

JOFA Journal

JEWISH ORTHODOX FEMINIST ALLIANCE

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“When a man has taken a wife, and married her, and it comes to pass that she finds no favor in his eyes, because he has found some unseemliness in her: then let him write her a bill of divorce, and give it in her hand, and send her out of his house.”

Deuteronomy 24:1

The biblical text gives a man the right to initiate a divorce. There is no parallel right given to a woman. The resultant inequity has troubled the Jewish community and its decisors throughout the generations.

“Why did the Rabbis institute that the husband give his wife a *ketubbah* at the time of their marriage? So that it might not be an easy thing to divorce her.”

Babylonian Talmud, *Ketubbot* 39b

From Our President

Does Anybody Hear? Does Anybody Care?

By Carol Kaufman Newman

This is a double issue of the JOFA Journal. The *agunah* crisis is of such import that we wanted to include many more articles than usual covering more subjects to better inform our readers. We hope you will take the time to read through it all.

JOFA recently sponsored an ad that over 850 individuals and organizations signed in support of *agunot*. We pledged our efforts to work throughout the coming year to alleviate the suffering of victims of *get* refusal. We also urged rabbis and the entire Jewish community to use all legitimate *halakhic* means at our disposal to prevent the emergence of new *agunot*. As I spoke to people urging them to sign the ad, I realized how little was understood about the *agunah* problem. So many I spoke to were under the impression that when a husband is incapacitated, a Jewish court can issue a divorce. That, of course, is not the case. People did not know that there is no *halakhic* impediment to a recalcitrant husband having sexual relations with another woman, even fathering children, and in some cases marrying while never giving a *get*. These options, of course, are not available to the woman who has been refused a *get*.

We could write a book of stories about women whose lives have passed them by



while waiting to obtain a *get*. A few of these stories have been incorporated in this issue. Seven years, eleven years, twenty-eight years. Some women had to pay exorbitant fees to obtain their divorce.

Others had to relinquish the right to see their children. Does anybody hear? Does anybody care?

Judaism teaches us to live by God's commandments. *V'chai bahem*—“and we shall live by them.” The lives of these women are unlivable and intolerable. Solutions have been proposed. You will read about them in the following pages. But we cannot get a consensus of rabbis to agree on any one of them. How can this be resolved?

As a first step, we are urging rabbis to refuse to perform marriage ceremonies without a signed pre-nuptial agreement. It will not help the *agunot* that currently exist, but hopefully, it will deter the emergence of new ones. It is a first step.

When I am feeling discouraged, I think of what one rabbi said to me recently—“Every one wants to hit a home run to score a run. But four singles also bring in a run.” So we will try to look for small solutions to a big problem, and hopefully, one day, it will be solved.

Does anybody hear? Does anybody care? We do. And we hope you will too.

Jewish Divorce Law: Protection or Life Sentence?

By Batya Levin

Chair, JOFA Agunah Task Force

The *halakhic* system of *ketubah* and *get* was designed to protect the woman. Unfortunately, the laws of *gittin* have turned into a life sentence for many women in untenable marriages. We cannot hide our heads in the sand. Divorce today, even in the Orthodox Jewish community, is an growing reality, and we have a responsibility to help ensure that Jewish women undergoing divorce will not suffer in the future as many have suffered in the past and are suffering now.

Failure to solve the problems associated with Jewish divorce is a phenomenon that hurts more than the affected women and their families; it also hurts Judaism. Claiming inability to help women who are married to criminals and abusers is not congruent with the principles of *hesed* and *rachamim* which we associate with Jewish law. The protection of men who flout Jewish law is a perversion of Jewish law. Given the facts of low Jewish birthrate and depopulation by the *Shoah*, it is self-destructive to have women chained in dead marriages during their child-bearing years. Furthermore, when a *get* is not given, it leads the community to forbidden gossip. Some women leave a *halakhic* life and bear children while still married to their husbands, thus creating *mamzerim*; others remain in the fold and endure a life of punishment. Something must be done—for the sake of each *agunah* and for *K'lal Yisrael*.

The JOFA Agunah Task Force sees the *agunah* issue as a community problem. It takes the position that in order to make progress in solving it, we must work from the “top down” as well as from the “bottom up,” an approach suggested

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FOR A GLOSSARY OF AGUNAH TERMS, SEE PAGE 22

Get Abuse

By Rabbi Mark Dratch

Why do “religious” men refuse to cooperate in a religious divorce?

In the best of all possible worlds, we would all live happily ever after and there would be no divorce. In that world, in the rare instance that divorce became a necessity, both parties would willingly and amicably cooperate in the proceedings. But we do not live in that best of all possible worlds. Divorce is at times necessary, and at other times, desired by one party or the other. Often divorces are contested and contentious and, frequently, much time and anguish are expended on coming to terms and resolving matters in civil courts as well as in rabbinic tribunals.

Jewish law does not recognize the granting of a “no fault” divorce as a right of either the husband or the wife. In other words, just because one party wants a *get* does not mean that the other party must cooperate. And in most cases, a *get me’useh*, a compulsory divorce, is not valid. Certainly, if both parties are in agreement, a *bet din* will not stand in the way of their separation and will facilitate their religious divorce. However, where only one party wants the *get*, Jewish law, only in rare cases, will obligate the other party to cooper-

ate (*chayav le-garesh*). At other times it encourages cooperation (*mitzvah le-garesh*). But mostly it does not grant the authority or provide the mechanism to do either.

Details of the situations in which a *get* can be coerced are outlined in the *Shulhan Arukh, Even Ha-Ezer*, chapter 154. The list includes specific circumstances in which it is either personally or reli-

“A woman
should not have to
buy a *get*...”

giously impossible for one party to live with the other. But the list is a limited one and does not include many of the situations confronted in our modern age. And if the situation is not found on this narrow and limited list, a *beit din* will refrain from coercion (ibid: 154:21).

With that as background, we return to our question: why do some “religious” men refuse to cooperate in *get* procedures?

Although there may be technical *halakhic* excuses for not cooperating in

the *get* process, to my mind the essential issue is not the *halakha*. In my opinion, even if the Talmud or *Shulhan Arukh* does not obligate or even encourage the delivery of a *get*, once a couple has stopped living together as husband and wife, and that decision is final, delivering a *get* is the only moral and just thing to do. And if despite counseling and therapy, despite negotiations and arbitration, and despite attempts at reconciliation, one party wants out of a marriage, the other party, in all good conscience, should not endlessly persist in demanding *shalom bayit* (harmonious domestic reconciliation). And you should not need a Talmud or a *Shulhan Arukh* to tell you that!

A *get* was never meant to be used as a husband’s tool to gain concessions in divorce proceedings. A woman should not have to “buy” a *get* by compromising on a financial settlement or on her relationship with her children. Yet, too often, this is what happens. And no *halakhic pilpul* justifies this! At times, as acrimony and disagreements enter the divorce proceedings, the delivery of a *get* is transformed from a *mitzvah* (an

Jewish Divorce Law ...continued from page 1

by Bar-Ilan professor Ruth Halperin-Kaddari, a pioneer in the study of Israeli family law. “Top-down” includes actions and initiatives by rabbis and decisors to solve the problem of *iggun*. “Bottom-up” speaks to the education of the Jewish community and grass-roots activism and advocacy on behalf of *agunot*. Both strategies are needed. Hopefully, rabbinic authorities will respond to community concerns by finding and implementing *halakhically* acceptable solutions.

This issue of the JOFA Journal is devoted to sharing current thinking on various aspects of the *agunah* problem and possible solutions.

LOCKED OUT: HOME EMPTIED

Mrs. C.D. was in her early 30’s. During the beginning stages of her second pregnancy, she was not feeling well and went to spend a few days at her parents’ house, so that she could rest while her parents took care of her two year old child. When she and the child returned home, she found herself locked out. When she finally gained entrance, she saw that all of her belongings and those of her daughter had been removed—including the crib.

The next eight years included a series of frivolous lawsuits against each member of her family (all eventually thrown out, but costing time, money and deep anguish to these “victims”), harassment, quarrels regarding the children’s schooling, failure to pay child support, delay after delay in court hearings, etc. Finally, her husband exhausted the patience of the judge and, facing a contempt charge, he gave the *get* and signed the divorce papers.



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affirmative religious act) into a *to'eivah* (a negative abomination).

In my opinion, the withholding of a *get* is a form of spousal abuse. Experts tell us that, at its core, domestic violence is not about the physical assault or the sexual exploitation or the emotional cruelty or the economic manipulation or the limiting of social contacts or the restricting of mobility, but is really all about power and control. It is about one party's need and desire to dominate another and to dictate (in most cases it is the wife who is abused) what, where, how and when the wife should live her life. The abusing spouse will cleverly and manipulatively use all means under his control: physical violence, sexual assault, harsh words, demeaning criticism, economic power, etc.

Unfortunately, in our community, a recalcitrant husband may manipulate *halakha* and abuse its dictates to further assert power and control over his former wife. In my opinion, a withheld *get* is equivalent to a physical, sexual or emotional assault. In our day, we have deplorably allowed and enabled too many husbands to exploit the *halakha* by transforming a precious *mitzvah* of the Torah into an abusive tool.

An *agunah* activist in the community once told me about one of "her" women, a woman who has been cheated out of a *get* for a number of years and whose husband refuses to support her or their children. She is now dependent on the kindness and charity of others just to feed and clothe her family. When asked why she persists in remaining religious and continues in her commitment to seeking a *get*, this *agunah* responded, "He took everything from me: my money, my clothes, and my self esteem. I will not let him take the one thing I have left, my faith."

Perhaps her faith will renew ours to stop the further abuse of our precious mothers, sisters and daughters, and will renew our efforts to stop the abuse of what we as religious Jews cherish and honor the most, the very Torah herself.

Rabbi Mark Dratch is the founder of JSafe (The Jewish Institute Supporting an Abuse Free Environment), a new not-for-profit organization whose mission is to create an environment in which every Jewish institution and organization acts to address the wrongs of domestic violence, child abuse and professional improprieties. He serves as adjunct instructor in Jewish Studies at Yeshiva University.

NO GET FOR HER—NEW WIFE FOR HIM

Serena and Michael, both middle-aged with grown children, underwent a bitter civil divorce. Michael, who has since remarried, refuses to give Serena a *get*. He is an officer and generous contributor in his synagogue. Serena appealed to the rabbi to no avail.

Michael continues to come, with his new wife, to the same synagogue where Serena attends services. Serena continues to appeal, unsuccessfully, to the synagogue and the rabbi that they not grant him *kibbudim* (honors in the synagogue) as well as begging for the issuance of her *get*.

The posters illustrating this issue are winning entries in a competition sponsored in Israel by ICAR, the Rackman Center and Emunah College.

סרבן גט
יש חיה כזאת

GET REFUSER – THERE IS SUCH A BEAST
1st prize – Tamar Tzohar

The Pre-Nuptial Agreement for the Prevention of *GET*-Refusal

By Rachel Levmore

Therefore, be it resolved that every member of the Rabbinical Council of America will utilize pre-nuptial agreements, which will aid in our community's efforts to guarantee that the get will not be used as a negotiating tool in divorce procedures.¹

Much ink has been spilled in the past few decades regarding what is known as the modern-day *agunah* problem. Scholarly articles, both rabbinic and academic, have appeared in print and on the internet.² Despite the seeming proliferation of discussions as to the seriousness and pervasiveness of the problem, to date there exists only one practical method of prevention which can be utilized by the general populace. That method is the signing of a pre-nuptial agreement for the prevention of *get*-refusal, prior to the act of *kiddushin* (sanctification of the marriage).

When delving into the *agunah* problem, a distinction must be drawn between the classic definition of an *agunah* and a victim of *get*-refusal. *Halakhically*, an *agunah* is a woman whose husband has disappeared and we have no knowledge as to whether he is alive or dead. The example used is the passenger on a boat that sank in “waters that have no end.”³ Although this is still a phenomenon which can be found today,⁴ the more prevalent problem is that of a husband who is alive and well (and may even be standing in front of the rabbinical court) who is explicitly refusing to give his wife a *get*. In order for a Jewish divorce to be valid, the husband must place the *get* in his wife's hands out of his own free will. If he does not have the will to divorce his wife, no other party—person or court, can do so in his stead. In common usage, the term *agunah* now includes a victim of *get*-refusal.

To date, there is no general commonly accepted *halakhic* solution or method of prevention to the classic situation of the “husbandless wife.” This seeming oxymoron accurately describes the situation of the woman whose husband has disappeared or is not legally competent. She is married to a man who has ceased fulfilling the role of a husband. Nevertheless, according to the *halakha* she cannot change her personal status to that of unmarried.

The pre-nuptial agreement addresses the more common problem today—that of *get*-refusal. The modern-day *agunah* has requested the dissolution of her marriage in the proper *halakhic* manner but has met up with her husband's flat refusal, laying down of unreasonable conditions, extortion or

even resistance to stepping into a rabbinical court. This woman may find herself living separated from her husband for an extended period of time or even civilly divorced if she lives in the Diaspora.⁵ Yet, as long as she does not receive a *get* from her husband, she remains married to him. She is prevented from remarrying within Judaism. If she is Orthodox, she will not even go out for coffee with another man, let alone strike up a serious relationship. The natural progression of her life is broken, affecting her day-to-day life, her children's development and her extended family. This, in turn, has a negative effect on Orthodox Jewish society, which is founded on the building blocks of healthy family units. It is in that society's interest to prevent these situations, which unfortunately, are not anomalous. Hence the recommendation to every soon-to-be married couple to sign a “prenup”, emanating from the resolution of the RCA shown above.

