“Dependent on the Gentiles”: New York State, the Orthodox Rabbinate and the Agunah Problem 1953–1993

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Laura Shaw Frank serves on the faculties of SAR High School and Yeshivat Chovevei Torah in Riverdale New York. She is a doctoral candidate in modern Jewish history at the University of Maryland. A founding board member of the Jewish Orthodox Feminist Alliance, Laura lives in Riverdale with her husband and four children. This article appears in issue 23 of Conversations, the journal of the Institute for Jewish Ideas and Ideals.

> “And afterwards, the Rabbanan Sabborai saw that Jewish women were becoming dependent upon the Gentiles to get divorces from their husbands by force … from which ruin emanates.”
>
> —Responsum of Rav Sherira Gaon,
> Head of Academy at Pumpedita, Tenth Century[1]

Introduction[2]

The problem of the *agunah*,[3] the Jewish woman whose husband will not or cannot give her a *get*, a religious writ of divorcement, thus forcing her to remain chained to a dead marriage, engendered enormous debate in the Orthodox Jewish community in America in the late twentieth century. The debate touched on many difficult emotional and philosophical issues for American Orthodox Jews. In an increasingly secular and rights-oriented America, the *agunah* issue served as a reminder that traditional Jewish thought was at ever-increasing odds with modern society. Especially as the women’s liberation movement took the national stage in the 1960s and 1970s, Orthodox women became sensitized to, and sometimes resentful of, how different their lives were under American law and Jewish law. At the same time, Orthodox rabbinic leaders saw themselves as increasingly on the defensive, fighting against feminism and other modern ideologies that, in their perception, threatened the stability of Jewish tradition. Lastly, Orthodox rabbis had to negotiate what they believed the proper relationship of the secular state apparatus should be to the internal Jewish communal problem of the *agunah*. All of these questions cut to the heart of how late- twentieth-century American Orthodox rabbis saw the relationship between Orthodoxy and modern America.

The desire to differentiate themselves from the Conservative movement, and an ever-increasing fear of halakhic activism led Orthodox rabbinic leadership in America to foreswear any systemic halakhic

solutions to the *agunah* problem by the late 1960s. However, as the Modern Orthodox community began to engage in debate about feminism and questions of equity in Jewish divorce law in the early 1970s, the Modern Orthodox rabbinate was forced to respond with some sort of a solution to the *agunah* problem. Seeing that Jewish women had already learned that the civil courts would assist them in obtaining their *gittin*, Jewish divorces, the rabbis understood that they could either let individual women access the civil courts on their own in a manner that might prove halakhically problematic, or they could channel the way Orthodox women used the civil courts to receive a *get*. By the mid-1990s, the Rabbinical Council of America (RCA), the rabbinic body of the modern/centrist Union of Orthodox Congregations of America, had supported the passage of two pieces of legislation in the State of New York and had adopted the use of a civil prenuptial agreement to be signed by couples to prevent situations of *aginut*, or "chained-ness."

On the other hand, the right-wing sector of the American Orthodox rabbinate, those who maintained membership in the Agudath haRabonim or Agudath Israel organizations, never permitted a conversation about feminism to occur within their ranks. When right-wing Orthodox rabbis and community leaders discussed feminism in the twentieth century, they did so only in order to quash it as anti-Torah and destructive to Jewish tradition. Without public pressure from women within their ranks, the right-wing rabbinate did not feel the same urgency to come up with a workable solution to the *agunah* problem. Furthermore, right-wing Orthodox rabbis found the prospect of turning over the *agunah* problem to the civil courts to be potentially dangerous. Sympathy to the cause of women's rights in state courts, they quickly realized, could undermine the power of Batei Din, Jewish courts, to decide issues of divorce law according to strict interpretations of halakha. The right-wing Orthodox rabbinate viewed the civil courts as a place for one thing only—receiving one's civil divorce.

In one critical way, however, the Modern and right-wing Orthodox rabbinates remained unified throughout the twentieth century, and that was in their ultimate refusal to adopt a systemic halakhic solution to the *agunah* problem. The solutions adopted by both wings of Orthodoxy were imperfect and left many Orthodox women at the mercy of blackmailing husbands and corrupt Batei Din. Most of all, they were utterly reliant on the enforcement powers of the civil courts. In the end, feminist ferment went only so far in swaying the opinions and actions of the Orthodox rabbinate.[4]

Background: The *Agunah* Problem in the Modern Era

Although there is evidence of the existence of *agunot* in Jewish communities since the times of the Talmud, the combination of the decline of rabbinic authority and the rise in the incidence of divorce in modern European states, together with the massive Jewish migrations of the late-nineteenth and early-twentieth centuries, exacerbated the problem significantly. In pre-modern Europe, Batei Din were vested with the power of the state to arbitrate litigation of a civil or religious nature for the Jewish communities. However, as Jews were emancipated in many Western European countries during the late-eighteenth and nineteenth centuries, civil governments divested the Batei Din of their power, and expected that Jews would use state courts to settle their disputes. This led to a disintegration of Jewish communal authority that meant that a husband did not have to listen to a Bet Din that ordered him to give his wife a *get*. He could simply leave the religious community, move to a different jurisdiction, or even emigrate, leaving Europe for America or other countries. Such a man could even marry another woman in a new location without suffering the condemnation of rabbinic authority whence he came. This constellation of factors was toxic: When divorces were few and far between, and the Bet Din had coercive power in the Jewish community, the *agunah* problem was kept in check, but the greater number of divorces coupled with the ever-lessening power of the Bet Din created fertile ground for the growing of the modern *agunah* problem.[5]

By the post-World War II era, due to a decline in international migration and increased affluence, occurrences of American Jewish husbands deserting their wives were becoming less prevalent. The *agunah* problem did not disappear, though. Instead, the majority of *agunah* cases became those in which a husband simply refused to grant his wife a *get* out of spite, or used *get* withholding as a tool to coerce his wife to give up claims to marital property or even custody of

children.[6] Batei Din had few halakhic tools to prevent such *agunah* cases, and in many instances, in order to ensure that a woman would receive her *get*, rabbis encouraged women to submit to their husband's financial and other demands.

Turning to the Secular State

In 1953, in light of the new form of *agunah* that had emerged, the Conservative movement presented a new solution to the *agunah* issue. This solution became known as the "Lieberman Clause," named after its drafter, Rabbi Saul Lieberman, the world-renowned halakhic authority and Talmud professor at the Jewish Theological Seminary of America. This Aramaic clause, which was to be inserted into Conservative *ketubot*, was intended to reinvest the Bet Din with the power to order a husband to give his wife a *get* by using the secular courts to enforce compliance. It provided that upon civil divorce, either husband or wife could bring the other before the Conservative movement's Bet Din for effectuation of a Jewish divorce. If either spouse either refused to appear before the Bet Din or refused to comply with the Bet Din's order, the other spouse could seek redress in civil court. This was the first time that a body of American Jewish rabbis had created a policy that employed the secular state apparatus to assist in solving the *agunah* problem.[7]

Due to the stature of Saul Lieberman, it initially appeared that the Lieberman Clause might gain traction beyond the Conservative movement. In the mid-1950s Lieberman met secretly with Rabbi Joseph B. Soloveitchik, the *Rosh Yeshiva* of the Rabbi Isaac Elhanan Theological Seminary at Yeshiva University (RIETS) to discuss creating a national Bet Din, recognized by both the Conservative and Orthodox movements as having exclusive authority with respect to issues of Jewish family law. According to the plan, Lieberman and Soloveitchik would jointly appoint the members of the Bet Din, all of whom would be Orthodox. Lieberman and Soloveitchik also agreed that the Lieberman clause would be revised to meet with Soloveitchik's approval and included in Orthodox *ketubot* as well as Conservative ones. In the end, the plan never took effect because it was voted down by the RCA. Even the imprimatur of Soloveitchik was not sufficient to take away the sting of Lieberman's participation.[8]

Even in the Conservative movement, though, the Lieberman clause did not have the power to solve the *agunah* problem. Most importantly, it could only resolve *agunah* situations in which the couple had the clause physically present in their *ketubah*. Additionally, rather than presenting a systemic halakhic solution to the problem, the Lieberman clause was merely an arbitration clause that stated that the couple agreed to abide by the decisions of the Conservative Bet Din, and could enforce any Bet Din decision in civil court. The clause did not empower the Bet Din with any powers it did not previously have, neither did it present any halakhic innovation. Lastly, it was unclear whether the clause, as part of a religious document, was actually enforceable in a civil court.

Despite the fact that the Lieberman Clause was more of a glorified arbitration clause than a halakhic innovation, both the Modern and right-wing Orthodox rabbinate united in strong and unyielding opposition to it. The RCA and the Rabbinical Alliance of America Bet Din issued a joint statement forbidding their members from officiating at any ceremony using the revised *ketubah*, and declaring that they would not recognize as valid any acts or decisions of the Conservative Bet Din. The statement warned that remarrying based on any such divorce could endanger the religious status of offspring of the new union.[9] The right-wing Agudath haRabanim also issued a scathing statement against the Lieberman clause, labeling Conservative rabbis "*porshim miDarkei haTzibbur*" (seceders from the correct ways of religious Jewry) and ordering that they not "be entrusted with any rabbinic functions."[10]

But the Orthodox response extended beyond a halakhic critique. Herbert Berman, lawyer for the "Orthodox groups" opposing the Lieberman clause said that in addition to the halakhic problems, the clause created "serious legal problems" by potentially breaching the First Amendment by putting a secular court in the position of having to enforce the decision of a religious body, i.e., the Bet Din.[11] In a similar vein, Yeshiva University published a short pamphlet in 1955 entitled "New Provisions in the *Ketubah*: A Legal Opinion" in which legal scholar A. Leo Levin and Rabbi Mayer Kramer outlined

ostensive legal problems with the Lieberman clause. In the introduction, Rabbi Morris Finer, Director of the Community Service Division of Yeshiva University laid bare the real reason behind the publication, declaring, "It is devoutly to be hoped that a viable solution might be developed, one that would be acceptable to the Orthodox rabbinate which alone possesses the collective scholarship and the religious authority to deal with the matter."[12] While the legal questions raised by Orthodox leaders were valid—the Lieberman Clause had not yet been tested in any civil court, and would not be tested until the late 1980s—the way Orthodox leaders raised them showed that they meant to discredit the clause, not to engage in serious legal debate about a potential solution to *aginut*.

