

## Chapter 59

**Responsa analyzing Rav Eliczer Berkoitz Tnai Benesuin Ubeget -Conditional Marriage and Divorce**

Since over 400 leading Rabbinical Halachic authorities vetoed use of such annulments at the turn of the 20<sup>th</sup> century regarding French Rabbis' proposal for conditional marriages and likewise other leading Rabbis vetoed the proposals of Rabbis of Constantinople, Turkey- WE WILL OPPOSE AS PUBLIC POLICY CONDITIONAL MARRIAGE AND DIVORCE. MANY OF THE DANGERS AND PRECAUTIONS EXIST TODAY AS FEARED BY THE 400 RABBIS WHO OPPOSED THE FRENCH RABBIS PROPOSAL AND THE OTHER RABBIS WHO OPPOSED THE PROPOSAL OF THE RABBIS OF CONSTANTINOPLE, TURKEY .

IN THE CASE OF EMERGENCY AND WE FOR SEE PROBLEMS WITH THE MARRIAGE , I WILL USE A CONDITIONAL MARRIAGE AND GET. I WILL RELY ON MINORITY OPINIONS WHO PERMIT ITS USE.

HOWEVER MANY ORTHODOX RABBIS MAY NOT ACCEPT IT EVEN POST FACTO. THEY WILL ARGUE THAT THE WOMAN REMAINS MARRIED RABBINICALLY OR BIBLICALLY AND ANY CHILDREN FROM MAN #2 ARE MAMZARIM RABBINICALLY OR BIBLICALLY. [ Handwritten Even Hezer II Chapter 14- pages 229-243]

## Chapter 60

**Debunking the outrageous lies slander and libel against orthodox Rabbis and the Torah itself regarding the marriage ceremony.**

Marriage is created when the wife accepts by taking a marriage ring to be faithful to her husband and not to have sex with any other man. The wife in this sense belongs and is purchased by the husband. She becomes at the same instant sacred to to G-D . Fidelity to the husband is at the same instant fidelity to G-d. Even if her husband would consent that she have sex with another man she would be breaching her vows to G-d would she do that .

The man at the instant of marriage pledges in the Ksubah to behave as Jewish husbands behave. Jewish husbands do not have other lovers , they are loyal , loving, understanding,

support their spouses and children; do not abuse or threaten or hurt their spouses emotionally, psychologically, and certainly not physically. They are not addicted to foreign substances, alcohol, drugs, are not gamblers- bet on horses or any form of gambling. They do not disappear. they are not homosexuals or bi-sexuals they are not impotent. They pledge to satisfy the sexual needs and emotional needs of the wife. They pledge love and understanding, to respect the wife and honor her more than themselves and make her feel important. The wife pledges the same in return. In return for support of shelter food and all her physical needs she pledges that what ever moneys she makes or fruit of the assets she possesses or will possess will belong to the husband. He can enjoy and takes possession of the fruit of her assets not the actual asset This is the meaning -what the wife possesses belongs to the husband. If a couple negotiate that the wife forfeits material support the fruit of her assets do not belong to the husband. She does not belong to the husband. She does not become her husband's possession. Yes, she belongs to her husband only sexually. She is the Kinyon possession sexually of her husband. her husband belongs to her. Since the edict of Rabenu Gershon Meor Hagola 1000 years ago a married man can take no more than one wife. He can not have any other woman as a mistress. All Ashkenazim accepted this edict. Sefardim swear in the Ksubah the same. Thus the husband belongs sexually to the wife. There only exists a problem when the marriage breaks up and the husband refuses a Get that only he can grant. If a husband breaches these understandings then grounds may exist to coerce him to grant a Get. When The Rabbis are powerless, the couple has gone to a Rabbinical trial, the wife is prepared to follow all the stipulations of the Rabbinical Court, and the husband still refuses a Get we will give a Get Ziku and annul the marriage. This is true if all civil remedies have been exhausted and the husband still refuses to give a Get. But only a Rabbi, who has mastered and observes the four parts of the Shulchan Aruch, can make this determination after he has conducted a Rabbinical trial. No one else.

We also discuss the question of the wife not having proper disclosure of the perils of an Halachic marriage. Since the perils of of Agunot is presently public knowledge and has been that way for the last 25 years, no woman claim today that she did not have proper disclosure. The fact that the woman did not consult a Rabbi who is knowledgeable of all the laws and the perils of a Halachic marriage deprives her of the argument of insufficient disclosure. Just like no man can argue that he did not know that he will have to pay for alimony and child support if the marriage does not work out. Ignorance of the law is no excuse. He should have consulted an attorney. So too, the agunah and her family should have consulted a Rabbi.

