Rabbis: No More Alibis - Center for Women's Justice

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One of the most painful problems facing our community is the "Agunah" issue. An Agunah is a "chained" woman: she is legally married, but her husband has either gone missing, or is unwilling to grant her a divorce ("get") even when the marriage has collapsed. She is put in the untenable situation of being unable to move forward with her life; she cannot marry anyone else, since she is still tied to her missing or recalcitrant husband.

Throughout the generations, our rabbis have worked diligently to relieve the plight of a woman whose husband has disappeared. They operated on the principle: "in the case of an agunah, the rabbis find leniencies"; they were willing to suspend the usual laws of evidence in ascertaining that the missing husband had died. During the years following the Holocaust, for example, rabbis went to great efforts to find ways of permitting female survivors to remarry, on the assumption that their former husbands had indeed been murdered by the Nazis.

In the case of recalcitrant husbands, rabbinic tradition also manifests tremendous concern for the plight of women. It has various provisions that enable the rabbinic courts to punish such men; and in rare cases, rabbinic courts have found legal provisions for annulling the original marriage so that the woman would not need a "get".

In recent times, though, rabbinic courts generally have been reluctant to act forcefully in cases where husbands refuse to grant a "get" to their estranged wives. Such men use the "get" as a means of vindictive punishment of their

wives; some use it as a bargaining chip in a divorce settlement, demanding that the wife pay a large sum for the "get" or that she give up property rights or child custody rights. This situation is not only cruel to the women involved, but is a moral stain on the halakhic system itself. Why do the rabbinic courts continue to tolerate such a heinous injustice? Why are husbands allowed to extort money from their wives, with the tacit approval of the rabbinic courts?

Some years ago, I was called by a family in the New York area whose daughter was married to a "hareidi" man in Jerusalem. The man was a terrible husband, beating his wife physically and torturing her emotionally. She finally could not tolerate this situation and she left him; she went to the rabbinic court and asked for a "get" from her husband. The court learned from the husband that he would give the "get" if she agreed to pay him $100,000. Her parents called me in horror: first, they couldn't easily afford the $100,000 blackmail; second, why should an abusive husband be "rewarded" for granting a divorce to which his wife was entitled? I phoned leading rabbis in Israel and gave them details of the case, as well as the specific case number. They consistently answered: why doesn't she just pay the money and be done with it? When I asked how they could tolerate such a bizarre injustice, they simpled replied: that's the way the system works. Let her pay, and she'll have her "get".

In another case that came to me, a prominent Israeli rabbi advised a husband not to grant a "get" to his wife unless she agreed to give him custody of the children. I told the man that he could not use a "get" as a bargaining tool, but was obligated to give the "get" without preconditions. The marriage was over. The couple would have to settle its custody and property disputes in court--but these disputes had nothing to do with the "get". The man hesitated: after all, his rabbi in Israel told him not to give the "get" until he won the terms he wanted in the divorce settlement. Fortunately, he agreed to listen to me, and did give the "get" in a timely manner, with no strings attached.

There are, unfortunately, numerous horror stories where husbands have maliciously and immorally used the "get" as a weapon against their wives. These cases have dragged on for years, causing immeasurable grief to the women involved, as well as to their families. The problem is: why does the rabbinic court system allow such a corrupt situation to continue? Why haven't means been found to protect women from this cruel victimization? Why has the "system" essentially turned a blind eye to blackmail and extortion?

To be sure, many of the "Agunah" cases are solved by individual rabbis, without public notice or fanfare. Moreover, the Rabbinical Council of America developed a

pre-nuptial agreement that diminishes the likelihood of "Agunah" situations arising in the future. There are activist groups that speak out on behalf of Agunot and try to foster change in the current rabbinic court system.

Yet, there needs to be systemic change in the rabbinic court system. Halakha must not be hijacked, nor lose its moral stature. Why aren't the obvious problems relating to the "Agunah" issue being addressed? Here are some typical responses/alibis presented by the rabbinic establishment: 1) we are doing everything possible to help, but we must work within the halakhic framework. (Fact: no, they are not doing everything possible to help. The halakhic framework itself has far greater latitude in dealing with the issue than most rabbinic courts are willing to entertain. Also, much can be done by teaching young men in yeshivot about proper marriage and divorce ethics; and by creating a strong environment of public censure for recalcitrant husbands.) 2) we cannot solve this problem individually, but need the consensus of the "gedolim", the great sages of our generation. (Fact: if we wait for consensus of the "gedolim", we'll be waiting a long time; we've already been waiting a great many years, with no solution in sight. Moreover, why don't the "gedolim" themselves meet, lock themselves in a room, and not emerge until they have some workable solutions? If they wanted to address this issue, they could do so.) 3) we can't introduce procedures that earlier generations of sages did not introduce; we are not more learned or more compassionate than they were? (Fact: we can introduce new procedures, especially if it can be demonstrated that our situation today is different from that which prevailed in earlier generations. Rabbis of previous eras introduced ordinances and practices, and did not shirk responsibility by saying that they were not as great as the rabbis of earlier times.)

In reality, rabbinic courts are afraid to "innovate" because they fear the censure of other rabbinic courts. They don't want to allow procedures that will not be "universally recognized". This is a code phrase; it means: we aren't going to take chances and endanger our reputations among the more right-wing rabbinical leaders.

Here are two ways to address the "Agunah" issue in a constructive manner.

