To all appearances, the Lavies are a normal, middle-class, non-religious family, struggling with the high cost of Israeli living and the day-to-day demands of raising four young children. The kitchen counters of their modest third-floor apartment in Giv’on HaHadasha near Jerusalem are covered with the clutter of a weeknight, the supper dishes draining next to the sink. The refrigerator doors are plastered with magnets holding down bills to be paid, school schedules and reminders of appointments and events. Two daughters, ages seven and nine, are playing in the living room while the younger children, both boys, are already asleep.

But although they have been together for more than a decade and very much want to marry, Shlomit, 42, and Alon, 40, have been unable to do so. Shlomit is a widow, and in the eyes of Israel’s Orthodox rabbinate—which has sole authority over all matters of marriage and divorce in the country—she has not been free to remarry.

This is a consequence of a law in Deuteronomy that applies to all marriages between Jews. It stipulates that the late husband’s unmarried brother must marry the widow in order to produce a child who will carry on the name of the deceased. If the brother doesn’t want to marry his sister-in-law, he must stand before the elders of the community—which in modern Israel means the rabbinate—and announce: “I will not marry her.” The woman then performs a ceremony called halitzah by taking off her brother-in-law’s shoe, spitting in front of his face, and loudly declaring, “So shall be done to a man who refuses to build up his brother’s house.”

Shlomit, like most secular Jews, had never heard of this law. Since there aren’t many
ISRAEL, REGARDED AS THE MIDDLE EAST’S ONLY DEMOCRACY, IS AMONG 45 NATIONS WITH “SEVERE RESTRICTIONS” ON MARRIAGE; MOST OF THE OTHERS ARE GOVERNED BY ISLAMIC LAW.

widows of childbearing age who have no children and an unmarried brother-in-law, it is seldom relevant, and when it is, it’s usually a technicality. But for Shlomit it was not that simple: Her brother-in-law, who lives in Canada, refused to take part in the ceremony. When summoned by the rabbinical court, he rarely appeared, and when he did, he demanded large sums of money in exchange for “permitting” Shlomit to perform the ceremony.

In essence this has meant that her late husband’s family has had the power to prevent Shlomit from remarrying. “The law of halitza may have had some meaning in ancient times, but now it was just being used as a tool against me,” says Shlomit, a soft-spoken, petite woman with olive skin and thick black hair that is tied back. “And the rabbis were allowing it to happen.” The rabbis, she says, advised her to give her brother-in-law the money so that she could be free. “I don’t have that kind of money,” she says.

“But the rabbis told me that my husband’s soul will never find rest and that it’s my fault.”

Some time after her husband’s death, Shlomit met and fell in love with Alon. “Neither of us was so young anymore,” she says. “We wanted to get married, but we realized that if we would wait for the rabbinical courts, we’d be too old to have children of our own.” Without hesitation, she formally took Alon’s surname, and the two lived as a couple and became a family when the children were born.

Halitza applies to any Jewish woman anywhere in the world; but as long as civil marriage is an option, a widow can choose to ignore the religious injunctions and remarries. In Israel, a rare democracy that legally sanctions a religious monopoly over marriage and divorce, this is impossible. Civil marriage, like civil unions, are recognized by the state and the other law-enforcement agencies. And to this day, religious court verdicts, even when the parties go to divorce, which in Jewish law are required for all “personal status” issues, such as conversion, which is closely related to marriage, burial, kashrut certification, supervision of ritual baths and other religious services.

Over the decades, the Knesset, civil courts and Israel’s Supreme Court have created options for couples who are willing to forego official Jewish marriage. Chief among these is a 1963 law stipulating that marriages performed outside of Israel must be recognized by the state. Many Israelis with the necessary resources take advantage of this. In 2010, nearly 16,000 couples were married in Jewish courts, and another 9,262 couples had weddings abroad, according to Israel’s most recent census. And in recent decades, the courts have strengthened the rights of common-law couples, if they can maintain joint bank accounts, both be recognized as parents of their children, and be eligible for all social security and social welfare benefits and inheritance privileges to which a married couple is entitled. In Israel, the vast majority of people in Israel—such as the Livotim—want their unions to be recognized by the state as marriages.

“Israeli society is much more traditional than would appear,” says Avid Haviv-Hacohen, dean of the Sharei Mishpat Academic College and a senior lecturer in constitutional law and Jewish law at the college and in the Hebrew University’s Faculty of Law. “Except for a small minority, most Israelis want to marry ‘like their parents did.’ Others, even if less traditional, don’t want to upset their grandparents and parents.”