The woman can not argue that the husband's misbehavior existed before in latent form and therefore constitutes Mekach Tout-a mistake in the marriage. The husband's refusal to give a Get is not evidence that he is a sadist and always was a sadist -and is and always was sick. I do not agree that this conclusion is a valid basis for a Mekach Tout - a mistake in the marriage. If she does become an agunah, she should go to a Rabbi who has mastered and observes the four parts of the Shulchan Aruch to help her extricate her from this very serious situation. See Even Hoezer II Chapter 15- pages 244-304.

### **Questions I was asked and issues our Rabbinical Court dealt with**

- 1-Husband converts to Islam and moves to an Arab country and marries two Moslem women . He refuses to give his wife a Get unless she sends him her five children that he had with her so he can convert them to Islam. The wife has remained an Agunah for 29 years.**
- 2. Husband converts to Islam , joins the terrorists and kills Jews. He refuses to give his wife a Get.**
- 3. Husband belonged to the Russian Mafia. He disappeared 10 years ago. No one has any contact with him for the last 10 years.**
- 4. Husband wants five million dollars as the cost of giving a Get. He beat his wife and almost killed her.**
- 5. The Rabbinical establishment in Israel placed a husband in jail for refusing to give his wife a Get. He was given his first ever job to be a kosher supervisor at the jail. The husband instead of agreeing to give his wife a Get, became more resolved not to give her a Get.**
- 6 . The husband throws his wife down a flight of stairs. He also violated a protection order and smashed her head that required surgery. The husband is serving a jail sentence. He refuses to give**

her a Get.

7. Husband raped the wife's relatives . She refused to continue living with him . He refuses to give her a Get.
8. The husband is serving a 30 year sentence for sexually molesting his daughters. He refuses to give a Get.
9. The husband has Alzheimer disease. Is there anyway of freeing the wife?
10. Husband claims he is Napoleon. He climbs a tree and preaches that G-d revealed himself to him and that he will be the new Messiah. He refuses to give his wife Get.
11. The wife has hallucinations and she married a man who claims to be a Kohen. She insisted that he divorce her. They got a civil divorce and a Get. Now they want to reconcile and remarry. It is prohibited for a Kohen to remarry his wife once he gave her a Get. Is there a way out?
12. The husband marries his mistress after divorcing civilly his wife. He refuses to give her a Get.
13. The husband wants one million dollars for the Get. The wife was cheating on him.
14. The wife changed locks and did not let the husband into the house. She represented to everyone that she is presently married to an other man and is living with him . The husband is living with his girlfriend. He refuses to give his wife a Get.
15. The wife is dating other men. She claims her husband gave his permission. He refuses to give her a Get.
16. The wife claims that the husband is homosexual. He refuses to give her a Get.
17. The wife is dating other men. She claims that the husband does not satisfy her sexually . He refuses to give her a Get.
18. The husband molest his son sexually. The wife leaves, the husband refuses to give her a Get.
19. The husband threw a heavy object at the wife . He missed her .Would he have hit her she would have been badly hurt . She leaves. He refuses to give her a Get.
20. The wife claims she is destined to give birth to the new Messiah . Her family claims she is seeing a psychiatrist. The husband refuses to give her a Get.
21. The wife has Alzheimer. Is there a way out for the husband?
22. The wife met her mate through the internet. After 500 e-mail letters they decided to get married. After one week of marriage the husband had enough. He refuses to give a Get.
23. The wife throws a knife at the husband. She misses. He leaves and refuses to give her a Get.
24. The husband cheats on the wife with a non Jewish girl who converts. He refuses to give his wife a Get. He then marries this girl after getting a civil divorce. This marriage then dies and he refuses to give this new wife a Get. The new wife never observed Halacha - Jewish Law. She had converted only in name. Can we claim that she never really was Jewish and her conversion is null and consequently she needed no Get? Once she converts again and begins to practice she can marry another Jew?
25. The wife divorces her husband civilly and also has a Get. She marries a non Jewish man and has children with him. This marriage goes bad. Can she return to her Jewish husband? What would be the law if she did not have a Get from her husband #1? What is the law if husband #2 is Jewish?
26. The husband turns out to be a drug addict, and an alcoholic. The wife leaves and insists on a Get. While she is waiting for the rabbinical Court deliberation , she claims that she was raped. Can she marry the rapist? What is the law if the affair was consensual. Is there any way she can marry

her paramour? What is the law if she was promiscuous and she had a number of affairs with several men. Can she marry the last man?

27. The husband refuses to give his wife a Get. She has an affair with a non Jewish man. Can she marry him after her marriage is annulled? What is the law if the man was Jewish?

28. The wife did not receive a Get only a divorce. She marries husband #2 and has several children with him. Husband # 1 gives her a Get now. Is there a way to legitimize her children from husband #2? What if husband #2 refuses to give her a Get? What is to be done? Husband # 3 never gave wife #1 a Get and wife #2 a Get. What is to be done?

