

Agunot and Get Refusal

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Abstract— What is get refusal and how can we solve it? How does recognizing all the factors that contribute to get refusal deepen our understanding of the issue and the possible solutions? Agunot is the plural of agunah, which translates to “chained” in Hebrew, the colloquial meaning referring to a woman. Even in the 21st century — a period of freedom and mobility never existing for women before — there are many women who are denied a Jewish divorce by their husbands: they remain “chained” and are unable to remarry. Why should we care about agunot? The circumstance of agunot impacts the wider Jewish community, and, by extension, society at large. By studying this issue in depth, the hope is that the amount of harm to women can be reduced. Discussing and publicizing the plight and stories of agunot brings awareness to the issue, and, thus, is the first step towards collective corrective prevention and action.

Under Orthodox Jewish law, a Jewish marriage can only be terminated in two ways: through divorce or through the death of either spouse.¹ In Jewish law, there are a certain number of steps which must be fulfilled in order for the marriage process to occur. The man initiates the marriage, the woman gives her consent, and an item, which must be passed between the man to woman, acts to bind the couple together. Through the acceptance of the item, the transaction is both completed and fulfilled. Divorce parallels marriage in the Jewish legal system. In order for a couple to be divorced, the man must give over a *get* to his wife — the *get* is a Jewish legal divorce document. The need to pass over the *get* as a means for divorce exposes the fundamental dynamic held between men and women within Judaism. Specifically, it highlights the inherent power differential within the Jewish marriage. Since both marriage, and, more importantly, divorce is initiated by the man, the concept of marriage within Judaism serves as a legal opportunity, and framework, for a man to assert his dominance over a woman. Simultaneously, since it is only the man who is able to initiate divorce, it limits the woman's freedom in a case in which the man refuses to give a *get*; he is the only person within their relationship who has the power to legally terminate the marriage. This authority can, and has been, manipulated by Jewish men to extort finances, maintain control, and prevent women from remarrying. Per Jewish law, a woman may only have one husband and all future relationships are considered adulterous.² The legal consequences for this action are deeply gendered and biased and can marginalize women within that system.³ However, by Jewish law, since men are able to marry multiple women, they are not hindered by refusing to give a *get*. As such, the law enables and supports the man in entering into a new relationship while continuing to be married to another woman. Without the *get*, for women, they cannot move forward, both legally and emotionally,

¹ Kiddushin 1:1 text in the original and translated “Sefaria: A Living Library of Jewish Texts Online,” accessed December 10, 2021, <https://www.sefaria.org/texts>.

² Deuteronomy 22:23

³ The man at one point was allowed under Biblical law to have more than one wife. Until *Takanat Rabbanei Gershon*, a rabbinic decree that limited a man to one wife, but women could only have one husband.

and rebuild their lives, even if they are no longer in a relationship with a man. Even if the couple has a civil divorce, without a *get*, the woman is still married under Jewish law.

Defining the Terms: what is an *Agunah*?

In the Talmudic period, an *agunah* was a woman whose husband was lost at sea. Since his death was not proven, due to the difficulty of proof, she could not remarry until information arose. The *Mishnah* in *Yevamot* cites a case in which a man was lost in Asya and the sailors retrieved one of his legs. The Sages then ruled, “if the leg was severed above the knee, she may remarry; if it was severed below the knee, she may not remarry.”⁴ In this case, through ruling on half of a limb, the Sages were determining the likelihood of death. According to the rabbis, death can be proven in three ways: eyewitness testimony, physical evidence, or proving that the person could not have survived.⁵ The husband’s unknown whereabouts keep the woman locked in a dead-end marriage forbidding her from remarrying. The Holocaust and September 11th, 2001 are two such events that created many *agunot* as the term was defined during Talmudic times. Circumstances separated the spouses, and, with lack of evidence, the woman's status became ambiguous: either she is a widow or she is married.⁶

Today the word *agunah* connotes a different kind of dead-end marriage. An *agunah* is a woman whose husband refuses to proceed with the legal Jewish divorce proceeding. In this regard, he is actively choosing to make her an *agunah*. The absence of his willingness to give a *get* thus creates her situation.

