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## Get: Leverage or blackmail?

TORONTO – Jewish divorce has both a secular and religious aspect to it. Without a religious divorce Jewish law (*halacha*) forbids women to remarry. If a woman remarries without a *get*, profound and extreme consequences result whereby children from the new marriage are considered *mamzerim*. A *mamzer* is a technical *halachic* term. Those categorized as *mamzerim* are not permitted to marry other Jews and this prohibition is up to the 10th generation of the descendants.

*Halachically* – this euphemism means forever.

In the context of divorce, these dire consequences has sometimes resulted in husbands using the Jewish divorce process as leverage to coerce their spouses to make concessions regarding support or custody issues. Others, out of spite, refuse to give their wives a Jewish divorce. The *halachic* term for these women is *Agunot*, chained women. This issue has profound implications for the Jewish community.

There are some who argue that the Aguna problem is over exaggerated. Family law lawyers dealing with this issue in Toronto suggest the opposite.

This problem has been addressed in the United States and in Israel by the religious and secular governments in different ways.

The Canadian government has also tried to assist with the problem, but a key issue in finding solutions to the problem is to understand that for a Jewish divorce to be *halachically* valid the husband has to voluntarily give the *get*. Accordingly, any government pressure applied (as opposed to pressure applied by a Jewish Court or *Beit Din*) is viewed by some as invalidating the process in jurisdictions like New York and Toronto where state and provincial legislation exists to address the problem.

For those interested in this issue see an article written by Rabbi Michael J. Brody ([http://www.jlaw.com/Articles/get\\_exchange2.html](http://www.jlaw.com/Articles/get_exchange2.html))

More than 10 years ago, the Rabbinical Council of America and the Orthodox Caucus tried to address this situation by consulting with lawyers and leading rabbis in America and Israel. Their solution was to draft a *halachic* Prenuptial Agreement, which was supposed to be both legally enforceable and *halachi-*



SHARON SHORE

cally recognized in secular and Jewish courts (<http://www.come-and-hear.com/editor/na-ou-prenup/index.html> <<http://www.come-and-hear.com/editor/na-ou-prenup/index.html>>) and an organization called ORA (<http://www.getora.com/volunteer.html>). Unfortunately, this solution cannot be used in its current form in Ontario.

B'nai Brith's lawyers division publishes a legal periodical. It is not a publication meant for the

general public – its intended audience is lawyers. The next volume deals with Family Law issues and one article addresses the problem of *Agunot* in Ontario. It outlines why, in the context of Ontario Family Law, a prenuptial agreement is not as effective as one might hope. The author also reviews some of the difficulties she faced when dealing with this issue. This is a must read for Family Law lawyers who deal with these issues in their practice.

Written by Sharon Shore, this article is an important step in addressing a situation where some Orthodox Jewish women living in Ontario find themselves trapped with no option but to capitulate. To be free to remarry they must forgo rights to which other women would be entitled, according to both secular and religious law.

Shore is a partner at Epstein Cole, one of the pre-eminent family law firms in Canada. She is an orthodox Jew, published author, and energetic volunteer for both JFCS and B'nai Brith. She is also the editor of the Family Law Volume of the B'nai Brith Legal periodical.

In her article she describes the problem of *Agunot* in Toronto and explains why the prenuptial agreement by the RCA in the US is not a legally viable solution in Ontario in its current state. When reading the descriptions of her dealing with these cases you can hear the voices of women who were being victimized.

It has long been B'nai Brith's goal to speak for those whose rights are violated. This article is in that tradition. In this publication we highlight this issue and try to start the educational process for professionals dealing with this matter so they can better help their clients.

## Israel's BSP Funds opens in Canada

Shlomo Kapustin  
Correspondent

TORONTO – The business ties between Canada and Israel have been growing for some time, but the relationship crossed a new frontier in October with the Toronto launch of BSP Funds.

The money management firm – officially called BSP Funds Canada Inc. – is believed to be the first Israel-based firm of its kind in Canada. Its parent launched in 2005 in the Tel Aviv suburb of Herzliya with proprietary investment software and ambition.

And now that ambition has crossed the ocean.

"It's an opportunity to bring this Israeli investment process to help Canadian investors diversify their portfolios in quality alternative investments," said Meir Cohen, CEO of Canadian operations.

The Toronto-born Cohen has worked in wealth management for more than 12 years, most recently at Bull Capital Management, which he co-founded in 2001. When the BSP opportunity came calling, though, he jumped at it.

"I was impressed by their capabilities...and how they per-



Meir Cohen heads BSP Canada

formed," he told the *Jewish Tribune*.

Since the firm's inception, the company has achieved a cumulative return of about 30 per cent, net of all fees. Registered in Israel with the Israel Securities Authority, has about US\$250 million in assets under management. Nine employees work for the company in Israel; Cohen is now the sole Canadian employee.

The investment industry in Israel lacks the heft of its Canadian counterpart, but Cohen said that it is still "fairly significant."

In developing its business in Canada, the company aims to both stick to its history and branch out. So while raising capital for the BSP hedge fund,

Cohen will also look for opportunities in real estate and private equity, and then bring these opportunities to investors – whether in Israel, Canada, the United States or Europe.

BSP Funds Canada, which is registered with the Ontario Securities Commission, targets what the industry knows as "accredited investors," a category that comprises high-net-worth individuals and institutions.

To accomplish its Canadian goals, BSP will lean on its sophisticated Israel-developed software, which Cohen called "unique." Perhaps this is fitting; Israel, famous for its high-tech expertise, has now leveraged technology to launch its first Canadian investment offshoot.

And the company's Canada-Israel connection continues to develop, as it recently joined the Canada-Israel Chamber of Commerce, which fosters relations between the two business communities and which installed its new leadership a little over a year ago, signalling its own increased efforts.

The launch of BSP and the chamber's resurgence are just two bricks in the wall of Canadian-Israeli business cooperation.