29. Child marriages are illegal according to Halacha. Post facto in countries where child marriages are legal in civil law, a father can betroth his minor daughter- under the age of twelve. What happens if a father abuses this rare exception when he is in the midst of a marital conflict and claims that he betrothed his minor daughter, refuses to reveal the name of the groom, or the witnesses unless the mother of the minor concedes certain matters in the marital conflict. What is the law? Is the minor child considered a married woman forbidden to eternity to get married ?

30. What is the law - in those countries and cultures like Yemen when minor marriages were legal according to civil law if the girl once she grew up got married without knowing that her father who resides in a foreign country- already married her to some other suitor without informing her when she was a minor? The previous husband refuses to grant her a Get. Can modern medical techniques and x-ray machines and bone and body development prognosis be used as evidence that at the time of the marriage contracted by the father , the girl was no longer a minor. Consequently the marriage is null and void, since a father can not contract a marriage for a daughter once she no longer is a minor without her consent?

31. What is the law if the first husband converted to Islam and refuses to give his child bride a Get?

32. A group living in Asia or Africa converts to Judaism claiming that they are the decedents of the ten lost tribes. Their neighbors threaten that they will massacre them if they practice Judaism . Are they permitted to denounce their Judaism publically?

33. Is it proper for organizations to reclaim such Jews if they will be abandoned and put into jeopardy.

34. A man belonging to such a group as described in 32. converts in the USA while a student here. He never really observed all the laws of Halacha. When he returns to his native country can he denounce his Judaism and abandon his Jewish practices? He can not remain here because of immigration laws.

35. Is cloning permitted in order to cure genetic disorders that cause disease? Is there any prohibition in harvesting genetic tissues from aborted fetuses -that would have been destroyed anyway -to perform lifesaving experimental work in cloning to cure diseased organs or a disease. If the government refuses to fund the same, are private donors or investors permitted to finance such research?

36. Is birth control permitted to be used when one of the spouses refuses to have intercourse otherwise ? Is it better to get married and use birth control rather than remain single?

37. Can birth control be used when one of the spouses can have a nervous breakdown if they have children?
38. Up to what point do parents support financially their children?
39. Is a woman who has problems conceiving permitted to use the eggs of a relative -a sister or mother? If part of their womb are transplanted to the woman and the woman conceives who is considered the mother the donor or the woman carrying the fetus?
40. Is a Kohen permitted to have a transplant given to him from a dead donor? A Kohen is not permitted to touch a dead person.
41. Can a kohen study medicine where cadavers have to be cut as part of the training?
42. A woman can not find a spouse. Her biological clock is ticking and if she does not get pregnant very soon she may not be able ever to have children. She yearns to be a mother. Is there a Halachic way that she can become pregnant, although she is not married? What are the ramifications if she uses artificial insemination? If she would be married and her husband's sperm is not potent enough to get her pregnant and she uses artificial insemination what are the ramifications?
43. A woman not married became pregnant from her boyfriend who promised to marry her. He relents. Another man wants to marry her. She is over 40 and has very great difficulty finding a spouse. What is she to do? If she waits until after she gives birth and 24 months after the child is born the suitor will not wait. Is there a Halachic loophole to keep this man?

These are a small fraction of the questions that came to our Rabbinical court. The facts had to be altered to protect the privacy of the individuals. The reader will get an idea of the Halachic principles applied.

[These Responsa need to be typed ]

Last printed responsa is # 35 All the others need to be typed The responsa at the end of # 33 of a woman who is incontinent and must always wear a bag needs to be typed. She is permitted to dip in the Mikvah with her bag.

Responsa in Hebrew regarding Agunot typed as well as in manuscript form and hundreds of tapes in English exist. All the agunah cases that came before our Rabbinical court were taped. They can not be revealed to third parties without changing the names and identification facts to protect the privacy of the individuals.

## **DEDICATION OF FUTURE PUBLICATIONS-**

**-All my books are dedicated to Nira - my wife, advisor, friend and life companion-the greatest mother and grandmother in the world. This woman provides me with the fountain of youth. She watches my health and is always satisfied with whatever I make. She always makes me and anyone whom she touches feel important -as though the world was created for us.**

**1. Volumes 2-5 - ANNULMENTS-Hatorot Agunut Bnos Yisroel Emancipation of Chained Jewish Daughters - Annulments when the husband refuses to give a Get -Jewish divorce in a dead marriage. Based on the four parts of the Shulchan Aruch and Responsa -Jewish Law and Practice. Many of the Responsa were signed by Rav Steinberger from Rehovot Israel, one of the greatest Torah sages of the twentieth century. Also Rav Sholom Klass, publisher of the Jewish press, Rav Emanuel Rackman, Rav Moshe Antelman both great Talmudic scholars and both heads of Rabbinical Courts that free agunut signed many of the responsa.**

2. Compendium of Tapes of halachic discussions and minutes of cases before bet din (actual cases with the names and any identifications eliminated.)

