Jofa. JOURNAL
Vol. XX, No. 2 | Sivan 5785 | Spring 2025

FROM OUR PRESIDENT

Between the Halakhic System and Lived Experience

By Mindy Feldman Hecht

Jofa's work has always been rooted in the dichotomy between *halakhah* as a system of law and the lived experiences of women in the Jewish community. Our work has focused on this tension as it relates to issues like the laws of Jewish divorce vs. the real life experiences of women who are trapped as *agunot;* the traditional Orthodox views of ritual obligation vs. women's desired participation in *mitzvot*; male-dominated paths to ordination vs. the efforts of *rabbaniyot* to be included in the rabbinate; and many more areas. Law scholar Robert Cover characterized this duality within all societies as "Nomos and Narrative." He argued in his groundbreaking work on the topic, written over forty years ago, that the law is mediated in the tension between the system of law and the narratives created by communities that add their own legal meanings to the law. He suggests that judges should take these narratives into account when interpreting the law to lead to a "redemptive" approach to law.

Cover made his appraisal of the nature of lawmaking in civil society more than a decade before the first Jofa conference in 1997—and yet the resonance of his model for our work is remarkable. This issue of the *Jofa Journal* cuts to the very heart of this tension in *halakhah,* with its presentation of the various legal challenges that are unique to women in Judaism, including *get,* the *beit din, iggun,* the rabbinate, and custody battles regarding religious upbringing.

In these pages, you will find two timely accounts of contemporary halakhic issues related to the *beit din:* Rabbanit Leah Sarna discusses the approach and procedures of the International Beit Din, which, using a humanistic approach, takes personal narratives into account when issuing judgments. Rabba Ramie Smith and Shoshanna Keats Jaskoll discuss the lack of transparency in the *get* process and show how the Rate My Beit Din website tries to address the problem.

You will also find articles that consider the more theoretical and philosophical underpinnings of *halakhah*,

continued on page 5

The International Beit Din: *A Trauma-Informed Beit Din*

By Leah Sarna

The best pathway to a Jewish divorce is an amicable *get*. A husband and wife looking to divorce call their local rabbi or *beit din* and say, "Hello, we would like a *get*." The requisite professionals are assembled forthwith (and it's about six professionals, so the scheduling might take a few days), and then a *get* is written by a *sofer (*scribe) and given by the husband to the wife in front of witnesses and, typically, a *beit din*. Costs for the professionals and materials range from about $650 to $1500. Sometimes a couple might choose to have a *beit din* mediate or arbitrate the whole of their divorce settlement as well, including division of assets, custody, etc—and that can be smoother and more affordable than other options when done properly. However, the *get* may be given before these other elements, and, ideally, should be done as early as possible in a divorce process.

By Torah law, only a husband may deliver the *get*; by rabbinic decree, a wife must willingly receive it, in order for the divorce to take effect. So what happens when one party refuses to participate? This is where the International Beit Din typically comes into play (though if you want us to arbitrate your entire divorce and arrange for an amicable *get*, we'll gladly do that too).

But before we get there, we need to give a name to *get* refusal: abuse. Dr. Evan Stark developed the term "coercive control" to describe a type of abuse that turns on control, dominance, and isolation. Refusing to allow a spouse her freedom to remarry is a form of this type of abuse.

continued on page 4

IN THIS ISSUE:

BOOK CORNER:

Jofa.

A Publication of the
Jewish Orthodox Feminist Alliance
Volume XX, Issue 2
Spring 2025 – Sivan 5785

The *Jofa Journal* is published by the Jewish Orthodox Feminist Alliance, a 501(c)(3) organization.
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FROM OUR EXECUTIVE DIRECTOR

Halakhah in Her Voice

By Daphne Lazar Price

For much of Jewish history, women were excluded from the formal processes of developing *halakhah* (Jewish law). While women's lives were deeply shaped by halakhic rulings, they generally had little or no role in crafting or interpreting those laws. The traditional centers of rabbinic authority—*yeshivot*, *batei din* (religious courts), and responsa literature—were almost entirely male domains. Women were not taught Talmud, the primary language of halakhic discourse, and were rarely acknowledged as authoritative voices in legal texts. This absence was less about capability than about social norms that positioned women's religious contributions in the private and domestic spheres.

Yet while women may have been excluded from formal halakhic authorship, they were far from absent in shaping Jewish religious life. Women were instrumental in preserving and building traditional Jewish practice—from lighting Shabbat candles to maintaining *kashrut* in the home, transmitting prayers and customs, and sustaining Jewish identity across generations. In this sense, they were builders of *minhag* (custom) and religious continuity, even if not officially part of halakhic development.

The twentieth century brought sweeping change. Fueled by broader feminist movements and growing access to Jewish education, women began entering the world of Torah and Talmud study. Institutions such as Drisha, Nishmat, Yeshivat Maharat, and Yeshiva University's GPATS (Graduate Program in Advanced Talmud/Tanach Studies) program marked a groundbreaking shift in Modern Orthodoxy, formally training and in some cases ordaining women as spiritual and halakhic leaders. The title—Rabbi, Rabba, Rabbanit, Maharat, or Yoetzet Halakha—varies, and some choose not to take a title at all. But the transformation is undeniable: women are now entering spaces of Torah authority once considered unimaginable.

A pivotal force in this transformation has been the Jewish Orthodox Feminist Alliance (Jofa), founded in 1997. Jofa emerged as the grassroots response to the growing number of Orthodox women who wanted full participation in Jewish ritual, education, and leadership while remaining firmly rooted in *halakhah*. Through conferences, publications, advocacy, and education, Jofa has championed the inclusion of women in synagogue leadership, religious courts, ritual life, and communal decision-making. It has helped normalize women's voices in spaces once closed to them and created a global network for Orthodox feminists committed to both tradition and change.

continued on page 7

Rate My Beit Din: Adding Transparency to the *Get* Process

By Ramie Smith and Shoshanna Keats Jaskoll

In the time of the Gemara, a man was able to commission a *get* and throw it in his wife's yard. Whether or not she wanted the divorce, she was divorced. In the eleventh century, Rabbeinu Gershom prohibited a man from divorcing his wife without her consent or against her will. Three centuries after this decree, Rabbeinu Asher (the Rosh) explained the ban: "Because he saw the generation unbounded and degrading daughters of Israel by 'throwing the divorce,' and so he decreed to equalize the power of the woman to the power of the man."

The Rosh clearly understood the dangers women face when powerless in their divorces, and that the only way for women to be protected in this process is to reinstate a power balance. Centuries later, the Jewish divorce process is still largely unequal. While there are some men whose wives refuse to accept a *get,* we estimate (based on data and years of experience) that about 90 percent of people being extorted and abused in exchange for their religious freedom are women.

As activists in this field, we have seen just how dangerous the power imbalance in Jewish divorce can be. Beyond the power imbalance between husband and wife, there is an even greater power imbalance in Jewish divorce that often goes unmentioned—that between the parties who are divorcing and the *dayanim* (judges) who are facilitating the divorce. This has proven to be the most precarious dynamic of them all. Parties who seek the service of a *beit din* to commission a *get* have reported experiences ranging from unprofessionalism to malpractice.

> "...the rabbi teams up with the man and manipulates the situation in a subtle way so the woman doesn't realize what trap she's falling into. Rabbi B attends my ex's simchas, yet he insists on being the *dayan* over me and he is the arbitrator legally."[1]

And while this dynamic has the potential to impact both men and women seeking a divorce, women are at a greater

continued on page 6

[1] Indented quotations are from responses to Rate My Beit Din surveys (with minor spelling and grammar corrections).

The International *Beit Din* *continued from page 1*

Importantly, the abuse in marriages where *get* refusal becomes an issue almost always begins significantly before anyone was even thinking of divorce. In these cases, the abused party knows well that her spouse will refuse to give a *get*, since he has been curtailing her freedoms for years. Our clients tell us about spouses who forced them to have sex or withheld sex and fertility, spouses who withheld money or food or gasoline, spouses who tracked their whereabouts and isolated them from their friends and family, spouses who made it impossible for them to succeed in their work, spouses who enforced their dominance through threats, punishments, and physical abuse aimed at them and their children. A significant number of our clients had to flee their spouses; many have protective orders. Don't worry—we help people in less severe circumstances too—but people should understand that *get* abuse almost never starts exclusively as the marriage ends. It's the continuation of years and years of abuses that are all about curtailing freedom.

That's why our *beit din* implements trauma-informed procedures throughout the process. For example, intake at our *beit din* is run by a team of female mental health professionals. Client stories are heard first by a warm and listening ear, not in the presence of *dayanim* (judges). The intake professionals escort clients throughout the rest of their experiences with our *beit din*.

Next, we present our clients with options, since our goal is to restore as much agency as possible. The exact details of the case will determine what kind of next steps are on the table: Sometimes, at a client's request, we partner with another *beit din*. Sometimes, at her request, we negotiate directly with her husband. Sometimes, at her request, we do nothing other than provide halakhic and legal advice as she navigates achieving her aims through secular courts and another *beit din*. Most often, we hold a hearing.

Conduct of a Hearing

When we hold a hearing, the husband is summoned. The summons is called a *hazmana*. If the husband does not show up after three *hazmanot*, the hearing will move forward anyway. I should note that this is unusual—most other *batei din* simply come to a stand-still the minute the husband refuses to show up. Many will not even issue a *hazmana* if they anticipate that the husband will not appear. It is our halakhic position, backed up by sources stretching back to Rishonim like the Ramban and Rashba, and implemented today in Israel by the Chief Rabbinate supported by luminaries like Rav Asher Weiss, that a party to a case should not be able to subvert justice by refusing to come to court.

Our hearings take place over Zoom. Our *dayanim*—Rabbi David Bigman, Rabbi Ariel Holland, and Rabbi Shuki Reich—ask gentle questions, giving the client a chance to tell her full story and have her day in court. Many other *batei din* treat divorce hearings as

Rabbi Ariel Holland, Rabbi David Bigman, and Rabbi Shuki Reich, *dayanim* of the International Beit Din. Courtesy of the International Beit Din.

opportunities to appease the husband in hopes that he will come around to giving a *get*. The wife's experience is ignored or downplayed, her evidence is not seen, her story is not heard. We have learned from our clients how traumatizing those hearings can be—as if their stories and their pain are of no consequence, even in a court that represents Judaism. We know that many women have an experience with a *beit din* that causes them to lose faith in our tradition and its institutions altogether. We aim for opposite results, and our clients, including men, tell us that we are succeeding.

> A party to a case should not be able to subvert justice by refusing to come to court.

If the husband shows up to a hearing, he will be heard with the same dignity. The *dayanim* will also review any evidence presented by the parties. Our *beit din* will issue a ruling on the case. The *dayanim* are not shy about requiring a couple to divorce, a ruling of *ḥayav l'garesh*, especially if they have lived apart for more than a year. This was also the position taken by Rabbi Moshe Feinstein and Rabbi Yosef Eliyahu Henkin. If a ruling of "required to divorce" is issued, there can be no further negotiations for a *get*—as a matter of *halakhah*, it simply must be given.

At no point does the International Beit Din encourage negotiation for a *get*. If our *beit din* rules that a divorce is required, we do not then turn around and ask a wife to make concessions. A husband cannot ask for more custody, money, property, or school choice in exchange for a *get*. We believe that those types of negotiations are a violation of Jewish law. Furthermore, when a *beit din* participates in or facilitates those types of negotiations, they become party to the husband's perpetration of abuse, as the *beit din* grants the husband yet another opportunity for control and domination. The International Beit Din stands firmly against *get* extortion.

Sometimes, a ruling of *ḥayav l'garesh* is sufficient, and it compels a husband who cares about *mitzvot* to give a *get*. Other times, it's not, and our *beit din* will issue a *seruv* and also look for other halakhic means to dissolve the marriage. A *seruv* informs the community that an individual has not complied with the rulings of a *beit din*, and it asks the community to ostracize and exclude the noncompliant individual. Before emancipation, when Jewish communities held coercive power over their members, this was an extremely effective tool. Today, the threat of public humiliation occasionally does the trick. Many times, we have found the threat of public humiliation coupled with the knowledge that a wife may be freed by other means to be effective.

If these methods do not work, we turn to the well-established tools of *halakhah* in an attempt to dissolve the marriage. We will go the extra mile to invalidate the marriage on technicalities—perhaps the witnesses were improper, for example. This work requires time and investigative skills. We also turn back to the woman's story and try to discover facts that would invalidate the marriage: Was there an explicit condition to the marriage that was unfulfilled? Was the husband hiding something before the marriage? If it cuts to the heart of the marriage, perhaps we can find a way to rule that the marriage was premised on an important lie, a *mekaḥ taut*. Our *dayanim* are the world's leading experts in this area of Jewish law, and when they write up a ruling dissolving a marriage, their decisions are increasingly accepted where it matters most: the families, rabbis, and communities of our clients. We work collaboratively with our clients to ensure maximally efficacious halakhic pathways. Our clients are remarrying and building beautiful lives for themselves, beyond the reach of their abusers.

Our goal, in the long term, is to help our whole community realize that attempts at *get* abuse and extortion are fruitless. We are not naive—surely abusers will continue to attempt abuse, but we are working towards a world where *halakhah* is no longer a tool that can be wielded in their malicious hands.

I want to conclude with two simple messages: (1) do not give in to *get* extortion and (2) call us. We can help.

Rabbanit Leah Sarna *is the Director of Public Education and Media for the International Beit Din and the Spiritual Leader of Kehillat Sha'arei Orah in Lower Merion, Pennsylvania. An award-winning Jewish educator, she has taught Torah in Orthodox and Jewish communal settings around the world.*

Between the Halakhic System *continued from page 1*

with Rabbanit Gloria Nusbacher's piece on the limited instances in which women's testimony is accepted in Jewish courts, and Shana Strauch Schick's article on the different approaches of the Bavli and Yerushalmi regarding women's obligation in *mitzvot*. You will also learn about the impact of secular law on halakhic issues, in Esther Macner's presentation of the use of California's coercive control law to help *agunot* and Susan Weiss's discussion of using tort law against *get*-refusers in Israel.

And you will read two first-person accounts of women who had personal involvement with less well-known aspects of law. Cynthia Katz discusses how her various identities as a lawyer, woman, and Jew of Color led her to seek justice by providing immigration services to people who were forcibly displaced from their countries of origin. Rabbanit Bracha Jaffe describes how her experiences as a chaplain in a women's prison led her to a greater awareness of the humanity and *tzelem Elokim* of incarcerated women.

As stated in *Pirkei Avot*: "The day is short, and the work is plentiful" (*Pirkei Avot* 2:15).

I hope that you will join me in our important work to build more equitable communities by reading and heeding the call of the personal and communal narratives shared in these pages.

risk of being hurt by this dynamic because of existing gender dynamics within the Orthodox community.

A Problem Difficult to Prove, Thus Difficult to Fix

The lack of transparency in Jewish divorce proceedings makes the intrinsically distressing process of divorce even more painful, and makes the problem difficult to address and solve.

> "I am a Beis Yaakov Israel graduate. I teach Torah professionally. I am fairly fluent in most Jewish matters. I walked into the *get* with such little knowledge which made me even less empowered in a situation that was already marked with so much vulnerability.… My rabbi tried very hard to convince me not to divorce. And I lived with an abusive spouse who then hurt my children and only then did I have the courage to leave."

A woman walking into a *beit din* for her *get* often has no idea what to expect.

A woman entering a *beit din* for her *get* rarely has any idea of what to expect. Is she allowed to have support? Representation? Will she be asked to give up money in exchange for her *get*? Custody? How much expense would the Jewish divorce process add on top of the secular divorce? What does the actual *get* ceremony look like? Do all *get* ceremonies look the same? For many women, the cost of a divorce can be crushing, especially for mothers who are financially dependent on their exes. For some, the financial cost of divorce alone is reason to stay in a broken or abusive marriage. Those of us working in Jewish divorce have seen and shared stories about women who, at best, have slipped through the cracks, and at worst have been abused by the system in the name of *halakhah*.

> "Most horrific experience I ever went through. They were biased towards my ex-husband simply because he was male. They completely disregarded his abusive behavior and problematic parenting and tried to coerce me to give him the children full time in exchange for granting me a *get*. Wouldn't wish my experience with the *beit din* on my worst enemies."