In the United States, the most prominent pre-nuptial agreement for the prevention of *get*-refusal is the agreement of the Beth Din of America.⁶ It is in essence, as its title demonstrates, a “binding arbitration agreement.” The *Beth Din*, accepted by both bride and groom as an arbitration panel, is legally enabled to render a

binding decision in all issues relating to a *get*. This ensures that all adjudication leading up to the administration of a *get* is done according to *halakha*, by rabbinical judges. For clarification—if the same process of adjudication were to be handled by a civil court, say the New York Family Court, the resulting *get* would be considered null and void, invalidated by the very process which led up to its inception.⁷ The clauses of the pre-nuptial agreement delineate the rules accepted by the signatories, according to which the rabbinical court should rule. There are optional clauses authorizing the *Beth Din* to rule on monetary matters or child custody and related issues. The entire agreement is in keeping with the law of the state in which it is signed.

The heart of the pre-nuptial agreement is the monetary obligation undertaken by the groom. He obligates himself to support his wife at a particular rate (from the point of separation) as long as they are married according to Jewish law, if the *Beth Din* renders a decision enforcing this obligation. In essence this means that from the point that his wife asks for a *get* and the *Beth Din* recommends that he deliver the *get*, until he gives the *get*, the husband is obligated “to support my Wife-to-Be from the date that our domestic residence together shall cease for whatever reasons, at the rate of \$150 per ... in lieu of my Jewish law obligation of support so long as the two of us remain married according to Jewish law....” The agreement empowers: “the *Beth Din* of America (to) issue its decision despite the defaulting party's failure to appear, and (to) impose costs and other penalties as legally permitted.”⁸

A different agreement developed in Israel,⁹ called the *Heskem L'Kavod Hadadi*—the Agreement for Mutual Respect—essentially works on the same principle of spousal support in the case of recalcitrance. However, in this case, the obligation is mutual. Both the bride and the groom obligate themselves to support the spouse, the amount ranging from \$1500 per month to half his/her monthly net income. The obligation is activated after notification plus a defined waiting period, if

“a husband...alive and well...
is explicitly refusing to
give his wife a *get*...”

BLACKMAIL FOR A *GET*

Susan and Sam were married for eight months. They proved incompatible, and Susan asked for a *get*. Sam refused unless he received a quarter of a million dollars. After appealing to a *beit din*, Susan was advised that it could do nothing to resolve the matter. Susan's family finally raised the blackmail funds and Susan received her *get*. She was civilly divorced and has remarried.

the couple is still married according to *halakha*. If a spouse is willing to give/accept a *get* unconditionally at that point, his/her obligation is voided. In this manner only the recalcitrant spouse's obligation will remain in effect. Obviously, if a *get* were administered during the waiting period, neither spouse would be obligated. There are additional matters covered by this agreement. If one of the spouses demands marital therapy, the other must comply—up to three visits. The community property law of the State of Israel is accepted as *halakha* for those that sign the agreement. In short, this is a mutual agreement which takes our modern-day philosophy of marriage as one of partnership, cooperation and mutual respect, and anchors this outlook deeply in the *halakha*. It is an educational tool as much as it is an agreement for the prevention of *get*-refusal.

Neither the agreement of the Beth Din of America nor the Agreement for Mutual Respect is always effective in particular cases. Since both are based on a monetary obligation incumbent on the recalcitrant spouse, if that party has no assets or income (or has managed to hide them) and/or is already in debt, then an accrued debt may not have the desired effect. The recalcitrant husband may, then, just ignore the agreement. At the other extreme, if the husband has become wealthy, the fixed amount specified in the American agreement may prove to be negligible. The husband may determine that the expense is worth his while. The Israeli agreement has minimized that particular possibility by obligating the recalcitrant party to pay the higher of a fixed minimum amount, or 50% of his or her net monthly income.

It has yet to be determined whether an agreement signed in one country, the U.S. or Israel, will be binding when put to the test in the other country. Both the Beth Din of America and the authors of the Agreement for Mutual Respect must cooperate in finding the formula for reciprocal clauses.¹⁰ These would provide jurisdiction in the country which was not the country-of-origin, if the spouses were to find themselves overseas at the point of divorce.

It must be noted that although the signing of a pre-nuptial agreement is vital in this day and age, it is not a “magic pill” which cures all evils. The pre-nuptial agreement is a form of insurance which is reliable for the common problem of *get*-refusal, but is not effective in all circumstances. Orthodoxy has yet to develop additional solutions which, when added all together, would resolve the “*agunah*”

problem. The dissemination and usage of the pre-nup is but the first step in this process. Its acceptance in both rabbinic and lay circles not only protects the individuals who sign the agreement; in addition, the practice of signing such an agreement, together with its proven effectiveness,¹¹ sets the groundwork for the opening of the hearts and the minds towards the development of additional, deeper solutions.

Rachel Levmore, rabbinical court advocate, is the coordinator for matters of iggun and get-refusal, a joint project of the Council of Young Israel rabbis in Israel and the Jewish Agency for Israel. She specializes in agunah cases heard by the Israeli rabbinical courts. A member of the team that developed “The Agreement for Mutual Respect,” she is also a Doctoral Fellow in the Talmud Department of Bar-Ilan University.

Tefillah for Agunot

יהי רצון מלפניך שיםלאו רחמך להחזיר נשות
ישראל השבויות בידי בעליהן וקשורות בכבלי
כתובותיהן, אך קדישה ואהבה כבר סרו ממעונן.
הסר נא מעליהן את עולן המר ורכך את לבן
המאובן של שוביהן. פתח חרצובות רשע ושלח
בנותיך חפשי לבנות בית בישראל ולגדל ילדים
באהבה ואחווה, בשלום ורעות.

השיבה שופטינו כבראשונה ויועצינו כבתחילה
ותן בלבם רוח חכמה וגבורה, רוח עצה ותושיה
להציל עשוק מיד רודף ואשה משביה.

ברוך אתה, מתיר אסורים.

Creator of heaven and earth, may it be Your will to free the captive wives of Israel when love and sanctity have fled the home, but their husbands bind them in the tatters of their ketubot. Remove the bitter burden from these agunot and soften the hearts of their misguided captors. Liberate Your faithful daughters from their anguish. Enable them to establish new homes and raise up children in peace.

Grant wisdom to the judges of Israel; teach them to recognize oppression and rule against it. Infuse our rabbis with the courage to use their power for good alone.

Blessed are you, Creator of heaven and earth, who frees the captives.

English Prayer by Shelley Frier List

¹ Resolutions of the Rabbinical Council of America, adopted in June 1994 “Reaffirming the Endorsement of Prenuptial Agreements” http://www.ocweb.org/index.php/pre_nuptial/article/resolutions_of_the_rabbinical_council_of_america/

² Bleich, J. David, “The Device of the ‘Sages of Spain’ as a Solution to the Problem of the Modern Day Agunah,” *Tradition*, Vol. 22 No. 3 (Fall 1986), pp. 77-87.

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A View from the Trenches By Susan Weiss

When asked by JOFA to write about what it is like to work in the Israeli rabbinical courts, I conjured up an image in my mind of a rabbinical court pleader lying on Freud's couch and free associating... anarchy, anger, chaos, Kafka, frustration, fear, humiliation, husbands, screaming, seething, extortion, procrastination. At the risk of understatement, it is not easy work. And it seems far removed from God, holiness, justice, the *halakha*, or even anything one might expect from a legal system. The pleader or lawyer who

appears in the rabbinical courts is more like a street fighter parrying for position and power than a professional wielding legal acumen on behalf of her client.

The reason that a rabbinical court advocate is more like a street fighter than a professional is not lack of training. I would conjecture that it is because fighting is the required response to what I refer to as the rather "crude methods of divorce resolution" characteristic of the rabbinical courts. In an article published in the Israeli

journal *Eretz Aheret*, the title of which I would translate as: "The Three Methods of Divorce Resolution: Fundamentalism, Extortion, and Violence," I described how the Israeli rabbinical courts judges deal with divorce cases. First, they often make no decision because they are worried about *get me'useh*, the forced divorce (Fundamentalism); next, they try to end the case by persuading the wife to give up her rights (Extortion); and finally, when the first two methods fail, they pressure the husband, sometimes even putting him in jail (Violence). These crude methods do not often demand great legal maneuvering or sophisticated legal argumentation, but rather the manipulations of the politically savvy.

However, in this piece, I would like to go beyond the almost sad and obvious issues of anger, frustration, and extortion, to describe overlooked phenomena that result from working in the rabbinical courts. Borrowing again loosely from Freud, I will call them: *transference*, *cognitive dissonance*, and *the Stockholm Syndrome*. I will describe these disturbing and untenable phenomena briefly and argue that they, along with more mundane abuses of the legal process, create a situation that challenges the faith of many in the continued viability of the *halakha* as a living tradition.

By *transference* I refer to the phenomenon by which the rabbinical judges transfer responsibility for what is happening in the courts from themselves to just about anyone, or anything, else. Rather than take the blame for the reduction of women into putty in the hands of the recalcitrant husband, they point a finger at: (1) The *halakha*. It is not their fault. It is the *get me'useh*, the forced divorce that prevents them from acting. (2) *The lawyer*. If only the lawyer/pleader/



GET REFUSER – GET OUT
Israeli society condemns get-refusers
 2nd prize –Avishag Danino

WEDDING CALLED OFF

Rochelle was happy and excited about her engagement to David. Shortly before the wedding, in consultations with David's rabbi, it was discovered that Rochelle's mother had never received a *get* prior to her remarriage to Rochelle's father, making Rochelle a *mamzeret* in Jewish law (*i.e.* the offspring of an adulterous relationship). David's family pressured him to cancel the wedding and Rochelle is no longer engaged to be married to David.

advocate had argued the case better, or had given in to the husband's "reasonable" demands for the divorce, the case would have been resolved. (3) *The wife*. She should have paid him off. Or, sometimes (astoundingly) she committed adultery, so she does not deserve a *get*. (4) *The husband*. It is his fault. He is just nuts. Nothing they can do about it. It is everybody's fault but their own. This transference is wrong and disconcerting. Not only does it impose guilt where it does not belong, but it is a diversionary tactic that allows our leaders to absolve themselves of the responsibility to finding a full and lasting solution.

By *cognitive dissonance* I refer to the feeling of disconnection that descends upon the religious pleader or lawyer when utopian theory is met by hard reality, when the recalcitrant husband challenges the *halakha*, and when expediency trumps justice. The mantra "Don't judge Judaism by the Jews" just does not make it. The religious pleader

is hard pressed to resolve the overwhelming dissonance between her idealism, God-fearing reverence for the rabbis and their law, and between the fundamentalism, extortion and violence that she confronts and of which she becomes a part. In response, some pleaders compartmentalize and say: *I cannot understand everything. In life, there are always tragedies that cannot be explained*. Some pleaders strain to find some sort of resolution between theory and reality, saying: *It is not the fault of Judaism. It is the rabbis or the husbands*. Others confront the dissonance head-on and say: *This is bad and has to end: halakha is not serving just ends and must be changed*.

The *Stockholm Syndrome* is a term used to describe how kidnap victims come to sympathize and cooperate with their hijackers. By this term I refer to how those of us who work in the rabbinical courts end up perpetuating its inequities and malfunctions rather than reforming them. Sometimes we do

this inadvertently. We think that we are improving the system but we are just adjusting it and giving it life. Sometimes we do this purposefully, thinking that this is the way change happens—gradually, and incrementally—not suddenly and in one big swoop of concerted effort.

Transference, cognitive dissonance, and the Stockholm Syndrome exacerbate the tension between modernity and tradition, between democracy and the *halakha*, and between Jewish men and women. Until now, Jewish women have paid the price for the lack of resolution of this tension. I question how long we will be willing to continue to pay.

Susan Weiss is the founding director of the Center for Women's Justice and a fellow at the Shalom Hartman Institute in Jerusalem.

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³ *Bavli, Yevamot*, chapter 10.

⁴ The wives of several of the men who were killed on 9/11 in the World Trade Center attack were *agunot*. With the help of rabbinical courts, especially the Beth Din of America, all these cases were resolved.

⁵ In Israel, there is no civil marriage or divorce. The *get* ceremony is administered by the State Rabbinical Court and is the instrument of change in the civil personal status.

⁶ It is also popularly known as the RCA agreement or the Orthodox Caucus agreement.

⁷ *Mishna Gittin* 9, 8: A letter of divorce under duress is licit if in Israel, but invalid if in a non-Jewish court.

⁸ http://ocweb.org/images/uploads/PNA_web_with_instructions.pdf.

⁹ The team of authors of the *Heskem L'Kavod Hadadi* consists of two rabbis and a rabbinical court advocate—Elyashiv Knohl, David Ben Zazon and myself, Rachel Levmore—who consulted with tens of experts in various fields (*dayanut*, law, women's organizations, psychology). This particular agreement is recom-

"SHE CAN ROT IN HELL"

Helen and Shlomo, a yeshiva student, both in their 20's, were married for less than a year. They were incompatible. Helen asked for a *get* and appealed to a *beit din*. Shlomo, after four years, continues to be recalcitrant and refuses to give the *get*. He says "she can rot in hell before I'll give her a *get*. When she can no longer have children, I will consider it." He still has not changed his mind.

INTERNATIONAL COALITION FOR AGUNAH RIGHTS

ICAR, the coalition of 24 organizations dedicated to eliminating the *agunah* problem has designated *Ta'anit Esther* (The Fast of Esther preceding Purim) every year as International *Agunot* Day. This year the coalition arranged for the Knesset to be the focus of activities. The Knesset Committee on the Status of Women devoted its morning session to the issue and invited a range of speakers including *to'anut*, (rabbinical pleaders) lawyers, activists and *agunot* to discuss the problem and possible solutions. A demonstration outside the Knesset urged members of the Knesset to end the suffering of *agunot* in Israel.

mended by concerned organizations, such as KOLECH and Yeshivat HaKibbutz HaDati.