3. 360-Videos and tape cassettes of responsa on all the four parts of the Shulchan Aruch-Netzech Yaakov Yosef in memory of my uncle-Rav Yaacov Yosef -one of the greatest Talmudic scholars and human beings who ever lived. I learned from my uncle my basic sense of decency, equity and respect for the dignity sacredness of every human being man or woman and empathy for agunot - born or not born . All my writings is to champion the underdog , the individual who is exploited by society, especially by those who corrupt halacha to exploit others.] I have the approbation of Rav Pickarski.

4.Volumes 6-10 Laws of Nidah and Mikva Ohr Sisel in memory of my mother-All my learning was made possible by her sacrifices.. - Laws of family purity that are the foundation for Jewish Survival for the last 4000 years. I have the approbation of Rav Piek

5. Video Tapes of interviews to the media- cable and regular TV in the USA and all over the world as well as radio broadcasts.

6. Newspaper articles all over the world.

7. The Philosophy and Mysticism of Mitzvoahs

8.Halachic Perspective Bio Medical Ethics Ohr Tsiporah . This book is available. In memory of my aunt Fannie one of the greatest human being who ever lived dedicated to her parents and all her family.] This book declares the fundamental

Torah principle that all human life is sacred-the holy of holies. All other laws can be violated to save any human life. Even though an embryo is not considered a human until the head passes the birth canal, it is tantamount to murder to abort any embryo. Unwanted unborn children must be given up for adoption, not killed. An unborn child is a partial human being. Only to save the mother's life can a abortion be performed. Not only are the testing for abnormalities unreliable, but the advise of a physician that the resulting child may have chromosome problems and therefore an abortion should be made is motivated , in many cases, by the fear of lawsuits against him and the hospital. From the instant of conception partial life exists. As the embryo develops the degree of life develops. However until the head passes the birth channel, it is permitted to abort the child to save the mother. I describe the Halachic criteria of death. Brain dead is not Halachically dead. It isHalachically prohibited to remove a patient from a respirator, as long as they are breathing with the aid of the respirator and other mechanical devises. If the patient is in excruciating pain , then a different set of Laws apply. An Orthodox Rabbi who has mastered and observes the four parts of the Shulchan Aruch must be consulted. I have the approbation of Rav Moshe Feinstein , Rav

Piekaski and Rav Gedalia Schor on this book. In addition , I have included in my book the responsa of Rav Moshe Feinstein , Rav Piekaski, and Rav Frumer the master of Rav Piekarski author of of Eretz Tzvi and Siach Hasodeh , the son-in law of the Avnei Nezer. All of them consider abortions tantamount to murder.

9. The Disabled Jew -The Halachic Perspective of the mentally retarded, the emotionally disturbed, the deaf, the blind , the crippled the physically disabled, and the senile. This book continues the theme of the previous volume that all human life is sacred. The fact that certain humans may not be as productive as others and may not be able to compete in the market place with others , does not lessen their humanity. They are protected by Halacha and must observe halacha to the extent of their mental ability.

Any one who is of retirement age should make their life worth while. They should engage in activities that will make them feel important and contribute to making this world a better place than when they were born. They should count by their behavior and deeds. In that way their emotional and physical health will be maintained. The most critical factor for longevity is to eliminate emotional stress. G-d gave maturity to older individuals in order to enable them to use their brains and divorce themselves from those individuals who upset them. Judaism does not believe in physically hurting anyone who upsets us. However, Judaism does not teach to turn the other cheek. One must divorce oneself from those individuals and situations that emotionally drain and upset one. It does not matter who is right or wrong. If any individual or situation upsets one, one must part company. If that individual goes right , you go left. Emotional turmoil is the cause for all diseases. It lowers ones immunity. When one gets older their immunity system decreases. So this prescription though mandatory for everyone is a matter of life and death for senior citizens. These prescriptions together with daily exercise and a healthy diet and periodical medical checkups will enable one to live their life to capacity-what G-d ordained. People themselves can control a very great part of their life. If tragedy befalls them they may have been responsible by omission or commission. Too many people blame G-d for their shortcomings G-d helps and blesses those individuals who help themselves and act rationally with their heads not their instincts and emotions. This is the secret formula for longevity. Let us pray that we use the brains given to us to do our part and then G-d will do His part.