Until now, information about individual *batei din* has been anecdotal. Many *batei din* do not have websites, and those that do rarely put things like the costs or timeframe for a divorce into writing. When asked for details and statistics, they either claim to not have them or give random numbers without evidence. Someone starting the divorce process often has nowhere to turn for answers except to those who have already been through it.

Even experiences within the same *beit din* can vastly differ. For example, one woman reported paying about $1000 for her *get* while another said she paid nearly ten times that in the same court. The cost of the divorce was completely determined by the *beit din,* with no clarity from the outset. This does not take into account reports of *dayanim* and *askanim* (community members who try to resolve issues "in house") being paid off for settlements, a practice we know to be far too common.

These discrepancies, as well as the pain women reported due to their treatment by *dayanim,* led us to examine the process and try to determine where things go wrong. To do this, and to seek out real data, we created and distributed surveys in Hebrew, English, and French all across the Jewish world.

As the responses poured in, it became clear that there was no standard operating procedure to be had in the global rabbinic court world. Practices were all over the place. We found many areas that could be easily improved with minor tweaks or even changes to a website. Some pain points need more attention, but it was clear that sunlight and suggested best practices could start the way toward a less painful Jewish divorce process.

Taking a cue from the world in which we live, where we rely on user reviews for everything from which headphones to buy to which restaurant to try, we used the data from the surveys to create a website where the information we gathered was available to everyone.

A "Yelp" for Jewish Courts

Think of Rate My Beit Din as 'Yelp' for Jewish courts. Rate My Beit Din[2] is a user-based site that reviews Jewish divorce courts in 11 countries, 52 communities, and three languages. To date, we have over 450 surveys with ratings on over 50 *batei din*, and the site is growing. At the outset we aimed to bring transparency to an often confusing process by arming users with information in areas of concern, including the pricing of the *get,* the average time for divorce, whether a *beit din* allows conditions to be demanded for a *get*, and the professionalism of *beit din* staff.

We also compiled best practices and pinpointed areas for improvement, offering *dayanim* and courts clear, practical insights that have already contributed to meaningful progress in some courts. Small things like quicker response times, having a glass of water and tissues available at proceedings, displaying costs on a *beit din*'s website might seem insignificant but can make a big impact on one's experience. Our guide to best practices is based on feedback from many people who have navigated this process, as well as the case workers who have supported them.

The site contains information on the *get* process, user reviews, best practices for *batei din,* and a new professional evaluation section where professionals can review courts based on their experiences. These reviews hold tremendous value, as they reflect a non-biased evaluation based on multiple cases by those who are in rabbinic courts regularly. In addition, there are "badges" that can be earned by courts whose members take specific training or that make specific changes to their procedures.

[2] https://ratemybeitdin.com

Rate My Beit Din is the first site to collect and aggregate data on the Jewish divorce process as well as on individual courts. Beyond transparency for clients, we now have an unprecedented view into the Jewish divorce process on a global scale. We are able to identify trends and issues and are gathering hard data to properly analyze *get* refusal and the *agunah* crisis.

While Rate My Beit Din may seem relevant only to the Orthodox community, its impact is far broader. In Israel, all Jewish marriages under the Rabbanut—whether Orthodox or not—require a halakhic divorce, making the platform essential for every Jewish woman in Israel who is currently married or may marry in the future. Additionally, many non-Orthodox couples who choose a halakhic marriage also require or prefer a halakhic divorce. Thus, the platform's reach extends well beyond Orthodoxy. Every Jewish woman is a potential *agunah*. Every Jewish person should be armed with the information they need to choose the right *beit din* for their Jewish divorce.

Rate My Beit Din is the first site to collect and aggregate data on the Jewish divorce process as well as on individual courts.

It is on all of us to ensure that the systems used by the Jewish community have standards, fair procedures, and are run with professionalism and justice. The community has the power to demand transparency and to hold responsible those who do not fulfill their duty. Rate My Beit Din is a tool toward ending the horrors of *get* refusal and restoring balance and dignity in the Jewish divorce process, something our Sages fought for. We know it can work; we have seen it in some of the reviews on our site:

> "My case required the *dayanim* to travel as my abusive, violent ex-husband was missing for 2 years having left my country and told me that he won't give me the *get* ever. The *dayanim* found him in prison in another Argentinian city. The *dayanim* located him, and convinced him to give me the *get* and our children's custody. He disappeared again the day he had to sign the *get* but the rabbi involved the local police and located him and convinced him to sign. I was delivered the *get* by proxy."

> "The rabbis did not make me appear at the same time as my ex-husband, they were kind and explained the process and answered any questions I had during the *get* process."

> "For such a sad ordeal, the *Dayanim* at the London Beit Din were extremely kind and showed compassion."

Please use, share, and talk about the site. The more we do, the more the system will need to listen.

Rabbanit Ramie Smith *co-founded GETToutUK where she served as executive director and case worker. She now consults on high risk international cases and high risk cases involving domestic abuse or children. She received* semikha *from Yeshivat Maharat.*

Shoshanna Keats Jaskoll *is the co-founder and director of Chochmat Nashim, an Israeli organization that creates change in the global Jewish society by challenging dangerous trends in Jewish communities around the world. She is a leading voice on issues dealing with Orthodox women and a fierce advocate for the State of Israel.*

Halakha in Her Voice *continued from page 3*

In recent years, one of the clearest expressions of this growing authority has been the way Orthodox women—especially Jofa's leadership—have publicly addressed issues of reproductive rights. While Jewish tradition has long recognized the complexity of abortion through a halakhic lens, it was often male rabbis who spoke for the tradition. Today, women scholars and clergy are offering deeply personal, legally grounded, and morally powerful halakhic responses. In a moment when reproductive freedoms are under threat, women spiritual leaders are not just interpreting the tradition—they are embodying its ethical imperatives with courage and compassion.

This transformation is not only communal—it's also personal. At my bat mitzvah, I took on the *mitzvot* without fully understanding the halakhic process. I knew I was committing to something important, but I could not have imagined where that commitment would lead.

I've spent my career exploring how *halakhah* intersects with modern life and advocating for women's full inclusion in its development. This is not just an academic or spiritual journey—it's a life's mission, rooted in that early, tentative yes to *mitzvah* and responsibility.

Today, Jewish women serve as rabbis, teachers, *poskot* (legal decisors), and communal leaders. They shape the questions being asked and the answers being given. The journey from marginalization to leadership is ongoing—but each step forward enriches Jewish life for all. The once-muted voices of Jewish women are now a vibrant part of the halakhic conversation—transforming not only what Judaism looks like, but who gets to lead it. When women carry Torah, we don't just inherit tradition—we shape it.

Finding Humanity in Prison

By Bracha Jaffe

Purim, a day of festivities, is the first day that I was ever in a prison. When I was a rabbinical student at Yeshivat Maharat, we were asked if some of us would go to Bedford Hills Correctional Facility (BHCF) to read *Megillat Esther* for the women inmates and bring some joy into their lives. Bedford Hills is the only maximum security women's prison in New York State. I knew nothing about the prison or the women there, and had some trepidation about going there. Prison felt foreign, completely out of my wheelhouse. Do we owe something to women who are incarcerated?

Prison felt foreign, completely out of my wheelhouse. Do we owe something to women who are incarcerated?

I listened to the conversations swirling around me in the *beit midrash*. One woman said something that touched me and has stayed with me ever since. She said, "Judaism puts such an emphasis on *teshuvah* (repentance), but we're not very good at forgiving people who end up in prison." I decided at that moment to join the group going to Bedford Hills.

What I remember most about that day was the bare, grim surroundings—the starkness of the walls, the barbed wire, the endless checkpoints, and being allowed to carry in only a few papers and tissues. A special dispensation was made for the *Megillot*—a scroll for us to read from and paper copies for the inmates to follow along. Walking into the Jewish chaplain's office was a relief; I let out my breath that I had been unconsciously holding while we were led through the grey corridors. At any point, we might have been turned back.

The chaplain's rooms held cheer and warmth. She had laid out snacks on the table and hung Purim decorations on the walls. There were four of us who came to read and six inmates in the room, coming and going at various times. One woman was very religiously observant and thrilled that she would be able to fulfill the *mitzvah* of hearing the *Megillah*.

A maximum security prison is for women who have committed heinous crimes. I wondered: How did these women get there? What were their stories? It was disconcerting to be sharing the space with them, but I resolutely put these questions aside and concentrated on simply being there and bringing kindness and geniality.

We took turns passing around the *Megillah* and reading chapter after chapter. Some read with "voices," imitating King Aḥashverosh's kingly manner or Queen Esther's placating tone. It wasn't clear how many women understood the Hebrew, but attending the reading did offer them a break in their routine, a welcoming smile, and a respite from their usual prison fare. As we read, sang, and banged on the table at the mention of Haman's name, an amiable glow lit the room.

Before this visit I had rarely, if ever, thought about female prisoners. If I did think about them, I'm fairly certain it wasn't in the kindest way. They were behind bars, both literally and existentially. Meeting them in person forced me to see them as real people, in an extremely hard place, receiving little kindness or compassion. I left that day with a changed attitude toward the women in the prison.

Bedford Hills Correctional Facility

Interning in the Prison

Two years later, I was offered an opportunity to serve as an intern in the same prison, together with another Maharat student. This time I didn't hesitate. I said yes, and also was glad for the company each time I braced myself for a visit.

We were blessed to have our internship with a wise and compassionate chaplain. Rabbi Joanna Katz is a Reconstructionist rabbi and chaplain who became a mentor and guide for us in this bleak setting. During our first meeting, I asked her what we needed to know about the women and

the crimes they had committed. She told us we had two options: check the tabloids to read about their stories, or just meet them where they are and see them as who they are—"...wonderful women who perpetrated horrendous acts."

Each visit to BHCF required thoughtful planning, including the best way to bring the women spiritual support given their circumstances. In prison, each inmate has the option once a year to choose which religion they identify with. A woman may choose Judaism for any reason. Therefore, as chaplains, we assumed zero previous knowledge of Judaism by the inmates.

On one visit, I prepared a teaching on Jewish morning practices to help the inmates begin their day with a spiritual reflection and intention. We learned about reciting *Modah Ani*, thanking God for returning our souls after sleep. Each woman shared something she was grateful for.

I had read, in a book on Jewish meditation, about turning the morning washing ritual into a meditative practice. I described the ritual: "Using pleasantly warm water, take some time to pour the water over each hand three times, then recite the blessing, thinking about your day and setting an intention for yourself."

> I learned to see the inmates as who they are—wonderful women who perpetrated horrendous acts.

The women looked at each other uncomfortably. One woman spoke up. "We don't have warm water in the sinks, only ice-cold water, which is not pleasant to pour over our hands." There was an awkward silence. Another woman finally said, "I have a small window high up over my bed. I will look at the sky in the morning and set myself an intention for the day." The other women murmured in assent, each finding a way to bring some hope into her life.

On a later visit, we brought a Tu B'Shevat seder to the prison. We brought fruits, nuts, and grape juice, as well as supplies for an art project. I led a meditation connecting us to trees and nature. The women closed their eyes, relaxed, and started to enjoy themselves. As we moved through the stages of the seder, the comfortable atmosphere sparked thoughtful conversation, as women compared themselves to some of the nuts and fruit. One woman said that she came into prison with a hard shell, but found softness buried deep inside. Others said that they were "too soft" when they arrived, and developed a tough outer shell just so that they could survive. As the clock inched closer to 5:00, the relaxed atmosphere ebbed away; the women thanked us warmly, joined the guard waiting outside, and were returned to their cells.[1]

During another visit, a woman in her thirties whom I had come to know came in looking distraught. I asked her what had happened. She fell into my arms sobbing. "Today is Mother's Day. I was supposed to receive a visit from my daughter. I have been looking forward to it for weeks, and I was just told that it won't happen. I can't even organize a phone call with her. I need to speak with her. I don't feel like her mother any more. Maybe she doesn't even love me!"

There were no adequate words to comfort her. The best I could do was just to be there with her. We sat in silence for a bit. Then she took some art supplies and created a card for her daughter, to be sent, somehow, at another time.

When a woman is pregnant or has an infant, Bedford Hills is the only prison in New York where women are allowed to keep their babies—until age two. I can't even imagine the agony of separating a mom from her newborn or nursing baby. Seeing the pain that moms felt when they cannot be with their children was heart-wrenching. I had never given a moment's thought to a woman giving birth while in prison and what would happen to her baby. Here, I could not ignore it.

Over time, some of the women opened up and told me their stories. One woman, who had a peaceful, calm presence, had been in Bedford Hills for over 30 years. Her crime? A mistake of youth, she had joined a gang and participated in an armed robbery. Sadly, someone was killed. The woman was only the driver of the getaway car, but by law she had committed a serious felony and was not easily eligible for parole. She studied law while in prison and learned how to present her case to the parole board, but was disappointed over and over. Even so, she had a sense of serenity about her. She had learned that the hot passion of youth did not serve her well.

Less than two years later, she finally received her parole. I thought about the vital years of her life having slipped away during her decades in prison—without a partner, unable to raise a family, perhaps even without the skills to get a job and support herself on the outside.

My own journey as a chaplain brought me to the realization that I want to shine a spotlight on these women who are so easy to ignore. They paid a great price for their actions, and are deserving of our compassion and benevolence. They should not be forgotten or hidden away in the darkest of corners. They are human beings deserving to be seen for their humanness. They are *b'tzelem Elokim*, created in the image of God.

Rabbanit Bracha Jaffe *is the associate rabba at the Hebrew Institute of Riverdale in New York. While studying for* semikha *at Yeshivat Maharat, she served as a chaplain intern at Bedford Hills Correctional Facility.*

[1] I described the Tu B'Shevat seder in more detail in a *Times of Israel* blog. *Bringing Tu B'Shvat Color to Prison*. Feb. 13, 2017 (https://blogs.timesofisrael.com/bringing-tu-bshvat-color-to-prison/).

Intersectionality:

A Black and Jewish Immigration Lawyer Celebrates Her Identities

By Cynthia G. Katz

I am a Black, female, Jewish attorney—never just one or the others, though the order may change, depending on where I am, what I am doing, or who else is there. I am always this mélange of identities—I do not really change, but people's reactions to me might.

I was asked to address how my various identities as a lawyer, woman, Jew, and Jew of Color complement one another, how my various identities affect how I see my work, and whether they affect how others see me. The first things people see are my color and my gender. Since all of my clients are from other countries, it does not seem to matter to them. However, there was an Australian who retained me to straighten out his complicated immigration case about which he had become hopeless. After I won his case, he told me that he had to confess that I was "very logical for a female."

I often get asked about racism. Although I have only experienced racism openly at one job, working for the U.S. government, microaggressions are very common. For example, people have asked me, "Where's your lawyer?" while I was dressed in my finest courtroom suit and carrying my briefcase, and have assumed that the scruffy, jeans-clad white guy accompanying me was a lawyer.

Although I have only experienced racism openly at one job, microaggressions are very common.

Similarly, as an observant, married, female Jew of Color, my head and hair are always covered, yet I cannot count the times, while entering government buildings, that I have been hassled by security because I had not removed my hat before passing through security. Standard procedure for government buildings is that headgear worn for religious purposes need not be removed. While security workers recognize the hijab as religious gear, they seem unaware that married Jewish women also cover their heads for religious reasons. Sometimes a simple explanation that my hat is for religious observance solves the problem, while sometimes it takes my threat of calling their supervisor before they drop it.

As I approach my thirtieth anniversary of practicing law, I remain deeply passionate about the law and justice and fairness and equity. My favorite quotations are: "Justice, justice, you shall pursue (*Tzedek tzedek tirdof*)"–Deuteronomy 16:20, and "Injustice anywhere is a threat to justice everywhere"–Rev. Martin Luther King, Jr.

Family Background

As I reflect on my career, I look at the lives that influenced me. I am blessed that I was born into a supportive middle-class family. I feel that I was raised with Jewish values long before I was Jewish. My African American parents, *z"l,* grew up in an almost entirely Jewish area (the Bronx in New York City). They spoke some Yiddish—in addition to Spanish, some French, and some German. My family rejected evil and injustice in all its forms.

