



# I am My Beloved's and My Beloved is Mine

## אני לדודי ודודי לי

### On marriage, love, and pre-nuptial agreements in Jewish law

A joint project of Koleh Religious Women's Forum and  
the Jewish Orthodox Feminist Alliance (JOFA)



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As we stand at the gate of a new year, with all its new challenges and hopes, and wave farewell to the passing year, we are awakened with a call for self-reflection. We would like to dedicate the Elul issue of this booklet, which we have called 'I am My Beloved's and My Beloved is Mine', to the topic of reform of marriage and divorce issues in the Jewish ritual lifecycle, and to the advancement of healthy and sound relationships in marriage, based on values of respect and love, camaraderie and friendship.

This publication is dedicated to couples getting married, to their parents, and to friends who would like to strengthen their own marital security and that of those around them by signing a pre-nuptial agreement.

We pray that the year ahead will be fruitful and creative, full of passion, growth and prosperity, a year of fulfilling dreams, of great and everyday miracles, of vision, of the renewal of strength, and of love and equality in relationships.

*Best wishes and Shana Tova,*

Yours,

Gili Zivan, Efrat Racheli-Meiri and Elana Maryles Sztokman

# A crack for a crack

## Avigail Antman

I try to understand you and me  
Your crack beneath my crack  
Your eye for my eye  
Your tooth in exchange for my tooth

You, never in the right place.  
I am never worthy.  
Our pain joined us together.  
You said to me: I am afraid,  
And I first embraced you.  
Your gaze, my beloved, is far away from here  
Far away from me.  
Searching for an embrace that you will never find.  
I am not a distant peak  
I am here and now  
On all of my teeth and my cracks and my eyes  
That search for your teeth, your cracks, and your eyes.

Avigail Antman teaches at the Masorti High School in Jerusalem, leads creative writing workshops, and writes a weekly column in Kolech's newsletter.

# The *agunah* problem: A retrospective

## Blu Greenberg

Undeniably, the *agunah* problem begins with Torah law (Deut.24:1ff). Decades ago, when I first dealt with the issue, I suggested the law be considered in binary form: transfer of the *get* as official means of ending the relationship; and who gives to whom as a matter of procedure, not principle. Thus, if the wife wanted a divorce and the husband refused, she should be empowered to

As I understood the sources better, I realized that persistent opposition to solutions for *agunut* always came back to the same thing: the husband's absolute right to give the *get*, his prerogative, his own free will, no coercion. All lenient rabbinic solutions and precedents have come up against this absolute right – and failed.

transfer the *get* to him. The Talmud had already hinted at this process: if the husband resisted writing the *get*, his wife could purchase materials, pay for the scribe, and give these “gifts” to her husband; these became his property as rabbinic law required. To me, this was one of those creative rabbinic legal fictions that enabled Jews to remain faithful to the letter of the law while adjusting to realities of life that law did not always perfectly fit.

But my suggestion gained no traction whatsoever, not even ridicule which often represented the first sign of engagement with a new idea. In the intervening years, as I understood the sources better, I realized that persistent

opposition to solutions for *agunut* always came back to the same thing: the husband's absolute right to give the *get*, his prerogative, his own free will, no coercion. All lenient rabbinic solutions and precedents have come up against this absolute right – and failed. Deuteronomy mandated that the husband be the giver of the *get*.

But events of life have a funny way of intersecting one's theology and thought processes. In 2009, I was invited to participate in a multi-faith book project; my assigned topic was human rights in Judaism. Though I had never formally studied Jewish human rights, I was always aware and proud of Judaism's record. I swell with pride as I hear the Torah read each week and marvel at its ethical sensitivity: pay the day laborer before sundown, allow the poor and hungry to eat from your private field, favor neither rich nor poor in court – these are *mitzvot* of stunning morality. The concept of dignity for every human being is God's gift to humanity, transmitted through Revelation to the Jewish people, long before Western civilization was born. And as I worked on the project – studying the laws under the canopy of human rights rather than as individual commandments, I came to understand Deuteronomy as a manual or manifesto of human rights. Law after law, Deuteronomy is the majestic exposition of justice, compassion, fairness, sensitivity to the pariah, the downtrodden, and the vulnerable. Altogether, Torah attempts to rebalance the imbalances in human life.

Still, I had to tell the whole truth. Some *mitzvot* in the Torah did not conform to that ideal of respect for others' rights. As a feminist, I felt compelled to speak of Jewish divorce and other women's laws as outside the human rights tradition. Yet personally, I could not help but wonder: why would these inequitable laws – divorce, rape, the captive wife – be placed right in the middle of the human rights manual? It made no sense.

