

GUIDE TO
JEWISH DIVORCE
AND THE
BEIT DIN SYSTEM

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We welcome your comments and suggestions. If you have a question about this guide, please email us at director@jofa.org. All inquiries are confidential.

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Disclaimer

This guidebook is solely for informational purposes. **The information provided here is most applicable to divorce cases in the United States and Canada.** This guidebook is not intended to replace consultation with a halakhic advisor or an attorney, nor is it intended to give legal or halakhic advice. JOFA does not assume any responsibility for actions taken by any person as a result of information in this guidebook.

INTRODUCTION

כִּי־יִקַּח אִישׁ אִשָּׁה וּבִעָלָהּ וְהָיָה אִם־לֹא תִמְצָא־חֵן בְּעֵינָיו כִּי־מָצָא בָּהּ עֲרֻת
דָּבָר וְכָתַב לָהּ סֵפֶר כְּרִיתֻת וְנָתַן בְּיָדָהּ וְשָׁלְחָהּ מִבֵּיתוֹ:

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

(Devarim/Deuteronomy 24:1)

A Jewish marriage is considered a holy institution in which God partners with the bride and groom. Marriage however, is subject to human nature and as such, it can result in either success or failure. We pray for success in each marriage, and recognize that there may come a time when the best possible outcome for a couple is to seek a divorce.

It is vital to be educated in the particulars of Jewish divorce, because Jewish divorce, like Jewish marriage and all aspects of Jewish life, is governed by *halakhah*. *Halakhah*, with regard to Jewish divorce, provides the husband with disproportionate power to effect change. Most Jewish men recognize their obligation to give a get and do so willingly and quickly. When they do not act appropriately, such inaction can result in a woman being rendered an *agunah*, a chained woman, who must remain in a dead marriage.

JOFA’s aim is to work with husbands, wives, halakhic advisors, and communities so that men and women can marry with security. We strive to eliminate the incidence of *iggun* in the event of the dissolution of a marriage. We take this idealistic stand knowing that it will take time to alleviate this serious problem. Until that day, JOFA’s goal is to help educate the community about the divorce process and the state of *iggun*, and in particular, to help parties to a Jewish divorce make informed decisions as they proceed through the *beit din* system. Obtaining a divorce is a highly emotional process, and people are often at their most vulnerable during this time. We hope that this guide will educate litigants, and help reduce their stress as they navigate this difficult process.

A. GLOSSARY OF TERMS

The following terms have been used in this document or may appear in other agunah writings:

AISHET ISH (Alternate spelling: *EISHET ISH*)—A married woman. One who is not free to marry another man, because Torah law prohibits a woman from being married simultaneously to more than one man.

AGUNAH (Alternate spelling: *AGUNA*; pl: *AGUNOT*, *AGUNAS*, *AGUNAHS*)—A married woman who may not remarry because the death of her husband has not been verified or because she is unable to obtain a *get* from her husband.

AV BEIT DIN—Chief judge of the *beit din*, also sometimes referred to as the *rosh beit din* (See alternate spellings for *beit din* below)

BEIT DIN (Alternate spelling: *BEIS DIN*, *BAIS DIN*, *BETH DIN*; pl: *BATEI DIN*)—A rabbinic court

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

EID (Alternate spelling: *ED*; pl: *EIDIM*, *EDIM*)—Halakhically acceptable witnesses

ERUSSIN—See *KIDDUSHIN* below

GET (pl: *GITTIN*)—A Jewish document of divorce written by hand at the request of the husband. Note: Because of the intricacies of writing a halakhically valid *get*, the person who actually pens the *get* must be an expert and a functionary of the *beit din*.

GET ME'USEH—A forced *get*; this type of *get* is considered invalid. The *get* must be voluntarily given.

GET ZIKUI [*get* of acquittal]—A *get* that is tendered by the court in the event that the husband is not able to provide it himself.

HAFKA'AT KIDDUSHIN—Invalidation of a marriage for a technical reason akin to an annulment

HALAKHAH (Alternate spelling: *HALACHAH*, *HALACHA*, *HALAKHA*; pl: *HALAKHOT*, *HALAKHAS*, *HALACHAS*)—Jewish law, including rabbinic decisions, made throughout history

HALAKHIC/HALAKHICALLY (Alternate spelling: *HALACHIC*, *HALACHICALLY*)—Adjective/adverb form of *halakhab* meaning pertaining to Jewish Law

HALITZAH (Alternate spelling: *CHALITZA*, *CHALITZAH*, *HALITZA*)—A ceremony freeing a childless widow from the obligation of marrying the brother of her deceased husband

HASHKAFAH (Alternate spelling: *HASHKAF*)—Ideological or philosophical outlook on a *halakhic* or cultural norm

HAZMANAH (Alternate spelling: *HAZMANA*; pl: *HAZMANOT*)—Summons to appear before a *beit din*

HEKHSHER (Alternate spelling: *HECHSHER*)—Rabbinic endorsement (for example, that a product is kosher and is ritually fit for use or consumption)

HETER (pl. *HETERIM*)—A permit or granting permission; frequently alludes to a lenient *halakhic* ruling

HETER ME'AH RABBANIM (Alternate spelling: *RABBONIM*)—Permission of 100 rabbis, alludes to a *halakhic* technicality

HUPPAH (Alternate spelling: *CHUPPAH*)—The nuptial “canopy” under which the bride and groom are joined in marriage

IGGUN—The state of being an *agunah*

KEFIAH—Coercion; refers to coercion of a husband to the point where he willingly gives his wife a *get*

KETUBAH (Alternate spelling: *KETUBA*, *KESUBAH*, *KESUBA*)—A contract between husband and wife that commits the husband to support, feed, and satisfy his wife sexually, and that entitles the wife to collect money in the event of a divorce. The *ketubah* is signed by two male witnesses just prior to the wedding, and is traditionally read under the *huppah* as part of the wedding ceremony.

KIDDUSHEI TA'UT—A marriage entered into based on erroneous assumptions, including lack of knowledge about a defect in the husband that pre-existed the marriage. A *beit din* may declare that this marriage was never validly established, so there would be no need for a *get* to end the marriage.

KIDDUSHIN—The first of two ceremonies performed at the time of marriage. It is also known as *erussin*. The groom recites the formula “*harei at mekudeshet li...*” (“*behold, you are hereby now married to me*”) and immediately places a ring—that he has purchased with his own funds and fully owns—on the bride’s finger, creating the marital union. The ring is a key factor in executing the *kiddushin* contract and union. Two valid witnesses are required to witness the *kiddushin*.

KOHEN (pl: *KOHANIM*)—Colloquially translated as “Jewish priest.” Male patrilineal descendant of the biblical Aaron who served as the *Kohen Gadol* (High Priest)

LEVI (pl: *LEVITIM*)—Male patrilineal descendant from the tribe of Levi who is not a *Kohen*

MAMZER (Alternate spelling: *MAMZEIR*; pl: *MAMZERIM*, *MAMZEIRIM*)—Offspring of an incestuous or adulterous relationship; often mistranslated as “bastard” in the sense of born out of wedlock. A child born from the union of an *agunah* and another man who is not the (recalcitrant) husband may hold the *halakhic* status of a *mamzer*.

MAMZERUT (Alternate spelling: *MAMZERUS*, *MAMZEIRUS*)—The state of being a *mamzer*

MEKAH TA'UT—A mistaken transaction based on faulty information (i.e., trading in previously undisclosed damaged goods). This concept is drawn from the Babylonian Talmud, *Bava Metzia* 80

MESAREV GET—A recalcitrant husband who refuses to give his wife a *get* in contravention of an order of the *beit din*.

