JEWISH WOMEN UNDER SIEGE: THE FIGHT FOR SURVIVAL ON THE FRONT LINES OF LOVE AND THE LAW

Adam H Koblenz
JEWSH WOMEN UNDER SIEGE:
THE FIGHT FOR SURVIVAL ON THE FRONT LINES OF LOVE AND THE LAW

Examining the Disparate Role of Jewish Women Inherent in Traditional Jewish Law and Analyzing its Impact on the Religious and Secular Courts’ Treatment of Battered Jewish Women within Jewish Divorce Proceedings

I. INTRODUCTION

A myth persists in contemporary American society that domestic violence is virtually non-existent in the Jewish community today. This eternal myth subsists both within the Jewish population as well as outside. The inconvenient truth is that domestic violence has endured in the Jewish community for centuries. This is evidenced by the teachings of traditional Jewish law, known as Halakhah, which institutionalized wife-abuse and barred women from active participation in all aspects of Jewish life.¹ A modern societal illusion endures that Jewish men make “perfect” husbands, and are incapable of committing domestic violence.² However, studies show that domestic violence occurs in Jewish households at a comparable rate to other ethnic and religious groups, and fails to discriminate regardless of socioeconomic status or educational background.³ In fact, Jewish women, like other women afflicted by domestic violence, are victims of a crime that often combines the effects of physical, verbal and mental abuse.⁴ Unlike other affected groups, battered Jewish women, especially, face the harrowing challenge of fighting domestic violence on two distinct yet diametrically opposed battlegrounds. This dichotomy can be seen in the direct confrontation that currently lies between: (i) the ancient teachings of traditional Jewish law, and (ii) the development of modern American secular law, and its impact on the interpretation of religious doctrinal issues under the United States Constitution.
The critical issues that will be addressed in this article include, in pertinent part: (1) whether the underlying stigma associated with battered Jewish women negatively impacts the secular courts’ treatment of battered Jewish women in domestic violence cases; (2) whether the American secular courts’ reluctance to interpret traditional Jewish law is violative of battered Jewish women’s constitutional right to equal protection; and (3) whether rabbis/clergy have a legal duty to act as intermediaries between battered Jewish women and the legal system. By examining the disparate and/or inferior role of women inherent within traditional Jewish law and analyzing its impact on the secular and religious courts’ treatment of Jewish women in the context of Jewish divorce proceedings, this article will demonstrate that today battered Jewish women still struggle to obtain equal protection and access to the American legal system.

II. EVALUATING THE UNDERLYING STIGMA ASSOCIATED WITH JEWISH WOMEN AND ITS EFFECT ON THE SECULAR COURTS’ TREATMENT OF ABUSED JEWISH WOMEN IN DOMESTIC VIOLENCE CASES

A. Gender Disparity Created By Traditional Jewish Law (Halakhah)

1. The Root of Inequity

The stigmatization of Jewish women as being inferior to Jewish men has endured for centuries. In evaluating the American secular courts’ treatment of battered Jewish women, it is imperative to understand the origin of this stigmatization. From a historical context, “[i]n Judaism, most of the existing body of religious law was created by the rabbis of the Mishnah and Talmud, who lived between 200 B.C.E. and 500 C.E., and by medieval commentators who followed them. This body of religious law was codified between the 12th and 16th centuries, most authoritatively in the Shulhan Arukh (“Set Table”), completed by Rabbi Joseph Caro in 1555, and in The Mappah (“Tablecloth”), a set of notes to the Shulhan Arukh written by Rabbi Moses
Isserles of Krakow in the late 16\textsuperscript{th} century, which reflected the differences between the Sephardic and Ashkenazic Jewish traditions.\textsuperscript{7} The root of gender inequity in the Jewish community is manifest in the ancient teachings of \textit{Halakhah} as will be discussed in this article.

“Marriage in Judaism has ‘two fundamental purposes,’ namely, the satisfaction of the spouses, and the procreation of children.”\textsuperscript{8} Within traditional Jewish law [\textit{Halakhah}] and culture, Jewish women were historically treated as inferior to Jewish men in most facets of Jewish life.\textsuperscript{9} Over time, a patriarchy evolved from the teachings of \textit{Halakhah}, the core of which established Jewish men as the focal point in the Jewish community.\textsuperscript{10} Jewish women were essentially treated as “second class” citizens.\textsuperscript{11} They were viewed as the chattel or property of their husbands.\textsuperscript{12} A Jewish woman’s main purpose on earth was to be at the disposal of her husband and to bear him children.\textsuperscript{13} Accordingly, the disparate role of Jewish women was apparent within familial relationships, religious practices and cultural traditions.\textsuperscript{14}

The institutionalization of domestic abuse within \textit{Halakhah} has been endorsed “by some of the most highly [revered] and influential rabbis” in the Jewish faith since the beginning of time.\textsuperscript{15} In fact, “[i]n a commentary on the \textit{Talmud} written in the sixteenth century, Solomon Luria in Yam Shel Shelomo, exclaimed that: ‘a husband is permitted to beat his wife in any matter when she acts against the law of the divine Torah. He can beat her until her soul departs, even if she transgresses only a negative commandment.’”\textsuperscript{16}

In contrast, there is evidence to suggest that some of the ancient rabbinical commentaries of that time actually condemned domestic violence.\textsuperscript{17} Worthy of note, “Rabbi Meir of Rothenberg (thirteenth-century) recommended that court sanctions should increase if a husband fails to keep his promise to mend his ways and does not desist from his shameful practices.”\textsuperscript{18} Nonetheless, it appears that such anti-abuse commentaries were the exception rather than the
norm, insofar as “the most highly regarded of rabbis [in the Jewish faith] wrote abuse into the
tradition and so it remains, institutionalizing the battering of women.”19

Modern assertions contend that *Halakhah* teachings perpetuate the battering culture of
Jewish women. In fact, “[c]ommunities of the religiously observant typically exist within a
larger society, and concealment--e.g., of domestic abuse--may be condoned and even abetted by
others within the community in order to avoid a collective loss of face.”20 This notion is further
evidenced by an array of rabbinical commentaries by prominent Jewish leaders who continue to
“endors[e] wife-beating” today.21 For example, one prominent religious commentator on
*Halakhah* recently asserted: “[w]e should not compel a husband to divorce on the basis of such
grounds [wife-beating] since they [husband] were not mentioned by any of the famous
authorities.”22

Additionally, *Halakhah* teaches that certain types of wife-beatings are “justified” while
disparaging others that are not.23 Such blasphemy can be seen within certain portions of the
Torah, which approved of “wife-abuse” even in the most benign circumstances. Consistent with
this ideology, if a “wife [were to] curse her husband or her husband’s family,” or she simply
“failed to complete her household chores,”24 the husband would be justified in “disciplining” her
for her purported “transgressions.”25 However, in situations where the husband is the primary
cause of the abuse, meaning that the husband recklessly beat his wife without “cause,” *Halakhah*
encourages and/or “compels” the husband to divorce his wife without pretense.26

2. The Role of Sexism

Within *Halakhah*, sexism plays a critical role in the perpetuation of domestic violence in
the Jewish community.27 The pervasiveness of sexism varies depending on the branch of
Judaism at issue. Adherence to traditional Jewish law can be an effective indicator of a particular branch’s stance on gender discrimination (as more fully set forth below).

In this vein, it is not surprising that sexism is most prevalent in the Orthodox community. “The Orthodox lifestyle engenders [in] deferential women docile appurtenances to male authority [that] only serve to complement their men, and lays the groundwork for a battering culture.” In fact, the Orthodox Movement condones the exclusion of women in both familial and religious practices without regard for contemporary changes in modern secular civil rights law.

Likewise, Orthodox women who did not bear males were essentially scorned by their community, since Jewish boys were considered the critical sex for the perpetuation of Jewish culture, customs and religion. Case in point, “[w]hen a male child is born in a Jewish family, there is a special ceremony for friends and relatives. The child is given a Jewish name and circumcised (the brit milah or bris) eight (8) days following his birth. However, there is no traditional ceremony in honor of the birth of a baby girl. If anything, in the past, a daughter’s birth was a disappointment to a Jewish family . . . Later in a child’s life, in traditional Judaism[,] only a male becomes Bar Mitzvah and formally assumes adult responsibilities at the age of thirteen’ . . . By comparison, ‘[t]hirteen-year-old girls enjoy no traditional formal rite of passage.’” There is “[n]o fanfare, ceremony, or applause [to] mark their entry into adulthood.” This belief is fostered by the rationale that without the proliferation of Jewish men, Judaism would not otherwise steadily and/or consistently progress forward. This inequity can also be seen within the Orthodox Jewish court system, commonly referred to as a beit din, where the court “will not admit the testimony of women except in certain emergency circumstances” and will be addressed in greater detail later in this article.
In addition, Orthodox Jewish women were barred by Jewish law to participate in the undertaking of any and all daily religious ceremonies.\textsuperscript{37} These rituals consisted of, but were not limited to, the listening of Torah reading and the reciting of sacred prayers.\textsuperscript{38} Pursuant to Jewish law, Orthodox women were forbidden from being “called to the Torah, recit[ing] blessings, or read[ing] passages of scripture, all of which are [considered] great honors.”\textsuperscript{39} In fact, Orthodox Jewish women were also excluded from reciting the mourner’s \textit{Kaddish}, a sacred prayer specifically recited in honor of the dead.\textsuperscript{40} In effect, these exclusionary practices have unnecessarily “isolated” Jewish women and deprived them of a vital opportunity to “pray at a time when they needed spiritual solace the most.”\textsuperscript{41} Towards this end, the fact that Jewish women are excluded from certain religious practices and “obligations commanded by God” provides further evidence of the inequity and contempt for women that have historically defined the Orthodox community’s stance on domestic violence.\textsuperscript{42}