Both of my parents experienced racism. My father fought for the United States in the segregated U.S. Army Air Corps of World War II, and proudly told stories about his participation in fighting Nazis and liberating Jews from death camps. Among other assignments, his unit guarded Nazi prisoners of war. He said that the white U.S. soldiers treated the Black U.S. soldiers even worse than they treated the Nazi POWs. Among many worse offenses, the white soldiers told the local women that the Black soldiers had tails like monkeys, to make them seem less human and less attractive.

My mother worked as a proofreader for a publisher. One day her boss called her into his office to compliment her. He said that she was excellent and that she would have been promoted and gone much further, if only she were not "Negro." When my parents bought their home, my mother was not listed on the mortgage because women were not considered reliable income-earners, as it was presumed that they would have children and leave the workforce entirely. (Even though my mother briefly left the workforce, after she returned she entered government service and was later promoted to supervisor with the U.S. Postal Service.)

I remembered these stories and incorporated them into my decision to defend the rights of individuals seeking justice. A part of me carries all of these incidents with me. I have spent my adult life trying to correct inequities and bring resolution where there was once only pain.

I am blessed that I married into a supportive family from Brooklyn. My mother-in-law, *z"l,* told me that she was never considered for jobs where the applications asked candidates to list their church membership because she left that question blank. As a Jewish woman, she attended synagogue, not church. If employers knew an applicant was Jewish, they drew a bagel on the application, so it would be rejected. There were different symbols for each "undesirable" group.

Both of these matriarchs were unjustly excluded from aspects of a full life—in New York City—but they enjoyed life and passed on a love of fairness. They encouraged me to be my best—to share my talent for connecting with people and to seek justice. They each taught me "to be my authentic self"—a Black and Jewish woman, not one or the other.

Career in Public Interest Law

I started my career in public interest law and then worked at a Washington, D.C., "think tank" advocating for student loan forgiveness to encourage law graduates to pursue careers in public interest/government service. I later found my legal home in the private practice of immigration law for decades, before a brief stint at the U.S. Department of Homeland Security as an asylum officer. The director kept getting rid of non-white officers. It did not help that I approved the most cases, where others quickly referred them to court. I could never compromise my values or honesty just to please an authoritarian. It was hell.

My soul found its way home to practicing law at a Jewish non-profit, HIAS (formerly known as the Hebrew Immigrant Aid Society), where I am now the managing attorney. Guided by our Jewish values and history, HIAS provides services to forcibly displaced people in need of assistance, regardless of their national, ethnic, or religious background. Our U.S. legal protection team seeks to provide various forms of humanitarian relief to our clients who arrive in desperate need of protection. We provide direct immigration law legal services to people who have fled and/or are fleeing persecution based on religion, race, political opinion, nationality, or membership in a particular social group. We represent men, women, children, and families forcibly displaced from their countries of origin. We fight to end all forms of gender-based violence.

Cynthia Katz holding HIAS "Welcome Refugees" sign

Historically in the United States, everyone has a right to legal counsel. Yet no attorney is required to represent any particular client. This is one way that my various identities converge. I chose the type of law that I practice, immigration law, and the cases that I represent, not on winnability, but rather on credibility. As all of my legal work at this point is pro bono, I look for honesty from potential clients, so that the most deserving and needy people get these very valuable and limited resources.

People say that I have literally saved good people's lives—people who would have been executed had the government been successful in returning them to their countries of origin. I recall the time as a new lawyer when I raced to our local immigration office to inform the government that I represented a young man who faced deportation because he stupidly threw eggs at cars the day before Halloween. As the child of refugees who had fled a dictatorship, he would have faced execution upon his return to his birth country, in retaliation for his parents' decision to oppose the ruling power and seek protection in the United States. I argued that the possible punishment of deportation did not fit the crime because deportation would sentence the teenager to death. He was saved.

Perhaps as important, I enjoy helping my HIAS colleagues change the course of countless lives by offering creative defenses or bold affirmative arguments that persuade government officers and judges to grant our clients' requests.

I am very active in the American Immigration Lawyers Association (AILA), a proud member of Alpha Kappa Alpha Sorority, Inc. (AKA, a sorority for African American women), and a member of the 2025-26 cohort of Join for Justice's JOC (Jews of Color) Organizing Fellowship. I am also an active member of several pro-Israel Jewish legal/social justice organizations, as well as JOC communities.

In December 2024 I was blessed to attend the second annual MOED North America Leadership Mission to Israel. A project of the Jewish Federations' Center for Jewish Belonging, MOED North America JOC Community exists to celebrate the racial and ethnic diversity of the Jewish people, ensure that Jewish leaders of color and their organizations flourish, and mitigate the impacts of racism in Jewish communal life and broader society. The leadership mission gathered Jewish leaders of color (Black, Latin, Asian, Indigenous North Americans, Sephardi, and Mizrachi) for a transformative experience that deepened our relationship to Israel before, during, and after October 7th.

I love learning, including Black and Jewish history, and Jewish law. I embrace my family's Gullah Geechee roots on my mother's side. My husband and I married in a Jewish ceremony and also "Jumped over the Broom" (an African American slave tradition to signify marriage, as marriage was forbidden to slaves). I try to make it all work, and for the most part, I succeed.

This is my story. My soul seeks justice!

Cynthia G. Katz *is the managing attorney at HIAS. She is a graduate of Duke University School of Law and Barnard College of Columbia University and a member of the bars of Maryland, the District of Columbia, and federal bars including the U.S. Supreme Court.*

Coercive Control:
Defining *Get* Abuse in Secular Legal Terms

By Esther Macner

One of the greatest obstacles to getting relief for *agunot* in civil courts is the principle of separation of state and religion ensconced in the Establishment Clause of the First Amendment to the U.S. Constitution. Under this principle, which prohibits government-sponsored establishment of religion, U.S. courts will not get involved in resolving disputes that are essentially religious in nature. In language having no counterpart in the federal constitution, the Free Exercise and Establishment of Religion Clause of the California Constitution (Art. I, sec. 4) provides for the "free exercise and enjoyment of religion without discrimination or *preference*."

California courts have interpreted the "no preference" clause to be broader in scope and more stringent in implementation than the federal constitution. It prevents California courts from giving any advantage to a religion that is not given to society at large, even if there is no discrimination between religions. (By contrast, the New York "removal of barriers to remarriage" requirement—the so-called Get Law—would be deemed unconstitutional in California since it benefits religion, even though it serves a secular purpose and is neutral on its face.) Under California's no-fault divorce statutes, a woman is free to remarry; her identification with religious law is her choice, and the court will not intervene.

Esther Macner advising an agunah

To get the California courts to provide relief for *agunot*, it was necessary to define "*get* abuse" in secular legal terms unrelated to religion. That is why, in 2020, on behalf of Get Jewish Divorce Justice, an organization I founded in 2012, I lobbied for expansion of the definition of domestic violence in the California Family Code to include "coercive control." The term was coined by Dr. Evan Stark in his 2007 book *Coercive Control: How Men Entrap Women in Personal Life*. He concluded from his extensive research that domestic violence laws have not been effective in preventing or predicting violence against women. Traditionally, domestic violence statutes focused on discrete instances of physical assaults.

Dr. Stark found that a better predictor of the death of women by their domestic abusers was an underlying pattern of conduct by the abuser meant to subordinate the will of the victim to that of the abuser, with or without physical assault. Such conduct generally includes intimidation, isolation from social supports, deprivation of necessities, and control of the victim's movements and finances. Dr. Stark called this pattern of conduct "coercive control" and likened it to hostage-taking or kidnapping—a form of domestic terror within an intimate partner relationship. Yet, under the traditional domestic violence statutes, the victim had no legal redress until an act of serious violence had occurred.

As of 2010, laws had been enacted in several European countries criminalizing "coercive control" and psychological abuse within marriage. In 2020, in the United Kingdom, two cases of *get* refusal were prosecuted under their criminal "coercive control" statute. These UK cases encouraged me to lobby for the passage of a "coercive control" law expanding the California Domestic Violence statutes. As part of this effort, I informed the legislative committee that "*get* abuse" could be part of a pattern of coercive control.

The California law became effective on January 1, 2021. It expanded the definition of "disturbing the peace of the other party" in the California Family Code (§6320(C)) to include "conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party…. This conduct includes, but is not limited to, coercive control, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty."

When defining behaviors that constitute the abuse of "disturbing the peace," courts are not limited to the objective reasonable person standard applied to other forms of abuse, such as stalking, under the DVPA (Domestic Violence Prevention Act). Rather, the applicable standard is whether, under the totality of the circumstances, the conduct of the party against whom a restraining order is sought destroyed the mental and emotional calm of the other party.

The statute includes a non-exhaustive list of behaviors as examples of coercive control, such as isolating the victim from friends, relatives, and other social support; depriving the victim of necessities; and controlling the victim's movements, finances, and reproductive autonomy, all of which serve as tools for the abuser to deprive the victim of her freedom and autonomy. Judges are authorized to issue restraining orders prohibiting such conduct under the Domestic Violence Prevention Act. The court must consider such conduct when awarding custody and visitation rights, as well as when setting the amount and duration of spousal support and awarding attorney's fees. In California custody cases, there is a rebuttable presumption that an award of custody to a

person who has perpetrated domestic violence, including coercive control, is detrimental to the best interests of the child. Although, under the California Constitution, the statute cannot specifically enumerate *get* abuse, the tactics used by *get* abusers to subvert the will of *agunot* often conform with the description of behaviors that constitute coercive control.

Since the adoption of this law, I have been counseling California-based *agunot* and educating their attorneys on how to use the law effectively. This requires using secular terms and language already found in prior case law. The attorney and the *agunah* must demonstrate how the behavior of the *get* refuser constitutes coercive control without entangling the courts in religious doctrine. This approach argues that the refusal to give the *get* is not about religion; rather, it is a tactic used to *"disturb [the agunah's] peace"* in a manner that *"in purpose or effect unreasonably interferes with [her] free will and personal liberty."* It is often the ultimate manifestation of a pattern of power and control exhibited throughout the marriage that becomes most acute after the victim has taken steps to leave—upon separation or when she summons him to a rabbinical court (*beit din*) for a *get*, even after they may already be civilly divorced.

Initially, most attorneys were resistant to addressing *get* abuse in court because judges immediately assume that the refusal to grant a religious divorce cannot be addressed, as it violates the separation of religion and state. Moreover, California courts do not understand (1) why the continued refusal to give the *get* constitutes grounds for issuing a domestic violence restraining order even after the parties are no longer living together and have no physical contact; (2) why the refusal to give the *get* is relevant where the civil divorce itself has not yet been adjudicated; or (3) why the civil divorce itself is not sufficient to free an *agunah* from her abuser's control.

In an effort to address this situation, I typically counsel the *agunah* and her attorney to present the following types of evidence, as applicable: (1) If the husband has argued that he has no intention of refusing to give a *get* when, in fact, he has refused to give it, the *agunah* should present copies of the "*hazmanot*" (summonses) to the *beit din* or a "*seruv*" (contempt decree of the *beit din* for failure to appear), or a ruling of obligation to give the *get* ("*ḥiyuv get*"), together with evidence that he has not complied. (2) She should produce text messages, videos, or witnesses that can attest to any extortionary demands made by the husband that she waive her property rights, financial support, custody of the children, or that she retract a restraining order in exchange for the *get*. Witnesses may include rabbis, family members, neighbors, and friends. (3) The *agunah* must be prepared to testify about the impact of the *get* refusal on her emotional and psychological well-being, using the language of the statute and prior case law that defines the meaning of "disturb[ing] the peace." This would include creating anxiety, disturbance (emotional, mental, or spiritual), or inner conflict; or destroying her mental or emotional calm. The *agunah*'s testimony can often be supported by a therapist who can testify to the psychological impact of the *get* refusal on the victim. (4) The *agunah*'s attorney may want to use an expert witness such as a rabbinic court judge or other person knowledgeable in the area of *gittin* (Jewish divorce) to clarify the *get* procedure and the social, economic, and spiritual consequences if the *get* is withheld.

An important milestone under the new law occurred on February 7, 2022, when Judge Bruce Iwasaki issued a written decision (unpublished, lower court, *Hazani v. Hazani*) that a husband's failure to give his wife a *get* was part of a pattern of coercive control that he exerted over her, and that his reasons for not giving the *get* were not credible. The judge had denied the wife's request to produce an expert witness or even the testimony of her therapist regarding the effects of the husband's conduct. I prepared her to describe her suffering in the secular language of the statute—how her husband's refusal to give the *get* pervades her life every waking moment, despite their separation for well over a year. The judge was impressed, and the husband delivered the *get* that same day. Since the *Hazani* decision, a number of attorneys representing *get* abusers have advised their clients to give the *get* before a custody hearing is held.

Limitations and Caveats to the Use of the Coercive Control Statute

The California coercive control statute is not a criminal statute. It is limited to the remedies available in the Family Code, described above. The statute was effective in the *Hazani* case because custody and visitation were at issue. It may not serve as a deterrent where there are no children or where the *agunah* does not want a restraining order because she is afraid of the husband's retaliation. Monetary damages are not permitted in family court. Although a provision of the Family Code requires the judge to consider an enhancement of the amount and duration of spousal support when there is evidence of domestic violence, that provision has not been generally litigated, and its applicability in cases of coercive control is unsettled.

Finally, since its enactment, several claims of coercive control—unrelated to *get* abuse—have been overturned on appeal because the courts found that the evidence failed to demonstrate, under the totality of the circumstances, conduct that destroyed the mental or emotional calm of the protected party. In such cases, the courts concluded that the behavior did not rise to the level necessary to justify a restraining order under the statute.

Nevertheless, the statute has created an atmosphere among California attorneys, judges, rabbis, and advocates that has led many *get* refusers to give the *get* before a court hearing. In conclusion, while there are significant limitations to California's coercive control statute, it serves as an effective deterrent to *get* refusal in California courts.

Esther Macner *is the founding director of Get Jewish Divorce Justice. She is a former senior assistant district attorney in the Domestic Violence Bureau in Kings County, New York, and a family law attorney. She has practiced in various* batei din *and serves as West Coast Coordinator and Legal Advisor to the International Beit Din.*

The Problem of the *Agunah*:
From Religious Right to Civil Wrong

By Susan Weiss

For the last 75 years or so, Jewish feminists all over the world have successfully enlisted the help of legislatures and secular courts to ameliorate the "plight of the *agunah*"—the problem of Jewish women held in marital captivity by husbands who refuse to give them a religious divorce (a *get*). This maneuver has resulted in a virtual sea-change. *Get*-refusal is no longer seen as the unfortunate, but unavoidable, religious "privilege" of Jewish men. It is now being reframed all over the world, alternatively as: an act of "unclean hands;" a breach of contract; domestic violence; coercive control; the intentional infliction of emotional distress; the misuse of power; a tort. In short, a civil wrong—a blight on society.

Legislatures in New York (1983), Canada (1985), Ontario (1990), South Africa (1996), England and Wales (2002), and Scotland (2005) have all passed "clean hands" statutes which direct courts to withhold a final civil divorce decree until all "barriers to remarry" are removed.[1] The Ontario Family Law Act even allows courts to stay or dismiss *any action* brought in the context of a divorce if the moving party has not removed barriers to remarriage.[2] Ontario also permits its courts to set aside parts, or all, of divorce agreements if made in consideration for removal of those barriers.[3] A later amendment of the New York law (1992) authorizes family court judges to take into consideration a spouse's refusal to remove barriers to remarriage when making awards of alimony or marital property.[4]

> I began suing Israeli husbands in Family Courts in tort for holding wives in marital captivity—*get*-refusal."