Months later, as the book was printed, a flash memory flooded over me. It was an encounter I had with an African woman in 1985 at the End of Decade women's conference in Nairobi. She spoke softly but very sadly about her divorce. Her husband had peremptorily dismissed her from their home, would not allow her to return to see her eight children, had turned the children against her and had severed all ties to her former life. How could this happen? Could the courts not help her? No, in her village, men ruled. It was a given that a husband controlled his wife's life.

Suddenly – or rather 25 years later – it all clicked. This is what Torah's divorce law was all about, and it was rightly placed in the human rights manual. The Bible recognized the inequity and vulnerability of women in society. Requiring the husband to transfer the *get* was intended to protect, not abuse, the basic human rights of an underclass. A woman could not be discarded at the door for no reason or traded to another man. She had to be afforded a measure of dignity and given some official status at the most vulnerable and painful point in her life.

I believe that many Sages recognized God's loving intention, as they introduced ameliorations for women throughout the centuries [...] But because of their own patriarchal social structures, they continued to carry forward the male prerogative, subordinating to it the Torah's intent to protect women by allowing a recalcitrant man to chain his wife.

I believe that many Sages recognized God's loving intention, as they introduced ameliorations for women throughout the centuries: *ketubah* alimony, the right to initiate divorce albeit not grant one, the concept of "forcing him until he says 'I want to'", outlawing forcible divorce of a wife, and more. But because of their own patriarchal social structures, they continued to carry forward the male prerogative, subordinating to it the Torah's intent to protect women by allowing a recalcitrant man to chain his wife. Almost as tragic as violating the human rights spirit of the law, they

subjected Jewish law to dishonor, for the presence of *agunot* in our community clearly engenders *chillul Hashem*.

I have often said that it was the *agunah* issue that made me a feminist. But now I see it differently: it was – and is – the profound value of justice in Judaism that made me – and keeps me – a feminist.

No respectable society today considers women an underclass. It is past time to find a permanent resolution to the *agunah* problem!

Blu Greenberg is a leading Orthodox feminist activist and writer, Founder and first president of the Jewish Orthodox Feminist Alliance (JOFA).

## Getting married: Choosing a Path

Ruti Feuchtwanger

A woman and man meet, they are happy together, they want to get married. This is a joyous and momentous decision.

Before the wedding they are busy with many preparations and need to make important decisions – choose a location, arrange for a rabbi, look for a caterer, buy a ring, hire a band, hire a photographer, buy clothing, find a house and basic furniture, and many other issues big and small, both exciting and stressful.

Do they find time to also think about the meaning of the ceremony? Do they understand what relationship it symbolizes and what legal implications it will have?

In the Jewish *ketubah*, which the groom and witnesses (but not the bride) sign before or during the course of the ceremony it is written:

*And I will serve you and honor you, and I will provide you with food, and I will provide for you financially, in the manner of Jewish men, who serve and honor and provide food and a livelihood for their wives truly.*

What is the significance of the fact that only the man signs the *ketubah*? Does the approach that it reflects, that the man is the one who financially supports his wife and takes care of her, and not the other way around, correspond with the way in which couples today see their future life together?

For many couples, the *ketubah* does not reflect the beliefs, values, or aspirations for the relationship they wish to build. Like the entire ceremony, in which the man is the active one, the one who sanctifies, and the woman is the passive one and the one who is sanctified to him, the *ketubah* also expresses the asymmetry in marriage. Is it possible to produce more symmetry even in this framework of Jewish marriage?

Pre-nuptial agreements respond to this issue by establishing a more egalitarian relationship, and I hope that for this reason alone couples will want to sign them.

The agreement constitutes an egalitarian alternative to the traditional *ketubah* from a fundamental perspective, and even adds to it from a procedural point of view. That is, the agreement does not uproot the orthodox *huppah* ceremony, and enables all of the halakhic components of the ceremony, according to Moses and Israel, to remain.

But this is not the only reason to sign pre-nuptial agreements. The more fundamental reason is that the agreements prevent men from negatively using the power that *halakha* gives them – that is, the exclusive

power to dismantle a marriage and give a *get*. In other words, the rabbinical court does not give the woman a divorce, but only the husband does, and only out of his good will.

