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How Israel's Rabbinical Court saves agunot in the Diaspora – opinion

The only rabbinical court in the world that has the legal power to levy sanctions or even incarcerate a man until he gives the get, is Israel's Rabbinical Court.

By RACHEL LEVMORE SEPTEMBER 9, 2020 20:51



RABBI PINCHAS GOLDSCHMIDT says that beyond the 57 women freed in Israel, more than 25 women were freed in rabbinical courts in Europe simply due to the very existence of the Israeli law.

(photo credit: FLASH90)





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The Knesset together with the state rabbinical courts have proven to be the saviors of long-suffering [agunot](#) who reside in the [Diaspora](#) with no legal connection to the State of Israel.

Agunot suffer for years on end while chained to their marriages to unyielding husbands who refuse to issue them a get – a Jewish writ of divorce.

These specific women and their recalcitrant husbands, who are not Israeli citizens and do not own a home in Israel, are foreign citizens. The rabbinical courts in the Diaspora have no jurisdiction nor hold any power over a stubborn get-refuser. Since according to Jewish law, the husband has to give the wife the get out of his own free will, the rabbinical courts cannot dissolve an Orthodox marriage through divorce, even if the judges believe it is imperative to do so.

The only rabbinical court in the world that has the legal power to levy sanctions or even incarcerate a man until he gives the get, is Israel's Rabbinical Court. However, until recently, if an aguna and the get-refuser had no legal standing in Israel, they did not fall under the jurisdiction of Israel's Rabbinical Court.

An amendment to the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law 5713-1953 was passed by the Knesset in July 2018. Proposed by then-MK Aliza Lavie – in response to a cry for help from Rabbi Pinchas Goldschmidt, chief rabbi of Moscow and president of the Conference of





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European Rabbis, who looked to Israel to solve the European rabbis' unsolvable problem – it was then hotly debated in the Constitution, Law and Justice Committee.

Lavie's proposal was to extend Israeli jurisdiction over non-citizens, get-refusing husbands if present in Israel, and under specific conditions. These conditions included that there be a civil divorce or proceedings; the aguna had attempted to arrange a Jewish divorce in a local rabbinical court, which did not succeed to do so, or no rabbinical court exists in her country; and the get in Israel would have no bearing on a civil divorce or any of the ancillary matters that are determined in the country of origin.

The amendment was legislated in 2018 as a temporary act for three years – subject to future evaluation by the Knesset committee.

Earlier this week, on September 7, the Constitution, Law and Justice Committee held a meeting to review the state rabbinical courts' report recently issued on the law's function, in reply to the demand of the International Coalition of Agunah Rights. Attended by current MKs and Lavie, who proposed the law, with aguna activists participating via Zoom, the practical results were presented by the representative of the rabbinical courts.

Although protests were aired against the Israeli rabbinical courts' handling of the aguna and get-refusal problem for Israelis, as well as not implementing systemic solutions, such as the halachic prenuptial agreement





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for mutual respect – there was no denying the astounding success of the Israeli rabbinical courts in freeing agunot residing in the Diaspora.

Out of 119 cases opened by Diaspora agunot in a span of two years, 57 heretofore hopeless agunot were freed thanks to this law. Forty-seven percent of the suits filed by women from the US, Europe, Russia and South America ended in a get. In most of the cases a simple restraining order issued by the rabbinical court, preventing the get-refuser from leaving Israel, convinced him to give the get.

Moreover, Goldschmidt related that beyond the 57 women freed in Israel, more than 25 women were freed in rabbinical courts in Europe simply due to the very existence of the law. Each get-refuser understood that a visit to Israel would cause him to fall under Israeli jurisdiction. Goldschmidt noted that this was a powerful tool due to the rise of antisemitism in Europe, which triggers European Jews to maintain the option of fleeing to Israel.

On the Israeli side of the ocean, the general consensus in the Knesset committee was that this law should be made a permanent one. As to our brethren on the other side of the ocean, it is imperative that rabbinical courts and Jewish communities the world over be apprised of and understand this blessed amendment so that the law that emanates from Zion can be utilized to free agunot, where before there was no possibility of doing so.

The writer is the director of the Agunah and Get-Refusal Prevention Project





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<https://www.jpost.com/opinion/how-israels-rabbinical-court-saves-agunot-in-the-diaspora-opinion-641690>

