

How Jewish Identity is Being Constructed Over the Bodies of Women: Agunot, Noafot/Mamzerim, and Converts

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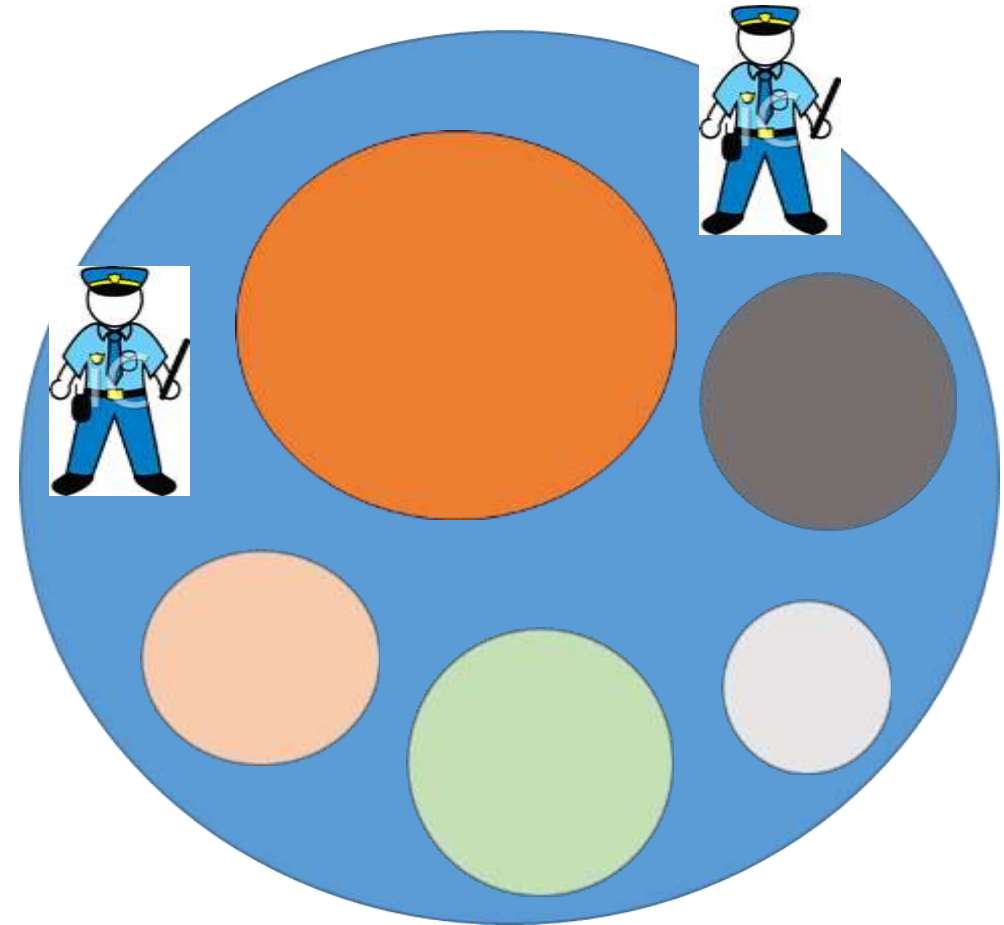
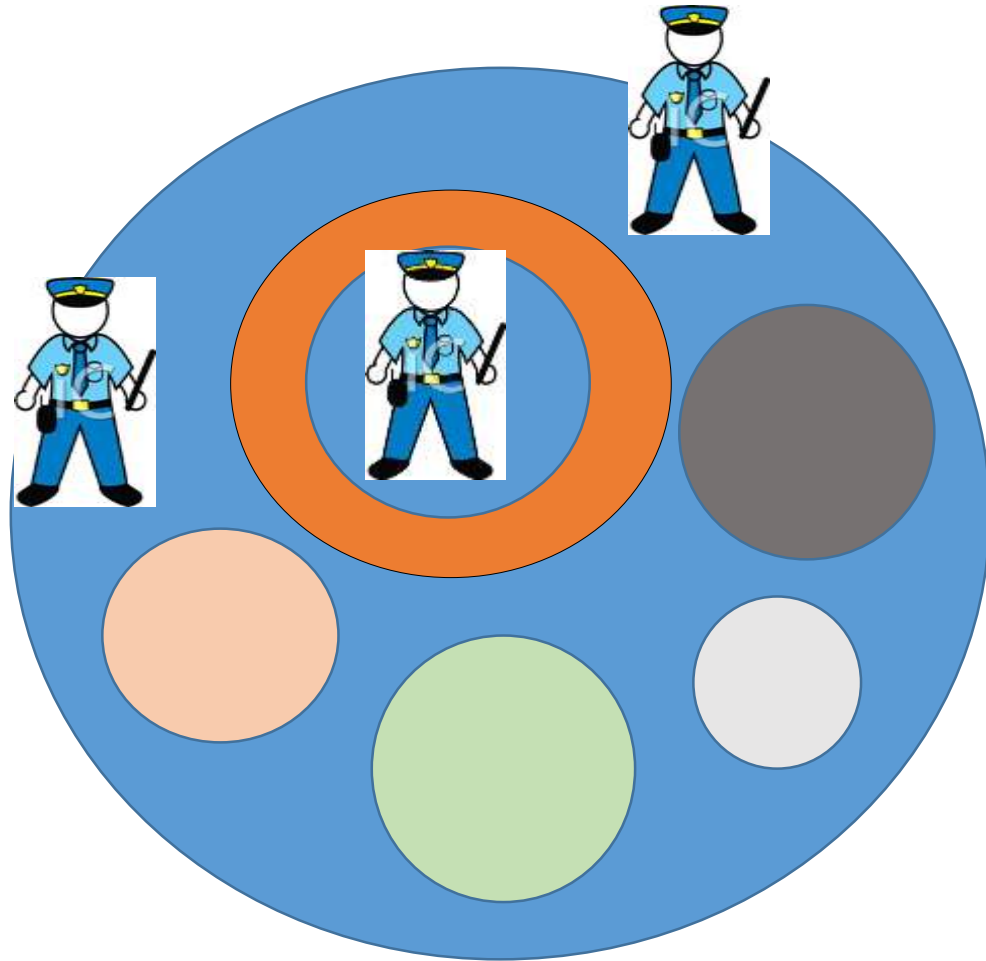
RTS Elective, Hartman Institute, July 2016