The story of Inbal (pseudonym), which I publicized in ‘*Deot*’ (vol. 31) five years ago, illustrates the problem:

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*Inbal lives a normal life. She wakes up every morning and sends her children to school, goes to work, picks up her children at the end of her day, and spends the rest of the day with them. She wakes up for her children at night, alone, she takes care of them when they are sick, alone. Few of Inbal's acquaintances know that alongside her daily routine, for nearly five years Inbal has been trying to obtain a *get*. During this time, Inbal managed to separate, to reach alimony arrangements in Family Court, and to open a divorce file with the Rabbinate. But she did not obtain the longed-for *get*.*

Unfortunately, Inbal's story has not ended in the five years since her story was published. For ten years Inbal has been waiting, begging for a *get*, unable to rebuild her life and marry another man – and she has no way out.

Like her, there are many women in the State of Israel whose lives are on hold, and they are waiting for a miracle that will release them from the fetters of marriage. They are completely dependent on the will of the man to whom they are married, and the rabbinical court does not dare to force the man to give a *get*, out of fear of it being a *get meuseh* (coerced divorce).

Pre-nuptial agreements can alleviate this bleak situation, with sanctions that they impose on the man who refuses to give a *get*. And, it is important to add, this problem is not relevant specifically to religious couples or to couples who got married through the Rabbinate. Since in Israel there is no option of civil marriage, there is also no option of civil divorce, and every Jewish couple that gets divorced, even if they got married in Cyprus, needs to do so through the Rabbinate. Therefore, the signing of a pre-nuptial agreement is recommended for every Jewish couple registered as married in Israel.

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The model of the Jews of the United States, in which the signing of pre-nuptial agreements is more widely accepted, can be used as inspiration also in Israel. The American experience shows that in situations in which couples who signed the agreement separated, the agreements are indeed helpful and effective in crisis, and significantly decrease the incidence of recalcitrance.

Dr. Ruti Feuchtwanger is a member of the executive board of Kolech. She also manages Kolech's website and writes the weekly newsletter. She lives in Hoshaya.

## A Relationship of Love

David Ben-Zaron

In general, when people consider what the ideal relationship is, they usually say that this relationship is full of love, warmth, excitement, and great happiness. When a religious person thinks about marriage and a relationship covenant, he or she needs to consider another dimension – that of responsibility. The Talmud states that Shimon Ben Shatach, one of first *Tana'im* (Mishnaic rabbis) was one of the reformers of the *ketubah* (marriage contract). The meaning of this ancient reform (whose roots are in the Torah) is that a relationship is characterized by the responsibility that is placed upon the couple to care for one another, even if the relationship ends for some reason.

The reform of the *ketubah* is one of the most remarkable reforms in its wisdom and its humaneness. The *ketubah*, at its core, was meant to help women. Indeed, the payment of the *ketubah* was a deterrent to

frivolous men, who in a moment of anger or weakness might make a rash decision to divorce their wives. The *ketubah* came and forced them to pay a fair payment: in the time period of the Talmud, two hundred *zuz* was an amount that a person could live off of for a full year. The need to pay for a divorce presumably caused these same men to also consider whether it was really worthwhile for them to take the route of divorce. Additionally, the *ketubah* helped women in that in the event that the divorce was carried out, the woman was not left without anything, but had actual support in the form of the *ketubah*, which allowed her an honorable existence during the period following the divorce.

The ban of Rabbeinu Gershom, which forbade men to divorce women against their will, is among the most significant causes of the dissolution of *ketubah* reform. From the moment that divorce began to

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require the volition of both parties, combined with the reluctance to force a man to divorce his wife and the preference for getting a man to divorce his wife only out of his own good will, the *ketubah* became impractical in most cases. Effectively, in every argument, each side can choose not to agree to a *get* until his or her financial demand, or any other demand, is fulfilled. Moreover, that which was recorded years ago in the *ketubah* becomes meaningless at the time of the divorce.

In recent years it is possible to find a number of different types of pre-nuptial agreements. These agreements come to fulfill the need that was created following the inability to use the *ketubah*. If in the past the *ketubah* was a document that arranged the ending of a marriage in a clear-cut way, today there is no such document that is signed in advance, and therefore couples find themselves fighting for years in courts over the division of finances and the different arrangements tied to the new situation that they are caught up in.

One of the pre-nuptial agreements is the Agreement for Mutual Respect, the creation of which I had the honor of taking part in, along with Rabbi Elyashiv Knohl, and Rabbinic Attorney Rachel Levmore, along with a group collaborating with Kolech, whom we consulted along the way. The group included judges, rabbis, legal experts, and Rabbinic Attorneys.

The fundamental idea that stands behind the agreements is that the solution is also found within *halakha*.