Even without specific legislation, secular courts have come to the aid of the *agunah*. Since the 1980s, New York courts have held that the failure to give a *get* as promised in a divorce agreement is an actionable breach of contract.[5] British and Australian courts have awarded increased alimony to women whose husbands refuse to divorce them religiously.[6] A Canadian Supreme Court upheld damages awarded against a man who breached his written agreement to give a *get*.[7] A British court recently threatened a man who refused to give his wife a *get* with imprisonment under the UK criminal "coercive control" statute.[8] In that case, the *agunah* brought suit and her husband granted the *get* in order to avoid the possibility of a jail sentence. Similarly, a judge in California threatened to take away a man's visitation rights using the domestic relations "coercive control" statute as grounds.[9] And since the 1950s, French courts have held that *get*-refusal is a violation of the Civil Code with regard to intentional and unintentional wrongs—torts.[10]

It is in the spirit of those secular courts and laws which have reframed religious rights as civil wrongs, and from the privilege of having founded and headed *Yad L'Isha* and the Center for Women's Justice, that my staff and I began suing Israeli husbands in Family Courts in tort for holding wives in marital captivity—*get*-refusal.[11] In Israel this was, and to some extent remains, a particularly difficult legal challenge. First, because no specific civil law statute declares that *get*-refusal is a tort; and second, because of the Janus-faced nature of the state. On one hand, Israeli civil courts champion justice, fairness, and the redressing of harms, particularly intentional acts. On the other hand, its religious courts, with the imprimatur of the 1953 Marriage and Divorce Law (Rabbinic Courts), impose religious laws on all Israeli Jews. Those state-backed religious laws champion the rule of Jewish men over Jewish women, the purity of the Jewish family, and the integrity and formality of religious personal status laws, above all.

Despite these legal obstacles, my staff and I petitioned Family Courts all over Israel to award damages to Jewish women held in marital captivity. Since 2000, we have argued that *get*-refusal was a breach of the Israeli Tort

[1] NY DRL 253 (Removal of Barriers to Remarriage); Canada: Divorce Act 1985 21.1(2); UK Matrimonial Causes Act 1973, Divorce 10A (amended 2002); South African Divorce Act of 1979, Section 5A (amended 1996) 10A South Africa.

[2] Ontario Family Law Act, R.S.O. Chapter F.3 2 (staying application) (1990).

[3] Ontario Family Law Act, R.S.O. Chapter F.3 56 (provisions that may be set aside or disregarded) (1990).

[4] NY DRL 236[B] (1992).

[5] See e.g., Avitzur v. Avitzur, 86 A.D.2d 133 (3d Dep't 1982), rev'd, 58 N.Y.2d 108 (1983), cert. denied, 464 U.S. 817 (1983).

[6] Brett v. Brett 1 ALL ER 1007 (1967); in the Marriage of STEINMETZ 6 Fam LR 554 (FAM. Ct. Aust, Sydney)(1980).

[7] Bruker v Marcovitz, 2007 SCC 54 [CanLII] 3 SCR 607 (upholding a $47,500 award of the Quebec Superior Court).

[8] § 76 of the Serious Crime Act of 2015 (allowing for fine or imprisonment of a person engaged in coercive control). See Simon Rocker, Coercive Control Private Prosecution: *New And Powerful Weapon For Women Denied Religious Divorces*, The Jewish Chronicle, Jan.15, 2020.

[9] CA Fam Code (2024) § 6320 (enabling court to issue restraining orders against, or to withhold visitation and custody rights from, partner who wields "coercive control").

[10] See Irving Breitowitz, *Between Civil and Religious Law: The Plight of the Agunah in American Society* (1993) (Ch.8) for a discussion of the use of tort claims in U.S. cases in response to *get* refusal.

[11] Susan Weiss, *From Religious "Right" to Civil "Wrong": Using Israeli Tort Law to Unravel the Knots of Gender, Equality, and Jewish Divorce*, in Gender, Religion, and Family Law, Joffe and Neil, ed. (2013).

Ordinance since it was a type of false imprisonment (Article 2) and a breach of various statutory duties, such as those set forth in the 1992 Basic Law of Autonomy and Dignity, the 1998 Prevention of Family Violence Law, and the 1977 Penal Law (prohibiting duress and extortion). We also argued that *get*-refusal is a breach of the *ketubah*, the marriage contract. Family Court judges all over the county agreed, though not all for the same reasons. Most held simply that marital captivity is an "unreasonable" act, especially when the rabbinic court has made a declaration that a man was in some way obligated to divorce his wife—and even when they did not.[12]

In response to these precedents, Israeli rabbinic courts unanimously and vociferously objected. They maintained that such awards violate the rules of Jewish law which give men the authority to determine if, and when, their wives are divorced.[13] Yet despite their bluster, rabbinic courts have consistently overseen the *get* ceremony when recalcitrant husbands who were sued for damages finally consent to divorce.[14] (Likewise, to the best of my knowledge, no Israeli rabbinic court has ever dared to challenge the legitimacy of religious divorces issued in foreign jurisdictions with *get*-refusal laws; to do so would result in the stigmatization of multitudes of Jews as *mamzerim*.) Tort precedents have become a mainstream tool in the arsenal of Israeli divorce lawyers, changing the legal landscape with respect to divorce in Israel.[15]

The Need for a Systemic Solution

One might argue, and I would agree, that neither the Israeli Family Law precedents nor any of the other secular international responses described above provide systemic solutions to what is essentially an internal problem of the *halakhah*. And, I would add, that it would be best if halakhic decisors would find and support such systemic solutions. But here is the very sad bottom line that I posit: Orthodox rabbis will NEVER find systemic solutions for women held in marital captivity.

Orthodox rabbis COULD reconfigure Jewish marriage so that it is fair and reciprocal. They COULD set up rabbinic courts which annul marriages, as done by the Rackman Beit Din,[16] the International Beit Din,[17] and the Sperber Beit Din.[18] They COULD make it a condition of Jewish marriages that they will be retroactively dissolved if a couple has been separated for a long period of time, or has been secularly divorced.[19] Indeed, it can be claimed, quoting Blu Greenberg, that "Where there is a Rabbinic Will there is a Halakhic Way."[20]

But Orthodox rabbis have consistently refused to exercise that will. Why? First, I believe that it is a matter of distinction. Mainstream Orthodox rabbis feel a need to distinguish themselves from rabbis of the Conservative and Reform movements, as well as from secular society and its values. In the same vein, mainstream Orthodox rabbis feel compelled to follow the more "authentic" and fundamentally religious Jews; they feel that their social and cultural capital lies within the *frum* community, and not the secular one. Second, I posit that the Orthodox community believes that God has set the rules in stone and has established a clear hierarchical order of things in which God is to Man, as Man is to Woman. And finally, and perhaps more prosaically, I believe that the rabbis won't bother finding systemic solutions because they have consistently marginalized the problem as not affecting that many women and, as such, not in need of their intervention.

> Orthodox rabbis will never find systematic solutions for *get*-refusal.

To sum things up, the best we feminist advocates for Jewish women can do, even the Orthodox ones among us, is turn to the Gentiles. That's what we've been doing for the last thousand years or so, and especially in the last few decades.[21] By turning to the Gentiles, we rename a religious "right" and privilege of Jewish men into a civil "wrong" that harms women. And in doing so, we "societalize" the problem of Jewish women and divorce—i.e., make it a problem for society as a whole, and not just one for the Jewish community.[22] Only in that way will things become just a little bit more equal and fair for Jewish women.

Susan Weiss, Ph.D. *is the founder and former director of Yad L'Isha (1997-2004) and the Center for Women's Justice (2004-2024). She is an attorney with a Ph.D. in sociology and anthropology who has written extensively about the challenges to women when religious laws are applied to personal status matters such as marriage and divorce. She currently co-hosts the podcast "Justice Unbound" which takes listeners behind the closed doors of Israeli rabbinic courts.*

[12] E.g., FamC 19270/03 K. v K. (Jerusalem 2004, HaCohen); Susan Weiss with Elana Sztokman, The Tort Of *Get* Abuse: How Damage Litigation Has Changed The Course of Family Law in Israel, https://www.cwj.org.il/sites/default/files/The%20Tort%20of%20Get%20Refusal%202012%202.pdf (five cases translated).

[13] HRabC 7041-21-1 Plonit v Ploni (R. Izerer, Hashai, Elgrabli) 2008.

[14] Amichai Radzyner, It's not what's Said but what is *Done that Counts: Arranging for Divorce after Suing for Damages and Rabbinic Court Publication Policy* 45:5 Mishpatim (2015) (Hebrew).

[15] See e.g., Decker, Pex, Levi, Rosenberg Law Firm, website (Hebrew).

[16] See Susan Aranoff and Rivka Haut, The Wed-Locked Agunot: Orthodox Jewish Women Chained to Dead Marriages (2015) (Ch.16).

[17] https//www.internationalbeitdin.org.

[18] See Tamar Dressler, Releasing chained women–by working around the Chief Rabbinate, Jerusalem Post, Aug. 29, 2018.

[19] See Eliezer Berkovits, T'nai B'Nisuin u've Get (Hebrew) (1966).

[20] Blu Greenberg, On Women and Judaism: A View from Tradition (1981).

[21] Laura Shaw Frank, "Dependent on the Gentiles": New York State, the Orthodox Rabbinate and the Agunah Problem 1953-1993, 23 Conversations (Institute for Jewish Ideas and Ideals, 2018).

[22] See Jeffrey C. Alexander, What Makes a Social Crisis? The Societalization Of Social Problems (2010) for a discussion of this concept.

SPOTLIGHT ON Devorah Scholars

Jofa's mission is to expand women's rights and opportunities within the framework of *halakhah*, to build a vibrant and equitable Orthodox community. A key element in furthering our mission is the Devorah Scholars Program, which was incubated at JOFA in 2020 and was designed to support Orthodox *shuls* in North America as they hire Orthodox women in paid spiritual leadership positions. The program, which has placed 11 women as Devorah Scholars in *shuls* throughout the United States, was made possible with the generous support of Micah Philanthropies – Ann and Jeremy Pava, Trustees.

From the outset, Devorah Scholars have made a significant impact on the communities they have served. Even something as simple as having a spiritual leader in the women's section to greet women coming to *tefillah* makes the *shul* feel more welcoming to them and provides support to women who need help finding the place or saying *Kaddish*. Dancing with the *kallah* or mother of the bar mitzvah boy during dancing in the men's section increases the women's involvement in these rituals and creates a more inclusive environment. This is in addition to guiding life-cycle rituals, delivering sermons from the pulpit, offering pastoral counseling, adding a woman's perspective on Jewish texts, and serving as a locus for halakhic questions women may feel uncomfortable asking a male rabbi. As the number of women spiritual leaders in *shuls* increases, girls and women can aspire to lead, and other synagogues will consider emulating this model.

Some specific impacts of the program are described in the following reflections by the current cohort of Devorah Scholars.

Rabbanit Leah Sarna

Spiritual Leader, Kehillat Sha'arei Orah, Lower Merion, Pennsylvania

As a Devorah Scholar, I assumed the position of spiritual leader at a formerly lay-led synagogue, Kehillat Sha'arei Orah in Lower Merion, Pennsylvania. Over the last year and a half in this senior position, I have offered *drashot* and *shiurim*, officiated at life-cycle events, and provided pastoral care to the 85 member families of our *shul*.

Rabbanit Leah Sarna in conversation with previous Devorah Scholar Rabbanit Dasi Fruchter

Nobody in my *shul*, myself included, quite knew what it would look or feel like to attend a woman-led Orthodox *shul*. We are not a partnership minyan; I do not *leyn* or lead any part of *tefillah*. The ritual elements of our service are directed by a talented *gabbai*, with whom I work very closely. We have worked together to create a *shul* experience that feels at once deeply continuous with our traditions and also respectful to my position. The *shul* waits for me at the *Shema* and *Amidah*. I announce page numbers, introduce the *leyning*, and lead a well-paced mourner's *kaddish*. The *gabbaim* and I choose *ḥazanim* for important dates and, with our larger *tefillah* committee, we craft standards and expectations for *tefillah* in our *shul*.

During services, I lift up our *tefillot* by modeling and encouraging loud, energetic community participation. Over the past year, we have also pioneered new models for *simḥat bat* and bat mitzvah celebrations in our *shul*, which are the first of their kind in any Orthodox *shul* in Lower Merion. Members of other synagogues come to our *shul* for *smaḥot* and feel comfortable: our model is working. We welcome Shabbat guests who are interested in seeing what we have created!

Rabbanit Tanya Farber

Spiritual Leader, Beis Community, Washington Heights, NYC

Rabbanit Tanya Farber

What an honor to serve as the Devorah Scholar and spiritual leader at the Beis Community in Washington Heights, New York City! Rabbi Hart Levine, spiritual leader at the Beis, created the Beis with a vision of inclusivity, and he and other co-founders imagined a day when a female spiritual leader would serve alongside him.

The Beis had an official installation for me—the first installation for a Maharat graduate—when I became the co-spiritual leader with Rabbi Hart. Since then, we lead from both sides of the *meḥitzah* in sacred collaboration. I think our collaboration is an ideal model of leadership. We each bring our skill sets and different talents, and by uplifting each other, we uplift the community.

During our services, women tell me that my presence anchors the women's side, which is especially true for life-cycle events. We've incorporated seamless ways for women to participate in the Orthodox service, even though only men receive *aliyot*, read from the Torah, and are prayer-leaders. We say personalized *misheberakh* blessings for the women, share words of Torah, and carry the Torah. The Shabbos dancing and singing is joyously animated on our side of the *meḥitzah*. We also gather

Rabbanit Tanya Farber and congregants cooking for Hanukah party

for Beis Women's Tefillah, meeting monthly for *minḥa* and for holiday *megillot* reading, and creating our own women's space within the larger community.

But most of my work goes beyond services. We've celebrated many life-cycle events, and supported community members through illness, mourning and personal loss, job transitions, break-ups, divorce, grad students facing antisemitism on campus, and in general, the impact of the war in Israel on us. For certain pastoral moments, I have realized that my being female was necessary: from assisting another woman in tearing *k'riyah* on a garment at her parent's funeral, to the joy of being present at the *mikveh* for a life-cycle moment.

I had also not realized how impactful my role would be beyond the Beis orbit; many of the *shaylos*, halakhic and pastoral questions I receive, come from Washington Heights young adults who do not regularly attend the Beis, but attend other local Orthodox *shuls*. Their questions range from standard to unique, including *kashrus* mishaps, Shabbos observance, *niddah*, halakhic dating, and beyond. I teach a weekly intermediate Gemara class to both men and women, and Rabbi Hart and I co-lead *parshah* learning on Shabbos.

The Beis values openness, love of all Jews, and radical hospitality and outreach. The Beis tends to attract spiritual seekers at varied levels of observance and background—from *ḥasidish* to unaffiliated. And so our high holiday services, Passover seders, and *kumzitz* prayer and song circles are really special and draw in a wide range of Jews seeking connection, meaning, and community. Both men and women who are new to traditional spaces tell me that my presence as a woman makes Orthodoxy less intimidating; those who have left observance are curious about my role. And those who lean more toward a right-wing Orthodoxy admit that I've challenged their misconceptions about feminism, as they see our adherence to *halakhah*, and dedication to *ahavas yisroel* (love), *kedushah* (holiness), and the beauty of building community where all Jews can come together.

Rabbanit Mindy Schwartz Zolty

Rabbanit, Congregation Ramath Orah, Manhattan, New York City

Working at Congregation Ramath Orah this past year as the rabbanit has been a true joy and privilege. In this role, I give monthly *drashot* on Shabbat mornings and holidays, as well as weekday classes—such as one on the men and women at the margins of the Talmud. I have had the opportunity to learn with and from our heterogeneous congregation and individuals of all ages, whose insights continually sharpen my own thinking and deepen my connection to this work.

I feel especially fortunate that many great Torah scholars—such as Rabbi Saul Berman, Rabbi Ismar Schorsch, Rabbi Joseph Telushkin, and Darshanit Dr. Miriam Udel—attend our weekly Shabbat *davening*. I've been able to learn from their thoughtful feedback and ideas when I share my own Torah.

I am deeply grateful to work alongside my husband, Rabbi Yoni Zolty, who serves as our *shul*'s rabbi and who has always been my greatest cheerleader and most trusted sounding board in this work. I also feel lucky that our *shul* supports me not only as a teacher but also as a mother. My husband and I were blessed with a baby boy this past year, and he has been embraced by the *shul* community—so much so that now, as I return from maternity leave, everyone wants to hold baby Lior during services while Yoni or I are speaking!

Rabbanit Mindy Schwartz Zolty

Our *shul* is full of powerhouse women who have long led critical initiatives, including our monthly Women's *Tefillah* service, much of our adult education programming, and our CSS (Community Security Service team), in addition to serving as current and former board members, vice presidents, and presidents. It has felt like a natural fit for our *shul* to have a woman in a position of Torah leadership as well.