¹⁰ I say this to myself, as I feel the responsibility to do so. This cooperative project is already under way.

¹¹ Rabbi Yonah Reiss, in conversation with me in Feb. 2004 verified that, to his knowledge, in every case of a couple that had previously signed a pre-nuptial agreement and later came to divorce, there was a *get*.

Can There be Solutions to the *Agunah* Problem?

By Michael Broyde

The following is abridged from the concluding section of Michael Broyde's review essay of *The Tears of The Oppressed* by Aviad Hacohen which was published in the Edah Journal Kislev 5765. We thank Michael Broyde and Edah for permission to present this in our *Agunah* issue. The reader is referred to the full review which can be found at www.edah.org

According to Jewish law, marriage is a private law matter subject to dissolution only with the consent of the parties. Because of this, the *agunah* problem is most likely insoluble in a global manner. Any attempt to craft a remedy must begin with a number of observations concerning potential solutions. First, solutions that incorporate secular law into the workings of Jewish law in a mandatory way should be sought only if they have the support of vast segments of the Orthodox community, since it is patently unethical (and a violation of *halakha*) to impose one's understanding of a disputed Jewish law matter on another person or group through the use of secular law. Alternatively, such legislation must have an opt-out clause allowing those who disagree to decline to be governed by it.¹

Second, given the vastly different conceptions of the right to divorce found within the Jewish tradition and the resulting disagreements on how to solve the *agunah* problem, it is likely that the only possible solution is one that recognizes the diversity of understandings found within Jewish law and allows each community to adopt whatever solution it deems religiously acceptable. To prevent the religious posturing by spouses that often accompanies acrimonious divorce, such solutions have to be spelled out prior to marriage and agreed upon by the parties. In the absence of such prior agreements as to what the base rules are, contemporary Jewish law will not be able to impose a solution.

It is important to understand the impact of these two observations: just as there is diversity in the understanding and application of the Sabbath laws, the family purity laws, the financial laws, and the marriage laws of Judaism, there is diversity in the understanding of its divorce laws. And just as disputes in these other matters are (almost) never resolved in a coercive manner (each community follows *halakha* as it understands it without any coercive direction

from other communities), the same should hold true in the area of divorce law. But when the ground rules are not set at the outset, dispute resolution becomes much harder to accomplish in the area of divorce law.

The contest between the spouses in an acrimonious divorce matter causes many individuals to misunderstand the norms of their community, either unintentionally or otherwise, and to seek a rule of Jewish law which, while normative, does not reflect the understanding of the *halakha* found within his or her own community.

“...the only way to implement this type of a solution is through pre-nuptial agreements...”

Just as solutions to the problems of kosher food fraud cannot be predicated on the community's agreeing on a single standard for keeping kosher, the same must be true for rules related to marriage and divorce. Individuals have the right and ability to discuss and agree in a *halakhically* binding way when and under what circumstances they, and not anyone else, determine that their marriage should end; they can then write a document directing their choice. There are a variety of models they can choose from, each grounded in the classical Jewish tradition and its sources, or common contemporary practice, or even simply mutual agreement of the parties. Once they reach such an agreement, it is binding on them and controls their end-of-marriage dispute should they have one.

In my own view, the only way to implement this type of a solution is through pre-nuptial agreements such as the kind endorsed by the Orthodox Caucus and the Beth Din of America sponsored by the R.C.A.² My experience as a *dayan* in the rabbinical court in the United States that arranges the largest number of *gittin* of any rabbinical court in the Diaspora is that these pre-nuptial agreements are highly successful and effectively eliminate the *agunah* issue when they are properly used. They do, in fact, solve the problem, but they need to be formulated prior to marriage.

Yet some argue that this solution still has its limitations and failures, and are seeking a solution that works independently of the will of the husband upon separation. The search for such solutions has been widely written about,³ and I would like to present what such a proposal would have to look like in order to have a chance to be accepted. First, it would have to rely on opinions found in mainstream, classical *halakhic* sources that are inherently valid. In addition, such a proposal would require acknowledgment on the part of significant *halakhic* authorities that even if it is not ideal (*le-khatehila*), it is a *halakhically* satisfactory after-the-fact (*be-di-avad*) response to a situation. Were such a proposal to be crafted and accepted by mainstream *halakhic* authorities, it would likely be formulated, I think, to combine three different mechanisms into a single document, and in a way that if any of them were *halakhically* valid, then the resulting *get* would be valid. The three elements would be conditions applied to the marriage (*tenai be-kiddushin*),⁴ authorization (*harsha'ah*) to give a *get*,⁵ and broad communal ordinance to void a marriage (*takanat hakahal*).⁶ Each of these avenues has significant *halakhic* support of both classical and modern authorities; consequently, a real case could be made that a single document that successfully incorporates all three elements would survive any *be-di-avad* criticism, and the *get* issued as a result of such a document would be valid according to most authorities. Appended to this article is a suggested form of such a tripartite document (*shelo-le-halakha*). In the twentieth century alone, one can cite a list of luminary rabbinic authorities who have validated such agreements in one form or another, including Rabbi Yosef Eliyahu Henkin, Rabbi Isaac Herzog, Rabbi Jechiel Jacob Weinberg, and Rabbi Ovadia Yosef, as well as many others.⁷ And no less an authority than the Rema approved of conditional marriages (although maybe only in *yibbum* situations).⁸

Even with this broad conceptual foundation, I would never actually use such a document unless and until a significant number of reputable *halakhic* decisors determine that (at least) this document is effective *be-di-avad* and that it would be respected as valid *be-di-avad* even by authorities who do not advocate its use. Maybe it would be *halakhically* better to rely on the array of leniencies advanced by various eminent authorities in support of such documents with our understanding

that *sha'at hadehak kemo be-di-avad* ("a time of urgency is to be treated as if it is after-the fact"), rather than maintaining the none-too-pleasant or successful status quo, which also leads to *mamzerut*. That calculus would require the approval of the foremost *halakhic* authorities of our times.

In conclusion, pre-nuptial agreements of the kind endorsed by the Orthodox Caucus and the Beth Din of America of the R.C.A. represent the best theoretical and practical solution to the *agunah* problem in the United States (and Canada) and need to be implemented with greater vigor by our community. The tripartite solutions I have discussed above (based on conditions applied to the marriage (*tenai bekiddushin*), authorization (*harsha'ah*) to give a *get*, and broad communal ordinance to void a marriage (*takanat hakahal*)), even if theoretically advantageous, will require a great deal of further *halakhic* analysis.

Michael Brody is rabbi of the Young Israel Synagogue in Atlanta, and a dayan in the Beth Din of America. He is Professor of Law at Emory University School of Law.

¹ See Chaim David Zweibel, "Accommodating Religious Objections to Brain Death: Legal Issues," *Journal of Halacha and Contemporary Society* 17 (Spring 1989), p. 49.

² For more on this, see the Orthodox Caucus Web site, www.ocweb.org/index.php/pre_nuptial.

³ For an excellent survey, see Irving Breitowitz, *Between Civil and Religious Law: The Plight of the Agunah in American Society* (Greenwood Press, 1993). See Michael Brody, *Marriage, Divorce and the Abandoned Wife in Jewish Law: A Conceptual Approach to the Agunah Problems in America* (Ktav, 2001).

⁴ See Rema, *Even ha -Ezer* 157:3; *Terumat Ha-Deshen* 223 and *Bach*, *Even ha -Ezer* 157. See also *Teshuvot Rabbi Akiva Eiger* 93; *Hatam Sofer*, *Even ha -Ezer* 111; *Noda Be-Yehudah*, *Even ha -Ezer* 1:56 and *Arukh ha-Shulhan*, *Even ha -Ezer* 157:15, all of whom agree with the Rema.

⁵ Rabbi Yosef Eliyahu Henkin, *Perushai Ibra* 110-117. The section on sexuality prior to divorce not voiding the authorization can be found in Rabbi Yitzchak Isaac Herzog, *Hechal Yitzchak*, 2:41.

⁶ *Teshuvot Rashba* 185, 1163. See Maharam Alshaker 48 who explicitly adopts this view. See also, Rabbi Ovadia Yosef, "Kol ha -Mekadesh Ada'ata de-Rabbanan Mekadesh," *Sinai* 48 (1961), 186-193. See also Rabbi Jechiel Jacob Weinberg in *Seridei Aish* 1:90, 1:168 and Rabbi Weinberg's introduction to Eliezer Berkowitz, *Tenai be -Nisu'in ve-Get*.

⁷ See above, notes 5 and 6.

⁸ See Breitowitz, *op.cit.*, p. 59.

APPENDIX:

Suggested Tripartite Document (*Shelo le-Halakha*)

This document is to certify that on the [ordinal number] day of the month of [name of month], in the year [calendar year], in [location], [name of groom], the groom, and [name of bride], the bride, of their own free will and accord entered into the following agreement with respect to their intended marriage.

The groom made the following declaration to the bride under the *huppah* (wedding canopy):

"I will betroth and marry you according to the laws of Moses and the people of Israel, subject to the following conditions:

If I return to live in our marital home with you present at least once every fifteen months until either you or I die, then our betrothal (*kiddushin*) and our marriage (*nisu'in*) shall remain valid and binding;

But if I am absent from our joint marital home for fifteen months continuously for whatever reason, even by duress, then our betrothal (*kiddushin*) and our marriage (*nisu'in*) will have been null and void. Our conduct should be like unmarried people sharing a residence, and the blessings recited a nullity.

I acknowledge that I have effected the above obligation by means of a *kinyan* (formal Jewish transaction) before a *beit din hashuv* (esteemed rabbinical court) as mandated by Jewish law. The above condition is made in accordance with the laws of the Torah, as derived from Numbers Chapter 32. Even a sexual relationship between us shall not void this condition. My wife shall be believed like one hundred witnesses to testify that I have never voided this condition.

Should a Jewish divorce be required of me for whatever reason, I also appoint anyone who will see my signature on this form to act as scribe (*sofer*) to acquire pen, ink and feather for me and write a *Get* (a Jewish Document of Divorce), one or more, to divorce with it my wife, and he should write the *Get lishmi*, especially for me, *ve-lishmah*, especially for her, *u'lesheim gerushin*, and for the purpose of divorce. I herewith command any two witnesses who see my signature on this form to act as witnesses to the bill of divorce (*Get*) to sign as witnesses on the *Get* that the above-mentioned scribe will write. They should sign *lishmi*, especially for me, *ve-lishmah*, and especially for her, *u'leshem gerushin*, and for the purpose of divorce, to divorce with it my abovementioned wife. I herewith command anyone who sees my signature on this form to act as my agent to take the *Get*, after it is written and signed, and be my messenger to give it into the hands of my wife whenever he so wishes. His hand should be like my hand, his giving like my giving, his mouth like my mouth, and I give him authority to appoint another messenger in his place, and that messenger another messenger, one messenger after another, even to one hundred messengers, of his own free will, even to appoint someone not in his presence, until the *Get*, the document of divorce, reaches her hands, and as soon as the *Get* reaches her hands from his hands or from his messenger's hands, or from his messenger's messenger's hands, even to one hundred messengers, she shall be divorced by it from me and be allowed to any man. My permission is given to the rabbi in charge to make such

changes in the writings of the names as he sees fit. I undertake with all seriousness, even with an oath of the Torah, that I will not nullify the effectiveness of the *Get*, the Jewish Document of Divorce, to divorce my wife or the power of the above-mentioned messenger to deliver it to my wife. And I nullify any kind of a statement that I may have made which could hurt the effectiveness of the *Get* to divorce my wife or the effectiveness of the above-mentioned messenger to deliver it to my wife. Even if my wife and I should continue to reside together after the providing of this authorization to divorce her, and even if we have a sexual relationship after this authorization to write, sign and deliver a *Get*, such a sexual relationship should not be construed as implicitly or explicitly nullifying this authorization to write, sign and deliver a *Get*. My wife shall be believed like one hundred witnesses to testify that I have not nullified my authorization to appoint the scribe to write the *Get* on my behalf, or the witnesses to sign the *Get* on my behalf or any messenger to deliver it to the hand of my wife.

Furthermore I recognize that my wife has agreed to marry me only with the understanding that should she wish to be divorced that I would give a *Get* within fifteen months of her requesting such a bill of divorce. I recognize that should I decline to give such a *Get* for whatever reason (even a reason based on my duress), I have violated the agreement that is the predicate for our marriage, and I consent for our marriage to be labeled a nullity based on the decree of our community that all marriages ought to end with a *Get* given within fifteen months. We both belong to a community where the majority of the great rabbis and the *batei din* of that community have authorized the use of annulment in cases like this, and I accept the communal decree on this matter as binding upon me.

Furthermore, should this agreement be deemed ineffective as a matter of *halakha* (Jewish law) at any time, we would not have married at all.

I announce now that no witness, including any future testimony I might provide, shall be believed to nullify this document or any provision herein."

Signature of Groom

The bride replied to the groom:

"I consent to the conditions you have made and I accept the *kinyan* (formal Jewish transaction) in front of the *beit din hashuv* (esteemed rabbinical court)."

Signature of Bride

We the undersigned duly constituted *beit din* witnessed the oral statements and signatures of the groom and bride.

Rabbi

Witness 1

Witness 2

Judging the Judges: A Call for *Beit Din* Reform in America

By Rivka Haut

To understand the need for *beit din* reform, one has to understand the *beit din* system as it applies to family law. I have acquired my knowledge of the American system by working as an *agunah* activist and advocate for 25 years. I was a founder and director of Agunah Inc. for 20 years. For the past five years, I have served as a caseworker for G.E.T. My late husband, Rabbi Irwin Haut, who was also a practicing attorney, likewise dedicated himself to helping *agunot*.

