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HOW JEWISH GET LAW CAN BE USED AS A TOOL OF “SPIRITUAL ABUSE” IN THE ORTHODOX JEWISH COMMUNITY

Adetokunbo Arowojolu*

INTRODUCTION

Domestic violence occurs in the Jewish community at the same rate as the community at large—which means that one in four Jewish women have been victims of domestic violence by an intimate partner in their lifetime.¹ Generally, studies on domestic abuse tend to focus on the physical, psychological, financial, and sexual abuse that victims face. This Comment, however, sheds light on another form of abuse unique to wives in the Orthodox Jewish community, who want to divorce their abuser, but are unable to do so without a “get.”² Under Orthodox Jewish law, a get is required to complete a divorce and can only be obtained through the approval of the husband, who is frequently the abuser.³ Without a get, a wife is labeled as an “agunah” which means a “chained woman” that is forbidden from remarrying in her community until a get is granted. This Comment addresses how a husband’s misuse of the get system, by refusing to grant a get out of spite, or using it as leverage for extortion, can be perceived as a form of “spiritual abuse” against wives who are seeking total freedom under Jewish and civil law.

Part I of this Comment discusses how aspects of “halakhah,” the Hebrew term for Jewish law, contribute to the prevalence of domestic violence in the Orthodox Jewish community. It also introduces the concept of “spiritual abuse” and provides other

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¹ See *Domestic Violence*, CHANA, <http://chanabaltimore.org/domesticviolence/> (last visited Nov. 23, 2015) [hereinafter CHANA] (noting that 1 in 4 women experience domestic violence and that domestic violence occurs at the same rate in the Jewish community).

² Throughout this Comment, when referencing the “Orthodox Jewish community,” I am referring to issues affecting the Ultra-Orthodox Jewish lifestyle. This Comment does not reflect the lifestyle of “modern” Orthodox Jews.

³ See *infra* Part II. A.

examples of this kind of abuse against wives in the Orthodox Jewish community. Part II describes the Jewish divorce process and how Jewish get law has been used by husbands as a tool to commit “spiritual abuse” against wives seeking a divorce. Part III discusses how legislators have responded to address the agunah problem. It will also describe some of the services provided by non-profit organizations to support these wives. Part IV provides possible solutions that states can implement to further address this form of “spiritual abuse.” Specifically, it will address: (1) the need for legislation in Maryland that is similar to what has been passed in New York, and (2) the need for organizations to provide educational programs to curb the prevalence of the agunah problem.

I. AN INTRODUCTION TO SPIRITUAL ABUSE IN THE ORTHODOX JEWISH COMMUNITY

Orthodox Jews faithfully follow “halakhah,” which is translated as “Jewish law”.⁴ Historically, practices under halakhah have resulted in unequal treatment between men and women in the Orthodox Jewish community.⁵ Because the halakhic practice reinforces gender roles that ensure that power is maintained in the hands of the male, it contributes to the prevalence of abuse.⁶ Abuse has routinely been defined as “a repetitive pattern of behaviors to maintain power and control over an intimate partner.”⁷ Due to the power imbalances that halakhic practices foster, men can easily extort and abuse women, and sometimes, this abuse is protected under Jewish law.⁸ Studies have shown that the extortion and abuse of religious practices can be reclassified as spiritual abuse.⁹ With these principles in mind, examples of spiritual abuse are clearly evident in the Orthodox Jewish community.

⁴ Beverly Horsburgh, *Lifting the Veil of Secrecy: Domestic Violence in the Jewish Community*, 18 HARV. WOMEN'S L.J. 171, 181 (1995).

⁵ See *infra* Part I. A.

⁶ See *infra* Part I. B.

⁷ See *Abuse Defined*, THE NATIONAL DOMESTIC VIOLENCE HOTLINE, <http://www.thehotline.org/is-this-abuse/abuse-defined/> (last visited Nov. 23, 2015)

⁸ See *infra* Part I. B.

⁹ See *infra* Part I. C.

A. Historical Practices Under Halakhah that Create Power Imbalances Between Men and Women in the Orthodox Jewish Community

Halakhic practice involves principles and rituals that historically favored men over women.¹⁰ Research has shown that some of these gender distinctions begin when a child is born.¹¹ Historically, the Orthodox Jewish community recognized the importance of men, and in turn, is more excited once a wife becomes pregnant with a boy.¹² For example, when a male is born there is a special “bris” ceremony for family and friends where the male is given a Jewish name and circumcised eight days after his birth.¹³ No similar traditional ceremonies exist that honor the birth of a female.¹⁴ In adolescence, when a male turns thirteen, he gets a Bar Mitzvah, which is another ceremony at the synagogue where for the first time he is called to the Torah to recite a special blessing.¹⁵ The Orthodox Jewish community does not host this kind of ceremony for thirteen-year-old girls.¹⁶ Modern Orthodox and non-orthodox Jewish communities have created ceremonies to honor the birth of girls and observe bat mitzvahs for female teenagers, but in the traditional Orthodox community to date, these ceremonies do not exist.¹⁷

Men and women also have very different career opportunities available to them in the Orthodox Jewish community.¹⁸ Orthodox Jewish women require flexible hours due to the demands of their religious practice.¹⁹ Thus, they tend to work in Jewish institutions that

¹⁰ See Horsburgh, *supra* note 4, at 182 (“Jewish law and rituals are only some of the ways in which the Jewish cultural tradition conveys the notion that women occupy a different and inferior status to men.”).

¹¹ *Id.* at 186.

¹² *Id.* (noting “in the past, a daughter’s birth was a disappointment to a Jewish family.”).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Horsburgh, *supra* note 4, at 186.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 189.

¹⁹ *Id.*

are willing to accommodate their need to observe the Jewish Sabbath and dietary laws.²⁰ They also tend to hold part-time positions mainly in “female-dominated” professions,²¹ and significantly rely on their husbands for financial support.²² Women are also not allowed to engage in religious leadership roles.²³ For instance, the National Council for Young Israel, a coordinating agency for Orthodox Jewish congregations, prohibits its synagogues from electing a female president, and rarely ordains female rabbis.²⁴ In terms of education, in the past women were not allowed to study the Torah, and technically, halakhah commands fathers to teach only their sons how to read Jewish law.²⁵ Today, women can study the Torah, but are encouraged to yield to the men in the household to have those opportunities.²⁶

Orthodox interpretations of halakhah also reinforce the importance of modesty between sexes in both dress and behavior.²⁷ To further reinforce gender roles, married women are expected to wear dresses or skirts that fall down to their ankles, and wear shirts with sleeves that cover their arms.²⁸ In Orthodox synagogues, women are required to sit separately from the men behind a “mechitza” (a partition) so they do not serve as distractions for men.²⁹ Married women are not supposed to have “extended conversations” with men who are not their husbands or relatives.³⁰ Women in this community are also rarely involved in activities outside of their religious community.³¹ They are isolated from the surrounding secular cultures

²⁰ Horsburg, *supra* note 4, at 189.

