The Lieberman Clause Revisited

Benjamin Steiner

The three principal denominations of American Judaism are often thought of as discrete units that perceive halakhah, or Jewish law, in categorically different ways. On the left, Reform rabbis champion individual choice above halakhah. On the right, Orthodox leaders claim strict allegiance to halakhah in letter and spirit. Conservative rabbis situate themselves in the middle, aiming to evolve halakhah to suit modern conditions. However, there was a time when Orthodox and Conservative Judaism were less distinguishable. As Jeffrey Gurock describes it, the division fully solidified among the laity only in the years after World War II—coinciding, as Michael Cohen writes, with a partisan turn among more newly minted Conservative rabbis. While unable to articulate a precise rubric for change, these rabbis adapted halakhah for themselves and their movement in response to contemporary concerns, thereby forging a distinct denominational identity. In 1948, the Conservative Rabbinical Assembly (RA) formed a Committee on Jewish Law and Standards (CJLS) to hasten this objective.

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The CJLS and its publicized liberal legal decisions provided grist for those who sought to discredit the traditionalism of Conservative rabbis, but the issue that garnered the most attention predated the work of the committee. Scholarship points to the tragedy of the agunah (literally, “anchored woman”) as a marker that helped to differentiate Orthodox and Conservative leadership as early as the 1920s. Simply put, Conservative rabbis were as a whole more determined than their Orthodox brethren to remedy her plight. As Jonathan D. Sarna notes in his *American Judaism*:

In many ways the long, ugly debate over how to resolve the problem of the anchored wife, which lasted long past World War II, highlighted issues that came to distinguish the Conservative strategy from its Orthodox counterpart and drew the movements farther and farther apart. Questions concerning rabbinic authority (did Orthodox sages always have the final word?), the place of the Talmud in the modern rabbinate, women’s equality, and, most important, the extent to which Jewish law could be bent to meet the “progressive standards of American life” all underlay the controversy, and, increasingly, the two movements approached each of those questions differently.4

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Response to the agunah question certainly furthered the process of denominational self-definition. However, overemphasis on the historic centrality of the agunah question to the Conservative-Orthodox divide invites a mistaken conclusion. Not every effort by Conservative rabbis to aid agunot is best understood as part of a trajectory toward fissure in Judaism. Public, interdenominational bickering should not occlude the intradenominational dynamics at play. The creation of the Lieberman clause illustrates this lesson, a case in which the internal politics of the Conservative movement were the more formative.

The accepted narrative about the clause, developed in writings by Orthodox and Conservative rabbis and by historians, rehashes the following points: In 1954, the rabbis of the Conservative movement published an addition to the ketubah (Jewish marriage contract) to help free agunot. The addition—dubbed the “Lieberman clause” for Saul Lieberman, the prominent Talmudist who championed it—was to be signed by the bride and groom before marriage. Should a man later refuse to give his wife a get (bill of divorce), the clause granted the Jewish court of the RA the authority to penalize him pursuant to the dictates of civil law. By all accounts, the response from the right was severe. Orthodox rabbis publicly condemned the document and assailed the competence of Conservative rabbis in the press. This standard rendering frames the Lieberman clause as a matter of Conservative reform and Orthodox critique. As Orthodox Rabbi Louis Bernstein writes, the Lieberman clause “serve[d] … the purpose of accentuating and clarifying the line of demarcation between the two groups.”

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5 This paper addresses the Conservative rabbinate and its fraught relationship with the Lieberman clause, but the response of the Orthodox rabbinate was not monolithic either. For example, see the account of Rabbi Emanuel Rackman, then vice-president of the Orthodox Rabbinical Council of America. Rackman, “Political Conflict and Cooperation: Political Considerations in Jewish Inter-Denominational Relations, 1955–1956,” in Conflict and Consensus in Jewish Political Life, ed. Stuart A. Cohen and Eliezer Don-Yehiya (Jerusalem: Bar-Ilan University Press, 1986), 118–127, esp. 120.

6 Regina Stein provides the most comprehensive account of these developments. Stein, “Boundaries of Gender,” 322–357.

Yet it is often wise to interrogate binaries in the search for deeper meaning. This standard narrative misses the point. New archival research reveals a counterintuitive motif. It locates initial support for the Lieberman clause not with freedom for agunot, but rather with the broader 1950s cultural imperatives to defend the nuclear family and limit divorce—which brings us to the substance of this paper: It probes the prehistory, authorship, translation of, and Orthodox opposition to the Lieberman clause, and then points to the significance of marriage and familial cohesion to its formation. Finally, it considers the significance of a later edition of the clause, rewritten and printed by the RA in 1959.