Along these lines, the Conservative Movement is slightly less stringent than the Orthodox Movement in its exclusionary policies, but not nearly as inclusive as the Reform Movement.\textsuperscript{43} The Reform Movement promotes a greater sense of gender equity in both religious practices and customs.\textsuperscript{44} Whereas rabbis in the Reform community critically denounce the modern-day sexism that permeates other branches of Judaism, the Conservative and Orthodox Movements have not publicly advocated against domestic violence, because of their reliance on antiquated and unjust religious doctrines.\textsuperscript{45}

Furthermore, sexism also infiltrates Jewish cultural perceptions and attitudes about women within the Jewish family.\textsuperscript{46} These “[i]ngrained attitudes can outlive symbolic rituals and these attitudes might well continue to influence the upbringing of many non-observant Jews.”\textsuperscript{47} Traditional values such as the exclusion of women in education continue to influence the
attitudes and practices of Jewish men with regards to raising their daughters today. As a result, greater emphasis is placed on sons achieving higher educational and/or professional goals than their daughters. These underlying attitudes and cultural practices facilitate a sub-culture within the Jewish community that attempts to and/or establishes men as superior to women. Unfortunately, implicit within this gender warfare are ingrained beliefs that increase the likelihood that Jewish men may commit domestic violence in order to sustain this self-imposed institutionalized form of dominance over Jewish women.

B. Societal Stereotypes and Antipathy Engendered by the Courts toward Jewish Women

1. The Lasting Effects of Anti-Semitism

Anti-Semitic stereotypes also play a critical role in spawning societal antipathy towards Jewish women. For one, the typical stereotype that Jewish women are almost always “catered to by their fathers and dominant of their husbands” engenders a false reality that is dangerous to the security of Jewish women. Likewise, the modern societal perception endures that Jewish women are incapable of ever becoming victims of domestic violence based on flawed notions of greater economic freedom and higher levels of education than their female counterparts. “Stamped as an abrasive, emasculating, and overbearing mother or a pampered, demanding, and self-centered shrew, a Jewish woman hardly evokes sympathy from the public or a court of law.” In this regard, the problem lies in society’s flawed portrayal of Jewish women as “unsympathetic figures” who possess great power over the men in their lives. To that end, the result is a “fostering” of antipathy amongst “law enforcement officials” and the courts alike for abused Jewish women seeking judicial intervention.

Peeling back the layers, it is more often the case that Jewish women are simply afraid to report domestic violence directly to the authorities. This belief is primarily engendered by fear
that law enforcement will undoubtedly fail to protect them should an abusive episode ensue. Because of this illusory notion, “Jewish” domestic violence remains virtually undetected by the outside public. In turn, Jewish women tend to succumb at the hands of their abusers due to the absence of viable options or preemptive recourse. In fact, the reporting of domestic violence can also create animosity within the Jewish community itself, often polarizing Jewish women from one another within the faith. Furthermore, abused Jewish women often face the “unsympathetic scorn” of other Jewish women, who frown upon those who dare accuse abusive Jewish men of such heinous and immoral crimes. As one scholar aptly noted: “[t]o some Jews, she [Jewish woman] is nothing short of a traitor who undermines efforts to combat the more pressing issue of anti-Semitism.” This “‘exposure of Jewish misconduct to the Christian majority’ is referred to as a ‘shanda;’ meaning ‘a shame that brings disgrace upon all Jews in that each shoulders the burden of representing an entire people.’”

Undeniably, the reality is that Jewish women, particularly of the Orthodox faith, possess very little power in relation to men. In actuality, Jewish women are excluded from meaningful participation in religion and within the home. This ill-conceived dominance is fostered by the disturbing fact that Jewish women are raised to believe the stereotype that Jewish men make ideal husbands and are incapable of committing domestic violence. In turn, these women often become paralyzed and unable to truly conceptualize the violence that defines their daily existence. Because the reporting of domestic violence is much maligned within the Jewish community, it is not uncommon for a rabbi to discredit a victim’s account or recollection of abuse. In certain situations, for example, a rabbi may even instruct a Jewish woman to work more diligently for the “sake of shalom bayit [peace in the home],” rather than provide aid or comfort in times of need.
In addition, there is strong evidence to suggest that the inherent failure by some legal scholars to denounce domestic violence in the Jewish community has sharply contributed to the perils experienced by battered Jewish women in eradicating this societal plight. Notably, in an article entitled: Recent Development: Lifting the Veil of Secrecy: Domestic Violence in the Jewish Community, author Beverly Horsburgh further extrapolated on this point and asserted that: “[j]ust like the romance of the Jewish family, the romanticization of Halakhah increases the difficulties of Jewish women to receive the help they so desperately need. The reluctance of legal scholars to criticize Jewish law in effect amounts to a condonation of the status quo.” This impediment is solely predicated upon an ill-conceived cultural notion that self-help is secondary to the need to reflect a facade of stability to the outside world. Based on the foregoing, anecdotal evidence suggests that Jewish women still struggle to obtain adequate recourse under instances of domestic violence.

C. Statistical Data and Clinical Studies

According to statistical data, “[o]f the approximately fourteen and a half million Jews in the world, almost six million live in the United States. Of those nearly six million, almost 1.7 million live in New York.” Clinical/case studies, administered by a variety of distinguished Jewish organizations and independent researchers, suggest that anywhere from fifteen (15) to thirty (30) percent of Jewish women have been abused at one time during their lifetime. Surprisingly, these figures serve as an accurate representative cross-section to most other ethnic and religious groups afflicted by domestic violence in the United States today. In fact, the national rate among all groups and/or nationalities impacted by domestic violence ranges anywhere from fifteen (15) to twenty-five (25) percent of all United States households. This figure is further corroborated by Richard Gelles, Director of the Family Project at the University
of Rhode Island, who estimates that “[one] (1) in [one-hundred] (100) Jewish women and [one] (1) in [thirty] (30) Jewish children are abused.” As staggering as the aforesaid data suggests, even more important is the intrinsic value of what it underscores, namely that domestic violence is an epidemic that fails to discriminate irrespective of race, color or creed in this country.

Moreover, in a recent study released on October 14, 2004 by Jewish Women International (“JWI”) and Baltimore’s Counseling, Helpline and Network for Abused Women (“CHANA”), the study evaluated the evolving state of domestic violence in the Jewish community and proposed a regimen for resolving it. This study produced the following five (5) important findings: “(1) domestic violence is as prevalent in the Jewish community as it is in any other community; (2) due to stereotypes that Jewish professional men do not abuse their wives, law enforcement, rabbis and social services tend to ignore the problem; (3) the embarrassment and shame that battered Jewish women felt made it even less probable that Jewish women would affirmatively and unilaterally seek out help; (4) Jewish women are less likely to use emergency shelters shortly after departure from an abusive home; and (5) acknowledgement of the vital role that rabbis and/or spiritual leaders play in aiding and/or leading the Jewish community in confronting domestic violence.”

In sum, this particular study revealed that battered Jewish women were the least likely of any ethnic or religious group to utilize available resources or implement self-help remedies such as women’s shelters, support groups or social services. This statistic is alarming considering that “Jewish women often stay in violent relationships longer than women in the non-Jewish community.” Moreover, while there are reasons as to why these figures may vary, it is due, in large part, to the often cited concern by Jewish women to maintain “shalom bayit;” also known as “peace in the home.” The Jewish Women International Resource Guide for Rabbis suggests
that in a survey conducted by the Coalition on Domestic Violence in Cleveland, Ohio, “of those women reporting spousal abuse, less than [fifty] 50 percent sought assistance to escape their situation.” Along these lines, it has been “reported that Jewish women stay in abusive relationships for 7-13 years whereas women in non-Jewish homes stay in such relationships for 3-5 years.” Not surprisingly, abused Jewish women, embarrassed by their plight, are less inclined to seek public assistance. This dilemma is exacerbated by a societal perception that Jewish women are well educated and financially secure, coupled with the fact that Orthodox women feel compelled to maintain a fictional image of stability even in times of desperation. However, the heart of the problem lies within the Jewish community itself, as evidenced by the concealment of rampant domestic violence; thus, in effect, making it even more difficult for Jewish women to come forward.

In an attempt to address this concern, the Jewish Women International organization, in a study released in March 2004, revealed its findings on the state of Jewish domestic violence at the National Needs Assessment Conference. Significantly, this individual study demonstrated the need for increased funding in order to promote awareness, improve existing outreach programs, and implement new strategies for combating domestic abuse in the Jewish community. Notwithstanding the above, statistical data on “Jewish” domestic violence is quite scarce, due in large part, to under-reporting. Currently, there are efforts underway to promote awareness and increase funding for this genre of research. Furthermore, reports suggest that as new studies surface in the next few years, society will not only gain greater perspective, but begin to expose the realities that pervade domestic violence in the Jewish community.
III. ANALYZING THE SECULAR COURTS’ RELUCTANCE TO INTERFERE WITH RELIGIOUS DOCTRINAL PRACTICES AND ITS IMPACT ON FIRST AMENDMENT RIGHTS

A. First Amendment Analysis: The Establishment and Exercise Clause(s)

It is well-settled that the Establishment and Exercise Clauses under the First Amendment of the United States Constitution establish an individual’s right to “freely practice religion.” However, an inherent and unavoidable/undeniable conflict has arisen in the courts’ interpretation of these Clauses in the context of religious doctrinal matters in recent years. With enhanced power, comes greater responsibility. In exploring this apparent dichotomy, the United States Supreme Court has recognized a “‘zone of accommodations of religion’ that are permitted by the Establishment Clause, though not required by the Free Exercise Clause, but it has failed to articulate the relationship between the two clauses and thus to demarcate clearly this zone.”