Center for Women's Justice

Thesis: Take State out of Religion



For the sake of religious freedom and flourishing.



Why?

1. Because **state** adoption and enforcement of religion/halakha results in a “failed” legal system (I. Agunot)
2. Because **state** enforcement of religion/halakha violates basic human rights (II. Mamzerim/Noafot)
3. Because **state** enforcement of religion/halakha can result in an inadvertent but very real Inquisition (III. Converts)

II. Noafot/Mamzerim. Does State have authority to conduct trials against wanton women? To blacklist them and their children and prevent them from marrying the love of their life?

Answer: Yes, apparently.

Thesis: state enforcement of religion/halakha violates basic human rights

Story: the cosmetician and the abortion



Mamzer is a
very real
taboo

2 Case Studies: the Nursing Mother and the Lapsed Hassid



State involvement in women's sexual lives violates their Human Rights to privacy and to marry. Mamzer supports a gendered divorce regime.



Text Study

Subject to trial and blacklisted in Israel: “wanton” women and their children



extensive mamzer rules

- **Marital paternity presumption:** child born within 300 days of his mother's divorce shall be registered as child of mother's ex-husband. (Population Registry Law, 1965, §22)
- **Blacklist:** “..the Registrar ...he is authorized to collect information on the personal situation of the couple.” (Attorney General Directives regarding The List of Persons whose Marriage are Restrained, 6.4501, 1976, 2003)
- **Can't establish paternity conclusively:** cannot do DNA testing for paternity without special permission of rabbinic court, if suspect mamzer. (Genetics Testing Law, 2000, §28)
- **Special Mamzer Courts...**” (Directives of the Attorney General regarding the List of those whose marriage is detainable, 1976, 2003)
- **Sperm donor babies.** a person applying for marriage license who was born of sperm donation or whose father is not listed in Population Registry is automatically sent to Court for examination. (Regulations and Directives regarding Registration for Marriage, 2013, §30 (19) (20).