Meanwhile, individual Orthodox women began to realize that they could turn to another forum to seek receipt of a *get*—the civil courts. In 1954, a Queens, New York, trial court issued a significant decision in a divorce case called *Koeppel v. Koeppel*. Maureen and William Koeppel had entered into a post-nuptial contract that specified that each of them would appear before a Bet Din to execute a *get*. Maureen Koeppel filed suit against William Koeppel for refusing to abide by this contract. The court did not view the contract as constitutionally problematic, noting that "[c]omplying with his agreement would not compel the defendant to practice any religion. … Specific performance herein would merely require the defendant to do what he voluntarily agreed to do."[13] Although the trial court ultimately dismissed Maureen Koeppel's complaint for specific performance of the contract because she had already remarried at a ceremony officiated at by a Reform rabbi, it had, at least in theory, upheld an agreement to give a *get*. [14]

The *Koeppel* case was significant on two levels. First, it showed that the secular courts would, in theory, uphold a contract to ensure the effectuation of a *get*. However, there was a darker side to the *Koeppel* decision for the Orthodox rabbinate. The secular court did not understand, neither did it care, that according to Orthodox Jewish law, the Koeppels (especially Maureen) still needed a *get* to remarry. The fact that Maureen Koeppel managed to find a rabbi to remarry her did not change that reality. Indeed, any children born to Maureen Koeppel and her new husband would be *mamzerim*, and would not be allowed to marry anyone but other *mamzerim* under Orthodox and Conservative Jewish law. Therefore, if the secular court system was to be an acceptable agent for the Orthodox rabbinate in ameliorating the *agunah* crisis, it would have to be under very strict supervision of Orthodox rabbis.

The combination of the Conservative movement's adoption of the Lieberman Clause and the *Koeppel* decision evidenced a new trend of turning to the secular courts for assistance in solving the *agunah* problem. The secular court solution might have initially seemed unseemly to Orthodox leaders because the Conservative movement was the first to raise it, and because it certainly posed significant halakhic challenges. However, Orthodox rabbis began to realize that if they could shape how the secular courts assisted *agunot*, use of the secular legal system could prove extremely productive. Indeed, the first record of an American Orthodox rabbi suggesting the use of the secular courts as an avenue to help *agunot* occurred in the same year as the *Koeppel* court decision and the adoption of the Lieberman clause. None other than Rabbi Soloveitchik wondered:

[W]ould it not be possible through the legislatures of certain states to have legislation passed whereby there will be an understanding that a civil divorce would not become final until a satisfactory disposition, in keeping with halakhic standards, was made concerning the *get*?[15]

Secular legislation that comported with halakha would be the best of all worlds: Orthodox rabbis could solve the *agunah* problem without having to take a halakhic stand, and at the same time, could ensure that the state did not create more halakhic problems than it solved.

Before the Orthodox rabbinate could proceed along this path, however, it was faced with responding to a proposed systemic halakhic solution.[16] In a book published in 1966 called *T'nai Be-Nisuin U've-Get* (Conditional Clause in the Marriage and Divorce Agreements), Rabbi Eliezer Berkovits, a Modern-Centrist Orthodox rabbi and scholar, presented a number of different possible halakhic solutions to the *agunah* problem, all of which were based in some way on making the *nisuin*, or the Jewish marriage, conditional. One solution Berkovits proposed was that the validity of a marriage would be made contingent on an agreement that the marriage would be invalidated if two years after its civil dissolution, the husband refused to give his wife a *get*. Another, based on the talmudic principle that "whoever marries does so with the agreement of the rabbis," provided that the

Bet Din could have the power to annul marriages under certain particular circumstances to be determined by halakhic authorities.[17]

Initially, Berkovits' proposals seemed to meet with lukewarm support from Orthodox rabbis. The revered European halakhist Rabbi Yehiel Yakov Weinberg responded to the book with cautious approval.[18] He wrote an extensive approbation in which he emphasized the importance of addressing the *agunah* problem, particularly at that time when more and more husbands were refusing to grant their wives *gittin*, and more and more women were simply remarrying in civil ceremonies.[19] In a similar vein, Rabbi Immanuel Jakobovits, the newly appointed Chief Rabbi of the British Commonwealth, in a review of Berkovits' book in 1966, noted that although the book would "no doubt meet with much determined opposition," he hoped it would "be a powerful impetus to an intensified search for procedures" to solve the *agunah* problem."[20]

However, Berkovits' proposals soon met their demise. In 1968, the Conservative movement, discouraged by the failure of the Lieberman Clause to solve the *agunah* problem, adopted a combination of two of Berkovits' proposals as law.[21] The Conservative Rabbinical Assembly's Committee on Jewish Law and Standards unanimously voted to adopt the insertion of a clause into the *ketubah* that made marriage conditional upon the husband granting a *get* without six months of a civil divorce. If the husband did not grant the *get*, then the *bet din* had the power to annul the marriage. This clause put an end to the *agunah* problem in the Conservative movement once and for all. Following the Conservative movement's decision, Orthodox thinkers began to speak more critically regarding Berkovits's proposals. In 1969, Menachem Kasher an Orthodox rabbi and editor of *Noam*, an annual journal on Orthodox Jewish thought, published an article forcefully attacking Berkovits's book. The article included a letter from Rabbi Weinberg stating that he regretted ever having written his approbation in support of Berkovits' book to begin with. The letter stated:

At the time that I wrote my letter, I was unaware of the discussion that had occurred in America…. Furthermore, I am surprised that the author [Berkovits], who certainly knew of the entire correspondence in this matter, dragged me into this controversy. Because of my poor health, I am not capable now of dealing with a matter of such serious implications and I regret ever having written the letter to him.[22]

As Marc Shapiro relates in a lengthy footnote in his book on Rabbi Weinberg, there is strong evidence, although no proof, that Kasher forged the letter. Until the end of his life, Berkovits claimed that the letter was a forgery, and Kasher never produced the original.[23] Whether or not the letter published by Kasher was forged, the damage to Berkovits's work was done. Future writings by Orthodox rabbis regarding the *agunah* issue either categorically rejected Berkovits's proposals or ignored them entirely.[24]

Thus, in the early 1970s, the *agunah* problem in America remained as unsolved as ever in Orthodox Judaism. Orthodox rabbis bemoaned the plight of the *agunah*, and some worked to solve individual cases for individual women, but no one offered any systemic solutions.[25] Luckily for the Orthodox rabbinate, divorce was still relatively rare among Orthodox Jews, and communal knowledge about the *agunah* issue was spotty at best. However, another element was about to be introduced into the *agunah* debate—the advent of Orthodox feminism. Whereas previously, it was non-Orthodox Jews who complained about the inequality of Jewish divorce law, the 1970s saw the emergence of a critique by individuals who remained squarely within the Centrist Orthodox camp.

This phenomenon caused a two-pronged response. On the one hand, a feminist critique from within could not be shut down by simply claiming that the speakers were outside the pale of Orthodoxy. The agitators were the wives, mothers, and daughters of Orthodox rabbis, leaders, donors, and synagogue members. They could not be dismissed that easily. On the other hand, if not properly answered, feminism could cause significant damage to Orthodoxy by weakening the faith and commitment of those who had become sensitized to issues regarding equality of women. Over the next two decades, Centrist Orthodox rabbis learned to tread carefully around the feminist issue, both invalidating feminist

arguments and incorporating more pro-woman language into Orthodox discourse at the same time. Although the women's liberation movement began in America in the early 1960s, feminist ideas took some time to percolate into the socially conservative and traditional Orthodox community. By 1972, however, discussions of women's rights within Orthodox Judaism had become prevalent enough to be covered by the *New York Times*. One young Orthodox woman, Deborah Weissman, stated, "Most of us have had these feelings of being left out but we never conceptualized them. The women's movement has galvanized us." Defining Weissman's statements as evidence of a new trend, the article went on to quote Dr. Irving Greenberg, a left-leaning Centrist Orthodox rabbi in Riverdale, New York, who noted:

At one time most people who felt strongly about such things checked out of the religion. Now we have people who are not leaving but are committed to the Orthodox experience and are challenging from within… they are ahead of their time, but I think they are the spearhead."[26]

Although feminist ferment had already reached the Reform and Conservative movements of Judaism, the critique noticed by Greenberg was new both because it came from within Orthodoxy and because those engaged in it refused to leave. Rather than seeking greener pastures in a more liberal branch of American Judaism or by leaving Judaism altogether, these women wanted to see change within Orthodoxy.[27]

It was not long before a modern Orthodox thinker explicitly labeled the *agunah* problem as a feminist issue. In a seminal 1973 essay, the left-leaning Rabbi Saul Berman, Chair of the Judaic Studies Department at Stern College for Women of Yeshiva University, engaged in a critical exploration of women's issues in Orthodox Judaism. Linking the *agunah* issue to the feminist critique of Orthodoxy, Berman declared, "From her complete silence at the traditional wedding ceremony, to the problem of the *Agunah*, the law seems to make women not only passive, but impotent to remedy the marital tragedies in which they may be involved…." He suggested a turn to the civil courts to "solve our problem for us" with the use of an ante-nuptial agreement that would require the parties to, at the dissolution of a marriage, "consent to and execute the issuance and acceptance of the Jewish divorce."[28]

In the same year that Berman's article appeared in *Tradition*, three different divorce cases addressing issues with respect to *agunot* were reported by New York courts.[29] Orthodox Jews were not immune to the increase in divorce rates in 1970s America, and as more Orthodox divorces made their way through the civil court system, the courts had more and more opportunities to weigh in on the *agunah* issue.[30] The decisions in these three cases would have a significant impact on the way the Modern/Centrist Orthodox community viewed the *agunah* problem. More than ever before, Modern/Centrist Orthodox rabbis would advocate a turn to the civil justice system to solve the problem for them, and more than ever before, they would realize how important it was for their hands to be guiding that system's efforts.