One of the most frequent questions I am asked by *agunot* is in which *beit din* should they litigate their cases. The sad truth is that I am reluctant to refer an *agunah* to any *beit din*. I do not feel that *agunot*, or anyone, husbands included, are safe in any *beit din* of which I am aware. Unfortunately my experience has led me to the view that American Jews are better off litigating their divorce issues such as custody and visitation, as well as division of assets in civil court, not in *batei din*, although the *get* itself has to be obtained through a *beit din*.

One of the greatest problems with *batei din* is the total lack of any oversight. Each *beit din* is a world unto itself. There is no community monitoring of any kind. The rabbis make decisions that affect people's lives in major ways, by deciding division of assets and, more seriously, custody and visitation, without answering to anyone. Even worse, there is no court of appeals, no possible way to challenge a decision and no address for complaints.

All this takes place in a system where the *dayanim* (judges)

are often self appointed, or appointed by organizations. The religious community has no say as to who can be a judge. There are no elections, and there is no input from the very community serviced by the courts. Moreover, there are no known standards to which judges adhere that apply across the board. Judges do not have to pass any tests to qualify to sit on a *beit din*. Some *batei din* do not require their *dayanim* to have rabbinical ordination. Many do not require a college education.

There are no standardized fees. Often, *dayanim* are paid directly by the litigants. Sometimes spouses may each pay different amounts. Some *dayanim* are paid by the case and some by the hour. When paid by the hour, many *batei din* prolong cases in order to make more money. Sometimes decisions are not released until the *dayanim* receive payment.

Very often, decisions are handed down without any written opinions explaining how the *dayanim* arrived at the decision. There are no reasons offered, and no sources forthcoming, merely a few lines detailing the final decision—how much money each spouse receives, who gets custody, and the visitation schedule. I have seen many such decisions.

Why does anyone submit to the jurisdiction of such courts? The answer varies. Some divorcing spouses do so because they believe that it is their religious duty to go to a Jewish court rather than a civil, non-Jewish court. Some do so because of community pressure. In certain neighborhoods, such as Boro Park in Brooklyn, signs are hung on trees and on lampposts to inform the community that so-and-so has gone to civil court, in defiance of Torah law directing Jews to rabbinical courts. Many *batei din* refuse to separate the *get* from other divorce issues, and insist upon dealing with all aspects of the divorce. Litigants are directed to sign *shtarai berurin* (arbitration agreements). These agreements are accepted in civil court as the divorce agreement. Overturning them is possible, but it is time consuming and expensive. Some *batei din* refuse to deal with the *get* unless and until a *shtar berurin* is signed by both litigants. If one spouse insists upon litigating all aspects of the divorce in a *beit din*, the rabbis often will honor that request, and refuse to deal with the *get* alone. A *seruv* (contempt citation) may even be issued against a person who refuses to litigate in a *beit din* instead of a civil court. Many women are forced to choose between obtaining a *get* and litigating custody and visitation in civil court. This choice often translates into a mother's having to choose which takes priority – her own future, or the welfare of her children.

While I believe that most *batei din* are safe for neither spouse, they are less safe for women. Unlike civil courts, in a *beit din*, all the judges are male. There is no woman's voice in the decision making process. The rabbis are likely to be fathers, and sometimes empathize with a man's desire to be with his children, and will therefore split up the children in a family. Often, *dayanim* focus on the religious importance of sons staying with fathers. After all, the mother is probably not well versed in Talmud and is unable to study with her son. Moreover, older boys cannot sit next to their mothers in *shul*. Therefore, many *batei din* tend to reward fathers with custody of their sons. Too often, *dayanim* overlook male violence, and I have seen some decisions awarding custody to fathers who have been violent toward their sons.

Another extremely troubling trend that I have seen in rulings is that women's charges of abuse, verbal, physical or sexual, are often dismissed or discounted. Rabbis often counsel women to remain in abusive marriages, telling them "he is sorry he hit you and will not do it again." I once called a rabbi who so counseled a woman and told him that if anything hap-

"WITHIN MY RELIGION , I HAD LOST MY CIVIL RIGHTS"

Seventeen years ago, my then husband and I were going through the ugly process of divorcing. Dealing with issues like child custody and childcare responsibilities can be arduous and painful. However, at no point did I feel victimized because of my gender until I had to deal with the religious divorce. I grew up Orthodox and had a yeshiva education, and had always felt protected as a woman by my religion. When the civil divorce proceedings were initiated, my rabbi encouraged me to give him permission to ask my husband to issue a *get*. He told me that once it was clear that the marriage was over, a *get* was in order. I told him to go ahead. When I met with the rabbi a month later, he told me that because my husband was "a bit difficult to deal with," he was proceeding in a cautious way so as not to make him angrier. This went on for about nine months before I started losing my patience. I could not imagine that within my religion, I had lost my civil rights, *basic* civil rights, such as the ability to spend time with an adult male if I so desired. Had I wanted to remarry and have more children, I would have been denied that right as well. I felt degraded and humiliated by that experience. My husband was still on the board of directors of the synagogue and getting *aliyyot* because he informed the rabbi that "eventually" he would give the *get*. My destiny was dependent on a vengeful, nasty man and I had no one to advocate for me within the religious system. I do not even know how to further describe my feelings of impotence and frustration. Only when my husband found a young lady whom he wanted to marry, and there was a danger of his losing money to the caterer if the wedding could not proceed because of a lack of a *get*, was I successfully freed *balakbically*. It took five years to accomplish.

In 2002, at JOFA's Fourth International Conference on Feminism & Orthodoxy, representatives from 13 organizations met to discuss what could be done to unite *agunah* advocacy efforts around the globe. The result of this meeting was the creation of Gettlink, an online forum for *agunah*

activists, by invitation only, which enables participants to more effectively communicate and provide world-wide support to *agunot*.

Gettlink now serves 15 organizations in over 47 countries that seek to ease and resolve the plight of *agunot*. This

internet connection enables *agunah* activists to exchange information regarding individual cases and civil legislation in their search for acceptable *halakhic* solutions in Israel and throughout the Diaspora.

pened to her, I would inform the police that he, the rabbi, had directed her to remain with her abuser. The rabbi immediately changed his mind and gave her "permission" to leave.

A further problem with *batei din* is the lack of equitable distribution of assets, which is a guiding principle in civil courts. *Halakha* provides divorced wives with little financial support, other than their *ketubah*, a rabbinic creation for the financial protection of divorced women. The *ketubah* amount was originally supposed to be enough for a woman to live on for at least a year, but women rarely receive it. Few rabbis know its current cash equivalent, which is tied to the market value of silver. Some *batei din* routinely ask women to sign a waiver of their *ketubah* at the beginning of the *get* process. Others ignore it entirely. I was once at a *get* proceeding where the woman demanded her *ketubah* money. She refused to accept the *get* without it. Finally, the rabbis and the husband agreed to give it to her, after they determined the amount, which they said they could not do immediately. She accepted the *get* but, despite repeated calls to the *beit din*, she never received her *ketubah* money.

Not only do women do less well in *beit din* than in civil court, but they are often victimized by extortion. *Dayanim* do not outlaw extortion as a means of obtaining a *get*. On the contrary, they often serve as negotiators of extortion. Aware that women need the *get* more than men need to grant it, their goal is to obtain the *get*, at any cost. They rarely look at the financial future of the women and children. *Gittin* are commonly "sold," and rabbis often mediate the sale, negotiating for the best price. As a result, *gittin* sometimes carry a heavy price, into thousands and tens of thousands of dollars, sometimes hundreds of thousands. While the religious community turns a blind eye to these proceedings, the price of *gittin* rises. Recently, a person in Brooklyn who wishes to help *agunot* has been paying men to grant a *get*, sometimes paying extremely large sums. Every time a *get* is sold, it makes the likelihood of more such sales even greater, as word spreads of the large sums.

Another problem with the *beit din* system in America is the lack of geographical jurisdiction. Litigants can go to any *beit din*, and there are many. This policy often provides husbands with greater leverage than wives. Rabbis are more likely to be acquainted with husbands, who may be members of their congregations or may have been their students in yeshiva. While all *batei din* say that *dayanim* should recuse themselves if they are personally acquainted with one of the litigants, in practice this is often not followed.

There are *batei din*, and *dayanim*, with a reputation for being corrupt. I have personally witnessed *dayanim* try to extort money that they have not earned from *agunot*. Some

batei din "sell" *heter meah rabbanim*, documents permitting men to remarry without being religiously divorced from their wives. There are some cases where this is *halakhically* permitted, under circumstances when a woman refuses to accept a *get*. But this *halakhic* tool which frees men (there is no similar document to free women) has often been abused and granted in cases in which the husband desires to avoid the litigation process and to deny his wife her freedom, even though she desires a *get*.

Another source of corruption in *batei din* is the phenomenon of *to'anin* (rabbinical court pleaders). Their function is similar to attorneys. There is a limited pool of such people, and unfortunately some are known to be dishonest. For example, certain *to'anin* work together in pairs and make deals with each other—this time my client wins, next time your client wins. Because their corruption is evident, and there is no way to stop it, a number of American *batei din* prohibit *to'anin* from appearing in their courts. While this is commendable, it has an unfortunate result. In Israel where *to'anin* are licensed and have to pass tests in order to practice, women have lately been admitted as *to'anot*, thereby permitting a female voice and presence in the *beit din*. In America this is not possible, because of the prevalence of corrupt *to'anin*.

Thus, we have a legal system deciding matters of great importance to families and to the community as a whole, which is not policed by anyone, and there is no way to appeal its decisions. I recognize that there are instances of corrupt judges and wrong decisions in the civil legal system, but there are means of dealing with such matters built into the system itself.

What can be done about the situation in the *batei din*? In a few instances, women have attempted to sue corrupt rabbis and *batei din* in civil court. In two New York cases which received widespread publicity, the rabbis were represented by well known attorneys who regularly represent Orthodox organizations, while the women had to hire their own counsel. The New York courts are reluctant to decide such cases, not wanting to get involved in religious matters. What other recourse is there? A lot, if the Orthodox community is willing to provide for such recourse. What we need is a Supreme Court, to which disputed decisions can be appealed, but it is unlikely that the rabbinate will institute this. It is time for the community to step in and attempt to right some wrongs. While there is an absence of communal cohesiveness, and many different Orthodox communities, there are some actions that can be taken. Aside from the obvious strategies such as communal shunning of recalcitrants, and pressure on rabbinic

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“Not only do women do less well in *beit din* than in civil court, but they are often victimized by extortion.”

Judging the Judges

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cal organizations to remedy the *agunah* situation, there is still much that can be done. It is high time that the Orthodox community begins to hold accountable *batei din* that deal with family law. They must not be permitted to continue to operate in secrecy.

I propose that the modern Orthodox community set up a grass roots complaint committee, staffed by social workers, psychologists, rabbis, and lay people, including, of course, women. Litigants who feel that they have not received justice from a *beit din* would be encouraged to appear before the committee and present their case. The committee would then review the case and the decision, and communicate its findings to the *beit din*. While a committee such as this would have no power to enforce any changes in the decisions reviewed, it would be putting the *beit din* on notice that its deliberations and decisions are being monitored. If the committee decides that the *beit din* rendered a wrong decision, it might, in addition to informing the rabbis in question, also publicize its findings. This would allow the public to know what is happening and be steered away from a particular *beit din*. As some *batei din* operate as businesses, informing people to stay away will adversely affect their operations.

The Orthodox community should begin to research *batei din* and make their findings public. The JOFA research project is a major step forward. It offers potential litigants information about different *batei din*, thereby providing means of making informed decisions about which to choose.

Recently, there has been a spate of public instances where Orthodox rabbis have been accused of sexual harassment. Rabbinic committees have been formed to investigate these charges. Yet, the many instances of corruption and extortion, by rabbis and *batei din* regarding family law have been ignored. While these cases do not have the shock value of sexual abuses, they are abuses nonetheless. They significantly affect lives of families. Where are the rabbinic committees to look into these abuses?

I suggest that the same organizations that have committees to look into allegations of sexual abuse appoint committees to investigate *beit din* abuse. For these committees, they should appoint people who are not personally involved with the *batei din* that they investigate. The committees should be composed of rabbis and lay



**המפתח
בידיים שלו.**

מסורבות גט ועגונות חיות בהמתנה מתמדת.
המשכן חייבין תלוי בקבלת גט
מבעליהן הסורכים.
החברה בישראל מננה את התופעה,
ודורשת את ביטולה המוחלט.

THE KEY IS IN HIS HANDS
3rd prize – Vered Freedman

people, including women.

Just as *kashrut* organizations have guidelines and standards, and the ability to make known abuses of *kashrut* regulations, we need to set standards for rabbis and *batei din*. We need a system to determine the *kashrut* of *batei din* like an OU or OK to publicize which are honest and somewhat accountable, and which are not to be trusted at all. It is time for the Orthodox community to take some responsibility for the courts with which our

most vulnerable members must deal. This will help to restore our pride in the system of justice that is our heritage.

Rivka Haut has been an agunah advocate and activist for 25 years. She was a founder and director of Agunah Inc. and serves as a caseworker for G.E.T. She is co-editor of Daughters of the King: Women and the Synagogue and of Women of the Wall: Claiming Sacred Ground at Judaism's Holy Site.

The Tragedy of Agunah—A Proposed Solution

By Rabbi Shlomo Riskin

The tragic problem of the *agunah*—a woman “chained” to an impossible marital situation—is rooted in the biblical command that it is the husband who “writes (for his wife) a statement of divorce and gives it into her hand” (Deut. 24:1). And despite the fact that eminent and even “strict-constructionist” *halakhic* authorities such as the Hatam Sofer insist that the marital relationship at its core is a relationship of mutuality (see *Hidushei HaHatam Sofer* to *B.T. Baba Batra* 47b), despite the enactments of Rabbeinu Gershon (c.1000 CE) forbidding a husband from giving a “statement of divorce” against his wife’s will, despite the pre-nuptial contract which provides for the husband’s commitment to give his wife a large sum of money each day he delays in giving her a *get* after an authorized religious court has ordered him to do so, and even despite the ability of the religious court in Israel to have a recalcitrant husband’s professional and driver’s licenses removed and to have him imprisoned, as long as the woman is ultimately dependent upon her husband to give her the *get*, she remains at a severe disadvantage. After all, there are always venal and/or vindictive husbands willing to patiently wait for exorbitant monetary payments in exchange for the *get*, who prefer languishing in jail to giving their wives a *get*, or who simply flee the country in order to escape the jurisdiction of the religious court.

