

ISRAELI SOCIETY AND SECULAR MARRIAGE

by Libi Oz

When thinking about weddings, most people imagine a romantic picture. But what happens when the state intrudes upon this romantic picture? In ancient Greece encouraging marriage was considered one of the duties of the state, since marriage had political purposes. But in the twenty-first century, why should the state still dictate and intervene in what is supposed to be one of the most exciting moments of our life?

I have always thought that marriage is a couple's manifestation of love; if so, why does this manifestation of love have to take place exclusively within a framework created by the state? This is particularly the case when a state is deeply connected with one religion as is, of course, the case in modern Israel.

Israeli law grants authority over all matters of marriage of Jews in Israel to the Orthodox Rabbinate. Therefore, the State of Israel recognizes and registers

only marriages of Jewish couples held in an Orthodox ceremony within the state or in a religious or civil ceremony outside the state.

In the past few years, Israelis have increasingly expressed their dissatisfaction with the existing system by refraining from having an Orthodox wedding, or by refraining from marrying at all. Today, every fifth couple in Israel chooses not to get married in the Orthodox way, and every tenth couple lives together without marrying.

In the last few years, the issue of alternatives to the conventional Orthodox marriage has posed legal, theological, religious, social and political questions in Israel. These questions have provoked an extensive debate that, since the beginning of the 1990s, periodically appears and fades from the public agenda. This debate applies particularly to Israeli society, since it involves questions that derive from the definition of



the state as a “Jewish-democratic state.” Yet, many of the features of religious v. civil marriage legislation are similar to those encountered elsewhere in the Western world. It particularly resembles the church-state relations in medieval Europe.

In this article I will try to avoid delving into all the legal aspects of this extremely complex question, and will try to shed light on it from a sociological and political perspective.

Over all, there are about 300,000 people living in Israel today who are not eligible to marry in Israel at

omy, and naturally are not bound by the Jewish religious authorities. Consequently, they do not participate in this public debate. ~ ~ ~ ~ ~

THE OPPOSITION TO ORTHODOX WEDDINGS The opposition to Orthodox marriage has almost nothing to do with the substance of Judaism. While most Jewish people in Israel, including the non-religious, feel in some way connected to Judaism, they usually resent the enormous influence the religious political parties have over their lives, and the constrict-

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all. Some of them are ineligible according to the Orthodox *halacha* (Jewish statutes), and others, mostly new immigrants, are not recognized as Jews by the Orthodox authorities. An additional group includes Israeli Jews who do not wish to marry in an Orthodox ceremony, for reasons of ideology and conscience, even though they are legally entitled to do so.

Alternative and civil marriages therefore concern mainly two groups in Israeli society: young people and new immigrants. As in other parts of the world, this issue also concerns homosexuals and lesbians.

Minority religious groups in Israel (Druze, Muslims, Christians, etc.) enjoy full religious auton-

tions that prevent any other alternative to traditional Orthodox Jewish weddings. As one of our most prominent national authors, Amos Oz, once described it: “The seculars see the Orthodox *halacha* as a source of inspiration, not as an authority.” The demand is not to abolish the Orthodox way, but to introduce additional options that do not necessarily contradict it.

Surveys show that about 65 percent of the public supports freedom of choice in marriages. About 63 percent support granting the Jewish Reform and Conservative movements equal status to that of the Orthodox establishment in Israel, including the right to perform marriages that will be recognized by the state.

The Orthodox culture represents, in many ways, a sort of anti-culture to the rest of Israeli society. As a result, the right to marry according to one's own worldview is for many seculars a matter of principle. A claim often heard is: we would like to have a Jewish ceremony but resent the strict and unequal character of the Orthodox ceremony, and the fact that the state prohibits freedom of choice in marriages.

Nevertheless, many people, including many religious people, believe that once there is freedom of choice in marriage, many will then choose to marry in the Orthodox way, since it will be a result of their own free will and not mandated by the state.

From a feminist point of view, the Orthodox wedding is seen as an ancient rite that is no longer appropriate to modern times. In an Orthodox ceremony the groom "buys" the bride from her parents and promises to provide her with food, clothing and marital rights. Moreover, prior to the wedding, the bride has to receive instruction from a religious woman assigned by the rabbinate to teach brides the laws of family purity. These laws completely ignore today's social reality in which most secular couples live together before the wedding. ~ ~ ~ ~ ~

ALTERNATIVE MARRIAGES There are a number of options for those who cannot or do not wish to marry in the Orthodox way:

A Conservative or Reform Jewish wedding ceremony includes most of the motifs of the Orthodox wedding, but adapts itself to contemporary reality. The cere-

monies are based on mutual understanding and respect between the couple, and are considered to be more equal and open, for it also allows women rabbis to conduct ceremonies.

A secular Jewish ceremony focuses on the authentic meaning of the wedding to the couple, without religious characteristics but with Jewish substance.

In these ceremonies, the couple is involved in the shaping of the ceremony and adapts it to their own personality and preferences. None of these ceremonies alone is recognized as legal, although, paradoxically, civil marriage abroad is sufficient for the couple to register their marriage in the Ministry of the Interior. Consequently, couples marrying in these ceremonies are required simultaneously to register a civil marriage abroad in order for the state to recognize and register them as married. Although those alternative ceremonies are not yet recognized by the Orthodox authorities, subsequent divorce procedures have to be conducted through the rabbinate.