²¹ *Id.* The “female dominated” professions include: “library jobs, teaching nursing, and social work.” *Id.*

²² *Id.* at 208.

²³ See Leora Tanenbaum, *The Challenge of Women Leadership in Orthodox Communities*, HUFFINGTON POST (Aug. 15, 2011), http://www.huffingtonpost.com/leora-tanenbaum/female-rabbis-prohibited-_b_827082.html (discussing a rabbi that was the first to publicly ordain a female Rabbi.).

²⁴ *Id.*

²⁵ See Horsburgh, *supra* note 4, at 185.

²⁶ *Id.*

²⁷ *Id.* at 189.

²⁸ *Id.*

²⁹ *Id.* at 185.

³⁰ Horsburgh, *supra* note 4, at 189.

³¹ *Id.* at 190.

in order to preserve the traditional Orthodox Jewish way of life.³² Ultimately, Orthodox Jewish families raise women to believe that their role in life is exclusively to be a good wife, “preserve the Jewish family, and transmit Jewish traditions to the children.”³³

B. Gender Distinctions Under Halakhah Contribute to the Prevalence of Domestic Violence in the Orthodox Jewish Community

Highlighting some of the key characteristics of an abuser and an abusive relationship is important to understanding how the gender distinctions that are embedded in halakhah lay the groundwork for a battering culture. According to the National Coalition Against Domestic Violence (“NCADV”), abusive behavior stems from a “systematic pattern of power and control perpetuated by one intimate partner against the other.”³⁴ Abuse can come in many different forms. Some examples include physical violence, psychological abuse, sexual abuse, and emotional abuse.³⁵ The frequency of these forms of abuse can vary, but a constant component of domestic abuse is the abusive partner’s consistent efforts to maintain power and control over the other partner.³⁶ The NCADV provides some examples of abusive characteristics: controlling the victims finances, isolating the victim, “preventing the victim from working or attending school,” “dictating how the victim dresses,” and threatening to hurt or take away the victims children.³⁷

The gender distinctions under halakhah ensure that power and control remains in the hands of men, which leads to the prevalence of these abusive characteristics. At an early age, the traditional celebrations of child birth remind girls of their differences, which many interpret as inferiority, and have an inverse effect on young boys by teaching them that they are superior and deserve more praise.³⁸ A

³² *Id.* at 189.

³³ *Id.* at 186.

³⁴ See *What is Domestic Violence?*, NATIONAL COALITION AGAINST DOMESTIC VIOLENCE, <http://www.ncadv.org/need-help/what-is-domestic-violence> (last visited Nov. 23, 2015) [hereinafter *What is Domestic Violence?*]

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ Horsburgh, *supra* note 4, at 186. “Nothing can be more devastating for a child than

woman's lack of ability to hold religious leadership roles automatically strips her from being viewed in a position of power and respect.³⁹ Also, the restrictive career opportunities available to women, can naturally lead to men becoming the sole provider of financial support. Controlling all of the financial resources for the household is a major factor that can lead to financial abuse.⁴⁰ Since Orthodox Jewish women rarely engage in activities outside of their religious communities, many tend to become isolated from the secular world, unlike their male counterparts.⁴¹ This isolation can cause victims to feel trapped in their abusive situation and prevent victims from knowing where to seek support, factors that can lead to psychological abuse.⁴² The importance of modesty in the Orthodox Jewish community is another way that abusers can exercise control. Abusers want to control who the victim talks to and how the victim dresses.⁴³ This evokes the strict standards under halakhah that dictates how women should dress and who women should talk to.⁴⁴

Unfortunately, these characteristics have contributed to the prevalence of abuse in Orthodox Jewish communities. The 1980s saw an emerging awareness of instances of domestic violence in Orthodox Jewish communities.⁴⁵ Studies have shown that domestic abuse occurs at the same rate in the Jewish community as it does in the community at large, which means that one in four Jewish women are victims of domestic violence.⁴⁶ The abuse occurs in every denomination of Judaism,⁴⁷ in equal percentages and across all socioeconomic levels. In some cases, these victims have turned to

to realize she is, in some way, less wanted, less worthy, and less loved." *Id.*

³⁹ See generally Tanenbaum, *supra* note 23.

⁴⁰ See *What is Domestic Violence?*, *supra* note 34.

⁴¹ See Horsburgh, *supra* note 4, at 190.

⁴² See *Emotional Abuse*, OFFICE ON WOMEN'S HEALTH, <http://www.womenshealth.gov/violence-against-women/types-of-violence/emotional-abuse.html> (last updated Sept. 30, 2015) ("You may feel like if you're not being hurt physically, you are not being abused. But attempts to scare, isolate, or control you also are abuse.")

⁴³ *Id.*

⁴⁴ Horsburgh, *supra* note 4, at 189.

⁴⁵ See Nicole Dehan & Zipi Levi, *Spiritual Abuse: An Additional Dimension of Abuse Experienced by Abused Haredi (Ultraorthodox) Jewish Wives*, 15 VIOLENCE AGAINST WOMEN 1294, 1296 (2009).

⁴⁶ CHANA, *supra* note 1.

⁴⁷ *Id.*

rabbis or other religious leaders in their community for advice.⁴⁸ However, historically, rabbis have not encouraged victims to seek help from authorities or leave their marriages because of Jewish teachings that emphasize the importance of preserving the Jewish family.⁴⁹ Research also suggests that Jewish women in general tend to stay in abusive relationships longer than non-Jewish women,⁵⁰ which contributes to the growing prevalence of abuse. Orthodox Jewish women tend to stay in relationships because they are: (1) unable to interpret their situation as abusive given their submissive roles in life, (2) ill-equipped to become self-supporting because their husbands control their finances, (3) limited in their connections outside of their Orthodox Jewish community, and (4) fearful that, if they report the abuse, they will hurt the reputation of all Jews.⁵¹ Advocates in this community recognize the need for further research to properly support these victims, who continue to face unique challenges when searching for relief while remaining devoted to their faith.

C. Spiritual Abuse and Its Examples in the Orthodox Jewish Community

In addition to the four main categories of abuse that have traditionally gained recognition in the domestic violence context—physical abuse, psychological abuse, sexual abuse, and financial abuse—research on victims of domestic violence in the Orthodox Jewish community, have recognized the need to include a fifth category, “spiritual abuse”.⁵² Including this category will help to adequately reflect the experiences of abused religious Jewish women.⁵³ Spiritual abuse is defined in this context as “any attempt to impair the woman’s spiritual life, spiritual self, or spiritual well-being.”⁵⁴ It has also been identified as a “misuse of power in a spiritual context.”⁵⁵ Because halakhah demands the incorporation of spirituality in “every facet of living,” recognizing this category of

⁴⁸ See Horsburgh, *supra* note 4, at 203.