I maintain that a *halakhic* solution based on talmudic texts and rabbinic precedents does exist and only needs to be activated and put into practice. There are five different talmudic passages which invoke the ability of a religious court (rather than the husband) to annul a marriage retroactively in the event that the husband acts improperly, or in order to protect the woman from living alone: in three of them, the husband gave a *get*, but the *get* was invalid (*B.T. Gittin* 33a, *B.T. Gittin* 73a, and *B.T. Ketubot* 3a), and in the other two, since the husband acted improperly by taking unfair advantage of his bride, the betrothal was annulled without any kind of *get* whatsoever (*B.T. Baba Batra* 48b, and *B.T. Yebamot* 110a). The talmudic justification for such an annulment (*hafka’at kiddushim*) stems from the presumption that “whoever betroths a woman, betroths her with the understanding that his act has rabbinic approval. (Indeed, the groom stipulates this in the formula ‘in accordance with the laws of Moses

and Israel.’) Hence, the rabbis have the power to cancel his betrothal” (*B.T. Gittin* 73a). According to this opinion, even with respect to the three talmudic cases which involved a *get*, it was not the *get* that brought about the cancellation of the marriage, for in each instance the betrothal was rendered invalid by Torah law. Hence, there is a basis to allow annulment many years after the betrothal, even without a *get*.

Throughout the ages, during the periods of the *Geonim*, the *Rishonim* (early rabbinic authorities), and the *Aharonim* (later rabbinic authorities), the sages of every generation used their authority to cancel marriages. Over time, the rabbinic authorities increasingly hesitated to invoke that authority, but they never relinquished it altogether or doubted the possibility of executing it with a specific enactment (*takanah*) of a regional coun-

“..a *halakhic* solution...does exist and only needs to be activated and put into practice.”

cil elected by majority vote. When no other *halakhic* solution was available to them, the rabbis continued to invoke their authority to cancel marriages even without a *get*. In a period of little more than 100 years (1804-1921), for example, no fewer than seven enactments were instituted for the cancellation of marriages in four different countries: Italy, France, Algeria and Egypt (A.H. Freiman, *Seder Kiddushin Ve-nissuim*, Jerusalem 1945, p. 345).

According to no less an authority than Rav Moshe Isserles, for example, the lenient ruling allowing women of Austria to return to their husbands after having been taken captive by gentile marauders is based on the assumption that even later rabbis have the authority to cancel a marriage without a *get*, even when the couple had been living together as man and wife for many years. The rabbinic authorities ruled leniently, explains Rav Moshe Isserles, because they were concerned that a more stringent approach would lead to sinful behavior in the future. These considerations are no less valid today than they were centuries ago (see *Darkei Moshe* 7, 13).

In a theoretical discussion relating to

present-day enactments concerning marriage, Chief Rabbi Yitzhak Halevi Herzog (1888-1959) wrote as follows:

And this (precedent of the Austrian women) might have *halakhic* ramifications even in our day. Indeed it could be applied where the husband is obligated by Torah law to grant his wife a divorce, but he refuses to comply with the law, and the woman may have received a civil divorce in a non-Jewish court, but that does not help according to Torah law, and she remains an *agunah* forever. In such a case the court has the authority to uproot the betrothal, and to rule according to the principle that a man betroths a woman with the understanding that he has rabbinic approval. Even though *Hazal* (rabbinic sages) did not cancel the marriage in such cases in the past, this was because they were authorized to use physical force, or at least to impose a ban or excommunication, which is not the case in our day when these are forbidden (*Tehukah LeYisrael al pi Hatorah*, vol. 1, p.78).

We are now faced with a world-wide problem of women unable to attain their freedom from recalcitrant husbands who unfairly utilize *halakha* to hold up their wives for ransom and prevent them from marrying. The Chief Rabbinate in Jerusalem should adopt an enactment stipulating that, if a religious court orders a husband to divorce his wife, and he refuses to do so even after sanctions have been imposed upon him, then a special court will be established with the authority to cancel the marriage and free his wife to remarry.

Indeed, even as this article is being written, MK Orit Noked of the Labor Party is preparing a special law before the Israeli Knesset calling for the nullification of the worth of the betrothal ring—and therefore the annulment of the marriage—in any instance in which the husband still refuses to give his wife a *get* after a recognized religious court has ordered him to do so. A respected Israeli jurist, Berakhiyahu Lifshutz, and I maintain that the Knesset today acts in place of the city councils of Jewish communities throughout the Middle Ages, whose enactments were considered to have the force of the enactments of the Great Sanhedrin! (*Editor’s note*: this proposed legislation has unfortunately since been defeated.)

There is little need to worry that allowing for the dissolution of a marriage without a *get* would lead to a devaluation of the sanctity of the institution of marriage. The proposed enactment would only apply in the most extreme

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CUSTODY FOR A *GET*

Susan Weissman used to live in the religious neighborhood of Har Nof. Twenty years into an increasingly abusive marriage, she turned to the rabbinical courts: "The rabbis never asked my side of the story. They would just turn to my husband and ask 'Your wife wants a divorce. What do you say?'" The proceedings dragged on for over 3 years; rulings were often postponed in the absence of a full bench of judges. Susan continued to explain her husband's abusive behavior and her dire economic straits. When she refused her husband's offer to give a *get* in exchange for a waiving of child custody or support (they then had four children under 18), the judges admonished her. "Lady, you're making yourself an *agunah*."

Because she was still officially married, she was not eligible for government housing. Unable to support her children in Israel on her combined salaries as a seamstress and supermarket cashier, and with international law forbidding her from taking minor children out of the country without their father's consent, Susan left them behind when she moved to her parents' home in Florida and handed over custody of her two youngest to their father. After only a few months, the government removed the children from their father's custody and placed them in government institutions. Meanwhile, Susan is no longer religious after her divorce ordeal ("I'd heard about it before, but I never thought it would apply to me."). The attractive and articulate 47 year old now works as a realtor in Florida while campaigning to be allowed to bring her minor children from Israel to join her in America.

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cases of a recalcitrant husband. Moreover, it is likely that the actual implementation of *hafka'at kiddushin* will rarely be necessary. The mere threat of *hafka'at kiddushin*—and with it the release of the woman from her marital chains—would deprive the husband of the strangling hold that he has over his wife, and should suffice to convince him to free her from the marriage with a valid *get*.

Tractate *Yebamot* closes with a statement made by Rabbi Eleazar in the name of Rabbi Hanina: "Torah scholars increase peace in the world, as the verse states: 'And all of your children shall be taught of the Lord, and great shall be the peace of your children'—read not *banayikh* [your children], but rather *bonayikh* [your builders—Torah scholars are the true builders of peace]." The famous commentator known as the *Maharsha* (1555-1631) explains that tractate *Yebamot* ends with this passage, because the tractate contains many strange laws that appear to contradict and uproot that which is stated explicitly in the Torah. Rabbi Eleazar teaches that these laws were not taught in order to uproot the Torah, but rather to increase peace in the world, the peace that is engendered by healthy family life, the peace that Torah law is supposed to provide, as the verse states: 'Her ways are ways of pleasantness, and her pathways peace.' Concludes the *Maharsha*: "The Talmudic passage (in its parallel text in *Berakhot*) ends with the citation, 'The Lord will give strength to His people' May God give the leaders of His people, the Torah scholars of every generation, the courage and strength to be lenient in these matters of *agunah*, and only then will the Lord bless His people with peace." May this be God's Will.

Rabbi Shlomo Riskin is Chief Rabbi of Efrat and Chancellor of Ohr Torah Stone Colleges and Graduate Programs.

What You Can Do to Help Agunot and to Prevent Iggun

- Educate yourself about the issues: Visit www.jofa.org; www.ocweb.org; www.legalaid.org.il; www.agunot-campaign.org.uk; www.getora.com
- Let others know that you are concerned about the *agunah* issue, and help create a groundswell in your community to advocate for *halakhic* solutions.
- Support the Rabbinical Council of America recommendation to make a Jewish pre-nuptial agreement a requirement for every marriage. Use one yourself and encourage others in your community to do likewise.
- Encourage men from all branches of Judaism to give a *get* when divorcing.
- Offer to accompany a divorcing woman to the *beit din*.
- Offer financial support to organizations that work to help *agunot*.
- Welcome an *agunah* and her children to your home for *Shabbat*, holidays and other celebrations.
- Consider forming an *agunah* support group in your community and also mentoring an *agunah* one-on-one.
- Volunteer your professional skills and talents in fields such as law, social work, journalism and public relations to organizations that help *agunot*.
- Speak to rabbis, sisterhoods, men's clubs and other organizations in your community to ensure that synagogues and communal institutions do not welcome recalcitrant spouses.
- Organize and participate in demonstrations against recalcitrant husbands. Numbers count.
- Ensure that your children's high schools have classes that educate them about meaningful and respectful relationships, problem solving, and open communication between spouses and in families.
- Ask your Rabbi to:
 - Make a Jewish pre-nuptial agreement a requirement for every marriage at which he officiates.
 - Be proactive in obtaining the *get* immediately after determining that reconciliation is not possible.
 - Educate the community about the laws and process of *gittin*.
 - Use the pulpit to promote healthy family relationships and condemn abuse.
 - Withhold synagogue and communal honors from recalcitrant husbands.
 - Include a prayer for *agunot* in the Shabbat service. (See p.5)
- Encourage family/matrimonial lawyers in your community to eliminate the *get* issue from divorce negotiations.

For a copy of the RCA prenup visit www.ocweb.org

Freeing Agunot: The Rabbi Emanuel Rackman Beit Din

By Susan Aranoff

In 1997 Rabbi Emanuel Rackman and AGUNAH International Inc. published a treatise which outlined *halakhic* principles and procedures for freeing *agunot* from recalcitrant husbands who were wife or child abusers, criminals, adulterers, and sexual molesters. The *Beit Din L'Inyanei Agunot* ("Rackman Beit Din") put these *halakhic* principles and procedures to work, and many long-suffering *agunot* were freed. As news of the Rackman Beit Din spread, *agunot* flocked to its doors. Within a short time, several Orthodox rabbis disseminated statements and articles questioning the *halakhic* validity of the Rackman Beit Din's approach. The Rackman Beit Din responded, and an ongoing debate through speeches and articles has ensued.

In the eight years that have elapsed since the publication of its *halakhic* principles and procedures, much human suffering has been alleviated by the Rackman Beit Din. However, this *beit din* has not gained the support of the Orthodox rabbinical establishment. And though women continue to knock on its doors, many are deterred by the controversy that continues to surround the *beit din*. It is timely, therefore, to renew discussion of the *beit din's* *halakhic* foundations in the hope of advancing understanding and acceptance of the Rackman Beit Din so that more *agunot* will have an opportunity to regain their freedom and their human rights to marry and bear children without fear of ostracism and stigmatization of their children.

"The vast majority of this *beit din's* cases involve men who are wife and child abusers."

Kiddushei Ta'ut

The *halakhic* concept of *kiddushei ta'ut*, a marriage based on a mistake, is a major tool which the Rackman Beit Din uses to free *agunot*. *Kiddushin*, the agreement to marry, must be based on the informed consent of both parties. If either party to a marriage was unaware of salient facts at the time of the wedding, his or her consent to marry can be deemed a mistake, effectively declaring that the marriage bonds never took hold. Since the marriage is void from its inception, a *beit din* can declare a woman free from such a marriage without a *get* being issued.

What are the salient facts which come to light after the wedding that might invalidate the marriages of *agunot*? The vast majority of this *beit din's* cases involve men who are wife and child abusers. In case after case, the *agunot* report that their husbands, who had been considerate and attentive during the courtship, became abusive early in the marriage. The scores of cases are hauntingly similar. Verbal abuse escalates into dishes being thrown, physical threats, and sometimes actual physical blows. The husband's compulsion to control his wife leads him to obsessive control of the family finances, cutting his wife off from her family and friends, and humiliating her in order to undermine her independence. Pregnancy and children often exacerbate the situation, because the husband displays resentment when the children "compete" for the wife's attention. In many cases, the danger to the *agunah* and her children is compounded by the fact that the husband is an adulterer, sexual deviant or criminal with the potential to bring life-threatening diseases and violence into the home. The similarity between the patterns of abuse described by numerous *agunot* supports the idea that the Rackman Beit Din is dealing with a consistent set of behaviors that can be categorized as a personality disorder.