On one hand, the Constitution seemingly prohibits government from endorsing a particular religion and, on the other, it imposes restrictions on the government’s ability to intrude upon an individual’s right to freely practice religion. A number of legal scholars have intimated that in order to satisfy the purpose of the First Amendment, albeit without governmental intrusion, States should “act to achieve secular goals in a religiously neutral manner.” To that end, the government is not entirely restricted from interpreting religious doctrinal matters predicated upon decisions fashioned solely to achieve secular objectives. This realization is patent in the context of Jewish divorce law, where the courts often struggle to protect the rights of battered Jewish women without entangling itself in the interpretation of religious doctrinal issues, in violation of Constitutional law.

Public policy has also played an influential role in shaping the courts’ perspective on this issue. Arguably, the civil secular courts’ reluctance to interfere in certain religious practices has
had an adverse effect, up until this juncture, in remedying domestic violence in the Jewish community.\textsuperscript{99} This rationale is predicated upon the courts’ unwillingness to “entangle” itself in Jewish religious doctrine. The primary reasons supporting this position include: “(i) the creation of a subculture where Jewish women are less willing and/or able to come forward, (ii) a well-established fear of directly confronting an abuser in court, (iii) the convoluted perception that the abuser’s rights will be protected over the victim’s because of the inherent inequity in traditional Jewish law, and (iv) the notion that the abuse will subsist and further escalate because of the courts’ inability to guarantee protection.”\textsuperscript{100} Consequently, the courts are hesitant to rule on certain religious practices and/or interpret Jewish law for fear of potential “backlash” created by a perception that the court might be infringing upon the Constitutional rights of its Jewish litigants.\textsuperscript{101}

1. \textit{Lemon v. Kurtzman}: The Lemon Test

The United States Supreme Court case of \textit{Lemon v. Kurtzman} is instructive in this regard.\textsuperscript{102} Of seminal import, in \textit{Lemon v. Kurtzman}, the Supreme Court “articulated a three-prong test for determining Establishment Clause” infractions.\textsuperscript{103} “[The] Lemon [test] requires that government actions: (1) have a secular purpose, (2) a primary effect that neither advances nor inhibits religion, and (3) avoids creating an ‘excessive government entanglement with religion’ which might erode the principle of government neutrality in religious decision-making.”\textsuperscript{104} Notably, the third prong of the \textit{Lemon} test is the most complicated to apply in situations where the secular courts are called upon to implement and/or effectuate “religious [doctrinal] law.”\textsuperscript{105} Accordingly, while the Supreme Court has indicated that the \textit{Lemon} test “‘provides no more than a helpful signpost’ regarding Establishment Clause cases, the Supreme
Court has utilized the test in most Establishment Clause cases over the ‘past twenty five years.’”

Critically, however, the *Lemon* test has been denounced in recent years by several United States Supreme Court Justices in favor of the modern view for the reasons discussed herein. In particular, Associate Justice Sandra Day O’Connor (Retired) argued for the substitution of the “[secular] purpose prong in favor of ‘asking whether government intends to convey a message of endorsement or disapproval of religion.’” The rational behind this substitution tends to place a higher burden on government to decipher between “inadvertent” versus “intentional” intrusion on religious doctrinal issues affecting the States.

2. **The Modern View: *Avitzur v. Avitzur***

The New York Court of Appeals decision in *Avitzur v. Avitzur*, a leading case in Jewish divorce law, stands as the modern “standard of review” with regard to the secular courts’ interpretation of Jewish doctrinal issues. Decided in 1983, the Court held that “a State may adopt any approach to resolving religious disputes which does not entail consideration of doctrinal matters.” In this regard, the Court specifically approved the use of the “‘neutral principles of law’ approach as consistent with constitutional limitations.” However, it is worth noting that the Establishment Clause prevents government from “placing its official support behind a religion while the free exercise clause bars the government from interfering with the religious practices of its citizens.”

Notably, some legal scholars suggest that the State has an “overriding interest to uphold the fundamental right [of women] to remarry over any incidental effect a court’s decision might impose on a defendant-husband’s free exercise claim,” while other scholarly vantage points stress that the courts have empowered batterers with a viable defense for this abhorrent crime
against humanity. The latter position is predicated upon the argument that the function of government is to respect the “right [of individuals] to practice religious beliefs in conformance with that particular faith’s forms of worship and customs.” Therefore, before a court is able to fashion a distinct and comprehensive ruling, it must first determine whether “the practice is religious in nature, does not unduly burden an individual’s religious beliefs and [whether] there is a compelling State interest.”

B. The Jewish Divorce Decree: Understanding the Significance of a Get

1. Procedural Requirements: Overview

Divorce is a central issue surrounding domestic violence in the Jewish faith. “The last quarter century has seen a rise in the divorce rate for all Jews. Approximately thirty-three percent of all Jewish marriages end in divorce. Between twenty thousand and thirty thousand Jewish marriages in the United States end in divorce every year.” Specifically, this issue is most directly confronted by Jewish women seeking to obtain both a civil and religious divorce. In fact, the courts’ reluctance to interpret religious law tends to place an undue burden on a Jewish woman seeking to flee her abuser. This dichotomy is patently visible as “[t]he interaction between religious law and secular law in the divorce arena demonstrates the limits on state power to empower Jewish battered women.”

Under traditional Jewish law, Jewish women cannot, under any circumstances, ever “initiate” a divorce. Generally, Jewish divorce practice is considered a “unilateral” one since men are the only party technically afforded the ability to initiate a divorce. In order for a Jewish woman to effectuate a divorce under Jewish law, she must first obtain a Jewish divorce decree known as a get. “The source for Jewish divorce law is Deuteronomy 24:1 which preconditions divorce on a husband writing his wife a get.” The only “built-in protection” in
place to facilitate this process is evidenced by the fact that Jewish women must first provide their consent to the divorce itself.\textsuperscript{122}

According to traditional Jewish law, a secular civil divorce does not have the effect of a Jewish divorce decree in the Jewish community.\textsuperscript{123} If a Jewish woman does not obtain a \textit{get}, she is prohibited under Jewish law from remarrying in her lifetime.\textsuperscript{124} Those women who are unable to obtain a \textit{get} from their husbands are referred to as \textit{agunah} or “untouchable.”\textsuperscript{125} As such, “[t]he increasing divorce rate is certain to create an accompanying increase in the number of agunot.”\textsuperscript{126} Recent estimates indicate that as many as [fifteen-thousand] 15,000 Orthodox Jewish women in New York alone are \textit{agunot}.”\textsuperscript{127}

\textbf{2. Dissecting the Agunah Problem}

Of critical import, “[t]he agunah problem is [deeply] rooted in [traditional] Jewish divorce law.” There are five [(5)] basic scenarios under which a woman becomes an \textit{agunah}.\textsuperscript{128} The first situation is the husband’s abandonment of his wife and subsequent disappearance.\textsuperscript{129} The second [instance] is where the husband dies, and there is insufficient proof of his death.\textsuperscript{130} The third situation [occurs] . . . where the marriage is no longer viable, and the husband is unfortunately mentally incompetent and, therefore, cannot grant a divorce.\textsuperscript{131} The fourth scenario is the Levirate marriage.\textsuperscript{132} The fifth [scenario] is where the husband is alive, well, and accounted for, but [patently] refuses to provide his wife a \textit{get} despite being [fully] able to do so.\textsuperscript{133} While all five of these situations ‘present serious religious problems’ . . . this article will concentrate on the ‘fifth scenario’ as it is the ‘most pervasive and typical situation.’”\textsuperscript{134}

The stigma that attaches to one who has been characterized as an \textit{agunah} is debilitating. The side effects of such a classification can result in tremendous emotional/psychological stress and undue burden.\textsuperscript{135} “They [Jewish women] are unable to remarry under Jewish law and are
forced to live in marital limbo without a *get.*”\textsuperscript{136} It is considered adulterous conduct for an *agunah* to remarry.\textsuperscript{137} Moreover, any children who are the product of the marriage are considered illegitimate.\textsuperscript{138} “[A]gunahs have virtually no standing in the Jewish community . . . [and] are trapped, unable to rebuild their lives as long as the *get* issue remains unresolved.”\textsuperscript{139} “Furthermore, it is not uncommon for a woman to be an *agunah* for many years . . . e.g. [o]ne woman was reported to be an *agunah* for eighteen (18) years.”\textsuperscript{140}

By and large, Jewish men utilize the Jewish divorce proceeding as a “mechanism of gaining control.”\textsuperscript{141} The reasons behind “a husband’s refusal to deliver a *get* is not likely motivated by a sincere religious conviction.”\textsuperscript{142} This process is effectuated without fear of retribution. In this regard, “[m]andatory arrest of alleged domestic abusers tends to increase, not decrease, domestic violence among men who do not find arrest shameful, while it reduces domestic violence among those who do. Compliance with a request or demand is more likely if the subject likes the requester or perceives that others comply. Compliance does increase when threats are made, but only if the threats are public and the opportunity to comply is private, suggesting that shame rather than fear is the principal factor in increasing compliance. If shaming is ongoing and does not offer the wrongdoer a means of reintegreation, as through a ceremony celebrating a return to compliance, the ties of the wrongdoer with the relevant group are weakened and the wrongdoer simply decides he or she doesn’t care anymore what the group thinks.”\textsuperscript{143}