MESAREVET GET—A wife who refuses to accept a *get* from her husband. (NOTE: This term is not to be confused with “*MESUREVET*” below.)

MESUREVET GET (pl. *MESURAVOT GET*)—A woman whose husband refuses to grant her a *get*. This is the technical term for an *agunah*. (NOTE: This term is not to be confused with “*MESAREVET*” above.)

MIKVAH (Alternate spelling: *MIKVA*)—A ritual bath

“**MI-SHUM IGGUNAH AKILU BAH RABBANAN**”—The legal principle that “out of concern that she might otherwise become or remain an *agunah*, the rabbis were lenient.”

MUM—A serious blemish; this is a legal ground for a determination of *kiddushei ta’ut*

MUM NISTAR—A hidden *mum*, one not revealed prior to the wedding

NISSU’IN—The second phase in the Jewish wedding ceremony after which the couple is considered legally married

PESAK (Alternate spelling: *PSAK, P’SAK*)—A rabbinic decision (Jewish legal opinion)

PTUR (Alternate spelling *P’TUR*; pl: *PTURIM, P’TURIM*)—A document issued by a *beit din* indicating that spouses are free to remarry

SERUV (Alternate spelling *SIRUV*; pl: *SERUVIM, SIRUVIM*)—A declaration that a person is in contempt of a *beit din*

SHALIAH (masc.), **SHLIHA** (fem.) (Alternate spelling: *SHALIACH, SHLICHA*)—An agent (in this context, for the writing and/or giving of a *get*)

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

SOFER (Alternate spelling: *SOPHER*)—For purposes of Jewish divorce, an expert scribe who actually pens the *get*.

“**TAV L’METAV TANDU ME’L’METAV ARMELU**”—A strong legal presumption in Jewish law that it is preferable “to sit as two than to sit as one” (meaning that a woman would rather be married to anyone than to be single)

TO’EN (masc.), **TO’ENET** (fem.) (pl: *TO’ANIM, TO’ANOT*)—People who function as lawyers or “pleaders” in the rabbinic courts (*batei din*)

YIBBUM (Alternate spelling: *YIBUM*)—A levirate marriage, one in which a childless widow marries the brother of her deceased husband for the purpose of bearing children in her deceased husband’s name (“*levir*” in Latin means brother-in-law)

ZABLA BEIT DIN—A *zabla beit din* is an ad hoc *beit din* that may be established to hear a particular case. *Zabla* (זבל"א) is an acronym for *zeh borror lo echad* (lit., each party selects one arbitrator): Each party selects one arbitrator (*dayan*) and the two *dayanim* choose the third.

B. FREQUENTLY ASKED QUESTIONS (FAQS)

Note: To get the most out of this section, we suggest that you read through all the questions and answers provided. For your convenience, questions are loosely grouped by subject:

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2. What expenses may be incurred in obtaining a *get*?
3. What occurs during the actual transfer of the *get*?
4. What are the *halakhic* requirements of a *get* proceeding?
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I. CIVIL DIVORCE AND JEWISH DIVORCE

1. What differences exist between civil divorce and Jewish divorce?

Every divorce has several components: (1) the marital status of the parties; (2) division of property; (3) financial support; and (4) custody of minor children.

In both Jewish and civil law, divorce, or the dissolution of a marriage, comes about through the acts of the parties and/or entities that initially established the marriage. Thus, in civil law, marriage is formalized through the state, and its dissolution is ultimately formalized by the state. In Jewish law, marriage requires certain actions by two individuals and, thus, may only be dissolved through acts by these two individuals.

Under most secular legal systems, marital status is established by the state. Each jurisdiction has its own requirements for the establishment of a marriage, and each jurisdiction has its own requirements for its dissolution. Upon dissolution of a marriage, a determination is made, either by the couple or by the court, about division of property, financial support, and custody of children.

Under Jewish law, marital status is based on a contractual agreement between the husband and wife; therefore, a Jewish marriage can only be dissolved by contract between the spouses. In contrast to civil law, the *beit din* does not formally dissolve a marriage, although it does play an indispensable role in facilitating the writing of the *get* and witnessing its delivery. Moreover, only if the divorce is contested will the *beit din* involve itself in other details of the divorce agreement with respect to issues of finances and/or custody. (See V:3.)

When a religious divorce is not contested, the procedure is quite simple: a *sofer* writes a *get* in

the name of the husband. While all *gittin* follow a standard formula, a *get* must be hand scribed by the *sofer* for each individual proceeding. The husband then delivers the *get* to his wife, and she accepts it. The marriage is dissolved, and the couple is then divorced according to Jewish law.

Unless a *get* has been given by the husband and accepted by the wife according to Jewish law, an individual remains religiously married notwithstanding a civil divorce. Conversely, one can be religiously divorced by means of a *get*, yet remain civilly married.

Since many Jewish couples are married under both civil and religious law, they must divorce under the laws of both legal systems to completely dissolve their marriage.

II. GET

1. What is a *get*?

A *get* is a writ of Jewish divorce that was originally intended to protect women from summarily being divorced by their husbands without any financial or other means of protection for the necessities of life. It is a 12-line document, written by hand on paper by a *sofer* at the request of the husband. It is written under the proper supervision of a *beit din* versed in the *halakhah* of *gittin* in the presence of two *eidim*. A *get* may be validly presented only by the husband to his wife and not by the wife to the husband. A wife may, however, contact the *beit din* to initiate the divorce proceeding.

It is imperative that the *get* be properly prepared by a *beit din* in accordance with Jewish law. (See “General Comments and Cautions” section).

2. Why is a *get* required?

In the Babylonian Talmud in *Kiddushin* 2a it is written that a woman is considered no longer

married (“acquires herself”) in one of two ways, through a bill of divorce or through the death of the husband. A woman who was married by *kiddushin*, but did not receive a *get* is considered by Jewish law to be an *aishet ish* and is still married to her first husband, notwithstanding a civil divorce. If the woman subsequently has children with another man, those children may have the status of *mamzer*. (If one attains the status of *mamzer*, they and all of their descendants may only marry other *mamzerim*.)

While it is generally forbidden for a man to remarry without having given his first wife a *get*, some halakhic advisors, under certain circumstances, will allow him to remarry. This practice is extremely unusual and almost never employed by reputable *batei din*.

There are no adverse consequences for children born of a man’s subsequent relationship or marriage. Even if he has not given his wife a *get*, these children are not considered *mamzerim*.

3. What expenses may be incurred in obtaining a *get*?

Fees for a standard *get* vary. Some *batei din* have a flat fee, and some charge an hourly rate. The *beit din* may take the parties’ financial situation into account in determining its fee. A few *batei din* do not charge a fee for facilitating a *get*.

4. What occurs during the actual transfer of the *get*?

a. The couple, or their representatives, appear before a meeting of the *beit din*. The location of the gathering will vary, and often takes place in the office of one of the *dayanim*.

b. The husband authorizes a *sofer* to write the *get*. The *sofer* writes the *get* on paper with a quill, usually while the parties wait. Two *eidim* must then sign the *get*.

c. The husband (or his agent) declares that he is giving the *get* of his own free will. When the wife receives the *get*, she must also state, in the presence of two witnesses, that she accepts the *get* of her own free will.

d. When the *get* is given to the wife, she cups her hands and the husband (or his agent) drops the *get* into her hands. She indicates acceptance of the *get* by raising it up, then putting it under her arm and walking a few steps.

e. The wife then gives the *get* to a *dayan*. The *dayan* makes a cut in the *get* to indicate that it has been delivered and accepted and cannot be used again by any other party. A declaration is made by the *dayan* that no one shall cast doubts on the validity of the *get*. The *get* is then put into the files of the *beit din*.