⁴⁹ *Id.* at 204 (“More often, rabbis tell them to try harder to please their husbands for the sake of shalom bait.”)

⁵⁰ CHANA, *supra* note 1.

⁵¹ Horsburgh, *supra* note 4, at 203 - 04.

⁵² See generally Dehan & Levi, *supra* note 45, at 1295.

⁵³ *Id.*

⁵⁴ *Id.* at 1300.

⁵⁵ *Id.*

abuse will create a better understanding of the adversity that these victims face and provide targeted solutions for relief.⁵⁶

Nicole Dehan, a professor at Ariel University Center of Samria School of Social Work, and Zipi Levi, an abuse coordinator at the Northern Welfare Department of Jerusalem, conducted a comprehensive study on a group of abused Haredi (Ultra-Orthodox) Jewish women to highlight the prevalence of spiritual abuse in this community.⁵⁷ Their study identified three levels of intensity of spiritual abuse: (1) belittling the woman's spiritual worth, beliefs, or deeds; (2) preventing the woman from performing spiritual acts; and (3) causing the woman to transgress spiritual obligations or prohibitions.⁵⁸ They also presented key examples of this kind of abuse, which were taken from the testimonies of the Haredi women whom they studied.⁵⁹ These examples could fit into the four main categories of abuse, but it is necessary to reclassify them as forms of spiritual abuse.⁶⁰ For example, one woman testified that her husband mocked and criticized her while she was praying, and claimed that her prayer had "no worth."⁶¹ Dehan and Levi explained that devaluing her prayer was not only psychological abuse:

By saying "your prayer has no worth," the husband was preventing his wife from feeling spiritually satisfied through her act of praying. He damaged her spiritual experience and abused her spiritual self; he spiritually abused her.⁶²

Other examples included a husband not allowing a woman to bake bread for Shabbat, the weekly Jewish sabbath, or forcing a woman to have sex during her menstrual cycle which is forbidden under Jewish law.⁶³ When the husband prohibited his wife from baking bread for Shabbat, Dehan and Levi explained the impact this had on the wife's spiritual self:

⁵⁶ *Id.*

⁵⁷ See generally Dehan & Levi, *supra* note 45.

⁵⁸ *Id.* at 1300.

⁵⁹ *Id.* at 1301–02.

⁶⁰ *Id.* at 1302.

⁶¹ *Id.* at 1301.

⁶² *Id.*

⁶³ Dehan & Levi, *supra* note 45, at 1301.

He was not only controlling her expenses and devaluing her ability to bake, that is, abusing her economically and psychologically, but he also prevented her from performing a positive commandment and denied her the satisfaction of that spiritual act and of being the cause and recipient of its spiritual effects.⁶⁴

Dehan and Levi argued the need to categorize these actions as spiritual abuse because the other forms of abuse do not accurately reflect “the spiritual dimension of the abuse, and of the woman suffering.”⁶⁵ In the case of spiritual abuse, the abuser uses the woman’s “spiritual experiences and connectedness beyond the self” to cause harm.⁶⁶ Since spiritual and gender roles are so well defined under halakhah, husbands can use their position of power to harm women in ways that cause grave harm, and in ways that transcend beyond the four categories of abuse that are recognized in society.

II. THE GET SYSTEM AS A TOOL OF SPIRITUAL ABUSE

Abuse of Jewish get law can be arguably perceived as another example of spiritual abuse against wives. Get law is a system that is designed to completely sever a marriage between consenting adults; however, husbands have historically used this system to their advantage, keeping their wives trapped in a “dead marriage,” and contributing to the growing agunah problem.⁶⁷ It is important to provide an overview of the Jewish divorce process, in order to understand how the system has been used as a tool of spiritual abuse.

A. *What is Jewish Get Law?*

Most Americans who want to dissolve a marriage can file a document in civil court, but for observant Orthodox Jewish women, this is not the final step. Under Jewish law, a woman is not completely divorced or allowed to remarry unless she has received a

⁶⁴ *Id.*

⁶⁵ *See id.* at 1302.

⁶⁶ *Id.*

⁶⁷ *See infra* Part II. B.

get from her husband.⁶⁸ A get is defined as a “bill of divorce”⁶⁹ that only the husband has the power to deliver to his wife. The requirement of a get is deeply rooted in biblical history, and is described in Deuteronomy 24:1-2.⁷⁰

With these biblical principles in mind, in order to completely dissolve a marriage, a ceremony must take place in front of a Beth Din (a rabbinical court) in the presence of an officiating rabbi.⁷¹ The get itself is written by a scribe, with a feather quill, and is supposed to be no longer than twelve lines.⁷² The following information must be present in the get document: the date, names of the parties, residence of the parties, words of complete separation, and an explicit statement that the wife can remarry at her will.⁷³ After the get document is filled out, two witnesses are required to sign the document, then the husband, or his agent, places the document in the wife’s hand which completes the delivery of the get.⁷⁴

A get serves the purpose of providing a sense of emotional closure to a couple that wishes to go their separate ways.⁷⁵ It also ensures free social interactions in the Jewish community, by allowing parties to formally remarry under halakhah.⁷⁶ The get procedure rests the majority of power and control with the husband. By law, a

⁶⁸ See IRWIN H. HAUT, *DIVORCE IN JEWISH LAW AND IN LIFE* 17 (Sepher-Hermon Press, 1983) (noting that halachic marriages are terminated either by death of a spouse or a get).

⁶⁹ *Id.* at 145.

⁷⁰ See Jill Wexler, *Gotta Get A Get: Maryland and Florida Should Adopt Get Statutes*, 17 J.L. & POL’Y 735, 737–38 (2009) (citing 24 *Deuteronomy* 1:2 (King James)) (“When a man hath taken a wife, and married her, and it come to pass that she find no favour in his eyes, because he hath found some uncleanness in her: then let him write her a bill of divorcement, and give it in her hand, and send her out of his house. And when she is departed out of his house, she may go and be another man's wife”).

⁷¹ A “Beth Din” is defined as “a duly constituted court of Jewish Law.” *Id.* at 738 n.14.

⁷² Naftali Silberberg, *Rules of the Get Document*, CHABARD.ORG, http://www.chabad.org/library/article_cdo/aid/557910/jewish/Rules-of-the-Get-Document.htm (last visited Mar. 26, 2016).

⁷³ See HAUT, *supra* note 68, at 27–28.

⁷⁴ *Id.* at 30.

⁷⁵ See generally *Gittin (Jewish Divorce)*, THE BETH DIN OF AMERICA, <https://bethdin.org/gittin/> (last visited Nov. 23, 2015) [hereinafter *Gittin*].