The agreement is meant to be similar to a *ketubah*: that is: to create a clear situation in which when there is a divorce, there is an arrangement established in advance. The idea of the agreement is to create a document, consolidated in advance, signed by the couple before their wedding. In this document, they accept upon themselves that in the event that they (God forbid) need to separate, the significant issues related to divorce are arranged in advance, and thus reduces and even prevents unnecessary disputes, which cost a lot of money, time, and much pain and grief. The couple specifically signs the agreement at a time when they love each other, in order to express their love for one another, and their responsibility to each other and to the relationship. Over the years, I have met couples in the process of divorce, and in many cases, it is very likely that if they had signed an Agreement for Mutual Respect in advance, they would have been able to save themselves a lot of money, headache, and anguish, since a larger portion of the issues that they fought over in the rabbinical court and in the state court could have come to a suitable solution by means of the agreement.

The agreement deals with two issues: the *get* [writ of divorce], and the division of property. On the issue of the *get*, the agreement aims to prevent a situation in which the man refuses to give the woman a *get*, leaving her an *agumah* [chained woman], by imposing payment of increased alimony upon the man in this situation, which acts as a financial disincentive to his potential recalcitrance. On the issue of division of property, the agreement offers a fair way to divide the property between the spouses – which, incidentally, also benefits men whose wives refuse to get divorced. When a woman refuses to get divorced, judges also have no tools to force her, and the man can remain in limbo for many years. The agreement

gives power to the judges to bring to an end situations in which things are stuck and drag on for years. The agreement has other benefits, such as the appeal for the restoration of the relationship in a professional manner in the event of a crisis.

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The agreement also transmits to the spouses an atmosphere of mutual respect and a basic understanding that the relationship depends on them.

It is clear to me that the Sages who established the reform of the *ketubah* would not have remained indifferent to today's situation. It was not for naught that the Sages said that Torah scholars bring great peace to the world. Over the generations, the Sages have tried to lead the way to a state of peace between people, and especially between man and wife. More than anything, I pray before the

Holy One Blessed be He that couples sign the agreement, put it in a safe, and live together in love and friendship, in happiness, and in mutual respect.

Rabbi David Ben-Zazon, one of the creators of the "Agreement for Mutual Respect", former rabbi of Kibbutz Ein Tzurim, and a mediator, and next year will become the director of the extension of *Gar'in Yonatan* at Kibbutz Alumim.

## An Agreement and a Document for Marriage in Justice and Fairness

Susan Weiss

In 2007, I drafted a special pre-nuptial agreement called the "Agreement and Document for Marriage in Justice and Fairness", along with Rabbinic Attorney Rivkah Lubitch. We wanted to formulate "The Agreement and Document" so that it would suggest a solution to the problem of *agunot* and the refusing of a *get*, and would not settle only for the giving of a monetary incentive for the granting of a *get*, as most of the existing pre-nuptial agreements do.

"The Agreement and Document", in its final drafting is unique in that it relates also to things that were left unsolved in other agreements.

### Simplicity

Every pre-nuptial agreement that is meant to prevent the problems of *agunot* and the refusal of a *get* needs to be accessible, short, and understandable to the general public, in order to be effective. Complicated wording is likely to confuse and deter those signing, who are, as it is, in a busy and stressful period of their lives. "The Agreement and Document" is intentionally worded in a simple, straightforward, and concise manner:

The first part (Sections 1-3) is the "Agreement", which includes the legal-civil and mutual obligation of the two sides to pay increased alimony in the event of a long separation. This is the monetary incentive for the giving of a *get*, which is well-known also from other agreements. These sections also establish the possibility for the division of property even before the giving of the *get*, in order to prevent a situation in which delays in the giving of the *get* would delay the division of the shared property.

Its second part (Section 4) is the halakhic “Document”, which is meant to enable the termination of the marriage in situations in which the monetary incentive does not constitute a solution.

## The issue of *agunot*

Most of the agreements for the prevention of recalcitrance are based on the creation of a monetary incentive that will cause the side that is refusing, to agree to give a *get* – and this is done through the establishment of increased alimony that he needs to pay until the giving of the *get*. But what happens when the husband disappears, is in a coma, or is not mentally competent? And what do you do in the quite common situation in which the side that refuses is submerged in debt or has embezzled money, and therefore it is not possible to collect the increased alimony from him? In all of these cases, the monetary incentive does not solve the problem.

Most of the agreements for the prevention of recalcitrance are based on the creation of a monetary incentive that will cause the side that is refusing, to agree to give a *get* [...] It is meant to enable the termination of the marriage in situations in which there is no willingness or ability to give a *get*.