Note: There may be variations in this procedure depending on the *beit din*.

The *get* must be given willingly by the husband, without coercion, and it must be accepted willingly by the wife. Halakhic opinions differ as to what constitutes “willingness,” and what constitutes “coercion” that validate or invalidate a *get*, respectively.

Usually a husband places the *get* directly into his wife’s hands. However, when a *beit din* allows it, in cases where the husband and wife no longer live in close proximity, when there is acrimony between husband and wife, or when there has been spousal abuse, it is permissible for the husband to appoint an agent—called a *shaliach*—to order the *get*, deliver the *get*, or both. In some cases it is also possible to enact the *get* over video conference after which the *beit din* sends the *get* to the *beit din* nearest the wife for her to receive it.

5. What are the halakhic requirements involved in a *get* proceeding?

a. The *get* must be given and received without coercion, as defined by Jewish law.

b. The transfer of the *get* must be supervised by a *beit din* that is competent in the area of *gittin* and must be witnessed by two halakhically acceptable *eidim*.

c. The *get* must be written by a trained *sofer* who follows the prescribed formula.

d. The *get* must contain all the names by which the parties and their fathers have been known, including their nicknames. The full names of all parties should be included in the *get* and if possible, the *ketubah* or a copy of it should be checked for the names that were used within it. Identification should be provided to the *beit din* to establish the identity of the parties. As the *get* includes information about whether one is a kohen or levi, such determination should be made prior to appearing before the *beit din*.

e. The *get* must also include the name of the city in which the *get* is being written, and the name of the nearest body of water.

6. What if a husband is deemed missing without giving his wife a *get*?

If efforts to locate a husband are exhausted such that he is deemed missing, and there is reason to believe that he may have died, some halakhic advisors may rule that he is deceased and, thus, allow the wife to remarry. The halakhic advisors may act leniently in order to prevent a woman from being an *agunah*, by employing the Talmudic principle “*mi-shum iggunah akilu bah rabbanan.*” This leniency was employed following the sinking of the Israeli submarine *Dakar* and following the destruction of the World Trade Center, when wives were deemed free to remarry based on the presumed death of their husbands, despite the absence of a body and direct witness testimony.

A woman may become an *agunah* in the absence of the following 3 grounds for Jewish divorce: 1) a validly issued *get*, 2) the validly attested-to death of her husband, or 3) a rabbinical ruling freeing the woman for the purpose of remarriage.

7. Are there circumstances in which a woman should refuse to accept a *get*?

It is advisable for a woman to refuse a *get* if the *get* itself is defective, i.e., the names in the *get* are incorrect, or the *get* is being processed in a *beit din* that is not generally recognized as competent in matters of Jewish divorce.

It may also be legitimate in very limited and unique circumstances to refuse to move forward with a *get* if either party is using it as leverage to reach an unconscionable arrangement as to spousal and/or child support or custody.

Another circumstance in which it may be recommended for a woman to refuse to accept a *get* is a situation in which the *get* is based on false allegations against the woman.

A woman's refusal to accept a *get* may form the basis for a *heter me'ah rabbanim*, which would permit a man to remarry even without his wife's acceptance of a *get*. (See V:4.) If a *heter me'ah rabbanim* is issued, a valid *get* must be deposited with the *beit din* issuing the *heter* for delivery to the wife when she is willing or able to accept it. A *beit din* that issues a *heter me'ah rabbanim* is obligated to investigate whether the woman was offered a valid *get* and the circumstances under which she refused; however, not all *batei din* follow this requirement to undertake such an investigation.

Note: The decision to refuse to accept a *get* is a significant one and should only be made after a great deal of forethought and in consultation with an attorney and a halakhic advisor.

8. Once a *get* is written, is the couple divorced?

No. Only the receipt and acceptance of the *get* by the wife effects a final religious divorce. Where there are parallel civil divorce proceedings pending, some *batei din* may encourage the husband to have the *get* written and placed in escrow with the *beit din* for the pendency of the civil divorce. Although a *get* can be revoked at any time prior to its delivery to the wife, it is still better to have it written and placed in escrow than to risk the husband's ultimate disappearance or refusal to write one. Some *batei din* may try to prevail upon the husband to release the *get* even absent a final civil divorce. Other *batei din* will deliver the *get* to the wife and will effect the Jewish divorce, but withhold the *ptur*, which would enable both spouses to remarry, until the civil decree of divorce is rendered. (See II:9.)

Withholding a *get* that is written, but not delivered, can still be used to exert pressure on the wife in relation to issues of spousal and/or child support and custody in civil court.

The final step in the *get* process is the issuing of a document called a *ptur*, which is a receipt acknowledging that both parties are divorced according to Jewish law and are free to remarry.

9. What is a *ptur*?

A *ptur* is a document issued by a *beit din* indicating that a man and woman are divorced according to Jewish law and allowing them to remarry. *Batei din* have different practices regarding whether they will mail a *ptur* or require the parties to pick it up. Before choosing a *beit din*, it is advisable to inquire as to the *beit din's* approach to issuance of the *ptur*. Parties intending to pursue romantic relationships prior to the issuance of a *ptur* should consult a rabbi.

10. When does a divorcing woman receive her *get*?

Generally, *pturim* are issued to both spouses after the *get* has been received and the civil divorce has been finalized. Some *batei din*, on consent of the husband, may release the *pturim* after receipt of the *get* but prior to the finalization of the civil divorce.

11. When can a woman remarry after receiving her *ptur*?

Notwithstanding the receipt of a *ptur*, a woman must still wait 90 days after receiving the *get* before remarrying. In certain situations, some *batei din* will count the 90 days beginning with the writing of the *get*, rather than the date of its receipt. If a civil divorce is finalized prior to the receipt of the *get*, some halakhic advisors may begin counting the 90 days from the finalization of the civil divorce. There is no waiting period for a man after the execution of a *get*. The basis of the waiting period is to establish paternity should the woman be pregnant or become pregnant right after receiving the *get*.

12. What if the husband is incapacitated or unavailable to give the *get*?

In the event that the husband is not able to tender the *get* in person or appoint a *shaliach*, the *beit din* may provide and tender a *get zikui* (*get* of acquittal) in lieu of the husband. This halakhic principle relies on the presumption that the *beit din* has the authority to impute intent to the husband that he would wish to behave in a reasonable manner toward his wife and would not want to trap her as an *agunah* in the marriage.

13. Is there a central *get* registry?

There is no central *get* registry in North America.

14. Does the lack of a central get registry present a problem?

It can. Some U.S. *batei din* do not keep records. Some *batei din* keep records, but accessing those records is difficult, if not impossible, for various reasons—i.e., disorganized record-keeping practices, unavailability of the record keeper through death or incapacity, or problems affecting access to the location of the records. For reasons discussed previously, flawed or incomplete records of a Jewish divorce may have serious effects on future generations. It is thus advisable for both husband and wife to retain original documents in a safe and secure place so as to avoid loss, damage or theft. It is also wise to keep digital copies and make multiple hard copies of the *ptur* and keep the copies in different places.