⁷⁶ *Id.*

husband cannot be compelled to give his wife a get, it must be done by his “own free will”.⁷⁷ Women are not afforded the same deference, because a wife is divorced “either willingly or unwillingly” under Jewish law.⁷⁸

Failure to obtain a get has grave consequences on the wife. Without a get, a wife is labeled as an “agunah,” which means a “chained woman” who cannot remarry in the Jewish community even if she acquires a civil divorce.⁷⁹ If the wife remarries without securing a get, any children born of her second marriage are “mamzerim,” which means they are labeled as bastards.⁸⁰ The crisis has been labeled by scholars and members of the community as the “agunah problem.”⁸¹

B. Abuse of Jewish Get Law (Creating “The Agunah Problem”) Is Another Example of Spiritual Abuse

Abuse of Jewish get law can arguably be reclassified as a tool of spiritual abuse that has contributed to the increasing agunah problem in states across the country. Historically, the agunah problem was limited to cases of wives whose husbands were lost at war or at sea, in which case they could not remarry without valid evidence of their husband’s death.⁸² Today, research has continued to shed light on the many cases and stories of recalcitrant husbands that deliberately refuse to deliver their wives gets. The Beth Din of America, one of the nation’s preeminent rabbinical courts, notes that traditionally, rabbinical courts have been charged with the responsibility of overseeing the process of Jewish divorce, and ensuring that a get is not improperly withheld.⁸³ However, in modern society, the Beth Din lacks the authority to compel a husband to grant a get because receiving a get is totally contingent upon a husband’s free will. The statistics reflecting the amount of women that are victims to the agunah problem are unclear. A 2011 study by the Mellman Group,

⁷⁷ See HAUT, *supra* note 68, at 18.

⁷⁸ *Id.*

⁷⁹ See Wexler, *supra* note 70, at 740–42.

⁸⁰ *Id.* at 740.

⁸¹ *Id.* at 736. (“This manipulation of the system is called the agunah problem.”).

⁸² See HAUT, *supra* note 68, at 145.

⁸³ See generally Gittin, *supra* note 75.

reported 462 cases of agunah women in the U.S. and Canada between 2005 and 2010.⁸⁴ Other estimates have placed the number to be as high as 150,000 women in New York alone.⁸⁵

There have been reported cases where husbands deliberately withheld the get from their wives out of malice, spite, or as an attempt to prevent their wives from remarrying.⁸⁶ For instance, the *Washington Post* shared the story of Aharon Friedman and his ex-wife, Tamar Epstein, where it appeared that Aharon refused to grant Tamar a get out of spite.⁸⁷ The couple was divorced under Maryland law in April of 2010, and at the time of the article, Tamar spent over two years convincing Aharon to grant her a get.⁸⁸ He refused because he was upset with the custody arrangement that was mandated after their civil divorce.⁸⁹ When recounting her experience, Tamar stated: “I tried mediation, negotiation, soliciting people who had influence with him—colleagues, friends, family—and nothing has worked It’s like being chained to a totally dead marriage.”⁹⁰ This story is an example of a husband that is “preventing a women from performing a Jewish act” or remarrying under Jewish law.⁹¹ This form of prevention is one of the three main levels of spiritual abuse.⁹²

There are also cases where a husband uses a get as leverage to force his wife into agreeing to harsh demands, such as giving up full custody of their children, or receiving an unfair division of the martial

⁸⁴ Memorandum from the Mellman Group to Barbara Zakheim (Oct. 10, 2011) (available at <http://www.bjpa.org/Publications/downloadFile.cfm?FileID=13101>).

⁸⁵ See Irving Breitowitz, *The Plight of the Agunah: A Study in Halacha, Contract, and the First Amendment*, 51 MD. L. REV. 312, 315 (1992) noting “some estimates have placed the number to be as high as 150,000 in the state of New York alone.”).

⁸⁶ See, e.g., Annys Shin, *Man Who Won’t Grant Religious Divorce Ex-wife is Given Rabbinical Sanction*, WASH. POST (Sep. 29, 2011), https://www.washingtonpost.com/local/man-who-wont-grant-religious-divorce-to-ex-wife-is-given-rabbinical-sanction/2011/09/27/gIQAU8SS8K_story.html.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ See Dehan & Levi, *supra* note 45, at 1300.

⁹² *Id.*

property.⁹³ A recent *New York Times* article shared the story of Mr. and Mrs. Kin, a classic case of a recalcitrant husband using Jewish get law as form of extortion.⁹⁴ The Kin's had been divorced for over seven years under California law, but Mr. Kin refused to grant his wife a get.⁹⁵ Mr. Kin demanded \$500,000 dollars and full custody of their twelve-year-old son in exchange for the get.⁹⁶ Mr. Kin recently remarried even though Jewish law technically prohibits men from having multiple wives.⁹⁷ He was able to rely on a "legal loop hole" that says if he could receive permission from one hundred rabbis he would be allowed to remarry.⁹⁸ When recounting the misery she has experienced for the past seven years, Mrs. Kin states:

I would like to find a man who could be a good life partner, to have the kind of marriage my parents have. I want to marry someone and have a life like that, but now I am chained to a dead marriage.⁹⁹

Mr. Kin's decision to use the get as leverage to extort money from his wife, and demand full custody of their son, served an example of a "misuse of power in a spiritual context", one of the definitions of spiritual abuse.¹⁰⁰

It is difficult to quantify the gravity of the agunah problem and the spiritual harm suffered because of the privacy of the matter. But what is clear is that these husbands are using the principles of Jewish get law as a tool to commit spiritual abuse by ensuring that they have complete control over their wives fate. For the women, Orthodox Jewish culture revolves around family, specifically becoming good wives and passing along Jewish traditions to their children.¹⁰¹ When husbands don't grant their wives a get, they are stripping their wives

⁹³ See, e.g., Jennifer Medina, *Unwilling to Allow His Wife a Divorce, He Marries Another*, N.Y. TIMES (Mar. 21, 2014), http://www.nytimes.com/2014/03/22/us/a-wedding-amid-cries-of-unfinished-business-from-a-marriage.html?_r=0.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ See Medina, *supra* note 93.

¹⁰⁰ See Dehan & Levi, *supra* note 45, at 1300.

¹⁰¹ Horsburgh, *supra* note 4, at 188.

of the ability to start a new life. This is a form of spiritual abuse because without a get, wives cannot carrying out her traditional roles of being a mother and wife, which they take very seriously in the Orthodox community. Orthodox Jewish wives that are devoted to halakhah are left as victims feeling hopeless; knowing that only their husbands are empowered to complete their divorce.

