

Immigration and Refugee Board of Canada

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Responses to Information Requests

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2 March 2016

ISR105445.E

Israel: Situation and treatment of people who self-identify as being Jewish but are not recognized as Jewish according to halacha (Jewish religious law), including immigrants from the former Soviet Union, and differences in rights; whether people with this status face barriers to divorce; whether they can be identified by having a "nationality" other than Jewish on the national identity card; whether this status affects their rights or their children's rights to citizenship and to obtain a passport (2014-February 2016)

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1. Overview

In a telephone interview with the Research Directorate, the Head of Aliyah [immigration to Israel] Services of the Jewish Agency for Israel [1] in Canada explained that to be recognized as Jewish according to halacha, one must either be born to a halachically Jewish mother or be a convert to Orthodox Judaism (Jewish Agency for Israel 23 Feb. 2016).

Sources indicate that approximately 300,000 immigrants from the former Soviet Union are not considered Jewish according to halacha (IRAC n.d.c) or recognized as Jewish by the Israeli Rabbinate [who controls religious matters in Israel (Jewish Agency for Israel 23 Feb. 2016)] (*The Palestine Chronicle* 6 Apr. 2010).

The US Department of State's *International Religious Freedom Report for 2014* estimates that Israeli's population was approximately 7.8 million people in 2014 and states that, according to Israel's Central Bureau of Statistics (CBS), approximately 75 percent were Jewish (US 14 Oct. 2015, 3). The same source states that less than 4 percent of the population in 2014 were composed of persons "who identify themselves as Jewish but do not satisfy the Orthodox Jewish definition of 'Jewish' the government uses for civil procedures, including many immigrants from the former Soviet Union" or were from other small religious communities (ibid.). According to a poll by the Rafi Smith Institute, a polling firm based in Israel (JPC 10 Mar. 2015), more than half of Israel's Jewish population define themselves as "secular," while 26 percent define themselves as "traditional, religious," and 21 percent as "ultra-Orthodox/religious" (US 14 Oct. 2015, 3).

In a telephone interview with the Research Directorate, the President of the NGO Hiddush – Freedom of Religion for Israel, an "educational and advocacy Israel-Diaspora partnership" based in New York and Jerusalem (Hiddush n.d.), explained that the Law of Return is broader and more inclusive than halacha and includes anyone with a Jewish parent or grandparent (ibid. 18 Feb. 2016). For further information about the definition of halacha, the Law of Return, as well as the treatment of people from the former Soviet Union, including state protection and services, see Response to Information Request ISR104781.

2. Treatment

2.1 Rights

The Jewish Agency for Israel's Head of Aliyah Services in Canada indicated that Israeli citizens, whether Jewish or non-Jewish, have the same civil rights, and the law does not allow for discrimination in housing, education, employment or health care (Jewish Agency for Israel 23 Feb. 2016). Similarly, other sources state that people who are not recognized as Jewish according to halacha do not face discrimination regarding housing, education or employment in Israel (IMPJ 15 Feb. 2016; CWJ 25 Feb. 2016; Hiddush 18 Feb. 2016).

2.2 Rights Related to Religious Services and Personal Status

The Head of Aliyah Services explained that the differences in rights relate to access to religious services, noting that "religion plays a great role in Israel" and that people who are not recognized as Jewish according to halacha do not have access to religious services (Jewish Agency for Israel 23 Feb. 2016). The President of Hiddush explained that Jewish law in Israel dates back to Ottoman rule, which granted Jews a large amount of autonomy regarding religious life and personal status, and that those general principles were carried forward into the British mandate and Israeli law (Hiddush 18 Feb. 2016).

The Head of Aliyah Services explained that the rabbinical authority in Israel recognizes only Orthodox Judaism and acknowledges only Jews according to halacha (Jewish Agency for Israel 23 Feb. 2016). Sources indicate that people who identify as being Jewish but are not recognized as Jewish according to halacha face problems in issues of "personal status" (IMPJ 15 Feb. 2016; IRAC n.d.c). Freedom House states that "personal status matters" among Jews are controlled by the Orthodox establishment, "drawing objections from many non-Orthodox and secular Israelis" (Freedom House 28 Jan. 2015).