In fact, some Jewish men often refuse to offer the *get* as a way to remain seemingly “bonded” to the woman that they have battered for years.\textsuperscript{144} Moreover, “[t]here have been reports of husbands refusing to give their respective [wives a] *get* unless their wives provide them with certain financial and non-financial incentives. These demands border on blackmail
and extortion. Demands have ranged from $150,000 to $200,000.”\textsuperscript{145} Some Jewish men even utilize these proceedings as a means of “manipulating alimony proceedings.”\textsuperscript{146} For example, “[i]n one situation, a husband requested $200,000 and minimal child support payments before he would give his wife a get. In another situation, the husband requested $100,000, then one million dollars, and then her father’s pension.”\textsuperscript{147} In other instances, “Jewish men utilize the get as a means of gaining leverage in custody proceedings, child support payments, property division, and/or spousal support.”\textsuperscript{148} Therefore, the husband is, in effect, attempting to “chastise” his wife for her purported “transgressions” over the course of the marriage, without fear of retribution or public shame.\textsuperscript{149} Judaism characterizes this type of “spiteful” behavior as “chutzpah.”\textsuperscript{150}

In order to remedy this inherent imbalance of power and/or tactical advantage maintained by Jewish men, recent court decisions have interpreted Jewish law pursuant to the terms of contract law. In doing so, some courts have elected to treat Jewish divorce as a dissolution proceeding agreed to by both parties, at the onset of a marriage, rather than entangle the courts with the interpretation of religious doctrinal issues.\textsuperscript{151} The case of \textit{In Re Marriage Goldman} is instructive in this regard. Of seminal import, \textit{In Re Marriage Goldman} stands as the “first case to be decided on the appellate level to interpret the \textit{ketubah} [Jewish marriage contract] as an implied contract to give a get.”\textsuperscript{152} However, despite this ruling by the Illinois Court of Appeals, a majority of courts nationwide continue to acknowledge that, among the secular courts’ duties, a fine line remains between interpreting Jewish law and enforcing principles of contract law, insofar as that law was originally formulated for utilization during a genuine religious practice.\textsuperscript{153}

Similarly, in \textit{Avitzur v. Avitzur}, New York’s highest court ruled “that judicial involvement in matters touching upon religious concerns has been constitutionally limited, and
courts should not resolve such controversies in a manner requiring consideration of religious doctrine.’”\textsuperscript{154} In this regard, “‘courts may rely upon internal documents . . . but only if those documents do not require interpretation of ecclesiastical doctrine.’ ‘. . . [J]udicial involvement is [only] permitted when the case can be ‘decided solely upon the application of neutral principles of . . . law, without reference to any religious principle.’”\textsuperscript{155} Because the New York Court of Appeals determined that there was no “religious doctrinal issue” to resolve in \textit{Avitzur} and its progeny, the New York Court of Appeals was able to fashion prospective rulings in a manner consistent with the guarantees of the First Amendment.\textsuperscript{156}

Notably, and not without controversy, \textit{Avitzur} and its progeny established the notion that the “act of consent” to a \textit{get} or divorce decree by any means is not religious in nature. In fact, the major rationale for supporting this decision hinges on the fact that rabbis are not required under traditional Jewish law to preside over the \textit{get} proceeding.\textsuperscript{157} The court determined that it was constitutional to enforce the secular divorce provisions within the Jewish marriage contract [\textit{ketubah}].\textsuperscript{158} Consequently, the holding in \textit{Avitzur} was an important decision as it laid the infrastructure for subsequent court rulings to affirm the enforcement of secular law practices interpreting religious doctrinal issues.\textsuperscript{159}

\textbf{C. New York Law – \textit{Get} Statute}

\textbf{1. Proposed Legislation}

Despite the decision in \textit{Avitzur}, the issue of a Jewish woman’s constitutional right to obtain a \textit{get} “remained, to a large extent, unresolved.”\textsuperscript{160} In an attempt to “remedy the[se] circumstances, the New York State Legislature endeavored to amend the Domestic Relations Law to combat problems such as this one. This change was effectuated by the supplementation of Section 253 entitled: “[R]emoval-of-barriers to marriage.”\textsuperscript{161} That portion of the statute was
commonly referred to as the “Get Statute,” because of its targeted impact on Jewish divorce proceedings in particular. Politicians alike supported this bill, including Mario Coumo, then Governor of New York, who stated:

*The bill solves a problem created by the interrelation of Jewish Law and New York Civil Law. Traditional Jewish Law does not recognize a secular divorce as sufficient to dissolve a marriage, but rather requires that the husband give the wife a . . . get.*

(emphasis added).

Arguably, “New York’s ‘[Get] [S]tatute’ is flawed because it is of limited applicability and still allows for situations in which the Jewish wife is civilly divorced but religiously married.” At this juncture, the New York “Get Statute” currently prohibits a State from entering a “final judgment” in any divorce proceeding that was officiated by a clergyman of any religion. However, this process cannot be effectuated until the plaintiff has personally submitted a statement acknowledging that he or she has destroyed any “barrier to remarriage that is solely within his or her power to remove.” Ultimately, the purpose of this statute was to promote an individual’s fundamental right to remarry, while preserving adequate recourse for [Jewish] women seeking to break away from abusive relationships, tenuously based on antiquated technicalities contained within the *ketubah.* Based on these perspectives, most critics would likely agree that the “Get Statute” contradicted the holding in *Avitzur, albeit* based on the legislative flexibility and unbridled discretion afforded contemporary judges to interpret religious doctrinal issues, absent fear of retribution and/or public condemnation.

Not without its criticism, some constitutional scholars argue that the “Get Statute” is patently violative of the Establishment Clause of the First Amendment to the Constitution for the reasons discussed in this article. This skepticism stems from the notion that the “Get Statute”
allows clergyman to prevent a divorce from occurring simply by “submitting a statement rebutting the removal of barriers statement.” 166 For one, some legal scholars contend that the “Get Statute” directly interferes with an individual’s right to freely contract. While other schools of thought deride the courts’ failure to effectively maintain the separation of church and state within the adjudication process. Some critics denounce the “Get Statute” simply for its inclusion of clergyman in the divorce proceeding because it creates a perception that the divorce proceeding is somehow “religious in nature.” 167 Along these lines, one authority on the Constitution’s religious clauses argues that: “[w]ith regards to the New York courts’ interpretation of the ‘Get Statute,’ separation of church and state is virtually non-existent. New York Judges, irrespective of precedent or statutory analysis, fashion decisions that hinge on the borderline between infringement and constitutionality.” 168 Notwithstanding the above, the counter-argument “according to many Jewish scholars, is that the get procedure is not religious in nature because it involves no act of prayer or worship.” 169 For these reasons alone, “[t]he inability to remarry within Judaism can thus be described as an indirect effect of civil divorce; the state’s attempt to offset this effect constitutes an accommodation of religion.” 170

Furthermore, without fail, the “Get Statute” falls short of enabling Jewish women to obtain a get, simply because there is no provision within the statute that requires a defendant-husband to submit a “removal of barriers” statement during a civil divorce proceeding. 171 At this juncture, a defendant-husband still reserves the right to refuse to grant his wife a get. 172 From a public policy standpoint, it seems counter-intuitive to require the plaintiff-wife to submit a statement declaring that she has removed all barriers preventing a divorce, when one considers the fact that in most cases it is the husband who is likely to have erected these obstacles. For the
reasons stated above, there is considerable evidence to suggest that the “Get Statute” failed to achieve its desired objectives, and more work clearly needs to be done.

2. **Recent Developments**

To further combat this disparity, former New York State Chief Judge Judith S. Kaye recently “helped implement New York’s first generation of problem-solving courts such as an integrated domestic violence court, where a single judge presides over one family’s civil, criminal and matrimonial matters, as well as novel drug court approaches to addicted repeat offenders, which combine drug treatment, judicial monitoring, graduated sanctions and rewards.” The results of this innovative and progressive agenda of reform have yet to be realized, but should serve as a paradigm for other jurisdictions to follow in the years ahead.

D. **Alternative Solutions for Obtaining a Get**

1. **Arbitration: Jewish Religious Panel (Beit din)**

Arbitration is an alternative method by which battered Jewish women are afforded an opportunity to redress their grievances. The arbitration process is facilitated by way of Jewish religious courts, known as *beit din*, or “house of justice and consists of three members.” From an operational standpoint, the *beit din* functions as an arbitration panel overseeing religious disputes. This function is attributable, in pertinent part, to a “special knowledge” of traditional Jewish law and customs. As such, a legally binding decision can be made by the *beit din* so long as both parties sign an arbitration agreement consenting to the *beit din’s* decision. It is worth noting that arbitration may foster inequity in certain situations. As one scholar explained: “arbitration in private religious courts is likely to be inappropriate, as mediation usually results in enhancing the power imbalance between the parties and minimizing the woman’s claims against her abuser.”
Therefore, while the *beit din* appears to be a viable alternative to dispute resolution by and amongst the secular courts in resolving Jewish divorce disputes, the strong reality, from a technical standpoint, is that the *beit din* still does *not* possess the requisite authority to coerce the husband to consent to issuing his wife a *get*.\(^{179}\)

### 2. Prenuptial Agreement

The prenuptial agreement provides another vehicle for Jewish women seeking to avoid the strict consequences of Jewish law. In fact, some modern Jewish couples have entered into prenuptial agreements in order to protect Jewish women from the consequences of being classified as an *agunah* upon termination of the marriage.\(^{180}\) Prenuptial agreements are generally considered “civilly enforceable contracts” depending on the circumstances surrounding their execution.\(^{181}\) Prenuptial agreements afford a married couple the option of: “(1) appearing before a religious court or *beit din* to resolve marital disputes, and/or (2) agreement by consent to the giving of a *get* at the time of a separation or civil divorce.”\(^{182}\) As will be discussed below, modern prenuptial agreements have evolved in many forms in an effort to adapt and/or strive to meet the parties’ present needs today.