III. CURRENT SOLUTIONS TO THE “AGUNAH PROBLEM”

Drafting legislation that attempts to address the agunah problem has proven to be the best solution in remedying the spiritual abuse these wives face.¹⁰² New York has been a pioneer in this effort, by enacting the first ever “get statute” in 1983, to continue to strengthen the position of Orthodox Jewish women.¹⁰³ Senators in Maryland have also made strong attempts to draft bills that address the agunah problem.¹⁰⁴ Finally, over the years a wide range of women’s rights activists, social workers, lawyers, and rabbis have established non-profit organizations to provide a variety of services to help these victims.¹⁰⁵

A. New York’s “Get Statute”

In 1982, it became evident that the agunah problem was a major issue in New York,¹⁰⁶ a state with one of the largest Jewish populations in the country.¹⁰⁷ The Agudath Israel, a “political action and social service group,” has been cited as the organization that significantly contributed to the creation of New York’s get statute.¹⁰⁸

¹⁰² See *infra* Part III. A.

¹⁰³ See *infra* Part III. A.

¹⁰⁴ See *infra* Part III. B.

¹⁰⁵ See *infra* Part III. C.

¹⁰⁶ See Georgia Dullea, *Orthodox Jewish Divorce: The Religious Dilemma*, N.Y. TIMES (July 5, 1982), <http://www.nytimes.com/1982/07/05/style/orthodox-jewish-divorce-the-religious-dilemma.html> (estimating that about 150,000 women in New York were victims of spiritual abuse by way of the agunah problem. A majority of these women were civilly divorced but not religiously divorced and some have been waiting for as long as up to 20 years to receive a get.).

¹⁰⁷ See Ira Sheshkin & Arnold Dashefsky, *Jewish Populations in the United States in* 108 THE AMERICAN JEWISH YEAR BOOK 151, 157 (2008) (noting that overall, about 2.2 percent of Americans are Jewish while New York’s specific Jewish population is 8.4 percent equaling approximately 1,618,000 people).

¹⁰⁸ Breitowitz, *supra* note 85, at 375 n.276.

The group organized a committee comprised of lawyers, rabbis, and policy makers, and held a conference where they discussed ways to address the agunah problem by utilizing secular law.¹⁰⁹ In turn, in 1981, the first draft of the bill was written by Alan Dershowitz, an acclaimed professor at Harvard Law School, who was present at the conference.¹¹⁰ The bill underwent further evaluation to avoid First Amendment challenges, and was revised in 1983 by Nathan Lewin, another lawyer that attended the conference.¹¹¹ Finally, in 1983, New York added section 253 to its Domestic Relations Law, also known as the “get statute”.¹¹²

The statute requires the plaintiff to sign a written affidavit that he or she has “taken all steps” within his or her power to remove all barriers to the defendant’s remarriage.¹¹³ This statute was the first of its kind to deny a civil divorce if this requirement wasn’t met.¹¹⁴ The bill passed both houses of the legislature and was signed by Governor Cuomo despite the constitutional objections raised by various organizations.¹¹⁵

There were initial issues with the statute that New York’s legislature proactively addressed.¹¹⁶ A commonly cited issue was related to the under-inclusivity of the statute’s reach.¹¹⁷ For instance, the language of the statute requires only the plaintiff, the spouse suing for divorce, to remove barriers to remarriage.¹¹⁸ Thus, if a wife sues for a divorce, she will be the one required to “remove all barriers to

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Edward S. Nadel, *New York’s Get Laws: A Constitutional Analysis*, 27 COLUM. J. L. & SOC. PROBS. 55, 69-70 (1993).

¹¹³ N.Y. DOM. REL. LAW § 253 (McKinney 1986).

¹¹⁴ See Lisa Zornberg, *Beyond the Constitution: Is the New York Get Legislation Good Law?*, 15 PACE L. REV. 703, 729 (1995).

¹¹⁵ *Id.* The organizations included: the Committee on Matrimonial Law of the New York City Bar Association, the New York Civil Liberties Union, and the American Jewish Congress. *Id.*

¹¹⁶ See Nadel, *supra* note 112, at 74 (noting “[b]ecause of gaps in its coverage, the get statute is at best an incomplete legislative solution to the agunah problem. . . [T]he New York Legislature recognized this problem and enacted further legislation in order to remedy it.”).

¹¹⁷ *Id.* at 73.

¹¹⁸ *Id.*

the defendant's remarriage." However, under Jewish get law, she does not have the power to grant herself a get, which is the sole example of a barrier to remarriage that the statute is designed to address.¹¹⁹ In response to these issues, in 1992, the legislature amended New York's equitable distribution and alimony statutes.¹²⁰ Under these amendments, a "barrier to remarriage" is something that the courts will consider as a factor when determining the division of marital assets and property.¹²¹ The law has a broader reach because it applies to both plaintiffs and defendants, even if they were not married in a religious ceremony.¹²²

Lisa Zornberg, an attorney that has conducted research on the success of New York's get statute, found that there are "qualifiable" and "unqualifiable" effects of its enactment.¹²³ As a qualifiable effect, in her discussions with local rabbis, Zornberg found that in some cases, the law has been a deciding factor in the husband's decision to grant a get.¹²⁴ One Rabbi witnessed the granting of over 150 gets where New York's statute was helpful.¹²⁵ As an unquantifiable effect, the statute's enactment raised awareness of the agunah problem across the nation.¹²⁶ The statute helped educate lawyers about the issues with get abuse, and encouraged women to come forward who were experiencing difficulty securing a get.¹²⁷ Most importantly, the enactment of New York's get law prompted other states to consider get legislation, using New York's law as a model, in order to address their constituents who also might be victims of the agunah problem.¹²⁸

¹¹⁹ See Breitowitz, *supra* note 85, at 377 ("If the wife were to seek a civil divorce against a recalcitrant husband, the affidavit requirement would not be triggered; the obligation is imposed only on the plaintiff, not the defendant.").

¹²⁰ See Act of July 17, 1992, ch. 415, 1992 N.Y. Laws 1212 (codified at N.Y. DOM. REL. LAW § 236B(5)(h), (6)(d) (McKinney Supp.1993)).

¹²¹ See Nadel, *supra* note 112, at 74. It will now be considered one of the thirteen factors that must be considered in determining the amount and duration of maintenance in a divorce action. *Id.* at 74–75.

¹²² *Id.*

¹²³ See Zornberg, *supra* note 114, at 750–54.

¹²⁴ *Id.* at 750.

¹²⁵ *Id.* at 751.

¹²⁶ *Id.* at 753.

¹²⁷ *Id.* at 752.

¹²⁸ *Id.* See also Wexler, *supra* note 70, at 752.