2.2.1 Marriage

Sources report that people who are not recognized as Jews according to halacha cannot marry in Israel [2] (Jewish Agency for Israel 23 Feb. 2016; Hiddush 18 Feb. 2016; IMPJ 15 Feb. 2016). Sources note that Israel does not have civil marriage (*ibid.*; Jewish Agency for Israel 23 Feb. 2016; Hiddush 18 Feb. 2016). In order for non-Orthodox Jews to get married [or for people of different religions to marry (Hiddush 18 Feb. 2016)], they must go to another country (Jewish Agency for Israel 23 Feb. 2016; IMPJ 15 Feb. 2016), such as Cyprus (*ibid.*). Sources describe this as a form of "discrimination" (*ibid.*; CWJ 25 Feb. 2016) or "a violation of human rights and freedom of religion" (Hiddush 18 Feb. 2016). A 2013 article by the Director of the Israel Movement for Progressive Judaism (IMPJ), a "liberal Jewish religious movement" with a "renewed expression of Judaism and Jewish identity" and a "progressive belief system integrating traditional and modern values" (IMPJ n.d.), indicates that "hundreds of thousands of Israeli citizens cannot marry because they are not registered as members of any religious community. Most of these citizens are immigrants from the [former Soviet Union]" (*ibid.* 11 Mar. 2013). Another group affected by this are Reform and Conservative converts, who are also not recognized as Jewish by the Orthodox establishment (*ibid.*).

2.2.2 Divorce

Sources indicate that divorce for Jewish couples is also under the jurisdiction of the rabbinical authority (Jewish Agency for Israel 23 Feb. 2016; IRAC n.d.a). According to the 2013 article by the Director of the IMPJ, the husband is the only spouse who has the authority to request a divorce under Jewish law (IMPJ 11 Mar. 2013). In a telephone interview with the Research Directorate, the Executive Director of the Center for Women's Justice (CWJ), a Jerusalem-based public interest law organization that focuses on the human rights of Jewish women (CWJ n.d.), stated that the rabbinical court has new regulations that require any couple who married abroad to prove that they are Jewish according to Orthodox standards before being granted a *get* (Jewish divorce according to halacha) (*ibid.* 25 Feb. 2016). She noted that this can be hard to prove, particularly for people from the former Soviet Union (*ibid.*).

According to some sources, someone who is not recognized as Jewish according to halacha is likely to face challenges obtaining a divorce (*ibid.*; Jewish Agency for Israel 23 Feb. 2016). The President of Hiddush stated that

[t]he system for divorce is a mess. It is not sufficiently regulated. If it is a case in which one spouse is Orthodox and the other is not recognized as Jewish, then no religious group has jurisdiction of the case and it would not be subject to the Rabbinic Court. (Hiddush 18 Feb. 2016)

Sources indicate that cases in which one of the spouses is not recognized by the Orthodox Rabbinate as being Jewish can be settled in a civil court (IMPJ 15 Feb. 2016; CWJ 25 Feb. 2016; Jewish Agency for Israel 23 Feb. 2016). The Head of Aliyah Services said that, although the case would be transferred from the rabbinical court to the state court, "it can be a difficult and cumbersome process" (*ibid.*). The Executive Director of CWJ

similarly said that the process is "complicated" for people in this situation and "there are challenges on a number of levels" (CWJ 25 Feb. 2016).

In correspondence with the Research Directorate, a representative of the IMPJ expressed the opinion that obtaining a divorce in the civil court is "much easier than in a rabbinic one" (IMPJ 15 Feb. 2016). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The President of Hiddush stated that

[t]here is a law that addresses divorce for mixed couples, but it is complicated and involves a process of verification that the couple belongs to different communities before it can be assigned to the civil court. The civil court has a growing jurisdiction regarding property and custody issues in civil divorce. However, there would be a problem in obtaining a divorce in the civil court in cases where there is no consent and the divorce is contentious. (Hiddush 18 Feb. 2016)