This is what the “Document” comes to respond to. It is meant to enable the termination of the marriage in situations in which there is no willingness or ability to give a *get*. The document is based on the “Three Part Document” that Rabbi Michael Broyde drafted, and it includes:

- a. **Conditional marriage** (Section 4.1) – The *kiddushin* are carried out on condition that the marriage will be null and void after a separation of 18 months and a divorce suit. This is without need of the giving of a *get*.
- b. **Authorization to annul the *kiddushin*** (Section 4.2) – Authorization of the rabbinical court to annul the marriage and declare that the couple is not married anymore, as most courts throughout the world do.
- c. **Authorization to send a messenger to give the *get*** (Section 4.3) – the possibility to appoint a messenger to give the *get*.

Additionally, the document also includes a condition according to which the marriage is null and void in the event that the husband died before children were born to him – and in this way the woman is prevented from the need to undergo the “*chalitza*” [shoe-throwing] ceremony, which depends, like the *get*, upon the will of the other side.

## The issue of power of attorney

At the Center for Women’s Justice, we recommend that the couple agree ahead of time, that any future conflict between them, that God forbid should come up, will be decided in the civil court (In Israel: the Family Court) – and thus we established in Section 3 of the “Agreement and Document”. The establishment of the authority of jurisdiction ahead of time prevents the ‘race to the courts’ that characterizes many of the divorce disputes in Israel, a race in which each side tries to gain advantage based on the court that he or she chose.

We established the power of attorney specifically with the court, due to our experience with the simplicity and efficiency of the process. Unfortunately, the rabbinical court is not always “friendly” to litigants. It is not clear which *halakhot* are being used as a basis for the ruling, there are difficulties with the management of the process, and the presentation and acceptance of evidence– as well as the principles guiding the rabbinic ruling process – are not always in line with the expectations of people in contemporary society. Thus, for example, one of the most difficult problems related to the refusal of a *get* is that some of the rabbinical courts adopted a halakhic approach that allows the husband to set conditions in return for his agreeing to give a

*get* (known as the approach of the Maharashdam and the Maharik), which deepens the conflict and the phenomenon of extortion. In our opinion, it is better that the two sides conduct their litigation before a civil court, which is subject to the civil laws of the state, and that they only give rabbinical courts jurisdiction regarding the *get*. Most of the other agreements that are meant to provide an answer only to the problem of the denial of a *get*, do not relate in an explicit way to the issue of power of attorney.

In our opinion, it is better that the two sides conduct their litigation before a civil court, which is subject to the civil laws of the state, and that they only give rabbinical courts jurisdiction regarding the *get*.

In short, "The Agreement and Document" gives couples additional tools for dealing with the difficult phenomenon of *get* recalcitrance. Although it still has not received the official approval of the rabbis of the rabbinical court, there

has been a noticeable increase in support from legal and halakhic bodies for the idea of agreements, including conditional marriage. This leaves us hopeful.

Attorney Susan Weiss is the Executive Director of the 'Center for Women's Justice'.

## The Obstacles Couples Face in Signing an Agreement for Mutual Respect

Benny Lau

My familiarity with the "Agreement for Mutual Respect" comes from meeting couples at different stages before their wedding. I do not have the legal knowledge that would enable me to judge the quality of each of the versions of pre-nuptial agreements. I gladly trust and rely on the diligent and meticulous work of Rabbinic Attorney Rachel Levmore along with Rabbi Elyashiv Knohl, and I counsel every couple to sign it.

I would like to share some typical reactions of modern Orthodox couples to my suggestion that they sign the agreement.

### Obstacle #1: "It won't happen to me"

Each couple has their own communication style. No two couples are exactly alike. Yet, they all share the tremendous excitement and anticipation of reaching the "big day" – to stand under the *huppah*.

The preparation for marriage includes preparing for the transition from *huppah* to normal life. It's about helping them understand the differences among human beings (and a married couple is entirely human), and the wisdom of reconciliation that needs to come along with quarrels and disagreements. At an

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advanced stage in this conversation, the issue of "The Agreement" comes in to play. It is not easy to talk with a couple in love about the need to open their eyes and anticipate all of the paths of life before them. Even if in the back of their minds, they have factual information about how widespread divorce is, the dominant thought is that, "It won't happen to me". Even if they hear about ugly power struggles in divorce processes, and they know that there is a way to improve the

process by means of a simple document, they rely on their cultural background and the strength of their love, and they promise one another to conduct themselves in goodness and integrity through all the twists and turns of life.

