

Balance of power changing

'Israeli society is beginning to internalize that get refusal is not a taken-for-granted, sad-but-inevitable- fact of Jewish life, but an act of dominion that they no longer want to be a part of,' says Center for Women's Justice Attorney Susan Weiss

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On Tuesday June 2, 2009, the Bar Association awarded its "Notable Women in Law" award to CWJ Attorney Susan Weiss for her work on behalf of women. Weiss has pioneered the concept of filing damage claims against husbands who refuse to give aget (divorce). "Tort claims will change the social discourse." Weiss proclaims. "We will no longer relate to a husband's refusal to give a get as his religious right, but rather as a civil wrong."

The discourse regarding get refusal is undergoing a metamorphosis. First, we acknowledged that there are husbands who withhold the get from their wives (What? Such things happen??). Women's organizations came up with a name to define this phenomenon, since there had been no words to describe it previously: "Get Refusal." Although the Beit Din is still trying to insist that there is no such thing - it just doesn't happen - they have lost the struggle for the public's consciousness. The public sadly, but readily, takes note of the harsh reality of get refusal.

The discourse underwent another change when it became clear that get refusal was a far-reaching social-legal problem, and that the legal establishment needed to accept responsibility for its resolution. It was natural to place this responsibility at the gates of the rabbinic courts and the halachic authorities. Weiss also thought so, and for that reason she founded Yad L'Isha, an organization that represents agunot and women denied their get in the rabbinic courts, and hired rabbinic advocates. However, the Beit Din didn't understand the magnitude of the task at hand. They rolled their eyes, looked right and left (mostly to the right), and asked: *Moi?*

In light of this denial and deflection, there is an increasing awareness that responsibility for the solution of this problem also rests with, and perhaps should be mostly placed on, the civil court system. Weiss' damage claims, filed in various Family Courts throughout the country, have allowed the Court to express its unequivocal opinion: "The Court has described get refusal as a 'tortuous' wrong that demands correlative justice and compensation. As a result," Weiss says "Israeli society is beginning to internalize that get refusal is not a taken-for-granted, sad-but-inevitable- fact of Jewish life, but an act of dominion that they no longer want to be a part of."

Weiss is not the least bit disturbed by the fact that the Beit Din is fighting these tort claims and taking the position that filing such claims results in an invalid "forced get" (get meuseh) . "Reality proves otherwise", says Weiss, "In most of the cases in which we have filed claims

for damages, the woman received a get within a reasonable amount of time, and the Rabbinic Court has not invalidated any of those gets."

New discourse

At a meeting of the Knesset Committee on the Status of Women that took place about a week ago regarding the expansion of the jurisdiction of the Rabbinic Courts, Weiss told the committee that it was a bit surprising that the Rabbinic Court was so adamant about proclaiming the invalidity of a get that perhaps would be written subsequent to the filing of a tort claim.

Why none other than the Legal Advisor to the Rabbinic Courts had approached her a number of years ago, while he was still working as a private attorney, and asked her to file a tort claim on behalf of his client . How ironic and poignant that one of the first damage claims filed by Weiss was at the behest of someone who has since become the Legal Advisor of the Rabbinical Courts and is now doing everything he can to fight these claims, and to deem them invalid. Incidentally, it's not surprising that immediately after filing the damage claim the husband gave a kosher get.

By bestowing the "Notable Women in Law" Award to Attorney Susan Weiss, The Bar Association has given its support to the ideas that Weiss, and others like her, are promoting. And it shows that these ideas are slowly, but surely, infiltrating into the legal consciousness of the public, and that the discourse is changing, and with it the balance of power.

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