adulteresses rules

Superfluous sex trials authorized. (a) If the court in a divorce proceeding surmises...that according to Torah Law it is impossible to assert in the "act of the court" ...that one or the other party is "permissible to all the world," the court shall notify the couple that a full investigation of the matter, including [filing of] allegations and hearing evidence... will take place ...**Regulations Limiting the Ability of Divorcing Couples to Marry in the Future, 2015. Cited in High Ct. 5676-12. §2**

"surmises": suspicion raised by husbands during consensual divorce proceedings; or raised by rabbinic court during consensual divorce proceedings; or raised in written accusations filed in a contested divorce; or raised at hearing during contested divorce, including suspicion of inappropriate behavior; any divorcée who applies for license to marry her ex-husband or lover

Mamzer: top priority

J. Itai Katz, 2009:

the legislature has taken away any discretion of the court and placed the halakhic status of the minor as its single priority

...

[FamCt , (J-m) 13 632/08 (2009)]



mamzer: regulating uppity women, who “force” divorce

Rabbi Elyashiv, quoting Rav Shah, regarding
“forced divorce” (1950):

- All of the ahronim hesitated to use force even when the law would allow for it ... thus it is appropriate to follow their opinion and to refrain from applying force since it is likely to lead to an [invalid] forced divorce and **mamzerim**.



Mamzer: regulating uppity women, who breach divorce agreements

Rabbi Dichovsky, 2008:[Retroactive invalidation of Get]

I am worried about the retroactive invalidation of a get in the event of a breach of the divorce agreement. Will we go to such extremes as to establish **mamzerut** even after a woman has had children with another man? Can a breach of an agreement 10 years after divorce result in mamzerut?



Mamzer: regulating uppity women, who sue for damages for get refusal

Rabbi Amos, Netanya, 2011:

[Tort Claims] This court will do everything in its power not to injure the “vineyard of Israel” as a result of the delivery of a forced divorce that is void, and whose consequences lead to **mamzerut** and the destruction of the family unit which, by itself, causes damage to the vineyard of Israel.



Mamzerim live in fear numbers

In the year	THE BLACKLIST	In the year
2008		2014
94	MAMZERIM	235
375	ADULTERESSES	441
3,875	OTHERS	4,629
4,344	TOTAL	5,305

Statistics compiled by the Center for Women's Justice ~ cwj.org.il/en

Mamzerim live in fear



How to de-mamzer a mamzer:



- Register child on name of ex-husband
- Impute paternity to non-Jew
- Impute paternity to sperm donation (Rav Ovadia, Rav Moshe)
- De-legitimate the original marriage
 - Ex-Husband was child of unrecognized convert
 - Ex-husband was lapsed convert
 - Original marriage was not kdat moshe viyisrael
 - Major defects in original marriage ceremony (witnesses, rings)

We are all mamzerim



Story: the doctor and the con artist



Who else may get blacklisted in Israel, besides wanton women and their children?

Forbidden relations: not intuitive, targets innocent children

Gendered: Not the husband's child

**Irrational: Child born to woman who
was your brother's wife**



child born of incestuous rape



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child born to widow and her late husband's brother
(if she had children with her husband)



child born to woman and her sister's ex-husband
(if sister is still alive)