The first of the three cases, *Margulies v. Margulies*, involved a stipulation signed by the couple after their divorce that provided that the husband would grant his wife a *get*. The husband failed to comply with this stipulation, and was held in contempt of court, for which he was fined, and ultimately sentenced to jail for fifteen days. Although the Appellate Division overturned the incarceration order, it replaced it with a $450 fine, stating "…[W]e can only conclude that the defendant never intended to carry out the terms of the open court stipulation and that he utilized the court for his own ulterior motives. Such behavior may not be countenanced."[31] Later that same year, in a case called *Rubin v. Rubin*, a Bronx, New York, court cited *Koeppel* in upholding a couple's post-nuptial agreement to give a *get*, stating explicitly that the New York courts "have recognized the validity of an agreement to obtain a *Get*."

In *Pal v. Pal*, the last *agunah* case reported in 1973, the trial court upheld a post-nuptial agreement that not only specified that the parties had to effectuate a *get*, but also detailed how the rabbis on the Bet Din should be selected.[32] On appeal, the Appellate Division reversed, holding that the trial court "had no authority to, in effect, convene a rabbinical tribunal." Because the trial court has interfered in

the actual *get* giving process, a religious procedure, it had strayed into forbidden territory. However, it went on to say that the husband, by failing to grant his ex-wife a *get* in keeping with the divorce judgment, did not come into court with "clean hands." Thus, while the court refused to uphold the trial court's interference in the actual convening of a Bet Din, it also was unwilling to let Mr. Pal get away with refusing to grant his former wife a *get* as had been ordered.[33]

All three of these court cases showed that, at least in theory, New York courts were willing to enforce agreements to render a *get*. Orthodox rabbis concerned with the *agunah* problem took note, and began to ponder how the civil courts could best assist them in encouraging recalcitrant husbands to grant their wives *gittin*. One of the first ideas explored by Orthodox rabbis was the implementation of ante-nuptial agreements, as Saul Berman had suggested in his 1973 article on women's rights. Ante-nuptial agreements in contemplation of divorce had, up until this point, been considered void by most states because they were deemed contrary to public policy for giving incentive to divorce. However, the law with respect to such agreements was changing in the early 1970s due to the increased social acceptability of divorce and the corresponding surge in divorce cases. The Modern/Centrist Orthodox community had taken notice of the new legal acceptability of such agreements, and rabbis published a number of articles in the early 1970s exploring the halakhic and legal ramifications of using some type of prenuptial agreement to prevent situations of *aginut*.[34] As divorce rates continued to rise, and rabbis from liberal branches of Judaism increasingly performed weddings for couples no matter the status of their previous marriages, Orthodox rabbis feared that if they did not figure out a way to solve the *agunah* problem, they would be faced with scores of *mamzerim* in the coming generations.[35] Furthermore, rabbis perceived the feminist critique of Orthodox divorce law as a threat to the stability of the Orthodox community. At the same time, however, Orthodox rabbis did not want to be seen as caving in to pressure from the feminist community, and they feared systemic halakhic solutions that empowered the Bet Din to grant a *get* when a husband was unable or unwilling to do so. Thus, any solution to the *agunah* problem would have to tow a fine line between solving the problem and not appearing too radical or transformative of normative Orthodox practice.[36]

Thus, while pressure by feminists and *agunah* activists on Orthodox rabbis to free *agunot* continued to increase during the 1970s and 1980s, the pressure did not lead to their desired results. Although the Orthodox rabbinate increasingly discussed more global solutions to the *agunah* problem in addition to its traditional focus on getting individual recalcitrant husbands to grant *gittin*, the solutions they came up with not only lacked effectiveness, but also outsourced the problem to the secular courts. At the same time, centrist rabbinic leaders maintained a constant barrage of criticism toward feminists and *agunah* activists for undermining God's will and millennia of Jewish life and law.

One of the first rabbinic responses to the link between feminism and the *agunah* problem was penned by Moshe Meiselman, then-*Rosh Yeshiva* at the Yeshivath Brisk in Chicago. Discounting Saul Berman's feminist critique of Orthodox theology, Meiselman sneered, "What are the forces of the male dominated society of which Rabbi Berman speaks? They are none other than the Almighty Himself and the divinely inspired Psalmist, David, King of Israel." Protesting that Orthodox Judaism was already sufficiently concerned with the lot of women, Meiselman declared, "It goes without saying that we must be concerned with the religious quest and observance of women. It also goes without saying, something that Rabbi Berman implicitly seems to deny, that this has always been true of religious leaders throughout the millennia."[37] With respect to the *agunah* issue, Meiselman dismissed Berman's potential solution of an ante-nuptial agreement out of hand. Like the Orthodox critique of the Lieberman clause, Meiselman couched his dismissal of the idea in both halakhic and legal terms. "One does not arrive at solutions as quickly and easily as Rabbi Berman suggests," he scorned:

> His form of antenuptial agreement, I have been told, would not be upheld in court. A secular court cannot enforce a contract to perform a religious act. While there are countless varieties of antenuptial agreements that could be drawn up, I seriously tend to doubt that most people would sign them.

Meiselman's comments about the legal validity of ante-nuptial agreements were, of course, flawed. By 1975, the New York State courts had made it quite clear that they would, in fact, enforce a properly-worded contract to effectuate the giving of a *get*. Meiselman's response to the *agunah* problem was to discount any proposed solution.[38]

Meanwhile, the New York State courts continued to uphold agreements to effectuate *gittin*. In the 1976 case of *Waxstein v. Waxstein*, the court enforced a provision in the couple's separation agreement requiring the husband to grant his wife a *get*, stating unequivocally, "A separation agreement is a contract, and if lawful when made will be enforced by the courts like any other contract…." The Appellate Division unanimously upheld the trial court's ruling, and the Court of Appeals denied Arthur Waxstein's motion for leave to appeal. The *Waxstein* decision left no question that the New York State courts were willing to enforce agreements to give a *get*.[39]

At the same time, Orthodox Jews, especially women, were speaking out more and more about issues that troubled them in Orthodox Judaism, particularly the situation of *agunot*. The year 1977 saw a rash of articles in Jewish publications about women's issues in traditional Judaism, and particularly about Jewish divorce law. One author, Blu Greenberg, who later became known as the "mother of Orthodox feminism,"[40] criticized the Orthodox rabbinate for inaccurately portraying Jewish law with respect to *agunot*, declaring, "men can no longer decide that it's alright for women to suffer indiscriminately."[41] At the 1977 RCA Annual Convention, the rabbinical organization took the unprecedented step of organizing a public session on issues of women and Orthodox Judaism. The all-male panel of three found themselves facing the difficult questions of rabbis' wives, angry about the plight of *agunot*.[42]

More than just talking, Orthodox women were beginning to organize. In 1979, a group of women from the Young Israel of Flatbush in Brooklyn, New York founded an organization called Getting Equitable Treatment, or G.E.T. Gloria Greenman, the founder and first president said, "We were commiserating over a friend's daughter (who had been unable to obtain a *get*), and I just said, 'Let's stop talking, let's do something.'" The organization assisted women through the Bet Din process and advocated for the social shunning of recalcitrant husbands, including preventing them from receiving synagogue honors. By 1984 the organization had 400 members, most of whom were Orthodox. Greenman noted that G.E.T. had wrought significant changes in the attitudes of the rabbis. "The rabbis have felt the need more than ever to do something," she observed.[43]

However, at least in writing, much of the Centrist Orthodox leadership claimed to be uninfluenced by feminist ferment. In 1978, Yeshiva University Press published a book as part of its Library of Jewish Law and Ethics that it touted as an "in-depth treatment of Jewish feminism." The book, entitled *Jewish Woman in Jewish Law*, was written by Moshe Meiselman, the same rabbi who had critiqued Saul Berman's piece on Orthodox women's issues in 1975 and sported an Editor's Forward written by Norman Lamm, the President of Yeshiva University.[44] Arguing that feminism "is based on a very definite value structure which is at odds with Jewish values on a number of basic points," Meiselman defended the Orthodox status quo regarding the *agunah* problem, dismissing all those who had, throughout the past century, attempted to suggest systemic halakhic solutions as being "not sufficiently versed in the Jewish marriage and divorce laws."[45]

