

Marriage Equality: Israel Edition

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I have often heard that Israel is the only country in the Middle East that recognizes same-sex marriage. If the claim were subjected to fact-checking, though, it would have to be rated: “lacks context.”

Yes, it’s true. If an Israeli same-sex couple is married outside of Israel—and, upon return to Israel, they register their marriage with the government—their marriage is recognized on a legal basis equal to that of other Israeli married couples. However, a same-sex couple cannot be married in Israel.

You see, Israel does not have civil marriage. For anyone. Instead, since the establishment of the Jewish State, Israel has followed a pattern established when the Ottoman Empire and then the British Mandate governed the province then known as Palestine, recognizing several religious marriage authorities—Jewish, Christian, and Muslim. Muslims marry one another in keeping with their traditions. Christians, with theirs, if their denomination is among those recognized in Israel. And Jews, well, that’s complicated. The increasingly ultra-Orthodox Chief Rabbinate controls marriage rights in Israel. None of Israel’s religious marriage authorities performs same-sex marriage in Israel—and that includes the Orthodox rabbinate. Transgender people would also have a great deal of trouble being married in Israel, certainly if they wished to marry in a way that is true to their gender identity and if they wanted to marry a person whose sex assigned at birth is not opposite their own.

In at least one other important way, gay couples lack equal rights that opposite-sex and even lesbian couples enjoy. Israel, eager to promote having children, covers fertility treatments and even surrogacy for most couples. Only male same-sex couples are denied these services, which only the affluent among them can seek abroad. I have been deeply moved to arrange and officiate the conversion to Judaism of children born to Israeli gay couples whose surrogates live in Arkansas. The surrogates are neither Jewish nor biologically related to the babies, who are always the biological child of one of the Israeli fathers. Since the babies emerge from the womb of a woman who is not Jewish, they are not “born Jewish” under traditionally interpreted Jewish law. They require conversion to immigrate to Israel—that is, to go to live with their parents—as Jews.

Since the November 1 Israeli elections, one might understandably ask whether the status of same-sex couples will worsen in the Jewish State. Much focus has been on Bezalel Smotrich and Itamar Ben-Gvir, leaders of the far-right Religious Zionist faction that is the third largest party in the new Knesset. Even while focusing on the racism and fascism of this party which Benjamin Netanyahu promises to include in his government, we will also need to pay attention to Noam, a smaller party within that electoral bloc. Noam, whose spiritual leader is Rabbi Zvi Thau, was established specifically to curtail the rights of gay, lesbian, and transgender Israelis. It's worth noting that Israel police have opened an investigation into Rabbi Thau, after several credible allegations of sexual assault against women and minors.ⁱ

Noam's initial legislative priorities do not seem to include restriction on Israel's limited marriage equality. Instead, as reported by *The Times of Israel*, Avi Maoz, Noam's representative in parliament, "has said he would legislate a ban on pride parades [and] reinstate banned and largely debunked conversion therapy."ⁱⁱ A study published in the prestigious medical journal JAMA—Journal of the American Medical Association—Pediatrics found: "So-called conversion therapy causes serious emotional harm to LGBTQ people and can even be deadly, but it also comes with a high financial cost to individuals and society as a whole."ⁱⁱⁱ Conversion therapy, legal in Arkansas, is banned in twenty states and the District of Columbia and banned for minors in six additional states.

One might think that a proposed ban on pride parades would be a relatively small and symbolic matter. However, even if we could lay aside concerns about civil liberties like freedom of assembly, pride parades raise deep emotion in Israel. In 2015, sixteen-year-old Shira Banki died from wounds sustained when she was stabbed by an ultra-Orthodox man while she was marching in Jerusalem's Gay Pride Parade. She had taken part in the "parade to show solidarity with her LGBT friends." To his credit, Netanyahu, who was Prime Minister at the time, "said she died 'because she bravely supported everyone's right to live their life in dignity and security.'" He further vowed to "vehemently reject the attempt to spread hatred and violence."^{iv} Now, as he assembles a coalition government, likely including a party founded on the basis hatred of gays and lesbians, Netanyahu's 2015 commitment is put to the test.

While our Jewish tradition does recognize a variety of gender identities, the Torah does not know of sexual orientation. While the Bible includes loving

relationships between people of the same gender which may be understood as homoerotic, there is no same-sex marriage in the Torah.

In this week's Torah portion, *Chayyei Sarah*, though, we are blessed with a narrative about a loving relationship, consummated in marriage, that may be instructive as we consider marriage equality. In what Rabbi Naamah Kelman describes as "a sixty-five-[verse] novella, Genesis 24, one of the longest chapters in the *Tanach*," Abraham's unnamed servant undertakes a journey to identify a wife for Isaac and to bring the woman, Rebecca, back to the Promised Land to meet her betrothed. Rabbi Kelman describes a key portion of the story: "In this narrative, we learn about the Torah's first arranged marriage. In the ancient world, a woman went from her father's household to her husband's, with or without her consent. What is striking here, however, is that Rebekah *is* asked for her consent, although the arrangement is already signed and sealed. Not only is she asked for, and gives, consent, she 'falls off her camel' at the sight of Isaac, as if smitten by 'love at first sight.' More importantly, we learn that Isaac brings her into the tent, where he loves her and is comforted by her."^v

Everybody, whatever their gender identity or sexual orientation, deserves an equal right to join their life to the person whose love knocks them right off their camel. Thanks to a critical vote in the United States Senate, marriage equality is more secure in the United States this week than last. Gay, lesbian, and transgender Israelis deserve no less. The responsibility today rests upon the once and future Prime Minister, Benjamin Netanyahu. Let him live up to the commitment he made in 2015—to combat hatred based on sexual orientation and gender identity. Then, may Israel, like the United States, Canada, and so many other democratic nations, offer true marriage equality to all.

Amen.

ⁱ Zeva Klein, "Israel Police open probe against religious Zionist leader rabbi Zvi Thau – report," *The Jerusalem Post*, November 10, 2022.

ⁱⁱ Carrie Keller-Lynn, "Netanyahu meets far-right anti-LGBT party head after threat to boycott coalition," *The Times of Israel*, November 8, 2022.

ⁱⁱⁱ Jen Christensen, "Conversion therapy is harmful to LGBTQ people and costs society as a whole, study says," *CNN*, March 7, 2022

^{iv} Yaniv Kubovich, "16-year-old Stabbed in Jerusalem Pride Parade Succumbs to Wounds," *Ha'aretz*, August 2, 2015.

^v Rabbi Naamah Kelman, "Marriage Justice in Our Biblical Stories," *The Social Justice Torah Commentary*, New York: CCAR Press, 2021, pp. 29-30. Emphasis original.