Domestic Violence and the Jewish Community

Stacey A. Guthartz
Jewish Orthodox Feminist Alliance

Follow this and additional works at: http://repository.law.umich.edu/mjgl

Part of the Law and Gender Commons, Law and Society Commons, and the Religion Law Commons

Recommended Citation
Available at: http://repository.law.umich.edu/mjgl/vol11/iss1/2
DOMESTIC VIOLENCE AND THE
JEWISH COMMUNITY

Stacey A. Guthart

Introduction • 27
I. Defining The Problem: How is Domestic Violence a Jewish Problem? • 30
   A. Text and History • 30
   B. Community Understanding and Exposure • 42
   C. Societal Views • 45
II. Exploring Solutions: Are There Jewish Solutions to Domestic Violence? • 46
    A. Religious Law • 46
    B. Community Awareness and Pressure • 51
       1. Rabbinic Involvement • 51
       2. Networking • 52
       3. Other Community Aides and Actions • 53
    C. Civil Law • 57
Conclusion • 60

Introduction

Over the past decade domestic violence has emerged not only as a subject studied by academics, but also as an epidemic that has gained recognition in society at large. It was not that long ago that the world chose to look away when the issue of domestic abuse was raised. The

* J.D., Pace University, 2004; B.A., University of Michigan, 1999. Stacey A. Guthart is an American attorney living in Tokyo, Japan. She is a member of the Agunah Task Force of the Jewish Orthodox Feminist Alliance and activist for women's rights.

1. Throughout this paper, the terms "domestic violence," "domestic abuse," "spouse abuse," "wife-beating," and "relationship abuse" are used interchangeably.

   Domestic violence is a pattern of coercive behavior that includes the physical, sexual, economic, emotional, and psychological abuse of one person by another. Although it is often referred to as 'family violence,' this type of abuse also often occurs in intimate and past intimate relationships among people with no legal family ties, such as dating teenagers, dating and unmarried cohabitants, and gay and lesbian couples. It is also a very gender specific problem. Though we call it 'domestic' violence, it is primarily violence against women.

"not in my community" attitude that plagued much of American society was also prevalent in the Jewish community, where stereotypes of Jewish families as warm and caring and stereotypes of Jewish men as being non-violent perpetuated the myth that domestic violence did not exist among Jews. Fortunately for the thousands of Jewish women who are tormented by abuse each year, most Jews no longer refuse to recognize domestic violence as a Jewish issue.

Within the Jewish community, advancements have been made toward understanding domestic violence as a Jewish problem and towards finding Jewish solutions to domestic abuse. This effort is furthered through the realization of the unique challenges faced by Jewish victims of abuse as well as appreciating the non-homogenous characterization of Jewish victims. In order to best examine domestic violence from a Jewish perspective, one must understand who the Jewish victims are. "Jewish" implies both a religious distinction and a cultural identity, with the two categories often having little overlap. There is no more an "average" Jewish person than there is an "average" American person. It is estimated that there are approximately six million Jews living in the United States. The sheer numbers alone do not give us a sense of who these individuals are: whether they are observant Jews or secular Jews, or perhaps more importantly, why it is they identify themselves as Jewish.

While studies are available that give a comprehensive look at Jews in the United States, I submit that this information would still be of little aid to us in terms of understanding what sort of assistance is best suited for a particular Jewish victim of domestic violence. The American Jewish Committee's 2002

2. See The American Jewish Comm., American Jewish Year Book 160 (2003). (It is interesting to note that the United States Bureau of the Census collected information in the Census of Religious Bodies from 1906-1936 by obtaining information from religious organizations. However, Public Law 94-521 now prohibits the Bureau of the Census from asking questions on religious affiliation on a mandatory basis; therefore, the Bureau of the Census is not a source of information for religion. See generally United States Bureau of the Census, Religion, at http://www.census.gov/prod/www/religion.htm. (last revised Oct. 2, 2004)).

3. By "observant" I mean a Jewish person who observes halakhah (see infra note 8). Not all Jews observe halakhah as their "code of conduct" for life. I have labeled these individuals as "secular Jews." "Secular Jew" does not necessarily mean a Jew who is totally non-observant, but rather one who is more lax in his or her practice of Judaism. The terms "observant" and "secular Jew" as I define them apply only to this paper and may have other meanings elsewhere.

4. See generally The American Jewish Comm., 2002 Annual Survey of American Jewish Opinion (Jan. 24, 2003), available at http://www.ajc.org/InTheMedia/PubSurveys.asp?did=734 (detailing the views of American Jews about a broad range of subjects. The sample consisted of 1,008 self-identified Jewish respondents selected from the Market Facts consumer mail panel. When answering questions regarding Jewish identity, 50% of those polled responded that being Jewish is very important in
Annual Survey of American Jewish Opinion found that 30% of the sample group thinks of themselves as “just Jewish” without affiliation to any major Jewish movement (i.e. Orthodox; Conservative; Reform; or Reconstructionist). It is this “just Jewish” category which convinces me that aside from the distinction between “observant” and “secular,” there is great difficulty (and perhaps a great danger) in breaking down the psyche of Jewish victims. How a culturally Jewish woman might react in a domestic violence situation, the thoughts she might have, the blame she may place and the assistance she might seek could have much or little to do with her conscious Jewish identity. What makes a person “Jewish” is subjective. This subjectivity creates a rather gray area in placing formal generalization on Jewish victims. That said, an observant Jew who follows halakhah is likely easily identified as they will often wear their “Jewish-ness” on their sleeve. Following halakhah means basing every aspect of one’s life in Jewish law. Thus, topics that give a particular outward appearance such as dress, food, relations to work and time, could identify such a person to others as an “observant” Jew.

5. The American Jewish Comm., supra note 4.
6. See generally North American Jewish Data Bank, Survey of Heritage and Religious Identification 2001-02 (2003), available at http://jewishdatabank.org/index.cfm?page=166&disp=p (defining Jewishness as “1) Adults whose current religion is Jewish, including those who specify other religions, but does not include Messianic Jews; 2) Adults who say they were raised Jewish or have a Jewish parent or formerly practiced Judaism and who specify no current religion; 3) Adults who say their ethnic/cultural group is Jewish and who specify no current religion; and 4) Children in households where at least one adult specifies Judaism as their current religion and the respondent reports that the children are being raised Jewish, at least in part.” The survey further identifies two categories of people connected to the Jewish community, although they are not included in the overall Jewish population estimate, as “‘Connected non-Jews’ and ‘Persons of Jewish heritage’. . . . ‘Connected non-Jews’ includes . . . adults who practice Judaism as their secondary religion, . . . adults who were raised Jewish or had a Jewish parent or formerly Jewish and practiced religion other than Judaism, . . . are ethnically/culturally Jewish and practice a religion other than Judaism, . . . and adults with a spouse or partner with Jewish identity . . . . ‘Persons of Jewish heritage’ consists of ‘non-connected non-Jewish adults who report having a grandparent or more distant ancestor who was Jewish.’”).
7. Halakhah is defined more fully late in this article. See infra notes 8-9.
It is impossible, without doing a case-by-case study, to know the extent to which those who identify themselves as "Jewish" internalize Jewish norms, rooted in traditional Jewish law. I submit that many individuals who are "culturally" Jewish adhere to a number of Jewish norms, without even knowing they are adhering to a norm or without knowing that such norm is rooted in Judaism. Thus, it is possible to approach this Article in order to gain insight and understanding into the Jewish world in general. This Article may be applied broadly to Jews generally, but does not attempt to have particular application to any one branch of Judaism.

In Part I of this Article, I define the problem of domestic violence as it relates to the Jewish community. Specifically, I examine Jewish texts and history and community understanding and exposure, that contribute to Jewish domestic abuse. In Part II, I explore Jewish solutions to domestic violence by focusing on religious remedies, community pressure, and the use of civil law. In this Article, I submit that it is only through an understanding of the uniqueness of "Jewish" domestic violence by domestic violence and law enforcement organizations, coupled with an understanding about domestic violence within American society by rabbis and Jewish community leaders, that domestic violence in the Jewish community will be eradicated.

I. Defining The Problem: How is Domestic Violence A Jewish Problem?

A. Text and History

Jewish texts and their rabbinic commentaries have developed over the almost six-thousand-year history of Judaism. These texts include not only the Torah and the Talmud but also other recorded rabbinic compilations of Jewish law and responsa that were put in writing. It is from...
these texts and commentaries that halakhah is derived. Spanning almost six thousand years, Jewish law rooted in ancient traditions is often difficult for present-day society to come to terms with because it may appear to be at odds with modern notions of equality and justice. In addition, various commentaries are often taken out of context and manipulated by individuals looking for justification for their actions. While seeking to understand domestic violence against a Jewish history backdrop, one must keep in mind that Judaism is not monolithic. That is to say, over the centuries, as Jewish society has changed, Jewish laws and interpretations have changed with it. Therefore, there are often conflicting laws that require debate, interpretation, and study.