15. Are there alternatives to a get in dissolving a Jewish marriage?

A great deal of thought and energy has been directed to addressing problems arising from the inequitable system of giving and receiving a *get* by investigating possible alternatives to a *get*. The following are potential alternatives:

A. Kiddushei Ta'ut

A determination of *kiddushei ta'ut* stems from the talmudic principle of *mekah ta'ut*—a mistaken transaction, namely, a contract that is entered into based on a mistake regarding a fact that is essential to the transaction. A determination of *kiddushei ta'ut* can be made by a *beit din* to rescind and annul a *kiddushin* (marriage) when it is deemed to have been void and invalid from the outset, because it was based on a *mum nistar*, namely, a serious blemish that was unknown at the time of the *kiddushin*, causing the *kiddushin* to have been entered into based on a mistaken fact. The *mum* is discovered after the *kiddushin* and used as grounds for divorce. A marriage may be rescinded and annulled as void under the

principle of *kiddushei ta'ut* in two circumstances:

(1) **Mum Nistar** in the husband. Prior to the *kiddushin*, the husband had a *mum nistar*, namely, a pre-existing serious blemish or condition that was unknown to the wife, or was hidden from her, that qualifies as sufficiently serious to halakhically presume that had a rational person known about this *mum* prior to the *kiddushin*, she would never have entered into the *kiddushin* in the first instance; and there is valid proof that the *mum* was pre-existing and present in the husband prior to the *kiddushin*. For example, the husband has a serious mental illness that pre-exists the *kiddushin*.

(2) **Mum** in the *kiddushin*. There was a *mum*, namely, a halakhic flaw in the *kiddushin* ceremony that was *nistar* and not known at the time of *kiddushin*. This *mum* can occur in two forms. Either (a) the *eidim* who witnessed the ceremony were not halakhically valid, or (b) the husband's ownership of the ring is in dispute.

Potential Waiver: If the wife discovers any of the above two *mumim* following the *kiddushin* (marriage) ceremony, but she nevertheless continues to live with her husband, she may be deemed by a *beit din* to have waived a claim of *kiddushei ta'ut* as grounds for divorce. Therefore, it is recommended that the wife immediately, or as promptly as reasonably possible, raise the issue of the discovered *mum* with an attorney or *to'en/to'enet* and halakhic advisor so that she can be properly prepared to raise the issue as a basis for divorce and potentially stop living with her husband if that is required to establish these grounds for divorce.

Note: There is a halakhic presumption that a woman prefers any marriage to being single (*tav l'metav tandu me'l'metav*

armelu, BT *Bava Kamma* 111a). In light of this presumption, some *batei din* may be reluctant to make a determination of *kiddushei ta'ut*, despite a wife's testimony regarding the newly discovered mum. Therefore, it is important to discuss with an attorney or *to'en/to'enet* and halakhic advisor in which *beit din* the wife should raise the issue and seek divorce, if she has the ability to select the *beit din*.

B. Hafka'at Kiddushin.

This is a ground that has been suggested by the Talmud that is not widely implemented. A *beit din* is halakhically considered to be a party to the *kiddushin*. Therefore, the *beit din* has the legal standing to void or annul the *kiddushin*. *Hafka'at Kiddushin* works on the halakhic principle that the *kiddushin* is validated *k'dat moshe v'yisrael*, which is another term for the halakhic Jewish legal system. When *kiddushin* fails to meet the halakhic standards of the Jewish legal system, the rabbis, who have been granted the *beit din's* authority to validate the *kiddushin k'dat moshe v'yisrael*, correspondingly have the same authority to annul the *kiddushin* as invalid and void. This annulment can be made on any halakhic grounds that are deemed to invalidate a *kiddushin*.

C. Umdena.

This is a halakhic presumption through which contractual intent is imputed to parties to a contract that forms and becomes an essential part of the terms of the transaction. In the case of a divorce request, the *beit din* retroactively looks back at the *kiddushin* and imputes to the bride the reasonable intent and expectation that she is marrying a conscionable person who will act as a reasonable husband should behave, and were she to have known at the time of *kiddushin* under the *huppah*, that her husband would not behave like a reasonable person after the

kiddushin, she would never have entered the *kiddushin* and married him in the first instance. This imputation provides the basis for imputing an intent that negates the halakhic validity of the *kiddushin* and therefore provides grounds for its annulment as void.

D. Non-Orthodox kiddushin officiator

If an Orthodox clergyperson did not officiate at the *kiddushin*, some halakhic authorities may not require a get to annul the *kiddushin*.

These alternatives may be used as a last resort by a *beit din* when the issuance of the get is not possible to prevent *iggun*. The first alternative of *kiddushei ta'ut* is in use by the International *Beit Din* in very difficult cases of *iggun*.

III. BEIT DIN

Often a person's first experience with a *beit din* occurs when he/she/they seeks a religious divorce. Many people are unfamiliar with differences in procedure, language, and personnel within a *beit din* and among *batei din*. These differences may significantly impact one's experience with a *beit din*, and, as such, should be given serious consideration before one chooses a particular *beit din*.

1. What is a beit din?

A *beit din* is a Jewish rabbinic court that deals with various business-related and commercial disputes, as well as matters of personal status, including divorce. A *beit din* is comprised of three halakhically qualified men, each of whom is known as a *dayan*, and in plural, *dayanim*.

2. Are batei din licensed by the civil state?

No. *Batei din* are neither licensed nor regulated by the state. Nonetheless, certain determinations by *batei din* may be considered binding in civil court.

3. Are batei din regulated?

A *beit din* may be regulated by the organization that sponsors it (for example, the Beth Din of America is regulated by its sponsoring organization, the Rabbinical Council of America), but usually the parent organization will allow the *beit din* to establish its own rules and procedures.

4. Are batei din independent entities or part of larger organizations?

Batei din may be sponsored by local or national organizations, e.g., the Union of Orthodox Rabbis of the U.S. and Canada/Agudath HaRabonim, but *batei din* may also be formed on an *ad hoc* basis to hear a particular case, such as a *zabla beit din*. (See III:9.) Some problems that may arise with *ad hoc batei din* include a lack of oversight by a sponsoring organization, inaccessibility of the *dayanim*, who may be difficult to find once the *beit din* has dissolved, and poor record-keeping practices, if any.

5. Are there uniform practices among batei din?

Most of the practices and procedures encountered in the *beit din* are dictated by *halakhah*. *Batei din* are also governed by formal or informal local customs and norms that may result in different procedures among different *batei din*. It is difficult to ascertain the precise basis for each *beit din's* practice, as this information is not generally recorded.

Note: In light of the potential for differing approaches and practices among different *batei din*, it is advisable to work with a well-established and long-standing *beit din* with consistent procedures and practices and to familiarize oneself with such procedures and practices. It is further advisable to consult with an attorney or *to'en/to'enet* and halakhic advisor to help you

best understand these practices.

6. Are there uniform record-keeping practices among batei din?

No. Each *beit din* decides how it will maintain its own records, and some are not computerized. We advise that each party to a Jewish divorce proceeding keep records with the full name of the *beit din*, the names of all the *dayanim*, the names and addresses of any witnesses, the name of the *sofer*, a list of all other people present at the proceeding, the location, date, and time of all proceedings and the decision rendered by the *beit din* at that proceeding.

7. Which documents, generated by the beit din, is the wife entitled to receive?

Each *beit din* has its own practices with respect to which documents are provided to the parties. Be sure to check with your specific *beit din* as to which documents each party may keep, and ask that hard and digital copies be made. It is essential that a copy of the *ptur* is obtained from the *beit din*. If originals of the documents are required for future religious or secular transactions, such as the original of the *get* or *ptur*, it is essential that each party walk out of the *beit din* with these documents in hand or copies with the *beit din's* stamp and an assurance of receipt of the original documents at a future fixed time.