Agunot are a known *halakhic* challenge. Addressing the plight of these chained women has been foundational in the legacies of many rabbinic leaders. Rabbinic authorities throughout the generations were praised for leading with compassion and searching for legal possibilities to free these women of their status. Rabbi Yitzchak Elkhana Spektor who was born in 1817 and lived in the gubernatorial district of Grodno, wrote 158 responsa to questions surrounding *agunot*.⁷ Many of these women were *agunot* because their husbands' lives were still in legal question. Rabbi Spektor searched for a legal method to prove the death of the husband in order to free the chained women from their dead marriages. He creatively combined two *halakhic* principles to create a “double majority” rule. Rabbi Spektor combined two existing legal principles surrounding probability of death. By combining two different cases about the most likely outcomes, he was able to come to legal conclusions about the death of dozens of husbands, freeing their wives to remarry.⁸

⁴ Yevamot 16:4, text in the original and translated “Sefaria: A Living Library of Jewish Texts Online,” accessed December 20, 2021, <https://www.sefaria.org/texts>.

⁵ Rabbi Michael J. Broyde and Rabbi Yona Reiss, “Dealing With The Agunah Quandary For 9/11 Widows,” accessed November 2, 2021, <https://www.jewishpress.com/indepth/opinions/dealing-with-the-agunah-quandary-for-911-widows/2011/09/07/>.

⁶ “Solving a Grim Jewish Quandary after the Attacks: Avoiding Agunah Problems for 9/11 Widows,” *Jewish Telegraphic Agency* (blog), August 31, 2011, <https://www.jta.org/2011/08/31/united-states/solving-a-grim-jewish-quandary-after-the-attacks-avoiding-agunah-problems-for-911-widows>.

⁷ Aaron Rakeffet-Rothkoff, “Rabbi Yitshak Elhanan Spektor of Kovno: Spokesman for ‘Agunot,’” *Tradition: A Journal of Orthodox Jewish Thought* 29, no. 3 (1995): 5–20.

⁸ Aaron Rakeffet-Rothkoff, “Rabbi Yitshak Elhanan Spektor of Kovno: Spokesman for ‘Agunot,’” *Tradition: A Journal of Orthodox Jewish Thought* 29, no. 3 (1995): 5–20.

Is Divorce Violent?

The division of assets, finances, and child custody are separate procedures in the divorce process than the giving of the *get*.⁹ G. If there is any deviation in the divorce process, the legality of *get* is questionable. If the *get* is given according to *halakhic* protocols then the woman is free to remarry and the marriage is legally ended. The man is required by rabbinic law to give the *get* in a state of free will and sound of mind.¹⁰ Under rabbinic provisions, the wife is obligated to receive the *get* willingly.¹¹ It is an exchange that is fundamentally built on consent and active participation from both parties. It is done in public, two witnesses must sign the document, and it must be written by a trained scribe. Divorce is considered an extremely important act to execute properly; their futures are dependent upon this legal interaction.

Is a divorce violent? Divorce symbolizes the separation of family, which, in a traditional society, is a microcosmic societal breakdown. In a social construct, the nuclear family and marriage contribute both power and status to the couple. Adversely, violence destroys the social order, and the loss of power associated with marriage is a loss of power for both husband and wife. The dissolution of the marriage is a painful time for both spouses. However, one spouse can take the chaos as an opportunity to exhort finances, child custody, or physically or emotionally hurt their spouse. The spouse who withholds the giving or receiving of the *get* is committing an act of violence. Hannah Arendt, a political theorist, believes that “power and violence are opposites; where the one rules absolutely the other is absent. Violence appears where power is in jeopardy, but left to its own course it ends in power’s disappearance. Violence can destroy power; it is utterly incapable of creating it”¹² At the moment that marriage is dissolving, the husband is losing his position of power over his wife. From the position of losing power, comes forth violence in the form of *get* refusal.

Is *get* refusal a form of abuse?

Scholars and advocates for *agunot* have been arguing fiercely for a redefinition of *get* refusal to classify it as spousal abuse. In their scholarship, they fight against the exoticism, the idea that other cultures are “exotic” and therefore some cultures are more moral than others. Focusing on the cultural manifestations of domestic violence as exotic is a stumbling block to seeing the communities of violence that occur across cultures. Focusing on the exotic or different manifestations of violence in other cultures as opposed to recognizing the commonality of violence against women. In the case of *agunot*, seeing religion as a tool of violence and not recognizing a different permutation of domestic violence.