At this stage the paths split. A large portion of the couples close the topic and say: “No, thank you, there is no need”. A smaller portion, usually those with an awareness honed at home or *midrasha* (not so much from men’s yeshivas), start to have a conversation about their contribution to society. Usually, one of them will say that signing the agreement is not really for their own sake, since after all “It won’t happen to us”, but rather is to make a statement to the world that it is possible to make a change. This is a modest contribution by a loving couple trying to fix social injustices while avoiding arm-twisting. By signing the agreement, the young couple will help make the agreement standard practice in the Israeli Rabbinate.

For that minority, which is ready to enter into this conversation, this argument is useful and helps to overcome the first obstacle. The couple leaves the rabbi, equipped with information about how to sign the agreement.

## Obstacle #2: “Every Groom has a Rabbi”

The couple left the meeting with openness to signing the agreement. For the sake of the story, let’s say the bride is an alumna of a *midrasha* that encourages the signing of the agreement. The groom is a graduate of a pre-army training program, a talented and valued officer who is about to be released from the army. As part of his preparation for marriage, he goes to the institution to talk with one of his rabbis. He tells his rabbi about the conversation about the agreement. The reaction of the rabbi many times will be: “Get all of this Reform nonsense out of your bride’s head”. The attitude toward the whole topic of the agreement is similar to the attitude toward all of the changes that the daughters of Israel would like to bring about in the world of Torah. The fate of an Agreement for Mutual Respect is the same as the fate of the partnership synagogue. Woe to the wicked one and woe to his neighbor. The invalidation is absolute, without exploring the details and without trying to understand the societal and communal significance of the agreement. The fact that all rabbis who are members of the Rabbinical Council of America use agreements like these does not change anything. This is an American disease infected with Reformism. As if to say, among us, thank God, the air is pure and we do not need immunizations like these. The groom calls the bride and tells her about the meeting with the rabbi. In most cases, this is the end of the process. In fewer cases, the bride will try and educate the groom, at the end of which he will be convinced (usually in order to appease her) to sign the agreement.

## Obstacle #3: “Every Family has a Lawyer”

Finally, they get to their parents’ house. They sit around the table and talk about the meeting with the rabbi, and mention in passing the topic of signing the agreement. This, of course, is the same minority of couples, who already heard about the topic at home or in *midrasha*. But there are two families involved in the wedding. One family is very interested because they are active in religious organizations that have a liberal outlook, like Kolech or Meimad or The Religious Kibbutz Movement. The second family (let’s say from Petach Tikva) hears about this agreement and is filled with anger. “What is this? They are making my son sign a draconian document that will be used to drain him of money someday. No way!” At this stage, the family friend comes into the picture, a regular lawyer. He takes the document (yes, that same one that so many professional, legal eyes pored over), and tears it to pieces. He returns the document, dotted with dozens of legal notes that render it useless, to the overwhelmed parents. At this point, the family says to their dear son, no matter what happens, you are not signing this document!

Here, too, the paths split. Most couples close the subject and say it’s not worth exacerbating tension before the wedding. A smaller (much smaller) number start a world war because for one of the families, this

topic becomes critical. I have seen a few crises between families in light of the story of the signing of the agreement. Weddings have been on the brink of cancellation because of it.

## Summary

Like with many issues, here, too, everything begins with education. If we want to advance the importance of the Agreement for Mutual Respect, we need to work in larger contexts, and not begin with the formal legal process. Even if we “beat” the Rabbinate, and the marriage registrars are obligated to accept the agreement as a legal document, we have not broken the wall of resistance that that is growing from the grass roots. The resistance is related to cultural battles much larger than the attitude toward this document or another.

Even if we “beat” the Rabbinate, and the marriage registrars are obligated to accept the agreement as a legal document, we have not broken the wall of resistance that that is growing from the grass roots. [...] This overarching cultural battle influences every step in our private and public lives.

It is about the attitude of the religious Zionist establishment toward western culture in general, toward education, toward changes in the status of women, and other issues that clearly distinguish different populations within Religious Zionism. This overarching cultural battle influences every step in our private and public lives. I hope and pray that we will be able to achieve success and the realization of our goals in a way that will have a positive impact across Israeli society.

Rabbi Dr. Benny Lau is the Rabbi of Congregation Ramban in the neighborhood of Katamon in Jerusalem, the Director of the *Beit Midrash* for Social Justice, and one of the Directors of the *Beit Midrash of Beit Morasha*. His books include: *From “Maran” to “Maran”*, *The Sages* series (Volumes I-IV), *Jeremiah: the Fate of a Visionary*, and others.

