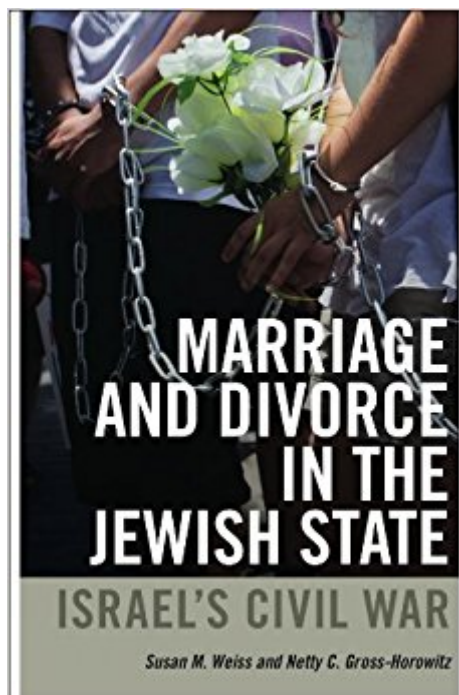




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Marriage And Divorce In The Jewish State: Israel's Civil War (Brandeis Series On Gender, Culture, Religion, And Law & HBI Series On Jewish Women)



Synopsis

Israel currently has two recognized systems of law operating side by side: civil and religious. Israeli religious courts possess the exclusive right to conduct and terminate marriages. There is no civil marriage or divorce in Israel, irrespective of one's religious inclinations. All Muslims must marry and divorce in accordance with shariya laws, all Catholics in accordance with canon law, and all Jews in accordance with Torah law (halakha). The interpretation and implementation of Torah law is in the hands of the Orthodox religious establishment, the only stream of Judaism that enjoys legal recognition in Israel. The rabbinic courts strenuously oppose any changes to this so-called status quo arrangement between religious and secular authorities. In fact, religious courts in Israel are currently pressing for expanded jurisdiction beyond personal status, stressing their importance to Israel's growing religious community. This book shows how religious courts, based on centuries-old patriarchal law, undermine the full civil and human rights of Jewish women in Israel. Making a broad argument for civil marriage and divorce in Israel, the authors also emphasize that religious marriages and divorces, when they do occur, must benefit from legislation that makes divorce easier to obtain. Making this issue their focal point, they speak to a larger question: Is Israel a democracy or a theocracy?

Book Information

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Customer Reviews

“An important new book on an important issue.” —Jewish Ideas Daily
Weiss and Gross-Horowitz's important book expertly chronicles the stories of six agunot, literally

“chained women” • “women who wait for years to be released from their unwanted marriages. The authors vividly portray the many problems involved in the divorce process in Israel, in which all divorces of all Jews must go through the state-backed rabbinical court. The narratives about women’s destroyed lives are interwoven with incisive legal-halakhic analysis, Israeli legislative history and political philosophy.” • “Lilith” • “What to do about get refusal has become, at last, a major issue of concern for the Modern Orthodox community. . . . A timely and useful book. . . . Compulsively readable, gory with injustice.” • “Forward” • “The book details the personal stories of six women, trapped for years by vindictive men who abused them mentally, emotionally, and physically, and at the end of the day destroyed their lives forever. Each account tells the story of a specific woman and her personal struggle to become unchained from a recalcitrant husband, some cases lasting almost twenty years. These six women are not all religious, yet due to the nature of divorce in Israel, they were all in the same awful predicament when they chose to end their marriages... A disturbing portrayal of the nature of modern divorce in Israel.” • “Association of Jewish Libraries Reviews

SUSAN M. WEISS is a matrimonial lawyer, NGO founder, and activist. NETTY C. GROSS-HOROWITZ is a senior writer at the Jerusalem Report.

The writers are excellent and present a comprehensive history of the divorce laws since the founding of the state of Israel. The first part of the book is slow reading for people not interested in the status of the laws over the past 60 odd years but it is an extremely important resource. The case histories are heart breaking and the reader should be prepared for teeth gnashing when reading about them because what of the terrible plight of the women described. Perhaps the authors should consider another book for women considering an Orthodox marriage that gives them practical advice in a short form to avoid the problem of getting an Orthodox divorce.

Marriage and divorce in Israel falls under the aegis of the Orthodox rabbinical courts where, under strict Jewish law, divorce is only possible if the husband agrees. Susan Weiss has dedicated much of her professional life to alleviating the situation of women in Israel - agunot - who remain undivorced and in personal limbo because the husband refuses to give them a divorce. This tremendously important book - Marriage and Divorce in the Jewish State: Israel’s Civil War - co-authored by Susan M. Weiss and Netty C. Gross-Horowitz, brings to the forefront a religious legal system where the woman does not have the same rights as the man; where equality before

law does not exist and where evidence produced by the wife in a divorce case has to be rock solid and even then it is not enough while any allegation, however tenuous, made by the husband can be used against her. The authors take us through the Byzantine labyrinth of the rabbinical courts and, with sorrow in our hearts for women whose lives have been so hurt, we wonder how Israel can be considered to be a democratic society. This book is essential reading - perhaps together with a medication to lower blood pressure.