Clearly these husbands' personality defects are of such a mag-

nitude that the *agunot* who are chained to these men can claim that had they been aware of these defects they would never have married their abusive husbands. Thus, these women's consent to marriage was based on a mistake and therefore not *halakhically* binding. Consequently the Rackman Beit Din frees them without need for a *get*.¹

Refuting Three Objections to Kiddushei Ta'ut

Critics have raised several *halakhic* questions about the approach of the Rackman Beit Din. The first is whether or not the husband's personality defect pre-existed the marriage, thus invalidating the bride's consent at the time of the wedding. Critics take the position that the Rackman Beit Din does not have sufficient grounds to rule that wife and child abusers were psychologically defective prior to the marriage. But there is persuasive evidence and research showing that wife abusers' personality defects do pre-exist their marriage. Almost without exception, the *agunot* relate that their husbands' abusive behavior manifested itself early in the marriage, indicating a personality disorder that pre-existed the marriage. Expert studies indicate that domestic violence is a deeply embedded behavior pattern, often linked to having been exposed to violence earlier in life, prior to the marriage.² Domestic violence counselors also point out that patriarchal systems such as Orthodox Jewish divorce law, which privilege men and grant them power over women, may sometimes exacerbate an abuser's innate tendency to mistreat his wife. Additionally, there is evidence of a genetic component which causes men to develop into wife and child abusers.³ Finally, programs to rehabilitate wife abusers have high rates of recidivism, again indicating an ingrained personality disorder which is highly resistant to correction. It is also important to note that in rabbinical responsa dealing with *kiddushei ta'ut* because of the husband's impotence or epilepsy, these physical defects are assumed to have existed before the marriage despite the absence of witnesses or evidence to prove the pre-existence.⁴ Similarly, certain psychological defects that manifest themselves after the marriage may be presumed to have predated the marriage.

The second objection that has been raised against the Rackman Beit Din is based on the Talmudic phrase, "*tav l'metav tandu me-l'metav armelu*," which roughly translates as, "a woman prefers to be married to anyone than to be alone." This phrase has been interpreted by some as a categorical presumption that women have such an overriding desire to marry that they would even knowingly marry a seriously defective man. If this interpretation is taken as a categorical presumption about women as a "class," it precludes almost any claim of *kiddushei ta'ut* because it is presumed that women will knowingly marry anybody, including an abuser, rather than remain single. This interpretation has been refuted at length elsewhere.⁵ It is sufficient to note here that countless *halakhic* scholars, including Rabbi Yosef Baer Soloveitchik author of *Beit ha-Levi*, Rabbi Yitchak Elchanan Spector and Rabbi Moshe Feinstein, have rejected this degrading view of women⁶ so that *tav l'metav* does not constitute a barrier to a ruling of *kiddushei ta'ut* to release an *agunah*.

Sabra v'kiblah (she became cognizant and accepted) is the third *halakhic* objection critics have raised—that staying in the marriage after becoming aware of the husband's abusiveness signals the wife's acceptance of this situation, and she forfeits the right to say that she would never have married her abusive husband. The Rackman Beit Din takes the position that the delay in leaving the marriage should not be interpreted as the wife's consent to remain married to the abuser. Rather, the wife stays

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"THE TRAIN HAS PASSED ME BY"

Anya Davidov of Or Akiva in Israel was both a *mesurevet get* (a woman whose husband refused to give her a Jewish divorce) and an *agunah*, before receiving her freedom. From the age of 22 she tried to free herself from her husband who began to suffer from mental illness a few years into their marriage. "Weeks would go by when I could not sleep for fear he would attack me when I was not awake. I would hide all the sharp household objects under my pillow, and he would wake me, asking where the knives were. I would ask him why he wanted to know. 'To kill you,' he would answer."

Calls to the police and hospital stays did not change the situation, nor did repeated treks to the rabbinical courts. Finally, Anya, a worker at a day care center for disabled children who had to cover the mortgage on her apartment, as well as support her two sons, made an expensive investment in an attorney.

At that time, however, her husband entered a "vegetative" state. This changed her status in Jewish law to the more extreme one of an *agunah*—since a man who is mentally incapacitated cannot give a *get*. A rabbinical court judge dismissed her saying: "Lady, you are an *agunah*—there is nothing for you in the rabbinical courts." It was only four years later when Anya got in touch with Yad L'Isha that her path to freedom opened up. Rivka Lubitch, the advocate assigned to her case, discovered cause for annulment of the marriage, on the grounds that one of the witnesses at her wedding had not been observant. Anya is now free, but is already 38 years old. She had never thought she would only have two children. "I feel the train has passed me by," she sighs.

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Working for Agunot

In this issue we are highlighting two organizations that work for agunot, ORA in the United States and Mavo'i Satum in Israel. We hope to highlight different agunah organizations in future issues so that readers can understand the commitment and dedication of so many people who are striving to help agunot.

Organization for the Resolution of Agunot

By Audrey Axelrod Trachtman

ORA, (Organization for the Resolution of Agunot), was founded three and a half years ago by two Yeshiva University undergraduate students to marshal social and communal pressure on recalcitrant husbands that would counteract their leverage in extracting unreasonable demands from their wives in exchange for a *get*. In this short period, the group has helped obtain 22 *gittin*, a huge number considering that ORA works with very difficult cases and is often an *agunah's* last chance. As the former head of JOFA's Agunah Task Force, I have met with the young men a number of times and seen them in action. They are articulate, serious and passionate about making sure that women receive *gittin* in an ethical and timely manner. It is remarkable that these young men have chosen to take on this cause, and their impressive commitment and perseverance has enabled them to be successful in this difficult area.

ORA is a 501(c)(3) tax-exempt organization. Contributions can be mailed to: ORA, PO Box 928 New York, New York 10040. For further information, visit www.getora.com.

The following interview with one of the founders of ORA, describes the organization's goals and specific activities in greater detail:

Describe how the organization started.

ORA began when two college students were told of the plight of one woman, whose difficulties they would soon learn were representative of numerous others. The woman wanted a *get* from her husband, but he demanded money and preferential custody rights in exchange for the *get*. The students were outraged that nothing was being done to combat this gross injustice and decided to form ORA. "ORA International Headquarters," as the sign on our door read, was located in a YU dorm room for our first three years. We now have a small office.

What is ORA's primary purpose?

The goal of ORA is simple and straightforward: get the *GET*. We do not believe that the '*agunah* crisis' is caused either by a lack of rabbinic attention, or by the rigors of Jewish law, but rather by the lack of communal involvement. When the Jewish



ORA activists and supporters demonstrating outside house of recalcitrant husband

community remains silent as recalcitrant husbands cause unspeakable suffering to countless women, it tacitly condones their behavior. ORA's simple message is: we, as members of the Jewish community, do not condone their behavior and will bring to bear any and all pressure we can muster in order to stop it.

What are ORA's main activities?

Our activities include, but are not limited to, helping women navigate the complicated and sometimes frustrating *beit din* process, organizing and staging peaceful rallies outside the recalcitrant spouse's place of residence or business, and working with women on a one-on-one basis to devise a strategy to help them obtain the freedom they seek and deserve. We have also held numerous seminars on the topic of *agunot* and plan to broaden our educational initiatives when more funding becomes available. We also arrange social services for the various needs an *agunah* may have.

How have you been able to get 22 gittin'?

To the best of our knowledge, we are currently the only group proactive on the ground, capable of organizing demonstrations on a consistent basis. We plan and stage rallies, call for boycotts and rabbinic pressure. We are effective because our friends and colleagues are willing to participate in our actions, and because we have the backing of Rav Herschel Schachter, Rosh Yeshiva at YU, who is recognized as an authority in most Jewish circles. With the help of experts in both Jewish and American law, we take whatever steps are acceptable to place pressure on the recalcitrant party. Most important, we believe our dogged persistence is a key ingredient in our success.

Describe some of the successes that you have been involved with.

We had a case where the couple was divorced in secular court 20 years before our efforts led to the giving of the *get*. The husband, head of information systems for a major law firm, had since married a non-Jew and had a daughter with this new wife. We received the case from a highly respected Rav in New York, and he encouraged us to apply whatever social pressure we could. We gave the husband fair warning that unless he gave his estranged wife of 21 years a *get* with no conditions attached, we were going to rally outside his home and office. As the night of the deadline approached, we received a call from one of his Jewish co-workers who advised us to call off the rally because a *get* would be

SHALOM BAYIT?

Shira lives in Israel. She is in her 30's, has five children and is the sole breadwinner of her family. About a year ago, Shira and her husband went to the rabbinical court after working out an agreement whereby he would give her a *get*. The *dayanim* did not accept the couple's agreement and advised them to try to reconcile for the sake of *shalom bayit* (domestic harmony). They told her husband not to give her a *get* so quickly. From that moment on, he has refused to give Shira the *get*.

Shira's husband had not been living in their home for two years. She therefore stopped going to the *mikveh* as they were not having marital relations. One day, he came back home and raped her. Although she reported it to the police, and there was a restraining order on him for two weeks, he moved back in with her.

In their last hearing at the Rabbinate, Shira was ordered to go to the *mikveh*. The judges reasoned that if he was going to attempt to force relations on her, she should at least be "pure" for him.

given the next week. The following Tuesday a *get* was given. The man was petrified by the impact a rally could have had on his job and family. Twenty one years of suffering came to an end in a matter of weeks.

In another case, a man, who worked at a perfume store, had refused to give his wife a *get* for three years. Once ORA took the case, we warned him and his Jewish employer that we would begin to stage rallies, but they ignored

“...communities do not care enough and are not active in trying to resolve the problem...”

our courtesy warnings. Two days before *Yom Kippur* we organized a demonstration in front of the perfume store. As we began our rally, the owner came outside and asked us to leave. We said we would be happy to do so “as soon as your employee gives a *get*.” The owner went inside and called the man (who was not at the store at the time), and within minutes we received a phone call from the man yelling and screaming. We calmly responded that we were prepared to demonstrate all day. He reluctantly agreed, and a few of us drove to his house, while the others remained in case he reneged. We picked him up and brought him to the scribe that we have on call for instances in which a husband agrees to give a *get* on the spot. The *get* was given that day, two days before *Yom*

Kippur. As he was about to leave, the man apologized for the way he had treated us and we accepted his apologies with a handshake.

What do you believe are the main issues that contribute to the problem of agunot today?

First, communities do not care enough and are not active in trying to resolve the problem by means of social pressure. ORA's biggest failure is that we have been unable to gain widespread support from the Jewish community. We have held rallies in very Orthodox areas of New York, but generally it is only ORA members who participate, while the members of the local community remain inactive. Second, men realize that if they “play their cards right,” they can extract unreasonable demands from their estranged wives. This cannot and should not be acceptable to the community. Third, the Jewish community needs to give more support to rabbinical courts that are helping *agunot*. Even the most established and widely recognized courts have little funding and therefore cannot work at maximum effectiveness. Finally, when the rabbinical courts arrive at a ruling, few people care or abide by the rulings.

Do you only service the NY area? Do you have a blueprint for other communities?

Although we are based in New York, we are currently working with women in Baltimore, Los Angeles, Boca Raton, Israel, Montreal, London and Paris. We focus on New York cases, but when logistically possible we will organize rallies outside of New York.

We are always looking for other organizations or lay leaders to follow our lead and organize rallies in their home cities or countries. Even in the

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Working for Agunot

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New York area, we encourage people to work with us with the goal of being able to organize and arrange rallies on their own.

What should the Orthodox community be doing to alleviate the problem of agunot?

The Jewish community must break its silence and not tolerate intolerable conduct. If a recalcitrant husband resides in a specific community, the community must act swiftly to ensure that he does not receive any honors on Sabbath, that

he is not invited into homes for meals and that he is “excommunicated” and socially shunned. Rallies should be organized within the bounds of Jewish and secular law to apply as much social pressure as possible to the recalcitrant husbands. Additionally, every couple should sign a pre-nuptial agreement before they get married. Educational seminars are needed for communities and *rabbanim* alike so that people are aware of the issues and know where to turn when problems arise.

Who has most influenced your work with agunot? Who do you most admire?

There is no doubt that it is the *agunot* themselves that serve as our primary

motivators. They raise their children to be committed Orthodox Jews, even if they themselves feel betrayed by their own religion. Their steadfastness is a sanctification of God’s name, and demonstrates enormous faith in God. We also have great respect for the rabbis who do speak out and are active in helping *agunot* to obtain their *gittin*. Lastly, we respect and appreciate all those who make time to participate in rallies.

Audrey Axelrod Trachtman is Treasurer of JOFA and former head of its Agunah Task Force.

DOCUMENTARIES ON THE AGUNAH CRISIS

THE GET

The *GET* is a new documentary made by ORA (Organization for the Resolution of *Agunot*) that brings to life the stories of American women who are trying to obtain a *get* from their recalcitrant husbands. Filmed in Brooklyn, New York, it also shows what can be done when concerned individuals set out to help these women. This moving film should be seen by all congregations, men’s clubs, sisterhoods, Jewish high schools and youth clubs and by everybody concerned about the *agunah* problem.

For further information contact jross54@aol.com

MEKUDESHET

“Mekudeshet” is a documentary on the subject of the *agunah* crisis made in 2004 by Anat Zuria, who also directed the widely acclaimed movie on *mikveh* and the laws of family purity—*TEHORA*. *Mekudeshet* follows the struggle of three *agunot*, Tamar, Rachel and Michelle to obtain a divorce in the Jerusalem rabbinical courts, helped by advocates from Yad L’Isha. It is an extremely moving film and demonstrates how the men involved were able to manipulate the system to their benefit, and were aided in this by the delays and attitude of the rabbinical court judges whose sympathies clearly lay with the husbands. The film had a showing in the Knesset to an overflow audience that included government ministers and Knesset members and promoted a very powerful discussion. It won the prize for the best documentary of the Jerusalem Film Festival.

MAVOI SATUM: A Group That Is Making a Difference

By Elana Maryles Sztokman

There is more to the *agunah* issue than *halakha* alone. For years—decades perhaps—women have been frustrated by rabbinic responses to the suffering of *agunot*, and especially the argument that there is nothing to do in the face of *halakha*. In fact, argues Rachel Azaria, executive director of Mavoi Satum, (literally, “The Dead End”), an organization working on behalf of *agunot* in Israel, solutions within the *halakha* have existed for a long time, but the problem rests in their implementation.

“We now take a different approach to this problem,” Azaria says. “We are looking at the larger picture, at social pressures, and the structures that are in place that can give us leverage.”