Like all religions of Western society, Judaism is rooted in patriarchy. "[E]ven though Jewish law is often protective of women, it discriminates against and patronizes them. This is both because patriarchy is intrinsic to Judaism and because Judaism is influenced by other patriarchal systems." The dichotomy of Judaism, as both protecting women and relegating women to second-class status, exemplifies the non-monolithic nature of Judaism, which can be both perplexing and troublesome to the modern-day observer. It is from this dichotomous cultural matrix that halakhah has developed.

The purpose of this Article is not to find a scapegoat for the existence of domestic abuse in Jewish homes. Like domestic abuse in non-Jewish homes, there is no single person or thing to blame. The purpose, rather, is to explore the issues of domestic abuse that are particular to Jewish families in an effort to better provide assistance to Jewish women in need. To that end, rabbinic commentary that appears on its face to


9. "Halacha [Hebrew for 'way of life']—the accumulated corpus of Jewish law. Judaism, as traditionally understood and practiced, is not exclusively a religion concerned with liturgical ritual and the like but a complete body of substantive and procedural law that regulates every aspect of human conduct and interaction." Irving A. Breitowitz, Between Civil and Religious Law: The Plight of the Agunah in American Society 304 (1993). The Hebrew word meaning “way of life” is spelled in a variety of ways when transliterated into English. Accepted forms include, but are not limited to, halachah and halakhah. Each of these forms is used interchangeably throughout this paper.


justify wife-beating and domestic abuse sheds much light on patriarchal infusions into Jewish tradition. Such commentary must not be ignored, but rather understood within the historical setting from which it developed.\(^2\)

Naomi Graetz, in her book concerning rabbinic responses to wife-beating throughout history, divides these rabbinic attitudes into five categories: acceptance, denial, apologetics, rejection, and evasiveness.\(^1\) Rabbis who "accept" wife-beating, according to Graetz, are those who know a husband beats his wife but permit it. Graetz points out specific rabbis whose commentaries indeed appear to take such a position.\(^4\)

"Denial" of domestic violence is the "not in my community" attitude still prevalent to some degree today.\(^5\) "Denial" differs from "apologetics," who "justify [domestic violence] by maintaining that Jewish men who actually engage [in abuse] do so for a good reason and, in any case, do not really hurt their wives."\(^6\) "Rejection" is the category that modern-day society can most identify with as these commentaries "have declared that wife beating is unconditionally forbidden."\(^7\) "Evasiveness," perhaps the most frustrating category, reveals rabbinic commentary acknowledging that abuse is wrong, but claiming the rabbis themselves are powerless to do anything about it.\(^8\) Each of these categories is worthy of further study and understanding. Acknowledging the existence of the categories only exemplifies the non-monolithic nature of Judaism and the variety of rabbinic interpretations available concerning domestic violence. Graetz is not alone in highlighting these commentaries, and discussion and study of these commentaries should not disturb the modern-day reader.\(^9\) What is most troublesome is not the existence of these commentaries, but rather the refusal by some Jewish leaders and scholars to

---

12. See Elliot N. Dorff, Introduction to Naomi Graetz, Silence is Deadly: Judaism Confronts Wifebeating xv–xvii (1998) ("This historical understanding of the Jewish tradition, characteristic of much modern Judaism, is critical for identifying its contemporary message on any subject, especially those like family violence, where social conditions and norms have changed over time.").


14. Id. at 93–119.

15. Id. at 151–70.


18. Graetz, supra note 10, at 171–84.

acknowledge their existence. Mere acknowledgment does not air the “dirty laundry” of Judaism creating a shondeh (disgrace). Nor does it point to a “problem” within Judaism that, once remedied, will put an end to domestic abuse in Jewish homes.

It is naive to believe that all or even most Jewish men who abuse their wives and girlfriends do so because they find justification within halakhab. Over time, however, halakhab has developed Jewish traditions that some abusers, and those who refuse to acknowledge the abuse, use to justify their action or inaction. These traditions include the concepts of shalom bayit (peace in the home), lashon hara (gossip), shondeh (disgrace), teshuvah (repentance), and the laws regarding Jewish divorce. The misuse of halakhab and its dangers are discussed by Rabbi Abraham Twerski in his book on spousal abuse in the Jewish community:

Nuclear fission can be used constructively to provide unlimited sources of energy, to diagnose diseases, and to treat malignancies. However, if it falls into the wrong hands, it can be a devastating terrorist weapon. It should be understood that to Torah-observant people, Torah law is a fact of reality, as immutable as all laws of nature. Torah law is no more alterable than is the law of gravity. Just as scientists cannot prevent the constructive source of nuclear energy from being misused destructively by terrorists, there may be no way in which

---

20. In interviews I conducted with Jewish community leaders and rabbis in preparation for this article, I asked each Jewish scholar I encountered to speak about rabbinic responsa (rabbinic responses to legal questions) that appears to condone domestic abuse. On some occasions these commentaries were outright denied—that is to say, the person with whom I was speaking refused to admit such commentary existed. More often, however, I was cautioned about my discussion of such commentary. Specifically, I was cautioned on several instances that the Graerz book, supra note 10, should be acknowledged as having an “agenda.” This caution may indicate a fear of feminism, a movement seen by some as a threat to Judaism. This fear is articulated well by Blu Greenberg in her book, On Women and Judaism:

Not lost on today’s Jewish leadership is the fact that modernism has taken a great toll on the Jewish faithful—and so may feminism, the reasoning goes. . . . Jewish leadership is fearful of exposing traditional Jewish attitudes toward women to the claims of women’s liberation movements. This fear is not entirely invalid, nor is it restricted to the Orthodox sector.


21. A shondeh is a disgrace. Development of the concept of shondeh and its influence on domestic abuse in Jewish communities is discussed later in this article.

22. Each of these concepts is discussed more fully in this article. See infra notes 24–60 and accompanying text.
[halachic] authorities can prevent Torah law from being abused by a terrorist husband.23

Shalom bayit, or peace in the home, is a state of domestic tranquility essential in order for a married couple's relationship to thrive and for their household to become and remain viable.24 "Shalom Bayit is the ideal of a Jewish home and the relationship of a man and woman in a Jewish context."25 The challenge of achieving this ideal is articulated by Rabbi Mark Dratch:

[P]eace is hard to attain and even harder to maintain: no family is without its challenges. Matters of health, economics, children or professions, among many other concerns, may test the strongest of commitments and most tolerant and understanding of characters.26

Despite the many obstacles that one may encounter while trying to achieve a peaceful ideal, many Jewish families continue to strive toward it. This is because "[p]eace is an important value, and at times, the most important value in the various aspects of our lives. . . . Without it, strife, stresses, problems and obstacles prevent us from benefiting from and taking advantage of . . . blessings."27

Examining what was originally intended by shalom bayit gives one an understanding of how its meaning has been taken out of context to justify domestic abuse. "Originally, the pursuit of shalom bayit was intended to remove obstacles and define parameters of behavior so that people could co-exist safely, effectively and pleasantly."28 Thus, shalom bayit began as a practically driven, rather than emotionally driven, effort. In this same way, rabbinic sages "caution[ed] husbands and wives to act sensitively and responsibly towards each other."29 Laws developed to involve all aspects of the home with the goal of effective and pleasant

---

27. Id.
28. Id.
29. Id.
family life in mind including, among other issues, financial matters, interactions with neighbors, and sexual relations.30

Shalom bayit, a seemingly beautiful concept of maintaining a peaceful home, gets turned on its head by abusive men, abused women, and Jewish communities alike through misunderstanding, manipulation, and distortion. Domestic abuse is about power and control.31 A man who abuses is seeking to control or dominate the woman. An abusive man may use shalom bayit as a means to achieve domination when he becomes enraged that his wife failed to have dinner ready upon his arrival home from work or the children are playing too noisily for him to hear his television program. Through misinterpretation of what shalom bayit means, the man justifies his actions as furthering what he perceives as peace (i.e., dinner ready when he comes home, quiet evenings, etc.), which he believes will be achieved when he is in control. Similarly, women who want to have a peaceful home will try to appease the demands of the man in order to maintain or re-establish tranquility. "The Jewish value 'shalom bayit'—peace in the home—often creates a sense of guilt for Jewish abuse victims."32 In many Jewish families, the woman is seen as setting the tone for family life.33 Thus, it is understandable how a woman would blame herself when there is not peace in the home.