Israeli religious laws date back to the medieval rise of the Ottomans, whose millenium system granted limited authority to each recognized non-Muslim minority to conduct their own religious and communal affairs. After World War I, the British kept the system in place and appointed Orthodox rabbis to act as the supreme halachic and spiritual authority for the Jewish people in Palestine. In 1947, before the British Mandate and Jewish State was established, future Prime Minister David Ben-Gurion made what is known as the “Status Quo Agreement.” Under this agreement, he made concessions to the religious parties, including recognition of the authority of the chief rabbis and rabbinical courts.

In 1953, the Knesset passed legislation that reinforced this faith-based system by clearly placing all matters of marriage and divorce for Jews in Israel under the jurisdiction of these rabbinic courts. Religious leaders became civil servants—even if they perceived themselves as answering to a higher authority. And to this day, religious court verdicts, like civil ones, are implemented and enforced by the police, bailiff’s office, and other law-enforcement agencies.

Why did Ben-Gurion, an avowedly secular Zionist, push so strongly for the Status Quo Agreement and the subsequent 1953 legislation? And why was there so little opposition to these decisions?

There are many reasons. One that historians such as Anita Shapira, author of the 2012 book Israel: A History, have pointed to is Ben-Gurion’s assumption that ultra-Orthodox Jewry was on its last legs and would eventually disappear from the Jewish population, a small, insignificant sect. A second reason was timing, says Guy Ben-Porat, a professor of public policy at Ben-Gurion University of the Negev and author of the recent book, Between State and Synagogue, the Secularization of Contemporary Israel. “These were the years just after the Holocaust and the loss of fully one-third of the Jewish people,” he says. “Most of even the most secular Jews felt a pull toward tradition, toward the sense that the Jewish people had to maintain itself and hold on to what had been lost.”

But mostly the decision came down to politics—counting who was for and who was against establishment of the Jewish State. Although small in size, the religious parties held the balance of political power at the time, and Ben-Gurion wanted the state to have the legitimacy to decide which religious laws to adopt. “Ben-Gurion needed their support in order to guarantee the establishment of the State, and he knew that the religious parties were never going to give up on the crucial issue of marriage and divorce, which throughout the millennia [in exile] had been the sole province of the rabbis,” says Ben-Porat.

Pnina Lahav, professor of law at Bos- ton University and an expert on women’s rights in the early period of the state of Israel, suspects there was another reason.

“On the one hand the early Zionists directed religion and on the other hand they had traditional views about marriage,” she says. “It was something akin to the current concept of ‘family values’ in the United States.”

Ben-Gurion—who married his wife, Paula, in a civil ceremony in New York City that was squeezed into his schedule—and who had seen the rise of Zismer to Our Time, historian and author Howard M. Sachar quotes Ben-Gurion on his thinking about this issue: “Any government leader must prescribe for himself priorities, and to this day I agreed not to change the status quo on religious authority for matters of personal status. I know it was hard on some individuals. But I felt, again in the national interest, that it was wise to... pay the comparatively small price of religious status quo.”

But the price Jews—especially women—in Israel are paying is not small, says Ruth Halperin-Kaddari, head of the Rackman Center for the Advancement of the Status of Women at Bar-Ilan University’s Law Faculty and a member of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW). “The question here is who speaks for the community, who gets to determine its norms,” she says.

“Too frequently, religion gives a voice only to men, who declare, in the name of God, that they the men are in charge of the family and that they make the decisions for the women.”

Women are most vulnerable when it comes to divorce, which in Jewish law must be decided on by—a bill of divorces. With the exception of a few specific instances, a get is valid only if the husband offers it willingly to his wife, and his wife accepts it willingly. But when divorces are not amicable, as they often are, the get becomes the perfect tool for financial and emotional blackmail. That’s because if a husband refuses, or is unable, to offer his wife a get, whether
out of spite, because he is in a coma, or mentally ill, or lost in battle, or for any other reason, she is considered an agunah, literally a chained woman. In these cases, the woman is not permitted to remarry. While men, too, can be in a position of being unable to remarry—a wife must accept the get for the divorce to be valid—there are numerous accepted workarounds for men, including a beteau rabbinus, a dispensation from 100 rabbis. There are none for women.