10. Who is a Jew and a Rabbi? Fidelity to the sources of halacha and integrity in ones behavior enables one to serve as a role model to win Jews to Judaism. This will enable the survival of the Jewish people in their 4000 year destiny. This can only be accomplished by maximizing Jewish education -in the study of Talmud and the four Shulehan Aruchs by every Jewish man and woman . I have the approbation of Rav Moshe Feinstein , Rav Piekarski and Rav Schor.

11. Discipline - a synthesis of Talmudic sources and modern psychology.

12. Letters and Essays- My correspondence with individuals some of the great minds of the twentieth and twenty first centuries over a span of many years.

13. I CREATED A 501-C TAX DEDUCTIBLE FOUNDATION FOR THE PURPOSE OF HAVING YOUNG KOLLEL STUDENTS STUDY THE FOUR PARTS OF THE SHULCHAN ARUCH. THESE MEN WILL BE THE FUTURE DECISORS OF JEWISH LAW. ONLY ONE WHO MASTERS AND OBSERVES THE FOUR PARTS OF THE SHULCHAN ARUCH CAN RULE ON ANY LAW. .

1. INTRODUCTION -The survival of all Americans regardless of religion sex race or national origin as well as Jews and Israel must be our number 1 priority We are ALWAYS American Jews . There is no contradiction. Just like there are Irish Americans , Italian Americans Catholic Americans and Protestant Americans. America is a multi ethnic country. We always obey the law.

We like all other Americans have a constitutional right to express our belief what is best for the USA NO BULLY AND ANTI SEMITE WHO CRITICIZES Jews for looking out for Israel and influencing public opinion of non Jews to support Israel is going to silence us. The ones who are the most vocal are the ones who receive enormous sums of Money from Saudi Arabia. They write books comparing Israel's fight against terror to apartheid from South Africa. What these individuals do not mention is that Arab money bought their silence that they do not criticize the Palestinians and Hamas and Hezbollah and the outrages in Saudi Arabia. THE ARABS CAN DO NO WRONG AND THE JEWS IN ISRAEL CAN DO NO GOOD. WHEN THESE INDIVIDUALS COVER THEIR EYES WITH THE GREEN MONEY FROM THE ARABS THEY BECOME ARABISTS . THEY SPREAD THE ARAB PROPAGANDA AND HATE WITH OUT CARING FOR THE ACCURACY OF THEIR FACTS.

HITLER VOWED TO EXTERMINATE THE JEWS. THESE INDIVIDUALS VOW TO EXTERMINATE THE STATE OF ISRAEL. The Jews are held up to the highest standard ;but not the Arabs. THESE INDIVIDUALS EXPLOIT THEIR REPUTATION AND STANDING THAT THEY HAVE IN ORDER TO EXTERMINATE ISRAEL AND THE JEWS.

IT IS FOR SUCH ANTI SEMITES IN THE USA and Europe that our first priority is to have all Jews unite and to lessen our criticism of irreligious Jews and their expression of Judaism. WE all must focus on the anti Semites in the USA , Europe and in the Middle East -Iran Syria Hamas Hezbollah and the Palestinians. OTHERWISE NONE OF US WILL BE AROUND TO PRACICE Hollacha-JUDAISM. BEFORE WE SAVE THE JEWISH SOUL WE MUST SAVE THE JEWISH BODY.

## 2. BRIEF ANALYSIS OF THE CONTROVERSY REGARDING COERCION AND ANNULMENTS

The area of annulments has been embroiled in controversy since the time of the Talmud through out all the centuries and is extremely controversial even today. I have presented in most of my responsa the position of those authorities who permit annulments in accordance with Halacha . I have also included responsa that show the position of those authorities who are opposed to annulments. Rav Yitzchok Elchonon Spector Vol 2 #42:3- basing himself on interpretation of Shita Mekubetzes on Rashba Kesubos 3a See also Rashba responsa # 1162. He states that the agunah that is given an annulment remains married Rabbinically. This is true unless there exists a Get or a semblance of a Get. Similarly when the husband issues a defective Get the Rabbis will use their power to permit its use in order to free the agunah. This is the meaning of annulment mentioned in the Talmud . Since the husband wants to avoid an annulment he will agree to the instructions of the Rabbis and do what ever it takes to make the Get legitimate. Thus the agunah until she receives a Get or a defective Get remains married . An annulment on the other hand retroactively eliminated the past marriage. There never existed a marriage. If she got pregnant from an other man prior to the annulment , the annulment retroactively wipes her slate clean. Her child or children from the other man are legitimate. This is not the case if we maintain that retroactively she remains married. Any children conceived prior to the Get are illegitimate. If the woman is deemed still married Rabbinically then the child or children from man #2 could possibly be mamzarim-illegitimate Rabbinically. If she is deemed still married Biblically then her children from man #2 could be mamzarim-illegitimate Biblically . See Rambam Isurei Bioh 15:10; Laws of Gairushen 10:2. Kesef Mishna Ibid 10:2 citing Mahrik # 172. See also Rambam Gairushin 10:3. See my Responsa #54 , #55 and #59 regarding the explanation of Rav Moshe Feinstein and Rav Berkovitz that eliminate the threat that an agunah receiving an annulment nevertheless she remains married Rabbinically. Any children she has with man #2 are Mamzarim Rabbinically. Rav Moshe Feinstein and Rav Eliezer Berkovitz both answer these objections.

