

## A View from the Trenches By Susan Weiss

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

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

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

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

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

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



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### WEDDING CALLED OFF

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

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

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

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

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

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

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

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