Generally, there are two types of standard prenuptial agreements.\(^{183}\) The first type is one in which the marital couple agrees to submit to mediation.\(^{184}\) Under this scenario, the mediation is led by an arbitrator, trained to interpret prenuptial agreements, who assists the couple in dividing assets according to the provisions of the agreement.\(^{185}\) Preemptively, the second type functions as an escape clause or “catch all” designed to protect Jewish women under various circumstances.\(^{186}\) This type typically imposes a penalty clause where certain conditions are breached.\(^{187}\) For example, should a recalcitrant husband fail to consent to the issuance of a *get* upon the dissolution of the marriage, the husband would be required by the prenuptial agreement...
to pay his wife a “stipulated sum.” However, if the husband decides to issue his wife a get, no consequences follow and there is no “financial burden imposed upon him.”

Moreover, not without resistance, conflicts may arise in the secular courts where the prenuptial agreement is “formed within the context of a religious document.” From an abstract vantage point, the notion that a secular court will interpret a contract that is religious in nature is problematic in many ways. In this vein, New York courts have recently held that “the fundamental objective when interpreting a written contract is to determine the intention of the parties as derived from the language employed in the contract.” For example, as in a “get proceeding” arising under the auspices of a prenuptial agreement, the court often struggles with infringement issues in conjunction with its interpretation of an abusive husband’s First Amendment rights under the Establishment and Free Exercise Clauses.

This struggle is further compounded, in many instances, by the influence that rabbis can exert on Jewish divorce proceedings. In this regard, rabbis can sometimes present challenges to battered Jewish women seeking the enforcement of a prenuptial agreement. This dilemma is significant given that some rabbis do not acknowledge domestic violence as evidence worthy to justify divorce. As one critic noted: “[a]lthough the beit din and the pre-nuptial agreement can help women, much depends on the rabbis who sit on the beit din or who draft the pre-nuptial agreement. Rabbis are often viewed by agunah activists as an obstacle to finding halakhic [Jewish law] solutions to the agunah problem.” Hence, “[w]hile a carefully worded prenuptial agreement may bring some relief to a battered woman or agunah, it often does not.” Therefore, based on the above factors, Jewish women may still encounter difficulties enforcing the terms of a prenuptial agreement.
a. The United States Supreme Court Fails To Weigh In

Although the Supreme Court has recently attacked the three prong test clarified in *Lemon*, it has “failed to explicate a single standard for Establishment or Exercise Clause” violations.\(^ {197}\) “Thus, one cannot conclusively determine the constitutionality of secular court enforcement of prenuptial agreements.”\(^ {198}\) In the law review article entitled: *Civil Enforceability of Religious Prenuptial Agreements*, author Michelle Greenberg-Kobrin bolstered this analysis on the ineffectiveness of prenuptial agreements, by stating, in pertinent part:

*Prenuptial agreements seem to be the best means to prevent future agunot within the Jewish community . . . [t]he advantages of the prenuptial, however, are not guaranteed.* Civil court judges are often wary of alternate forums, especially ecclesiastical tribunals that are vulnerable to charges of corruption. As a result, civil court judges would prefer to adjudicate the prenuptial agreement in their own court.\(^ {199}\) (emphasis added).

Therefore, until there is greater consistency and/or uniformity within the secular court system on this issue, progress will remain stagnant and Jewish women will continue to suffer dire consequences when utilizing this avenue.

3. The Lieberman Clause: Conservative Proposal

The Conservative Movement has proposed an alternative remedy to ameliorate the problems that arise when one party, typically the recalcitrant husband, fails to abide by the provisions integral to the *ketubah*.\(^ {200}\) Notably, the pioneer of this movement, Dr. Saul Lieberman, [a leader] of the Jewish Theological Seminary, drafted a significant clause to be included in the *ketubah*; designed to penalize the husband for his pervasive failure to “respond or comply” to a decision rendered by the Jewish religious court [*beit din*].\(^ {201}\) While the New York courts have consistently “upheld the Lieberman Clause,” the clause has not been adopted by all
congregations representing the Conservative Movement. This theory is further demonstrated in *Avitzur*, wherein the Court “enforced the Lieberman Clause in the Conservative ketubah, concluding that a legally valid agreement should not escape enforceability simply because it appears in a religious document.” Notwithstanding the above, and not surprisingly, the Orthodox Rabbinate has consistently denounced the Lieberman Clause for many years.

In fact, the Orthodox Rabbinate has patently failed to “recognize” the Lieberman Clause because that Rabbinate unequivocally does not recognize Conservative religious court rulings. As one scholar appropriately noted, “[e]ven though secular law may address this issue, an effective solution requires a united Jewish community.” Therefore, because the Lieberman Clause is limited in scope and effectiveness, it arguably falls short of adequately remedying domestic abuse in all branches of Judaism.

**IV. ANALYZING THE EQUAL PROTECTION RIGHTS OF ABUSED JEWISH WOMEN IN CONNECTION WITH JEWISH DIVORCE PROCEEDINGS**

**A. Fourteenth Amendment: The Equal Protection Clause**

It is well-established that the Equal Protection Clause of the Fourteenth Amendment guarantees that “all individuals similarly situated will be treated in a similar manner.” In as much as the Equal Protection Clause is designed to protect an individual’s fundamental rights and liberties, it is the Fourteenth Amendment which functions to provide “freedom of choice in issues of marriage and family.” Thus, analyzing marital rights in this context is instructive for the reasons discussed in this article.

Historically, marital rights, like the freedom to remarry, are traditionally considered protected fundamental rights under the Constitution. In the context of domestic violence cases, abused Jewish women often struggle to obtain equal protection under the law, due, in part,
to the courts’ reluctance to intercede in religious doctrinal matters.\textsuperscript{211} It seems that courts are hesitant to infringe upon an individual’s contract rights in favor of a Jewish woman’s fundamental right to remarry.\textsuperscript{212} An example of this is most readily apparent in the conflict between secular and religious law concerning Equal Protection claims in the context of Jewish divorce proceedings arising out of a husband’s refusal to issue his wife a \textit{get}.\textsuperscript{213}

A critical legal issue to be confronted during the twenty-first century is whether the States have a compelling interest to uphold an individual’s right to remarry, while concurrently effectuating the “remove[al] [of] barriers that prevent the exercise of this fundamental right” under the Fourteenth Amendment.\textsuperscript{214} On one side of the proverbial coin, some Jewish women argue that if the right to remarry is not protected by the State, then the State has, in effect, burdened a fundamental right to remarry in violation of a guarantee of the Fourteenth Amendment.\textsuperscript{215} On the other side, Jewish men contend that their fundamental right to contract under the \textit{ketubah} may be violated by the courts’ willingness to interfere with a private individual’s right to contract.\textsuperscript{216} At this juncture, the case law remains unsettled on the issue of preserving the aforementioned fundamental rights.

1. **Case Study: In Re Marriage of Goldman**

The case study of \textit{In Re Marriage of Goldman} is germane to this issue. Decided in 1990, \textit{Goldman} stands as another landmark decision interpreting Jewish divorce law. In \textit{Goldman}, the Illinois Court of Appeals emphatically held that the “‘enforcement of the \textit{get} provision’ is violative of ‘the separation of church and state”\textsuperscript{217} under the Constitution.” In doing so, the \textit{Goldman} Court effectively “enforced a prenuptial agreement that required the children of a marriage to be raised as Jews.”\textsuperscript{218} The Court held that a strict interpretation of the \textit{ketubah} “implicitly” required that the husband grant his wife a \textit{get} immediately upon the dissolution of
the marriage.\textsuperscript{219} Although the prevailing standard established by Illinois’s highest court teetered on the collision with church and State, to avoid this infringement, the Court framed the issue as one governed by contract law rather than one predicated upon the interpretation of religious doctrinal issues.\textsuperscript{220} As a result, the framework developed by the Illinois Court of Appeals serves as a model for comparison for other jurisdictions faced with similar challenges today.

2. Public Policy Perspective

With respect to public policy, the husband’s argument/position on this issue is fatally flawed for a number of reasons. For one, the majority position essentially advocates for the upholding of an inherently inequitable law that appears to substantially protect men over women.\textsuperscript{221} Case in point, in an article entitled: \textit{Civil Enforcement of Jewish Marriage and Divorce: Constitutional Accommodation of a Religious Mandate}, author Jodi Solovy extrapolated on this very point, arguing that: “[b]y forcing a husband to grant his wife a \textit{get} upon dissolution of their marriage, the court is ensuring equal application of the law by remedying an inherently discriminatory situation, and enabling both parties to freely remarry on equal footing.”\textsuperscript{222} Moreover, because “Jewish law, unlike constitutional law, has not developed a process for formally repudiating past commentary [condoning wife-abuse],” this argument is furthered by the notion that the State, more so than Jewish law, has a compelling interest in reversing the inherent inequity of the outdated Jewish divorce law, in order to protect an \textit{agunah}’s fundamental right to remarry.\textsuperscript{223} Consequently, it appears that the State is likely to maintain a stronger compelling interest argument sufficient to overcome Fourteenth Amendment scrutiny in this regard.\textsuperscript{224}
B. The Interaction between the Secular and Religious Courts in America