However Rav Yitzchok Elchonon Spector in Ein Yitzchok Even Hoezer vol 2 #42:3; Rav Eliezer Waldenberg in Tzitz Elieze Vol 1#26:2,3,4.; Rav Shloma Auerbach in Minchos Shlomo , Vol 1 #76; Brit Avrohom Even Hoezer #59:5 ; Responsa Ksav Soffer Even Hoezer # 68; Netziv -Responsa Mashiv Dovor # 79 concur with the interpretation of Shita Mekubetzes on Rashba Ksubos 3a and responsa #1162. Their position is that an agunah

even after having her marriage annulled remains married Rabbinically. In effect they do not agree with the explanations of Rav Moshe Feinstein and Rav Berkovitz.

There exist authorities who will permit annulments only if all or at least the majority of the Orthodox Rabbinical Courts of communities in a country will sanction the practice. See Berkovitz Tnai Benesuin Ubeget pp 162-163 . Namely -Tashbattz ,Mehram Elshkor ,Mahrik. and Rivosh .see Bais Yoesph on Tur Evenh Oezer end Chapter 28 citing Responsa Rashbah These authorities represent the strict school .

Berkovitz shows that Rashba -after certain additional steps are taken that are described in my Responsa -The other side of the coin-# 54 ; Ramban , Reoh-the disciple of the Ramban as recorded in Shita Mekubetzos Ksubot 3A , Rashi, Meiri, and Rabenu Yeruchim will sanction annulments -even if there does not exist the agreement of all or at least the majority of the Orthodox Rabbinical Courts of the communities in the land or any communities - if there exists no other way to free the agunah and she will remain imprisoned for life . A NEW SET OF LAWS APPLY IN SUCH A CONTINGENCY. WE WILL RELAX ALL THE REQUIREMENTS AS LONG AS WE HAVE AT LEAST ONE AUTHORITY. See my first chapter -Roots. See Berkovitz Tnai Benesuin Ubeget pps. 157-160. In Egypt in the nineteenth century annulments were given . See Nehar Mitzraim published 5668. See Freiman regarding Annulments.

**THEREFORE I HEREWITH DECLARE THAT ANNULMENTS AS PUBLIC POLICY ARE AGAINST HALACHA .THEY SHOULD NOT BE USED . ONLY IN EMERGENCY SITUATIONS WE WILL GIVE GET ZIKU AND ANNUL THE MARRIAGE OF AN AGUNAH . This is the position of Shita Mekubetzes Ksubot 3a citing Reoh in name of Ramban . Reoh reconciles the legitimate concern for the community that if annulments are sanctioned sexual mores will be relaxed . People will have affairs with the knowledge that the woman's marriage can be annulled . The stigma of illegitimacy of the child from the union of a married woman with a man not her husband will be eliminated by the annulment . This would destroy the faithfulness of the spouses for each other. It would wreck the integrity of family life . On the other hand we have to address the problem of genuine agunot that have not done any thing wrong. They are married to a man who has breached the entire marriage contract. There exists no way for the Agunah to go free other than annulling the marriage. The Ramban proposes that under such circumstances that we address the plight of the agunah and annul her marriage. The Ramban explicitly states that although there exists other communal concerns that women may exploit this lenient ruling and as a result women will not be afraid to have relations with a man not their husband and will get pregnant and bear illegitimate children , the Ramban replies "halvai she yatoharu"- we are very hopeful that they be rid of the stigma of illegitimacy . He adds that the the number of instances this is going to occur are limited that we will sanction annulments.**

A close reading of the language of the Ramban as recorded by the Shita Mekubetzos Ksubot 3A reveals contradictory positions of the Ramban . On the one hand he is strict and will only sanction an annulment when accompanied by a Get or a defective Get. On the other hand he sympathizes with the agunah. We will therefore state the following in order