8. Must both parties to a divorce appear before the beit din chosen by the initiating party?

A person is not compelled to submit to the *beit din* chosen by the other party; however, he/she/they must answer the *hazmanah* (summons) of that *beit din*. If the purpose of the *hazmanah* is solely to bring the wife to the *beit din* to receive the *get*, it may not be worthwhile to contest the husband's choice of *beit din*. However if the *beit din* is addressing issues of spousal and/

or child support and custody, the choice of *beit din* becomes much more significant. If you don't agree with the initiating party's choice of *beit din*, it is best to go to the *beit din* prepared with suggestions of *batei din* that would be acceptable to you. If the initiating party does not agree to adjourn to one of those *batei din*, a *zabla beit din* may need to be established.

9. What is a *zabla beit din*?

If a situation arises where a husband and wife are unable to agree on an existing *beit din*, they may be forced to convene a *zabla beit din* to facilitate their divorce. A *zabla beit din* is an *ad hoc beit din* that may be established to hear a particular case. In such a case one *dayan* is chosen by the husband and one *dayan* is chosen by the wife. The two *dayanim* then choose a third *dayan* to sit with them on the *zabla beit din*.

There are several obvious reasons to avoid a *zabla beit din*, including the absence of a parent organization and the oversight it may provide, unknown record-keeping practices, and the fact that the *beit din* has no track record to consider. Nevertheless, there are times when a *zabla beit din* may better serve a woman's interests than a standing *beit din* that is known to be unfair toward women.

10. How should one choose a *beit din*?

If a party to a divorce proceeding is comfortable doing so, he/she/they may ask a *to'en/to'enet* or halakhic advisor to recommend several possible *batei din*. (See "General Comments and Cautions" section regarding discussions with halakhic advisors.) We recommend that a person perform due diligence and thoroughly check out the practices and *hashkafah*, or philosophical outlook, of any *batei din* he/she/they is considering before making a final determination. A review of the FAQs and

the "General Comments and Cautions" sections will provide you with the key questions to ask when calling and/or researching a *beit din* to obtain information. Also, it is advisable to ask others about their experience with different *batei din* in the context of obtaining a divorce.

IV. BEIT DIN DIVORCE PROCEDURES

Note: For procedures associated with the transfer of a *get*, see II:3.

1. What initial procedures are encountered when one goes to a *beit din* for a *get*?

A. Initiating the Proceeding.

One of the parties seeking a divorce must call the *beit din* and schedule an appointment to initiate the proceeding. Either the husband or wife may initiate this contact.

B. The initial two hearings before the *Beit Din*.

The *beit din* conducts an initial interview with the initiating party, following which it will issue a *hazmanah* to the other party to appear before that *beit din*. The summoned party is required to appear before the *beit din* in response to the *hazmanah*. At this second hearing before the *beit din*, the other party may indicate that he/she/they does not agree with the initiating party's choice of *beit din* and will be able to offer a choice of other *batei din*. If the parties cannot agree on any existing *beit din*, a *zabla beit din* may have to be formed.

C. *Hazmanot*.

The *beit din* may need to issue up to three *hazmanot*, and if the summoned party does not appear, the *beit din* may issue a *seruv*. (See IV:2 and 3) A *seruv* is a document indicating that the summoned person did not respond to the *hazmanah* and is not cooperating with the *beit din* such that this person is deemed a recalcitrant

party who is in contempt of court. Any of the parties, whether husband or wife, can be held in contempt of court. (See III:8, as to whether a party submits to the jurisdiction and legal authority of the *beit din* issuing the summons by appearing in response to the summons.)

D. *Seruv*.

The issuance of a *seruv* is a serious matter that can trigger community sanctions against any person who is “*mesarev/mesarevet*” (a refuser or person in contempt). Some *batei din* will not issue a *seruv* due to the severity of the measure. However, these *batei din* may be willing to issue a letter to community clergy indicating that, for example, in the case of a husband, synagogue honors should be withheld from him because he has failed to cooperate with the *beit din*. According to *halakhah*, the sanction of withholding honors from an uncooperative husband does not require a *seruv*; however, other sanctions, such as picketing the husband’s home or workplace, or targeting him in a social media campaign¹ are considered to be substantively different and may require a *seruv* issued by a *beit din* as a condition precedent to implementing these sanctions.

2. Once a *seruv* is issued, do community sanctions automatically follow?

No. In most cases, it is the responsibility of the sanctioning party to ensure that sanctions are enforced against the *mesarev/mesarevet*. He/

¹ For halakhic and legal reasons, it is ORA’s policy to await a *seruv* before enacting public campaigns against recalcitrant spouses. For those who are not familiar, the Organization for the Resolution of Agunot (ORA) works to eliminate abuse from the Jewish divorce process by advocating for *agunot*, offering advice and support to those struggling with divorce, and standardizing the use of a Halakhic Prenuptial Agreement. For a directory of Agunah advocacy organizations, see Appendix.

she/they must obtain a copy of the *seruv* from the *beit din* and provide it to the halakhic advisor of the *mesarev/mesarevet* and others who would be willing and able to implement community sanctions against the *mesarev/mesarevet*.

3. What community sanctions can be applied against a person who is the subject of a *seruv*?

Once a *seruv* has been issued, the *mesarev/mesarevet*’s home or workplace may be picketed or targeted on social media. If the husband is *mesarev*, his congregation may be asked to deny him the honor of being called up to the Torah. (However, as indicated previously, this particular sanction can be applied even without a formal *seruv*.) If the *mesarev/mesarevet*’s business needs a *hekhsher*, the *hekhsher* may be refused or withdrawn after a *seruv* is issued. All requests for sanctions must be initiated by the aggrieved party or someone acting on his/her/their behalf. The *beit din* and/or local clergy are unlikely to initiate sanctions without being asked to do so by the injured party. The sanctions can be applied by individuals or community leaders, institutions or organizations. For example, the *Jewish Press*, a weekly New York-based publication, will list individuals who are *mesarev/mesarevet get*. Another list may be found at www.getora.com.

4. What is a *to’en* (masc.), *to’enet* (fem.)?

To’anim or *To’anot* (pl.) are advocates who act as attorneys for parties appearing before a *beit din*. Presently, *to’anot* (women) may only appear in *batei din* in Israel and only after they have completed a rigorous course of training. In North America, there is no uniform training curriculum for *to’anim* or *to’anot*, nor are they accredited by any communal institutions. As there is no requisite level of knowledge that *to’anim* or *to’anot* must evidence, and there are no ethical guidelines that govern their conduct,

some *batei din* will not allow them to advocate in the *beit din*. (See “General Comments and Cautions” section.)

5. Do husbands and wives confront one another directly when appearing before a *beit din*?

No. Both husbands and wives are present in the same room, but they do not speak to one another directly. During the proceedings, each party speaks directly to the *dayanim* and the *dayanim* pose questions or relay comments to the other party.

6. Should a woman go to a *beit din* alone?

We highly advise against appearing alone before the *beit din*. This can be an extremely emotional experience, and the party may need support. We suggest that a woman ask female friends and/or trusted relatives to accompany her. If the person accompanying a woman has knowledge of *halakhah*, that may be helpful; however, each *beit din* differs with respect to whether a non-party will be permitted to attend and/or speak during the proceeding. See below for whether an attorney is permitted to attend.