Uma Narayan, in her work “Identities, Traditions, and Third-World Feminism,” decries exoticism as a method to separate the manifestation of domestic violence in different cultures. Narayan compares the number of women in the United States who were killed by intimate partners with gun violence per year to the number of women in India murdered by fire. In India, death by fire is an iconic example of domestic violence. There are two common examples, *sati* “voluntary” self immolation after the death of a husband, and *dowry murder*, murdering women because of an insufficient dowry. She argues that by subverting the categories, and thinking cross-culturally, one can see the similarities in data trends of domestic violence. “Given that

⁹ There are opinions (Rama) that the *get* should be given as a final stage of divorce, once negotiations have commenced.

¹⁰ Deuteronomy 24:1 in the original and in translation “Sefaria: A Living Library of Jewish Texts Online,” accessed December 21, 2021, <https://www.sefaria.org/texts>.

¹¹ Under Biblical law, the husband could give a *get* against the will of the wife. Rabbinic provision is that she must accept the *get* willingly.

¹² John D. Carlson, “Religion and Violence: Coming to Terms with Terms,” in *The Blackwell Companion to Religion and Violence* (John Wiley & Sons, Ltd, 2011), 5–22, <https://doi.org/10.1002/9781444395747.ch1>.

many members of the U.S public know that domestic violence has fatal forms, why is it that they make no connection between the “foreign” phenomenon of dowry-murder and the “familiar” phenomenon of domestic violence?¹³ The cultural divide prevents people from making cross-cultural connections between the two forms of domestic violence; we can apply this logic to *get* refusal.

Keshet Starr coins the term “*spiritual abuse*” to describe the phenomena of *get* refusal. Starr argues that withholding a *get* is a matter of two different kinds of abuse.¹⁴ First, it is emotional abuse since the woman is denied a fundamental right to freedom through the refusal. Second, it is spiritual abuse because it leaves the wife with an impossible choice; either she remains within the community and is unable to remarry or she is forced to leave her faith in order to find the freedom she desires.¹⁵ The *agunah* may be shamed for remaining within a faith or spiritual practice that is both patraicharal and oppressive. Defining *get* refusal as abuse is a necessary step in solving the issue: he is preventing her from a choice, and she is not consenting to her subordination within the relationship. It will therefore hold the husband responsible for his actions.

Why would a man refuse to give his wife a *get*?

What does the husband gain from keeping his wife chained to their marriage, a relationship that is no longer emotionally viable for either party? From a psychological perspective, abusers hurt others from a place of deep insecurity and shame. The abuser has a deep desire to control his victim in order to maintain his self image, a perception of power and authority. John Gottman Ph.D and Neil Jacobsen Ph.D, two researchers who study why men abuse women, categorize abusive men within two categories, either as cobras or pitbulls. Pitbulls reflect around 80% of abusive men. Pitbulls often act violently in strong flashes of anger and intense emotion. They “were in such a state of rage that they couldn't calm themselves.” Their inability to manage their emotions causes them to abuse their partners. Pitbulls are searching for intimacy and the closeness of a relationship. However, Pitbulls suffer from deep jealousy and paranoia which associates trust and intimacy with control and power.

Cobras reflect around 20% of abusive men, and are very calm when they abuse their partners. They view relationships in a utilitarian way and see their wives as commodity and property. The relationship provides them the “thrill of being dominant.”¹⁶ These men are more likely to be suffering from antisocial personality disorders, and have had deeply problematic childhoods where they experienced abuse or neglect.

Similar to men who abuse their partners, men who refuse to give *get* documents may have a diverse range of motives. Applying Gottman and Jacobsen’s terms pitbull and cobra may give an added insight into the psychological mindset of the *get refuser*. For instance, if a man would say that he is withholding the *get* because he wants to save his marriage, he would be a pitbull. He is insecure in the relationship and is trying to maintain control to fulfill his own emotional needs at the detriment to his partner.

¹³ Uma Narayan, *Dislocating Cultures: Identities, Traditions, and Third World Feminism*, 1st edition (New York: Routledge, 1997).

¹⁴ Keshet Starr, “Scars of the Soul: *Get* Refusal and Spiritual Abuse in Orthodox Jewish Communities,” *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, no. 31 (2017): 37, <https://doi.org/10.2979/nashim.31.1.03>.

¹⁵ Keshet Starr, “Scars of the Soul: *Get* Refusal and Spiritual Abuse in Orthodox Jewish Communities,” *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, no. 31 (2017): 37, <https://doi.org/10.2979/nashim.31.1.03>.