According to the Executive Director of CWJ,

[c]ases go to the civil court only if the parties are intermarried. As long as the couple agrees to the divorce, the state will divorce them. The problem comes when the divorce is contentious and the parties do not agree to the divorce. It is not clear how the granting of the divorce works in these circumstances. The civil court can divide property and handle issues of child custody, but there are no set rules for determining divorce. In cases where the intermarried couple [was] married in another country, the civil court may turn to the rules of divorce in that country to [be able to] declare their marriage over. (CWJ 25 Feb. 2016)

2.2.3 Burial

The representative of the IMPJ stated that most cemeteries managed by Jewish Orthodox organizations refuse to bury people who are not recognized as Jewish according to halacha (IMPJ 15 Feb. 2016). Similarly, the President of Hiddush said that burial is controlled by Orthodox religious authorities; despite a law enacted in 1996 establishing the right for alternative civil burial, the law was never carried out and there are "very few civil cemeteries" (Hiddush 18 Feb. 2016). Similarly, the *International Religious Freedom Report for 2014* states that Israeli authorities have "failed to fully implement a 1996 law which established the right of any individual to be buried in a civil ceremony" (US 14 Oct. 2015, 10). The same source indicates that there are 44 cemeteries that include plots for people without religious status (ibid.).

The Executive Director of the CWJ stated that

[t]he rabbinate does not have a monopoly on burial and there are ways for people to be buried privately outside the religious way. However, many people want the traditional, religious way and those persons who are not recognized as Jewish according to halacha might have to be buried outside those plots designated for Jews. (CWJ 25 Feb. 2016)

The Head of Aliyah Services said that people who are not recognized as Jewish according to halacha cannot be buried in Jewish cemeteries and are buried "'over the fence' (in a different part of the cemetery)" (Jewish Agency for Israel 23 Feb. 2016). She further explained that there has been a "social outcry" on this issue, particularly towards fallen soldiers of the Israeli army (ibid.).

2.3 Societal Discrimination

Without providing details, the representative of the IMPJ said that in Israel, there are some "manifestations of intolerance" towards people who are not recognized as Jewish according to halacha, but "on an individual, rather than on the official level" (15 Feb. 2016).

The President of Hiddush expressed the opinion that, generally, there are no negative attitudes towards people who are not recognized as Jewish according to halacha, and that typically, someone would not know if someone else had that status (Hiddush 18 Feb. 2016). He said that "[t]he majority of Israelis are not Orthodox and not religious and would typically consider people from the former Soviet Union who come to Israel under the Law of Return as being Jewish and entitled to live in Israel" (ibid.).

According to the *International Religious Freedom Report for 2014*, there are "[e]xpressions of animosity between secular and religiously observant Jews" in Israel, including cases of Haredi ["ultra-Orthodox"] Jews "harassing or assaulting women whose appearance they consid[er] immodest" or spitting at non-Haredi Jews (US 14 Oct. 2015, 22). Freedom House notes that the Haredi have "occasionally" attacked women and girls whom they consider "to be dressed immodestly" and have attacked people on buses who did not enforce gender segregation, despite a 2012 Supreme Court ruling against gender segregation on buses (Freedom House 28 Jan. 2015).

3. "Nationality" on the National Identity Card

Sources indicate that there is no longer a category for "nationality" on the Israeli identity card, although it was featured on earlier identity cards (Hiddush 18 Feb. 2016; Jewish Agency for Israel 23 Feb. 2016; IMPJ 15 Feb. 2016). However, sources indicate that nationality is still listed in the central registry and is accessible to authorities (ibid.; Hiddush 18 Feb. 2016; CWJ 25 Feb. 2016). An article in the *Palestine Chronicle* states that the nationality of most Israelis is classified as "Jewish" [3] or "Arab," but that "immigrants whose status as Jews is questioned by the Israeli rabbinate ... are typically registered according to their country of origin" (6 Apr. 2010). The President of Hiddush noted that "[s]ome people's nationality would be listed as 'Russian' instead of 'Jewish'" for this category, but that it is no longer on the ID card (Hiddush 18 Feb. 2016).

According to the *International Religious Freedom Report for 2014*, Israeli authorities "launched a nationwide campaign to implement a 2007 [Ministry of Interior] decision to eliminate 'national identification' on official identity cards in response to complaints that the majority of identity cards still in circulation identified non-Jews" (US 14 Oct. 2015, 19).