7. Can a woman’s attorney accompany her and speak on her behalf before a *beit din*?

Batei din differ on whether attorneys may be present during the proceeding and to what extent they may participate. Ask the *beit din* you are considering using to what extent, if any, your attorney may be involved.

8. What kind of monetary settlement may a woman be entitled to in a *beit din*?

Each *beit din* has its own method of division of marital assets and approach to support. A *beit din* may award a woman the worth of her *ketubah* solely, or it may ask a woman to waive her claim to the *ketubah* money. (See V:2.)

9. If a party feels they have been treated unfairly by a *beit din*, is there any type of appellate process?

One of the flaws of the current *beit din* system is that there is no clear-cut formal appellate process and no specific entity that is empowered to address complaints. If the *beit din* has a parent organization, a complaint may be lodged with that organization. The complaint should clearly outline the facts and underlying legal issues and ask for an investigation and report of outcome to the complainant. For best proof and recording of the complaint and receipt by the organization, it should be sent by certified mail, return receipt requested, or by courier with a signature required. A copy should be kept for the party’s records of both the written complaint and the proof of receipt. Additionally, in some *batei din*, if the *av beit din* (chief judge of the *beit din*) was not one of the *dayanim* who ruled on the original case, one might be able to appeal to the *av beit din* to reconsider the case.

V. DAYANIM

1. Who can serve as a *dayan* on a *beit din* for Jewish divorce proceedings?

Only a male rabbi or male layperson qualifies to serve as a *dayan* (judge) on a *beit din* (rabbinic court) that presides over Jewish divorce proceedings. The chief judge is called the “*rosh*” or “*av*” *beit din*, and it is often he who provides the *hashkafah* (ideological guidance) that characterizes his *beit din*. The *beit din* is often referred to by the name of the *rosh* or *av bet din*, i.e., “Rabbi Yossi’s *beit din*.”

2. Are there universally accepted standards for *dayanim*?

Aside from the basic halakhic requirements for qualifying as a *dayan*, every *beit din* determines what additional qualifications will be required for its *dayanim*.

VI. DOCUMENTS FOUND IN JEWISH DIVORCE PROCEEDINGS

Note: Many documents involved in Jewish divorce proceedings, such as the *get* and *ptur*, are discussed elsewhere.

1. What type of prenuptial agreements may be used to address issues within a Jewish marriage?

A bride and groom may sign a prenuptial agreement prior to marriage that creates financial incentives for any of the parties to give a *get* in a timely manner in the event that the parties cease to live together as husband and wife. This agreement may also be signed after a couple is married, in which case it is considered a postnuptial agreement. Pre and postnuptial agreements are equally valid and enforceable.

Increasingly, Jewish prenuptial agreements are signed by the bride and groom prior to the wedding ceremony. (See “General Comments and Cautions” section about the timing of the signing of such agreements.) The prenuptial agreement compels either of the parties, and in the case of an *agunah*, the husband to provide financial support to his wife if he withholds providing a *get* once a Jewish divorce has been initiated. (A woman might withhold her acceptance of the *get*.) The prenuptial agreement is intended to disincentivize the husband from refusing to give a *get* in a timely manner.

Prenuptial agreements can differ. The prenuptial agreement of the Beth Din of America is a commonly accepted option. It can be obtained by calling 212-807-9042 or downloading it from <https://theprenup.org/>. For additional step-by-step guidance about signing the halakhic prenup, visit <https://www.getora.org/>. In the American and Canadian legal systems, civil laws may differ as to what must be included in a prenuptial agreement for it to be valid and enforceable. These laws may be fairly complex; therefore, any

prenuptial agreement should be obtained ahead of time and discussed with your attorney and halakhic advisor before you sign it. Moreover, some prenuptial agreements contain language as to a binding arbitration agreement with respect to finances and custody. Make certain to review this language with an attorney prior to signing, as arbitration is its own form of legal proceeding that is generally not appealable to a regular civil judicial court.

2. What is a ketubah?

A *ketubah* is a document that was created by the rabbis for the purpose of protecting women in the context of marriage. The *ketubah* is signed by the groom and given to the bride during the wedding ceremony. According to the terms of this contract, the husband commits himself to support, feed, and satisfy his wife sexually for the duration of their marriage and to give her a certain sum of money in the event of a divorce.

The sum of money outlined in the *ketubah* is described in *zuzim*, ancient coins. *Batei din* take different approaches in their calculation of the amount of money owed in the event of a divorce according to the terms of the *ketubah*. Some *batei din* will award a woman a finite amount in local currency (i.e., \$5,000) and other *batei din* will interpret the *ketubah* to require the husband to pay spousal support for a given period. *Batei din* differ as to the duration of the spousal support that will be awarded and the standards they will apply in determining the amount of support owed.

In the event of a divorce, some *batei din* may ask a woman to forgo her *ketubah* money and/or may also fail to ensure that she receives adequate financial support once she has waived her claim to her *ketubah* money. In those or similar events, the woman should file a petition in civil court for spousal and/or child support, unless she has waived that right by signing a valid and binding

shtar berurin. Some *batei din* may view a party's decision to seek the aid of the civil court in an unfavorable light, and some communities may penalize and/or ostracize parties who seek the aid of civil court rather than rely on the rulings of the *beit din*.

3. What is a *shtar berurin*?

A *shtar berurin* is a document that grants the *beit din* exclusive authority to arbitrate and determine issues including division of marital assets, support, and custody of children. Civil courts may accept this as a binding arbitration agreement. This will vary in different civil courts and jurisdictions. Each party to a divorce has the right to refuse to sign the *shtar berurin*, but some *batei din* require that a *shtar berurin* be signed before agreeing to adjudicate the matter. One should consult an attorney before signing the agreement. (See "General Comments and Cautions" section.)

Once a *shtar berurin* has been signed by the parties and the *beit din* has arbitrated the matter and reached a determination, it will be extremely difficult to enlist the aid of the civil court in changing the outcome of the case. We strongly advise that one seek the assistance of an attorney in this matter. Moreover, a party may be subject to disapproval by his/her/their community based on his/her/their decision to turn to the civil courts.

4. What is a *heter me'ah rabbanim*?

In the event that a woman cannot or will not accept a *get*, this *heter*, which must be signed by 100 rabbis, halakhically permits a husband to take another wife on the condition that he deposits a valid *get* for his first wife with the *beit din*. Historically, a *heter me'ah rabbanim* constituted a remedy for men whose wives could not accept a *get* due to incapacity, or because the wife could not be found. In some cases, a woman

may refuse to accept a *get* for valid halakhic reasons. (See II:7, outlining legitimate reasons for refusing to accept a *get*.)

This remedy has been subject to abuse on a number of levels, all of which may involve the issuance of the *heter me'ah rabbanim* without the *beit din* having followed proper halakhic protocol, for example, (a) without first requiring the husband to deposit the *get* with them, (b) without addressing the valid halakhic refusal by the wife, and/or (c) without investigating the truth and credibility of the husband's claim that the woman has invalidly refused to accept the *get*.

VII. AGUNAH

1. What is an *agunah*?

An *agunah* is a woman chained to a dead marriage. Historically, this term referred to a woman whose husband had disappeared with no witnesses to his death and his body was not found. The term is frequently used today to include a woman who is a *mesurevet get*, that is, one whose husband refuses to give her a *get* even though his whereabouts are known.

Whether a woman does not receive a *get* because her husband's whereabouts are unknown, or because he refuses to give her a *get*, the woman cannot remarry until she receives her *get*.