The community in which the family lives also manipulates shalom bayit, often subconsciously, to reinforce the abuse. "Because shalom bayit has been such a powerful Jewish ideal, we fool ourselves into thinking domestic abuse 'can't happen to us.'"34 Rabbis who do not understand domestic abuse, but who are motivated to help the couple, will often counsel women to "work it out."35 Despite all they have learned about abuse and the need to leave mythologies about Jewish families aside, rabbinic students learning the dynamics of domestic abuse and what resources they can bring as future pastoral counselors often struggle with the urge to want to "fix" the family.36 These actions are not to be

30. See id. at 59–62; Malkus, supra note 25, at 5–7; Hadassah, supra note 19.
31. See Understanding Domestic Abuse, in JEWISH WOMEN INT’L, HEALING AND WHOLENESS, supra note 19, at 11.
32. Id.
33. Rabbi Julie Ringold Spitzer, A Mezuzah Does Not Ward Off Domestic Violence, in VIOLENCE AGAINST WOMEN: DOMESTIC ABUSE DOES NOT DISCRIMINATE, supra note 19, at 23. (“Our tradition has accorded to the wife the responsibility for maintaining shalom bayit, or peace in the home.”).
34. Dratch, supra note 24, at 60.
35. JEWISH WOMEN INT’L, HEALING AND WHOLENESS, supra note 19, at 25.
36. Interview with Rabbi Nancy Wiener, Adjunct Professor of Pastoral Care and Counseling, Hebrew Union College—Jewish Institute of Religion (March 4, 2003). Rabbi Wiener is the Clinical Director of the Jacob and Hilda Blaustein Center for Pastoral
interpreted as malicious, but rather as misguided attempts to use a Jewish concept in order to help maintain the survival of Jewish families.

Domestic violence does not end at the battered woman's doorstep, but rather seeps into society, permeating the woman's community. Community plays a crucial role in Jewish lives since religious observance of holidays and daily events dictate what one eats, when one works, and what one wears. In this way, observant Jews in particular are bound together since they live within close proximity to the synagogue and kosher stores and, thus, to each other. The closeness of Jewish communities could translate into an environment ripe for gossip. There, are however, "many injunctions against slanderous speech and according to the Talmud, slander is worse than idolatry."7 The enormity of this statement is only understood when one takes into account the central tenet of Judaism: belief in one G-d.8 Lashon hara (gossip) is not merely looked down upon, but requires individuals to self-govern, quashing gossip before it begins. Many women who have revealed abuse (i.e., confiding in a neighbor that their husbands hit them) have been told they are committing lashon hara.9 Similarly, when individuals in the community suspect or become aware of abuse, they may remain silent for fear of committing lashon hara by openly discussing the abuse. Both community fear and the woman's fear of committing lashon hara work toward isolating the woman and making her an invisible member of the community. While isolation is used by batterers to control, and is a tool not restricted to the Jewish community,10 the self-imposed isolation that the woman believes lashon hara dictates is uniquely Jewish.11 In this same way, while secular communities often want to "mind their own business," Jewish communities believe, albeit incorrectly, that their religion forbids them from speaking out in the open about an abusive situation.12

Another concept that contributes to abused women's isolation is shondeh,13 a disgrace. Both secular and Jewish women often experience a sense of shame from being abused. "The Jewish community reinforces

Counseling. Hebrew Union College—Jewish Institute of Religion is the intellectual, academic, spiritual, and professional leadership development center of Reform Judaism.
37. JEWISH WOMEN INT'L, HEALING AND WHOLENESS, supra note 19, at 37.
39. See Lamm, supra note 38, at 25.
41. Lashon hara as a concept is uniquely Jewish, because it is based on Jewish law. Other religions or cultures may have similar social checks on gossip.
42. Digirolamo, supra note 1, at 47.
43. The Hebrew word meaning disgrace is spelled both "shondeh" and "shanda" when transliterated into English. Both forms are accepted and used in this article.
battered women’s embarrassment and self-blame by calling abuse a \textit{shanda}, blaming women for causing or not preventing it in their own home."\textsuperscript{4} Shame as a Jewish concept is explained by Lipshutz, Kaufman and Setel:

The issue of shame in the Jewish community is a complicated one. So vulnerable to the random violence of surrounding cultures for so long, Jews still have the fear of looking “bad” to others. Throughout our history, Jews have often dealt with community dysfunction by flatly denying that problems such as spousal abuse, addiction and incest even existed. We idealized our homes as refuges from a hostile, anti-Semitic world. For generations of Jewish women and children, the abuse suffered within those families was hidden or even viewed as acceptable. Now that victims and survivors have demanded these issues no longer be ignored, they are sometimes blamed for “airing dirty laundry” or bringing shame on the community. Sadly, women victims often have a similar experience: When they take the courageous step of leaving an abusive relationship, they may be perceived as betraying the Jewish ideals of family and marital fidelity.\textsuperscript{45}

The notion of “airing dirty laundry” remains present today in such a force that it can work to sabotage domestic violence agencies and outreach centers’ efforts to combat domestic abuse.\textsuperscript{46} One agency attempted to reach abused Jewish women by hanging posters at the \textit{mikveh}.\textsuperscript{47} The

\textsuperscript{44} Wendy Lipshutz, Gus Kaufman, Jr. & Drorah O’Donnell Setel, \textit{Responding to Domestic Violence, in Jewish Women Int’l, Healing and Wholeness, supra} note 19, at 23.

\textsuperscript{45} Id.

\textsuperscript{46} Speaking to rabbis in preparation for this paper, I was told by one rabbi that he did not believe that domestic abuse should be discussed in a forum accessible to the non-Jewish community because he thought it would be used to reinforce anti-Semitic sentiments. \textit{See also} Rahel Musleah, \textit{Surviving Abuse, Jewish Woman Magazine}, Spring 2003, 16, 19 (survivor of domestic abuse, now a domestic violence activist, was told when she asked if she could give a talk at a synagogue on domestic violence, “If we talk about it, people will think there’s a problem.”).

\textsuperscript{47} The \textit{mikva} is

a body of natural water (that is, a pool, a river, a pond, a lake, or an ocean) in which a person who has become ritually impure purifies himself or herself by immersion \ldots. Today, the \textit{mikva} is mainly used by the menstruating woman who may not resume marital relations until she has immersed herself on the seventh day after her period has ended.
posters were consistently torn down by individuals who do not want domestic violence discussed in the open.46

A woman may not keep silent for her shame alone, as children are affected by the shondeh of domestic violence as well. These women know that exposing flaws comes with a certain amount of danger, including jeopardizing the children’s chances of marriage.49

[I]n some cultures, such as the Orthodox community where marriages are initiated by a shidduch (matchmaking) a young man or woman from a home where there was known to be abuse may not be considered favorable for a shidduch. Knowledge in the community of significant discord within the home may stigmatize the children, hence the penchant for secrecy.50

Rabbis reinforce shondeh when they refuse to believe that domestic abuse exists.51 When a woman comes to a rabbi who discounts what the woman says and suspects her of lying, the rabbi contributes to shondeh as a form of isolation. “The rabbi, on more than one occasion, has told the woman to go home and change her behavior, indicating that whatever is wrong at home must be her fault.”52 A woman who has finally gotten the courage to overcome the shame she feels, only to have her rabbi deny what she is experiencing, is likely to have the sense of shondeh rekindled within her. The stigma of being a battered woman is thus compounded for a Jewish woman who must face the community from which she comes as a “Benedict Arnold” betraying the sanctity of the community to save herself.

Kolatch, supra note 8, at 123. The woman is attended to by a mikveh lady who ensures the immersion is properly done according to Jewish law.

48. Interview with Lauren Herman, Manager of Volunteer Services, My Sisters’ Place (Feb. 13, 2003). My Sisters’ Place is a comprehensive domestic violence agency. My Sisters’ Place provides a 24-hour hotline, education and outreach, materials, counseling, and shelter services. Project Miriam targets the Jewish community with specialized outreach, services, and materials to synagogues and to the community at large.

49. Interview with Lynn Sheinkin, Clinical Director/Shelter Director, Rockland Family Shelter (Feb. 19, 2003). The Rockland Family Shelter provides services for survivors and family members of domestic violence and sexual trauma. Located in Rockland County, N.Y., the Rockland Family Shelter has outreach programs and support groups designed particularly for the Orthodox and Hasidic communities. The Rockland Family Shelter also runs a fifteen-bed shelter for women and their children, which is equipped with a kosher kitchen.

50. Twerski, supra note 23, at 40.


52. Spitzer, supra note 33, at 24.
Much emphasis is placed on the woman as the person to blame—whether it is because she must maintain *shalom bayit*, she is committing *lashon hara* by speaking about the abuse, or she is creating a *shondeh* with her accusations. *Teshuvah,* commonly translated as "repentance," further burdens the women as it places her in a position where it is she who must correct things and make them right. Many Jews misunderstand *teshuvah* to mean forgiveness. In this way, an abusive man may seek forgiveness in the form of *teshuvah* from the battered woman. The abuser who minimizes his acts or seeks repentance for them through *teshuvah* feels he has done what he needs to do to repair the situation, placing the onus upon the battered woman to accept the man's forgiveness. "[T]he concept of teshuvah . . . is so ingrained in our collective psyche that Jewish women continue to forgive their spouses and offer them chance after chance to change." However, with domestic violence, behavioral change is not that simple.