The Head of Aliyah Services said that there is nothing on the card that would distinguish the person's religion or nationality (Jewish Agency for Israel 23 Feb. 2016) [4]. The President of Hiddush likewise said that he was not aware of any code on the card that would indicate the person's registered nationality (Hiddush 18 Feb. 2016).

4. Rights to Citizenship and Travel Documents

Sources indicate that the status of not being recognized as Jewish according to halacha does not affect the person's right to Israeli citizenship (ibid.; Jewish Agency for Israel 24 Feb. 2016). The Head of Aliyah Services explained that

[w]hen someone makes Aliyah, they are granted citizenship upon their arrival in Israel. There is a grace period of 90 days for the person to decide whether to keep Israeli citizenship or to reject citizenship and choose permanent residency instead. Some people choose residency in order not to relinquish citizenship from another country (such as if their country of origin does not allow for dual citizenship). (ibid. 23 Feb. 2016)

Sources indicate that children who meet the qualifications of the Law of Return qualify for Israeli immigration and can obtain Israeli citizenship immediately (ibid.; IMPJ 15 Feb. 2016). However, if the person qualifies for Aliyah by virtue of having a Jewish grandfather, the person's children would be "fourth generation" and would not qualify for immediate citizenship (ibid.; Jewish Agency for Israel 23 Feb. 2016). The Head of Aliyah Services said that

[m]inor children in this situation have the right to accompany their parents and reside in Israel, but the process for them to become citizens is a longer process. First they get temporary residency, followed by permanent residency, and it can last a few years before they become citizens ... Their parents must start the process for them with the Ministry of Interior when they arrive in Israel. (ibid.)

The same source said that, to obtain Israeli citizenship, the child needs to apply at the Ministry of Interior before their 18th birthday, and, to her knowledge, there are no issues with being granted citizenship if it is done in this manner (ibid. 24 Feb. 2016). She also noted that temporary residents need to reside in Israel for 183 days in order to establish residency and register for health care (ibid.). Furthermore, the source indicated that permanent residents have the same rights as Israeli citizens "other than the right to vote, to stand for office and for employment in certain civil service positions that require citizenship" (ibid.).

Regarding rights to travel documents, the Head of Aliyah Services said that after living in Israel for 90 days, a person who made Aliyah can obtain a travel document, which is valid for 2 years; the person can receive an Israeli passport after living in Israel for one year (Jewish Agency for Israel 23 Feb. 2016). The President of Hiddush also stated that olim (Jewish immigrants) would ultimately have rights to Israeli passports, but there is a waiting period of approximately one year (Hiddush 18 Feb. 2016). The Head of Aliyah Services noted that a person must be an Israeli citizen to obtain a passport, but may be issued a travel document "in rare cases," such as if they are stateless (Jewish Agency for Israel 24 Feb. 2016).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Since 1929, the Jewish Agency for Israel "has facilitated the Aliyah (immigration to Israel) of more than three million Jews," including "more than a million Jews" from the former Soviet Union after its collapse (Jewish Agency for Israel n.d.).

[2] Marriages for people of other religions are governed by their own religious authorities (Jewish Agency for Israel 23 Feb. 2016).

[3] Being listed as "Jewish" in the registry does not mean that the person meets the definition according to the rabbinate (CWJ 25 Feb. 2016).

[4] The *Palestine Chronicle* reports that it is possible to tell whether someone is a Jew or an Arab by looking at the national ID card, because the birth date for Jews is according to the Hebrew calendar and IDs for Arabs include the grandfather's name (6 Apr. 2010).

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Additional Sources Consulted

Oral sources: Association for Civil Rights in Israel; Israel – Embassy of Israel in Ottawa, Ombudsman of Israel; Israel Religious Action Center; Jerusalem Institute for Justice.

Internet sites, including: American Jewish Joint Distribution Committee; Amnesty International; Association for Civil Rights in Israel; Coalition Against Racism in Israel; Factiva; Haaretz; Human Rights Watch; Israel – Embassy in Ottawa, Ministry of Aliyah and Immigrant Absorption, Ombudsman of Israel; Itach-Maaki Women Lawyers for Justice; Jerusalem Institute for Justice; Morashtenu; United Nations – Refworld.

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