to reconcile the Ramban's conflicting statements. If annulments are to become standard community practice then we must be very strict. We may in theory approve annulments ;but in order to have annulments as a community practice we must first get the acceptance of all or at least a majority of all Orthodox Rabbinical Courts in a country. This is the position of the Responsa Tashbatz # 133 . See Pesach Hagilyon Even Hoezer 28:21 See Ibid Ramo 28: 21 See Bais Yoseph on Tur Even Hoezer 28. Near end of chapter. See Berkovitz pp162-163. **HOWEVER IF AN INDIVIDUAL AGUNAH COMES -NOT A COMMUNITY - WE WILL ANNUL HER MARRIAGE.** How can we differentiate if we are dealing only with an individual agunah or with an entire community? The answer is the following: We will first try every means to persuade the husband to give a Get. Only after all our efforts have proven to be in vain ;and it remains a question of the agunah being imprisoned for life then and only then will we annul her marriage. This ruling of the Ramban was actually put into practice -not only in theory -. This is the ruling also of the Rashbah in Responsa # 1551. The Rashbah in Responsa 1206 reserves judgement. However he changes his position in Responsa #1551. Rashbah discusses that the standard practice can be changed if the majority of the Rabbinical Courts in a community agree for annulments. However it is obvious that if it is only an individual agunah that must be helped then we do not require the approval of any majority of Rabbinical Courts.

This is the solution to the problem that plagues so many Rabbis today how to reconcile the opposing paramount interests and concerns. Whom do we favor -The interest of the community or the interest of th individual agunah ? The decision is that we forbid annulments as a community standard and practice. We do everything in our power to persuade the husband to give a Get -Jewish Divorce. We have a Rabbinical trial and address his concerns. We apply social and community pressure. We apply all civil pressure available in the courts. We have a prenuptial agreement with monetary sanctions if the husband refuses to give a Get. This was approved by Rav Moshe Feinstein. It was not the RCA THAT INVENTED THIS STRATEGY; ALTHOUGH THEY PUBLICIZE THIS STRATEGY AND PEOPLE GET THE IMPRESSION THAT THEY DEVELOPED IT. But in the end when nothing helps we will annul the marriage.

What the Ramban so clearly declared has been Jewish policy for ages. See Responsa Tzitz Eliezer Vol 5 # 26 . However Tzitz Eliezer discusses the case where the Rabbinical Court can coerce the husband to give a Get. He refuses ,however, to sanction annulments as previously recorded. In principle Rav Waldenberg is willing to address the agunah's concern; but is not willing to go the full mile. It then fell on the shoulders of Rav Moshe Feinstein , Rav Berkovitz , Rav Moshe Tzeig ,Rav Eliyohu Klotzkin, Rav Moshe Rosen ;Rav Avroham Yudelovitz in Bais Ov vol 7#11; Mahrsham 1 #9 ;Aruch Hashulchon as will be demonstrated in my responsa; ; Shredei Esh-Rav Yechiel Yaakov Weinberg Vol 3# 25; Rav Gorin; Rav Ovadya Yoseph -Yabia Omer 3# 8 to go the full mile. However Rav Ovadya Yoseph informed me that on the record he is opposed to annulments. He is willing to remove the stigma of illegitimacy from a child that is born from married woman who has an affair with another man under the circumstances he discusses in his responsa . All these authorities with the exception of

**Rav Ovadye Yoseph go the full mile. Each one of these authorities have a special way that one must adopt to grant an annulment. However the important thing is that annulments are legal . Rav Rackman Rav Moshe Antelman and I have expanded the area and scope that we grant annulments. All of us are opposed that annulments become public policy . We deal with individual cases of agunot.**

**This is the position of Responsa Chsam Soffer Even Hoezer # 108 , 109; Ramo in Even Hoezer 28:22; Responsa Tashbatz Volume 1 # 133 cited in Pesach Hagilyon Ibid . See Aruch Hashulchon Even Hoezer 28:96; 157: 13-17 regarding conditional marriage to prevent the problems of Chalitza - a form of divorce to avoid levirate marriage in case of the husband dying without any children and his widow has to be freed by his brother who may be missing ,irreligious, dumb mute ,mentally retarded or refuses to consent unconditionally to free his sister in law. One must read my entire Responsa on the Four Parts of the Shulchan Aruch to clearly understand all the sources and the stipulations when and where annulments are or are not permitted.**

**I HAVE THE APPROBATION OF RAV PIEKARSRKY THE HALLACHIC CONSULTANT OF THE LATE LUBAVITZER REBBI ON MY RESPONSA ON THE FOUR PARTS OF THE SHULCHAN ARUCH. I HAVE MASTERED AND OBSERVE THE FOUR PARTS OF THE SHULCHAN ARUCH. I RELY ON THE RULING OF RAV MOSHE FEINSTEIN AND RAV BERKOVITZ. THEY INDICATE WHAT ADDITIONAL STEPS ARE NECESSARY TO TAKE IN THE CASE IN ORDER TO ANSWER THE OBJECTIONS OF SHITA MEKUBETZES CITING RASHBAH AND RAV YITZCHOK ELCHONEN AND THE OTHER AUTHORITIES CITED THAT THERE WILL NOT EXIST EVEN RABBINICALLY ANY VIOLATION OF HALLACHA AND THE CHILDREN FROM MAN #2 WILL NOT BE MAMZARIM - ILLEGITIMATE. SEE FOLLOWING OF MY RESPON SA:**