After scathing critiques of the Lieberman and Berkovits proposals, Meiselman concluded, "The only remedy that seems to be consistent with Jewish law is the one specifically suggested by the Talmud—the use of the secular judicial system."[46] However, although he reviewed in detail the New York case law on the subject, Meiselman equivocated even about this possible solution. "At this time," he wrote, "it is still unclear what direction the courts will take." "Fortunately," Meiselman reassured his readers, "cases where husbands refuse to grant divorces when required by Jewish law are few and far between, and a beth-din very often has sufficient power, by using social pressure, to secure compliance with its decision."[47]

Unwittingly, Meiselman created a template for the late twentieth century American Orthodox party line in his analysis of the *agunah* problem. He created a pattern of (1) discounting any systemic halakhic solution, (2) minimizing the problem, (3) calling for a solution that used the secular judicial system, and (4) refusing to outline what such a solution might look like. Meiselman's book did not bring the Orthodox establishment any closer to solving the *agunah* problem; it simply supported the status-quo. However, in one way Meiselman's book represented a sea change: By the late 1970s, the Centrist

Orthodox rabbinate was addressing the feminist critique of Orthodoxy and the issue of *agunot* more frequently and in a more in-depth fashion than ever before. While solutions were not forthcoming, the issue was no longer being ignored.[48]

The arguments of Meiselman and others like him did not stop the feminist critique of Orthodoxy. In 1981, Blu Greenberg published a book on Orthodox feminism entitled *On Women and Judaism*, in which she devoted an extensive chapter to the issue of divorce in Jewish law. After reviewing the history of rabbinic debate over the issue, Greenberg called for a systemic halakhic solution to solve the problem once and for all. To rabbinic leadership who would call her ideas anti-halakhic, Greenberg responded thus:

> To say [rabbis'] hands are tied, or to say they can resolve an individual problem, but not find a global solution, is to deny their collective responsibility. Worse, it bespeaks a lack of rabbinic will to find a halakhic way. What they are really saying is they are not worthy of the authority vested in them, for well they know that the only person whose hands are tied is the woman whose family must pay blackmail.

Greenberg went on to warn rabbis of the potential results of their inaction: "Growing numbers of Jews [will] solve their problems elsewhere."[49] The fact that *Tradition* published two extensive reviews critiquing Greenberg's book showed that hers was a voice that the Orthodox rabbinate could not ignore.[50]

Interestingly, however, when rabbis finally acted to implement some solution to the *agunah* problem, the action did not come from the centrist camp, but rather from the right-wing Agudath Israel. A number of reasons likely contributed to this development. First, even in the early 1980s the Agudah still had more experience advocating for specifically Orthodox Jewish causes in the public sphere than the RCA or OU.[51] Additionally, while Centrist Orthodox rabbis remained fearful of appearing to cave to feminist pressure, right-wing Orthodox rabbis were sufficiently distanced from feminist ferment. Lastly, Centrist Orthodox rabbis were far more concerned with their standing in the eyes of the right wing than vice-versa, and likely feared the reaction of the right to any solution they might raise to the *agunah* problem.

In 1981, the same year as Greenberg's book was published, Rabbi Moshe Sherer, President of Agudath Israel of America, gathered a group of nationally-known Jewish lawyers, Alan Dershowitz, Nathan Lewin, and Aaron Twersky at the Agudah's offices in New York City. Sherer, who had close connections with Speaker of the New York State Assembly Sheldon Silver, believed he could get some form of legislation passed in this area, and he wanted these lawyers to help him come up with what the legislation should be.[52] The proposed law ultimately drafted by the group required the filing of an affidavit by the plaintiff in any divorce action that stated that "to the best of his or her knowledge, he or she has … taken all steps solely within his or her power to remove all barriers to the defendant's remarriage….; or that the defendant has waived in writing the requirements of this subdivision."[53] Before sending it to Sheldon Silver, the Agudah sent the draft bill for approval by rabbinic heavyweights including Rabbi Moses Feinstein. All the rabbis consulted gave the bill their stamp of approval, assuring that a *get* given as a result of this law would not qualify as a halakhically invalid "*get meuseh*," a coerced *get*.

Despite several objections on church-state separation grounds, the *Get* Bill passed with ease through the New York State Legislature and was signed into law by Governor Mario Cuomo on August 10, 1983.[54] At the ceremonial signing of the bill into law, Sherer triumphantly declared, "This is a happy day for many sad people." The Centrist Orthodox rabbinate also touted the new law. The Orthodox Union, at its 84th National Convention in 1983, passed a resolution entitled "Divorce," which read:

> All member congregations are urged to deny the benefits of membership; and community sanction to men who refuse to grant their wives a *get* following civil divorces….The Orthodox Union and its

constituent synagogues shall work to create legislation in all states comparable to New York's [*Get*] Law, which seeks to ensure that all impediments to a successful civil divorce, including the granting of a *get*, are removed before a divorce is granted.

The publicity surrounding the law said nothing about the possibility of halakhic solutions to the problem. Indeed, the Agudah scored a public relations coup, portrayed in the press as an activist and politically savvy organization that used its power to help *agunot*.[55]
Notwithstanding all the hoopla surrounding passage of the 1983 *Get* Law, the actual effectiveness of the law was minimal at best. The law was only effective against plaintiffs in civil divorce actions in the State of New York. Thus, in the far more common situation in which the recalcitrant husband was the defendant in the divorce action, he would not be required to file an affidavit before receiving his divorce. And of course, the law could do nothing to help women seeking a *get* outside New York. In the wake of the passage of the 1983 *Get* Law, the only solutions offered by the Orthodox rabbinate for the plight of *agunot* were communal sanctions, and the largely ineffective law itself. [56]
At the same time, Centrist Orthodox rabbis continued to rail against feminists and their arguments on behalf of *agunot*. Rabbi Emanuel Feldman, the Associate Editor of *Tradition* published a contemptuous critique of Blu Greenberg's *On Women and Judaism* in 1984. He scathingly declared the book to be

a recounting of feminist arguments of the most conforming sort, papered over with occasional halakhic rhetoric which barely conceals that which lies underneath: imprecise scholarship, slippery logic, and major conclusions often based on nothing more than personal feelings, emotions and intuitions.[57]

Feldman concluded that Greenberg's book was "an object lesson in how not to approach the halakhic system," one that created "a web of confusion in which halakhah—and ultimately, women themselves—emerge the losers."[58]
However, another response to feminist ferment also emerged. The OU began to take pains to be seen as concerned with women's status in Orthodox Judaism. That same year, it passed a resolution entitled "The Orthodox Woman in Contemporary Society" which read:

The Orthodox Union supports women in their ongoing quest for greater involvement within the Orthodox community.… Rabbis and congregations are urged to seek to increase the participation of women in Torah study programs.… Member congregations shall take all necessary steps to enable female members to participate more fully in synagogue programs.

Such a resolution, although toothless, portrayed to the Orthodox rank-and-file that their rabbinate was concerned with women's issues and helped bolster arguments that the Orthodox rabbinate was not ignoring women's complaints about Orthodox Judaism.
Meanwhile, in 1983 the highest court in New York State issued the strongest statement of any American civil court yet about the enforceability of an agreement to give a *get*. The case, *Avitzur v. Avitzur*, interestingly involved a couple who had been married using the Conservative *ketubah* that incorporated the Lieberman Clause into its text. Following the couple's civil divorce in 1978, Boaz Avitzur refused to comply with the Lieberman Clause and grant his ex-wife a *get*. The case ultimately ended up in the Court of Appeals, the highest court in New York State, which ruled that the Lieberman Clause of the *ketubah* was enforceable just like any other contract; there was "nothing in law or public policy to prevent judicial recognition and enforcement of the secular terms of such an agreement."[59]
Boaz Avitzur appealed to the Supreme Court of the United States which declined to hear the case, thus allowing the decision of the Court of Appeals to stand.

As the first decision by the highest court of any state to address issues of *get* acquisition, *Avitzur* was closely watched by the Orthodox community.[60] It did not take long for Orthodox leadership to analyze the meaning of *Avitzur* from both a legal and halakhic perspective. Amazingly, such analyses often continued to discount the possibility of using a civil agreement to ameliorate the *agunah* problem. Rabbi J. David Bleich, now a *Rosh Yeshiva* of Yeshiva University, reiterated the oft-stated Orthodox rabbinic claim that "there were, and indeed still are—many serious questions regarding the enforceability of [an ante-nuptial] agreement in civil courts." Such arguments held little water in the wake of *Avitzur*, a fact Bleich begrudgingly admitted when he wrote that the decision in *Avitzur* "serves to endow this document with some legal authority." [61]

In the years following the *Avitzur* decision, though, due to continued pressure from women within their ranks and incontrovertible evidence of acceptability from civil courts, Centrist Orthodox rabbis became increasingly open to the idea of prenuptial agreements, even if not in the form taken by the Lieberman Clause. Indeed, J. David Bleich himself published an article in *Tradition* in 1986 arguing in favor of a particular format for a prenuptial agreement which he argued would address both halakhic and American legal issues.[62] A few years later, Rabbi Shlomo Riskin, a well-respected member of the Centrist Orthodox rabbinate's more liberal wing, published a book entitled *Women and Jewish Divorce: The Rebellious Wife, The Agunah and the Right of Women to Initiate Divorce in Jewish Law, a Halakhic Solution*. The book argued for a systemic halakhic solution to the *agunah* problem, but realizing that adoption of any such solution would be nearly impossible, Riskin concluded with a far more practical call for the use of prenuptial agreements that would cause a husband to pay his wife a specific sum on a daily basis until he gave her a *get*.[63]