Before the Conservative Prenup

The existence of agunot or “chained” wives reflects the unilateral nature of Jewish marriage and specifically its dissolution. According to halakhah, women cannot initiate divorce proceedings. The husband must give the get, and it must be of his own volition. Should he abandon his wife or disappear (often the cause of aginut historically), or simply refuse out of stubbornness, malice, or sheer ignorance to grant her a get (most common today), she remains religiously married. Should he be coerced, halakhah deems his get null and void. Should she obtain a civil divorce, remarry, and bear children without a get, Jewish law deems her an adulteress and her offspring mamzerim (illegitimate), to be shunned “even to the tenth generation.” Across the centuries, many rabbinic sages mustered their halakhic prowess to free individual agunot. However, most mid-twentieth-century Conservative rabbis wanted a more aggressive solution, although they struggled to agree among themselves on a plan.

With the advent of the CJLS, the debate burgeoned, because the committee was as diverse as the Conservative rabbinate itself. As one proponent described the arrangement, the CJLS was “to be different from all other kinds of Law Committees … representative of all shades

8 Aginut is the state of being an agunah.
9 Louis Epstein, Li-She’elath ha-Agunah [Hebrew] (New York: Ginsberg Linotyping Co., 1940), 21–25.
10 Deuteronomy 23:3.
of opinion within the Rabbinical Assembly.” Yet, such multivocality only amplified the cacophony. Interpretive pluralism bred controversy. By 1952, three proposals competed for legitimacy, each named for the rabbi who proposed it—the Louis Epstein proposal (1930), the Michael Higger proposal (1950), and the David Aronson proposal (1951) (more on these below). None gained the unanimity that Conservative rabbis sought so as to sustain a united movement.

A CJLS conference at the Breakers Hotel in Atlantic City in 1952 further accentuated this impasse. As the committee again plumbed the marketplace of proposals in search of a viable agunah plan, the sheer number of approaches hindered the task. Everyone had an opinion, even those absent from the conference who—sensing the importance of the gathering—conveyed their disparate positions via correspondence. Urgency and enthusiasm did not produce consensus. Absent a unifying set of halakhic guidelines within the CJLS, there was no general limit to the method or scope of amending the law; each proposal reflected a different approach to halakhah within the big Conservative tent.

Amid the tumult in Atlantic City, the plan that emerged combined the approaches of Epstein, Higger, and Aronson with a new

11 Proceedings of the Joint Conference of the Rabbinical Assembly and the Seminary Faculty on Law, 23–24 February 1953, Seymour Siegel Papers, MSS 61-48-7, St. Lawrence University, Canton, New York, 122 (hereafter PJCL).
15 Consider the divide between Rabbis Epstein and Aronson: Epstein, the spiritual leader of Kehillath Israel Synagogue (Brookline, MA), trained at the Slobodka Yeshiva in Europe and maintained his traditional leanings in America. He broke publicly with Orthodoxy exclusively over the question of the agunah. See Boaz Cohen and Louis Ginzberg, “Louis M. Epstein (In Memoriam) 1887–1949,” Proceedings of the American Academy for Jewish Research 18 (1948–1949): xix–xxi. By contrast, Aronson, who ministered at Beth El Synagogue (Minneapolis), was a “trailblazer” with a broadly liberal approach to Jewish law and the project to adopt it to modernity. See Nadell, Conservative Judaism, 35–36.
The Lieberman Clause Revisited

The American Jewish Archives Journal

46

The Lieberman Clause Revisited

The American Jewish Archives Journal

46

A proposal from Rabbi Max Arzt, vice-chancellor of the Jewish Theological Seminary (JTS), which ordained Conservative rabbis. As Arzt advised, the RA would appoint a national beit din (Jewish court), charged to “use every possible means of moral suasion and social pressure to induce the husband where available to agree to the writing of a get.”16 Where unsuccessful, the beit din would apply Aronson’s proposal to expand talmudic precedent to annul the marriage. Per Epstein’s plan, future couples would append a codicil to the ketubah to empower a woman to commission a get, should her husband prove unable or unwilling to give one. And a minor edit of the Aramaic ketubah would, à la the Higger proposal, emphasize that Jewish marriage is contracted “al da’at beit din” (with the mandate of the Jewish court).17 This, in Higger’s understanding, would strengthen the halakhic standing of the RA beit din. The rabbis resolved to present the “Atlantic City” plan to the CJLS, the RA convention, and the seminary faculty, “with the view of eliciting their reactions.”18

