Non-State Marriages in Israel within the Context of the Global Marriage Debate
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In recent years there is a growing literature that criticizes and challenges the institution of state-regulated marriage in the global North. In Israel, challenges to state-regulated marriage of Jews take the shape of conducting private marriages outside the state-authorized rabbinical establishment. To what extent is the Israeli case unique, or parallel to the global phenomenon? On first impression, this question appears to be a non-issue, considering the lack of civil marriages and the ongoing religious control over marriage and divorce in Israel. However, upon further reflection it seems that as the debate on state regulated marriages is taking place across many countries and jurisdictions in the Global North, it merits serious examination, bearing in mind the stark constitutional differences between Israel and other liberal democracies.

In a nutshell, while any marriage that is valid under the religious law that applies to the couple is _ipse facto_ valid in Israel, the law permits only authorized religious functionaries to conduct marriages. The monopoly of both the substantive religious law and the authorized functionaries to conduct marriages causes hardship on various levels. Legislation and case-law have mitigated some of these hardships by gradually recognizing _de-facto_ unions (cohabitants), thus giving them almost all the benefits, rights, and obligations of married couples. This has somewhat eroded the legal significance of status in Israeli law. Recently, however, many Jewish couples in Israel have chosen to marry outside the formal Rabbinate. Some of these couples are ideologically committed and politically motivated, while others are unable to avail themselves of the formal State marriage (e.g. due to doubts about their Jewish affiliation under religious law). Some couples wish to remain within the realm of Orthodox rabbinic Judaism, yet reject the formal rabbinical establishment; others don’t. This fascinating socio-legal phenomenon of Non-State Marriages (NSM) has not been the subject of much academic research to date.

The apparently parallel developments in the US and the UK are no less fascinating. While the same-sex marriage movement has played a key role in mobilizing the general debate over marriage in the US, the discussion in the UK seems to have arisen from a different direction, namely, the emerging practice of religious communities conducting marriages that are not formally registered. But this too is only a partial account of the field. A careful mapping of the field, relying on existing marriage-debate literature in the US and the UK, is needed. This project will suggest a novel classification of positioning the theorists according to their ideological, social and religious affiliations/groupings, or – in other words – asking where they come from, what they bring to the discussion, and what their driving motivations are. Hence, in mapping the field we will examine each of the following groups separately: the feminists (including classical, contemporary, legal feminists and religious feminists); the secular-liberals who challenge the uniform state legal regulation of marriage as an obsolete relic of a religious world (including Humanists and pluralists), and claim that "one size does not fit
all" (Ettelbrick 2001; Carbone & Cahn 2016); the secular-liberalists same-sex advocates who argue against the heteronormative aspect of traditional marriage (Eskridge 2001; Appleton 2005); the religious-autonomists and multiculturalists who go as far as to suggest introducing the Millet system in the US (Nichols 2012; Broyde 2015); and the religious-reactionaries who following the Obergefell ruling advocate "to divorce the state from marriage", as described by Robin Wilson (Wilson 2018: 413; Crane 2006).

This project, in short, will offer a comprehensive mapping and analysis of the different theoretical approaches that challenge the institution of marriage in the Global North, followed by examining their relevance to the developments in Israel, bearing in mind the peculiarities of marriage law in Israel.