According to Jewish law, it is violative of religious practice for one Jew to confront another Jew in a secular court proceeding.\textsuperscript{225} Not surprisingly, this inherent conflict is deeply rooted in the tenets of the \textit{Talmud}. The \textit{Talmud} has long had a debilitating effect on Jews seeking to settle disputes before the secular courts in the United States.\textsuperscript{226} Fostering this stigma, is the internal perception, held by many in the faith, that it is shameful for a Jew to publicize another’s transgressions in front of a secular court. It is especially frowned upon by the Jewish community for a member to “choose a secular court over a Jewish court when a Jewish court is readily available.”\textsuperscript{227} As a result, some fear that the choice to utilize a secular court instead of a Jewish court could dangerously undermine the credibility and authority of the Jewish court to decide religious doctrinal matters.\textsuperscript{228}

In fact, some legal scholars have even suggested that the secular courts are not properly equipped to adjudicate matters concerning Jewish doctrinal issues.\textsuperscript{229} This rationale is supported by the notion that religious courts typically serve as more viable alternatives to the secular courts, based on the religious courts’ ability to render decisions without the concern of overstepping constitutional boundaries.\textsuperscript{230} Moreover, religious litigants can submit to the jurisdiction of triers of fact of their own faith without fear of judicial activism or public backlash. Furthermore, some Jews may be more comfortable in the setting of a \textit{beit din}, motivated, in pertinent part, by the threat of anti-Semitism that still covertly subsists within today’s American society.\textsuperscript{231}

C. Limited Access to Secular Courts on the Sabbath

Limited access to the secular courts during the Sabbath or “day of rest in Judaism”\textsuperscript{232} can also contribute to the threat of domestic violence against Orthodox Jewish women. In particular,
logistical concerns for battered Jewish women who observe the Sabbath, which begins at sundown on Friday and ends at sundown on Saturday, provide further evidence of a Jewish woman’s struggle to obtain adequate protection from the secular court system. For example, Orthodox Jews are generally not permitted under traditional Jewish law to use electricity, operate motor vehicles, or make telephone calls in observance of the Sabbath. Thus, if the onset of an incident of domestic violence occurs at some point late Friday afternoon, a Jewish woman, hypothetically, could experience difficulties, due to religious observance, in securing a protective or temporary restraining order and be required to wait until Monday morning to do so. A Jewish husband, aware that his wife is less likely to report the abuse, may, in turn, utilize the Sabbath as an alternative means to gain further control in an [otherwise] abusive relationship. However, this argument may not be as persuasive, when one considers that Jewish women, like other ethnic or religious groups similarly situated, are equally less likely to obtain the same relief on weekends and/or religious holiday(s). Ultimately, the religious limitations imposed upon the ultra-Orthodox may severely paralyze a Jewish woman’s ability to report abuse or take legal action in such circumstances.
V. EVALUATING THE LEGAL DUTY OF CLERGY TO ACT IN INSTANCES OF DOMESTIC VIOLENCE

A. General Overview

Critical to this analysis is the instant evaluation of the legal duty of rabbis to act in instances of domestic violence. Rabbis, sometimes understatedly, play a crucial role in facilitating religious practice and fostering Jewish traditions in the Jewish community. Rabbis, like other members of the clergy, engage and/or oversee many facets of daily life affecting the family, and are central figures to whom members of the Jewish faith look to for guidance in troubled times. They are often entrusted with the most private and often times painful family secrets, which reveal and underscore the prevalence of domestic violence within the home. Accordingly, the central issue(s) to be addressed in this section pertain(s) to whether rabbis have a legal duty to act upon notification of domestic abuse in the home.

B. Maintaining Clergy Confidences: Halakhah versus Secular Law

The maintenance of clergy confidences is a controversial/hot-bed issue today, particularly, where confidences are communicated to a rabbi by a member of his/her congregation concerning the threat of domestic violence. The origin of the problem traces its roots to the dichotomy between traditional Halakhah and secular laws, which invariably differ in the respective protection(s) afforded battered Jewish women, as set forth below.

For instance, pursuant to Halakhah, under pretenses where the rabbi is made aware and/or put on notice that physical harm “will befall another [Jewish woman],” rabbis tend to grapple with the issue of breaking confidences in favor of protecting the injured party, while evaluating the risk of succumbing to “financial harm” by seemingly litigious penitents. Naturally, a rabbi’s primary duty is to protect an injured party from harm, and where in question, should always supersede a rabbi’s financial needs. In this regard, the prevailing view under
Halakhah dictates that rabbis have an affirmative obligation to protect congregants from harm, irrespective of the potential consequences for serious financial hardship.\textsuperscript{243} Alternatively, in terms of public policy, the inverse argument suggests that exposure to “community backlash” would be minimized if rabbis utilized better judgment in protecting an abused congregant.\textsuperscript{244}

With regard to issues of confidentiality, secular law impacts rabbis in “much the same way” that it affects other members of the clergy and “professionals.”\textsuperscript{245} In addition to clergy, members of the “legal, medical, psychological and religious communities” also have a fiduciary obligation to maintain confidentiality of their “client’s” communications.\textsuperscript{246} In the religious context, this right is commonly referred to as the “[clergy]-penitent privilege.”\textsuperscript{247} In accordance with this privilege, clergy are obligated to maintain, most if not all confidences, barring certain defined exceptions. The exception to the “[clergy]-penitent” privilege has been expanded upon by the courts in a series of landmark decisions. For instance, the California Supreme Court case of Tarasoff v. The Regents of the University of California is instructive in this regard.\textsuperscript{248} In Tarasoff, the court held that “a psychologist not only had the right, but also the duty, to break a client’s right to privacy if the patient indicated an intention to endanger others—in that case, to kill someone.”\textsuperscript{249} However, “[i]n the wake of Tarasoff, the California Legislature restricted the scope of Tarasoff liability. See Cal. Civ. Code Section 43.92 (West Cumulative Supp. 2006). Presently, under California Civil Code Section 43.92(a), a duty to warn of and protect a patient’s threatened violent behavior arises only ‘where the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims.’”\textsuperscript{250}

Another recent landmark decision, Lightman v. Flaum, decided in 2001, involved a contentious divorce proceeding between a Jewish couple domiciled in New York. In Lightman,
the New York Court of Appeals held that two rabbis were not subject to civil liability for breaching a duty of confidentiality.\textsuperscript{251} The Court’s analysis in \textit{Lightman} is enlightening in this regard. For one, in \textit{Lightman}, a Jewish woman claimed violations of the “[clergy]-penitent privilege” based upon the rabbi’s disclosure to the woman’s husband [private statements made by the woman to the rabbis] concerning the wife’s attempted plot to extricate herself from all levels of intimacy with her husband, due, in large part, to an ongoing extramarital relationship with another man.\textsuperscript{252} In this instance, because the wife had broken Jewish purification laws under Orthodox law, the Court of Appeals determined that the two rabbis maintained unbridled discretion to handle this particular religious infraction in any manner that the rabbis deemed suitable and/or appropriate, given the attendant/unique circumstances at bar.\textsuperscript{253}

The New York Court of Appeals, in a close three (3) to two (2) decision, reasoned that while State law acknowledges the duty of confidentiality for “statements made to clergy, it does not allow wronged parties to sue if the confidence is breached.”\textsuperscript{254} Of import, Justice Victoria Graffeo commented: “[t]he prospect of conducting a trial to determine whether a cleric’s disclosure is in accord with religious tenets has troubling implications.”\textsuperscript{255} Notably, the court indicated that since “clerics, unlike doctors and lawyers, are not licensed by the state or subject to state-sponsored disciplinary action for professional misconduct, the clerics have the autonomy to participate in religious activities without the State’s permission.”\textsuperscript{256} As a result, the court limited its ruling in such a way as to avoid prosecuting the decision of these rabbis, while circumventing direct interpretation of Jewish law; a decision arguably motivated by fear for the implications that an adverse decision could reap on a national scale.\textsuperscript{257}

Based on the foregoing, it appears that, from a facial standpoint, \textit{Halakhah} and secular law are undoubtedly treated equally under circumstances where the matter concerns the
prevention of physical harm. However, the stark reality is that the enforceability of these laws differ slightly when the physical harm is directed towards Jewish women. Therefore, the analysis suggests that secular law, on its face, appears to protect all individuals from physical harm by permitting certain breaches of confidence between clergy and members of their religious faith where threat of abuse exists, while *Halakhic* law is seemingly less consistent in preemptive containment based on the branch of Judaism involved therein.

C. Contrasting the Role of Rabbis Amongst the Various Branches of Judaism

The increasing role of rabbis and/or community leaders and their underlying attitudes towards the issue of domestic violence varies depending on the branch of Judaism. Amongst the three denominations of Judaism, the Reform Movement tends to be the most progressively flexible and active branch of Judaism in the prevention of domestic violence. The Reform Movement promotes gender equality in Judaism, while encouraging participation of women in religious customs. Moreover, Reform rabbis struggle with the burden of attempting to counter the inherent inequity that Jewish women face in other branches of Judaism by implementing policies that seek to rewrite antiquated Jewish law as it pertains to the treatment and functionality of women within the faith today. Reform rabbis interpret the *ketubah* and the enforceability of its provisions very differently from other branches of Judaism. For example, Reform rabbis do not believe that, when a couple signs the *ketubah*, that the parties truly understand and agree to adhere to all of the outdated and often non-translated scriptures that appear on the face of the *ketubah*. Instead, Reform rabbis view the *ketubah* simply as an ornate symbol of a couple’s love for each other, and the recognition of the life-long bond that they will share.