No such vote ever came to pass. Rabbi Theodore Friedman, chair of the CJLS, addressed the impasse. The problem, he argued, stemmed from the many approaches to halakhah espoused by the members of the RA. Ideological diversity within the CJLS was axiomatic. In general, Friedman himself proved willing to venture beyond the halakhah to effect change in Judaism.19 However, unlike other halakhic matters, here the CJLS needed consensus. As Friedman stated:

What divides us at this point is something that cannot be argued halakhically. It really involves our philosophy of Judaism…. We were then confronted with a situation within the committee that is unprecedented. We could understandably issue a responsum on the Sabbath,20 which contained both a majority and minority viewpoint, but if the members

16 Memorandum on meeting of the CJLS, 14–15 January 1952, Isaac Klein Papers, Reel 4, JTSA.
17 Minutes of the CJLS: 14–15 January 1952, Isaac Klein Papers, Reel 4, JTSA.
19 Nadell, Conservative Judaism, 92.
20 In 1950, the CJLS passed responsa relaxing Sabbath laws, in an effort to rejuvenate Sabbath observance more generally.
of our own committee … could not in good conscience [agree] … would we not be guilty of driving a deep wedge between us … in so vital an area as marital status?21

Sabbath observance was a matter of personal conscience. By contrast, uniform marriage policy held together the Jewish collective. Any dis‑sension, Friedman insisted, would rend the threads that bound religious Jews together; Orthodox Jews would no longer marry their Conservative counterparts.

While a solution eluded the RA, the fervor of the discourse grew. The JTS faculty became concerned that, left unchecked, rogue halakhists in the RA would freely misrepresent the law. JTS Chancellor Louis Finkelstein wrote to Professor Saul Lieberman, the celebrated talmudist on the seminary faculty, to voice these concerns in March 1952. For Finkelstein and Lieberman, a solution to the agunah problem was not a pressing concern. Finkelstein, in the wake of the Holocaust, hoped to make JTS a global epicenter of Jewish scholarship, education, and life; Lieberman was preoccupied with his scholarly initiatives. However, activist RA members appeared ready to enact sweeping change that, Finkelstein believed, could endanger Jewish law, fracture Jewish life, and undermine the centrality of JTS. The time had therefore come for intervention:

This is our last chance to deal with the problem of Jewish Law effectively in this country. If we cannot find someone within our faculty group … who will make the application of Jewish law his life’s interest, nothing … will prevent incompetent people from undertaking this responsibility…. A number of us see the issue raised by the Rabbinical Assembly as secondary to other vital matters such as the future orientation of Jews in Israel and America and the building up of Torah generally. However, the rabbis who are in congregations cannot take this view and will certainly resent it….22

22 Louis Finkelstein to Saul Lieberman, 25 March 1952, General Files, R.G.1-108-6, JTSA.
Finkelstein proposed a Joint Law Conference, at which the JTS faculty would descend from the ivory tower to coax the pulpit rabbis toward a less radical resolution. They aimed to wrest authority from the RA. In this way, Finkelstein reasoned, the integrity of halakhah would be upheld.

The steering committee coalesced in late 1952. Ten men—Jacob Agus, David Aronson, Solomon Goldfarb, Ira Eisenstein, and Theodore Friedman of the RA and Shraga Abramson, Max Arzt, Judah Goldin, Louis Finkelstein, and Saul Lieberman of the JTS faculty—called a conference for 23–24 February, with Eisenstein and Goldin acting as chairs of their respective groups.23 Invitations were sent; Goldin appraised the seminary administration:

On Monday and Tuesday, February 23 and 24, the Joint Conference on Law of the Seminary Faculty and the Rabbinical Assembly will hold its conference sessions at the Seminary. The Conference would like the use of the Synagogue room for those sessions…. There may be as many as 100–150 or even 200 people in attendance. In addition to the chairs being set-up, I imagine that the general practice is to remove the Torah scrolls from the ark.24

The physical preparations were standard, but the contents of Goldin’s memo echo the idiosyncratic nature of the gathering. First is the uncertainty regarding attendance. As the one time in history that Conservative rabbis and JTS faculty conferenced together to debate halakhic matters, suffice it to say that nobody knew how many people to expect. Second is the removal of the Torah; its physical displacement illuminates the curious absence of halakhic discussion at the conference itself. There, Conservative rabbis and seminary faculty gathered together and revisited the agunah question, but the discourse privileged hermeneutics and meta-principles over the particulars of Jewish law—less about the details and more about the sufficiency of the proposal before them, the definition of Conservative Judaism, and the locus of authority within

23 Minutes of the CJLS, 13 October 1952, Isaac Klein Papers, Reel 4, JTSA. Judah Goldin replaced initial appointee Simon Greenberg.
24 Judah Goldin to Bernard Segal, 15 January 1953, General Files, R.G.1-120-24, JTSA.
the movement. Toward the end of the conference, Lieberman presented the clause to those assembled.