Teshuvah is not forgiveness. Teshuvah is not instantaneous. . . . [T]here's this thought that somehow in the ten days between Rosh Hashanah and Yom Kippur we're going to get all even with everybody, but the truth is, it isn't possible, it isn't a process that can happen that way. Why not? Because the behavior has to change.

---

53. *Teshuvah,* also spelled "teshuvah," is commonly translated as "repentance." This act is performed on Yom Kippur, the Jewish Day of Atonement, when Jews ask themselves: "How do we correct the mistakes of our past and avoid repeating them in the future?" There are four components to *teshuvah*: regret, abandonment, confession, and resolve. Regret is experienced when the individual feels a sense of loss as the result of an event that took place. Abandonment comes when the individual gives up the notion of rationalizing the event and thus further perpetuating it. The confession is literally verbalized to the person who was wronged by the individual's action; this is actually saying that one is sorry for what took place. Lastly, resolve ensures that not only is the individual sorry but that the individual will not repeat the action again. See SHIMON APISDORF, *ROSH HASHANAH YOM KIPPUR SURVIVAL KIT* 99-105 (2000).


56. Rosh Hashanah is the Jewish New Year. The time period referred to as the "High Holy Days" or "High Holidays" is a time for emphasizing morality, self-examination, spirituality, and holiness. The ten days between Rosh Hashanah and Yom Kippur, are a time of introspection and prayer. See KOLATCH, *supra* note 8, at 221-45.

57. Yom Kippur is the Jewish Day of Atonement. See id. at 238-45.

While the abuser believes he has erased the impact of the abuse through teshuvah, he has in fact worsened its effects since in his mind the “problem” now lies with the woman.

The myth that teshuvah heals the wounds of domestic violence can be further perpetuated by rabbis. If a woman is able to gather enough courage to go to her rabbi, the rabbi may still be of the mind that abuse does not happen in the Jewish community. In addition, if the rabbi confronts the man, who insists he has done teshuvah, the rabbi may view the matter as closed. “The rabbi, who is not only a believer in the myth, but also an advocate of [teshuvah] and that sincere remorse eradicates even the gravest sins, readily accepts the husband’s account and promise, and the issue of battering is dismissed.”59 When the rabbi reinforces the abuser’s misconception that teshuvah heals the ills of domestic abuse, the rabbi then turns the focus of the situation onto the woman. As far as the rabbi is concerned, the abuser has done his part; now it is up to the abused to overcome her faults in order to create a peaceful home.

Statistics show that Jewish women stay in abusive relationships longer than non-Jewish women.60 This difference is not surprising considering the religious traditions and mythology surrounding Jews and Jewish women in particular.61 A Jewish woman who seeks to divorce her husband

59. See Twerski, supra note 23, at 32.
60. See UNITED JEWISH CMTYS., Do Jewish Men Really Do That? Domestic Violence and the Jewish Community, at www.ujc.org/content_display.html?ArticleID=1646 (Mar. 22, 2004) (“One important difference between Jewish women and others is that Jewish women take far longer to change their situations—seven to fifteen years versus three to five years, according to one study.”).
61. I feel I would be remiss if I did not address the area of jurisprudence that examines law and social norms ("LSN") and discuss how it relates to social controls within the Jewish community. Such a relationship, independently worthy of further advanced study, helps to situate normative influence of Jewish tradition on Jewish communities and place it in the context of the normative influences on the world at large. On its face, there are some parallels. “Much of the glue of a society comes not from law enforcement, as the classicists would have it, but rather from the informal enforcement of social mores by acquaintances, bystanders, trading partners, and others.” See Robert C. Ellickson, Law and Economics Discovers Social Norms, 27 J. LEGAL STUD. 537, 540 (June 1998). In this way, we have seen shalom bayit, lashon hara, shondeh, and teshuvah work to keep Jewish domestic violence within the Jewish community. Differences, however, between LSN and Jewish traditions as norms must not be ignored. The study of LSN, as studied by legal theologians, is one that, at its base, views social norms as being informal. This allows for the juxtaposition of social norms with formal areas of law in order to view the influence of the social norm. Jewish traditions, however, are not informal. Jewish tradition, as we have seen, often finds its root in halakha. Halakha, though ancient and constantly studied and interpreted by rabbis and Jewish scholars alike, is quite formal in its construction. Rabbis understood that customs would develop over time and from place to place. They further understood the importance and value custom plays in society. Thus, “[s]hould a custom (minhag) [minhag is the Hebrew word meaning “custom”] conflict with some established law (halacha), the custom
may further entrap herself in the cycle of abuse, since according to Jewish law, a halachically valid marriage\(^{62}\) can generally only be dissolved in two ways: through the documented death of one of the partners, or by the husband issuing a get to his wife.\(^{63}\) The get, a document of divorce, releases the woman from the man. A wife cannot deliver the get to her husband, and much controversy exists as to whether a beit din, religious court, may terminate, dissolve, or annul a marriage. Though the wife must consent to a divorce, the get must be initiated by the husband.\(^{64}\) When a husband refuses to give his wife a get, or, if he is presumed dead but there is no proof of his death, the wife becomes an agunah.\(^{65}\)

An agunah is a “bound” woman: chained or anchored to the husband to whom she no longer wishes to be married.\(^{66}\) Agunot\(^{67}\) are not permitted to remarry under Jewish law. If an agunah were to remarry or cohabitate with another man, it would be considered an adulterous

\(^{62}\) A halachically valid marriage is one that has been entered into according to Jewish law.

\(^{63}\) See generally Rachel Biale, Women and Jewish Law: An Exploration of Women’s Issues in Halakhic Sources 102–120 (1984); Irwin Haufl, Divorce in Jewish Law and Life 3 (1983); Greenberg, supra note 20, at 125–45.

\(^{64}\) See Susan Metzger Weiss, Sign at Your Own Risk: The RCA Prenuptial May Prejudice the Fairness of Your Future Divorce Settlement, 6 Cardozo Women’s L.J. 49, 52 (1999).

\(^{65}\) The agunah does not exist within Reform Judaism because Reform Judaism does not require the delivery of the get in order for the parties to divorce.

\(^{66}\) See Biale, supra note 63, at 102.

\(^{67}\) Plural of “agunah.”
relationship. Any children born of such a relationship are mamzerim. Mamzerim, loosely translated as illegitimate, are severely stigmatized under Jewish law. For example, a mamzer is generally permitted to marry only another mamzer.

Often a husband will agree to a get in exchange for the woman giving up her rights to custody of the children, alimony, child support, the family home, etc. Because Jewish law does not recognize civil marriage or civil divorce, the woman is at the mercy of her husband and his extortionate measures if she wants a religious end to her marriage.

Battering, as previously discussed, is a means of control. “The ‘goal’ of this abuse is to help one person achieve and maintain power and control over the other.” Thus, Jewish divorce laws help an abuser to achieve his “goal” since under the Jewish laws of divorce, the batterer is in a position to ensure that a woman’s fate remains in his hands. The decision to leave an abusive spouse is not an easy one. That decision increases in difficulty when the need for a get is present. If a husband withholds the get after the woman leaves, she is still not free from him. Similarly, if the woman believes the get will be withheld, she may not even try to leave—thus chaining the agunah not only to her husband, but to his abuse as well.

B. Community Understanding and Exposure

Largely due to the reasons explored above, many rabbis deny the existence of domestic violence within Jewish communities. Often, Orthodox and ultra-Orthodox rabbis will dismiss the notion, saying that observant families are not violent or that domestic violence is not Jewish. For this reason, domestic violence has been described as: “a tear in the lining of a beautiful garment. The wearer of the garment knows it exists and feels it ripping, giving way with time. It is hidden from the outside observer until the damaged material slips out from underneath and becomes visible.”

Some Jews, especially observant Jews, possess an “us versus them” mentality with regard to the secular world. Years of general anti-Semitic thoughts and feelings foster a belief that Jews should stick together and

69. Digirolamo, supra note 1, at 44.
keep what happens to Jews within their own communities at all costs.\textsuperscript{72} The need to band together against the outsider led to the development of a society that attempts to maintain the pretenses of having no internal strife or dissention.