¹⁶ Page 91, Jess Hill, *See What You Made Me Do: Power, Control and Domestic Violence* (Carlton, VIC: Black Inc., 2019).

A man may also refuse to give a *get* so that when he enters negotiations, he will have the upper hand because at any point he may declare that if his demands are not met he will not freely give the *get*. In situations like these, the *get* is used as extortion.

Another reason a man may withhold a *get* is because of revenge. This *get* refuser is demonstrating the characteristics of the cobra. He is calm when he is inflicting harm, and is “emotionally attached to the need for control.”¹⁷ Although the marriage is over, he can not let her move on.

Jess Hill, in her book, *See What You Made Me Do*, devotes an entire chapter to “The Abusive Mind,” explaining and giving insights into the mind of an abuser. The chapter begins with a quote from a survivor: “I want people to stop asking ‘why does she stay?’ and start asking ‘Why does he do that?’”¹⁸ This quote shifts the responsibility from the victim to the perpetrator. The community should not be turning to the woman and asking why she does not acquiesce to her ex-husband’s demands. The community should turn to the man and demand to know why he has not given a *get*. In the past, people have waited to pass judgment on an *agunah* case until they heard both sides of the story. As one *agunah*, “Sophia” said, “there are two sides to divorce, not two sides to giving a *get*.” The *get* is not a tool of manipulation, it is a legal step in the Jewish court proceedings of divorce. Using the *get* as leverage is abuse.

Community Response and Accountability:

Organizations that work with *agunot* lament the outpouring of love and support that the *get refuser* often receives from the community. Many communities are deeply concerned about how the husband is dealing with the negative attention he is receiving and families invite him for *Shabbat* dinner at their homes. Sometimes the community can be so focused on the suffering of the perpetrator that the victim may feel unsupported and isolated. Transformative Justice scholars, when rethinking the way American society approaches justice, emphasize the role of the local community in justice.¹⁹ The strength of Orthodox communities can play a critical role in the precarious situation of *get* refusal. Without community support, the *get* refuser cannot continue to refuse his wife a *get*.

Communal reaction has a measurable impact on the lives of *agunot*. Mimi E. Kim writes about the experience of a South Korean drum circle after a teacher sexually assaulted one of its members. She reflects on how they handled the situation: “We offered her to go counseling and therapy. We offered her whatever we could do at the time. In retrospect, I wish we could have spent more time just embrace her and bring her close.”²⁰ The story highlights the isolating nature of experiencing individual trauma in a community setting and how it impacts the victims relationship to the community. For *agunot*, to be chained to their husbands via the *halakhic* system in a community that values *halakha* can be isolating.

According to Kim, the community is obligated to address the harm in two ways. The primary objective is to prevent continued harm. In the case of the drum instructor, he first stepped down from his position of leadership, then attended six months of mandatory counseling. At the same time, it is imperative that the community stand with the victim, to support and to find ways for them to still be involved in communal life. Sometimes the greatest support one can give is pulling someone close, and saying we are sorry for your pain. Even when there are no legal solutions for *agunot*, being present and pulling her close in her pain is sometimes the best way to demonstrate support and empathy.

¹⁷ Page 92, Hill.

¹⁸ Hill.

¹⁹ Community Dialogue Project | Brown University. “Transformative Justice.” Accessed February 22, 2022. <https://cdp.brown.edu/programs/transformative-justice>.

²⁰ Mimi E. Kim, “Moving Beyond Critique: Creative Interventions and Reconstructions of Community Accountability,” *Social Justice* 37, no. 4 (122) (2011): 14–35.

Jewish sources discuss whether violence is justified in the case of *get* refusal. In the *Mishneh Torah* laws of divorce Maimonides writes, "If the law requires that a man should be compelled to divorce his wife and he refuses to do so, the Jewish court anywhere, at any time, should lash him until he says *I am willing*; then he should write the *get*, and it will be valid. So too, if non-Jews flogged him, saying to him: "Do what the Jews are telling you," and if pressure is exerted on him by Jews through non-Jews until he gives his divorce, it is a valid *get*."²¹ The man is beaten until he says that he is willing to give his wife a *get*. This *get* is not considered a *get* under duress because the beating gives him clarity, and he gives the *get* freely and willingly. According to Maimonides, the violent retribution is a part of achieving justice. This act of violence is a step towards justice because the husband will give his wife a *get*. Some say that if this custom was still practiced today then *agunot* would not exist. Should the fear of being physically beaten be the only motivation for a husband to give his wife a *get*?