The Text and Authorship of the Clause

Despite his indispensable support, Lieberman did not invent the “Lieberman clause” he proposed that day. As noted above, Max Arzt had first proposed a prenuptial modification to the ketubah in Atlantic City. The meeting minutes paraphrase Arzt’s remarks there:

We have to become reconciled to conditions—we cannot apply sanctions, there will always be “victims of the law,” but their number should be reduced…. [We should] apply the rule of coercion in a new sense: Have [the] groom sign [a] statement submitting to RA enforcement of marriage and divorce regulations [and] use extraordinary pressure of public opinion wherever he refused to cooperate in issuing a get.25

Arzt’s innovation reflected two considerations that later became three. First, he deemed a systemic solution to the agunah problem incompatible with halakhah; a plan of more limited scope would be necessary. Second, Arzt recognized the ability of moral suasion to encourage a get in the absence of Jewish communal autonomy. In time, Arzt also realized the capacity of Conservative rabbis to invoke the authority of secular courts to aid agunot.

That this became Lieberman’s eponymous clause attests less to a specific innovation and more to the significance of his endorsement. Due to his elevated stature in the Orthodox world, Lieberman’s involvement furthered the odds of success of the clause. Arzt had advanced an idea behind which Lieberman lent his influence and intellectual weight—the capacity of an arbitration agreement, backed by the moral suasion of the Conservative beit din and the enforcement mechanism of civil authorities—to assist the agunah.

This is how Alan M. Stroock, a prominent lawyer and chair of the JTS Board of Directors, understood the clause when he worded its first draft. As a prenuptial agreement signed between bride and groom, it stipulated the conditions under which the authority of the Conservative

25 Minutes of the CJLS, 14–15 January 1952, Isaac Klein Papers, Reel 4, JTSA.
beit din could be invoked to effect the delivery of a get. Monetary damages would be the punishment for failure to respond to the summons of the beit din. Stroock wrote to Lieberman on 17 February, seven days before the joint conference, to convey his understanding in light of a prior meeting:

The proposal which we discussed was that in [the] future the ketubah should include a provision whereby the parties agree that in the event that at any time either one of them obtains a civil divorce from the other … each party to such [a] marriage would consent to the obtaining of a get at the request of the other party; and if either party refused to give his or her consent … the other party should have the right to submit the matter to the National Beth Din … for arbitration. The National Beth Din would be given power to fix and determine the amount of monetary damages to be paid by the party who refused to consent to the get, and the decision of the National Beth Din would be binding and conclusive upon both parties and would be enforceable by either party in any civil court of appropriate jurisdiction.26

The solution was unprecedented in the realm of American jurisprudence. No prenuptial document stipulating the willingness of the partners to consent to a religious divorce had ever been litigated in American courts; moreover, courts were loath to recognize any document that compromised matrimony. Lieberman and Stroock operated in uncharted territory.27

What happened between 17 and 24 February with respect to the wording of the document is crucial. When Lieberman presented the clause for the first time to those gathered at the Joint Law Conference, it read as follows:

The bride and groom desiring to live in accordance with the Jewish tradition, requiring husband and wife to give each other complete love and

26 Alan Stroock to Saul Lieberman, 17 February 1953, General Files, R.G. 1-120-24, JTSA.
devotion, and desiring also to enable each other to live in accordance with Jewish marriage law, no matter what conditions may happen, hereby agree to recognize the National Beth Din of the Rabbinical Assembly of the Jewish Theological Seminary of America as having authority to summon either party at the request of the other should occasion arise for [such] intervention, in order to enable the partner considering itself aggrieved to live up to the standards of Jewish marriage law with a clear conscience; and they authorize the Beth Din to impose such penalties as it may see fit for failure to respond to its summons or to carry out its decision.28

Lieberman, in consultation with Finkelstein and Arzt, swapped explicit rhetoric for nebulous prose. “Monetary damages” became abstract “penalties” in the new draft. And the text accentuated the propriety of marriage over and above the utility of the document to facilitate divorce.