## Midrash of a Woman Refused

### Rivkah Lubitch

On that day, one of the women who was denied a *get* offered all her replies, and they did not accept any from her.

She said to the Sages: Give me my *get* and I will leave.

They said to her: The man divorces, and the man divorces only according to his will.

She said to them: Force him to give me a *get*, for "They force him until he says, 'I want to'."

They said to her: We cannot force him, lest it be a *get meuseh* [coerced divorce] the result being that a married woman goes out to the market, and her children are *mamzerim* [bastards]

At that time the carob tree was uprooted 100 cubits from its place. The rabbis saw this and were unmoved.

She said to them: If so, I am a living widow.

They said to her: It has already been said "It is better to dwell as a couple than to dwell as a widow".

She said to them: But my husband did such and such to me, and he is repulsive to me, and I am like a captive to the husband, to he who is hated by me.

They said to her: Who are we that we will place our heads amongst the tall mountains, and one must be concerned for the opinion of the Ra"sh.

At that time the aqueduct moved backwards. The rabbis saw this and were unmoved.

She said to them: Confiscate my nuptials, which did something unfair to me.

They said to her: We have no authority.

She said to them: Nullify my nuptials, using the argument that a mistake was made – for had I known that my husband would do such and such, I would not have wanted to marry him.

They said to her: We have no authority.

At that time the walls of the *beit midrash* (house of learning) tilted, about to fall. And they continued to tilt.

She said to them: The *beit din* (rabbinical court) is the father of orphans; am I not an orphan and alone?

They said to her: That is not an argument, and we do not hear your arguments at all. Did he request something from you in order to divorce you, which you did not give him?

She said to them: Indeed, he imposed many conditions upon me for the *get*, but I am unable to meet them.

A heavenly voice emerged and said: What do you have with this woman, whose husband is repulsive to her, and who does not need to give him anything in order to receive her *get*!

The rabbi said: The Torah is not in the heavens, and we are not moved by a heavenly voice.

At that time, God cried and said: You have triumphed over me, my children, you have triumphed over me.

Rabbinic Attorney Rivkah Lubitch is a member of Kibbutz Nir Etzion, and a certified Rabbinic Attorney in ordination (formerly a Rabbinic Attorney at the Center for Women's Justice). She writes a weekly column on the Judaism website of Ynet, and is a member of Kolech. She has written a collection of modern *midrashim*, written from a female perspective.



## “It is Forbidden for a Man to Marry a Woman Until he Sees her” (*Kiddushin* 41)

Batya Kahana-Dror

The relationship that forms the foundation of the wedding is meant to be based on seeing the face of the other – at the heart of the ceremony, the face of the woman and the face of the man are looking at one another. According to French-Jewish philosopher Emmanuel Levinas, a relationship based on seeing the face of the other creates a living encounter with the self, an encounter from which mutual responsibility is born. And in marriage, this idea forms the sanctity of the nuptials.

According to Levinas, there are two ways in which a person can encounter the other. One way is by conquering the other and incorporating the other into one's familiar and identical self, thereby fulfilling the aspiration to conquer the world, by trying to subordinate the other and perhaps even “murdering” the other, that is, turning the other into nothingness.

The second way is by standing face-to-face with the other, recognizing the distinctness and separateness of the other, and leaving that otherness as is. In other words, it is an encounter that acknowledges the right of the other to have a separate existence, which comes from essential difference (and for our purposes, essential difference between man and woman). This recognition that we can never truly own the other is what brings about the moral position that affords women the right to exist as a separate entity. From here,

according to Levinas, it's a short distance to forming a sense of responsibility. Levinas believes that not only should people refrain from conquering the other, but also that the fundamental attitude that people should have to our surrounding environments should be one of responsibility.

According to Levinas, there are two ways in which a person can encounter the other. One way is by conquering the other and incorporating the other into one's familiar and identical self [...] The second way is by standing face-to-face with the other, recognizing the distinctness and separateness of the other, and leaving that otherness as is.

Frequently, the entrance into marriage and into the institutionalization of a relationship produces an expectation among each of the sides to cause the other person to become familiar and similar to her, to change her so that she will be able to identify herself in him and to love him. Although this action is gentle 'conquering', it is nevertheless the 'conquering' of the other and the gathering of the other into the familiar and identical "I".

The traditional *kiddushin* ceremony may sharpen this tendency, either by creating a purchase arrangement

in the *kiddushin* or through obligations that stem from the *ketubah*.

Signing pre-nuptial agreements allows the couple to build their marriage in the second way that Levinas discusses, a way that is not about 'conquering' the other, but rather views the other as a separate entity and promotes mutual responsibility that will form the basis of married life.