2. What is the difference between an *agunah* and a woman who is a *mesurevet get*?

Historically, an *agunah* was a woman whose husband had disappeared and a *mesurevet get* was a woman whose husband refused to give her a *get*. Currently, the term *agunah* is used to describe women in both situations. Nonetheless, some *batei din* maintain that there is a halakhic distinction between an *agunah* and a *mesurevet*

get, and thus will not apply the leniencies required by *halakhah* in *agunah* situations to *mesuravot get*.

3. Are there other circumstances in which a woman may find that she is an *agunah*?

If a woman's husband dies and no children have been produced through their marriage, the deceased husband's brother is required to marry her in a special levirate marriage ceremony called *yibbum*. It is the current practice in most communities for the brother to perform the ritual of *halitzah* that will release his sister-in-law from marrying him. (The *halitzah* ritual involves the widow making a declaration, removing a shoe off of the foot of the brother of her deceased husband, and spitting on the floor.) If the brother refuses to release the woman by performing *halitzah*, she is an *agunah* and cannot remarry. Under these circumstances, a halakhic authority figure must be consulted.

Note: Following the ritual of *halitzah*, the woman's status is that of a divorcee. This can create problems if she later wishes to marry a *kohen*, who is forbidden to marry a convert or divorcee.

VIII. OTHER IMPORTANT ISSUES

1. What is the civil law with respect to confidentiality and clergy-penitent privilege as it applies to communications with halakhic advisors?

A "privileged" communication is one that is protected from discovery and disclosure during civil legal proceedings, absent certain rare exceptions. For example, the attorney-client privilege is universally accepted across the United States. There exists in many states a clergy-penitent privilege that may include discussions with a rabbi. However, while this privilege may ensure confidentiality in the civil courts of those states where it is valid, it does not

ensure confidentiality in the context of Jewish law and *beit din* proceedings. Halakhic advisors may reveal to the *beit din* or to a husband what a wife has told them—for example, disclosures about practices involving *mikvah* attendance, sexual relations or extramarital affairs. Because communications between a woman and her halakhic advisor may operate to her detriment in *beit din* proceedings, we recommend that when a woman meets with a halakhic advisor to discuss her divorce, she be accompanied by a third party who may act as a witness to the conversation if this will not destroy the clergy-penitent privilege. Because of these complex legal issues, we further strongly recommend consulting with an attorney prior to engaging in any of these conversations.

In addition, women who are anticipating or are experiencing a divorce may decide to seek counseling from a mental health professional. As noted with the clergy-penitent privilege, although some jurisdictions deem communications between mental health professionals and patients to be privileged, this privilege may be a limited one, and one may run into the same issue of the *beit din* not honoring this privilege. We strongly recommend consulting with a local attorney to get more information about communications with mental health professionals.

C. GENERAL COMMENTS AND CAUTIONS

1. Sign a halakhic prenuptial agreement.

We recommend the signing of a Jewish prenuptial agreement prior to your marriage ceremony. While a prenuptial agreement is not a guarantee against extortion through the get process, it has been found to help prevent it, as well as the state of *iggun*. The more widely it is used, the more effective it will be. Furthermore, engaging in the conversation about the halakhic prenup raises awareness about domestic and *get* abuse, while also creating more open communication between the couple. For those who are already married, we recommend signing a postnuptial agreement. All references below to prenuptial agreements apply equally to postnuptial agreements. If you are already married, consider signing a halakhic postnuptial agreement.

Different forms. There are different forms of prenuptial agreements available, and halakhic advisors have different positions as to which prenuptial agreements are acceptable. Several weeks prior to the marriage ceremony, ask your officiating clergy person to show you the form he/she/they proposes to use. If the officiant performing your wedding will not use a prenuptial agreement, we suggest that you seriously consider working with a different clergy person who will use the agreement.

Review of agreement. You should review your prenuptial agreement with someone who can explain its language and the legal and halakhic ramifications. Pay particular attention to any provisions that

include a binding arbitration agreement as to finances and/or custody. It is preferable that the agreement be signed prior to the wedding day.

Civil requirements. Each state or jurisdiction may have its own rules as to the content and execution of prenuptial agreements. Therefore, it is important to consult with a local attorney to determine what is required for a Jewish prenuptial agreement to be valid and enforceable in your jurisdiction and whether it needs to be notarized. The parties should also check with the local *beit din* to determine whether any changes to the prenuptial agreement will be halakhically acceptable. If changes need to be made, consult with a *dayan* to help work out acceptable wording.

2. Consult with a matrimonial attorney and halakhic authority.

If one is contemplating divorce, we recommend consulting with a matrimonial attorney prior to undertaking any divorce action or related steps, including going to a *beit din* or establishing another residence. If financial constraints would prevent one from obtaining a private attorney, free legal assistance is available in some jurisdictions. In addition, we recommend speaking with a halakhic advisor, *to'en/to'enet* or a person or organization who is familiar with Jewish divorce proceedings and is known to be helpful to *agunot*. The Jewish divorce proceeding requires a two-pronged approach and knowledge of Jewish and civil law.

3. *The get process is unrelated to financial support matters.*

The *get* is a document that releases a Jewish woman from marriage. It is wholly unrelated to the issues of custody, financial and other divorce negotiations. The *get* was designed to protect women from being summarily divorced with no means to live. Any use of the *get* as a sword against the woman (or other party) to disadvantage her (or any party) in matters such as custody and financial support is a flagrant abuse of the Jewish divorce process. This is further supported by the Talmudic principle of halakhic leniency to protect women from being declared *agunot*. Therefore, as soon as a couple ceases to live as husband and wife, or as soon as a divorce is requested by one party, the husband should promptly write and deliver a valid *get* to his wife. Other divorce matters should be separately pursued.

4. *Names are essential terms of the get.*

Using full and correct names is crucial in a *get*. A *get* issued by or to a person using an incorrect name is void. Be sure to provide the *beit din* with your full name and the full name of your father and be sure to verify the Hebrew spelling of every name. It is advisable to check your *ketubah* for reference to ensure that the names in the *get* are complete and correct. If a party referenced in the *get* is known in the community by another name or a nickname, these names should also be provided in writing to the *beit din* and should be written into the *get*.

5. *Use a qualified beit din to issue the get.*

A *get* must be written and reviewed by a qualified *beit din* to assure that it is halakhically valid.

6. *Never ignore a hazmanah.*

A *hazmanah* should never be ignored. The recipient must respond by appearing before the *beit din* as specified in the *hazmanah*. A *seruv* can be issued against a party who fails to appear in the *beit din* after being summoned three times, and sanctions may be applied.

7. *Appearing in beit din is not submission to its jurisdiction.*

You need not submit to the *beit din* that first receives your case. If you do not want your case litigated in the *beit din* that issued the *hazmanah*, when you appear in response to the *hazmanah*, you must indicate that you do not accept its jurisdiction, and you should ask the *beit din* to transfer your case to another *beit din*. We recommend that you come prepared with the names of alternative *batei din* that you have researched. In the event that you and your spouse cannot agree on a *beit din*, a *zabla beit din* may have to be convened.

8. *Do your beit din due diligence.*

Before deciding whether to go to a particular *beit din*, that *beit din* should be interviewed extensively about such matters as the timing of *hazmanot* and its practices with respect to *seruv*. Some *batei din* will not issue a *seruv* even though they say they do. Try to determine under what circumstances this might happen. Keep in mind that a *beit din* may reserve the right to diverge from its own written rules and procedures. Consult with your attorney, halakhic advisor, *to'en/to'enet* or those with experience at the *beit din* for a complete picture.