I am immeasurably grateful to JOFA and the Devorah Scholars Program for making this possible for our small but mighty congregation.

PAST Devorah Scholars

Rabbanit Alissa Thomas-Newborn
Devorah Scholar, Netivot Shalom, Teaneck, NJ

Rabbanit Atara Lindenbaum
Associate Rabbanit, Hebrew Institute of White Plains, White Plains, NY

Rabbanit Yael Keller
Rabbanit-in-Residence, Skokie Valley Agudath Jacob Synagogue, Skokie Valley, IL

Ruthie Braffman Shulman
Devorah Scholar, United Orthodox Synagogue, Houston, TX

Rabba Amalia Haas
Director of Spiritual Engagement, Congregation Beth Sholom, Providence, RI

Rabbanit Jennifer Kotzker Geretz
Devorah Scholar, Netivot Shalom, Teaneck, NJ

Rabbanit Avital Engelberg
Rabbanit, Congregation Beth Sholom, Providence, RI

Rabbanit Dasi Fruchter
Founder and Spiritual Leader, the South Philadelphia Shtiebel, Philadelphia, PA

Rabbaniyot and the Chief Rabbinate in Israel

By Sharon Brick-Deshen

Update: As we were going to press, the Israeli Supreme Court ruled that the Chief Rabbinate must allow women to take the *Rabbanut's halakhah* exams.

On October 7th and throughout the year and a half since then, we have heard one story after another about brilliant women in the cockpit, outstanding women fighters in tanks, courageous women doctors fighting to save lives on the front lines, and talented women who took it upon themselves to lead important initiatives on the home front. The visibility of women fighting for our country stands in stark contrast to the situation in the religious sphere. Women hold no rabbinic positions in the State of Israel—at least not public positions funded by the state. There are no municipal *rabbaniyot* or even neighborhood *rabbaniyot*; no *rabbaniyot* in hospitals or sitting on the Council of the Chief Rabbinate of Israel.

It is impossible to ignore the contradiction between the reality of exclusive male occupancy of the Chief Rabbinate, ongoing now for over 75 years, and the current state of women's Torah scholarship. Starting some 30 years ago, a revolution in Torah study for women began, constituting one of the major advances for women of the past decades, and catapulting women Torah scholars forward. Yet, incomprehensibly, this transformation has not translated into public rabbinic roles for women in Israel.

In order to understand what has happened in Israel over this past year in relation to the Chief Rabbinate, it is important to be familiar with the structure of the institution, the forces that operate it, and, unfortunately, the low level of public interest it generates.

The Law of the Chief Rabbinate in Israel (1980) grants authority to the Council of the Chief Rabbinate and to Chief Rabbis to oversee the ordination of rabbis, *kashrut*, marriages, and other religious matters. The Ministry of Religious Affairs is responsible for operating these systems. The Chief Rabbinate is elected by an Electoral Assembly made up of 150 members, 80 of whom are municipal, neighborhood, or local rabbis appointed by the Council of the Chief Rabbinate (who are themselves elected by the Electoral Assembly), along with *dayanim*, who are appointed by a government committee, and ten rabbis personally appointed to the Assembly by the Chief Rabbis. All of these 80 members are men. The other 70 members of the Electoral Assembly are public representatives, including mayors and heads of local authorities, all of whom have extensive and important working relationships with the Ministry of the Interior, along with a number of members of Knesset. (In recent years the Ministry of the Interior has been headed by Shas, a powerful ultra-Orthodox Sefardi political party.) The Electoral Assembly is thus deeply embedded and entrenched in politics. For this reason, arguments over its conduct have been ongoing for tens of years.

The Chief Rabbinate Law established a ten-year term for the Chief Rabbis, which was supposed to end on October 31, 2023, but the election of their successors was deferred to June 2024 for political reasons. In June 2024, the government again ignored the law by failing to call the Electoral Assembly. This resulted in an unprecedented situation—the tenure of the Chief Rabbis ended in July 2024 and no replacements were elected. This continued until September 2024, when two new Chief Rabbis were chosen and began their tenure. Why did the government not vote on the date determined for this election by law? Here is where the involvement of women comes in.

Petition to Include *Rabbaniyot* in the Electoral Assembly

In November 2022, members of the Rackman Center for the Advancement of Women's Status, part of Bar-Ilan University's Law Faculty, petitioned the Israeli Supreme Court to demand that *rabbaniyot* be included in the Electoral Assembly—specifically, that women who are "engaged in religion and Jewish law" be appointed among the ten rabbis personally appointed by the Chief Rabbis. This petition was denied, at least in part because the Chief Rabbinate refused to recognize women Torah scholars as legitimate rabbis, and even claimed that there were no women in Israel with sufficient halakhic knowledge.

In December 2023, Kolech (the Religious Women's Forum, of which I am CEO) entered the picture. We asked 12 *rabbaniyot* to send a statement to the Supreme Court detailing their years of learning in rigorous *beit midrash* programs, their fields of halakhic specialization, and their rabbinic employment experience.

The Supreme Court was impressed with the statements and in January 2024 determined that there are *rabbaniyot* in Israel! They further determined that in the law determining the makeup of the Electoral Assembly the word "rabbis" now includes women as well, and stated that there are women with sufficient halakhic background to qualify them to take part in the Electoral Assembly. This was a ground-breaking declaration and a significant turning point in the status of women with regard to policy in Israel, constituting an acknowledgement of the *rabbaniyots'* advanced level of halakhic knowledge and the fields of activity in which they are engaged. However, the court sought to avoid a direct confrontation with the Chief Rabbinate and, instead of requiring it to appoint women among the ten representatives designated by the Chief Rabbis, they wrote only that it must "weigh the possibility" of doing so. Not surprisingly, the Council of the Chief Rabbinate objected to the decision of the Supreme Court and declared that it would not consider appointing women to the Assembly.

In July 2024 the Rackman Center once again petitioned the Supreme Court seeking to compel the Chief Rabbinate to carry out the ruling. It was during this period that the tenure of the Chief Rabbis expired and, for the first time

since the establishment of the state, none were elected in their place. In the face of pressure from the Supreme Court and the Ministry of Justice to include women, the Ministry of Religious Affairs opted to freeze the election process and did not call the Electoral Assembly.

In subsequent deliberations, the Ministry of Religious Affairs suggested removing the ten representatives of the Chief Rabbis from the roster, thus preempting the possible "danger" of appointing women to the Electoral Assembly. Amid concerns of political fallout, they clung to the excuse put forth by the Chief Rabbinate that opening the door for *rabbaniyot* would enable even more radical "Reform" (women) rabbis to demand a seat on the Assembly.

Months passed and the debate continued. In an effort to pressure the Chief Rabbinate to hold elections, Professor Aviad Hacohen, a senior legal expert, filed a petition to the Supreme Court demanding that the electoral process be expedited. The Supreme Court accepted the petition and compelled the government to hold elections by September 2024. This set another precedent. Instead of 150 members of the Electoral Assembly, the government held elections for the two Chief Rabbi positions with only 140 members, which included only a few individual women who serve in public positions. The women halakhic scholars were left behind. The Chief Rabbinate got what it wanted and in practice also received support for its halakhic position that it does not recognize women's halakhic authority and the possibility that women could hold rabbinic offices.

Deliberation in the Knesset Committee

In February 2025, the Electoral Assembly elected the Council of the Chief Rabbinate, which will serve for a five-year term. Desiring to hold this vote with a full complement of 150 members without interference from the Supreme Court, the Constitution Committee of the Knesset began deliberations on amending the Chief Rabbinate Law so that only rabbis ordained by the Chief Rabbinate (i.e., men) can be included in the 80 "rabbinical" members of the Electoral Assembly. At the same time they suggested setting aside a few more places for women within the 70 public representatives.

As part of these deliberations, the director of the Ministry of Religious Affairs met with representatives of organizations working to promote inclusion of *rabbaniyot*. The organizations presented the need and importance of including women halakhic scholars in the Electoral Assembly. We described the rigorous advanced *halakhah* programs, the women's wide breadth of knowledge, and their halakhic activities.[1] In the deliberations, the need for a suitable title for these women was raised. We demanded that they be called "women of *halakhah*" (because the title *rabbanit* generates implacable resistance, not only among the ultra-Orthodox but also among members of the religious nationalist sector), while more conservative organizations preferred "*yirot shamayim*" (God-fearing women) or similar terms that do not reflect the halakhic knowledge and status of these women. In the Knesset Constitution Committee's discussions there was a real conversation about the status of women and an opportunity to reduce the inequality faced by women. However, as a result of the objections of the ultra-Orthodox parties (and others who chose to give in to the demands of the ultra-Orthodox), the conclusion reached by the committee made no mention of women of *halakhah* in the amended law, and they continued to be excluded from the "rabbinical" component of the Electoral Assembly. We, sitting in the auditorium, were outraged at this insult to and erasure of these women. The issue was promptly dropped from the public agenda. The Chief Rabbis began their tenure, the Electoral Assembly of 150 members was conditioned on the inclusion of 30 women (a mere 20 percent, all within the public representative category), and the elections for the Council of the Chief Rabbinate were delayed for a few more weeks.

A New Petition

Our friends at the Rackman Center immediately prepared a new petition against this amendment to the Chief Rabbinate Law. Claiming that it deliberately discriminates against women, they sought to return the issue of women of *halakhah* to center stage. They demanded that this discriminatory amendment be either withdrawn or expanded to include women of *halakhah*. They further stated that this lack of acknowledgment of

[1] The addresses of Rabbanit Hannah Hashkes and myself during these deliberations (in Hebrew) can be seen at https://www.facebook.com/sharon.b.deshen/videos/1294123078436933/?rdid=E747eOSvkamQUdEV# and https://www.facebook.com/hannah.hashkes/videos/1109843637341144/?rdid=q67aMENGNXiVmKUN#.

rabbaniyot, and the use of the term "rabbi" as referring solely to men, constitutes discrimination and an infraction of women's right to equality before the law—that it constitutes humiliation and limits the representation of *halakhah* in the Electoral Assembly solely to men.

It was not easy to recruit *rabbaniyot* for this petition. The frustration that arose from the fight over the amendment to the law that led to the official exclusion of women of *halakhah* from the Electoral Assembly left little room for optimism and little energy to motivate a further round of struggle in the Knesset or the courts. We countered this by pointing out that ignoring or abandoning the struggle for recognition means accepting discrimination as fixed within the law and conceding that what was is what will be. Women of *halakhah* did indeed suffer a humiliating blow. The State of Israel once again gave in to chauvinism and accepted the exclusion of women from the source of decision-making in the religious sphere. This further weakened the status of halakhic programs as a relevant path of knowledge, training, and professional development for women, and reinforced the depiction of women's Torah learning as of lesser value than that of men.

The petition stated that the use of the term "rabbi" as referring solely to men constitutes discrimination and an infraction of women's right to equality before the law.

Within a few days, we were able to convince a number of women of *halakhah* to get on board, and a petition was submitted to the Supreme Court on behalf of six *rabbaniyot*, the Rackman Center, and Na'amat (the largest women's organization in Israel, whose work includes advocating for gender equity). We at Kolech chose not to sign the petition, in order to enable the women themselves to be at the forefront and to focus attention on their knowledge and experience as being worthy of recognition and appointment to public roles in the religious sphere. The understanding that simply accepting the situation was in effect the slamming of a door compelled the women to continue the fight via the courts of law and of public opinion, to demonstrate the value of women's Torah learning, and to show that it was as much an inseparable part of themselves as it was for men. We are currently waiting for the court's ruling on this petition.

Petition for Exams Testing Halakhic Knowledge

In addition, we are currently waiting for the response of the Supreme Court to a different petition, which demands that women be allowed to take the same exams as those administered to men for rabbinic ordination. This petition was filed in 2019 by Itim (an organization that aims to make Israel's religious establishment responsive to the needs of the broader Jewish public), six women of *halakhah*, the Rackman Center, and Kolech. The petition argued that because these exams qualify people for certain government jobs and for higher pay, denying women the right to take the exams was a form of financial discrimination.

Under rules of the Supreme Court, the government was required to respond to questions from the court. However, they repeatedly requested postponements, so the case still has not been resolved. From the very beginning, the Chief Rabbinate strongly opposed any form of recognition of female rabbinic authority.

In 2022, the Ministry of Religious Services administered *halakhah* exams for women. Several women took these exams and most passed. However, although these exams were similar to those for rabbinic ordination, there were significant differences and the exams covered only some of the topics required for official recognition and rabbinic certification. As a result, they cannot be used as a basis for government jobs or higher salaries.

In the most recent response from the government, in January 2025, the state agreed to establish a series of alternative state exams, essentially identical to those given by the Chief Rabbinate. These exams would be open to both women and men, and those who succeed would receive a government certificate. While this would not be a certificate of ordination, it would constitute official acknowledgment of the halakhic knowledge of the women and would be treated as equivalent to the "*Yoreh Yoreh*" level of rabbinic ordination conferred by the Chief Rabbinate for purposes of employment and financial benefits. However, these exams have not yet been instituted.

The government's response does not entirely accommodate the demands of the petition to have a system of ordination for women that is equivalent to that available to men. However, it does constitute official government acknowledgement of the level of knowledge of women of *halakhah*, and as such is a dramatic watershed moment, and a success that we should celebrate!

Prognosis for the Future

In practice, the appointment of a woman as Chief Rabbi, or even as a municipal rabbi, is still not on the horizon. But when religion and state are enmeshed together, as in Israel, we cannot, as religious feminists, do anything but move forward with heads raised high and backs straight. We must be alert to social and legal processes, and committed to continuing to develop the field of women's Torah learning for the alumni of the programs and the young students whose future is still to come, in the hopes that it will be they who will one day finally gain recognition by the rabbinical establishment in Israel of their status as halakhic scholars worthy to serve as public rabbis.

Sharon Brick-Deshen *is the CEO of Kolech Religious Women's Forum and Deputy CEO of Ne'emanei Torah Va'Avodah—Kolech, a religious Zionist movement committed to restoring religious Zionism to its foundational values. It fosters a thoughtful, open, and self-reflective religious culture and promotes a courageous halakhic discourse that addresses contemporary challenges. The movement advocates for tolerance, equality, and justice within religious society and seeks to shape Israel's Jewish-democratic identity.*

Clashing Religious Beliefs, Custody, and the Constitution

By Jane J. Felton

The United States Constitution protects parents' rights to dictate their children's religious upbringing. But what does a court do when divorced, divorcing, or otherwise unmarried co-parents disagree about the religious upbringing?

First, the easy answers: Family courts throughout the country apply a "best interests of the child" standard to custody and child-rearing determinations. Courts assess "best interests" on a case-by-case basis, while typically (i) preferring to maintain the status quo, (ii) deferring to the parent with primary custody, and (iii) preferring to uphold parents' agreements. Thus, a party seeking to change the status quo, override the parent with primary custody, or modify a prior agreement should be prepared to offer persuasive evidence of both a change in circumstances and that the child's best interests are at stake.

But religious disputes also implicate constitutional principles, including (i) parents' fundamental rights to inculcate religious values in their children, (ii) all persons' fundamental rights to freely exercise their own religious preferences, (iii) that judges cannot compel any person to adopt any particular religious lifestyle, and (iv) that a court can only interfere with a parent's right to direct his or her child's religious upbringing when there is a "substantial threat" of significant (non-speculative) harm to the child. Further, courts are supposed to be *neutral* on religious questions, without preferring one religion over another or aiding believers over non-believers. Finally, the Constitution prohibits courts from resolving controversies over religious doctrine and practice. Accordingly, secular courts must confine their analyses to secular law and leave the implication of religious laws and customs to the religious groups that recognize those rules.

Applying all the foregoing principles in a religious upbringing dispute between co-parents is difficult (if not impossible). The Supreme Court has never had occasion to do so. As such, as illustrated by the examples that follow, real-life cases are inconsistent in their approaches and outcomes.