In 2011, a small group of men took the Rambam's law as an imperative for our modern society. Under the auspices of Rabbi Mendel Epstein, a small group of Ultra-Orthodox men created a small group of men who would assault and beat the husbands who were refusing to give their wives *gets*. During these violent encounters, the husbands relented and agreed to free their wives.²² However, is this the only method to ensure a woman's freedom?

Other organizations have worked to hold *get* refusers accountable without leaving them black and blue. When ORA, Organization for the Resolution for *Agunot*, intervenes and advocates for *agunot*, they work closely with local communities. Sometimes, ORA will plan a rally outside of the home of the *get* refuser raising public awareness about the man's actions. Michelle Greenberg-Kobrin and Keshet Starr past and current CEOs' of ORA shared that the *agunah* was most likely to receive her *get* the night before the rally. The threat of having one's reputation decimated in a community is sufficient motivation to fulfill one's legal obligation and finally give his wife a *get*. The threat of the rally is one of their most powerful tools in the arsenal of advocates for *agunot*.

If the man refuses to appear before *beit din* the community is obligated to shun him.²³ The community bans him from all community events because he is refusing to give his wife a *get*. It is a declaration that because of his actions, he is not welcome in our community spaces. He is violating both the marriage contract and the will of God. The community actively rejects the man as a member because of his actions. This status is only temporary, he can regain a place in the community once he gives his wife a *get*. The shunning is a social movement that exemplifies the community's values. It is a directive from the Rabbinic courts that is incumbent on the community to enforce. The community has the power to hold the man accountable for his actions.

Role of Witnessing and Solidarity and Prevention:

The experience of being an *agunah* is personal. No one else will ever understand the trauma and anguish that the *agunah* herself experiences during the months or years that she is chained in her marriage. Even after she receives her *get*, the experience will still impact her; trauma does not disappear when the traumatic experience ends. Ortega-Aponte writes about how the slave trade has radically shifted the foundation of human society. Through the metaphor of the door Ortega-Aponte emphasizes that once someone crossed they could not cross back: "At

²¹ *Mishneh Torah*, Laws of Divorce 2:20 original and translation "Sefaria: A Living Library of Jewish Texts Online," accessed December 20, 2021, <https://www.sefaria.org/texts>.

²² Joseph Goldstein and Michael Schwartz, "U.S. Accuses 2 Rabbis of Kidnapping Husbands for a Fee," *The New York Times*, October 10, 2013, sec. New York, <https://www.nytimes.com/2013/10/11/nyregion/rabbis-accused-in-kidnapping-plot-to-force-men-to-grant-divorces.html>.

²³ When a man refuses to come before *beth din*, the *beth din* issues a *siyruv* against him. Once this declaration is sent out that he did not attend court, a list of community obligations begin. The Sukchan Arukh in Even Haezer 154:21 lists all the obligations of the community. Also for reference, *Harkhakot De'Rabbeinu Tam*

that moment in time and space, there was a door. Those who crossed its threshold could not return: not in the flesh, not in spirit, and not even in memory. The crossing(s) of the threshold of this door, never in the singular, created other crossings; it crossed ways of knowing and being known, ways of being and belonging, ways of sensing and being sensed. Once crossed, the return was not (and continues not to be) an option."²⁴ There is a gap in understanding between those who lived through the trauma, who crossed through the door and those who did not. However, by listening to the stories of *agunot*, their experiences can be better understood. Witnessing and solidarity is essential to cultivating community sensitivity and may lead to community wide action.

If the plight of *agunot* is not addressed in community settings it perpetuates the idea that "it doesn't happen here" and "it could never happen to me." Jess Hill, an investigative journalist who wrote a book about domestic violence, reflected: "I used to think that I didn't know anyone who'd been through domestic abuse. Now I know that was never true. Now I see its traces all around me."²⁵ Gender based violence in many forms exists even within Torah minded communities. Denial to the premise of the challenge only isolates the victims and allows the perpetrators to side step accountability and resist change.

Breaking the silence on domestic violence and *get* refusal is challenging because both of these forms of domestic abuse happen at home. These are acts of domination and control that are not in the public eye. Jess Hill refers to domestic violence as "The Underground." The title of this chapter reflects the hidden nature of domestic abuse. Having conversations about what happens at home will cause the community to confront abuse, although confronting previously not spoken about topics may be uncomfortable.