Lieberman channeled this sentiment at the Joint Law Conference. The attempt to free agunot was not the principal consideration of the prenup; if anything, he asserted, the clause pitted the cause of agunot against other more significant factors—the integrity of Jewish marriage and the broader thrust of the Jewish tradition. For these reasons, Lieberman was reluctant to include any explicit rhetoric about divorce:

I was not guided only by the halakha. I was much more concerned with the human side of it. I learned from chazal [the ancient Jewish sages]. They didn’t want to make this thing. We have to take into consideration the psychological solemn moment [of marriage]. “In case of divorce”—you simply don’t write such a thing. It offends you. So we … [changed the] formula.29

Lieberman, Finkelstein, Arzt, and everyone assembled knew full well that an inexplicit clause would be more difficult to legally enforce. “Mr. Stroock told me that of course this is too vague,”30 remarked Lieberman.

29 Ibid., 108.
30 Ibid., 109.
Yet, amidst all the disputation at the Joint Law Conference between the faculty and the seminary graduates, nobody assailed the wording of the text.

On 19 March, JTS publicized the work and purpose of the February gathering in a press release:

The unprecedented conference was called to consider problems relating to the Jewish law of marriage and domestic relations, with a view toward determining methods of preserving the integrity of family life and of strengthening family relations in accordance with the standards of the Jewish law and tradition.31

The release made no mention of the Lieberman clause and no explicit reference to the *agunah* issue. Such was the mandate of the steering committee as they worked to finalize the form of the document.

At the RA convention in June, Lieberman and Finkelstein presented two versions, one that explicitly mentioned divorce and the version Lieberman presented to the Joint Law Conference.32 The RA members uniformly gravitated to the latter. Like Lieberman, they worried more about the dignity of marriage than the practical efficacy of the document. As Rabbi Jacob Agus, the steering committee member and leading Conservative voice, insisted:

I rise here to ask that … we do not include in the [clause] any detailed agreements as to the obligation undertaken by each of the parties and the penalties for failure to fulfil those obligations. Today it is contrary to the spirit in which a young couple gets married for them to even read any such detailed obligations with regard to divorce. It will be ridiculed by them and it will do us no good.33

Agus’s critique resonated with other RA rabbis.34 By all accounts, their priority was sustaining marriages. Divorce was the larger evil to be

31 Press release, 19 March 1953, Communications Department Files, R.G.11-3-12, JTSA.
33 Ibid., 77–78.
34 See, for example, the critique of Rabbi Max Forman, in “Discussion: Ketubah,” *PRA* (1954): 81–82.
fought against, and Conservative rabbis lobbied the steering committee to remake the clause with that objective in mind. A proper marriage meant matrimony without qualifications.

When the Conservative leadership promulgated the printed edition of the Lieberman clause in 1954, the text accorded with the preferences of Agus. It read as follows:

And in solemn assent to their mutual responsibilities and love, the bridegroom and bride have declared: As evidence of our desire to enable each other to live in accordance with the Jewish law of marriage throughout our lifetime, we, the bride and bridegroom, attach our signatures to this ketubah, and hereby agree to recognize the Beth Din of the Rabbinical Assembly and the Jewish Theological Seminary of America, or its duly appointed representatives, as having authority to counsel us in the light of Jewish tradition which requires husband and wife to give each other complete love and devotion, and to summon either party at the request of the other, in order to enable the party so requesting to live in accordance with the standards of Jewish law of marriage throughout his or her lifetime. We authorize the Beth Din to impose such terms of compensation as it may see fit for failure to respond to its summons or to carry out its decision.35

The printing of the clause served the ends Finkelstein intended. The CJLS formally suspended its own agunah activism for three years. “Competent” authorities had triumphed over those who would vitiate the halakhic tradition. However, the primary concern of the discourse about, and wording of, the clause was Jewish marriage.