9. *How to deal with delay tactics.*

A husband who does not want to grant a *get* may use stalling tactics such as attempting to delay the issuance of *hazmanot* or moving to change the *beit din* immediately prior to

the issuance of a *seruv* in order to prolong the Jewish divorce proceeding. If the initiating party wants to put an end to the delay, that person can request that the *beit din* issue a *seruv*. If the *beit din* will not issue a *seruv*, the party may request that a *zabla beit din* be formed.

10. *Do not go alone to beit din.*

No woman should attend a *beit din* by herself. Attending a *beit din* session and/or receiving the get itself can be very emotional and intimidating experiences.

11. *Be careful with clergy-penitent confidentiality and the halakhic advisor's potential conflict of interest.*

A party to a Jewish divorce should exercise caution about what he/she/they reveals to his/her/their rabbi. There are 3 factors to consider: (a) The clergy-penitent evidentiary privilege may vary by state law and, where enforced, may not fully protect confidentiality, (b) a *beit din* might not recognize this privilege and/or (c) notwithstanding the privilege, a halakhic advisor may feel professionally compelled to reveal certain facts. Therefore, when speaking with a rabbi, women, in particular, must use caution in revealing details of their marital intimacy or mental state, as some halakhic advisors may feel that they have an affirmative duty to reveal this information to a *beit din* or husband, and the information may then be used against the woman. Although there may be reasons for the woman to have a third party accompany her and be present when consulting with a halakhic advisor about a divorce, it is important to understand that the presence of a third party may destroy any evidentiary privilege that attaches to the communication. Speak to your attorney about this issue.

12. *Halakhic advisors proceeding in good faith.*

The divorcing party. We recommend that you ask your halakhic advisor to proceed in good faith and to inform you at the outset of your conversation if the halakhic authority figure feels that under certain circumstances, he/she/they may have to break a confidence with you that might be used against you in the divorce proceedings. We recommend that you speak with a licensed mental health professional with whom your confidences might be better preserved. We ask and urge halakhic advisors to act in good faith toward their congregants.

Halakhic advisors. You should make your intentions and duties clear with specificity, both at the outset of your interaction, and, if necessary, during the course of your conversation. Also, if necessary, please refer your congregant to a licensed mental health professional.

13. *Consult with a licensed mental health professional as needed.*

We recommend that a woman who needs counseling seek the services of a licensed mental health professional. Please speak to an attorney about whether, and to what extent, the law in your jurisdiction protects the confidentiality of your communication with a mental health professional. Please also check if your *beit din* will recognize this privilege.

14. *Note that a beit din may require rabbinic counseling.*

One should be aware that a *beit din* may require individuals seeking a divorce to undergo counseling with a rabbi, even if he/she/they has already been in counseling with a licensed mental health professional. Please keep in mind the

cautionary notes above about the clergy privilege and potential rabbinic conflicts of interest.

15. Do not give your rabbi your “power of attorney.”

If a halakhic advisor is helping to arrange your get, do not let them make commitments on your behalf without your prior approval. It is a good idea to put this request in writing to your halakhic advisor in the form of a cordial letter. When discussing your available options with a halakhic advisor and their recommendations, make sure that you have a full understanding of all commitments that you are making and their ramifications. If necessary, ask your halakhic advisor to write down any key recommendations and discuss them with your professional advisors and attorney.

16. Is a *shtar berurin* required by your *beit din*?

Determine if the *beit din* you intend to use requires you to sign a *shtar berurin*, a binding arbitration agreement, which may give the *beit din* authority over the giving of the get, as well as over child custody and financial matters. Some *batei din* require parties to sign a *shtar berurin* before they hear a case; others suggest, but do not require such an agreement. If a husband requests a *shtar berurin*, some *batei din* will require it. Unfortunately, a woman is often faced with the choice between signing a *shtar berurin* or foregoing a get. If faced with this decision, we urge her to consult with a trusted halakhic advisor and an attorney so that you understand clearly the potential impact of such an agreement.

17. Do not accept halakhic advice as black letter law without a full explanation.

One need not simply accept responses such as “It’s the *halakhah*,” or “It’s *d’oraita*” (biblically originated Jewish law). This answer is not always fully dispositive of the issue in question.

Variations in Jewish law do exist, and you should try to inform yourself about them. You may respectfully ask your halakhic advisor or others for an explanation of the halakhic issue in question.

18. Do not be afraid to state your case or seek clarification in a *beit din* setting.

When speaking to a *beit din* or *to’en/to’net*, be respectful, but firmly assert your position. You may always ask for time to check issues that are unclear to you or statements that seem inaccurate.

19. Ex parte conversations with the *beit din* should be discouraged and fully disclosed.

Sometimes one of the parties may try to have *ex parte* (private) communication with the *beit din*. One should request from the *beit din* that all parties be informed of any communication that the other party may have with the *beit din*.

20. There are fees associated with using a *beit din*.

Often, a *beit din*’s fee exceeds the amount initially quoted to the parties. Most *batei din* have sliding scales for parties who cannot afford the *beit din*’s regular fees. Some cities have Hebrew free loan societies that will lend people money to pay for a get. You can visit this website to find out about Hebrew free loan societies in your locality: <https://iajfl.org/find-your-agency/>.

21. What if a woman stays in a marriage with potential *kiddushei ta’ut*?

If a woman decides to stay in a marriage where there may be grounds for *kiddushei ta’ut*, she should take precautions to ensure that her decision will not be used against her at a later date. She can secure a promise from her halakhic advisor that her good faith attempts to make the marriage work will not be viewed as

an acceptance of the flaw, if she later determines she wants the marriage voided. A document should be drafted and signed that reflects this promise. Be aware that such a letter or even a rabbi's statement may not bear weight with some *batei din*.

22. Can there be an annulment on the basis of *kiddushei ya'ut*?

The International *Beit Din* (IBD) will annul marriages on the basis of *kiddushei ta'ut*. It deals only with difficult cases of *iggun*. All parties are interviewed first by the members of the IBD, which may try to resolve the case and, if possible, find another *beit din* to write a *get*. When, upon examination by the *dayanim*, they make a finding that the marriage meets the criteria of *mum nistar* or hidden flaw that led to a "mistaken marriage," they apply the principle of *kiddushei ta'ut* to void the marriage.

Note that the majority of Orthodox rabbis will not officiate at the marriage of a woman whose prior marriage was annulled through this *beit din* on the basis of *kiddushei ta'ut*.

23. Are there other methods of annulment?

Get is the preferred way to end a Jewish marriage. Most *batei din*, when possible, will try to secure a *get* before considering any alternative options as a last resort. Be aware that some *batei din* will not consider any alternative means to dissolve a marriage.

24. Check the validity of a *get* issued per *heter me'ah rabbanim*.

In order to receive a *heter me'ah rabbanim*, a husband must deposit a valid *get* with the *beit din*. Note: Use of *heter me'ah rabbanim* is exceedingly rare by reputable *batei din*. If a woman decides to accept a *get* from a *beit din* that issued the *heter me'ah rabbanim*, she should bring someone knowledgeable in these matters to verify that the *get* has been validly drafted and executed.

25. Where can I find additional information?

For additional information about the *get* procedure, please visit the Rabbinical Council of America website, www.bethdin.org. Their brochure, "Explaining Jewish Divorce," can be downloaded from their website: <http://bethdin.org/wp-content/uploads/2015/07/ExplainingDivorce.pdf> or obtained by calling the Beth Din of America at (212) 807-9042.

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