Some community members are hesitant to openly confront *get* refusal, as they feel it tarnishes the image of a perfect family in Orthodox communities. A similar backlash occurred when women began coming forward about sexual assault and abuse in the 1930s. Hill writes about the change in American culture in the 1930s surrounding abuse, "they were a threat to the sacred family unit."²⁶ If women addressing domestic violence and *get* refusal are seen as anti-family, then the definition of family needs to be reevaluated. Families are stronger without abuse and the subordination of women.

For many *agunot* and survivors of other types of trauma, sharing one's story is empowering and important in their healing process. "The act of witnessing itself can help restore self respect and a sense of one's self as an agent or a self, even while it necessarily recalls the trauma of objectification."²⁷ By telling one's story the *agunah* reclaims the power that was taken from her in the divorce process.

The *agunah* deserves to be the one to tell her story about the abuse and manipulation she endured during the divorce process. Oliver notes a phenomena that has occurred with black female voices: "The absence of black female voices has allowed others to subscribe, or write and scribe to, or read them."²⁸ The story of the chained women should not only be written by men, or by any individual who is not the chained woman herself. Sharing their stories and reflections on their journeys is empowering as these women reclaim the narratives of the trials and tribulations of their lives.

Further, when *agunot* speak and share their stories they have the ability to uplift and give strength to women experiencing similar struggles: "Liz's story inspired others to imagine what a community effort could look like and showed that communities could overcome traditions of

²⁴ Elías Ortega-Aponte, "The Door of No Return: An Africana Reading of Complexity," in *Entangled Worlds* (Fordham University Press, 2017), <https://doi.org/10.5422/fordham/9780823276219.003.0013>.

²⁵ Page 38, Hill, *See What You Made Me Do*.

²⁶ Page 49, Hill.

²⁷ Page 94, Kelly Oliver, *Witnessing: Beyond Recognition*, First edition (Univ Of Minnesota Press, 2001).

²⁸ Page 94, Oliver.

silent acceptance of gender-based violence, form a public response, and demand institutional change.”²⁹ Witnessing a survivor of a similar challenge builds solidarity.

Bringing survivors into the conversations about change is an opportunity to both hear their story and discuss practical community changes. Kim writes that “the people closest to the violence have the greatest motivation to end it and the greatest knowledge regarding its dynamics, context, and the elements that might lead to change.”³⁰ No *agunah* wants to see someone else suffer the way she suffered. When *agunot* speak, the community is forced to confront the abuse that has been hidden. Once the silence is broken, solidarity emerges.

The Ketubah:

Lauren Levitt, a scholar of religion and gender, writes about the meaningful exchange one can find when they talk back to the text of the *ketubah*, or formal Jewish marriage contract. Legally, if one enters a relationship via a contract, one can only exit the relationship through a contract. Marriage is a contractual relationship between husband and wife. The *ketubah*, or marriage contract, states what the man’s financial obligations are to his wife. If he does not meet these conditions then the heart of the marriage is being voided and it is grounds for divorce.

Levitt in her book, *Jews and Feminism*, does a close reading of the *ketubah*. She discusses the role of the witness: “through them the groom obligates himself to the community as opposed to the bride... they are never described as agents for the bride of her family, but, rather, as upright and learned members of the community.”³¹ There is a communal role and obligation within the Jewish institution of marriage.

She views the nature of the unequal relationship between the man and the woman as one of owning property: “Within the text’s vision of marriage... There are clearly two unequal parties involving a man and his wife, with the wife depicted here as completely dependent upon her husband for all her most basic needs. At its best, this vision of marriage imagines a paternalistic relationship of dependence.” She further makes the claim that the witnesses are only attesting to the groom’s consent of the *ketubah*, not the bride, since her consent is written in past tense. Similarly, American law viewed a married woman as the property of her husband. It was not until 1974 when the passing of the Equal Credit Opportunity Act which allowed women to have a credit card separate from their husbands.³²

Scholars of transformative justice often write about the importance of keeping a global perspective while addressing harms and systems of power. They argue that justice can not be achieved while systems of oppression are still intact. Until racism, sexism, poverty are addressed, justice can not be achieved. However, coming from an Orthodox perspective on *halakha*, maintaining the tradition and preserving *halakha* is a tenet of the community and of faith. In order to be accepted in Orthodoxy, all solutions to the plight of *agunot* must be within the existing framework of Orthodox Jewish *halakha*.