This chilling account of the inequities caused by Israel's current family law system is a plea for reform. A compelling argument for separation of Church and State, this book explains why the valiant efforts of the Center for Women's Justice and other public interest advocates have not been sufficient to maintain human rights and individual autonomy and dignity. The authors do not seek to replace religious marriage and divorce, but want Israel to offer a civil alternative as well. They suggest that Israel adapt the American model of religious tolerance and choice. An important book for people who love Israel and want it to remain a democracy.

In 1953, the Israeli government acquiesced to far right religious elements in the state and enacted the restrictive Rabbinic Courts Jurisdiction Law, a law that did not exist previously in Judaism. Under the law, all persons in Israel must marry and divorce in accordance with religious rules. There are no civil marriages and divorces in Israel. No one, not even atheists, can opt out of this arrangement and follow their conscience. Israeli citizens are treated unequally. Jews can divorce without problems if the couple agrees; otherwise they must litigate their divorce in a rabbinic court. Catholics cannot divorce at all, since canon law does not permit it. Muslim men, but not women, can divorce their wives at will because shariya law allows it. Susan M. Weiss and Netty C. Gross-Horowitz, two experts in Israeli rabbinical divorces, describe the "absurd," "callous," "discriminatory," "patriarchal system," tell detailed stories of six Jewish women and summarize the fates of others who were involved in the rabbinic system. They show many instances where the "Israeli rabbinic courts consistently violates basic human rights and rule of law. The conduct and judgments of these courts infringe on the right to freedom of conscience, the right to equality before the law, the right to privacy, the right to due process, the right to property, the right to liberty, and, perhaps above all, the right to marry and have a family." They "hinder rather than enhance the unity of the Jewish people." The rabbis say they are reducing the number of illegitimate children called mamzerim, children born as a result of an adulterous relationship, but this is not true. By making it difficult and frequently impossible for women to obtain a divorce, "they do not minimize the number of mamzerim (and may

even increase it)." The system is out of control and very harmful. "The confusion that reigns in Israeli courts is such that [it is unclear under] what grounds a rabbinic tribunal will order a husband to give a get [divorce decree]" and what proofs are necessary. Rabbis can "order" husbands to give the get, but cannot make him do it, while they frequently force wives to pay husbands tens of thousands of dollars to get a divorce, when husbands demand it. Men have all the power in the rabbinical courts. They can refuse to grant a divorce. Besides the huge sums, they can insist and get custody of children and the marital home. "More than forty percent of all Israeli women who have been involved in divorce claimed that they had been subject to pressures by their husbands who threatened to withhold the get and nearly seven percent of women who sought divorce have given up hope of ending their failed marriage." Many of these seven percent must remain unmarried, agunot, chained to their husbands for the rest of their lives. Adultery by a wife is unforgivable and may result in the wife losing money and rights that would accrue under modern marital law, but a husband's adultery cannot be grounds for divorce by a wife and he loses nothing because of his infidelity. "A woman in Israel can become a fighter pilot but can't get divorced." Israel is "ruled by laws that [are] antediluvian." It is like the "hard-line states, like Iran and Saudi Arabia." Rabbinic courts have violated the wife's right to privacy by publicizing the name of the man with whom she committed adultery. If a husband refuses to grant a divorce, although still married, he can take a second wife, but his first wife remains chained to him, unable to marry. Many rabbis refuse to believe any woman. Women are not allowed to serve as judges in the rabbinical courts. Women are like the blacks "in Jim Crow South in the 1940s ... on trial before all-white jury and judge." The authors tell about the "Kafkaesque turmoil," the "lack of clear and accurate protocols," and the "disregard for the rule of law" in their six true stories. In the first, a husband was able to stymie his wife from obtaining a divorce for eleven years and was able to force her to accept only token child support payments and to agree not to sue to raise the sum, and the rabbis ignored the rights of children. In the second, husband and wife agreed to the divorce, but the rabbinic court refused to grant it because they wanted to hear about her irrelevant adultery. In the third, the court ordered the husband to give the get, but he refused to obey, and was able to persuade the rabbinical court to withhold the divorce while they improperly readdressed marital issues that had already been adjudicated and decided by civil courts. As a result, the wife was forced to relinquish her claim to half of the marital home to gain her freedom by a divorce, and was in the rabbinical court for nineteen years. In the fourth, a wife only married to her husband for three months, had a husband who manipulated the rabbinic court to hold up the divorce for fourteen years. She alleged domestic violence and brought proof that he admitted the violence to several people, but the rabbis dismissed

her claim; they insisted that only she "saw" the violence and a woman cannot testify. In the fifth, the rabbinic court improperly addressed issues raised by the husband even though he never filed for the divorce and the court refused the divorce for nine years. The sixth case involved a couple who married in Cyprus and the rabbis compelled these non-religious people to engage in a religious act. Rabbinic judges refuse to pledge allegiance to the laws of the state of Israel, they "defer, instead to the word of God" and interpret the "word of God" based on their own inconsistent personal views of halakha [Jewish law] "far removed from modern Israel." They "carve out for themselves a theocratic island within an otherwise democratic state," above the law and beyond the state. The only solution to "put an end to these transgressions [is that] the state-backed Orthodox rabbinic court monopoly must be disbanded and replaced by a rich and vibrant mosaic of voluntary rabbinic courts that will stand alongside a transparent, secular, unified, and unabashedly liberal civil system of marriage and divorce that protects the human rights of all citizens." These voluntary rabbinic courts should not be a parallel divorce regime and should not be supported by the state, and be used only if divorcing couples choose it as an arbitration panel.

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