35 “Ketubah” (English version), PRA (1954): 67–68. The Aramaic translation penned by Lieberman:

And in solemn assent to their mutual responsibilities and love, the bridegroom and bride have declared: As evidence of our desire to enable each other to live in accordance with the Jewish law of marriage throughout our lifetime, we, the bride and bridegroom, attach our signatures to this ketubah, and hereby agree to recognize the Beth Din of the Rabbinical Assembly and the Jewish Theological Seminary of America, or its duly appointed representatives, as having authority to counsel us in the light of Jewish tradition which requires husband and wife to give each other complete love and devotion, and to summon either party at the request of the other, in order to enable the party so requesting to live in accordance with the standards of Jewish law of marriage throughout his or her lifetime. We authorize the Beth Din to impose such terms of compensation as it may see fit for failure to respond to its summons or to carry out its decision.35
Orthodox Opposition

Whatever the Conservative rabbis’ intentions, Orthodox rabbis assailed the document as a conduit to divorce. How could a prenuptial contract, presumably manufactured to facilitate freedom for agunot, possibly evidence a desire of husband and wife to remain married in “complete love and devotion”? They sought to save their own conception of the integrity of the Jewish family from Conservative clutches. The Rabbinical Council of America and the Rabbinic Alliance of America, both Orthodox organizations, authored a joint press release to decry the prenup and unite the Orthodox in opposition:

The Orthodox Rabbinate of America calls upon the Conservative movement in the name of Jewish unity and halachic tradition to withdraw its proposal immediately…. This amended ketubah … [has] the gravest implications to the sanctity of Jewish family life and represents the most disastrous disavowal of the principles of Jewish law.36

Orthodox critics worried that the clause would produce fraudulent divorces. Women would remarry without having received a proper get. Illegitimate offspring would proliferate. Worse, the Conservative beit din might gain prominence, and the premise of Orthodoxy as the vanguard of halakhah could be compromised.

Even if the clause was itself rooted in sound halakhic reasoning—and notably, nobody condemned Lieberman himself—the Orthodox averred that it was in practice wielded by a group of rabbinic upstarts lacking the qualifications to organize a proper beit din. As the Israeli newspaper Davar quoted one Haredi critic,

We haven’t even looked at the suggested ketubah … because those who permit the marriage of a kohen to a divorcee in contravention to Torah

36 “Statement by the Rabbinical Council of America, the Rabbinic Alliance of America, Representing the Orthodox Rabbinate of America, Concerning the Recent Action of the Conservative Movement in Altering the Traditional Jewish Marriage Contract, and in Establishing a So-Called ‘Beth Din,’” 3 December 1954, Isaac Klein Papers, Reel 8, JTSA. There were, for a time, negotiations about whether the Orthodox might make use of a modified form of the document, but they publicly scorned it. See Rackman, “Political Conflict and Cooperation”; Bernstein, Challenge and Mission, 67–70.
law [as many Conservative rabbis did in practice] are unqualified to innovate in halakhah.\textsuperscript{37}

The Lieberman clause became the public face of Conservative halakhic reform well outside the bounds of aginut.

In 1959, Rabbi Norman Lamm, later president of the Orthodox Yeshiva University, critiqued the Lieberman clause along just these lines in \textit{Tradition}. He deemed it internally incongruous and misleading, ultimately a power play by the Conservative rabbinate to assert control over the halakhah. Lamm wrote:

In its approach to the … agunah, [the clause] has nothing to do with “strengthening the Jewish home.” It is certainly not calculated to discourage what some Conservative spokesmen have unfortunately called “frivolous” divorces. On the contrary, the effect of the amendment is to put their Beth Din in the position of forcing an unwilling spouse to consent to divorce, not preventing one.\textsuperscript{38}

For Lamm, the Lieberman clause was foremost an effort to shroud a pathway to divorce. Yet Lamm’s critique was that of an outsider looking in. As they promulgated the prenup, advocates of the clause resolved both to “preserve the integrity and advance the welfare of the Jewish family … and further the dynamic process inherent in the Jewish tradition.”\textsuperscript{39} Prior scholarship has assumed the latter motivation to the exclusion of the former; in fact, the former was primary.

\textbf{Not about the Agunah}

Overall, efforts to aid the agunah exemplified Conservative rabbis’ affirmation of a more progressive approach to halakhah. However, most RA rabbis deemed the result, the so-called Lieberman clause, to be something quite different—a manifestation of the very fundamentalism they


\textsuperscript{38} Norman Lamm, “Recent Additions to the Ketubah: A Halakhic Critique,” \textit{Tradition: A Journal of Orthodox Jewish Thought} 2 (Fall 1959): 98.