Many family courts have relied on the Constitution's Free Exercise and Due Process clauses,[1] as well as their counterparts in state constitutions, to hold that the state may only encroach on parental authority over religious upbringing upon a showing of a "substantial threat" or "physical or mental harm to the child, or to the public safety, peace, order, or welfare."[2] Thus, direct evidence of harm is key for the party seeking to challenge the status quo. For example, in *De Luca v. De Luca*,[3] a Catholic father petitioned for custody because his ex-wife had become a Jehovah's Witness, which allegedly interfered with the children receiving medical attention, among other things. The court held there was not sufficient evidence of harm to interfere with the mother's custody. In *Palmer v. Palmer,*[4] a state supreme court overturned restrictions placed on a Jehovah's Witness who involved her three-year-old in a door-to-door visitation ministry and took the child to adult church services. The court found that evidence adduced at trial that the child may be bored or unruly in such situations did not meet the standard of "substantial threat to the mental or physical health or well-being of the child" that would be necessary to infringe on the mother's right to control her child's religious upbringing.

The Constitution, moreover, may thwart one parent's effort to enforce an agreement with the other parent as to their child's religious upbringing. In *Storfer v. Storfer,*[5] for example, where the parties agreed to raise their child Jewish and according to "the tenets of the Modern Orthodox Jewish Faith," the court refused to hear a father's complaint that the mother was breaching the agreement by raising the child Jewishly, but not according to "the tenets of the Modern Orthodox Jewish Faith." The *Storfer* court held it could not adjudicate the meaning of "the Modern Orthodox Jewish Faith" by neutral principles of law, as the Constitution commands, and it was therefore a non-justiciable issue. By contrast, in *Perlstein v. Perlstein*,[6] the court held that it *could* enforce an agreement requiring attendance at specific Jewish schools and keeping kosher in the home. Other courts have disregarded the non-justiciability principle entirely.

Zummo v. Zummo[7] prioritized a parent's fundamental right to impart religious values to his child. The Zummos had agreed to raise their children Jewish, but after divorce, the father, who was not the parent of primary residence, wished to take the children to Catholic church. The court held that he had the constitutional right to do so, and it declined to enforce the parties' agreement to raise the children Jewish on constitutional grounds, holding that, "while … a parent's religious freedom may yield to other compelling interests, it may not be bargained away."

[1] U.S. Constitution, Amendments I and XIV.

[2] This is the standard articulated by the Supreme Court in *Wisconsin v. Yoder*, 406 U.S. 205, 230 (1972), a case that did not involve parent against parent, but rather whether the state could compel Amish parents to send their children to school until age 16.

[3] 202 A.D.2d 580 (N.Y. App. 1994).

[4] 249 Neb. 814 (Neb. 1996).

[5] 131 A.D.3d 881 (N.Y. App. 2015).

[6] 76 A.D.2d 49 (N.Y. App. 1980).

[7] 574 A.3d 1130 (Pa. Super. Ct. 1990).

The court found that the children (ages three, four, and eight) were too young to have developed personal religious identities that would be harmed by exposure to Catholicism. The court found the mother's assertion that the children's best interests were served by "stability and consistency" in their religious indoctrination to be vague concepts that could not supersede the father's constitutional rights. Nonetheless, the court compelled Mr. Zummo to take the children to synagogue Sunday school during his parenting time, seemingly bending his constitutional freedoms to the realities of co-parenting.

Recent New York cases have been far less protective of divorced ex-Hasidic parents' rights than the courts in the cases discussed above. In *Weisberger v. Weisberger*,[8] the parents had agreed that the mother would have primary custody and ensure a "Hasidic upbringing in all details," while the father would have decision-making authority over the children's education. After divorce, the agreement was not kept: the father failed to fully exercise parenting time for 18 months, excluded the children from his home, and failed to pay child support; the mother left Hasidism, told the children she was gay, permitted them to violate *halakhah*, and brought a transgender person to live in their home. The father then moved for temporary sole custody, which the court granted only one week later and made permanent three years later. It took roughly two more years for the appellate court to reinstate custody for the mother on constitutional grounds.[9] The court declared the trial court's order compelling the mother to practice Hasidic customs with her children, consistent with the parties' agreement, to be unconstitutional. However, the court still ruled that she must keep a kosher home and provide the children with exclusively kosher food "in a manner consistent with Hasidic practices." It also gave the father more parenting time and sole authority over the children's education.

The court declined to enforce the parties' agreement to raise the children Jewish on constitutional grounds.

Cohen v. Cohen,[10] a 2019 case, was slightly more respectful of an ex-Hasidic parent's rights. The trial court awarded the Hasidic mother sole legal custody, as she had been the children's primary caregiver throughout their lives. The father, who had ceased being Hasidic, was required to undertake efforts to ensure *the children* complied with the religious requirements of Hasidic Judaism, but he was not compelled to follow those requirements *himself*. Indeed, the appellate court reversed a directive that he comply with the "cultural norms" of Hasidic Judaism when with the children.

Weichman v. Weichman,[11] a 2021 decision, was still better for the ex-Hasidic parent. There, the appellate court vacated an order directing the mother to "not take the child to a place or expose the child to an activity that violates rules, practices, traditions and culture of the child's Orthodox Jewish Chasidic Faith." The appellate court held that no directive may "coerce anyone to support or participate in a religion or its exercise," or "violate[] a parent's legitimate due process right to express oneself and live freely."

Take-Aways for Disputes on Religious Upbringing

So, what are the take-aways for co-parents caught in religious upbringing clashes?

First, family courts routinely focus on the "best interests" standard, parenting agreements, and status quo, but they relatively rarely address constitutional issues. Indeed, under the doctrine of Constitutional Avoidance,[12] courts avoid constitutional issues when they can. Yet, the Constitution and Supreme Court precedents provide parents significant rights that can be invoked in these cases. Especially given the Supreme Court's increasingly robust view of religious free exercise rights in recent years, a parent who believes a custody arrangement is interfering with their free exercise or parenting rights should consider raising constitutional arguments like those addressed here. It is even better to do so with counsel who appreciates the range (and sometimes inconsistent nature) of applicable constitutional principles and Supreme Court precedents that could be invoked.

Second, where parents share custody and their preferences are mutually exclusive (e.g., one wants yeshiva while the other wants public school), the parents' constitutional rights may effectively cancel each other out. The court will focus on the facts of the case before it, putting considerable emphasis on the status quo and any prior parenting agreements. Courts may prioritize stability for the children over a parent's wish to change an untenable religious situation. To combat that tendency, the challenging party will need to marshal evidence demonstrating harm to the children that necessitates the preferred outcome. The party advocating to keep the status quo or abide by an agreement has less of a burden. But evidence is of paramount importance.

Finally, buckle up. As the *Weisberger* judges acknowledged at the very end of their decision: "[C]ourts do not always have the perfect solution for all of the complexities and contradictions that life may bring."[13]

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[8] 154 A.D.3d 41 (N.Y. App. 2017).
[9] Sharon Otterman, "When Living Your Truth Can Mean Losing Your Children," New York Times (May 25, 2018).
[10] 177 A.D.3d 848 (N.Y. App. 2019) and 182 A.D.3d 545 (N.Y. App. 2020).
[11] 199 A.D.3d 865 (N.Y. App. 2021).
[12] *Ashwander v. Tennessee Valley Auth'y*, 297 U.S. 288 (1936).
[13] 154 A.D.3d at 55–56.

Rethinking Obligation:

Women, *Mitzvot*, and the Divergent Voices of the Bavli and Yerushalmi

By Shana Strauch Schick

A few years ago, during Sukkot, I had a conversation that deeply impacted me. After struggling to fit our family into the small sukkah on our Jerusalem terrace, a non-observant relative asked, "I thought women don't have to do this—why are you inconveniencing yourself and your daughter?" At first taken aback, I eventually replied, "When something matters to you, you want to do it, even if it's difficult."

Although under rabbinic law women are exempt from the mitzvah of sukkah, I had never considered not sitting in it, just as many Jewish women perform religious acts they are exempt from. After all, exemption is not necessarily exclusion. Women may not be obligated to recite *Shema*, hear the shofar, or take the four species on Sukkot, but we are not barred from doing so. If one is religious, there is value and meaning in performing these acts, even if not required. And so, my daughter and I squeezed into the sukkah.

> The role traditionally assigned to women in Jewish practice is far more complex than is commonly assumed.

And yet, the underlying point behind my relative's question weighed on me. While many Jewish laws apply equally to both men and women, there are rituals and commandments that are incumbent on men alone. Moreover, some are regarded as distinctly masculine, to the exclusion of women. Various justifications for this disparity have been suggested, ranging from the belief that men and women have different roles in life to the idea that their spiritual needs are inherently distinct. Moreover, women experience these exemptions in various ways—some are deeply troubled by the disparity, while others accept or even embrace it.

It is, of course, impossible to know how Jewish women during the Talmudic era felt or thought about their diminished role in *halakhah*, as we lack texts authored by women. However, one truth remains clear: for the Talmudic sages who formulated these *halakhot*, the obligation to observe commandments is viewed as a privilege and a deeply meaningful responsibility. A clear expression of this is found in men's daily recitation of the blessing thanking God for "not making me a woman" (Tosefta *Berakhot*, ed. Lieberman 6:18).

Classical rabbinic texts undeniably portray women as an "other," with no active role in shaping *halakhah* or contributing to the discourses that define their place within Jewish law. However, the role traditionally assigned to women in Jewish practice is far more complex than is commonly assumed.

Our understanding of Jewish law has largely been shaped by the Babylonian Talmud (Bavli). However, halakhic texts from the Land of Israel—including the Mishna and other tannaitic works, the Talmud Yerushalmi, and some post-Talmudic writings—present a wider and sometimes more inclusive range of approaches to women's obligations in *halakhah*. These texts reveal views and practices that contrast with the more narrow interpretations we commonly encounter, even in areas traditionally considered distinctly masculine.

Many cases where women are exempt from particular *mitzvot* reflect the view of the Bavli, even when the earlier tannaitic texts on which the Bavli is commenting offer multiple views without indicating a preference. The Yerushalmi, in turn, tends to favor tannaitic positions that obligate women, sometimes challenges positions that exempt them, or, at the very least, preserves the diversity of opinions within the tannaitic texts. The Bavli, however, consistently aligns with the positions that exempt women, indicating that these exemptions may be part of a larger, deliberate system.

One example is women's exemption from the obligation to procreate (*peru u-revu*). The accepted *halakhah* among post-Talmudic authorities, which is still held today, is that this obligation applies solely to men.[1] However, Mishna *Yevamot* 6:6 presents two opinions on who is included in this commandment: The first, anonymous, view (the *tanna kamma*) limits the requirement to men, while Rabbi Yoḥanan ben Beroka, from the second generation of Mishnaic sages, asserts that both men and women are equally obligated. The Tosefta paralleling this mishna, as well as the Yerushalmi's discussion of it, both side with Rabbi Yoḥanan ben Beroka's view and obligate women in this fundamental commandment (Tosefta *Yevamot* 8:4-5; Yerushalmi *Yevamot* 6:6). There is even evidence that this approach persisted in Byzantine Palestine after the Talmudic period.[2]

In contrast, the Bavli's discussion of Mishna *Yevamot* 6:6 maintains that the *halakhah* follows the view of the *tanna kamma*, limiting the obligation to procreate to men (Bavli *Yevamot* 65b-66a). Moreover, throughout its extensive discussion, the Bavli highlights the Talmudic sages who followed the view exempting women from procreation and affirm that this is the accepted law. This view is likewise expressed throughout the Bavli.[3]

In other instances, early rabbinic sources (the Tannaim) include views that obligate women in certain commandments, but the Bavli modifies or omits them. For example, Tosefta *Kiddushin* 1:10 and Sifre *Bamidbar* 115 report a debate about whether women must wear

[1] E.g., Rambam, Mishneh Torah, *Hilkhot Ishut* (Laws of Marriage) 15:1; Shulḥan Arukh, Even HaEzer, 1:13.

[2] See Avi Shmidman, "The Poetic Versions of the Grace after Meals from the Cairo Genizah: A Critical Edition" (Ph.D. diss., Bar-Ilan, 2009), 677–78.

[3] See *Shabbat* 110; *Gittin* 43b; *Kiddushin* 34a; *Eruvin* 27a.

tzitzit. The majority view says yes, while Rabbi Shimon disagrees, saying it's a time-bound commandment and thus not required for women. The Yerushalmi preserves this debate and even includes support for the majority view from a later Talmudic sage, Rabbi Hela (third-generation), obligating women in *tzitzit,* since they argue it is not time-bound. In the Bavli, however, only the opinion that exempts women is mentioned, with no sign that there was ever a disagreement (Bavli *Kiddushin* 33b–34a).

Understanding the Bavli's Exemptions

No doubt, there are various ways to understand the Bavli's positions that exempt women from commandments. In the case of the mitzvah of *peru u-revu*, perhaps it was designed to protect women's lives, acknowledging the life-threatening risks of childbirth that women have historically faced.[4] Alternatively, it could be seen as granting women greater reproductive freedom, allowing them to choose whether to have children. This latter possibility is brought to light in an anecdote recorded in the Bavli (*Yevamot* 65b–66a), which illustrates how this exemption allowed a woman to exercise some control over her reproductive choices. In this story, Yehudit, the wife of Rabbi Ḥiya, wishes to spare herself from yet another agonizing pregnancy, even though she knows that her husband wants another child. She therefore disguises herself and asks her husband whether women are obligated to procreate. When he responds in the negative, unaware that he is speaking to his wife, she drinks a sterilizing serum.

As with many Talmudic anecdotes, the point of the story is unclear. Is this a justification for women's exemption from the obligation to procreate, or is it a cautionary tale of what might happen if women have reproductive freedom? However, as David Daube aptly put it, the exemption of women from the obligation to procreate effectively positions them as "the instruments with the aid of which the men fulfilled their duty."[5] If men alone are assigned the obligation—an obligation that inherently requires women's participation—then women, by default, become the means through which this obligation is fulfilled. As such, whatever potential positive outcomes the exemption may have offered—protection or autonomy—it still underscores the asymmetry in the Bavli's position. On the other hand, when both men and women are formally obligated, as the texts from the Land of Israel dictate, they become independent agents, each fulfilling their own religious responsibilities.

In the case of *tzitzit*, the Babylonian Talmud's unanimous position that women are exempt may reflect a general tendency to smooth over or minimize earlier tannaitic debates rather than anything inherent in the mitzvah of *tzitzit*. However, the Bavli could have adopted the initial opinion presented in the *baraita*, which obligates women. Instead, it aligns with the view that exempts women, thereby reinforcing the classification of *tzitzit* as time-bound and situating it within the broader framework of women's exemption from time-bound positive commandments.[6]

Why the Bavli and the Yerushalmi Differ

We can only speculate about the possible factors that may have contributed to the differences between the Bavli's and the Yerushalmi's treatment of women in *halakhah*. It is possible that in each case there is a reason for the difference that relates to the particular mitzvah rather than a systemic view of women's halakhic obligations. For instance, in the case of procreation, Rabbi Yoḥanan ben Beroka—followed by the Tosefta and Yerushalmi—obligates women based on a straightforward reading of the biblical command, "be fruitful and multiply (*peru u-revu*)" (Bereishit 1:28). Since the command is phrased in the plural, it addresses both Adam and Eve, and by extension, men and women. By contrast, the Bavli might prefer the anonymous view—that women are exempt from this mitzvah—since the anonymous view is generally regarded as the majority opinion of the Sages. Arguing against this approach, however, there are instances where the Bavli explicitly aligns with minority views that exempt women, disregarding the majority opinion entirely, as in the case of *tzitzit*.

> The Yerushalmi tends to favor tannaitic positions that obligate women in *mitzvot*.

Another way to explain these differences is by considering the broader legal tendencies of each Talmud. The Yerushalmi's inclination to obligate women may reflect a more generally stringent approach to *halakhah*[7] that is unconnected with the implications for women. In contrast, the Bavli tends to organize legal discussions into clear categories and general principles. While this makes the law more systematic, it can also reshape earlier traditions, including those related to women's obligations, in order to fit within these categories

[4] Although this is the logic that is often seen as the reason for the Bavli's exemption, it was only first proposed in the nineteenth century by R. Meir Simcha Ha-Kohen in his biblical commentary *Meshekh Chokhma* (Noah, 18).

[5] David Daube, "Johanan Ben Beroqua and Women's Rights," in *Jewish Tradition in the Diaspora: Studies in Memory of Professor Walter J. Fischel*, ed. Mishael M. Caspi (Berkeley, CA: Judah L. Magnes Memorial Museum, 1981), 57.