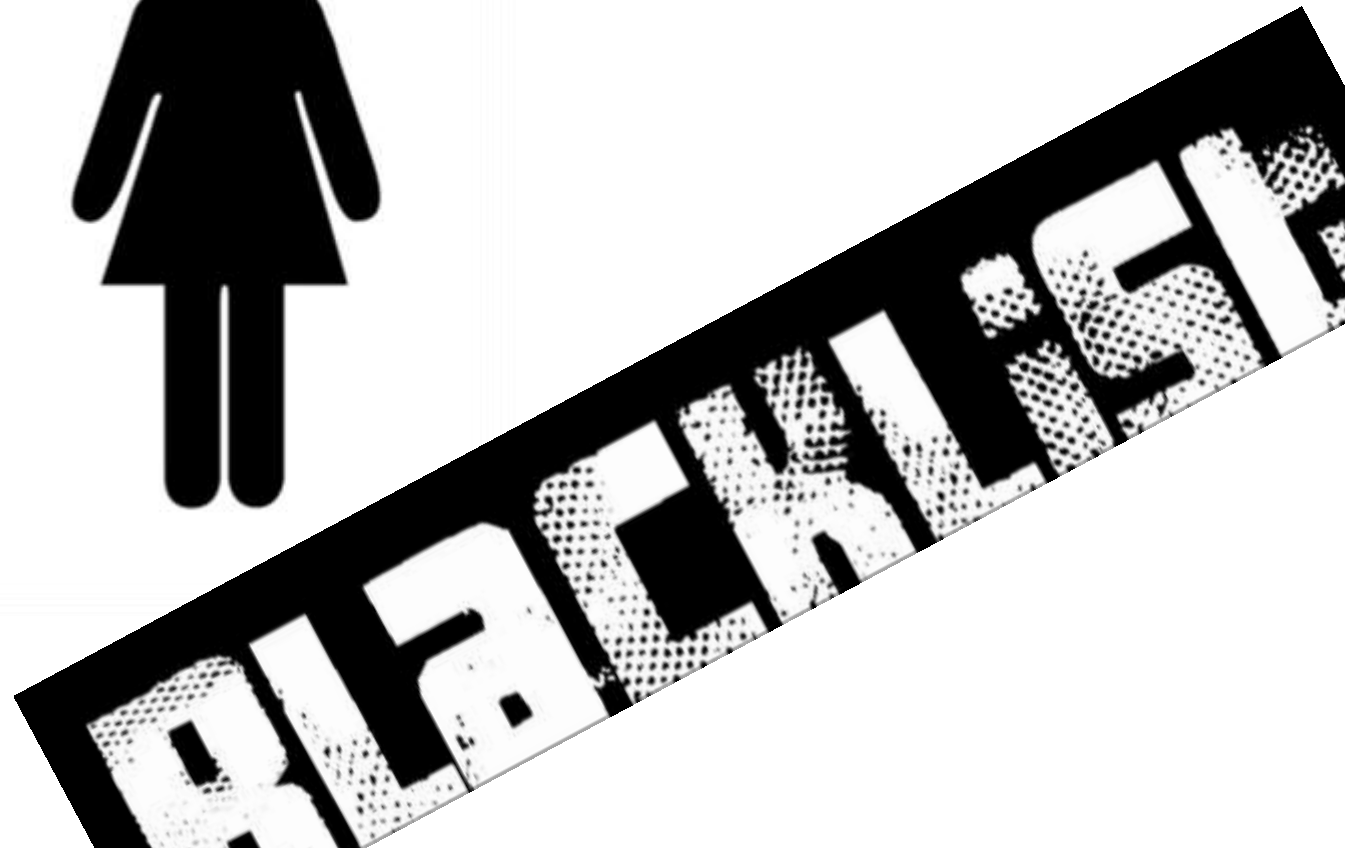
child who doesn't not know who his/her father is
and who doesn't know who his/her mother and father is



children born to an *agunah*
(a woman waiting for a *get*)



transsexual who tries to marry partner



suspected non-Jew who tries to marry a Jew



convert to Judaism not recognized as Jew by
Rabbinates who try to marry "true" Jew



convert to Judaism who is lapse in keeping mitzvot and tries to marry or divorce "true" Jew



child of converts to Judaism whose mother (or father) was lapse in keeping mitzvoth and tries to marry "true" Jew



cohen who tries to marry convert or divorcée,
or has conjugated with her



PREPARED

woman who is daughter of cohen who is forbidden by torah law from marrying a cohen because her father conjugated with convert or divorcée



woman who had sexual relations with non-Jews and tries to marry cohen



Surprise test: is child a mamzer?