Towards this aim, Mavoi Satum has created powerful working groups that lobby Knesset committees, cooperate with the Ministry of Justice, speak to audiences around the country, and appear regularly on television, radio and in print. “We are not just talking about recalcitrant husbands anymore,” Azaria explains. “We are trying to challenge a system that is abusive, that empowers the wrong people.”

“We are trying to change the way people think about

agunot,” explains co-founder and co-chair Judith Garson Djemal. “We no longer have to explain to people that there is a problem—thankfully, everyone now knows about it. What we need to do is send the message that solutions exist, but it is up to lawmakers and judges to see that they are implemented. It is about using our grassroots leverage, the public’s legitimate demand for justice for *agunot*.”

Mavoi Satum has also convened a think tank that is comprised of some of the top academics, lawyers and business people in Israel. The goal, says Azaria, is for people to understand that “*agunot* are not just a problem for women—it is a problem for all of us.”

Since its inception in 1996, Mavoi Satum has helped hundreds of *agunot* through financial, legal, and emotional support, while simultaneously working towards education and change. For more information, contact agunot@netvision.net.il, or visit their website, at www.mavoisatum.org.

Elana Maryles Sztokman is an educator, researcher and activist who volunteered for Mavoi Satum for many years before temporarily relocating to Australia.

AGUNAH ADVOCACY IN CALIFORNIA

Alexandra Leichter has been a practicing attorney, specializing in family law in Beverly Hills, California for over 32 years. Her practice deals with premarital legal counseling, marital dissolution, post dissolution proceedings, paternity cases, and child custody disputes. As a result of her articles and lectures on issues relating to *agunot*, she has become the address in Los Angeles for litigating and negotiating cases involving the “*get*” issue. She would be far happier if there were no such cases. Her articles about *agunot* have appeared in the *Los Angeles Jewish Journal*, in the local Bar Association and California Bar family law newsletters, as well as in journals for lawyers engaged in matrimonial law.

Over the years, Leichter has developed contacts with the Rabbinical Council of California and with numerous individual rabbis who are involved in *gittin*, and she has led study groups of lawyers on these issues. She has counseled many rabbis and engaged couples regarding the effects and enforceability of various pre-nuptial agreements. It is her specialized professional knowledge that has led to

her understanding of the problems facing Jewish women at such a vulnerable time in their lives, and also to an understanding of possible workable solutions, although she despairs that any resolutions she has been able to fashion only work on a case-by-case basis, and that no rabbinical authorities have fashioned global solutions for women in general.

Leichter considers that, in the absence of *halakhic* resolution, many of the current *agunah* problems have to be attacked on a state-by-state basis. In California, the fact that attorneys have to sign off on all pre-nuptial agreements that set forth spousal support conditions makes the RCA pre-nuptial agreement problematic. She has found California attorneys unwilling to sign off on the RCA prenup for many reasons—for one thing, since they do not understand the religious implications, they do not want to sign their name to an agreement that could potentially expose them to malpractice suits many years later because they had no idea what their clients were signing. Leichter considers that it would be useful to hold a conference of Jewish family lawyers from different states to

discuss both commonalities and aspects that are specific to different jurisdictions.

A refugee from Hungary following the Hungarian Revolution, Alexandra Leichter attended a Satmar yeshiva and then Beis Yaacov school in New York, before her family moved to Los Angeles. She obtained her B.A. in Mathematics from UCLA and received her J.D. from Loyola Law School of Los Angeles. It was the feeling that Jewish law is unjust to women that led to her interest in this area while she was still at college. She considers that there is, unfortunately, far less community interest in the problems of *agunot* in California than in New York, although California is now the second largest Jewish community in the country, numbering over 600,000 Jews. She has attended JOFA conferences and was instrumental in having the JOFA *agunah* ad published in the Los Angeles Jewish newspaper, collecting signatures from rabbis, institutions and individuals. She has also initiated screenings of the “*Mekudeshet*” movie at synagogues and day schools.

JOFA welcomes hearing about experiences in *agunah* advocacy in different parts of the country.
Please send submissions to agunah@jofa.org

Freeing Agunot ...continued from page 15

because of the mistaken belief that her husband can be cured or reformed. Often the wife stays because a rabbi, in an effort to preserve the marriage, has recommended that the couple try counseling. Furthermore, pregnancy, children, concern for other family members, and fear of violence and retribution, may block the wife from exiting the marriage. In this, the Jewish pattern is similar to the general pattern of women in abusive marriages. When the wife has determined that her husband's defect is incurable, and she has recovered sufficiently from the abuse, the wife leaves and rightly seeks a ruling of *kiddushei ta'ut* to free her from this tragically flawed and mistaken marriage.

The Rackman Beit Din's rulings of *kiddushei ta'ut* are based on persuasive case-by-case evidence of an unknown, pre-existing personality disorder in the husband that nullifies the wife's consent to the marriage.⁷ Furthermore, the similarities in so

many of our cases—early onset of the husband's abuse after the marriage, his obsessive need for control and attention, his repeated inability to curb his behavior—represent a corpus of data that lends support to the contention that the *beit din* is dealing with a recognizable personality disorder whose manifestation early in the marriage warrants a ruling of *kiddushei ta'ut*. Finally, the *halakhic* concepts of *tav l'metav* and *sabra v'kiblah* do not represent a barrier to rulings of *kiddushei ta'ut*. Beyond these specific *halakhic* arguments for *kiddushei ta'ut*, the Rackman Beit Din relies on the meta-*halakhic* biblical admonition “*v'aseeta ha-yashar v'hatov*,” (“You shall do what is correct and good.”) The Rackman Beit Din is confident that what it is doing is both *halakhically* correct and morally good.

...continued on page 20

Susan Aranoff is an *agunah* activist and co-founder and director of *Agunah International Inc.* She teaches economics and political science at Kingborough Community College.

ABANDONED WITHOUT A GET

Originally from France, Israel Lellouche married an Israeli woman 26 years ago. After three years of marriage the couple signed an agreement, under the auspices of a major Israeli rabbinical figure, which was meant to influence Mr. Lellouche's behavior towards his wife. It did not help. Three years ago, his wife sued for divorce in the Jerusalem rabbinical court. The rabbis ruled for a “*Chiyuv Get*” (an obligation to give a *get*)—an unusually strong initial decision—based on his behavior towards his wife. However, right before the actual ruling, Mr. Lellouche ran away to France, thus escaping the jurisdiction of the Israeli rabbinical courts, as well as criminal proceedings instituted as a result of his actions. Mr. Lellouche belongs to a well-known rabbinical family in France, and he now lives in Paris with their support. He refuses to heed any of the important rabbis who have turned to him, or to obey a recent ruling of *kefiyah*—coercion—of the rabbinical court. He has abandoned his wife and children, leaving them with neither support nor a *get*, and facing emotional, religious and financial struggles.

What JOFA is Doing to Help *Agunot*

In March 2005, JOFA took the initiative to bring together the entire Jewish community with respect to the need to solve the *agunah* problem. In less than two weeks, more than 850 rabbis, institutions and individuals from all over the world (including Australia, Canada, England, and Israel) signed on to a two-page ad, calling for unity on the issue and urging rabbis and the Jewish community to use all legitimate *halakhic* means at our disposal to prevent the emergence of new *agunot*. The ad appeared in *The Jewish Week* and *The Jewish Press* (NY) before *Ta'anit Esther*, (Fast of Esther), a day increasingly marked round the world as "International *Agunot* Day," and was replicated in Los Angeles and London.

JOFA has created a *Guide to Jewish Divorce and the Beit Din System* (see www.jofa.org) whose goal is to help women make informed decisions as they proceed through the *beit din* system in obtaining a Jewish divorce. The Guide includes a glossary, frequently asked questions and a section based on the comments and cautions of individuals with personal experience, as well as a comparison of the practices of various *batei din* (rabbinic courts) in the New York Metropolitan area. JOFA proposes that this process of comparison of *batei din* be replicated in cities across the country and would be happy to hear from individuals willing to

organize groups to administer the questionnaire to *batei din* in their community. If you would like to organize a group and need some assistance, contact us at agunah@jofa.org.

JOFA's website, www.jofa.org, which has a prayer for *agunot*, also contains comprehensive reference material, including lists of, and links to, web articles, speeches, audio tapes, books and periodical articles about the *agunah* issue. It also lists organizations to which individuals can turn for more information and assistance. This information is frequently updated.

JOFA works closely with rabbis and organizations in promoting the use of pre-nuptial agreements, urging recalcitrant husbands to give a *get*, forming an *agunah l'agunah* support group, and providing information for attorneys who are handling *agunah* cases.

JOFA also seeks to promote an exchange of information about *agunah* activities worldwide through Getlink, an online list serve for *agunah* activists.

Through the screening of films like *Mekudeshet* (filmed in Israel), and *The GET* (filmed in Brooklyn, NY), JOFA is promoting programs to educate high school students and communities about the *agunah* problem. To schedule a screening in your school or community, contact us at agunah@jofa.org or call 1-888-550-JOFA (5632).

SEVEN YEARS AND STILL WAITING

Linda, who is the head of a clinical research laboratory at Hadassah hospital, has been waiting for her *get* for over seven years. Her recalcitrant husband works for the USDA at the Western Human Nutrition Research Center in Davis, California. The couple has two daughters.

Linda's husband disappeared seven years ago while they were living in the United States. Following his disappearance, Linda declined an assistant professorship at Maryland University and returned to Israel with her daughters. As her husband was missing, Linda was declared an *agunah* by the rabbinical court. About a year and a half later her husband surfaced in California and filed a lawsuit against Linda, claiming that she had kidnapped the children.

The case reached the Israeli Supreme Court. In an agreement that was signed, Linda was supposed to receive a *get* and was also given custody of the girls. She was declared a *mesurevet get* [a woman whose husband refuses to give a *get*, ignoring the order of the *beit din*] by the rabbinical court only a few months ago. The court has imposed a fine on the husband of \$1,000/month for as long as it takes him to give Linda her *get*. They have also applied restrictions against him, suggested in the Middle Ages by *Rabbeinu Tam*, according to which he is not allowed to pray in a synagogue, attend any communal events or be buried in a Jewish cemetery, if he were to die. To date Linda has not received her *get*.

Freeing *Agunot* ...continued from page 19

¹ Among the *halakhic* sources we rely upon are Rashi, BT *Bava Kamma* 111a, s.v. *d'Niha Lah*; Rabbi Simcha of Speyer preserved in *The Or Zarua* Part I, Section 761; Maimonides, *Mishneh Torah*, *Hilkhot Gerushin*, 13:28-29 and *Hilkhot Ishut* 14:8; *Hiddushei HaRashba*, *Gittin* 88b; Rabbi Yitzhak Elhanan Spector, *Ein Yitzhak* Vol. I, 24; Rabbi Moshe Feinstein, *Iggerot Moshe*, *Even ha-Ezer*, Part I, Section 79 and 80, and *Even ha-Ezer*, Part III, Section 45; Rabbi Moshe Rozin, *She'ilot Moshe*, *Even ha-Ezer*, Section 2. For additional *halakhic* material dealing with the *agunah* problem see Aviad Hacoen, *The Tears of the Oppressed*, New York: Ktav Publishing Company, 2004.

² See Donald Dutton, *The Batterer: A Psychological Profile*, New York: Basic Books, 1995. Also see Rabbi Abraham Twerski's *The Shame Borne in Silence: Spouse Abuse in the Jewish Community*, passim, but particularly pp. 4, 25, 65, 85, and 125.

³ See "Genes May Determine Which Abused Kids Will Grow Up Bad" by Sharon Begley in the *Wall Street Journal*, September 20, 2002, p. B1.

⁴ See for example, Rabbi Yosef Baer Soloveitchik in *Beit ha-Levi*, Part III, Section 3, and Rabbi Moshe Feinstein in *Iggerot Moshe*, *Even ha-Ezer* Part I, Section 79.

⁵ See Susan Aranoff, "Two Views of Marriage - Two Views of Women: Reconsidering Tav Lemetav Tan Du Milemetav Armelu" in *Nashim*, Number 3, Spring/Summer 5760/2000, Schechter Institute of Jewish Studies, Jerusalem and the Hadassah International Research Institute for Women, Brandeis University, Waltham Massachusetts.

⁶ For Rabbi Soloveitchik see the citation in footnote no. 3. For Rabbis Feinstein and Spector see the citations in footnote no. 1.

⁷ Though *kiddushei ta'ut* based on a pre-existing defect in the husband is the primary tool of the Rackman Beit Din, Rabbi Shlomo Riskin has been arguing for years that annulment is possible on somewhat different grounds, even if the husband's abusive behavior post-dates the marriage. He recently supported the introduction of a bill in Israel's Knesset to implement his proposals for annulment. For thirty years, former Associate Chief Justice Menachem Elon has called for a *takanah* allowing annulment of marriages. See my articles at www.agunahinternational.com for discussion of this broader approach to solving the *agunah* problem.