As Centrist Orthodoxy warmed to the idea of prenuptial agreements to prevent *agunot*, right-wing Orthodoxy continued to avoid acknowledging the extent of the *agunah* problem and remained steadfast in its opposition to any innovation to solve it other than communal sanctions and the 1983 New York *Get* Law. In a 1988 *Jewish Observer* article dedicated to discussion of marital problems and divorce in the Orthodox world, Aaron Twerski, one of the attorneys who had worked on the 1983 *Get* Law, came out staunchly against taking divorce disputes to civil court. While Orthodox *agunah* activists had often claimed that the Bet Din system favored men over women, Twerski assured his readers that "in fact, *batei din* that deal with family law problems are staffed with fine, *ehrliche rabbanim*—men of integrity who do their utmost to deal with the issues honestly, conscientiously, and in a manner consistent with Torah principles." Not once in the entire article did Twerski mention the word "*get*" or "*agunah*," although he discussed many other issues that could arise in a matrimonial dispute, including counseling, child custody battles, and impact of divorce upon children.[64]

The Agudah also worked to discredit feminists who criticized the rabbis for not solving the *agunah* problem. In 1990, the *Jewish Observer* published an article by Rabbi Yissochar Frand that was a scathing critique of feminism in general, and Blu Greenberg specifically. Frand firmly closed the door on the possibility of any halakhic innovation to assist *agunot*, declaring emphatically, "What was *assur* (forbidden) yesterday, remains *assur* today, and what is *mutar* (permitted) today was always *mutar*…. Halacha is not an amorphous area wherein changing social needs can be legislated…." Railing against feminism as a "subtle and insidious" threat to Judaism, Frand discounted feminist critiques of the Orthodox rabbinate's failure to help *agunot*. He objected that the rabbis cared enormously about *agunot*, relating a hagiographic story that Rabbi Moshe Feinstein suffered from a stomach ailment that flared up each time he had to deal with an *agunah* question. "Yet," he protested, "these militant feminists claim that the rabbis don't care!" Like his rabbinic predecessors had done with respect to other civil court solutions, Frand insisted that "according to legal experts in the U.S., this type of [ante-nuptial] agreement is probably not enforceable in most jurisdictions." Frand's solution to the *agunah* problem was social ostracism until the husband gives a *get*. He admitted that a recalcitrant husband could go to a different community and avoid such punishment, and also that there were cases in which such a "scoundrel could buy… himself a *beis din* which rules in his favor." Despite this, Frand concluded his discussion by invalidating any legal or halakhic solution to the *agunah* problem, saying that Orthodox Jews "must continue to seek social cures for what is essentially a social malaise."[65]

Such arguments were no longer working for many Orthodox women denied a *get*, and they and their attorneys increasingly turned to civil courts to obtain relief. The courts responded. In 1992, a New

York Appellate Division decision called *Golding v. Golding* opened a window into the internal workings of some Batei Din during *agunah* cases. David Golding told his wife that he would not give her a *get* unless she gave into every demand he made with respect to the divorce settlement. The parties appeared before a Bet Din, and the rabbis presented Mrs. Golding with a document in Hebrew listing all of her husband's demands and told her to sign it or she would not receive her *get*. Fearing becoming an *agunah*, Mrs. Golding signed the document. The court held that the settlement was invalid because it constituted "inequitable conduct" and that there had been "no indication of rabbinical arbitration." Despite the evident coercion that existed in the *Golding* case, an Orthodox rabbi quoted by the *New York Times* in an article about the decision continued to claim that Batei Din took care to make sure that women would not be victimized by any "spitefulness or revenge on the part of husbands."[66]
Cases like *Golding* were embarrassing to the Orthodox rabbinate. Not only did they portray Jewish divorce law as inequitable and unfair to women, they also exposed the failings of some Batei Din to act ethically in protecting women's rights. While the Agudah continued to deny the existence of a problem, the Modern/Centrist Orthodox rabbinate, with its more rights-oriented congregants, was no longer able to do so. Thus, in 1991, as the trial court's decision in the Golding case was winding its way through the Appellate Division, the RCA issued a resolution acknowledging the abuses taking place, and acknowledging that such abuses were a "*chillul Hashem*," an embarrassment to the Jewish community. Among other things, the resolution called for the RCA Halacha Committee to develop a legally and halakhically valid pre- or post-nuptial contract that would help solve the *agunah* problem, and condemned "in the strongest terms" using the withholding of a *get* as a form of blackmail. This was the strongest institutional statement yet to come from an Orthodox rabbinic body acknowledging the existence of a serious problem of abuse of the *get* process.[67]
As the RCA was passing its 1991 resolution, a New York state trial court was hearing another *agunah* case that would soon become notorious in the Orthodox world. The case, *Schwartz v. Schwartz*, involved the divorce of a well-known couple in the Orthodox community—Naomi Schwartz's father was the publisher of the national Centrist Orthodox weekly newspaper, *The Jewish Press*. Her husband, Yehuda Schwartz refused to give her a *get* unless she turned over a large number of shares in the *Jewish Press*. The case was splashed across the pages of the *Jewish Press* for close to a year, and was even picked up by other mainstream New York periodicals.
More than any previous *agunah* case, *Schwartz v. Schwartz* raised awareness in the American Jewish community and in New York State at large, about the *agunah* problem and the suffering of *agunot*. Articles about the case related in lurid detail the regularly-occurring instances of husbands blackmailing their wives to turn over property and large sums of money in exchange for a *get*. One article in the *Village Voice* detailed the particularly egregious case of a man who was separated from his Holocaust-survivor wife. The man refused to give his wife a *get* unless she turned over the money she received in war reparations from the Germans. Another article, published in *New York Magazine*, detailed the story of a woman whose husband was withholding her *get*. As the article related, the woman ended up receiving the *get* because her husband "dragged her for a block as she held on to the open door of his car, breaking her leg. She got her *get* after giving him $15,000 and agreeing not to file assault charges." The press depicted the Orthodox rabbinate as sexist and patriarchal, and therefore unwilling to find solutions to such abuses.[68]
Ultimately, the court in *Schwartz v. Schwartz*, pointedly noting "the unequal allocation of power between spouses to terminate a religious marriage—particularly where the partners are of the Jewish faith," allowed Naomi Schwartz to bring in evidence of Yehuda Schwartz's coercion and withholding of the *get* at the future hearing on property division.[69] At that hearing, the court held that, because he withheld the *get*, Yehuda Schwartz forfeited his claim to a substantial amount of marital property totaling $184,500. In the interim, in October 1993, he finally gave his former wife her *get*.[70]
In the wake of the *Schwartz* ruling, Sheldon Silver, the New York State Assemblyman who had proposed the 1983 *Get* Law, proposed another bill to assist *agunot*. This bill essentially codified the holding of the *Schwartz* court, providing that a judge could consider the existence of a barrier to remarriage as a factor in the distribution of assets in a divorce action in the State of New York. It was passed unanimously by both the Assembly and the Senate in 1992, and was signed into law by Governor Cuomo later that year. As in the case of the 1983 *Get* Law, Orthodox organizations sent

letters to the governor urging him to sign the new *get* bill into law. However, this time, there was a glaring difference: while three centrist Orthodox organizations—COLPA, the National Council of Young Israel, and the OU—wrote in support of the law, the Agudah did not. Indeed, the Agudah strongly opposed the law, even threatening to fight for its repeal, because its rabbinic leadership felt that it would cause violations of the prohibition against a *get meuseh*, a coerced get. If a husband faced financial repercussions for withholding a *get*, the right-wing Orthodox rabbinate argued, this constituted coercion on him. Since a *get meuseh* was halakhically invalid, the 1992 *Get* Law could cause the invalidation of numerous *gittin*, with all the requisite problems such invalidation would create.[71]

The Agudah's articulation of its opposition to the law showed its hostility toward feminist activists as well as its ongoing passivity regarding any possible solution to the *agunah* problem. In a 1993 *Jewish Observer* article, Chaim Dovid Zwiebel, the Director of Government Affairs and General Counsel for the Agudah, acknowledged the existence of an *agunah* problem, but quickly added:

> To be sure, there is ample basis to cast a skeptical eye on the claims that have been advanced by certain "*aguna* activists" about the alleged magnitude of the problem within the Orthodox Jewish community. There is also good reason to beware the larger agenda of the some of these activists, whose rhetoric often cultivates disrespect for established halachic procedures and rabbinic leaders, and who use the *aguna* issue to promote some of the most insidious anti-Torah values of contemporary secular feminism.

Zweibel went on to argue that "there are situations where a husband may be fully justified in not wanting to give his wife a *get*, or where a wife is not entirely without blame herself for her husband's recalcitrance." Although he closed by reminding readers that "we must not lost sight of the seriousness of the *aguna* problem and of the urgent moral imperative it places on us," Zwiebel did not offer any solution to the *agunah* problem; he simply discredited the 1992 *Get* Law and those who supported it and renewed the decades-old vague call for rabbis to give "careful study" to proposed solutions.[72]

The 1992 New York *Get* Law proved far more effective than its 1983 predecessor in addressing individual cases in which a recalcitrant husband refused to give his wife a *get*, however it, too, was limited in its ability to systemically solve the *agunah* problem. First, it only affected divorce cases filed in the State of New York. While the vast majority of Orthodox Jews in America lived in New York, there were certainly large Orthodox communities in other states with *agunot* who could not be helped by the New York *Get* Laws. Furthermore, the 1992 law would do nothing to assist an *agunah* who had no significant marital assets at issue. Without the division of the marital estate to hold over a recalcitrant husband's head, there would be no economic impetus for him to grant his wife a *get*. The same held true for very wealthy men who had retained assets outside their marriages. Such men would not need the assets from their marriage, and thus would not be pushed to give *gittin* to their former wives.