**#54, -THE OTHER SIDE OF THE COIN, #55 RAV HENKIN'S POSITION ,#59 RAV BERKOVITZ'S POSITION THAT HAS A FORWARD BY THE SHREIDE ESH RAV YECHIEL WIENBERG. [REGARDING CONDITIONAL MARRIAGES AND DIVORCES] -PROOF THEREFORE EXISTS THAT IN EMERGENCY SITUATIONS ONE CAN ANNUL THE MARRIAGE OF AN AGUNAH . SHE DOES NOT REMAIN MARRIED RABBINICALLY; HER CHILDREN DO NOT REMAIN MAMZARIM RABBINICALLY OR BIBLICALLY.**

**HOWEVER , MANY OTHER ORTHODOX RABBIS MAY NOT HAVE THIS ATTITUDE AND MAY VERY WELL RULE THAT NO MATTER WHAT ADDITIONAL STEPS ARE TAKEN THE WOMAN REMAINS MARRIED RABBINICALLY OR EVEN BIBLICALLY . THEREFORE HER CHILDREN FROM MAN #2 ARE MAMZARIM RABBINICALLY OR EVEN BIBLICALLY.**

**OUR ANNULMENT WILL BE MADE ONLY AFTER THE COUPLE HAVE ATTENDED A RABBINICAL TRIAL , THE WIFE IS PREPARED TO FOLLOW ALL THE STIPULATIONS OF THE RABBINICAL COURT . THE HUSBAND NEVERTHELESS REFUSES TO GIVE A GET. ALL REMEDIES OFFERED IN CIVIL LAW HAVE BEEN TRIED TO NO AVAIL. IN ORDER FOR THE AGUNAH NOT TO**

**REMAIN IMPRISONED FOR THE REST OF HER LIFE WE WILL THEN GIVE A GET ZIKU AND ANNUL THE AGUNAH'S MARRIAGE. WE WILL THEN BASE OURSELVES ON ALL THE RESPONSA AND MINORITY OPINIONS DESCRIBED IN MY RESPONSA IN THIS BOOK AND OTHER VOLUMES TO BE PUBLISHED AND ON TAPE.**

**When a marriage breaks up it involves the wife, husband and the children of the marriage. There exists other problems and equities that the Rabbinical court must address in accordance with Hallacha in addition to free the wife. They are -alimony, child support custody and visitation rights. Both parties- husband and wife must be prepared to accept the ruling of the Torah in the Shulchan Aruch -regarding these matters. Otherwise we will not get involved. If one of the spouses refuses to attend a Rabbinical trial or to cooperate then we will proceed without them in accordance with the rulings of Aruch Hashulchon Choshen Mishpot 26:2. WE WILL FOLLOW ALL THE LAWS OF THE CHOSHEN MISHPOT. . How long do we force the agunah to try to have the husband give her a Get-Jewish divorce? The agunah must first exhaust all existing options in civil law and social pressures to coerce her husband to give her a Get. We can not place a time limit how long they will take.**

**Possibly during this interval of time that may take one or several years both spouses can rethink the consequences of a divorce on the lives of their children. This book is a book of Halacha but one need to reference the latest research as to the havoc that divorce has on the lives of children from divorced homes. I refer the reader to the book -Between Two Worlds :The inner lives of children of divorce by Elizabeth Marquardt Crown ,288 pages \$ 24.95. This book reveals startling statistics of the insecurity and loneliness that children from divorced families experience and the obstacles they have to overcome later in life over and beyond what children from marriages that stay together face. Any couple that is thinking about divorce and all religious and secular authorities must give great weight to this reality and consider the plight of the children.**

**Why is trying to save marriages and not having your children grow up with one parent only a dirty word? The late Rav Jacobovitz, former chief Rabbi of the United Kingdom, addressing a convention of agunot used this same message and refused to make the dissolution of marriage easy. Yes , the agunah and her family want out, but this divorce can be a disaster for the husband and children .**

**The option of divorce is frequently elected by the wives and husbands rather than to work out adjustment for problems. People today have little patience . They want instant results. The easy way out. Such action can cripple the husband financially. In our lax culture where the sanctity of marriage has reached an all time low , wives many times elect separation and divorce. In most jurisdictions courts favor the women. The wives are awarded substantial sums of money as alimony and child support. Then the wife comes screaming to Bet Din that the husband is a sadist when he refuses to grant her a Get. Most women are able to garner sympathy from strangers , who do not have anything to lose- they are not paying the alimony and child support and they have not lost their wives and children . Thus the only defense**