These rules apply to all Jewish women, but are particularly onerous in Israel, where there is no civil divorce. How many Israeli women are currently being refused a divorce or being held captive as agunah? Estimates vary widely. The rabbinic spokes of a few hundred, while women's groups such as the International Coalition for Agunah Rights say as many as 100,000. Academics at Jerusalem's Center for Women in Jewish Law estimate 20,000. Get abuse is pervasive, says Halperin-Kaddari. "It's present in every third divorce, it intimidates every fourth divorcing woman, and almost a third of the divorces end in settlements that deviate from the law to the disadvantage of women," she says. Get abuse, she continues, is more prevalent in the religious and ultra-Orthodox communities, where she says half of all divorcing women are threatened with the refusal to be granted a get, and almost half eventually give in to get extortion.

The religious laws of divorce apply equally to non-religious women. According to Israel's Bureau of Statistics, only 8.2 percent of Israelis identify as ultra-Orthodox and 11.7 percent as religious. The remainder consider themselves to be "traditional" (38.5 percent) or secular. Many of these women are not even aware that Jewish law pertains to them until their marriage has fallen apart.

One of these non-religious women is Galit, 38, who asked me not to use her last name for fear that publicity might hurt her case, and who I met in her apartment in a poor neighborhood in Jerusalem. Her husband has refused to grant her a get for six years. "We keep getting advice from the rabbinic department" in the chief rabbinate's office, which is employing private detectives (at the public's expense) to look for her husband, who is apparently living in Europe. "But what can the detective do if he finds him?" she wonders aloud. "Maybe he will beat him up until he agrees." In practical terms, there is little a detective can do.

Israel's civil legal system has weighed in: In 1995, the Knesset passed a law aimed at "persuading"—but not forcing—a husband to grant a get by imposing sanctions that include suspension of their credit cards, bank accounts, passports, and driver's and professional licenses and injunctions against leaving the country. The impact of the sanctions law, however, has been limited: In 2008, only 20 arrest warrants were issued and private investigators were hired 36 times to find men who had disappeared in Israel or abroad, according to the rabbinist's website.

Few Jewish Israeli women, even the most secular, are willing to completely dismiss the need for a get. According to Jewish law, if a woman conceives a child with another man while still married to her first husband—even if she and her husband have not lived together for years—her relationship will be considered adulterous and her children will be considered mamzerim (mamzer in the singular) and not legitimate by Jewish law, unless born from an adulterous or incesuous union—and their offspring from participating in the Jewish community and from marrying other Jews for 10 generations. "Who can predict that, across generations, none of your descendants will ever choose to be religious, marry a religious man or women, or marry in Israel?" explains Rachel Levmore, a rabbinical court advocate and head of the Agunah and Get-Refusal Prevention Project of the International Young Israel Movement in Israel and the Jewish Agency.

The relationship between civil and religious law is more complex when it comes to child custody and property distribution. In the landmark 1992 case of Bavi vs. Bavi, the Supreme Court ruled that civil courts take precedence over religious courts in these areas, but religious courts have not accepted this decision. They have continued to apply halachic norms, rather than civil norms, such as gender equality and Western understandings of the best interests of the child. In practice, this means that either rabbinic courts or civil family courts can adjudicate these issues—it's simply a matter of which spouse registers first with which court. Men and religious women tend to prefer the rabbinic courts, which usually refrain from objecting to men's demands in order to guarantee that the divorce will be given willingly. Less religious and secular women tend to prefer the civil courts, which follow civil laws.

Under Israel's 1950 Law of Return, administered by the Ministry of Interior, anyone with at least one Jewish grandparent, and his or her spouse, has the right to immigrate to Israel and gain automatic citizenship. The rabbinite, on the other hand, has very different criteria for who is a Jew and will only agree to the relationship when the marriage meets Jewish law. According to the Talmud, "Jewish non-Jews" like David in Israel. They are Jewish enough to be constituted into the Israeli army and pay taxes, but they are not Jewish enough to marry. "We always knew we were Jewish. And we were Jewish enough to be beaten up and called zhid in Russia. But the rabbinite says maybe I'm not Jewish because maybe my mother wasn't Jewish. They are demanding to see her knutkah [wedding certificate] and other documents. What documents could I possibly have that would convince them that she is even married to me—my pants—yes! I had to stand in front of three old men who wanted to know if I'd been circumcised—can you imagine humiliating that?"

David has applied for help from the prescriptive group Shorashim (Hebrew for "roots"), which takes on more than 1,000 cases a year. It sends specially trained researchers to the FSU to wade through old Soviet and

ISRAELI SOCIETY IS MUCH MORE TRADITIONAL THAN WOULD APPEAR.