While *agunah* activists celebrated the 1992 *Get* Law, they also recognized its shortcomings and continued to argue for a systemic halakhic solution to the problem. As the ranks of activists grew through the late 1980s and early 1990s, the Modern/Centrist Orthodox rabbinate found it more and more difficult to ignore or discredit their voices. In addition to G.E.T., another *agunah* rights group called Agunah, Inc. had been founded in 1987 by a group of Orthodox women *agunah* activists, including Rivka Haut. Whereas G.E.T. worked behind the scenes to advocate for individual women to receive their *gittin*, Agunah, Inc. took a more activist path. Women from Agunah, Inc. spoke out frequently about Batei Din that permitted husbands to blackmail their wives in return for a *get*, and issued repeated calls for systemic halakhic action on the part of the Orthodox rabbinate to solve the *agunah* crisis. They led protests in the streets of Brooklyn, in front of the homes of recalcitrant husbands, and even at two of Agudath Israel's Annual Conventions. On a more national level, a 1989 documentary about Jewish feminism in the United States, Canada, and Israel presented Orthodox feminist Alice Shalvi publicly calling Orthodox rabbis to task for not working harder to solve the *agunah* problem. "If the rabbis really heeded the basic meaning of Judaism," she declared, "they could

not possibly behave in as uncompassionate a manner as they do without relating to the pain and … misery" of *agunot*.[73]

Thus, as feminist ferment and publicity about the *agunah* problem continued to grow and spread, the Centrist Orthodox rabbinate found itself forced to offer a more substantive solution or risk appearing uncompassionate and closed-minded in the face of women's suffering. In 1993, the Centrist Orthodox Caucus unveiled a new prenuptial agreement that would, it claimed, solve the *agunah* problem for those who signed it. The agreement, drafted by Rabbi Mordechai Willig, provided that every day that husband and wife are separated without a *get*, even prior to the issuing of a civil divorce, the wife was entitled to receive a per diem sum of money for her support. The husband and wife also contracted to appear before an agreed-upon Bet Din to arbitrate the *get*. If the wife should fail to appear before the Bet Din, or fail to abide by its decision, the husband's financial obligation toward her would terminate. As one of the *roshei yeshiva* at RIETS, Willig had the stature and halakhic authority in the centrist Orthodox world to draft such a document. No friend of feminism, Willig had been one of the famed "RIETS 5," a group of five rabbis at RIETS that had issued a proclamation in 1984 outlawing Orthodox women's prayer groups. Willig would not be accused by other Orthodox rabbis as pandering to the left-wing of Orthodoxy or to feminists.[74] Furthermore, in contradiction to his forebears who painted such agreements as dangerous inventions of those not sufficiently concerned with halakha, Willig presented the prenuptial agreement as being rooted in a centuries-old precedent, arguing that this should assuage the "reluctance of *rabbanim* to introduce innovations to the institution of marriage."[75]

The Centrist Orthodox rabbinate quickly rallied around Willig's prenuptial agreement, celebrating the agreement as an effective tool to reduce the number of *agunot* in America. One Orthodox rabbinic leader went so far as to call it "a light at the end of the tunnel" for the *agunah* problem. The RCA immediately adopted a resolution in June 1993 calling upon its members to utilize Willig's or another rabbinically approved prenuptial agreement prior to performing any wedding, an act "which will aid in our community's efforts to guarantee that the *get* will not be used as a negotiating tool in divorce proceedings." The Orthodox Caucus disseminated copious information about the agreement, ultimately publishing a booklet in 1996 containing the text of the agreement and instructions for its use together with articles about the history of the *agunah* problem, the halakhic justification for the Willig prenuptial agreement, and a list of approbations for the agreement received from halakhic authorities in America and Israel. While a number of Centrist Orthodox rabbis since the 1970s had proposed the use of prenuptial agreements to help solve the *agunah* problem, many others had objected to such agreements as unhalakhic. The Willig prenuptial agreement ended all of these objections.[76]

Agunah activists greeted the news of what quickly became known as the "Willig prenup" with less excitement than did their rabbinic leaders. Although they were relieved that the rabbis were finally attempting to implement a more global solution to the *agunah* problem, they saw the RCA's embracing of the Willig prenup as too little, too late. Pointing out that prenuptial agreements similar to Willig's had been in use for years, they complained that rabbinic leaders were "the last to endorse the agreements." Furthermore, like every solution implemented by rabbis in the twentieth century, they recognized that the Willig prenup was flawed in its ability to protect women from becoming *agunot*. Of course, like the Lieberman Clause, the Willig prenup was only helpful if the couple signed it. Even once signed, the goal of the agreement was not to get the woman her *get*, but rather to get the couple to appear before the Bet Din. Under the agreement, if the wife failed to appear to the Bet Din, or failed to abide by the Bet Din rulings, she forfeited her right to the "support payments" from her husband. Rather than ensuring that each woman who signed the Willig prenuptial agreement would receive a *get* , the agreement merely ensured that the couple would submit to the authority of the Bet Din, authority that had over and over again failed to help *agunot*. Additionally, like all the civil court solutions, the Willig prenuptial agreement would not assist women whose husbands had disappeared, had become insane or otherwise incapacitated, had no assets, or were wealthy and vindictive. Lastly, in order to enforce the financial provisions of the prenuptial agreement, a woman would have had to file suit in civil court, a process sure to cost her copious legal fees and a great deal of time. Rather than solving the *agunah* problem, the Willig prenuptial agreement merely ensured that the Batei Din would retain their control over Orthodox Jewish divorce cases, control that had done little over the past century to

help *agunot* in America.[77]
The Agudah, for its part, did not embrace the use of prenuptial agreements. Rather, it continued to insist on the efficacy of the 1983 New York *Get* Law and the use of social sanctions to assist *agunot*. Using the 1992 *Get* Law or the Willig prenuptial agreement to obtain a *get* required a woman to use the secular court system, something the Agudah was loathe to permit its members to do. Indeed, in 1993, the *Jewish Observer* published another article by Chaim Dovid Zwiebel, which warned readers that halakha mandated that they litigate all matters in the Batei Din, not civil courts.[78] The fact that women almost always fared better in terms of property division in civil court was of no concern to right-wing Orthodox rabbis. In fact, many right-wing Batei Din refused to hear cases if the woman had already filed suit in civil court. The end of the twentieth century saw few developments to assist *agunot* in the right wing Orthodox world.[79]

Conclusion

In the waning years of the twentieth century, the strongest champions Orthodox women had in their fight against becoming *agunot* were the civil courts. Throughout the century, Orthodox rabbis had failed to put forth effective solutions to solve the *agunah* problem, preferring to use the secular state apparatus resulting in solutions that were flawed and inadequate. In the wake of the decision in *Schwartz v. Schwartz*, Rivka Haut wrote a letter to the editor of the *New York Times* saying:

The Orthodox rabbinate has abandoned the Torah principles of justice and compassion, persistently refusing to implement Jewish law appropriately and to provide true justice, leaving it up to the civil courts of this state to protect Jewish women and children. Perhaps the rabbis will now follow the model set by civil court judges and will utilize Jewish law in order to help those who abide by it.

Haut's letter reflected the view of *agunah* activists and Orthodox feminists that a solution to the problem had not been achieved. Although permitting an open dialogue about women's rights ultimately forced the Centrist Orthodox rabbinate out of its passivity about the *agunah* problem, the solutions it implemented were flawed at best. The right-wing Orthodox rabbinate, by never opening itself up to feminist ferment, was able to offer up a largely ineffective law as its only solution to the *agunah* problem. In the end, twentieth century American Orthodox women, like their tenth-century forebears, were dependent on the non-Jewish world around them to protect them from *get* extortion and to save them from becoming *agunot*.

[1] As quoted in Shlomo Riskin, *Women and Jewish Divorce: The Rebellious Wife, the Agunah and the Right of Women to Initiate Divorce in Jewish Law, a Halakhic Solution.* New Jersey: Ktav Publishing House, Inc. 1989, 58.
[2] I have transliterated Hebrew terms consistently throughout this paper, except when quoting a source that transliterated them differently. In such a case, I retained the transliteration used by the author.
[3] Jewish law requires that in order to divorce, a husband must give his wife a bill of divorcement called a "*get*." If a man is either unable or unwilling to grant his wife a religious divorce, she is left as an *agunah*, literally an anchored woman, who is unable to remarry. Such an instance might arise if a husband deserts his wife and disappears, dies without any witnesses to his death, is legally incompetent to grant a *get*, or simply refuses to grant a *get*. Furthermore, if a woman who is still halakhically married to her husband—even if they are civilly divorced—is impregnated by another man, the child born of that union is deemed a *mamzer*. Typically translated as "bastard," the status of *mamzer* is far more significant under Jewish law than a simple social stigma. A *mamzer* and any descendant of a *mamzer* may only marry another *mamzer* or descendant of a *mamzer*.
[4] This article will not comment on the merits of the various halakhic proposals that have been put forth over the past 2,000 years to solve the *agunah* problem, neither will it engage in halakhic discourse about the issue. Rather than debating the *halakha* regarding the *agunah* issue, this paper is concerned with the way others engaged in the debate. I argue that the substance of the debate is actually less important than the political and sociological influences that surrounded those engaging in the debate.

