorial Day for Israel's Fallen Soldiers and swearing-in ceremonies for soldiers.
2. Shortly after the Six Day War, the Western Wall Plaza was established, and a partition was erected dividing the area by the Wall into a large men's section and a much smaller women's section.
3. Over the years, the prevailing standards of separation and modesty at the Western Wall have become increasingly stringent. The result has been the transformation of the Western Wall, which should serve the world's Jewry, into an Orthodox or ultra-Orthodox synagogue. The following are some examples:
 - Gender separation is not only imposed by the Western Wall; on occasions, it extends to the upper section of the plaza.
 - At the end of the plaza a path labeled for men only leads from the plaza to the steps leading toward the Jewish Quarter.
 - Some of the entrances to the Western Wall are divided into separate entrances for men and women.
 - Self-proclaimed modesty stewardesses have been introduced at the Western Wall. The stewardesses instruct women who, in their opinion, are not dressed sufficiently modestly to cover themselves with sundry rags.
4. Attempts by the members of the Women of the Wall – a group that includes Orthodox, Conservative and Reform women – to pray by the Western Wall while wearing *Tallitot* have been in vain. A Supreme Court ruling from 2003 established that the Women of the Wall have the right to pray at the site, but that they must do so at the Robinson's Arch site (HCJ Additional Hearing 4128/00 **Director-General of the Prime Minister's Office v Anat Hoffman, Piskei Din 57(3) 289**). Since then, members of the group have gathered each Rosh Chodesh by the Western Wall for a brief service, after which they move on to that site for the Torah reading. It should be noted that Robinson's Arch site is managed as an archeological site, and an entrance fee is required. Those wishing to come to pray at the site must coordinate their visit in advance, and may come only during the early morning hours. Accordingly, the site as currently operated, does not constitute an egalitarian option for those wishing to hold a mixed service or a women's service.



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5. In recent years, the police forces have increasingly harassed the group. On more than one occasion, the harassment has ended in arrests, as was the case this week at the service held by the Women of the Wall to mark the new month of Heshvan. In the democratic State of Israel, it is unacceptable that a woman is thrown into detention merely because she wished to put on a *Tallit* and recite the Shema at the most sacred site of the Jewish people. The Government of Israel must act to find a solution that will ensure the right of all those visiting the Western Wall to pray in accordance with their faith. This is the background to our present letter.

Discrimination and violation of the freedom of religion and worship

6. From the moment of Israel's establishment, all citizens were guaranteed freedom of religion and worship. This freedom is a basic right under Israel's law, and today derives from the constitutional right to human dignity and liberty.
7. In accordance with the principle of equality, the authorities are required to treat all Jewish streams equally. The authorities of the State must distance themselves from any act or omission, tainted by improper discrimination, toward the followers of the various streams, including their organizations and institutions. The Supreme Court has discussed this subject frequently, and has unequivocally established that a general action by a governmental authority in its official function demands an open and fair approach that is based not on identification with the worldview of any particular stream, but reflects the entitlement of equal treatment to which all the streams are entitled (see: HCJ 650/88 **IMPJ v Minister for Religious Affairs**, *Piskei Din* 42(3) 381; HCJ 1438/98 **The Masorti Movement v Minister for Religious Affairs**, *Piskei Din* 53(5) 337, 374-5).
8. The transformation of the Western Wall into a place that permits solely Orthodox or ultra-Orthodox prayer entails discrimination against all those who realize their Judaism in a different manner: Couples, or a mother and son, who wish to visit the site together; boys and girls who wish to celebrate their Bar or Bat Mitzvah without gender separation; or women who wish to wear a *Tallit* and read from the Torah.
9. Denying Jews from Israel and the Diaspora the possibility to pray and hold lifecycle ceremonies at the Western Wall in accordance with their belief is in absolute contradiction to the state's obligation to ensure freedom of worship. It must be emphasized that this form of Jewish worship is completely acceptable to the majority of the Jewish world, which is of course, not Orthodox. It should also be noted that, in recent years, a process of change has also been felt within Orthodox Judaism toward greater participation of women in services and ceremonies.
10. The level of violation of equality, dignity and freedom of religion does not meet the standards of the restrictive clause in the Basic Law, particularly since it is disproportionate. This is not a reasonable restriction, but an absolute prohibition against the holding of services and ceremonies at the Western Wall that are not Orthodox or ultra-Orthodox.