EVEN IF TOMORROW WE WERE TO HAVE CIVIL MARRIAGE, 90 PERCENT OF ISRAELIS WOULD STILL HAVE A RELIGIOUS MARRIAGE.
Tehila Cohen is an attorney with Yad L’isha: The Monica Dennis Goldberg Legal Aid Center and Hotline, an organization founded by Rabbi Shlomo Riskin’s Ohr Torah Stone Institute, and one of a dozen or more religious women’s groups now working within the rabbinical courts.

I met her at the Jerusalem court, where she was dashingly energetic in her office. “Most people, after all my family and I suffered under the Sudans,” she says. “I will not shop around to find someone who will agree to that. It’s the truth.”

Tehila Cohen's job is to use her extensive legal and religious knowledge to find solutions to impossible cases. She tells me about Hadiya Tzabari, who grew up in Yemen, and at age 12, was forced to marry a 20-year-old man whom she had never met. To escape her husband’s violent behavior, she eventually fled Sana’a for New York, then Israel. Still, she was legally tied to her husband, who told her she would never give her a divorce or allow her to see her two daughters.

Cohen managed to convince the Tel Aviv Rabbinical Court, in a rare move, to rule that for a variety of reasons, the marriage vows could be annulled and therefore, according to the laws of Judaism, Tzabari had never been married and did not require a divorce. In this case, notes Cohen, the rabbis “did their best to find a solution for Tzabari that would be just, fair, and religiously valid.”

“If the rabbis have the will, they can always find a way to solve problems within the framework of halacha,” she explains. Indeed, religious women’s advocates like Cohen say rabinic will is the heart of the issue. After the Yom Kippur War, for example, Rabbi Shlomo Goren, who was then head of the Israel Defense Forces’ (IDF) Military Rabbinate (as well as chief rabbi of Israel, chief judge of the Supreme Rabbinical Court of Appeals, chief rabbi and rabbinical court presiding judge of Tel Aviv), saved untold numbers of women from becoming agunot—war widows. Countless times, he and his staff crossed enemy lines in order to locate and collect the remains of fallen IDF soldiers, identify them and bring them to burial.

Today, Cohen sees, fewer and fewer rabbis seem to have that will anymore. “Some of the rabbis are very conservative,” observes Cohen. “As a religious woman, I believe that halacha provides solutions to all problems. But finding religiously legal solutions requires creativity, compassion, spiritual courage and will.”

According to press reports, rabinic will is sometimes for sale. “The going rate,” Alon Lavie tells me, is “about $5,000 per judge to get the panel to rule in your favor.” Others I spoke with also mentioned that they had been presented with the same kind of offer. “As a religious Jew, I am appalled by this,” says Yair Sheleg, a research fellow at the Israel Democracy Institute, a liberal think tank. “It is a desecration of God’s name. But it is inevitable whenever a system has absolute power.”

Not everyone wants a system that relies on something as intangible as rabinic will, and there are a number of proposals for reform that may gradually be gaining acceptance from the religious establishment. Rachel Leshem, for example, has proposed an optional prenuptial agreement, known as the “Agreement for Mutual Respect.” The agreement, Leshem explains, protects both the woman and the man from future attempts to reconcile. One is a monetary incentive to arrange a get within six to nine months, the other encourages couples to attend therapy sessions. Both these mechanisms are designed to help warring spouses to communicate and reach an agreement in a dignified manner.

Tehila Cohen says there is a problem with this approach: many starry-eyed young couples often resist signing pre-nups.

Those couples who want to avoid the rabbinate altogether can take advantage of the law allowing marriages abroad to be registered with the state. Most go to Cyprus, which is nearby and has an entire tourist industry devoted to accommodating Israeli couples and their families. The numbers of Israelis choosing this option is growing. According to the Central Bureau of Statistics, in 2012 16.9 percent of marriages involving at least one Jew took place outside of Israel, a 5.4 percent increase over 2011. Another popular trend is cohabitation. But these common-law marriages are not the same as official ones: They cre-
I’m a Religious Jew.
My Future Wife is a Jew.
I Will Not Shop Around to Find Someone Who Will Agree to That. It’s the Truth.

Since Israel’s founding, all attempts to push for the establishment of civil marriage have failed. A civil marriage bill was recently voted down in the Knesset 59-22 vote. “When it comes to marriage and divorce,” says Zvi Triger of the Academic College of Management in Rishon L’Tzion, “even if tomorrow we were to have civil marriage in Israel, 90 percent of Israelis would still have a religious marriage.”

