

## RELIGIOUS TRIBUNALS IN DEMOCRATIC STATES: LESSONS FROM THE ISRAELI RABBINICAL COURTS

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### ABSTRACT

This paper offers a three-variable explanatory model of religious tribunals' praxis in democratic states. The model emerged from two empirical studies conducted by the author examining the Israeli legal field governing the family matters of Israel's Jewish population, which involves both religious and civil legal institutions.

The empirical studies revealed that in consensual divorce and inheritance proceedings, the Israeli rabbinical courts attract clients by offering a relatively cheap and efficient alternative to the civil family courts and inheritance registrars. However, the practices of the rabbinical courts diverge greatly in divorce disputes as compared to inheritance conflicts. While in the former, the rabbinical courts fight to preserve their authority and strive to deliver independent rulings, they avoid jurisdiction and jurisprudence in the context of inheritance conflicts. Moreover, whereas in divorce proceedings, rabbinical court judges consistently assert their judicial autonomy even when the result is severe gender discrimination, in inheritance proceedings, a concern with gender equality lies at the foundation of their attempts to mediate between rival family members and to refer conflicts to the family courts.

Religious, cultural, and institutional variables are offered to explain the similarities and divergences in the rabbinical courts' practices and perceptions when dealing with divorce and inheritance matters, as well as to explain the willingness of religious tribunals to adapt to liberal values in certain circumstances. This paper thus seeks to contribute to

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the theoretical and policy-making debates between legal multiculturalism and liberal stances.