B. Attempted Legislation in Maryland

Maryland is one of the few states that attempted to draft get statutes to address the impact of the agunah problem within its jurisdiction.¹²⁹ As a state with one of the largest Jewish populations,¹³⁰ legislators in Maryland have made five attempts between 1997 and 2000 to draft bills that support agunot.¹³¹

The most recent bill, “Removal of Religious Barriers to Remarriage Act,” was proposed in 2007.¹³² The bill was similar to New York’s get statute because it required the “removal of religious barriers to marriage,” before a civil divorce could be granted.¹³³ Senator Lisa A. Gladden, a Baltimore County Democrat, sponsored the bill and stated “in the case where men are often extorting women—and this is a tragedy that I’m seeing in my own community—those women need the help of our government, this is not about religion, this is about fairness.”¹³⁴ In contrast, one of the main opponents to the bill, Senator Rona E. Kramer, believed that the state should not be legislating “religious doctrine” and that this bill would violate the Establishment Clause.¹³⁵ In the *Washington Examiner*, Kramer states: “We see this as an intrusion on a religious matter.”¹³⁶ She also argued that the bill was well intentioned but

¹²⁹ See Liz F. Kay, *State Weighs Issue of Faith: Bill Would Give Wives an Equal Stand in Orthodox Jewish Divorce*, BALT. SUN (Feb. 19, 2007), http://articles.baltimoresun.com/2007-02-19/news/0702190026_1_divorce-bill-jewish-woman (noting that Bills have also been proposed in New Jersey, Florida, and Connecticut, but were not passed).

¹³⁰ Sheshkin & Dashefsky, *supra* note 107, at 157 (estimating that 2.2 percent of all Americans are Jewish, while the Maryland population is 4.3 percent Jewish, equating to a total population of 241,000 Jewish people living in Maryland).

¹³¹ Wexler, *supra* note 70, at 752–53. “Agunot” is the plural form of agunah. See HAUT, *supra* note 68, at 145.

¹³² *Id.* at 755.

¹³³ *Id.*

¹³⁴ See Jennifer Skalka, *Senate Advances Divorce Bill*, BALT. SUN (Mar. 15, 2007), http://articles.baltimoresun.com/2007-03-15/news/0703150115_1_jewish-law-jewish-women-kramer.

¹³⁵ *Id.*

¹³⁶ See Len Lazarick, *Senate Rejects Orthodox Jewish Divorce Legislation*, WASH. EXAMINER (Mar. 17, 2007), <http://www.washingtonexaminer.com/senate-rejects-orthodox-jewish-divorce-legislation/article/64331>.

would be “using a civil law to force someone to perform a religious act.”¹³⁷

Because the bill did not win a majority of the votes, it did not make it to the House of Delegates, and there has not been another attempt since.¹³⁸ Even though the recent Maryland bill did not pass, it received a lot of support from a variety of lawyers and political activists, which suggests that if proposed again, addressing the constitutional concerns, it could be voted into law.¹³⁹

C. A Response from Non Profit Organizations and Advocacy Groups

Advocates for women’s rights in the Orthodox Jewish community have formed nonprofit organizations to respond to the effects of the agunah problem. The “Organization for the Resolution of Agunot” (“ORA”) is a leading nonprofit organization that provides services that specifically address these victims.¹⁴⁰ The ORA firmly believes that get refusals are a form of domestic abuse and their mission is dedicated to tackling the agunah problem.¹⁴¹ The organization maintains a “Recalcitrant Husbands List” on their website, which includes the picture, name, and location of husbands that have refused to grant their wives a get.¹⁴² Mr. Kin, from the *New York Times* story, is one of the husbands on this list.¹⁴³ Along with including his picture, full name, and location, the website provides how long he has kept his wife as an agunah, a fact sheet about their case, and encourages volunteers to join their fight in securing Mrs. Kin’s freedom.¹⁴⁴ Advocates of the ORA have also organized protests that publicly shame men into giving their wives a get.¹⁴⁵ For instance,

¹³⁷ *Id.*

¹³⁸ See Wexler, *supra* note 70, at 757–58.

¹³⁹ *Id.* at 758.

¹⁴⁰ See *About Us*, ORGANIZATION FOR THE RESOLUTION OF AGUNOT, <http://www.getora.org/#!/about-us/cxeg> (last visited Nov. 23, 2015).

¹⁴¹ *Id.*

¹⁴² See *Recalcitrant Husbands*, ORGANIZATION FOR THE RESOLUTION OF AGUNOT, <http://www.getora.org/#!/recalcitrant-husbands/c243a> (last visited Nov. 23, 2015).

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ See, e.g., Annys Shin, *Man Who Won’t Grant Religious Divorce to Ex-wife is Given Rabbinical Sanction*, WASH. POST (Sep. 29, 2011),

in the *Washington Post* story about Aharon Friedman and Tamar Epstein, the ORA organized a one hundred person protest outside of Aharon's apartment with signs that read "Free Your Wife!"¹⁴⁶

The ORA provides a wide range of other services to their clients.¹⁴⁷ They offer counseling programs that are designed to "ease the agunah's emotional burden and inspire hope".¹⁴⁸ They provide get subsidies to their clients, since writing a get document is extremely expensive.¹⁴⁹ The ORA takes pride in ensuring that the cost of writing a get "never prevents a woman from obtaining her freedom."¹⁵⁰ Finally, the ORA provides educational programs like the "Agunah Prevention Initiative," which is designed to raise awareness in Jewish communities and schools about the agunah problem and the halachic prenuptial agreement as a successful solution.¹⁵¹ The program focuses on high school and college students, and teaches them how they can protect themselves throughout the marriage process by securing prenuptial agreements.¹⁵² The ORA's goal is to "foster a culture that does not tolerate manipulation of the Jewish divorce process."¹⁵³

Other nonprofit organizations have received financial support from the government to continue their efforts towards addressing the agunah problem. For instance, in 2013, the *Baltimore Sun* wrote an article about CHANA, a nonprofit organization with similar goals as ORA, which was awarded \$350,000 from the Department of Justice to recruit males from different ages in the Orthodox Jewish community to serve as "allies in the fight against abuse."¹⁵⁴ CHANA specifically targets the needs of victims in Baltimore, Maryland, and is known to

https://www.washingtonpost.com/local/man-who-wont-grant-religious-divorce-to-ex-wife-is-given-rabbinical-sanction/2011/09/27/gIQU8SS8K_story.html.

¹⁴⁶ *Id.*

¹⁴⁷ See *Advocacy Services*, ORGANIZATION FOR THE RESOLUTION OF AGUNOT, <http://www.getora.org/#!what-we-do/c1boz> (last visited Nov. 23, 2015).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ See Kevin Rector, *Jewish Community to Recruit Men and Boys in Fight Against Abuse*, *BALT. SUN*, (Apr. 4, 2013) <http://www.baltimoresun.com/news/maryland/bs-md-orthodox-abuse-20130404-story.html>.

be “the only organization in the Baltimore area to address domestic violence issues from the perspective of the Jewish culture.”¹⁵⁵ They have taken treatment a step further by providing free legal services for victims of domestic abuse.¹⁵⁶

CHANA and the ORA have been able to produce success stories for their clients. For instance, the ORA has reportedly resolved over 245 agunah cases.¹⁵⁷ Even though there are hundreds of nonprofits organizations across the United States that provide counseling and some legal services to victims of domestic abuse in Jewish communities, more work needs to be done in order to specifically address victims of the agunah problem.