Another option is of course not to get married at all and enjoy the benefits of "common law marriage," with or without the drawing up of a personal agreement by a lawyer.

However, there is great pressure from society, and especially from families, to adhere to the traditional way. The fear of being considered different, as well as ignorance regarding the legal status of the marriage and future children, sometimes tips the scales in favor of an Orthodox wedding ceremony. As a result, couples have to be very socially aware and possess enough





material and emotional resources to refuse to marry in the “accepted way.”

The main area of confusion surrounds the status of future children in the case of a non-Orthodox wedding. Many people believe the decision to marry in a non-Orthodox wedding will make it difficult for their children to marry in an Orthodox wedding if they wish, because they will be considered “bastards.” This lack of clarity certainly serves the Orthodox authorities well, a fact that they do not deny, although according to *halacha* these speculations have no basis whatsoever. ∞

POLITICAL ASPECTS The marriage system in Israel is a consequence of a political decision made at the time of the establishment of the state in order to achieve domestic harmony between the secular and religious parties. The resulting status quo is no longer appropriate to the current social reality.

Civil marriages are intended to exempt the state’s obligation to provide a proper civil order and the separation of religion and state. In the case of Israel, this relates to the bond between the Jewish nation and the Jewish religion. There is a contradiction between the ancient Hebrew statutes on which the marital laws are based, and the social modern perceptions that constitute the principles of the democratic state. In this respect, Israel is seen as a theocratic state in the eyes of an outsider.

The status quo, which does not allow Jews to marry non-Jews, serves another latent national purpose, namely, to maintain the separation between Arab and Jewish populations, and so perpetuate the Jewish

demographic advantage in the country. There is a belief that religious marriage and divorce laws safeguard the national unity and the national identity.

By doing so, the state paradoxically defeats its own goals. Many of those who are not allowed to marry legally and live as recognized married couples in Israel, such as religiously mixed couples, will, in many cases, decide to realize their wish elsewhere. Thus the state will miss out on the possibility that this couple will build an Israeli family with children raised and educated on Jewish and Zionist principles—children who will grow up to be potentially loyal citizens. ∞ ∞ ∞

THE SPLIT BETWEEN THE SECULARS AND THE RELIGIOUS In a country where the majority of the Jewish population is secular, it is difficult to understand why the religious minority is able to dictate the fabric of life for the rest of the population. Matrimonial laws constitute one of the key issues of controversy between religious and secular Israelis.

The public debate regarding legislation of civil marriage includes three main aspects: religious coercion, violation of women’s rights, and the prohibition of marriage outside the strict *halachic* tradition. Support for civil marriage comes mainly from the left wing.

The main opposition to civil marriage legislation comes from the religious and right-wing nationalist parties. Their main argument is that civil marriage will create a rift that will split the nation into two rival camps. But the fact is, the unresolved issue is what splits the

Israelis into two groups today. Allowing alternative marriages will reduce the hostility between religious and seculars, and will make seculars feel closer to religion.

Moreover, a substantial portion of religious Israelis today favors providing the option of civil and alternative marriages. In general, the two sides express a willingness to maintain good relations with each other; opposition to any change in the status quo comes from relatively small and extreme elements. However, as they are pivotal parties, the religious parties have enough strength to bring down coalitions and governments. For that reason, no revolutionary reform legislation has ever succeeded in this area.

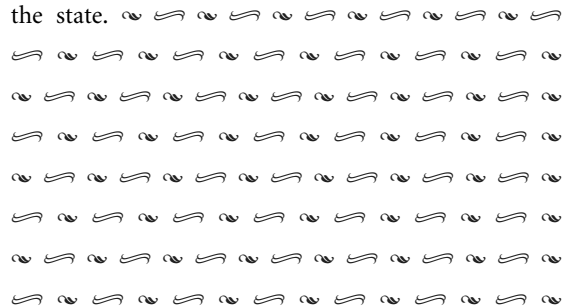
In the 2003 general election in Israel, a vast campaign in favor of civil marriage and against religious coercion was launched by one of the smaller parties: *Shinui* (“Change”). The party claims to be the only true liberal party in Israel and sees itself as the representative of the secular middle-class population. It won fifteen seats and five ministerial offices in the present government, a remarkably impressive achievement for a relatively new party. However, the party failed to pass two bills concerning civil and alternative marriages, due to coalition pressures that led some of its own members to vote against the bills or abstain. The party has disappointed its voters, many of whom are students.

CIVIL ACTION Following the increasing public dissatisfaction, a new coalition of civil organizations was established. Together they are trying to get the Knesset (the Israeli parliament) to pass legislation that will

permit civil and non-Orthodox alternatives. These organizations claim that the Israeli legislature has turned a blind eye to new developments in Israeli society, and that it is violating basic human rights concerning marriage and divorce.

Among the new coalition are many religious organizations, like the Israel Religious Action Center, which seeks to “advance religious freedom and pluralism, tolerance, social justice and civil liberties in Israel, based on the belief that these values are intrinsic to and stem from a liberal understanding of Judaism.”

The main task of those who believe in freedom of religion and in freedom from religion is clear: to fight for the separation of religion and state in matters of marital laws, and for the recognition of civil marriages, which will allow freedom of choice and will release the state from its role as the representative of the chief rabbinate, and the rabbinate from its role as the servant of the state.



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