[5] Anna R. Igra, *Wives Without Husbands: Marriage, Desertion & Welfare in New York, 1900–1935* (Chapel Hill: University of North Carolina Press, 2007), 14–15; Isaac Metzger, ed. *A Bintel Brief: Sixty Years of Letters from the Lower East Side to the Jewish Daily Forward* (New York: Doubleday & Co., 1971), 15–16.
[6] The reasons for this development are complex, and beyond the scope of this article.
[7] Schwartz, 40–41; George Dugan, "New Marital Law to Stem Divorce Adopted By Conservative Movement," *The New York Times*, November 14, 1954, 1.
[8] Shapiro, *Saul Lieberman and the Orthodox*, 44. Shapiro suggests that the negative vote on the part of the RCA may have been due to Rabbi Moshe Feinstein's ban against any Orthodox rabbi participating in non-Orthodox rabbinic or lay groups.
[9] Interestingly, the organizations explained that they issued their decision after a thorough investigation by the Halachah Commission of the Rabbinical Council of America, headed by none other than Rabbi Soloveitchik, who had previously sought to join forces with Lieberman on this very issue. Irving Spiegel, "Orthodox Rabbis Condemn Change," *The New York Times*, December 5, 1954, 59. For another example of centrist rabbinic response to the Lieberman clause, see Norman Lamm, "Recent Additions to the Ketubah: A Halakhic Critique," *Tradition*, 2:1 (Fall 1959), 93–118, in which Rabbi Norman Lamm, the future President of Yeshiva University, denounced the Lieberman Clause as outside the realm of halakha.
[10] http://israel613.com/books/KOLKORE_KETUBA_CONSERVATIVE-EY.pdf (accessed December 24, 2009).
[11] Irving Spiegel, "Orthodox Rabbis Condemn Change; Ask Conservatives to Give Up Marital Contract Revision as Dividing Jewish Life," *New York Times*, December 5, 1954, 59.
[12] A. Leo Levin and Meyer Kramer, *New Provisions in the Ketubah* (New York: Yeshiva University 1955), Introductory page.
[13] *Koeppel v. Koeppel*, 138 N.Y.S.2d 366, 373 (Sup. Ct. Queens Co. 1954). Of course, the judge showed his lack of understanding of Jewish divorce law by this decision, since he apparently believed that the Bet Din could render a decision divorcing the couple, when in fact, under Jewish law, the husband had to issue the divorce himself.
[14]The Appellate Division affirmed the decision, reasoning that a get was not "necessary" as specified in the contract because Maureen Koeppel had managed to get married again with a rabbi officiating *Koeppel v. Koeppel*, 3 A.D.2d 853, 161 N.Y.S.2d 694 (2d Dep't 1957).
[15] Trude Weiss Rosmarin, "The Agony of the Agunah," *Conservative Judaism*, XX.1 (Fall 1965), 53.
[16] Other systemic halakhic solutions had been proposed early in the twentieth century, but had all been either rejected or ignored by the Orthodox rabbinate.
[17] Eliezer Berkovits, *T'nai B'Nisuin u've Get* (Jerusalem: Mossad HaRav Kuk, 1966).
[18] Berkovits had received rabbinic ordination from the Hildesheimer Rabbinical Seminary in Berlin where he had been a student and disciple of Rabbi Weinberg.
[19] Marc Shapiro, *Between the Yeshiva World and Modern Orthodoxy*, 190–191. Shapiro notes that Weinberg was generally reluctant to "chart new halakhic ground independently," and his response to Berkovits was in keeping with this reluctance.
[20] Immanuel Jakobovits, "Survey of Recent Halakhic Periodical Literature: Solving the Agunah Problem," *Tradition* 8:4 (1966), 122.
[21] By 1967, only 65 percent of Rabbinical Assembly members were using a *ketubah* including the Lieberman Clause in weddings they performed. Further, fully half of all Conservative rabbis were referring couples wanting to marry in which one member did not have a *get* to a Reform rabbi. And, 30 percent of Conservative rabbis did not even bother referring couples to a Reform colleague, but performed the wedding without the *get* themselves. As a result of these circumstances, combined with the general apathy toward halakha among Conservative Jews, only one case actually came before the Conservative Bet Din. The case was ultimately left unsolved by the Bet Din due to its members' reluctance to break ranks with the Orthodox and permit an *agunah* to remarry. The woman involved eventually received permission to remarry from a separately convened Bet Din made up of other Conservative rabbinical leaders. Following this debacle, the so-called Joint Bet Din basically ceased to exist as a functioning body. Schwartz, 41-42.
[22] Moshe Meiselman, *Jewish Woman in Jewish Law* (New York: Ktav/Yeshiva University Press, 1978), 108.
[23] Shapiro, *Between the Yeshiva World and Modern Orthodoxy*, 192–193, n.83. Berkovits's final written statement on the matter can be found in his 1990 treatise, *Jewish Women in Time & Torah.* Therein, he wrote, "I regret to say that my work [on the *agunah* issue] has not been given serious consideration, and instead all kinds of statements have been made maintaining that my teacher, Rabbi Y. Y. Weinberg, *z.l.*, withdrew the moral support that he gave to the work. I have to declare that in all these statements and rumors there is not the slightest truth." Eliezer Berkovits, *Jewish Woman in Time & Torah* (Hoboken: Ktav Publishing House, Inc., 1990), 111.
[24] See Meiselman, *Jewish Woman in Jewish Law*, 107–108, in which the author, after quoting the Kasher article and the alleged letter of retraction by Weinberg, stated that Berkovits' book "elicited virtually no response from the Orthodox rabbinate," and then one page later, stated that Berkovits's proposal "was completely rejected by the Orthodox rabbinate."
[25] See, for example, J. David Bleich, "The Agunah Problem," *Tradition* 11.2 (1970), 96–99 in which the author discusses situations of disappearance of Israeli soldiers or deaths in which husband's bodies are not recovered, but does not mention the more prevalent scenario of husbands' refusal to grant their wives a *get*. Engaging in the same passivity seen in the initial responses to the Berkovits book, Bleich wrote, "Judaism has always been keenly aware of the anguish suffered by the agunah and has consequently sought every possible means to alleviate her plight. The entire subject is one of utmost gravity and it is of importance to examine methods that have been advocated as a means of avoiding this tragic situation while yet

remaining within the letter and spirit of the law."
[26] Enid Nemy, "Young Women Challenging Their '2d-Class Status' in Judaism," *The New York Times*, June 12, 1972, 43.
[27] In a similar vein, see Irving Spiegel, "Equality Sought by Jewish Coeds," *The New York Times*, April 20, 1975, 33.
[28] Saul Berman, "The Status of Women in Halakhic Judaism," *Tradition* 14.2 (Fall 1973), 7–9, 22–23.
[29] There are doubtless many more divorce cases that addressed issues of *aginut* that were decided by New York State and other American courts throughout the second half of the twentieth century, but not all decisions are put into writing by judges and officially "reported." Thus, this paper will only address those cases that were officially reported.
[30] One judge specifically recognized this phenomenon, stating, "With the sociological reality of a tremendously increased divorce rate upon us, a phenomenon which cuts across all levels of society, Orthodox Jews find themselves in matrimonial litigation more often and courts are called upon to weigh the import of ecclesiastical laws which are often made crucial by contractual act of the parties." *Rubin v. Rubin*, 75 Misc.2d 776, 777, 348 N.Y.S.2d 61, 63 (Fam. Ct. Bronx Co. 1973). See also Sylvia Barak Fishman, *A Breath of Life: Feminism in the American Jewish Community* (New York: The Free Press, 1993), 35, noting that by 1975 the executive vice president of the Rabbinical Alliance of America and secretary of its *bet din* reported that the number of *gittin* granted by his court doubled in just one year. For Orthodox responses to the rising rates of divorce, see Reuven P. Bulka, "Divorce: The Problem and the Challenge," *Tradition* 16.1 (1976), 127-133. Also see the *New York Times* report on a conference convened to discuss the crisis of the rapidly rising divorce rate in the Orthodox community: George Vescey, "Confronting Crisis in the Orthodox Jewish Family," *The New York Times*, February 3, 1978, A14.
[31] *Margulies v. Margulies*, 42 A.D.2d 517, 344 N.Y.S.2d 482 (1st Dep't), *appeal dismissed*, 33 N.Y.2d 894, 352 N.Y.S.2d 447 (1973). The Court of Appeals, the highest court in the State of New York, dismissed the husband's appeal on Constitutional grounds, stating simply that the order did not "finally determine the action within the meaning of the Constitution" because the appellant had not appealed from the fines assessed him, just from the incarceration.
[32] *Pal v. Pal*, N.Y.L.J. July 25, 1973, p. 13, col.5.
[33] *Pal v. Pal*, 45 A.D.2d, 356 N.Y.S.2d 672 (2d Dep't 1974).
[34] See, for example, J. David Bleich, "Survey of Recent Halakhic Periodical Literature: Refusal to Grant a Religious Divorce," *Tradition* 13.2 (1972), 129–133.
[35] For articles addressing the problem of *mamzerut* arising out of the *agunah* issue, see Louis Rabinowitz, "The New Trend in Halakha: Heter of a Mamzer," *Tradition* 11.4 (1970), 5; Yitzhak D. Gilat, "The Halakha and its Relationship to Social Reality," *Tradition* 13.4 (1973), 68; Aaron Rakefet-Rothkoff, "Annulment of Marriage Within the Context of Cancellation of the Get," *Tradition* 15.1–2 (1975), 173.
[36] Rivka Haut, telephone interview by author, May 13, 2009.
[37] Moshe Meiselman, "Women and Judaism: A Rejoinder," *Tradition*, 15:3 (Fall 1975), 52–67.
[38] Meiselman, *Women and Judaism: A Rejoinder*, 66.
[39] *Waxstein v. Waxstein*, 90 Misc.2d 784, 395 N.Y.S.2d 877 (Kings Co. Sup. Ct. 1976), aff'd, 57 A.D.2d 863, 394 N.Y.S.2d 253 (2d Dep't), *motion for leave to app. den.*, 42 N.Y.2d 806, 1977 N.Y. Lexis 3780 (1977).
[40] Gurock, *Orthodox Jews in America*, 300.
[41] Blu Greenberg, "Jewish Divorce Law: If We Must Part, Let's Part as Equals," *Lilith* 1:3 (Spring/Summer 1977), 26–29.
[42] George Vecsey, "Orthodox and Reform Rabbis at Parleys Note Growing Demand for Traditionalism," *The New York Times*, June 27, 1977, 31. The women additionally showed themselves generally unwilling to accept old apologetics about the status of women in Orthodox Judaism. When one of the rabbis on the panel told women listeners that they were already superior to men and did not need the leadership positions and Jewish rituals that men had, several women were insulted, and at least one got up and left the room.
[43] Steven Feldman, "Grappling with Divorce and Jewish Law," in *Women in Chains: A Sourcebook on the Agunah*, ed. Jack Nusan Porter (New Jersey: Jason Aronson, Inc., 1995), 217. (Feldman's article was originally published in *Genesis 2* in April 1984).
[44] Meiselman, *Jewish Woman in Jewish Law*, ix. For a similar centrist Orthodox critique of feminism, see Reuven J. Bulka, "Woman's Role: Some Ultimate Concerns," *Tradition* 17.4 (1979), 27–40.
[45] Meiselman, *Jewish Woman in Jewish Law*, 103.
[46] *Ibid*., 109. Meiselman did not cite to any Talmudic source here, so it is unclear what he was referring to.
[47] *Ibid*., 113, 115. There were no accurate statistics kept as to how many *agunot* there actually were at any time in the twentieth century. Estimates ranged from Meiselman's few to 15,000 *agunot* in New York alone. Nat Hentoff, "Who Will Rescue the Jewish Women Chained in Limbo?" *Village Voice*, September 13, 1983, 6.
[48] Indeed, in addition to Meiselman's book, the RCA's 1978 Annual Convention had a major plenary session on contemporary problems in *gittin.* Blu Greenberg, *On Women and Judaism: A View From Tradition* (Philadelphia: Jewish Publication Society, 1981), 139.
[49] *Ibid*., 142.
[50] Naomi Y. Englard-Schaffer, "Review Essay on Blu Greenberg, 'On Women and Judaism,'" *Tradition* 21.2 (1984), 132–144; Emanuel Feldman, "Review Essay: Women and Judaism," *Tradition* 21:3 (1984), 98–106.
[51] Lawrence Grossman, "Mainstream Orthodoxy and the American Public Square," Alan Mittleman, Jonathan D. Sarna & Robert Licht, eds., *Jewish Polity and American Civil Society* (Maryland: Rowman & Littlefield Publishers, Inc., 2002), 283–310; Samuel C. Heilman, "Haredim and the Public Square: The Nature of the Social Contract," *Ibid*., 311–336.