\textsuperscript{39} “Steering Committee and Beth Din Report,” \textit{PRA} (1958): 129.
eschewed. The _agunah_ did not need an Orthodox affirmation of the status quo—she needed a Conservative resolution. The Lieberman clause, the Conservative rabbis insisted, was an Orthodox solution; its makers sought through the authority vested in the new _beit din_ to move the RA to the right.⁴⁰ Philadelphia Rabbi Edward Tenenbaum encapsulated the general sentiment. Conservative rabbis, he asserted, should chart a new path.

For some time now I have had a sneaking suspicion which was confirmed today—and I certainly hope that you will not think my words harsh—and this suspicion was that the faculty of our Seminary is not a “conservative” faculty in the sense of the Conservative Movement. When I left Yeshiva [University] … to come to the Seminary, it was precisely because in all good conscience I felt that I could not live according to the laws of the _Shulhan Arukh_ ⁴¹ … I had expected, and rightly so—I don’t think it was a mistake—that Conservative Judaism is and should be different from Orthodox Judaism. Today we are told that the _Shulhan Arukh_ is to be our guide.⁴²

Like so many Conservative rabbis, Tenenbaum attended JTS precisely to escape Orthodoxy.⁴³ Now the Lieberman clause threatened to re-anchor him to Orthodox texts and institutions of authority.

Tenenbaum also addressed the definition of Conservative Judaism. Max Arzt’s assumption that there would “always be victims of the law” was to him insufferable. Tenenbaum demanded a Judaism sufficiently malleable to reshape all manifestations of injustice in halakhah. Conservative determination and daring, he insisted, must triumph over Orthodox constraint. This, for him, was its raison d’être:

> I am looking for Conservative Judaism. I am not looking for Orthodox Judaism, and the formation of this particular Joint Beth Din seems to me to be something that will not strengthen Conservative Judaism but will

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⁴⁰ Others have noticed the animosity many Conservative rabbis felt toward the Lieberman clause in the years after its adoption. See Nadell, _Conservative Judaism_, 13–14.

⁴¹ A systematic code of Jewish law authored by Joseph Karo (1488–1575) and adhered to strictly by the Orthodox.

⁴² _PJCL_, 137.

⁴³ For a discussion of this phenomenon, see Jeffrey S. Gurock, “Yeshiva Students at JTS,” in Wertheimer, _Tradition Renewed_, 471–515.
try to make an Orthodox Jew out of me when I am not an Orthodox Jew.… As a moral human being, I say if the halakhah does not provide for it … I want this Beth Din to create a new course of action, and until such time as that course of action is created, then we have no right to call ourselves a Conservative movement.44

Tenenbaum’s harsh tone was hardly unique at the conference. A chorus of criticism accentuated the growing ideological chasm between the JTS faculty and the students they educated. The faculty clung to traditional halakhah as the glue to unite Judaism and avoid discord. Meanwhile, JTS graduates labored toward a distinct denominational identity and leveraged halakhic reform as a bulwark against broader religious decline among their laity. The faculty deemed Conservative pulpit rabbis unqualified to render halakhic decisions, but the pulpit rabbis pushed back. As Tenenbaum continued:

[Today we are told] that the Seminary cannot give … [us] authority. The Seminary can only give [us] a nondescript degree and if [we] feel personally qualified [we] may do whatever [we] want in the field of halakhah. That to me is not Conservative Judaism. I want to be authorized to act as a rabbi in the Conservative Movement.… I give every one of my waking moments to the Torah and take it away from my family to try to build up Judaism in my community and my hands are tied because the people who are at the head of this institution are the very people who will say to me: “You must live according to … Orthodoxy and not according to the Conservative Movement.”45

For the RA rabbis, the seminary faculty did much for scholarship but little for the laity; they were academics or, as one rabbi put it, “theoricians determining the platform of the Conservative movement”46 at a time when American Judaism needed activists on the ground.

Moreover, the Lieberman clause flew in the face of decades of prior Conservative efforts to ameliorate the agunah problem. More viable

44 PJCL, 138.
45 Ibid., 139–140.
46 Ibid., 143.

Benjamin Steiner
proposals had been squashed by the unsolicited intrusion of the seminar faculty. Indeed, Conservative rabbis deemed the clause regressive from the start, and the resentment only grew. Rabbi William Greenfeld, entrenched in the movement’s liberal wing,47 channeled this frustration at the 1957 RA convention:

For the first time, to my knowledge, instead of an assembly of rabbis attempting to take a case from the civil courts and bringing it within their domain, we have almost arbitrarily given up, abdicated our domain and turned it over in a sense to the judgment of the civil courts. It is something with which the majority of our men are concerned…. [Moreover,] it creates the atmosphere of having found a solution to a problem … [but] leaves outside its scope many times more problems than those that it solved.48

The Lieberman clause depended on secular authorities to solve a religious problem. Worse, it addressed only one specific type of agunah, Jewish women trapped in unwanted marriages. It contained no provisions for different types of cases of agunot, and it could not guarantee a get. An informal survey by Greenfeld suggested no more than 20 percent of RA members used it49; the clause, liberal critics insisted, could not pretend to be a panacea. If Orthodox leaders like Lamm bemoaned the clause and the national beit din as non-Orthodox, most Conservative rabbis considered them to be too Orthodox.