1) The Institute for Jewish Ideas and Ideals has been devoting much time, effort and money to establish a new Orthodox rabbinical group, known as the Rabbinic Fellowship. We had an initial conference in October, convened by Rabbi Avi Weiss and me, to launch this project. Rabbis from throughout North America attended. We are scheduling another, larger conference at the end of April. Our goal is to establish a credible Orthodox rabbinical group, with members throughout the

world, to foster an intellectually vibrant, compassionate, open and inclusive Orthodox Judaism. We hope to establish an independent, international beth din that will address such issues as the "Agunah" problem, and conversion to Judaism. We are working with like-minded colleagues here and in Israel. This is a hugely important undertaking that can have a significant impact in shaping the future of Orthodoxy. It is also a hugely expensive undertaking. We welcome your support of the Rabbinic Fellowship. Contributions can be made on the Institute's website, or by mailing checks to the Institute for Jewish Ideas and Ideals, 8 West 70th Street, New York, NY 10023.

Your support is needed and important.

2) The Center for Women's Justice, in Israel, is doing remarkable work to advance the cause of Agunot. It not only engages in important public education work, but fights for women's rights through the Israeli court system. It has achieved important victories, and is a growing force in confronting the inadequacies and injustices of the rabbinic court system. The following material describes the Center's work, and provides a link so that you can learn more about the Center and become a supporter and advocate.

CWJ

"...And I will betroth you to Me with righteousness, with justice, with kindness and with mercy." (Hosea: 2:21)

The Center for Women's Justice (CWJ) is an Israeli non-profit organization dedicated to upholding a woman's right to just treatment in the rabbinic courts.

By filing strategic law suits, working creatively within Jewish law, and writing in the Israeli press, CWJ leads the quest for comprehensive solutions to the complex religious dilemmas facing Jewish women world-wide: the agunah, get refusal, the mamzer, conversion.

Our vision holds forth the possibility of reconciling our religious tradition with democratic principles. At CWJ, we think that tikkun olam is a communal imperative. Our strategy is to engage the entire public in our discourse of social change.

Strategic Litigation

The focal point of CWJ's activity is in the courtroom.

We choose our clients carefully, with an eye for cases that have the potential to set precedents that will have a broad impact on Israeli society. For example, we have sued: recalcitrant husbands for damages for get refusal; the justice department for damages for the rabbinic courts' negligent handling of divorce cases; ex-husbands who use the get to force their wives to sign unfair divorce agreements; the state to repeal discriminatory work tenders issued by the rabbinic court; the rabbinic courts for violating rules of natural law (tzedek ha'tivi); the rabbinic court to revoke their decision to repeal a conversion; the rabbinic court to revoke their decision to declare a person a mamzer.

Influencing Public Policy

CWJ seeks to guide public policy to require the full disclosure of marital assets; void divorce agreements signed under pressure of the get; and invalidate limitations made to child support payments.

Public Awareness

CWJ believes that public awareness is significant in facilitating change. Each of the members of our small staff (three lawyers and a rabbinic pleader) speaks in community and academic forums and writes in the print and electronic media.

Rabbinic pleader Rivkah Lubitch writes a weekly column for the website of a leading Israeli newspaper (Ynet) (in Hebrew) in which she often describes the injustices suffered by Jewish women in the rabbinic courts. Her column is read by 30,000 readers a week.

Campaigns

CWJ conducts periodic symposia, conferences, campaigns, and projects to educate both the professional and lay audience to our ideas and solutions.

This year we have embarked on a campaign to encourage the signing of a "Contract for a Just and Fair Marriage." The Contract is a prenuptial agreement that will enable our children to marry both in accordance with the laws of Moses and Israel, as well as in accordance with modern notions of marital partnership. In addition to alleviating the problem of get extortion (the mesurevet get), the Contract's provide a solution for the problem of the husband who is absent or incapacitated and cannot give a get (the agunah). We seek the support of the public and our religious leaders for this contract.

Recent Highlights

In September 2007, CWJ sued on behalf of Rachel Abraham for damages in the amount of 4.5 million (well over one million US dollars). Rachel had spent 18 years in Israel's rabbinic courts trying to get a divorce from her husband. Read about it in the Jerusalem Post (Dan Izenburg, October 29, 2007

In December 2007, La'Isha, an Israeli women's magazine, featured Susan Weiss (CWJ's founder and executive director) and CWJ for their contribution to Israeli society (in Hebrew).

Our Board: Our board includes men and women, academics, rabbis, and lay-people who take an active role in supporting our work.

Perspectives on the work of CWJ:

The Center for Women's Justice is addressing sensitive and important issues of religion and state in Israel with creativity and integrity.

Dr. Neta Ziv, attorney

Lecturer, Tel Aviv University Law School

and director of legal clinics

Terrible injury is done to women whose religious divorces are delayed or denied, and to women who suffer extortion by their husbands in the name of Jewish law. This is a severe blow to the Torah and its just ways. Attorney Susan Weiss' establishment of the Center for Women's Justice offers a ray of light and hope to these women.

CWJ Board Member Rabbi Dr. Ariel Picard

The Center for Advanced Studies

The Shalom Hartman Institute

Jerusalem

We welcome you to support our work: you can play a role:

for more information: www.cwj.org.il

or contact us: cwj@cwj.org.il

Gifts to CWJ may be made through the offices of the PEF Israel Endowment Fund and the New Israel Fund, and are tax-deductible to the full extent permitted by U.S. law.