[6] In a separate discussion—one that is not focused on women's exemptions—the Bavli reports a tannaitic tradition that includes both views: one obligating and one exempting women from *tzitzit* (b. *Menahot* 43a). This indicates that the Babylonian Sages were aware of the tradition obligating women in *tzitzit*, and thus that their ruling was not due to ignorance of the full spectrum of tannaitic opinion.

[7] The eleventh-century Talmudic commentator Rabbi Yitzhak Alfasi (the Rif) observed that the law follows the Bavli over the Yerushalmi because the former tends to be more lenient, whereas the latter has a stricter stance (Rif, *Sefer Halakhot; b. Eruvin* 35b). For a discussion of the stricter approach of Eretz Yisrael *halakhah*, see Richard Hidary, "'One May Come to Repair Musical Instruments': Rabbinic Authority and the History of the Shevut Laws," *JSIJ* 13 (2015): 1-26.

and principles. Debates preserved in sources like the Yerushalmi—such as whether women are obligated in *tzitzit*—are often streamlined or omitted in the Bavli. As a result, what was once a contested issue may appear as settled law, intentionally or not, limiting women's roles in religious practice.

The differences between the *halakhot* of the Land of Israel and the Bavli might also reflect the different cultural contexts in which they were developed—namely, Greco-Roman Palestine (in the case of the Land of Israel texts) and Sassanian Iran (in the case of the Bavli). The Greco-Roman world, although deeply patriarchal, granted Roman women significant legal rights and a certain level of legal status.[8] For example, various Roman laws encouraged marriage and procreation for both men and women, which led to legislation that increased women's property rights.[9] By contrast, the situation in Sassanian Iran was more complex. Women were often regarded as property, ranked alongside slaves and minors, with limited legal capacity.[10] Indeed, a married woman could be handed over by her husband, without her consent, to a childless man so that she could bear a child for him, after which she would return to her husband.[11] These different cultural environments may have contributed in shaping how the Bavli and the Yerushalmi approached women's role in procreation.

Bavli's exemption of women from *tzitzit* seems contrary to Sassanian practice. Zoroastrian law required both men and women to wear a similar garment called the *kushti*, which is a ritual cord, braided to form three tassels at its end and tied around the waist over a white undershirt. One might perhaps have expected this practice to have influenced the Bavli to include women in the obligation of *tzitzit*. Instead, the Bavli affirms their exemption. This divergence demonstrates that the extent to which cultural contexts help explain the development of halakhic texts is complex, and cannot always be easily determined.

While the reasons for the disparities between the Bavli and Yerushalmi's treatment of women can be understood through various lenses, it is likely that no single explanation accounts for all cases. The causes could range from local factors to broader cultural tendencies, but these remain speculative. What we can say definitively is that women are more often exempt from obligations in the Bavli than in the Yerushalmi. What is more, the fact of being obligated holds significance in all of these rabbinic texts, since the requirement to observe *mitzvot* is regarded as a privilege. As a result, the existence of a view in rabbinic texts from the Land of Israel that obligates women in more commandments, in contrast to the more frequent exemptions found in the Bavli—and hence the accepted *halakhah*—holds considerable importance. This view not only introduces new possibilities, but also carries implications for rethinking the status of women in Judaism.

For me, and for many other observant women, the difference between what I am technically "obligated" to do and what I choose to do in practice is something I don't often reflect on. I have never considered not sitting in the sukkah, not reciting *Shema*, or not performing a number of other *mitzvot*, even if I'm not technically commanded to do so. But this has often led to a kind of cognitive dissonance, where I disregard the weight that the framers of *halakhah* placed on the idea of not being obligated. The texts from the Land of Israel, however, suggest that the disparity between what is considered obligatory for men and women might not be as great, or as inevitable, as it is often presented.

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[8] Jane Gardner, *Women in Roman Law and Society* (Bloomington: Indiana University Press), pp.263–4.

[9] For an excellent summary, see Tim Parkin, "The Ancient Family and the Law," in *Reproduction: Antiquity to the Present Day*, ed. Lauren Kassell, Nick Hopwood, and Rebecca Flemming (Cambridge: Cambridge University Press, 2018), 81–94.

[10] Mansour Shaki, "The Sassanian Matrimonial Relations," *Archiv Orientalni* 39 (1971): 338; Anahid Perikhanian, "Iranian Society and Law," in *Cambridge History of Iran*, 1983, 634.

[11] Shaki, "The Sassanian Matrimonial Relations," 324.

Can Women Be Witnesses in a *Beit Din*?

By Gloria Nusbacher

A more extensive discussion of this topic by the author appears in Yeshivat Maharat's Keren Journal, *Volume 4 (2023), which can be found at https://www.yeshivatmaharat.org/keren-journal-volume-4.*

Ask any yeshiva-educated child, or most adults, whether women are valid witnesses under Jewish law, and they will likely answer that women are "*pasul l'eidut*"—invalid to testify. However, the reality is more nuanced. While many statements in the Talmudic and halakhic literature indicate that women's testimony is categorically inadmissible, there are also a number of instances where women's testimony in civil cases has been accepted in Jewish courts.

Biblical and Talmudic Sources

The plain reading of the biblical verses about testimony (Devarim 19:15-17) does not differentiate between male and female witnesses. On its face, the Torah seems to require two witnesses whose gender is not specified; the only reference to men in these verses is in the context of litigants.

As early as the Sifre (an early book of *midrash halakhah*), the biblical verses regarding testimony were understood to exclude women from eligibility to serve as witnesses (Sifre Devarim, *Parshat Shoftim*, 190).

Notwithstanding the Sifre's blanket statement, the Mishna's treatment of women's testimony is somewhat ambiguous. For example, the third chapter of *Sanhedrin* (3:3, 5) contains a list of persons who are not eligible to be witnesses because they lack credibility, either because they are engaged in disreputable practices or have a bias. The omission of women from this list would suggest that there is no inherent problem with their credibility. However, the list of individuals who are deemed not qualified to testify because they are relatives (3:4) consists only of men, suggesting that women were not considered eligible to testify for some other, unstated, reason.

By contrast, the Tosefta (roughly contemporaneous with the Mishna) is clear that there are at least some circumstances in which a woman's testimony is accepted. It provides that all are believed to testify that a *kohen's* wife who was taken captive was not raped—"even her son, even her daughter"—other than the woman herself and her husband, because a person doesn't testify on their own behalf (Tosefta *Ketubot* 3:2). In another example, the Tosefta (*Ketubot 3:3*) expressly permits women's testimony, but only when it is given immediately after the occurrence of the event.

The primary discussion in the Gemara regarding women's ineligibility to testify is in Bavli *Shevuot* 30a. The Gemara asks for the source for a woman's ineligibility to testify and provides three proofs. In each case, the Gemara acknowledges that it is not a strong proof and then provides as an alternate proof the biblical interpretation of the Sifre. This Gemara suggests that the disqualification of women as witnesses was a long-standing tradition that the Gemara struggled to justify. While the justification appears weak, ultimately the conclusion is upheld.

Despite the apparent blanket rule against admitting testimony of women, the Gemara describes several instances in which the word of a woman is accepted and treated as credible when significant determinations are at stake. One example is in *Kiddushin* 73b, where Rav Ḥisda says a midwife is believed if at the moment of birth she identifies which twin emerged first (relevant for inheritance purposes) or which baby came from which mother (affecting personal status). The Gemara then says that if her statement is challenged by two witnesses, they are believed over her. This is reasonable since Jewish law generally requires two witnesses and generally does not even accept testimony of a single witness. However, if her statement is contradicted by a single witness, the Gemara provides two alternative views. Under the first view, the statement of the midwife is always upheld over that of a single challenger. Under the alternative view, her statement is upheld only if there is a *ḥazakah* (presumption) of the lineage of the baby, which can never be the case where the very issue is which baby belongs to which mother.

In Bavli *Bava Kamma* 114b the Gemara discusses another area in which women's statements are believed for purposes of determining property ownership. The case involved a swarm of bees which were being pursued by their owner. A statement by a woman that "it was from here that the swarm emerged" was deemed credible for determining ownership of the bees. However, the Gemara clarified that this was not formal testimony and, in fact, was accepted only because it was made in an offhand manner.

Rishonim, Shulḥan Arukh, and Rema

The Sefardic *poskim* generally take a hard line against admitting women's testimony, even when women are the only available witnesses. Rambam (1138-1204 Spain and Egypt) expressly states this as the rule in *Hilkhot Nizkei Mamon* (Laws of Monetary Damages) 8:13.

The Ashkenazic Rishonim are more willing to accept women's testimony in certain limited situations. In a frequently-cited responsum (#353), the Trumat HaDeshen (R' Israel Isserlein, 1390-1460 Austria) dealt with a case of disputed seats in the women's section of a *shul*. One claimant, Leah, brought two women witnesses that the seats belonged to her. The second claimant, Rachel, brought a single male witness to support her claim. The Trumat HaDeshen sets the stage for his decision with a very strong statement regarding the acceptability of women's testimony in appropriate circumstances: "Even though, as a general matter,

women's testimony has no value, on this matter, where women are likely to be more attentive than men, it is better to believe them." He cites the Gemara about the midwife as well as a prior case where women were believed to testify that a widow wore particular clothing while her husband was alive, since men do not typically look at women's clothing. He states that, similar to these cases, men are not likely to know about ownership of seats in the women's section.

He concludes that if Rachel had a presumption (*ḥazakah*) of ownership of the disputed seats, Leah could take the seats away from her based on the testimony of the two female witnesses, but if Rachel had a single male witness against Leah's two female witnesses, the two sides would be considered of equal weight and the disputed seats would be awarded to Rachel based on the presumption of ownership.

This *teshuvah* takes the idea of women as witnesses to an entirely new level. Whereas the Gemara treats women as credible and relies on their statements for making important determinations, for the most part it does not recognize their statements as formal testimony. By contrast, the Trumat HaDeshen is willing to accept women's testimony in a formal court setting as the basis for a plaintiff winning a monetary judgment. However, the scope of this decision is very limited. First, it is limited to matters in which women are likely to pay attention to the facts and men are not. Perhaps more important, in any case in which the testimony of two female witnesses is challenged by that of a single male witness, the testimonies will cancel each other out.

> The disqualification of women as witnesses was a long-standing tradition that the Gemara struggled to justify.

The Shulḥan Arukh (*Ḥoshen Mishpat* 35:14), following the Sefardic tradition, makes the blanket statement that women are ineligible to testify. However, the Rema (R' Moshe Isserles, 1530-1572 Poland) disagrees. He refers to an ancient *takanah* (rabbinic enactment), which he elsewhere ascribes to the French Tosafist Rabbenu Tam (1100-1171), that women are believed in a place where men are not typically present, such as the women's section of a *shul*, or with respect to matters that men typically don't pay attention to. He then states that there is precedent that even a single woman is believed if there are no valid (i.e., male) witnesses to an incident, such as an assault, embarrassment of a *talmid ḥakham,* quarrels between two people, or informing to the secular authorities. In his earlier work, *Darchei Moshe*, he states that women should be believed in such matters because these incidents are also not common. The theory seems to be that if the only witnesses to an incident are women, the reasons to admit their testimony are the same as for cases involving "women's matters." However, he limits the admissibility of women's testimony to cases where the plaintiff has made a "*bari*" claim (i.e., claims in which the plaintiff asserts he is certain).

The Rema takes as his premise that women's testimony is inadmissible. In his view, the *takanah* does not change this formal exclusion of women's testimony. He describes the *takanah* as providing that "we believe women" in the situations covered by the *takanah*, without expressly calling their statements testimony. As a result, the Rema creates a hybrid situation: women are not eligible to give formal "testimony," but their statements are relied on to determine the outcome of certain court cases.

Aḥaronim

Several Aḥaronim try to limit the scope of the Rema's statement. The Me'irat Einayim (R' Yehoshua Falk, 1555-1614 Poland) reiterates the Rambam's position that only kosher witnesses can be relied on in cases involving monetary damages, and states that the *takanah* does not allow women to testify in such cases.

The Shakh (R' Shabbetai Kohen, 1621-1662 Eastern Europe) states that a *ḥazakah* regarding ownership of disputed property for three years would outweigh any testimony by women to the contrary. He also states that, in any case, the testimony of a single male witness outweighs the testimony of two female witnesses.

The Nodah B'Yehudah (R' Ezekiel Landau, 1713 Poland-1793 Prague) issued a responsum (*Ḥoshen Mishpat* #58) elaborating on the issue of women's testimony. The case involved a situation where, several days after the occurrence of a theft, two women testified that they had seen the stolen items in a certain person's home, and the accused person denied stealing them. The Nodah B'Yehudah noted that with respect to an occurrence in a place where women are typically found and men are not, women witnesses would be believed even without the *takanah*, based on the midwife case in the Gemara. However, since the theft occurred under circumstances where men and women were equally unlikely to be found, as is the case in most instances of assaults and quarrels, the only basis for admitting the women's testimony was the *takanah*. Yet the *takanah* would permit using women's testimony only where the plaintiff made a "*bari*" claim against the accused, and was therefore inapplicable since the plaintiff was not certain who the thief was.

However, the Nodah B'Yehudah cited an additional reason to reject the women's testimony. The women did not testify that they saw the theft being committed, but only that they had seen the stolen items in the accused's home; thus there could potentially be male witnesses who also saw the items in the accused's possession. He concludes his *teshuvah* by clarifying that he was not deciding that the women's testimony would be accepted if they had in fact witnessed the theft, but that there was room to reach such a decision in those circumstances.

The Arukh HaShulḥan (R'Yechiel Michel Epstein, 1829-1908 Lithuania) takes a more complex position. In his discussion of invalid witnesses (*Ḥoshen Mishpat*, *siman* 35) he begins by stating that we do not accept the testimony of invalid witnesses, even if there are no valid witnesses. He then refers to the *takanah* as well

as the various limitations on admissibility of women's testimony raised by other *poskim*. He also cites a position that, even under the *takanah*, women's testimony needs some corroboration before it can be accepted.

However, in his discussion of Laws of Monetary Damages (*Ḥoshen Mishpat*, *siman* 408), the Arukh HaShulḥan takes a more expansive view of the admissibility of women's testimony and does not mention any of the limitations he described in *siman* 35. Although he acknowledges the Rambam's ruling that such damages are only payable based on the testimony of valid witnesses, he states that the Rema had already limited that ruling to the strict letter of the law, and had ruled based on the *takanah* that we accept women's testimony in a place where there are no valid witnesses. He strongly objects to the position that women's testimony is accepted only for uncommon occurrences, but not in cases of monetary injury, which are common. Such a position would deprive injured parties of the ability to obtain compensation for their loss. He speculates that testimony of invalid witnesses has been excluded out of a concern over their credibility. His solution is to give the *beit din* the power to reject testimony of invalid witnesses that it finds not credible and to admit testimony that it believes would lead to a correct judgment. He believes that this approach is necessary "because if you do not say so, the fields, gardens, and orchards will be destroyed and there will be nobody to respond."

Conclusion

Although, on its face, the Torah does not expressly specify a gender requirement for testimony, from the time of the Mishna the Torah verses have been interpreted to exclude women as valid witnesses. Nevertheless, both the Mishna and the Gemara contain specific examples of situations where women's statements were relied on, most notably the midwife's statements as to which child was born first and which child was born to which mother, thus establishing a precedent that, in the absence of other witnesses, a woman's "testimony" could determine both economic and personal status questions.

The Arukh HaShulḥan takes a more expansive view of the admissibility of women's testimony.

The Sefardic Rishonim, most notably the Rambam and the Shulḥan Arukh, follow the Talmudic general rule that women's testimony is inadmissible, and do not include any of the contrary examples as normative *halakhah*. However, the Ashkenazic Rishonim not only rely on the Talmudic exceptions to the general rule, but expand them. The first expansion reflects a case law approach that extends the principle behind the midwife case to other situations where women were likely to be the only available witnesses, such as regarding transactions in the women's section of the synagogue. The second expansion is a legislative enactment (*takanah*) that accepts women's statements in court proceedings regarding incidents such as assaults, that arose suddenly in places where men might possibly have been present but were not present at the time of the incident. Each of these expansions comes with its own limitations. Under the case law approach, women's "testimony" could be nullified or outweighed by the contrary testimony of a single male witness. Under the *takanah*, women's "testimony" was not admissible unless the plaintiff could make a definite ("*bari*") claim. The Rema preserves both of these expansions, while seemingly taking pains to avoid referring to women's statements as testimony.