IV. NEED FOR CONTINUED LEGISLATIVE REFORM AND ACCESS TO PREVENTATIVE MEASURES

Legislative reform, like New York’s get statute, is necessary to provide a consistent standard that must be applied in each Jewish divorce case. There is a need for reform in Maryland, another state with a large Jewish population, and the momentum that has already begun since its recent attempt in 2007 to draft a bill to address this issue. There is also a need for more nonprofit organizations, with a similar model to the ORA, that take preventative steps toward tackling the agunah problem.

A. Enacting Get Legislation in Maryland that is Similar to New York’s Get Statute Will Not Violate the First Amendment

Legislators in Maryland have recognized the need for reform, due to the five attempts at drafting a bill to address the agunah problem, but have run into consistent constitutional challenges. Opponents of get legislation argue that these bills go against the Establishment Clause and/or the Free Exercise Clause of the First

¹⁵⁵ See *History*, CHANA, <http://chanabaltimore.org/history/> (last visited Apr. 5, 2016).

¹⁵⁶ *Id.*

¹⁵⁷ See *About Us*, ORGANIZATION FOR THE RESOLUTION OF AGUNOT <http://www.getora.org/#!about-us/cxeg> (last visited Nov. 23, 2015).

Amendment of the United States Constitution.¹⁵⁸ To date, New York's get statute has survived every constitutional attack.¹⁵⁹ After analyzing the Supreme Court decisions that interpret these clauses, a Maryland bill, drafted identically to New York's get statute, will also not violate the First Amendment's Establishment Clause or Free Exercise Clause.

1. The Establishment Clause

The Establishment Clause states: "Congress shall make no law respecting an establishment of religion"¹⁶⁰ This law is designed to prevent states from enacting laws that either promote or prohibit certain religions.¹⁶¹ The two principle issues under this clause are the anti-coercion principle, which means that the government should not compel or coerce anyone into practicing a religion, and the non-endorsement principle, which means that the government should not deliberately endorse any religion.¹⁶² The "Lemon Test," developed by the Supreme Court in *Lemon v. Kurtzman*,¹⁶³ is used to determine First Amendment violations by way of the Establishment Clause.¹⁶⁴ To pass the Lemon Test the statute must have: (1) a secular purpose, (2) cannot advance or inhibit religion, and (3) cannot foster an excessive government entanglement with religion.¹⁶⁵ This test has been routinely criticized and has been inconsistently employed in various Supreme Court cases. For instance, in *Lynch v. Donnelly*,¹⁶⁶ where the city of Pawtucket Rhode Island was sued for having a Christmas display with a crèche in the heart of their shopping center, the Court

¹⁵⁸ See Zornberg, *supra* note 114, at 738. Critics have also raised Due Process and Equal Protection challenges under the Fourteenth Amendment. *See id.* For the purposes of this comment, I will focus on how a get statute survives First Amendment challenges.

¹⁵⁹ *Id.*

¹⁶⁰ U.S. CONST. amend. I.

¹⁶¹ See generally *Establishment Clause*, LEGAL INFORMATION INSTITUTE, https://www.law.cornell.edu/wex/establishment_clause (last visited Feb. 18, 2016).

¹⁶² See *The Establishment Clause and Public Schools: A Legal Bulletin*, AMERICAN CIVIL LIBERTIES UNION, <https://www.aclu.org/establishment-clause-and-schools-legal-bulletin> (last visited Feb. 18, 2016).

¹⁶³ 403 U.S. 602 (1971).

¹⁶⁴ *Id.*

¹⁶⁵ *Id.* at 612–13.

¹⁶⁶ 465 U.S. 668 (1984).

only applied the first prong of the Lemon Test.¹⁶⁷ The Court found that there was a legitimate “secular purpose” for Pawtucket’s display, which was to celebrate the holidays.¹⁶⁸ This case is famous for Justice O’Conner’s concurrence, where she uses principles from the Lemon Test to establish her own test: whether a reasonable non-adherent of the religion would interpret the state action as an endorsement of religion.¹⁶⁹ She concluded that a hypothetical observer would not have interpreted the holiday display as an endorsement of religion.¹⁷⁰

When applying this test to a future Maryland bill that resembles New York’s get statute, a court would also draw the same conclusion. This is because New York’s statute is artfully drafted in a way that a “reasonable non-adherent” would not believe that the statute endorses a particular religion. First, the statute would serve the secular purpose of ensuring that couples are able to remarry once a civil divorce is granted. Critics of Maryland’s recent bill, like Senator Jamie Raskin, argued that the bill did not satisfy the first prong of the Lemon Test because “the entire purpose of the bill was religious.”¹⁷¹ However, this prong has been cited as a “fairly low hurdle” where a “clearly secular purpose will suffice.”¹⁷² If Maryland models a future bill after New York, critics will find that the statute’s secular purpose is to guarantee that spouses are able to move on once a divorce has been officially granted.

When analyzing the second prong of the Lemon Test against a proposed get statute in Maryland, the statute will not have the principal effect of advancing or inhibiting religion. Instead, it will advance its stated secular purpose, to remove barriers to remarriage of any sort. Critics of get laws argue that get statutes would have the indirect effect of advancing Jewish religion, by allowing the remarriage of observant Jewish women.¹⁷³ However, the Supreme Court has upheld laws that have had an indirect affect on religion in the past.¹⁷⁴ For instance, in *Everson v. Board of Education*, where a

¹⁶⁷ See *Lynch v. Donnelly*, 465 U.S. 668 (1984).

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 688.

¹⁷⁰ *Id.*

¹⁷¹ See Wexler, *supra* note 70, at 761.

¹⁷² *Id.*

¹⁷³ *Id.* at 763.

¹⁷⁴ See, e.g., *Everson v. Board of Education*, 330 U.S. 1 (1947).