It is likely that when Jews were disenfranchised and persecuted, no one could afford the luxury of internal strife, and this may have prevented discord within the family as well. The Jewish couple could ill afford any internal dissention, and it may well be that this was the source of the belief that the Jewish family is a bulwark of solidarity and that Jewish husbands are not batterers.\textsuperscript{73}

Many of us are familiar with the scene in "Fiddler on the Roof\textsuperscript{74}" in which the sisters sing ‘Matchmaker, Matchmaker.’ Buried in the lyrics of the song, in which the sisters sing about what they hope to get in a husband and the realities they are sure to face, is a line that says, “You’ve heard he has a temper. He’ll beat you every night. But only when he’s sober, so you’re alright.”\textsuperscript{75} "Fiddler on the Roof," a play that portrays shtetl\textsuperscript{76} life in Russia, complete with persecution by the Cossacks, also gives a glimpse of the realities women may have been facing in their home life. This distrust and danger the Jews faced living in Russia compels the observer to understand why the traditions and cohesion of Jewish life were so important to the Jews.

While shtetl life closed Jewish families off from the outside world, the Americanization of Jewish families has had the opposite effect.

As Jews Americanized and enjoyed the rights and privileges of their non-Jewish neighbors; as they became doctors and lawyers and college professors and successful businessmen; as the danger from hostile neighbors appeared to diminish, this unifying force was attenuated, and as the need for strong

\textsuperscript{72} Horsburgh, supra note 70, at 177.
\textsuperscript{73} TWERSKI, supra note 23, at 31.
\textsuperscript{74} “Fiddler on the Roof” is a play written by Joseph Stein, Sheldon Harnick, and Jerry Bock. Based on the short story “Tevye and His Daughters” by Sholom Aleichem, it originated on Broadway in 1964. The play was adapted for film in 1971, and the licensing rights are held by Musical Theater International. See www.fiddlerontheroof.org.
\textsuperscript{75} “Matchmaker, Matchmaker” was written by Jerry Bock, with lyrics by Sheldon Harnick. FIDDLER ON THE ROOF (1965).
\textsuperscript{76} Shtetl is a Yiddish word referring to a small Jewish town or village formerly found in Eastern Europe.
family bonds weakened, more Jewish husbands became abusive.\textsuperscript{77}

The weakening of the need for strong family life has had an effect on both secular and observant Jews alike because the myths that began in the shtetl did not disappear once Jews were Americanized.

It is the secular Jew who has been most affected by Americanization. The secular Jew is likely to identify as a Jew and maintain some degree of Jewish traditions. As we have seen, Jewish tradition teaches women to believe that their role in life is to preserve the family and transmit Jewish traditions to the children. Similarly, because Jewish cultural identity is important to the non-Orthodox Jewish as well as the Orthodox, "Jewish sensibility is cultivated in both subgroups by emphasizing Jewish family values and distinguishing the value of the traditional Jewish mother."\textsuperscript{78} In this way, the secular Jewish woman faces the non-Jewish world with a self-perception of both woman and Jew. This perception guides her in assimilation, with the understanding that total assimilation is not possible, since regardless of a Jewish woman's affiliation within Judaism, she is nonetheless often guided by Jewish principles.

For the observant Jewish woman, Americanization has not pushed her toward assimilation but rather encapsulated her within an isolated context. The Orthodox and ultra-Orthodox have in essence created a religious subculture in American society. Defining themselves in terms of religion and family, many observant Jewish women are largely closed off from the secular world. This isolation regularly translates into isolation from possible resources for assistance. Language enhances the isolation and, at times, the man's power over the woman where, as in more observant communities, Yiddish or Hebrew is likely the woman's first language. Often women are not encouraged to learn English or to learn it well. This barrier can later be used against the woman, for example, if she is forced to sign documents she cannot clearly understand.\textsuperscript{79} The effort to maintain strong Jewish connections has, in fact, recreated the shtetl atmosphere in which the outside world is not approachable and the inside world will not look for abuse or believe it exists. Domestic violence shelters and outreach organizations, even those particularly situated and designed to understand the sensitivities of the

\textsuperscript{77} Twerski, supra note 23, at 31.
\textsuperscript{78} Horsburgh, supra note 70, at 183.
\textsuperscript{79} Sheinkin, supra note 49.
insulated observant communities, are viewed as outsiders and feminists who wreck homes.\textsuperscript{80}

The "us versus them" mentality entraps not only the Jew vis à vis the non-Jew, but also pits individual branches of Judaism against other branches. Though it is generally accepted among Jews that domestic abuse exists within the Jewish community at large, the attitude still persists that such abuse does not happen to "Jews like us." The "us" applies to each branch of Judaism which sees its members questioning "is it really happening in that many of our families?"\textsuperscript{81} Observant Jews point the finger at secular Jews, indicating that it is only among Jews closely tied to the evils of the secular world that abuse exists. In this same way, secular Jews perceive observant Jews as being more prone to abuse, since it is thought that religious ideology is more likely to reinforce inequality between men and women. Regardless of which community is speaking, the notion that domestic abuse does not happen to "Jews like us" is present.\textsuperscript{82}

\section*{C. Societal Views}

In addition to the stereotypes that abused women face, Jewish women also face anti-Semitism from the non-Jewish world. "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."\textsuperscript{83} These preconceived notions about Jewish women are as restricting as the myths Jews themselves believe about Jewish families. They contribute to the difficulty of Jewish women leaving and getting help.

A Jewish woman who decides to leave her abusive partner may have special needs that limit where she can go. If the woman keeps kosher,\textsuperscript{84} she cannot prepare food in a shelter kitchen that is not a kosher kitchen. "Adhering to the dietary laws keeps the observant Jew apart from those

\textsuperscript{80} Id.
\textsuperscript{81} Spitzer, supra note 33, at 23.
\textsuperscript{82} Herman, supra note 48.
\textsuperscript{83} Horsburgh, supra note 70, at 177.
\textsuperscript{84} "Kosher," (also called "kashrut") is the dietary laws by which observant Jews abide. See Kolatch, supra note 8, at 84–98 ("Observance of the laws of kashrut has been a unifying factor for the Jewish people throughout the ages, continually serving to remind Jews of their roots. The primary dietary laws are set forth in the Book of Leviticus, where a list of kosher and nonkosher animals is given.").
who have rejected [her]. 85 The same laws that set a dividing line for the 
observant Jewish woman between the Jewish and non-Jewish world 
serve as a barrier to her freedom since “for many Orthodox women who 
need to keep kosher and observe the Sabbath, there is nowhere to go.” 86 
In shelters that have a kosher kitchen, anti-Semitism becomes an issue 
between the Jewish and non-Jewish women. The non-Jewish women 
may resent what they see as Jewish women as receiving special privi-
leges. 87 Similarly, Jewish women are commanded by their religious 
observance to light candles on Shabbat. 88 Shelters often have rules pro-
hibiting the lighting of candles for safety reasons. 89 In addition to 
kashrut and Shabbat, the shelter’s communal atmosphere is often diffi-
cult for observant women to accommodate. For example, television 
programs being watched by the non-Jewish women and their children in 
the shelter will likely be considered inappropriate by the observant Jew-
ish woman for herself and her children. 90 The discomfort Jewish women 
feel in shelters makes their overall stay shorter on the average than that 
of non-Jewish women. 91

II. EXPLORING SOLUTIONS: ARE THERE JEWISH 
SOLUTIONS TO DOMESTIC VIOLENCE?

A. Religious Law

Shalom bayit, the Jewish ideal for peace in the home, has been 
acknowledged as a barrier to the abused woman leaving. Jewish women 
stay for approximately five to seven years after the abuse starts. 92 What 
Jews understand about shalom bayit that keeps them in abusive use

85. Kolatch, supra note 8, at 85.
86. Kathleen Chapman, Kosher Women’s Shelter Envisioned, PALM 
BEACH POST, Nov. 11, 2002, at 1B.
87. Sheinkin, supra note 49.
88. “Shabbat” (Shabbos in Yiddish) is the Jewish Sabbath. It begins at sundown on Friday 
night and ends an hour after sundown on Saturday night. See Kolatch, supra note 8, 
at 169 (“The primary but not exclusive obligation for lighting Sabbath candles be-
long [sic] to women. The traditional explanation is found in the Talmud (Shabbat 
31b), where Rashi comments that since it was a woman who was the cause of the 
man’s downfall (Eve when tempted by the snake), causing the light of the world to be 
dimmed, it is woman’s obligation to light the candles and bring back light.”).
89. Sheinkin, supra note 49.
90. Id.
91. Id.
92. HADASSAH & THE LEADERSHIP CONFERENCE OF NATIONAL JEWISH WOMEN’S ORG., 
supra note 19.
relationships and justifies their abuse or counsels the abused to “try and make it work” is often misunderstood. According to halakhah, “[h]usbands and wives must be compatible with each other and, if unable to coexist, they should separate.” The principle that “nobody can be expected to dwell in a cage with a serpent” means that, if a marriage is impossible to be endured, it should be ended. Rabbinic students at Hebrew Union College are required to take pastoral counseling courses prior to receiving ordination. As part of these courses they are taught to understand that shalom bayit is an ideal, not an absolute. They are encouraged to keep in mind that if everyone in the bayit (home) does not feel shalom (peace), perhaps the bayit does not need to stay together. Rabbis must set an example for their community by not misusing or manipulating the concept of shalom bayit. Similarly, they must support individuals by recognizing that the best means of achieving peace may be to end the marriage or relationship.