The pre-nuptial agreement redefines the covenant woven between the couple, a covenant that is not imposed upon a relationship of ownership or conquering. The couple accepts upon themselves in advance the condition that is at the heart of the agreement – that is, the sanction of increased alimony – out of concern for one another's well-being. They commit to each other, out of free will, not to bind one another in marriage against one another's will, not to refuse to release one another from the marriage at a time that this is needed and to accept a future monetary penalty in the event that one will cause harm to the other. This is total commitment born out of a total commitment to each other.

Signing pre-nuptial agreements allows the couple to build their marriage in the second way that Levinas discusses, a way that is not about 'conquering' the other, but rather views the other as a separate entity and promotes mutual responsibility that will form the basis of married life.

The Agreement for Mutual Respect signed by the couple before the *kiddushin* thus constitutes a tool to correct the internal aspiration to conquer the other, and creates a different type of encounter between couples.

The low percentages of couples who choose to sign pre-nuptial agreements indicate that there is still reluctance to do so. The common reasons are fear of damaging the holiness of the marriage and the romance of the blossoming relationship, as well as the fear of opening up a discussion on matters that are uncomfortable at a time when love is at its peak – the possibility of separation and the breaking apart of the marriage.

By framing pre-nuptial agreements as expressions of a face-to-face encounter, in the words of Levinas, and as establishing a relationship based upon responsibility and mutual respect, we can dispel these fears and can spur additional couples to accept upon themselves to sign these agreements, and thus to further express their love for one another, a love that will accompany them for the rest their life together.

Attorney Batya Kahana-Dror is the Director of 'Mavoi Satum' on behalf of women denied a *get*.

# Behold You Are Refused

Ramit Alon

Behold you are hidden from the eye of everyone  
Behold you are without a voice  
Behold you are losing yourself  
Behold you are tears on the pillow  
Behold you are breaking boundaries  
Behold you are the separator of *challah*  
Behold you are in prayer  
Behold you are my dove, my innocent one  
Behold you are compassion  
Behold you are the belt of the apron  
Separating between milk and meat  
Looking toward the horizon  
Behold you are migrating birds  
Behold you are the lowered gaze  
Behold you are shame  
Behold you are the search for tomorrow  
Behold you are another cold night  
Behold you are comfort  
Behold you are the warm woman  
Behold you are hope  
Behold you are beloved  
You are a flaming torch  
Your voice is lewdness  
Your flag is love  
Your temples are like a pomegranate split open  
Behold you are a rose among the thorns  
Behold you want to love  
Behold you are strength  
Behold you are the flapping of wings  
Behold you are choosing to escape  
Behold you are like a prophet  
Behold you are forbidden in sexual relations  
Behold you are a cry to the heavens  
You are tears like water  
Your stature is like a palm tree  
Behold you are black and beautiful

Behold you are the one who waits  
You are the source of life  
The desired  
Behold you are kissing  
Behold you have no blemish  
Behold you are the breast feeding  
Behold you are embracing gently  
Behold you are a mother  
Behold you are crouching to give birth  
You are earth  
Sprouting life  
Behold you are like the moon renewed and improved  
Behold you are permitted to every man

Ramit Alon was denied a *get* for five years, and was represented by 'Mavoi Satum'. We thank her for giving us permission to quote passages from her poem.

## What to do? Who to turn to?

The following are websites that provide information on the topic of pre-nuptial agreements

About different paths to an egalitarian marriage, like the 'Agreement for Mutual Respect', or 'a condition in the *kiddushin*', see the website 'Choosing a Path': <http://www.hatuna.org.il>

For a comprehensive collection of resources for *agunot*, including prenuptial agreements, go to: [https://www.jofa.org/Advocacy/Resources\\_for\\_Agunot/](https://www.jofa.org/Advocacy/Resources_for_Agunot/)

See also the website of ICAR (The International Coalition for *Agunah* Rights): <http://icar.org.il/home.html> e-mail: [icar@icar.org.il](mailto:icar@icar.org.il) Telephone: 011(972)02-6721401

For different versions of pre-nuptial agreements and to receive help, see also the following websites: The Center for Women's Justice: <http://www.cwj.org.il/>

Kolech: Religious Women's Forum: <http://www.kolech.com/english/>

Mavoi Satum: The organization on behalf of the rights of the *agunah* and the *mesorevet get*: [www.mavoisatum.org](http://www.mavoisatum.org)

Thank you to the Jewish Women's Foundation of the Greater Palm Beaches that enabled us to publish this booklet