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## Rabbinic Court head supports use of prenuptial agreements

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Matthew Wagner , THE JERUSALEM POST

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Rabbi Eliyahu Ben-Dahan, administrative head of the Rabbinic Courts, recently expressed his support for prenuptial agreements as a potentially important remedy to the tragic situation of *agunot* ("chained women" - women who are denied a divorce).

Ben-Dahan also said that the Rabbinic Courts have in the past upheld prenuptial agreements.

"Prenuptials can be very helpful in expediting divorce procedures," said Ben-Dahan in a telephone interview over the weekend.

"Especially in cases where it is clear that the couple's divorce is unavoidable, but where halacha does not give the Rabbinic Court judges the power to obligate the husband to give a *get* [writ of divorce]."

The use of prenuptial agreements to facilitate the divorce process is a controversial issue among Rabbinic Court judges. Some rabbis oppose the use of most prenuptials, claiming the agreements make it too easy for one side to end a marriage. They are concerned that making divorce too easy will endanger the Jewish family institution.

They also argue that the use made in prenuptials of monetary incentives to encourage a recalcitrant partner to acquiesce to divorce is really a form of coercion prohibited by Jewish law.

Marriage and divorce among Jews in Israel is governed by Jewish law. As a result, rabbis and Rabbinic Court judges are responsible, respectively, for tying the knot and having it severed.

Careful to sidestep a potential confrontation with Rabbinic Court judges who oppose the use of prenuptials, Ben-Dahan made it clear that his comments expressed his

personal opinion and were not to be construed as representing the official Rabbinic Court policy.

Ben-Dahan said it was not the role of the Rabbinic Courts to push for a wider use of prenuptial agreements.

"The role of the courts is to adjudicate, not to legislate," he said. "Nevertheless, from my experience with divorce cases, I can definitely see how prenuptials help shorten long, drawn-out divorce proceedings." Ben-Dahan rejected the claim by opponents of prenups that such agreements make it too easy to end a marriage.

"Although we should be concerned about rising divorce rates... I am convinced that the vast majority of couples who end up at the Rabbinic Courts for a divorce are mature adults who have resolved to end unsalvageable marriages."

Ben-Dahan also pointed out that Chief Rabbi Shlomo Amar, in a recently released volume of halachic responsa entitled "Shema Shlomo," favored the use of some prenuptial agreements.

Prenuptial agreements dictate that in a case of divorce proceedings initiated by one of the two partners in a marriage, the recalcitrant side - usually the husband - will be obligated to pay a large sum of money monthly until the marriage is dissolved.

The common amount stipulated is \$1,500 or half of monthly income, whichever is higher.

This obligation normally kicks in six months after the divorce proceedings are initiated.

Ben-Dahan made his support for prenups public at a conference last week.

The conference, organized by The Council of Young Israel Rabbis in Israel, Matan, Mifnim and Yad L'isha, together with the The Rackman Center for the Advancement of the Status of Women at Bar-Ilan University, brought together rabbis, marriage professionals and lawyers and taught them the benefits of prenuptial agreements.

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