

## Canada to the rescue of Israel's agunot

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MATTHEW WAGNER, THE JERUSALEM POST

Sep. 19, 2005

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Canadian divorce law might help prevent scores of Israeli women from being bound to the chains of matrimony.

Legal experts, rabbinical judges and senior representatives in the Prime Minister's Office and the Justice Ministry are weighing the adoption of legislation based on the Canadian model that could help solve Israel's agunot problem.

According to Canadian law, a Jewish spouse is prevented from making a claim or defending a position in civil court until he or she has agreed to remove all barriers to divorce. A recalcitrant spouse that refuses to cooperate with the giving of a get [divorce certificate] loses all rights to make monetary claims to assets, or to defend himself or herself in civil court against claims made by the other side.

John Tibor Syrtash, a religious Jewish lawyer, who was instrumental in drafting and amending Canada's Divorce Act and Ontario's Family Law Act, presented to representatives of the rabbinical courts, the Prime Minister's Office and Justice Ministry officials last week the Canadian innovations and explained how they helped lower the number of agunot among Canadian Jews.

"If a man or woman wants property divided or arrears settled in civil court he or she has to agree to give a get first, before negotiations or litigation begin," said Syrtash. "Otherwise he or she cannot participate in the legal proceedings while the other side can demand anything they want."

Syrtash explained that before the law was amended 19 years ago, either the husband or the wife would use the get as a leverage to extort money, benefits or child visitation rights from the other side, as is often done in Israel.

According to Jewish law both sides must agree to divorce before a get is given. Without a get neither side can remarry.

Syrtash was invited by Dr Peretz Segel, senior legal advisor in the Justice Ministry. The conference was sponsored by the Rackman Center, headed by Dr Ruth Halperin-Kadari together with the Israel Bar Association.

The Canadian legislation was received enthusiastically by Rabbi Shlomo Dichovsky, member of the Supreme Rabbinical Court.

However, some halachic issues need to be worked out before the Canadian method can be adopted. A get given under coercion is null and void. If a woman relies on a null get to remarry and gives birth,

her children are considered bastards [mamzerim] and are forbidden from marrying a Jew for their entire lives. Their status is irreversible.

Rabbis in the Israeli Rabbinat must determine whether the Canadian legislation constitutes coercion.

Syrtash said that many Canadian rabbis accepted the legislation because it is perceived as procedural rather than punitive. He further emphasized that the Canadian Law has been successful due to the active cooperation of the Canadian rabbinical courts.

Dr. Dov Frimer, an adjunct professor of law at Hebrew University and an expert on divorce law, said the halacha differentiates between causing a loss, which is prohibited and preventing a gain, which is allowed.

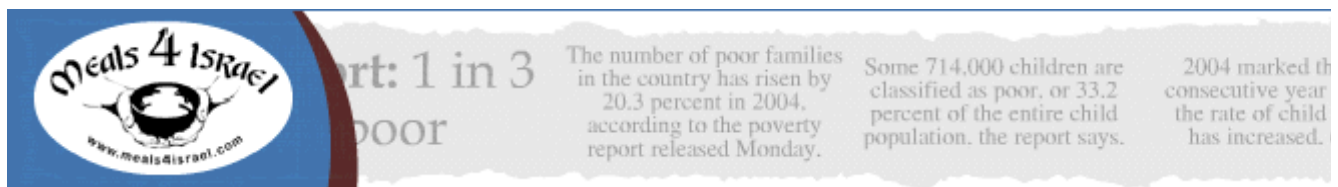
"The question is how will the rabbis view the Canadian legislation?"

Here is how the law works: In a case in which the husband is recalcitrant, the woman sends a letter to her spouse asking that he remove all barriers to divorce as stipulated in the Jewish faith. If he does not reply, the wife then sends an affidavit making the same request.

If within 15 days the husband has not provided the get, the wife can request that the court strike all of the husband's demands.

"The very knowledge that the woman will be allowed to demand anything she wants normally encourages the husband to give the get," said Syrtash.

Syrtash said he got the idea to export the Canadian model to Israel after seeing "Sentenced to Marriage" [Mekudeshet] at the Toronto Film Festival. The movie tells the story of women whose recalcitrant husbands refuse to release them from the bonds of matrimony.



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