Rabbis also have the ability to play a major role in bringing aid to abused women through their work on the beit din, the Jewish religious court. A leading beit din in the United States describes the purpose and function of the beit din as:

Providing a forum where adherents of Jewish law can seek to have their disputes resolved in a manner consistent with the rules of Jewish law (halacha) and with the recognition that many individuals conduct commercial transactions in accordance with the commercial standards of the secular society.

While batei din in the United States are largely unregulated and often operate under different standards, with various practice styles and atmospheres, there is some uniformity among them. Generally, three dayanim are required for most cases. Batei din hear cases ranging from financial disputes (e.g., partnership, employment, and corporate disputes; congregational issues; family business, inheritance, and child

---

93. Dratch, supra note 24, at 60.
94. Ketubot 72a, 77a, 86b. See generally Graetz, supra note 10, at 81. See also Dratch, supra note 24, at 160.
95. Wiener, supra note 36.
96. Beit din is also spelled “beth din.”
98. Plural of “beit din.”
99. A dayan is an individual who sits on a beit din and decides the case as a “judge.”
The uniform capabilities of bet din should not be misunderstood as uniformity amongst bete din, however. Little is known about the operations of most bete din. While some bete din proceedings are recorded, not all are memorialized. None are published or available for public review. In addition, while bete din have the power to issue seruvim, it is not clear how often or with what degree of regularity bete din do. This lack of transparency is heightened for women litigants, who are often excluded from matters pertaining to halakhah, leaving them uninformed and unprepared for the Jewish divorce process. While the bet din can aid a woman in receiving a get, and is a necessary component to a Jewish divorce, a woman should research the bet din to which she is presenting herself. The Jewish Orthodox Feminist Alliance ("JOFA") is currently creating a database of bete din in the New York City metropolitan area specifying each bet din's modes of operation. The purpose of this database is to help litigants choose a legitimate and appropriate bet din for their particular case and to help them navigate the bet din process smoothly.

Despite the need for a woman to approach the bet din as an informed litigant, the abilities of the bet din with regard to aiding a victim of abuse should not be underestimated. Though Jewish divorce

---


101. Plural of "hazmanah."

102. The seruv indicates that the bet din considers the person to be in contempt of the bet din, either for not responding to the hazmanot or because the individual is refusing to obey the decision of the bet din. A seruv is hard to get; some bete din never issue them. They are also a powerful halakhic tool, as they indicate a person's recalcitrance. They can be publicized and often trigger public demonstrations informing a community that one of its members has a seruv issued against him. The plural of "seruv" is "seruvim."

103. The database will include information regarding how to contact the bet din; the character of the bet din (its affiliations; whether women are encouraged to bring a friend or relative for support; the confidentiality of the bet din; the languages it uses); procedures (including the issuing of hazmanot and seruvim); its relationship with other legal bodies; its record-keeping abilities; who the dayanim are, including their qualifications; and the fees, including how much and who is responsible for paying. The database will be accessible from JOFA's website, www.JOFA.org.
laws strongly favor the man, decisions of the beit din are binding on both parties. Domestic violence is often considered an insufficient cause for a husband to have to give a get, making the selection of which beit din to use crucial. A beit din that operates with fairness, competence, and integrity ensures that a woman receives justice and that the actual powers of the beit din are utilized.

Since Jewish divorce often heightens the web of entrapment in which a victim of abuse is caught, it is necessary to understand what can be done to help a woman avoid becoming an agunah. Throughout the Orthodox community and elsewhere within Judaism, premarital agreements are being used to place women on more equal footing with men in the event divorce should arise. Prenuptial agreements, though not required by Judaism as a whole, are often encouraged by individual rabbis, and many Orthodox rabbis will not marry a couple without one. Here, too, caution is required since some premarital agreements may not help women.

A prenuptial agreement that "binds the couple to appear before the rabbinical court to arbitrate all issues relating to a get, as well as any issues arising from premarital agreements" should be closely examined. Language that calls for the parties to include or exclude additional clauses which would give the beit din the right to decide issues of child support, visitation and custody, or monetary disputes—which could be decided within civil law—can become problematic. While it may seem to work to the woman's advantage to have a previously arranged agreement requiring her husband to appear before the beit din in the event of divorce, this provision can also work against her. If the arrangement included clauses allowing the beit din to resolve the distribution of property and custody of the children, a woman who is

105. Graetz, supra note 10, at 172.
106. Interview with Rabbi Mark Dratch, Congregation Agudath Shalom (Feb. 13, 2003) [hereinafter Dratch Interview]. Rabbi Dratch is a member of the Jewish Advisory Board of the Center for the Prevention of Sexual and Domestic Violence and a leader and spokesman for the modern Orthodox community.
107. Weiss, supra note 64, at 65.
108. The term "civil law" as it is used in this Article refers to the law of the State, which is applicable to all citizens of that state. The terms "Jewish law," "halakhah," and "religious law" refer only to the laws of the Jewish religion and are only applicable, as such, to individuals who identify themselves as Jewish. These terms are specific to this Article and may have other meanings elsewhere.
before an inequitable beit din is severely disadvantaged.109 Because some religious communities deny the existence of domestic violence, a woman who uses evidence of abuse in her proceedings before the beit din could be highly scrutinized, if believed at all.

Another clause placed into prenuptial agreements that must be examined is one indicating that parties living apart for a certain number of days will have grounds for divorce. This clause is not as beneficial to an abused woman as it may seem on its face. Because a get may not be coerced, a man who is "forced" to leave his home because of a court order would likely be seen as having been coerced out of his home—thus invalidating the "separation" as grounds for divorce. Similarly, because the decision for a battered woman to leave is an extremely difficult one, and it takes the average woman seven attempts before she actually does leave her husband, this clause is essentially useless as a remedy.110 Therefore, while a carefully worded prenuptial agreement may bring some relief to a battered woman or agunah, it often does not.

Although 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 solutions to the agunah problem.111 In order to eradicate the problem of agunah, halakhic reform is necessary. Halakhic reform can be achieved by takkanah (rabbinic edict).112 "Takkanah is a very important tool in the system of halakha which, despite its centrality to the viability of the halakhic process, has fallen on disuse."113 A takkanah would put an end to the requirement that a husband give his wife a get and adopt in its place a mutual agree-
ment arbitrated before a *beit din*. Proactive measures within *halakhah* would amend Jewish law, equalizing men and women's positions with regards to Jewish divorce. Fostering change within *halakhah*, however, is likely slow to come, and for this reason, other avenues available to rabbis to help bring women justice through community leadership should be explored.

B. Community Awareness and Pressure

The Bible states, "Thou shalt not stand idly by the blood of your neighbor." This obligation requires community members, lay persons and community leaders alike, who are aware of an abusive situation, to aid in saving the victim.

1. Rabbinic Involvement

A rabbi may be the first line of defense for a Jewish woman. Rabbinic awareness and education have become crucial aspects in aiding abused women. Organizations throughout the United States are attempting to educate the Jewish clergy to the problem of domestic violence. This top-down approach to community involvement is crucial, particularly in more observant communities, which take their lead on how to live their lives from the rabbis. One such organization, the Shalom Task Force, has held educational symposia for Orthodox rabbis. The Shalom Task Force teaches the leaders, among other topics, how to look for signs of abuse, to safety plan with abused women, and to provide a non-judgmental supportive ear.

Speaking from the pulpit about domestic violence informs the community that a rabbi is conscious of the problem and prepared to help. Orthodox and Reform rabbis alike agree that this is an effective way to reach women who are in need. Where a rabbi has

115. Leviticus 19:16.
117. See Gary S. Brown, Alan B. Beck & Vicki L. Lutz, *Taking Action Against Abuse: A Guide To The Courts For Victims Of Domestic Abuse* 6 (1998) (A safety plan is a plan made in advance, deciding where a victim will go if she has to leave her abusive situation in an emergency.).
119. *Id.*; Dratch Interview, *supra* note 106.
communicated that he or she is approachable on the issue of domestic violence, congregants in need "come out of the woodwork." One Orthodox rabbi "spoke about domestic violence from the pulpit one Shabbos: the following week he received four calls for help. It is estimated that for each person who seeks help, at least four or five remain silent." Congregations are cautioned, however, not to be too aggressive when informing their communities about domestic abuse.

Women in need of help may be scared away from programs advertised as encompassing domestic violence awareness. Similarly, abusers may not allow their partners to attend such an event.