Similarly, the Conservative Movement is less rigid than the Orthodox branch, but not as sensitive in its treatment of women as the Reform Movement. While the modern Conservative
Movement has allowed for some active participation of women in religious rituals and practices, the “ultra right” Conservative Rabbinate maintains a similar stance/response as the Orthodox Rabbinate on domestic abuse issues impacting the Jewish community today.\textsuperscript{266}

Lastly, “[t]he problem of domestic abuse within the ultra-Orthodox Jewish community has largely gone unaddressed, though not unnoticed.”\textsuperscript{267} Because Orthodox rabbis strictly adhere to Jewish religious doctrine and traditions, Orthodox rabbis, generally, do not acknowledge domestic violence and, instead, view the subject matter as virtually non-existent.\textsuperscript{268} “Orthodox and ultra-Orthodox rabbis will dismiss the notion, saying that observant families are not violent or that domestic violence is not Jewish.”\textsuperscript{269} Orthodox rabbis tend to discount the more flexible and “gender equal” Reform Movement in favor of the antiquated traditions that place women in inferior positions in relation to men.\textsuperscript{270} Furthermore, Orthodox rabbis do not allow women to participate in religious practices.\textsuperscript{271} While Orthodox rabbis tend not to be as proactive in their effort to prevent domestic violence in the Jewish community, some strides have been made towards reforming this battering culture.\textsuperscript{272}

D. Recent Developments: Rabbinical Council of America (RCA)

Recently, there have been developments in domestic violence reform worthy of note. For instance, in 1994, “the Rabbinical Council of America (“RCA”), a group representing Orthodox sects passed a resolution establishing ‘zero tolerance’ for abuse and stating that Orthodox rabbis should do everything in their power to protect victims.”\textsuperscript{273} Arguably, this progressive development is a positive step in the right direction. However, it does not erase the implications of the ancient scriptures of Halakhah, which institutionalized the battering culture of women.\textsuperscript{274} Case in point, a belief amongst scholars still remains that non-Orthodox Jews continue to interpret Halakhah quite differently from Orthodox ones. This rational facilitates the long
standing belief that the Reform and Conservative communities do not struggle [as greatly] to overcome the long standing traditions that “keep women down and build men up.” However, the argument continues to hold steadfast that until leaders in all branches of Judaism collectively denounce domestic violence as an unworthy practice and take realistic steps to amend certain inequitable portions of Jewish law, domestic abuse will continue to pervade the Jewish community and adversely impact future generations.

**E. Proposed Methods for Remediying Domestic Violence**

1. **Rabbinical Intervention**

There are various ways in which rabbis can facilitate the prevention of (and combat) domestic violence in the Jewish community today. Some of the proposed methods include: (i) enhanced rabbinical education to the Jewish community, (*e.g.* delivering sermons on the topic of domestic violence during religious services and holidays); (ii) development of a rabbinical-based network of communication between local social service groups, law enforcement agencies and courts alike, to better equip battered Jewish women with the necessary tools to redress their grievances; (iii) establishment of organizations within the synagogues and communities aimed at assisting abused women and children to escape debilitating relationships; and (iv) increased promotion/awareness/publicization of domestic violence ‘self-help’ remedies through various newsletters/religious publications, (*e.g.* a list of available resources for Jewish women who do not want to publicly come forward). These viable proposals and others mentioned in this article, are just a few of many, which, if effectively implemented, can contribute positively towards the eradication of the pattern of domestic violence that have plagued Jewish women for centuries.
2. The Next Step: The Roadmap to Reform

Lastly, where do we go from here to remedy the issue of domestic violence in the Jewish community today? Many lingering issues remain that have gone largely unaddressed for too many years. The “Next Step” in this mission is critical. However, like any previous call for reform in our nation’s history, change cannot take place without establishing a roadmap for success. This article proposes the development/establishment of a grassroots community-based organizing campaign aimed at directly confronting domestic abuse in the first quarter of the twenty-first century.

Specifically, the campaign is intended to motivate the base in each branch of Judaism to take progressive steps towards reforming an underground culture of abuse. This endeavor will not be without its many challenges. Grassroots efforts usually begin on a local level, and can reach far and wide. Their canvas brushes upon the most underdeveloped/rural regions, and extends to the more modernized/metropolitan cities across this country. Like any organization primed for success, they must be built from the ground up. This method was most effectively executed and/or implemented during the latest presidential election cycle, and most notably by the 2008 Democratic Nominee Barack Obama and his “Campaign for Change;” which, as history reveals, culminated in an improbable journey to the White House and the Presidency.

The Obama Campaign serves as a model for the proposal(s) advanced within this article. Simply put, if the Obama Campaign was able to mobilize sixty-nine (69) million voters across America on a platform of social reform, among other hot-bed issues, is it so unrealistic to expect Jewish leaders to devise a similar campaign, nearly one-tenth of its size and reach, to combat domestic abuse within Jewish communities? The answer is simple: Jews must strive harder for social reform, now more than ever. The opportunity to effectuate this change is ripe. Although
certain efforts aimed at reform such as the passage of *The Violence Against Women Act of 1994* ("VAWA") have been implemented in recent years, there is still room for much needed improvement. Accordingly, this article proposes a four-year action plan to coincide with the progressive social agenda laid out by United States President Barack Obama during the President’s first term in office.

First and foremost, this effort must begin with an updated consensus, aimed at identifying all of the population densities and/or enclaves of Jews domiciled across the United States. An accurate and current consensus is essential to organization building in the initial stages of development. Next, once a consensus has been established, all branches of Judaism must band together to establish a governing board in each State or geographic region, where feasible. Each State Board will be directly overseen by a National Network, established as a non-profit organization/corporation for the benefit of the public-at-large.

The infrastructure of the National Network will require local and state leaders from each branch of Judaism to form individual State-wide Coalition(s). The State-level Coalition(s) would convene to identify and/or address areas of need specific to that particular State. Each State Coalition would retain its individual autonomy and maintain discretionary authority to set policies. The National Network would function as a conduit for each State Board, offering a variety of logistical and administrative support on a need basis. This would include a direct access/entry point for crucial funding, research, resources and tools. Accordingly, the National Network would function as an intermediary to assist in effectuating the agenda of each State Coalition as well as enforcing/implementing federal legislation/policy.

In particular, the National Network would assist and/or spearhead State-wide fundraising efforts in conjunction with local government as well as navigate federal bureaucracy channels to
develop and/or gain access to available federal grant programs. The National Network would be comprised of a Domestic Violence “Czar” and a National Council of Leaders representing various industries and fields across America. The “Czar” would be expected to work with or alongside the United States Department of Health and Human Resources in some capacity, to effectuate policies and address issues of social importance during this time. Finally, a network of this reach and magnitude would require a system of checks and balances between both the National and State-level Coalitions to: (i) bridge any outstanding policy gaps; (ii) ensure and/or monitor the effects of all reform measures across the board; and (iii) to revisit those areas lagging behind on an annual basis.

At first glance, the aforesaid proposal may seem overly ambitious to some, given the state of flux of the economy and other pressing issues that challenge Americans at this time. Naturally, change of this magnitude will not occur overnight. However, domestic violence reform in the Jewish community is long overdue. While this campaign may require efforts to initially start small, it should not deter Jewish leaders from dreaming big. No one ever said change was easy, but where it is necessary, failure is not an option. Historically, the Jewish people have long fought for equality in human and civil rights, and prevailed in times of great upheaval. While the enemy has typically manifested itself as an external force seeking to destroy and conquer, unfortunately, here, the opposition to progress lies within the Jewish faith. It is this great paradoxical dilemma that Jewish leaders must now confront in order to quash this perpetuating culture of abuse. For these reasons, if effectively implemented, the progressive agenda proposed by this article will undoubtedly accomplish these and other social reforms integral to the “Campaign for Change” sweeping across America today.
VI. REFLECTIONS ON A BATTERING CULTURE

Reflecting upon the research conducted for purposes of this article, I am left with many prevailing thoughts and impressions about a religion and culture (Judaism) that I have called my own for twenty-eight plus years, but apparently have known little about in its treatment of women within the faith. Having been raised within the Reform Movement, and in many ways isolated from the stringent religious and cultural rituals germane to Conservative and Orthodox practices, I was naively shielded from the darkness that has plagued Jewish women for so many years. It was not until I participated in a Domestic Violence Law seminar, while attending law school in 2004, that I first became aware of this underground societal plight. From a Jewish man’s perspective, it is astonishing, yet equally disheartening, to fathom how a religion known for its many sacred customs and deeply ingrained sense of values could perpetuate such a widespread illusion of equality to the outside world, yet foster such disdain for its women without provocation. Throughout this journey, I was saddened, but not surprised, to learn that domestic abuse had been written into the *Talmud* and endorsed by many respected Jewish leaders for centuries.

However, the issue of domestic violence is not solely a “Jewish” problem, but, instead, one that impacts all religions and nationalities, regardless of one’s socio-economic status. Although I now have a deeper appreciation for the significant strides that have been made in this arena, I am equally mindful of the arduous mission that lies ahead. It is abundantly clear from this article that more work needs to be done. In order to reverse the inequitable hands of time and justice, it is incumbent upon political, legal, religious and community leaders alike, to continue to publicize and advocate on behalf of all victims of domestic violence, near and far, to minimize its crippling effects. Finally, my lasting hope for this article is that it will not only
expose the predicament endured by Jewish women, but empower and inspire silent victims in
other battering cultures across the world, to come forward, with one unified voice, to denounce,
and once and for all work towards putting an end to domestic violence.

VII. CONCLUSION

In sum, battered Jewish women struggle to obtain equal protection and access to the
American legal system today. Modern Jewish women continue to encounter apathy within the
court system, law enforcement and even in their own communities. The stigma associated with
Jewish women as inferior to men permeates both within the Jewish community and outside, thus
affecting a Jewish woman’s ability to flee an abusive relationship.