To obtain a free copy of the JOFA Guide to Jewish Divorce and the Beit Din System, call JOFA at 888-550-JOFA or email agunah@jofa.org

AGUNAH ORGANIZATIONS AND RESOURCES

For full description and additional contact information visit www.jofa.org

UNITED STATES:

AGUNAH INTERNATIONAL, INC.:

New York, NY
Education, research, advocacy, referral of Jewish divorce cases to the Rabbi Emanuel Rackman Beit Din L'Inyanei Agunot.
Hotline: 718-434-6246
Email: agunah@agunahinternational.com
WEBSITE: www.agunahinternational.com

G.E.T. (Getting Equitable Treatment):

New York, NY
Helps women with information and counseling on a one to one basis when going through a Jewish divorce.
Tel: 718-677-1033
Email: stanley.goodman@verizon.net

GET Assistance Project

(New York Legal Assistance Group (NYLAG)): New York, NY
Provides free civil legal assistance to victims of domestic violence and persons seeking divorce.
Tel: 212-750-0800 x613
Email: info@nylag.org; kssuser@nylag.org
WEBSITE: www.nylag.org

KAYAMA: Brooklyn, New York

Provides advice and assistance about Jewish divorce across the spectrum of community.
Tel: 800-932-8589, (NYC 718-692-1876)
Email: info@kayama.org
WEBSITE: www.kayama.org

L'MAAN B'NOS YISRAEL

INTERNATIONAL: Brooklyn, New York
Helps *agunot* on one-to-one basis, brings *agunot* together with one another, and organizes symposia to educate community.
Tel: 718-338-0833
WEBSITE: www.agunot.com/LmaanBnosYisrael.html

ORA (The Organization for the Resolution of Agunot, Inc.): New York, NY

Advocacy and activism to help *agunot* obtain a *get*. Website maintains list of recalcitrant husbands.
Tel: 646-797-4551
Email: info@getora.com
WEBSITE: www.getora.com

ORTHODOX CAUCUS: New York, NY

Information on RCA *halakhic* pre-nuptial document.
Tel: 516-569-5977
Email: info@ocweb.org
WEBSITE: www.ocweb.org

ISRAEL:

(From US, phone numbers are preceded by 011-972. The zero before the city codes given below should be omitted when dialing internationally.)

ICAR (INTERNATIONAL COALITION FOR AGUNAH RIGHTS): Jerusalem

International coalition of 24 organizations which work to promote solutions to the problem of *agunot* and *mesuravot get*.
Tel: 02-672-1401
Email: icar@barak.net.il
WEBSITE in Hebrew: www.snunit.k12.il/seder/agunot

INTERNATIONAL JEWISH WOMEN'S HUMAN RIGHTS WATCH: Jerusalem

Documents the human rights violations suffered by *agunot* in Jewish communities all over the world.
Email: sshenhav@internet-zahav.net
WEBSITE: www.jcpa.org/jcprg3.htm

MAVOI SATUM: Jerusalem

Provides emotional, legal and financial assistance for *agunot*; education and lobbying.
Tel: 02-671-2286
Email: Office@mavoisatum.org
WEBSITE: www.mavoisatum.org

RACKMAN CENTER FOR THE ADVANCEMENT OF THE STATUS OF WOMEN, BAR ILAN UNIVERSITY LAW SCHOOL: Ramat Gan

Legal clinic, research and training of law students about problems of *agunot*.
Tel: 03-531-8895
Email: rackmanc@mail.biu.ac.il

YAD L'ISHA (THE MAX MORRISON LEGAL AID SERVICE AND HOTLINE): Jerusalem

Offers Israeli women legal advice as well as representation in the rabbinical courts.
Yad L'Isha Hotline (free call within Israel) 1-800-200-380
Tel: Jerusalem: 02-678-0876
Tel: Tel Aviv: 03-695-1899
Email: yad.lisha@ohrtorahstone.org.il; legalaids@ohrtorahstone.org.il
WEBSITE: www.legalaids.org.il

"Pursuing Justice: Notes From an Agunah Activist" by Sharon Shenhav, Director of the International Jewish Women's Rights Project in Jerusalem was published in the JOFA Journal Winter 2004 and is available online at www.jofa.org.

CANADA:

CANADIAN COALITION OF JEWISH WOMEN FOR THE GETT:

Montreal and Toronto
Advocacy for *agunot*. Produced an educational film, "Untying the Bonds-Jewish Divorce" that is available through the National Film Institute at Brandeis University. Has *get* help-lines across Canada.
Email: nojo@vax2.concordia.ca; brk@allstream.net

UNITED KINGDOM:

AGUNAH RESEARCH UNIT: Manchester

Halakhic research into possible global solutions to the problem of *get* refusal
Email: Bernard.Jackson@man.ac.uk
WEBSITE: www.mucjs.org/agunahunit.htm

AGUNOT CAMPAIGN: London

Offers help/support and makes contact with relevant *batei din*, organizes demonstrations and vigils.
Email: agunot@msn.com; sandra@duvt.com
WEBSITE: agunot-campaign.org.uk

AGUNOT ANONYMOUS EDUCATIONAL FOUNDATION:

London
A confidential support group for *agunot* in the UK
Tel: 020-8202-5551; 020-8202-5552
WEBSITE: www.agunot-campaign.org.uk/support.htm

GETTING YOUR GET:

London
Information about Jewish divorce that both men and women should know before beginning divorce proceedings in the UK. Includes articles, forms and explanations for lawyers and laymen.
Tel: 020-8203-6311 (Sue)
Email: info@jmc-uk.org
WEBSITE: www.gettingyourget.co.uk

If you are aware of other organizations that are not included in the list, please inform us at agunah@jofa.org

If you are an attorney interested in training as a *to'enet*, please contact agunah@jofa.org.

GLOSSARY OF TERMS

AGUNAH (pl: AGUNOT) A married woman who may not remarry because the death of her husband has not been verified or because (for whatever reason) she is unable to obtain a *get* from her husband.

BEIT DIN (pl: BATEI DIN) A rabbinic court.

CHIYUV GET Order from a *beit din* obliging a man to give his wife a *get*.

DAYAN (pl: DAYANIM) A judge on a rabbinic court.

GET (pl: GITTIN) A Jewish document of divorce written by hand at the request of the husband. Note: Because of the technicalities of writing a *get* in a *halakhically* correct manner, the person who actually pens the *get* is an expert, and a functionary of the *beit din*.

GET ME'USEH A forced *get*; one which may be considered invalid.

HAFAKA'AT KIDDUSHIN Invalidation of a marriage for technical reasons.

HAZMANAH (pl: HAZMANOT) Summons to appear before a *beit din*.

IGGUN The state of being an *agunah*.

KEFLAH "Coercion"—refers to coercion of a husband to the point where he willingly gives his wife a *get*.

KETUBAH A contract between husband and wife that commits the husband to support, feed, and satisfy his wife sexually and which entitles the wife to collect money in the event of a divorce.

KIDDUSHEI TA'UT A marriage entered into under mistaken assumptions, including lack of knowledge of a defect in the husband that pre-existed the marriage. A *beit din* may declare this marriage to have never been validly established, so the need for a *get* to end the marriage does not apply.

MAMZER (pl: MAMZERIM) Offspring of an incestuous or adulterous relationship; often mistranslated as "bastard" in the sense of one born out of wedlock.

MAMZERUT The state of being a *mamzer*.

MESAREV GET A recalcitrant husband, one who refuses to give his wife a *get* despite being required to do so by the *beit din*.

MESUREVET GET A woman whose husband is recalcitrant and refuses to give her a *get* despite being required to do so by the *beit din*.

"MI-SHUM IGGUNAH AKILU BAH RABBANAN"
(An idiom) The principle that "out of concern that she might otherwise become or remain an *agunah*, the rabbis were lenient."

MUM A serious blemish, a basis for *kiddushei ta'ut*.

PESAK A rabbinic decision (verdict).

POSEK (pl: POSKIM) A rabbinic decisor; a rabbi who is qualified to render a *halakhic* decision.

PTUR A document issued by a *beit din* to indicate that spouses are free to remarry.

SERUV A declaration that a person is in contempt of a *beit din*.

SHTAR BERURIN A document required by some rabbinic courts, which gives that court authority to determine all matters of the divorce including financial support and child custody. This document is binding in civil court.

SOFER For purposes of Jewish divorce, the expert who actually pens the *get*.

"TAV L'METAV TANDU ME'L'METAV ARMELU"
(An idiom) A strong presumption in Jewish law that it is preferable to "sit as two than to sit as one" (meaning that a woman would rather be married to anyone than to be single).

TO'EN, TO'ENET (pl: TO'ANIM, TO'ANOT) People who function as lawyers or pleaders in the rabbinic courts (*batei din*).

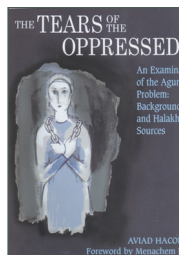
LANDMARK CASE IN JERUSALEM CIVIL COURT AWARDS FINANCIAL DAMAGES

In December 2004, a Jerusalem Family Court ordered a recalcitrant husband to pay his wife NIS425,000 (about \$100,000) in compensation for the emotional damage he had caused her by refusing to give her a *get* for nineteen months after the rabbinic court had declared that he was obligated to do so. The couple, from the *baredi* community, had been separated since 1992 and the wife had filed for divorce immediately after the separation. The judge in Family Court accepted the wife's description of her emotional abuse and noted that the husband had been particularly malicious in causing his wife to suffer for so many years. Like any other civil court order, this order can be enforced by attaching the husband's property and salary, although it does not ensure that he will give her the *get*. Nevertheless it was a landmark decision that gives a precedent for civil courts, not only in Israel, but all over the world, to award substantial financial damages based on their emotional pain and suffering to Jewish women whose husbands will not give them a *get*.

The Tears of the Oppressed: An Examination of the Agunah Problem: Background and Halakhic Sources

By Aviad Hacohen
Ktav, 2004 \$39.50

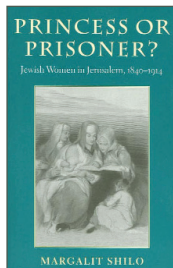
Aviad Hacohen teaches Constitutional Law, Religion and State Law and Jewish Law at the Hebrew University and at Bar-Ilan University in Israel. He is also principal of the Center for Jewish Law at the Shaare Mishpat Law College. In this book, edited by JOFA founding President Blu Greenberg, Dr. Hacohen argues that in certain cases *kiddushei ta'ut* (see glossary for precise definition) offers a *halakhic* methodology for freeing a woman from the tyrannical control of her husband. This is the method used by the Rackman Beit Din in New York, and Hacohen argues that this principle has been used to release *agunot* through the centuries. Hacohen includes the complete texts of twenty eight responsa in Hebrew, ranging from the 12th to the 20th century, showing how the rabbinic authorities inquired carefully into the background of each case to determine, for example, whether the defect in question was concealed from the wife before marriage. Hacohen writes cogently and persuasively, and his book is presented in a very clear manner with a full glossary. It is a very welcome contribution to the literature about the problem of *agunah* and possible solutions. The detailed arguments of Rabbi Hacohen are complex and require far more analysis than the limited space of these lines. There is a 28 page long review by Rabbi Michael Broyde available online in the *Edah Journal* (Kislev, 5765) which can be accessed at www.edah.org. The summer issue of the on-line *Edah Journal* will contain a number of responses to the Broyde piece.



Princess or Prisoner? Jewish Women in Jerusalem, 1840-1914

By Margalit Shilo
Brandeis Series on Jewish Women
Brandeis University Press, 2005
\$65.00 (Hardcover)
\$29.95 (paperback)

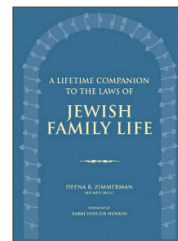
In this book, Margalit Shilo, a professor in the Land of Israel Studies Department at Bar-Ilan University and a leading scholar of women's studies in Israel, opens up for the reader the world of Orthodox women in Jerusalem towards the end of Ottoman rule in the Holy Land. She gives us a rich and detailed picture of the religious life of women within a society which is usually seen from a male perspective. Although most of the female population was illiterate, Shilo uses women's voices preserved in documents of the period and as well draws on diaries, memoirs, newspaper articles, letters, and community regulations written by men. She shows how there were more women than men in Jerusalem, particularly older women as many widows came to Jerusalem alone to spend the last years of their life. She discusses the particular relationship these women had with the Western Wall and other Holy Places, and their special identification with the biblical Rachel. The author examines accounts of a number of educated and learned women, and explores the role of education and family life within a context of great poverty and hardship. She describes women at the margins of society including *agunot*, and uses fascinating evidence from the hundreds of classified advertisements in the local Jerusalem newspapers. Through this book, both erudite and exciting, the reader learns about the unique quality of life in Jerusalem in this period, and how Jerusalem provided women with a special arena for a life of holiness.



A Lifetime Companion to the Laws of Jewish Family Life

By Deena R. Zimmerman
Urim Publications, 2005 \$24.95

Deena Zimmerman is a pediatrician who is also one of the first graduates of Nishmat's Keren Ariel Program as a *yoetzet halakha* (*halakhic* advisor on women's issues). She is the creator and coordinator of the Nishmat Women's Online Information Center. This book is a *halakhic* guide to the laws of *taharat mishpacha*. There are separate sections dealing with various stages of the life cycle including puberty, a woman's wedding night, pregnancy and childbirth, menopause and peri-menopause. Zimmerman makes clear that her book is not meant to take the place of consultation with a rabbi, but her immense knowledge enables her to clearly lay out the *halakhic* issues involved. This is a book to be read very carefully and includes clinical and explicit terminology about the human reproductive system. Zimmerman includes many frequently asked questions about life cycle issues, and deals with issues of timing of medical examinations, birth control and infertility. Especially valuable is the inclusion of key sources in Hebrew and their paraphrase into English. Women are often understandably uneasy about asking rabbis about intimate areas of their lives, and this book is extremely useful both in clarifying the basis of the *halakhot* and in delineating their precise applications. Deena Zimmerman is a frequent speaker on *niddah* issues in America. Her book, which incorporates modern medical knowledge, sensitivity to women's intimate concerns and a profound understanding of Jewish source materials, is a paradigm of what *halakhically* educated women today can do to enhance the quality of Orthodox Jewish life for both women and men.



Mission Statement of the Jewish Orthodox Feminist Alliance

The Alliance's mission is to expand the spiritual, ritual, intellectual, and political opportunities for women within the framework of *halakha*. We advocate meaningful participation and equality for women in family life, synagogues, houses of learning, and Jewish communal organizations to the full extent possible within *halakha*. Our commitment is rooted in the belief that fulfilling this mission will enrich and uplift individual and communal life for all Jews.

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