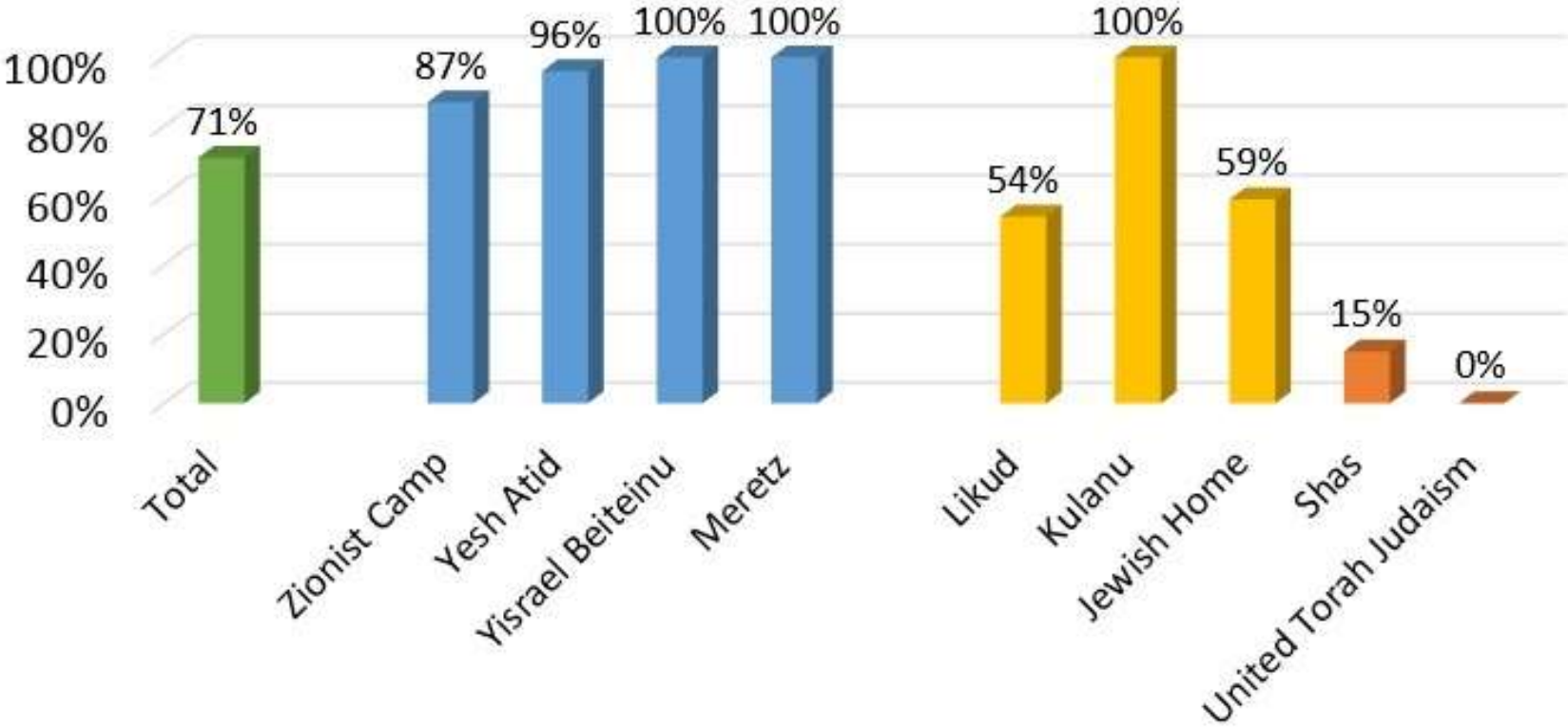
event	date
Married to H1 in US in City Hall	December 2007
Married H1 in private Orthodox ceremony in Israel	March 2008
Divorced H1 in private Orthodox ceremony in Israel (I)	September 2012
Divorced H1 in private Orthodox ceremony in Israel (II)	December 2012
Re-married H2 in private Orthodox ceremony in Israel	February 2013
Child born	December 2013
Still married to H1 on Israeli books. Wants divorce	

Blacklisting violates Human Rights



Civil Marriage and Divorce

71% of Jewish Israeli adults, 2016:
Believe the Chief Rabbinate's & Rabbinical Courts' monopoly
over marriage and divorce distances Jews from Judaism



Privatizes the Rabbinate



Send us your converts, your mamzerim, your adulteresses.....



CENTER FOR WOMEN'S JUSTICE

מרכז צדק לנשים

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The Kathryn Ames
Foundation