[52] Nathan Lewin, Telephone Interview by author, April 30, 2009.
[53] N.Y. Dom. Rel. Law Section 253 (McKinney 2009).
[54] Bill Jacket, New York L. 1984, ch. 979, 24–27, 32; Bernard M. Zlotowitz & Albert Vorspan, "A Divorce Bill that Involves the State in Religion," Letter to the Editor, *The New York Times* July 18, 1983, A14.
[55] Georgia Dullea, "Orthodox Jewish Divorce: The Religious Dilemma," *The New York Times*, July 5, 1982. See also, "Will New York Get a "Get" Law?" PR Newswire 7/20/1982. "Governor Signs Bill to Aid Jews in Divorce Cases," *The New York Times*, August 10, 1983, B7.
[56] Telephone Interview, Rivka Haut.
[57] Emanuel Feldman, 98–106.
[58] Feldman,106.
[59] *Avitzur v. Avitzur*, 86 A.D.2d 133 (3d Dep't 1982), rev'd 58 N.Y.2d 108, 459 N.Y.S.2d 572 (1983), cert. denied, 464 U.S. 817, 104 S.Ct. 76 (1983).
[60] Indeed, showing that court cases can make for strange bedfellows, various Centrist Orthodox organizations, including the OU and the RCA had filed amicus curiae ("friend of the court") briefs in the action, arguing in support of civil court recognition of the Lieberman clause. David Margolick, "Court Rules New York Can Enforce Jewish Marriage Contract," *The New York Times*, February 16, 1983, B1.
[61] J. David Bleich, "A Suggested Antenuptial Agreement: A Proposal in Wake of Avitzur," *Journal of Halacha & Contemporary Society*, 7 (1984), 25–41.
[62] J. David Bleich, "Survey of Recent Halakhic Periodical Literature: The Device of the 'Sages of Spain' as a Solution to the Problem of the Modern-Day *Agunah*," *Tradition*, 22:3 (1986), 77–87.
[63] Riskin, *Women and Jewish Divorce*. Riskin's book was met by the same passivity as other works advocating halakhic solutions. See, for example, Tzvi Gartner, "Review: Women & Jewish Divorce," *Jewish Action*, Purim Spring 5750/1990, 77–82.
[64] Aaron Twerski, "When Crisis Looms," *The Jewish Observer*, March 1988, 19–23. *The Jewish Observer* was an Agudah publication aimed at a lay audience.
[65] Yissocher Frand, "Where There's A Rabbinic Will, There's a Halachic Way: Fact or Fiction," *The Jewish Observer*, October 1990, 6–11.
[66] Ronald Sullivan, "Court Says Jewish Divorce Settlement Was Unfair, *New York Times*, February 20, 1992, B3.
[67]Rabbinical Council of America, *Resolution on Gittin and Agunot*, June 1, 1991 http://www.rabbis.org/news/article.cfm?id=101028 (accessed December 24, 2009).
[68] Lucette Lagnado, "Of Human Bondage," *The Village Voice* (July 14, 1992) and Peter Hellman, "Playing Hard to Get," *New York Magazine* (January 25, 1993) reprinted in *Women in Chains: A Sourcebook on the Agunah*, ed. Jack Porter (New Jersey: Jason Aronson, Inc. 1995), 3–23.
[69] *Schwartz v. Schwartz*, 153 Misc.2d, 789, 583 N.Y.S.2d 716 (Sup. Ct. Kings Co. 1992).
[70] "Blocking a Religious Divorce Proves Costly," *The New York Times*, October 5, 1994, B4.
[71] Heilman, "Playing Hard to Get," *Women in Chains*, 21.
[72] Chaim Dovid Zwiebel, "Tragedy Compounded: The Aguna Problem and New York's Controversial New 'Get Law,'" *Jewish Observer*, March 1993, 26–39. A number of respected Orthodox halakhists and legal scholars published lengthy articles in the wake of the Agudah's opposition to the 1992 *Get* Law, arguing that it actually posed no halakhic problem, and in fact, it would not lead to a *get meuseh* problem. Such articles further showed that the Agudah's opposition to the 1992 law was not only rooted in halakhic, but also in political and social reasons. See, for example, Marvin E. Jacob, "The Agunah Problem and the So-Called New York State Get Law: A Legal and Halachic Analysis," October 1994, reprinted in Porter, *Women in Chains*, 159-184, Michael J. Broyde, "The New York Get Law: An Exchange," *Tradition* (Summer 1997), http://jlaw.com/Articles/get_exchange2.html (accessed December 24, 2009).
[73] Rivka Haut, "The Agunah and Divorce," in *Lifecycles: Jewish Women on Life Passages & Personal Milestones*, ed. Rabbi Debra Orenstein (Vermont: Jewish Lights Publishing, 1994), 188–200; *Half the Kingdom*, produced by Beverly Shaffer & Francine Zuckerman, 58 minutes, The National Center for Jewish Film, 1989, videocassette.
[74] Gurock, *Orthodox Jews in America*, 304.
[75] Mordechai Willig, "The Halakhic Sources and Background of the Prenuptial," Kenneth Auman & Basil Herring, ed., *The Prenuptial Agreement: Halakhic and Pastoral Considerations* (New Jersey: Jason Aronson, Inc., 1996), 30.
[76] Auman & Herring, ed., *The Prenuptial Agreement: Halakhic and Pastoral Considerations.*
[77] Haut, "The Agunah and Divorce," 198; Susan Metzger Weiss, "Sign at Your Own Risk: The 'RCA' Prenuptial May Prejudice the Fairness of Your Future Divorce Settlement," 6 Cardozo Women's L.J. 49 (1999).
[78] Chaim Dovid Zwiebel, "Batei Din vs. Secular Courts: Where Do We Pursue Justice?" *The Jewish Observer*, January 1993, 8–16.
[79] Telephone Interview, Rivka Haut. Centrist Orthodox rabbis also told their flock that disputes should be adjudicated in *batei din.* Indeed, the Willig prenup offered an option for the couple to agree to litigate all disputes stemming from the divorce in the Bet Din. Willig acknowledged that "some women or their attorneys will object to the inclusion of monetary disputes … in the arbitration agreement, for the current secular laws … will generally result in larger financial settlements for women than does enforcement of the provisions of the standard *ketubah*. " He went on to warn, "Halakhically, however, resolutions of marital property disputes are within the jurisdiction of a *bet din*, unless the *bet din* permits the parties to resolve them in court." Willig, "The Halakhic Sources and Background of the Prenuptial," 33. However Centrist Orthodox women, more knowledgeable about their rights and not as concerned with the views of their rabbis, continued to file their

divorce actions in civil courts.