2. Networking

Networking within Jewish communities is crucial for both observant and secular Jewish communities. In insulated communities, networking by shelters and support persons is necessary in order to be accepted by the community. In this way, the community gets a sense that the organization which is trying to penetrate its isolation is respectful of how the community must approach domestic violence. Developing a network to understand the needs and resources within a community is not limited to the more insulated Jewish communities, as "[m]any congregations and Jewish organizations are building alliances with shelters..." Reform rabbinic students, whose future Reform congregants are likely to be less isolated than observant Jews, are taught how to set up networks of support. They are told to seek out resources when they enter a new community so they are prepared when the issue of domestic violence comes before them.

Domestic violence organizations and shelters must make themselves known to Jewish community leaders and educate themselves regarding the particular sensitivities Jewish victims of abuse possess. In this same way, rabbis must develop relationships with domestic violence agencies in order that the rabbi be familiar with and trust an organization to which the rabbi can direct congregants in need.

120. Wiener, supra note 36.
121. Silver, supra note 71, at 40.
122. Dratch Interview, supra note 106.
123. Herman, supra note 48.
124. Sheinkin, supra note 49.
125. Musleah, supra note 46, at 19.
3. Other Community Aides and Actions

Outreach to abused Jewish women is being accomplished through domestic violence task forces and organizations and via shelters for Jewish women that are being established throughout the United States. As of 2003, there are more than 60 programs serving Jewish victims of domestic abuse in the U.S. The Shalom Task Force, for example, has put in place a national confidential hotline for victims of abuse. Holding conferences for rabbis and lay leaders, the Shalom Task Force promotes awareness of the domestic abuse problem in Jewish communities by offering support to local domestic violence programs in any community in the United States. Another group, Jewish Women International, suggests that one of every four Jewish homes is the scene of relationship abuse. This group, through its program Project Ohr, counsels victims of domestic abuse and individuals who may know someone who is being abused. In addition, Jewish Women International provides programs and promotional material to community leaders and activists and believes that early intervention is important.

Many victims of abuse who utilize the services of domestic violence organizations want to share their story with others. The isolation that domestic violence inflicts on a woman can be as painful and emotionally traumatic as the bruises and cuts she receives. For this reason, counselors and support groups provide the woman with a forum where she can learn that she is not alone and can gain strength and empowerment through voicing her story. Often women who belong to insulated communities fear that if they are attending a “Domestic Violence Support Group for Orthodox Women,” or similarly named group, they will likely recognize someone in the group. The shondeh of abuse often turns such a woman away from attending a group where her secret will become known to those among whom she lives. Calling the group a “Parenting Group for Orthodox Women” helps overcome this obstacle since Orthodox women are more willing to attend a parenting group which does not on its face involve the stigmas of domestic violence. Jewish women who are comfortable in associating with non-Jewish women will likely attend support groups for battered women in general.

126. Id. at 18.
129. Sheinkin, supra note 49.
The key to such groups is making them as accessible and "user friendly" as possible. This means not requiring an intake process for the women to attend or charging a fee. Similarly, because the notion of shondeh is a pervasive one, a woman may not utilize the resources available to her in her own community. To provide women with information that they may avail themselves of in other areas, communities are encouraged to post accessible information about local and national resources for victims of abuse.

Meeting one-on-one with an advocate can be both ideal and life-saving for a victim of abuse. The Rockland Family Shelter provides advocates who have close ties to and are often members of the Orthodox communities. Such advocates are best situated to understand the culture and environment from which the woman is coming. Because the Orthodox woman is often isolated and because there is a risk in her publicly admitting what is going on in her life, Orthodox women do not come until they are really desperate. Thus, the personal advocate plays a key role in finding out what the woman wants to do and how she can best be helped.

Listening to the woman's needs ensures that the woman is receiving not only crucial (and often lifesaving) assistance, but assistance she controls. Giving the woman control over her own survival empowers her for the first time since the abuse started. Earlier in this Article, the notion that domestic violence is supported in every community by patriarchal mentality was discussed. Some women, particularly observant women, are comfortable with being in a male-dominated relationship and do not want to change that. What they want to change is that the man is being "hurtful, cruel and scary. . . . Just because they want to change the relationship does not at all mean they want to leave."

Individuals who are closest to the women, but who may not be members of the Jewish community themselves, are well-positioned to identify the abuse and to provide assistance. Recently, over 40 sheitl-machers met in Brooklyn to learn about domestic abuse. This federally funded program called Project Eden "aims to sensitize hairstylists to the
issue of domestic abuse in the Orthodox world, to educate them about services where they can refer clients, and to teach them not to say 'this doesn't happen in our community.' 

Like wigmakers, shomrot or mikveh ladies are in close, intimate contact with observant Jewish women. For this reason, Project Eden also trains "mikveh ladies, nail salon employees and others in whom Orthodox women may confide." 

Because the Jewish traditions which influence domestic violence in the Jewish community are deeply engrained in Jewish mentality, targeting Jewish teens helps to ensure intervention at the earliest stage. The Shalom Task Force conducts preventive workshops in high schools and colleges, as well as professional training for mental health workers. Similarly, Shalva, a response center that offers programs on safe dating and sexual assault for teens, has developed Project Peers and Project Heart. These programs teach middle school, high school, and college students about healthy relationships, peer abuse, and dating.

For the agunah, community support and activism, for example, holding the perpetrator responsible, is more effective than any other modes of operation. "Our understanding ... is that [domestic abuse] happens because of the inequity of power. We don't expect to change the structures of that community, but only to add to that the concept that a community is responsible to make sure abuse doesn't happen and to hold perpetrators responsible." At a recent Jewish Orthodox Feminist Alliance (JOFA) conference, international agunah activists brainstormed better ways to help the agunot. After two days, the activists from fourteen organizations representing five different countries created a communication network among themselves, as well as established plans for beit din reform and education for women about batei din.

The JOFA conference was a landmark event, as it was the first time activists from around the world participated in this dialogue with one another. Given that only "[t]en years ago, domestic violence in the

138. *Shomrot* (Hebrew for mikveh ladies) are the attendants at the ritual bath. See Kolatch, supra note 8 for further discussion on mikvehs.
139. Musleah, supra note 46, at 21.
140. Id.
141. Id.
Jewish community was shrouded in secrecy and denial, \(^{143}\) it is truly revolutionary and of vital importance that religious scholars (from different branches of Judaism), legal experts, and community leaders led discussions and panel presentations on what is being done around the world to help agunot. These discussions allowed activists to learn from one another, as well as to unite to form an international coalition. Unity is important for agunah activists because Judaism transcends national borders and there is little consistency or accord among the various branches of Judaism. "Thus leaders of all of the branches of Judaism will have to come together and talk to each other in order to work out a mutually acceptable solution, each recognizing the other as part of klal Yisrael, the total Jewish community." \(^{144}\) Often an agunah will be in one country, while her husband is in another. In a situation like this, civil legal remedies do little to help; it is societal pressure that prevails.

Societal pressure is an influential tool within the Jewish community. The same isolation that keeps abused women prisoners also works to stigmatize their recalcitrant husbands. Withholding a get is generally looked down upon by Jews. A recalcitrant husband, once identified, can be shunned by the community. Identifying and shunning a member of the community is a very effective means of obtaining a get. This is particularly true in observant communities where participation in religious life is everyday activity. One organization, Agunot Campaign, holds demonstrations in front of recalcitrant husbands' homes and places of business. The *Jewish Press* \(^{145}\) has a section entitled "Family Matters" that lists the names of recalcitrant husbands. Elsewhere, during a weekly Shabbat service, the women in the community staged a protest when the Torah was being read. The women refused to stop until a man identified as a recalcitrant husband left the synagogue. When the man refused, the individual reading from the Torah rolled it up, walked home (followed by much of the congregation), and continued the service there. The next week, the recalcitrant husband was absent.

When an abusive Jewish man continues to receive recognition from his synagogue and community, the woman victim is further isolated and the abusive man is empowered to continue the abuse. \(^{146}\) It is necessary that a community send the message that it will not tolerate abuse. \(^{147}\) To

144. Greenberg, *supra* note 20, at 140.
145. The *Jewish Press* is a Jewish newspaper in New York with the widest distribution of any Jewish publication in the United States.
147. See Community Organizing: Creating Awareness, in *Jewish Women Int’l, Healing and Wholeness, supra* note 19, at 78.
this end, “denying the perpetrator honors, including the honor of an *aliyah*\(^{148}\) or serving on the Board of Directors” can be very effective in holding the abuser accountable for his actions.

**C. Civil Law**

Established guidelines within Jewish law determine when a Jew can utilize the domestic law of the state. *Halakhah* states, “*dina de-malkhuta dina,*” or “the law of the country is binding.”\(^{149}\) However, when the laws of the state call for violating Jewish law, *dina de-malkhuta dina* does not apply. Thus, Jewish law trumps civil law where a Jew would be forced to act against Jewish law. This is not so in cases of abuse, where “reporting [abuse] not only does not violate Jewish law, but . . . Jewish law makes such reporting imperative.”\(^{150}\)

Jewish women are afforded the same civil remedies as other battered women. These remedies include the use of civil courts for orders of protection, civil divorce, and custody settlements. Jewish women may also seek legal remedies through District Attorneys’ offices, where domestic violence or other abuse gives rise to criminal prosecutions.