While certain efforts aimed at combating domestic violence in the Jewish community
have been implemented in recent years and more are currently underway, a cultural and societal
myth still pervades American society that domestic violence is virtually non-existent in the
Jewish community. As such, it is highly imperative that rabbis, legal scholars and Jewish
outreach groups expose this rarely publicized problem. For one, a lack of communication
between the branches of Judaism seems to facilitate domestic violence. Furthermore, it is these
inconsistent messages relayed by the three branches regarding their policies on domestic
violence that create and ultimately perpetuate the confusion and misunderstanding between the
branches of Judaism. This, in turn, makes it especially difficult for secular courts to lawfully
interject themselves to protect battered Jewish women given the need to preserve the separation
of church and state. Accordingly, if Jewish women are ever expected to redress their grievances
in a court of law, a direct connection must be made between Jewish religious leaders and the
secular court system as they strive to denounce domestic violence in the Jewish community.
Thus, in order to destroy the antipathy directed towards Jewish women, the Jewish community must effectively educate the public, and better equip both inside and outside organizations and outreach groups with the appropriate resources and/or tools necessary to more clearly identify and address this epidemic. They must also work unflaggingly to eradicate its impact, both on a local and national level. Additionally, such alternative remedies for tackling domestic violence must include: (1) greater access for Jewish women to the American legal system; (2) increased government funding of social services specifically aimed at assisting abused Jewish women; and (3) greater joint diplomacy by Jewish leaders of all branches of Judaism in denouncing domestic violence on a continual basis.

Furthermore, while there are positive signs indicating that current efforts to reduce domestic violence in the Jewish community are underway, the difficulty lies in the effective implementation of these vital programs and policies. In this vein, recognized reformer, Rabbi David Saperstein said it best when he observed that: “[d]omestic violence and sexual assault are not problems that will simply disappear from our homes and communities; they are evils that we must work every day to eradicate.”281 Until these attainable goals are realized, prospective benchmarks are raised, and societal stereotypes restraining Jewish women are shattered, domestic violence will persist in the Jewish community, under the guise of an ‘unspoken truth,’ for future generations to come.282
2 *Id.* at 178.
6 *Id.*
10 *Id.* at 182.
11 *Id.* at 184.
12 Telephone Interview with Rabbi Michael A. White, Senior Rabbi, Temple Sinai of Roslyn, East Hills, New York (November 22, 2004).
14 *Id.*
15 *Id.* at 191.
16 *Id.*
17 *Id.*
22 *Id.*
23 *Id.*
24 *Id.*
25 *Id.*
26 *Id.*
27 *Id.* at 177.
29 *Id.*
30 *Id.*
31 *Id.* at 191.
32 *Id.* at 180.
33 *Id.* at 177.
34 *Id.* at 186.
35 *Id.*
36 *Id.* at 184.
38 *Id.*
39 *Id.*
40 *Id.* at 184.
Telephone Interview with Rabbi Michael A. White, Senior Rabbi, Temple Sinai of Roslyn, East Hills, New York (November 22, 2004).


Do Jewish Men Really Do That, Domestic Violence in the Jewish community, Jewish Federation of Wastenaw County, at http://www.jewishannarbor.org/content_display.html?articleID=6996.


Do Jewish Men Really Do That, Domestic Violence in the Jewish community, Jewish Federation of Wastenaw County, at http://www.jewishannarbor.org/content_display.html?articleID=6996.


Id.

Id.

Where We Stand: Guidelines on Domestic Violence, Jewish Community Relations Council (Mar. 12, 1997), at http://www.jcrc.org/issues/domestic_violence.html. [Note 4: Compilation of statistical data from several states: “In a survey by the Jewish Family & Children’s Services of Philadelphia, 14% of 431 Jewish respondents stated that they had been physically abused by their partners; in a survey conducted by the Jewish Family Service of Los Angeles, Family Violence Project, 30% of 209 respondents reported cases of spousal abuse; in an interview with the Executive Director of the Transition Center in Queens, New York, the Director stated that domestic violence exists in 15-19% of Jewish homes, and the Jewish Family Service in Fort Lauderdale, Florida reported in a study conducted in 1994 that 25%-33% of all American Jewish families experience domestic violence.”]

Domestic Abuse in the Jewish Community: Facts about Domestic Violence, at http://www.jewishwomen.org (Jewish Women International)
77 Beverly Horsburgh, Recent Development: Lifting the Veil of Secrecy: Domestic Violence in the Jewish Community, 18 Harv. Women’s L.J. 171, footnote 5 (1995) (citing Richard Gelles, director of the Family Violence Project at the University of Rhode Island).

79 Karen Buckelew, Jewish Domestic Abuse Equals Same As for Others, Baltimore Jewish Times.com, October 22, 2004 at Local News.

80 Id.

81 Do Jewish Men Really Do That? Domestic Violence in the Jewish Community, at http://www.jewishannarbor.org/content_display.html?articleID=6996

82 Where We Stand: Guidelines on Domestic Violence, Jewish Community Relations Council (Mar. 12, 1997), at http://www.jcrc.org/issues/domestic_violence.html. (Note 5).

83 Id.


85 Id.

86 Where We Stand: Guidelines on Domestic Violence, Jewish Community Relations Council (Mar. 12, 1997), at http://www.jcrc.org/issues/domestic_violence.html. (Note 5).

87 Id.


90 Id.


92 Jodi M. Solovy, Civil Enforcement of Jewish Marriage and Divorce: Constitutional accommodation of a Religious Mandate, 45 DePaul L. Rev. 493, 508 (1996); U.S. Const. I.

93 Id. at 505.


95 Id.


97 Id.


100 Id. at 193-94.

101 Id. at 193.


104 Id.


106 Id.


108 Id. at 225.


110 Id. at *114-15.


117 Id.

118 Id.

119 Id.

120 Id.


124 Id.


127 Id. (citing Irwin H. Haut, Divorce In Jewish Law and Life 18 at 101 (Sepher-Hermon Press 1983).


129 Id.

130 Id.

131 Id. (citing Id., n.21); (see also Menachem M. Brayer, The Role of Jewish Law Pertaining to the Jewish Family, Jewish Marriage and Divorce, in JEWS AND DIVORCE 1, 18 (Jacob Freid ed., Ktav Publishing House 1968) (“a husband is precluded from giving his wife a get when he is ‘insane and incapable of exercising his legal rights’”).

132 Id. (citing Id., n.22) (Jewish law requires that a childless widow marry the brother of her husband. This is known as a Levirate marriage. However, through a ceremony known as halizah, the decedent’s brother can release the widow from such a marriage. When the brother refuses to marry her and refuses to perform the halizah the widow becomes an agunah); see also 11 ENCYCLOPEDIA JUDAICA Levirate Marriage and Halizah 121-31 (1973).


135 Id.


139 Id.


Id. at 194.


Id.


Id.

Id.


Id.


Id. at 253.


Id. at 195.


Id.

Id.

Id.

Id.

Id.

Id.

Id.


Id.

Id.

Id.

Id.


Id.


Id.

Id.

Id.


Id.

Id. at 394.


Beverly Horsburgh, *Recent Development: Lifting the Veil of Secrecy: Domestic Violence in the Jewish Community*, 18 Harv. Women’s L.J. 171, 193 (1995); see also *Id.* at 514, 533-35.

Beverly Horsburgh, *Recent Development: Lifting the Veil of Secrecy: Domestic Violence in the Jewish Community*, 18 Harv. Women’s L.J. 171, 193 (1995); see also *Id.* at 514, 533-35.


Telephone Interview with Rabbi Michael A. White, Senior Rabbi, Temple Sinai of Roslyn, East Hills, New York (November 22, 2004).

Telephone Interview with Rabbi Michael A. White, Senior Rabbi, Temple Sinai of Roslyn, East Hills, New York (November 22, 2004); *see also Cultural Awareness in Health care, Ethnicity Online at* http://www.ethnicityonline.net/Judaism_religious_observance.html

Telephone Interview with Rabbi Michael A. White, Senior Rabbi, Temple Sinai of Roslyn, East Hills, New York (November 22, 2004).

Telephone Interview with Rabbi Michael A. White, Senior Rabbi, Temple Sinai of Roslyn, East Hills, New York (November 22, 2004).
238 Id.
240 Id.
241 Id.
243 Id.
244 Id.
249 Christopher D. Ringwald, Appeal in Rabbi Case Lost; Top NY court: Not liable for breaking confidence, Newsday, Nov. 29, 2001, at A41; see also Lightman v. Flaum et al., 97 N.Y.2d 128, 761 N.E.2d 1027 (2001).
251 Christopher D. Ringwald, Appeal in Rabbi Case Lost; Top NY court: Not liable for breaking confidence, Newsday, Nov. 29, 2001, at A41; see also Lightman v. Flaum et al., 97 N.Y.2d 128, 761 N.E.2d 1027 (2001).
253 Id.
255 Id.
257 Id.
258 Telephone Interview with Rabbi Michael A. White, Senior Rabbi, Temple Sinai of Roslyn, East Hills, New York (November 22, 2004).
259 Id.
261 Id.
262 Id.
263 Id.
264 Id.
265 Id.
266 Telephone Interview with Rabbi Alan Lucas, Senior Rabbi, Temple Beth Sholom, East Hills, New York (November 29, 2004).
269 Id.
270 Id.
271 Id.

Id.

Id.

Id.

Telephone Interview with Rabbi Michael A. White, Senior Rabbi, Temple Sinai of Roslyn, East Hills, New York (November 22, 2004).

Id.

Telephone Interview with Rabbi Michael A. White, Senior Rabbi, Temple Sinai of Roslyn, East Hills, New York (November 22, 2004).

Id.

Id.