New Jersey policy allowed local school boards to repay parents for the cost of transportation to private schools, where the majority of those schools were Roman Catholic, the Court held that the repayment of these funds did not violate the Establishment Clause.¹⁷⁵ The Court's principal reasoning was that the New Jersey policy may have had an indirect affect on Roman Catholics, however, it did not advance one religion over the other, and the state is authorized to pay the fare "as apart of a general program under which it pays the fares of pupils attending public and other schools."¹⁷⁶

A similar analysis applies when determining if a future get statute in Maryland would survive the third prong of the Lemon Test, which states that the statute cannot foster an "excessive government entanglement" with religion. Senator Jamie Raskin and other critics have argued that the 2007 Maryland bill served as an excessive entanglement with religion, because of the discussions it would foster about religious doctrine on a civil matter.¹⁷⁷ However, the Supreme Court has held that this prong does not required a complete separation between church and state.¹⁷⁸ For instance, in *Walz v. Tax Commission of New York*, the Court held that it was constitutional for the government to grant churches exemptions from property taxes.¹⁷⁹ The Court held that the exemptions created "only a minimal and remote involvement between church and state."¹⁸⁰ The same analysis should apply to a future Maryland bill, proposed to address the agunah problem. A court would find that the statute only indirectly impacts Jewish wives, and does not foster an excessive entanglement between the government and a religion.

2. The Free Exercise Clause

Opponents of Maryland enacting a get statute may have a stronger claim under the Free Exercise Clause of the First Amendment. However, a court will still find that it passes constitutional muster. The Free Exercise Clause states, "Congress

¹⁷⁵ *Id.* at 5–8.

¹⁷⁶ *Id.* at 17.

¹⁷⁷ See Wexler, *supra* note 70, at 766.

¹⁷⁸ See, e.g., *Walz v. Tax Comm'n of the City of New York*, 397 U.S. 664 (1970).

¹⁷⁹ *Id.* at 667–72.

¹⁸⁰ *Id.* at 676.

shall make no law . . . prohibiting the free exercise [of religion].”¹⁸¹ Spouses unwilling to grant a get have argued that “any judgment ordering them to give or receive a get . . . conflicts with their free exercises rights.”¹⁸² This argument is misguided, because the Supreme Court has routinely upheld laws that may indirectly burden religious conduct, where the plaintiffs have brought similar arguments.¹⁸³ For example, in *Braunfeld v. Brown*, plaintiffs from the Orthodox Jewish community brought a Free Exercise claim against a Pennsylvania law that required their businesses to be closed on Sundays.¹⁸⁴ The plaintiffs closed their stores on Saturdays for religious observances and argued that the Sunday closing law placed a burden so severe, it could force them out of business.¹⁸⁵ The Court rejected that claim and held that the state can enact a “general law within its power” the has the purpose and effect of “advance the State's secular goals . . . despite its indirect burden on religious observance.”¹⁸⁶ The same analysis would apply if Maryland adopted New York’s get statute. Like the Pennsylvania law in *Braunfeld*, a future Maryland statute would be considered a general law that advance’s the states goals of allowing spouses to remarry once a civil divorce is granted. The law would be valid, despite arguments from critics that it places a burden on a husbands Free Exercise of religion.

With this precedential guidance in mind, if Maryland drafts a bill to address the agunah problem, using New York’s get statute as a guide, it will likely survive First Amendment challenges by way of the Establishment and Free Exercise Clause.

B. Increase the Number of Organizations that Employ Preventative Measures

While waiting for legislators to enact get statutes, it is important to focus on developing and expanding the services that existing nonprofit organizations provide victims of the agunah

¹⁸¹ U.S CONST. amend. I.

¹⁸² See Breitowitz, *supra* note 85, at 357.

¹⁸³ See, e.g., *Braunfeld v. Brown*, 366 U.S. 599 (1961).

¹⁸⁴ *Id.* at 600–01.

¹⁸⁵ *Id.* at 601.

¹⁸⁶ *Id.* at 607.

problem. It is also imperative to employ preventative measures to decrease the likelihood of this crisis.

The ORA serves as a great model for future nonprofit organizations that want to attempt to tackle the agunah problem.¹⁸⁷ Nonprofits that are geared toward providing relief to agunot, should also consider providing get subsidies to help alleviate the cost of the get process.¹⁸⁸ Since a get must be written by an experienced scribe, the document can cost several hundreds of dollars. Providing get subsidies is an easy step towards preventing get refusals for financial reasons, and as stated by the ORA, “never prevents a woman from obtaining her freedom.”¹⁸⁹

ORA also stresses the need for education programs that explain the importance of signing a prenuptial agreement before entering into a marriage.¹⁹⁰ The Beth Din of America created an extension to their website called the “The Prenup” and also proclaims that prenuptial agreements are the “single most promising solution to the agunah crisis.”¹⁹¹ Prenuptial agreements offered by the Beth Din of America contain two essential provisions.¹⁹² The first provision grants authority for the rabbinical court to oversee the get process, and the second provision provides a monetary incentive for husbands to give their wives a get in a timely manner.¹⁹³

The Jewish Orthodox Feminist Alliance (“JOFA”) also stresses the importance of agunah prevention by way of “Halakhic Prenuptial Agreements.”¹⁹⁴ JOFA is a national nonprofit organization that seeks to expand opportunities for women within the framework of

¹⁸⁷ See *supra* Part III. C.

¹⁸⁸ See *supra* Part III. C.

¹⁸⁹ *Advocacy Services*, ORGANIZATION FOR THE RESOLUTION OF AGUNOT, <http://www.getora.org/#!what-we-do/c1boz> (last visited Nov. 23, 2015).

¹⁹⁰ *Id.*

¹⁹¹ See *generally* THE BETH DIN OF AMERICA, <https://bethdin.org/gittin/> (last visited Nov. 23, 2015).

¹⁹² See *What Does the Prenup Say*, THE PRENUP, <http://theprenup.org/whatdoes.html> (last visited Nov. 23, 2015).

¹⁹³ *Id.*

¹⁹⁴ See *generally Halakhic Prenuptial Agreements: Agunah Prevention*, JOFA, http://www.jofa.org/Advocacy/Halakhic_Prenuptial_Agreements_Agunah_Prevention (last visited Apr. 5, 2016).

halakhah.¹⁹⁵ They believe that a “well-written and properly executed halakhic prenuptial agreement is a possible means to ensuring fair and lawful proceedings in the event of a divorce.”¹⁹⁶ JOFA works closely with Rabbis and other members of the Orthodox Jewish community to promote the use of prenuptial agreements.¹⁹⁷ Their website also provides an example of a prenuptial agreement for Orthodox Jews that are living in America, “The Beth Din of America Binding Arbitration Agreement,” and a prenuptial agreement for those that are living in Israel, which is translated into Hebrew.¹⁹⁸ These efforts are a critical approach to dealing with the agunah problem.

CONCLUSION

The issue surrounding husbands that use Jewish get law as a tool to commit spiritual abuse against wives need to be addressed. For far too long, wives have been trapped in dead marriages with no hope for change under halakhah. With legislative reform, in states like Maryland, that have increasing Jewish populations, the agunah problem can be solved. The enactment of get statutes can help to create a long lasting remedy to the spiritual abuse caused. Also, with a rise in nonprofit organizations that increase awareness about the option of prenuptial agreements, we can lower the instances of spiritual abuse by way of Jewish get law.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*