Most Israeli Jews believe that the rabbinate serves an important purpose in maintaining the Jewish character of the state. Since Israel’s founding, all attempts to create a civil marriage have failed. A civil marriage bill was recently voted down in the Knesset. Parties in his coalition, still is afraid of having a civil marriage in Israel. But with the rabbinate’s newfound rigidity, a range of studies shows that passivity acceptance of its control over marriage is waning. A 2013 survey conducted by Geokartography, an independent Israeli research group, determined that 71 percent of Israeli Jews said they were not pleased with the chief rabbinate. In its research, Hiddush, the NGO promoting religious pluralism, found that 63 percent of Israelis and 88.5 percent of those who define themselves as secular support the possibility of civil marriage in Israel.

Encouraged by these statistics, a new coalition is forming to push for civil marriage, says Mickey Gritz, a member of the Tel Aviv City Council. Gritz is also the executive director of Israel Hofsheit [Be Free Israel], an NGO advocating for ending the Orthodox monopoly that is part of a broad group of Israeli organizations developing public campaigns to create pressure on the government.

Gritz attributes some of the new energy around this issue to the dissatisfaction that Israelis feel toward their politicians, whom they view as cynical and motivated by self-interest. “Parties like Yesh Atid, headed by Yair Lapid, and HaTnuah, headed by Tzipi Livni, promised that they would push for change,” he says. “Then they became part of the government and backed down. And [Prime Minister Benjamin] Netanyahu, even with a single bareli party in his coalition, still is afraid of angering the ultra-Orthodox in case he needs them in the future.”

Jews are not the only ones calling for change. The lack of civil marriage in Israel also impacts the members of all other recognized religions—Muslims, Bahá’ís, Druze and 10 Christian denominations such as the Latin (Roman Catholic) Church and the Greek Orthodox Catholic Church. Like Jews, each of these groups is bound to its own religious courts. Since there are only 120,000 Christians in Israel, the non-Jewish community’s rabbinate, led by Ramon, an expert in Christianity at the Jerusalem Institute for Israel Studies, has little incentive for political action. “Then they became part of the executive director of Israel Hofsheit [Be Free Israel], an NGO advocating for ending the Orthodox monopoly that is part of a broad group of Israeli organizations developing public campaigns to create pressure on the government.

They were organized by Lahava, an extremist NGO that opposes “miscegenation,” as it calls marriage between Jews and non-Jews. Most of the press coverage did not mention that the couple had no choice if they intended to marry. It is very difficult for Muslims to convince the rabbinate to convert them.
This dialogue will include American and Israeli partners. The North American groups will emphasize the conversion issue while the Israeli groups, Zakheim says, are focusing more on marriage and divorce. “But it is all part of the same situation—the checkolead that the rabbinate in Israel has had for so many years cannot continue.” Ultimately, Yair Sheleg believes that introducing some form of civil marriage and divorce would serve the best interests of Judaism. “If the rabbinate had competition—from other streams of Judaism and from a civil system—it would have to adapt itself. It wouldn’t be a monopoly, and so would have to become more friendly and more in touch with the communities it is meant to service. This would open up wonderful opportunities to bring Israeli Jews closer to their Judaism.”

This summer, after numerous interventions by influential rabbis in Israel and Canada, Shlomit Lavie traveled to Canada—at her own expense and performed the hutzat, aided by the Chabad religious court, who convened the brother-in-law to appear for the ceremony.

Upon her return, Shlomit and Alon were sure that they would finally be allowed to marry. But to their horror, the rabbinic court, citing another arcane religious law that is applicable only to Jewish men of Ashkenazi descent, declared that since they had cohabitated and since Alon is an Ashkenazi Jew, the couple could never be married in the eyes of the Jewish state.

“True, they could be married in an unofficial Conservative or Reform or even Orthodox ceremony, or get married abroad. But that is not what Shlomit and Alon want. “We want a traditional Orthodox ceremony, or get married abroad. But that is not what Shlomit and Alon want. “We want a traditional Orthodox ceremony, or get married abroad. But that is not what Shlomit and Alon want. “We want a traditional Orthodox ceremony, or get married abroad. But that is not what Shlomit and Alon want. “We want a traditional Orthodox ceremony, or get married abroad. But that is not what Shlomit and Alon want. “We want a traditional Orthodox ceremony, or get married abroad. But that is not what Shlomit and Alon want. “We want a traditional Orthodox ceremony, or get married abroad. But that is not what Shlomit and Alon want. “We want a traditional Orthodox ceremony, or get married abroad. But that is not what Shlomit and Alon want. “We want a traditional Orthodox ceremony, or get married abroad. 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