Muslims, Christians, Druze, and Jews in Israel – Different Laws for Different Citizens

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The aim of this talk is to examine the legislative and legal situation in Israel as it pertains to citizens of different religions and ethnicities.

The legal and legislative system in Israel, though not officially clerical for the most part, is religion-bound in some subtle as well as not-so-subtle ways. Citizens of different religious and ethnic affiliations are often subject to different laws. This is especially true for matters of personal status, such as marriage and divorce, but the distinction between citizens exists in other domains as well.

The most blatant example of the dominance of religion in the legal system is the administration of marriage: there is no civil marriage and no civil divorce in Israel. Matters pertaining to marital status are handled by religious tribunals that form a parallel system of justice to that of the civil one. Each of the fourteen recognized religious communities has its own tribunals and its own judges, which are all financed and maintained by the state. Each such court rules according to its respective religious law. Thus, the Muslim tribunals rule according to the Sharia law, the Jewish tribunals according to the Jewish halakha, etc. It should be noted that the religion to which a person belongs is not a matter of personal choice, but is rather determined by the religious courts.

One consequence of this situation is that there is no interfaith marriage (at least not carried out on Israeli soil) and no same-sex marriage. Many Israeli citizens, especially Jews, are thus unable to get married in their own country.

Historically, Israel inherited the Millet system of law from the Ottomans who ruled the area of Palestine until 1917, and from the British who subsequently adopted the system. Under the Millet system, each religious community was free to handle its legal affairs,

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and especially marriages and divorces, without interference from the central government. Israel is not the only country in the world where the Millet system is operative. Other post-Ottoman countries, especially those with a Muslim majority, still enforce it.

What enables this situation to persist is the lack of separation between state and religion, the complexity of Israel’s political makeup, and its relationships with its Arab neighbors.

Some view this legal system as an example of multiculturalism and liberalism, but I shall argue that the consequences of this policy are discriminatory and antithetical to basic principles of equity and fairness.

Apart from the discrimination that results from the lack of separation between state and religion, the reality in which Israel occupies territories with a large population of non-citizens, creates a situation in which different sets of laws apply to different people, based on their religion, their ethnicity and their citizenship status.

I will survey the various laws that distinguish between people in Israel, and claim that in order to be the enlightened society and the liberal democracy that Israel aspires to be, it must repeal the laws that allow people to be treated differently by the administration and the legal system.