

Israel



Haya Shalom

When the first lesbian and gay organization in Israel was established in the city of Haifa in 1976, its founders were not even able to publicly identify the nature of the organization. The Israeli Interior Ministry refused approval for a name that explicitly stated "homosexuals and lesbians," and the organization was thus founded as the Society for the Protection of Personal Rights.

Several significant changes have occurred since that time. In 1988, the criminal code was amended to no longer prohibit male homosexual relations. In 1992, an amendment to the Equality in Employment Law made it illegal to discriminate on the basis of sexual orientation in hiring, promotion, dismissal, and several other aspects of employment. In 1993, an order from the Personnel Department of the Israeli Defence Forces lifted restrictions on the military service of lesbians and gay men, although commanding officers must still report lesbian and gay soldiers to the security unit and

ensure that those soldiers undergo a security check.

Further, an important legal precedent was established last year regarding the recognition of same-sex partnerships. In November 1994, the Supreme Court ruled that a male partner of a male flight attendant employed by El-Al Airlines was entitled to benefits provided to partners of heterosexual flight attendants.¹ Another potentially significant case, which has been in both the Magistrate and District Courts since May 1993, concerns the same-sex partner of an army general who died during the course of his army service. The surviving partner is claiming eligibility for the rights of an army widow/er.²

In January 1995, following the legal precedent set in the El-Al case, two more cases were settled regarding Israel's largest universities. At the Hebrew University of Jerusalem, same-sex partners of university employees are now entitled to a waiver of tuition fees and use of university facilities. At Tel Aviv University, the same-sex partner of a faculty member won entitlement to rights of pension, flight tickets for a sabbatical, waiver of tuition, and use of university facilities.

This struggle for recognition of the legitimacy of same-sex partnerships is taking place in various other governmental and non-governmental settings. As of late 1994, Magen David Adom, the Israeli equivalent of the Red Cross, now provides blood insurance³ for same-sex partners. The Ministry of the Interior has approved the use of the same last name by lesbian and gay couples. Currently in the legislative process is a bill that would award pension rights to the same-sex partners of civil servants. The Deputy Foreign Minister has declared that "the sexual orientation of candidates does not in itself prevent someone from being accepted to the foreign service,"⁴ and directives have been issued from the Civil Service Commission stating that during the course of a job interview, "the candidate shall not be asked questions pertaining to sex, sexual orientation, personal status, or parenthood." Further, a committee for gay and lesbian rights was established by the Tel Aviv City Council in

November 1994 specifically to address rights of sexual minorities. To begin with, the committee will focus on educating municipal workers employed in education and social welfare and raising funds for a lesbian and gay youth support group.

REMAINING PROBLEMS

While these gains are significant, many obstacles remain for lesbians. Progress has been made in Israel regarding legislation and public awareness, but public school education and the religious establishment still do not encourage any changes in the widespread stigmatization of homosexuality. Until social perceptions change radically, most lesbians and gay men will remain in the closet.

In the legal realm, an area in which lesbian and gay

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activists have made few inroads is the religious law that governs all matters of personal status. For Jews, marriage and divorce are carried out in accordance with the laws of the Bible, and any change in personal status can be written in an identification card or passport only after the proceedings of a rabbinical tribunal.⁵ Women are not permitted to become members of rabbinical tribunals nor to serve as witnesses before them.

In matters of divorce, child custody, and child support, the impact of religious law on lesbians can be particularly acute. Every lesbian who seeks a divorce faces the threat

that the rabbinical tribunals will use biblical injunctions against lewdness or homosexuality to rule in favor of the husband in matters of property and custody. Thus, women often make concessions even before the court reaches its decisions. Women in this situation are vulnerable to demands by their husbands and ultimately feel compelled to accept conditions such as removal of their partners from the home as a condition for custody of the children. For instance, Sh., a Tel Aviv woman with three children, spent three years (1989-1992) trying to obtain custody and child support payments from her ex-husband. He finally agreed, but only after she promised never to bring her female partner into her home. She was forced to abide by this condition because she knew that her ex-husband could bring up her lesbianism in court.⁶