The *halakhic* prenup is a proactive legal solution that falls within the existing framework of *halakha*. The *halakhic* prenup has had a few different iterations over the last few decades. The current version is a reciprocal prenup. The man signs that he will give a *get*, and the woman signs agreeing to freely receive the *get*. The reciprocal nature of the prenup is often highlighted to emphasize the egalitarian and humanitarian nature of divorce. However, similar to the rates of domestic violence, 95% of *get* refusal is perpetrated by men, with 5% being perpetrated by women. This statistical lineup strengthens the earlier claim that *get* refusal is domestic violence.

²⁹ Kim, “Moving Beyond Critique.”

³⁰ Kim.

³¹ Page 42 Laura Levitt, *Jews and Feminism: The Ambivalent Search for Home* (New York: Routledge, 1997).

³² “Women and Credit Through the Decades: The 1970s - NerdWallet,” accessed December 14, 2021, <https://www.nerdwallet.com/article/credit-cards/women-credit-decades-70s>.

The reciprocal nature of the prenup does however modify the power dynamic in earlier contracts. The woman signs this contract as an active and equal participant to her spouse.

If the man does not freely give a *get*, he agrees, under the prenup, to pay \$150 a day.³³ This aspect of the prenup has been fraught with religious controversy. Some say that this payment is a financial penalty which ultimately causes an invalid *get*. This version of the prenup has been endorsed by many prominent rabbis. The payment is understood as an extension of the support a husband promises his wife in the *ketubah*. The prenup also appoints a *beth din* to handle the divorce proceedings. This document is then legally notarized and sent to the Beth Din of America to keep on file.

If one signs a *halachic* prenup and has it notarized the document that can be legally enforced in American court. Every day a man refuses to give a *get*, he will pay her \$150 per day he refuses to give a *get*. Over the course of a year, the *get refuser* will owe his wife approximately \$50,000. One may expect at the time when he does give the *get*, he will hand the *get* and pay the set amount of money. However, oftentimes the wife will “trade” on that amount of money to receive her *get*. ORA says that they never had a man pay the sum of money on the document.

ORA works on approximately 75 cases of *agunot* at once. The *agunot* span the entire spectrum of religiosity. ¼ of the women are coming from Reform and Conservative backgrounds, ¼ come from the Modern Orthodox community with 50% coming from the Ultra-Orthodox world. ORA stresses that early intervention is the key to preventing long term *agunot*. Since ORA's founding 20 years ago, they have freed over 350 women. Through their hotline, OST - One Step Forward, they have assisted 1100 women in navigating various stages of the Jewish divorce process.

Some criticize the *halachic prenup* because it forces couples to speak about divorce before it happens. The critics claim that speaking about divorce brings a bad omen into the marriage. Similar to buying life insurance or flood insurance, one can speak about the potential of challenge without manifesting it. As the *halachic prenup* has gained more traction and popularity within certain communities, ORA has seen a sharp decline in cases of *agunot* coming from those communities.

Conclusion:

Get refusal and abuse is a part of a larger context of violence, inability to emotionally regulate and past trauma that influences people's intimate relationships. A phenomenon of second generation of *agunot* is beginning to occur, and there is an opportunity to proactively break the cycle of domestic violence. With more accessible affordable mental health counseling, people could work through their trauma before it causes them to harm others. By improving communication skills, and ability to identify and express emotions people can build healthier relationships. By supporting both men and women seeking counseling, the cycle of harm can be stalled and stopped.

Education is another path to reduce harm. In the last chapter of *See What You Made Me Do*, Hill turns towards solutions: “Primary prevention - stopping it before it starts through education in schools and workplaces, awareness campaigns, and promotion of gender equality.”³⁴ Education about healthy relationships should be an integrated part of the high school curriculum. Currently, it is a value for many all girls high schools to educate their students about the *halachic* prenup about *get* refusal, and domestic violence. However, many single sex Jewish boys schools do not have conversations about the *halachic* prenup, *get* refusal or domestic violence with their students. Having these conversation in single sex male

³³ “What Does The Prenup Say?,” The Prenup, accessed December 14, 2021, <https://theprenup.org/explaining-the-prenup/what-does-the-prenup-say/>.

³⁴ Page 373, Hill

environments has the power to continue to reduce harm. Bridging these topics in boys' schools would make *get* refusal and domestic violence community wide issues and would make for healthier, happier relationships in the Jewish world.