Establishing a Third Section

11. As noted, the Supreme Court has excluded the possibility of holding genuine women's prayers in the women's section. There is no place at the Western Wall – or in the upper section of the plaza – where mixed prayers of women and men are permitted, in accordance with the custom of numerous communities in Israel and abroad. As mentioned above, the Robinson's Arch site does not offer a solution, since it is an archeological site and is managed as such; an entrance fee is required, and entrance for prayer is permitted only in the early morning hours and by prior arrangement. As there are no signs or directions to the site, many people are unaware of its existence and its relevance to the subject of prayer at the Western Wall. Accordingly, there is no orderly place at the Wall enjoying free access at all hours for mixed prayers. In our opinion, in order to realize the principles of equality,



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dignity and freedom of religion and worship on the one hand, while allowing those interested in segregated prayers at the Wall on the other hand, **a Third Section should be established at the Western Wall, alongside the existing women's section and men's section.**

12. The Third Section will be a mixed section in which women will be permitted to pray while wearing a *Tallit* and to read from the Torah. Mixed Bar Mitzvah ceremonies will be permitted in this section, and girls will be allowed to hold Bat Mitzvah celebrations in which they read from the Torah.
13. This solution establishes a reasonable and proportionate solution that provides a decent response to those of all shades of belief who visit the Western Wall. The establishment of the Third Section will manifest the dignity of all the existing and flourishing Jewish streams and will enable them to freely engage in their form of worship.
14. It should be noted that there are approximately one hundred Reform and Conservative congregations active in Israel today. Hundreds of thousands of Israelis realize their freedom of religion in lifecycle ceremonies and events relating to the Jewish calendar, in an egalitarian, pluralistic and tolerant manner. The majority of the Jews worldwide belong to the Reform or Conservative streams. The establishment of a Third Section will provide a proper response for all those women and men who wish to visit the important site of the Western Wall without offending their religious beliefs.

Offense to sentiments

15. Israeli society comprises numerous strands, opinions, beliefs and worldviews. As part of the common life that is a condition for the existence of a pluralistic and democratic society, different sectors whom fate has destined to form part of the same people, and to live together on the same piece of land and under the same sky, must show mutual respect (HCJ 10907/04 **Solodoch v Rehovot Municipality**). In the same case, Justice Procaccia made pertinent comments that are also relevant to our case:

“The rights to freedom of religion and freedom from religion assume, on the one hand, respect for the individual’s right to hold his religious or secular viewpoint, to shape his way of life in accordance with this viewpoint, and even to act to strengthen the unique culture of the community to which he belongs; however, at the same time, the individual rights are granted to him, as part of the whole and through his affiliation to society, to the nation and to the state. This affiliation to the whole also influences the relativity of the constitutional right. **The existence of a Jewish and democratic society is based on the assumption that the members of Israeli society belong to one nation, whose existence is possible thanks to the links that connect its various sectors, forming common existence by way of mutual compromise within the confines of proportionality.** The common values that link all sectors of Israeli society adopt, by way of a basic assumption, the existence of a heterogeneous society comprising different social strata, which do not split off from each other into closed neighborhoods surrounded by walls of alienation and hatred, isolated from each other on ethnic, religious or national grounds. **The social perspective that underlies the principles in the Declaration of Independence is rooted in the value-based assumption of a society, whose scattered components have gathered from around the world to live together in share fate, strengthening what they have in common, and respecting the Other from an approach of mutual tolerance. The right enjoyed by the various groups within society to express themselves in the fields of culture, religion and tradition, and through their various lifestyles, and to reinforce their unique identity and style, does not imply an inherent right to isolationism, closure, and the rejection or removal of the Other. The constitutional protection of the personal freedom of the**



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individual is granted with reference to his affiliation to a broader social framework. The proportional nature of personal freedom is intended to enable joint existence and life through concessions, mutual respect, and the absence of coercion, while maintaining unique cultural identity.” [Emphases added – A.H., G.K.]

16. Just as Jews who are interested in segregated prayer with an Orthodox or ultra-Orthodox character are entitled to pray at the Western Wall in accordance with their worldview, so, too, are those who desire other forms of prayer which, as noted, are the most common forms in the Jewish world. The former and the latter are both required to enable those who hold different views to share in the most sacred site of the Jewish religion.
17. In light of all of the above, we request that the Government of Israel act to establish a Third Section at the Western Wall, which is free of gender segregation and where women’s prayer can be voiced.
18. The Declaration of Independence announces that the State of Israel “will be founded will be based on the precepts of liberty, justice and peace as envisaged by the prophets of Israel; will uphold the full social and political equality of all its citizens, without distinction of race, creed or sex; will guarantee full freedom of conscience, worship, education and culture; will safeguard the sanctity and inviolability of the shrines and Holy Places of all religions...” It is unthinkable that Jews in the State of Israel will not enjoy appropriate, dignified and equal access to the holiest place of the Jewish people.
19. We will be grateful for your prompt and substantive response to this letter.

Sincerely,

Adv. Yaron Shavit
Chairperson, IMPJ

Anat Hoffman
Head of IRAC

CC:

Mr. Yaacov Margi, Minister for Religious Services

Rabbi Shmuel Rabinowitz, Rabbi of the Western Wall

Mr. Mordechai (Solly) Eliav, Executive Director, Western Wall Heritage Foundation

Attorney Yehuda Weinstein, Attorney General