While Jewish law does not recognize civil marriage or civil divorce, the legal system of the United States does not recognize religious marriage or religious divorce. “The recognition of the institution of Jewish marriage by a secular polity, and the recognition of a secular polity by Jews connected to Judaism, is an issue of the overlapping of two distinct legal jurisdictions. The ramifications of this overlapping are long and complicated.”\(^{151}\) A civil divorce in the eyes of the state is a legal document binding on both parties, which can become problematic where a Jewish husband is recalcitrant in giving his wife a *get*. Though civil divorce cannot compel a man to give his wife a *get*, it can work towards distributing the parties’ property. A woman must be careful, however, after the distribution of property under a civil divorce, because a man may use more extensive extortion or even deny a *get* outright since the civil remedies available to a woman are largely based on her being married to the man.

\(^{148}\) An *aliyah* is the honor of being called up to the Torah.

\(^{149}\) Dratch, *supra* note 24, at 62 (quoting Gloss of Rema to *Hoshen Mishpat* 369:11).

\(^{150}\) Id.

\(^{151}\) Novak, *supra* note 104, at 1059.
Courts in the United States have seen a rise in the number of get cases. The first get case appeared in New York courts in 1957. Specific performance is the most sought-after remedy in civil court. Courts are generally hesitant to order specific performance as a remedy, and this holds true for get cases. The second type of case where women have sought a civil remedy is enforcement of the get based on implied obligations set out in the ketubah (marriage license). The most famous of these cases is Avitzur v. Avitzur, in which the New York Court of Appeals held that the arbitration clause in the ketubah would be enforced on the neutral principles of contract law. The scope of Avitzur has two major limitations, however. First, it only has applicability to a Conservative ketubah. Second, the decision only requires a recalcitrant husband to appear before a beit din; it does not order him to deliver a get or to comply with the beit din’s decision.

In 1983, New York became the first state to address the agunah problem legislatively by adopting Domestic Relations Law § 253. The statute bars a plaintiff from obtaining a divorce until he or she has removed barriers to the other party’s remarriage. More recently, in 1992, the New York Legislature amended the statute to allow a judge, where appropriate, to consider the potential effects of a woman’s religious inability to remarry in dividing marital assets or setting maintenance.

The get statute has been highly controversial. Some believe it is an “unconstitutional intrusion into religious affairs.” Rabbinic authorities agree, however, that the statute does not coerce a man into giving a get. This is a critical point because under Jewish law a get that is coerced is

152. Koeppel v. Koeppel, 138 N.Y.S.2d 366 (N.Y. Sup. Ct. 1954), aff’d, 161 N.Y.S.2d 694 (N.Y. App. Div. 1957). Here a husband and wife signed a prenuptial agreement requiring both spouses to appear before a beit din in the event of divorce. When the husband refused, the wife sued. The Court held the agreement to be valid, but the language in question to be too vague to order specific performance.


155. See Biale, supra note 63, at 110. (“The Conservative movement in America attempted to deal with the problem of agunah due to the husband’s disappearance or refusal to grant a divorce through the instrument of the ketubah. An addition to the ketubah proposed in 1954 by Saul Lieberman had the couple mutually agree to submit to the authority of a Bet Din to determine the terms for the dissolution of the marriage (if this is not accomplished by mutual consent) when it seems this appropriate according to Halakhah. The proposal was met with severe criticism from Orthodox quarters. Though the addendum has been maintained in Conservative ketubot, its validity and enforcement remain questionable.”).

156. N.Y. DOM. REL. LAw § 253 (McKinney 2002).

invalid. By telling the plaintiff that, if he wants a civil divorce, he will have to give the *get*, the court is placing the decision upon the plaintiff, rather than ordering him to give the *get*. While many do not question the legitimacy of the law, many question whether the statute helps the *agunah*.

In the nearly twenty years since the statute was passed, it has helped few *agunot*. Some see the statute as mere window dressing for legislators—that is, legislation enacted to win favor for a particular legislator, but with little hope of actually being effective. "The chief problem is that the law only helps if the recalcitrant spouse is the one who sues for divorce, but in the vast majority of divorce actions in which the *get* becomes an issue, women are the plaintiffs." This is particularly true for women who are victims of spousal abuse. Where a woman has been abused by her husband and initiates divorce on those grounds (or any other), the statute does not help her. Many rabbis and attorneys, however, say that the statute has been effective. They believe that the statute has a preemptive force since some men agree to a religious divorce after being counseled on the statute's impact on their ability to file for civil divorce.

Many activists and legal scholars around the world believe that the full and final solution to *agunah* must come from within *halakhah*. Since *halakhic* change is likely to be slow to come, however, it is essential to use the civil legal system to help the *agunah*. Susan Metzger Weiss gives three reasons why utilizing the civil courts is vital: empathy, definition, and conflict. The civil courts are empathetic to voices that are not heard in religious courts. As previously discussed, religious courts in the United States are unregulated and often conduct proceedings inequitably. A woman's voice at such proceedings can be, and often is, silenced or ignored, depending on the *beit din* hearing the case. Further, civil courts define or name what is at issue, whether that be domestic violence, contract law, property distribution, or boldly identifying a husband using a religious barrier as a means of extortion. "Unlike the final moment in a civil divorce, a Jewish divorce is not an adversary situation. There is no litigation, no grounds, no recriminations, no attempts at reconciliation, no

158. See Novak, supra note 104, at 1072.
160. Id. at 750.
161. Id. at 751.
162. See supra note 109 (discussing the inequalities of *batei din* in the United States).
163. Greenberg, supra note 20, at 7 ("Jewish religious courts do not accept the testimony of women.").
high drama. In fact, there is almost no conversation. . . . The divorce itself is an unadorned legal procedure . . . . Lastly, the civil court as a forum for conflict resolution provides an alternate value system which forces halakhah to rethink itself by essentially placing a mirror in front of the rabbis. The more the civil court is utilized to overcome religious courts' weaknesses, the more rabbis will realize that Jews in the United States (and elsewhere) have alternatives, and the greater the likelihood beit din and halakhic reform will come about.

CONCLUSION

Both Jews and non-Jews alike recognize the existence of domestic violence. Resources have been developed and continue to be developed within the Jewish community for Jewish victims of abuse. Yet much remains to be done to ameliorate the problems caused by domestic violence within the Jewish community.

Rabbis must lead their communities toward an honest and realistic understanding of domestic abuse. They must be educated on how to address domestic violence from the pulpit and how best to educate others regarding abuse. Similarly, rabbis need to recognize shalom bayit as an ideal, not an absolute. Informed about the dynamics of abuse, rabbis will be better able to counsel women who approach them for help.

Rabbis and communities' linking themselves with domestic violence organizations and outreach centers is tantamount to overcoming the "not in my community" attitude. Solid networks, aligning the Jewish community with domestic violence resources, will help ensure the safety of Jewish women. The community itself must not ignore abuse when it sees or suspects it. Confronting abuse is not a shondeh or committing lashon hara. The shondeh occurs when a woman is abused and her neighbors stand by and watch. Similarly, domestic violence organizations whose programs are not specific to Jewish women must understand the sensitivities particular to Jewish victims of abuse. Such organizations must reach out to Jewish communities and rabbis, informing the Jewish community that the organizations are receptive to Jewish women's needs.

Jewish society, as well as domestic violence workers and activists, must recognize the agunah as a victim of abuse. Having one's abilities to be free from a marriage, to remarry, and to bare children held hostage by

164. Id. at 140-41.
165. Susan Metzger Weiss, Address at JOFA's Fourth International Conference on Feminism & Orthodoxy (Nov. 9, 2002).
a recalcitrant husband are forms of abuse. Secular divorce lawyers must become educated on Jewish divorce laws, so they may better be able to counsel clients seeking a secular divorce. For a Jewish woman seeking a secular divorce, receiving the get first (or at the very least placing the get in escrow until the secular divorce is finalized) can be the difference between the woman becoming an agunah or being freed from her marriage both under the laws of the state and the Jewish law. Similarly, Jewish women must become informed litigants in get proceedings. They must be able to research the operations of a beit din before presenting themselves to the beit din in order to ensure an equitable outcome.

Thus, only alliances between the Jewish community, agunah activists, and the domestic violence community, including lawyers practicing family law, will create a net through which no victim can fall. Understanding of Judaism, domestic abuse, and issues particular to Jewish victims will bring about solutions that are accessible, cognizant, and lifesaving.