Over time, we have moved, very gradually, from categorical statements of the inadmissibility of women's testimony ... to a call by a major *posek* for judges to rely on women's testimony whenever necessary to reach a correct judgment.

The Aḥaronim try to limit the scope of the Rema's rulings by focusing on the limitations on women's testimony, but do not deny that there were some limited instances in which women's statements would be admissible. The Nodah B'Yehuda, in his *teshuvah*, expressly acknowledges both the case law and *takanah* as bases for accepting women's testimony (at times even referring to it as "testimony"), while finding that neither applied in the particular case. The Arukh HaShulḥan, in his discussion of valid and invalid witnesses, preserves both the expansions regarding the acceptance of women's statements in court proceedings and the limitations on admitting such statements. However, he gives added legitimacy to such statements by referring to them as "testimony." Moreover, in his discussion of the laws of monetary damages, he disagrees with *poskim* who limit the admissibility of women's testimony and, in extremely strong language, urges judges to consider women's testimony where it is necessary to reach a correct result.

Thus, over time, we have moved, very gradually, from categorical statements of the inadmissibility of women's testimony to reliance on women's statements in court proceedings in limited situations, to the labeling of such statements as testimony, and to the call by a major *posek* for judges to rely on women's testimony whenever necessary to reach a correct judgment.

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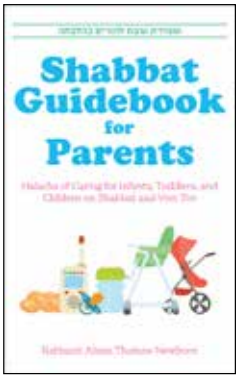
Shabbat Guidebook for Parents: Halacha of Caring for Infants and Children on Shabbat and Yom Tov

By Alissa Thomas-Newborn
Urim Publications, 2025, $24.95
Reviewed by Maya Resnikoff



I've always enjoyed English-language *halakhah sefarim*. There's a certain peace that comes with clear descriptions of what is and isn't allowed in a certain circumstance. It's very calming. The *Shabbat Guidebook for Parents* has all of that calm joy, with the addition of some very heartfelt pastoral messages introducing and closing each section of the book. These are honest, open, and warm, and gave me the sense that the author really had experienced being "in the trenches" of those complex parenting moments.

This book is very much what I would have wanted to read when my first child was a baby. It lays out so many of the religious questions and concerns of those early days and years very clearly and with great openness. While erring on the side of stringency in many places, it makes parenting on Shabbat a clear, logical, and welcoming proposition. I did wish that it addressed the issue of particularly disgusting messes, as there are special halakhic permissions for getting rid of really disgusting things on Shabbat. Besides that, I can't think of a single aspect of baby care that wasn't addressed—including less common situations like cloth diapers on Shabbat (which I could really have used earlier on in my parenting journey).

I did find that it had less to teach me about the halakhic concerns of parenting slightly older children. The book contains a great deal about baby food, diapers, bottle feeding of formula or expressed milk, and the like, and less about how to prioritize different children's *tefillah* education and experiences in *shul*. Older children do have fewer special halakhic needs, but it felt like a very dramatic shift.

The section addressing when children are sick or hurt on Shabbat was one of the exceptions to this critique — it was still just as relevant for my "big kids" as for my youngest. It's also an area that has caused me no small amount of anxiety over the years, notwithstanding all the *halakhah* I already know. Something about those moments of stress makes it hard to rely on what you know; having it laid out cleanly in a book, in compassionate and yet matter-of-fact language, is reassuring and helpful. If I were to ask for an addition to this section, it would be to ask Rabbanit Thomas-Newborn to include guidance on when telephone calls to your child's pediatrician are permitted, and how to make that call. Since those calls ride the line between an emergency and not, it can be a tricky decision to make.

I noted in the margins of the book several times that the author makes a serious effort to truly see everyone—all kinds of kids, and all kinds of parents. Along with addressing all sorts of ways to feed a baby, from breastfeeding to pumped milk to various sorts of formula, she also includes a section about using assistive medical devices on Shabbat, and addresses kids with more complex needs throughout. The author's pastoral voice is particularly clear and compassionate in those areas where observance can be difficult, such as putting away tablets for Shabbat. She makes the halakhic case with gentle firmness.

The flip side of her sense of inclusivity is that Rabbanit Thomas-Newborn tends to include halakhic positions that are less relevant to today's realia, because they take up a significant part of the halakhic literature available. For example, in discussing disposable diapers, she addresses those that fasten with tapes first and in significant detail, and only afterwards discusses diapers that fasten with velcro, although I'm not sure that I've seen a tape-fastened diaper in the flesh in the decade that I've been a parent.

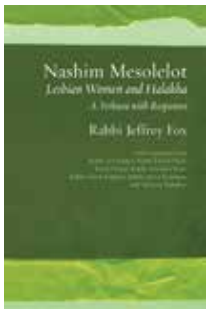
The additional sections in the end are a surprise gem, addressing specific *yom tov* issues and some of the thornier moments that are often relevant to parents, even if they aren't specific to parenting per se. The guidance about returning to the *mikveh* after giving birth is better than most *taharat hamishpaḥah* guides that I've seen. These sections flesh out the book and turn it from a reference book into a true guide book.

All in all, I hope that the book is successful enough for a second edition in which the author can make those few additions and alterations that would take it from a fine book to a perfect resource.

***Rabbi Maya Resnikoff** is the Chevruta Supervisor at the Academy for Jewish Religion, and an active homeschool educator for her three children.*

Nashim Mesolelot: Lesbian Women and Halakha – A Teshuva with Responses

By Rabbi Jeffrey Fox
Ben Yehuda Press, 2024, $18
Reviewed by Meesh Hammer-Kossoy



According to this year's Purim *shpiel* at the Pardes Institute, where I serve as the *Rosh Beit Midrash*, there is a whole group of students who can be described lovingly but humorously as sitting at the "gay *ḥaredi* table." That jab was just one telltale sign of the number of Jews, young and older, who love Torah and *mitzvot* with all of their hearts but struggle to find a fully accepting space in normative Orthodox spaces. Rabbi Jeffrey Fox's recent book, *Nashim Mesolelot: Lesbian Women and Halakha – A Teshuva with Responses*, is a significant step forward in welcoming these earnest Jews into the Modern Orthodox world.

continued on page 30

Many non-straight individuals of all genders, as well as straight folks, tend to group the entire queer spectrum under the umbrella of LGBTQIA+. The politically conservative camp, including the religious world, use this broad category to create a clear opposing worldview to be denigrated and demonized, with or without justification. As a result, synagogues, communities, and Torah institutions have shunned same-sex couples of all genders, despite the fact that the *halakhah* is much more nuanced. As in Orthodox life generally, here too women are treated as invisible Jews, subsumed under the male norm. Rabbi Fox, in his courageous responsa (published in book form and available digitally without charge on the Yeshivat Maharat website[1] and on Sefaria[2]) devotes serious attention for the first time to the unique halakhic status of female same-sex relationships. He argues that monogamous committed relationships between two women should no longer be condemned as *pritzut* (licentiousness); rather, in a committed relationship, they can be "understood as *tzniuta* (modesty) and perhaps even *kedushata* (holiness)." (p. 78)

Only male-male penetrative sex is explicitly condemned in the Torah. The Torah makes no comment about female-female relations. For once, the rabbinic perception that women are less vulnerable to sexual urges, as well as their general invisibility in traditional sources, presents an advantage. As Rabbi Fox points out, there are only two major Talmudic era rabbinic sources that acknowledge and condemn female-female sexual intimacy.

In the first, the verse "You shall not copy the practices of the Land of Egypt where you dwelt, or of the Land of Canaan" (Vayikra 18:3) is interpreted by the Sifra, a tannaitic book of *midrash halakhah*, as: "A man would marry a man, and a woman would marry a woman, a man would marry a woman and her daughter, and a woman would be married to two [men]. For this reason, the Torah says, nor shall you follow their laws." The Talmud does not preserve this version of the tradition.

In the second source, the Babylonian Talmud relates the following: "Rav Huna said: Women who are *mesolelot* are unfit to marry into the priesthood. And even according to Rabbi Elazar, who said that an unmarried man who has intercourse with an unmarried woman not for the sake of marriage renders her a *zona*, this applies only to intercourse with a man, but lewd behavior with another woman is mere licentiousness" (*Yevamot* 76a).[3] According to the strictest reading of this passage, female-female genital rubbing falls into the undefined (but not biblically prohibited) category of "licentiousness." Rabbi Fox's *teshuvah* effectively demonstrates the wide range of alternative interpretative traditions.

The halakhic challenge is that the Rambam, followed by the Tur and Shulḥan Arukh, combines the Sifra and Rav Huna, thus codifying the Sifra and giving gravity to a simple reading of *Yevamot*. Rabbi Fox's major goal is, therefore, to separate the *midrash halakhah* about marriage from the *Yevamot* passage in order to center narrower readings of the *Yevamot* passage and reduce the authority of the Sifra.

Rabbi Fox is motivated explicitly by a desire to compassionately find a path for observant gay women to live full halakhic lives. And correctly so. For lesbians with exclusively same-sex attraction today, marrying a man is not a viable option. Rather, the decision these women are likely to be making is whether to live within or outside the observant world. Rabbi Fox presents them with a path forward to build an Orthodox family in a happy, loving, and committed relationship.

This book consists of a 78-page *teshuvah* by Rabbi Fox, written in remarkably accessible language for the lay reader, together with some 50 pages of responses to that *teshuvah*, five out of six of which endorse his basic conclusions. I would have welcomed having another queer halakhic voice among the responses, but now Rabbi Fox has paved the way for them to arise. Similarly, it would have been valuable to include more female voices (those are easily accessible, even without leaving the walls of my institution or his).

There are other critiques one could raise: Rabbi Fox doesn't address the issue of bisexuality. Once *halakhah* permits committed same-sex relationships, does it still privilege heteronormativity? Similarly, what ceremony might be appropriate for two women given the relationship's potential for *kedushah*? I look forward to these new directions of halakhic discussions that Rabbi Fox's book may generate.

Unfortunately, Rabbi Fox's *teshuvah* alone, even with the supportive responses printed in the book, may not be enough to change the Orthodox halakhic consensus. However, this courageous *teshuvah* is certainly a basis for *shuls* to hang their hats on in order to fully welcome female same-sex couples, celebrate their *smaḥot*, etc. Ultimately, bottom-up change is what is going to impact halakhic norms in this area. These changes are not slow in coming, even with respect to male-male relationships, which pose a much larger halakhic problem. Take, for example, Shas MK Yigal Guetta, who went to his nephew's gay male-male wedding,[4] or Rav Ovadia Yosef's grandson, who himself married a man.[5] The times are certainly changing, and as has been our tradition and imperative for millennia, it behooves the rabbinic world to deal with these issues thoughtfully.

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[1] www.yeshivatmaharat.org/gay-women-teshuva.

[2] www.sefaria.org/sheets/480961?lang=he.

[3] Elsewhere (*Shabbat 65a*) the Talmud states that Shmuel's father would not allow his daughters to share a bed, but rejects Rav Huna's position.

[4] See "Shas MK Forced Out for Attending his Gay Nephew's Wedding," *The Times of Israel*, September 13, 2017, www.timesofisrael.com/shas-mk-forced-out-for-attending-his-gay-nephews-wedding/.

[5] See "Grandson of Rabbi Ovadia Yosef To Marry Boyfriend," ynetnews.com, May 31, 2018, www.ynetnews.com/articles/0,7340,L-5275749,00.html.

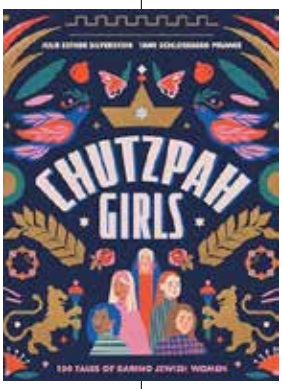
Chutzpah Girls: 100 Tales of Daring Jewish Women

By Julie Esther Silverstein and Tami Schlossberg Pruwer
Toby Press, 2024, $34.95

Iconic Jewish Women: Fifty-Nine Inspiring, Courageous, Revolutionary Role Models for Young Girls

By Aliza Lavie
Gefen, 2024, $29.95

Reviewed by
Aliza Libman Baronofsky



In 2022, media outlets made much of the 100th anniversary of the first bat mitzvah. Careful editors were sure to note that the anniversary was, in fact, commemorating the first American bat mitzvah. In contrast, the term "bar mitzvah" was first used in the 14th century (while the fact that 12-year-old girls and 13-year-old boys are obligated in *mitzvot* is a concept discussed in the Mishna, which dates back to the second century). Of course, in other parts of the world, versions of a bat mitzvah existed before 1922.

Orthodox women have a lot to consider when thinking about a bat mitzvah. First, what components should an Orthodox bat mitzvah include? Second, who are the role models that we want our daughters to learn from as they prepare to become adults?

Into this conversation come two recent books showcasing Jewish women they describe as "daring" and "courageous": *Chutzpah Girls* by Julie Esther Silverstein and Tami Schlossberg Pruwer and *Iconic Jewish Women* by Aliza Lavie.

Chutzpah Girls does not take specific aim at the bat mitzvah. The authors write that their goal was to "power up a generation of knowledgeable and confident Jewish kids" with their book featuring 100 icons from the *Tanakh* to contemporary times.

Chutzpah Girls looks gift-able, with its cover adorned with metallic designs, bright color images accompanying each biography, and a built-in bookmark. The entries are each confined to one page, with the accompanying illustration occupying the entire facing page. More than a dozen female artists created the images, whose varied styles keep the book feeling fresh. My 11-year-old daughter loved the style of the book, which made her excited to read it.

Because each biography in *Chutzpah Girls* is comparatively brief, it can spur interest in more research, if your reader wants more details. The hundred women chosen are from wide-ranging fields and backgrounds, including athletes, performers, and modern-day activists, along with the more predictable biblical and famous historical figures. They span many parts of the globe, and the book includes a map at the back. The book also includes a space for the reader to write her own story and draw her own portrait. I asked my 11-year-old if any of these elements made the book feel childish, but she was enthusiastic about the visual elements enhancing the appeal of the book.

Iconic Jewish Women started out as a Hebrew book for pre-bat mitzvah girls in Israel. When the author, Dr. Aliza Lavie, decided to make an English edition, she expanded the book to include women from around the world. The resulting list of 59 women has a strong Israeli focus but includes many stories from Europe, the Americas, and beyond.

Iconic Jewish Women is specifically designed to help pre-bat mitzvah girls think through planning meaningful events (that might not necessarily include reading from the Torah). Each of the 59 biographies (each about 2-3 pages long) is followed by four sections: "Explore," which suggests a topic for further study; "Give Back," which suggests related causes for a *ḥesed* project; "See Something New," which suggests related places to visit and activities such as hikes and bike rides (most, but not all, of which are in Israel); and "Get Out of Your Comfort Zone," which suggests an activity or game that is designed to challenge bat mitzvah girls to do something a little different.

Iconic Jewish Women is for slightly older girls. For example, the first story features Sarah Aaronsohn, from the Nili spy network, who was captured and tortured by the Turks and died of a self-inflicted gunshot wound (to avoid torture that she feared would jeopardize her colleagues in Nili).

Another difference between the two books: Each biography in *Iconic Jewish Women* starts with dates that the featured woman was born and died—so a reader could figure out before reading the bio whether the heroine died young or lived a long life. In contrast, *Chutzpah Girls* includes no dates of death for anyone—which might leave the reader wondering which of the modern women listed are still alive.

Iconic Jewish Women's greatest strength might also be a source of its weakness: The book explicitly states that its purpose is planning one's bat mitzvah. At the same time, the title page calls it "A Perfect Bat Mitzvah Gift." So is it for girls **before** bat mitzvah or **upon** bat mitzvah? If you can handle the dissonance, it's great for both. Even older teens (and adults) could learn a lot from it.

How to choose one of the two? Maybe you don't have to. By my count, the books share about 24 entries—a relatively small fraction, which means that giving both books as gifts is a reasonable choice for a voracious reader.

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