

ISRAEL: Israeli divorce refusal to be criminalized in certain circumstances

Divorce refusal by women is not uncommon although occurs to a lesser extent than divorce refusal by men, according to activist groups.

By Jeremy Sharon

The Jerusalem Post (15.11.2016) – <http://bit.ly/2fwGz1d> - A new regulation published by State Attorney Shai Nitzan will allow for the criminal prosecution of men or women who refuse to grant or accept a divorce after being instructed to do so by a rabbinical court.

The measure was welcomed by women's rights groups as a significant step, although some said it would not have a dramatic impact since criminal proceedings will only be possible if the rabbinical court issues a rarely used ruling obligating a spouse to agree to the divorce.

Jewish law requires that a husband willingly give a bill of divorce and that a wife willingly accepts it in order for the marriage to be formally terminated.

These requirements, however, frequently are used to extort better divorce terms, such as division of assets and child

custody.

Divorce refusal by women is not uncommon, although it occurs to a lesser extent than divorce refusal by men, according to activist groups.

Some men also obtain a rabbinical dispensation to remarry without a divorce from their first wife, something that is not available to women within Jewish law. In September, Chief Sephardi Rabbi Yitzhak Yosef said that when he sees a case in which a woman has refused to accept a divorce he grants this dispensation.

The State Attorney's Office said Monday that a husband who refuses to grant a bill of divorce "damages the basic rights and independence of the woman who is refused, including the right to remarry, the right to have children without them being considered to be prohibited to marry [under Jewish law], the right to have intimate relations among others and, in general, can cause economic and social damage to the female spouse."

The purpose of the new directive, says the state attorney, is to label divorce deniers as criminals who harm the public's interests and values; use criminal punishments as a form of retribution and deterrence against harming the woman and the system of governance that gave the order [for a divorce]; and as a general warning for potential divorce refusers to reduce the phenomenon of "chained women."

The directive stipulates that, in a case where a rabbinical court has issued an order for a so-called obligatory bill of divorce to be issued by the husband, criminal proceedings must be examined for violation of a legal instruction.

If someone is convicted of this crime, the prosecutor will be able to request a prison sentence. Should a man who is convicted but not yet sentenced decide to grant a bill of divorce, he would be given a lenient sentence but the conviction would still stand and he still would be liable for punishment.

Batya Kehana-Dror, head of the Mavoi Satum women's rights group welcomed the measure, but noted that rabbinical courts themselves have had the ability to use various sanctions, including imprisonment, for divorce refusal but they are rarely used.

She also stated that the use of the "obligatory divorce" ruling by rabbinical courts, which is a prerequisite for criminal proceedings under the new guidelines, is used exceedingly rarely.

Pnina Omer, director of the Yad L'Isha organization, said the measure was an important and unprecedented step that would improve the chances of women refused a divorce by their husbands to finally get one.

Omer added, however, that she hopes the rabbinical judges “will not hesitate in issuing “obligatory divorce” rulings whenever possible in order to allow for criminal proceedings.