Even where exceptions can be seen in the influence of religious law, the sanctity of the heterosexual family is deeply ingrained in Israeli society, and social and economic systems work to support the family structure in order to foster and preserve the family unit. For instance, although Jewish law can pose obstacles for certain heterosexual partnerships, Israeli society generally recognizes the legitimacy of such partnerships even if the couple has not been married under biblical law.⁷ In these common law marriages, defined as two people of the opposite sex living together as a couple and conducting a common household, civil law bestows upon the couple rights and responsibilities that are similar to those of a married couple. However, except for in the specific cases cited above, Israeli law does not accord this recognition or these rights to a couple of the same sex who live together in a common household. As one lesbian has written,

My lover and I have been together for nearly nine years, but our relationship "doesn't count." When we bought a house together, it was in her name only, because she was eligible for a mortgage (the smaller one offered singles, instead of the heftier one offered

married couples). As a new immigrant, she bought a car that I may not drive if she is not with me. If we were a heterosexual couple, I could drive it at any time. If she gets pregnant and has a child, I have less legal status than a one-night male pickup. We are not entitled to each other's hard-earned pensions in case of death. We cannot register with a sick fund as a couple, nor receive income tax deductions for one another.⁸

While most lesbian mothers in Israel have children from previous relationships with men, some lesbians are now considering becoming pregnant through donor insemination. However, every woman who requests donor insemination must meet various psychological and sociological criteria, and lesbians are excluded entirely. Professor Schenkar, head of the gynecology department of Hadassah Hospital in Jerusalem, has publicly expressed his opposition to inseminating a woman who is known to be a lesbian.⁹

LESBIAN ORGANIZING

The Society for the Protection of Personal Rights, founded in 1976 and made up of approximately 500 members, remains active in working to change the legal status of lesbians and gay men. Since 1977 it has been joined by CLAF (Community for Lesbian Feminists), which now has over 300 members. For the past five years, CLAF has published a periodical called CLAF Hazak.

Currently, these groups are focusing their efforts on recognizing same-sex partners as common law spouses. Such recognition would have repercussions in many areas, including pension, inheritance, and a variety of social benefits. The approach that activists are employing is to attempt to amend existing laws rather than to pass a comprehensive law that would recognize same-sex partnerships. The specific struggles underway include gaining the recognition of same-sex partners as parents of their partner's children in every respect; defining every type of harassment, exclusion, and discrimination based on sexual orientation as a criminal

act prohibited by law; and obtaining the inclusion of sexual orientation in all relevant anti-discrimination laws. In the realm of family law, future efforts will be focused on changing the law so that a woman's sexual orientation cannot be used against her in divorce and custody battles.

NOTES

- 1 Case of Jonathan Danilowitz, November 1994.
- 2 Case of Adir Steiner, which began in the courts in May 1993.
- 3 Blood insurance entitles the family of blood donors to receive blood transfusions if they become sick or wounded.
- 4 Letter from Deputy Foreign Minister Yossi Beilin to Member of Knesset Yael Dayan, 2 August 1994.
- 5 Members of different religions are governed by their own religious courts in these matters.
- 6 Interview by the author with Sh. in January and June 1995.
- 7 In addition to not recognizing interfaith marriages, Jewish law also prohibits certain unions between Jews.
- 8 Liora Moriel, "From Shadow into Full Light," Jerusalem Post, 21 June 1994.
- 9 "Out Lesbians Are Not Entitled to Artificial Insemination," Jerusalem, June 1989.

ABOUT THE AUTHOR

Haya Shalom, 50, is a Sephardic lesbian feminist peace activist who was born in Jerusalem. She is the founder of Community of Lesbian Feminists (CLAF), co-founder of the Women and Peace Coalition, an organizer for Women in Black, and a member of the Board of Directors of Bat-Shalom (of Jerusalem Link), the feminist center for peace and social justice.