Those RA rabbis who accepted the Lieberman clause did so as a means toward further reform. The clause bridged the gap from the insufficient past to a better, if uncertain, future. As Rabbi Ralph Simon, who aimed to unify the movement,50 argued at the Joint Law Conference:

What has swayed my opinion, and I hope it will sway the opinions of others, is that at the very end of this conference we got the very first glimpse from a faculty member of a willingness to take one step. I don’t

47 Nadell, Conservative Judaism, 124.
49 Ibid., 178.
50 Nadell, Conservative Judaism, 241.
care how small it is, it is a step, it is movement … into a direction that might indicate where we can go. ⁵¹

Lieberman championed the clause. Recognizing movement among the faculty, the RA accepted it as an interim aid to agunot. This did not signify unqualified support for the clause. To the contrary, dispute about its effectiveness exposed friction within the Conservative establishment. Many rabbis were uncertain as to whether the clause could provide even a modicum of assistance to agunot.

At the Joint Law Conference, Finkelstein struggled to contain the resentment. Most attendees wanted nothing to do with the Lieberman clause, and they made their voices heard. So, Finkelstein resorted to a stern warning:

Let’s not resort to parliamentary tactics. Let’s not want to filibuster, and let’s not play with a very important, solemn thing. You may think it is a small matter. If you rebuff the faculty once, you will rebuff it forever.... They will go back to their work, [and] they will live extremely happily; and what will happen to those who have rebuffed them, I do not want to say. ⁵²

Finkelstein’s strategy worked. Despite pervasive skepticism, the conference attendees forwarded the proposal to the RA for final consideration. Some feared further acrimony in the movement. Some wanted to appease Finkelstein. Some saw it as a stepping-stone to progress. Equally significant, however, was the perceived mounting irrelevance of the debate.

**A Changing Landscape**

Although Conservative rabbis continued to wrangle about the agunah, by the early 1950s very few encountered agunah cases, despite a lingering perception to the contrary. In the 1930s and 1940s, Conservative estimates had counted thousands. By 1952, when the Lieberman clause deliberations began, some pegged the number at closer to zero. The

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⁵¹ PJCL, 156.
⁵² Ibid., 148.

Benjamin Steiner
The chart below highlights the gradual fading of the problem in the minds of Conservative leaders.

<table>
<thead>
<tr>
<th>Year</th>
<th>Source</th>
<th>Perceived Agunah Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1930</td>
<td>Rabbi Louis Epstein</td>
<td>“Their numbers reach to the thousands.”(^{53})</td>
</tr>
<tr>
<td>1934</td>
<td>Women’s League Biennial Convention Resolution</td>
<td>“[It is] an insufferable injustice upon thousands of Jewish women.”(^{54})</td>
</tr>
<tr>
<td>1936</td>
<td>Rabbinical Assembly of America Statement</td>
<td>“Thousands of lives have been wrecked by [these] … types of cases.”(^{55})</td>
</tr>
<tr>
<td>1947</td>
<td>Rabbi Josiah Derby</td>
<td>“I don’t think many of us are confronted with that problem too seriously. We may have a case once a year.”(^{56})</td>
</tr>
<tr>
<td>1947</td>
<td>Rabbi Robert Gordis</td>
<td>“It affects thousands and thousands of cases.”(^{57})</td>
</tr>
<tr>
<td>1950</td>
<td>Women’s League Biennial Convention Resolution</td>
<td>Thousands of women [are] reduced to “the status of agunah.”(^{58})</td>
</tr>
<tr>
<td>1951</td>
<td>Rabbi David Aronson</td>
<td>“There is not a community that has no agunot, and the number is increasing daily.”(^{59})</td>
</tr>
<tr>
<td>1951</td>
<td>Rabbi Ralph Simon</td>
<td>“Thousands of cases … now trouble us.”(^{60})</td>
</tr>
<tr>
<td>1952</td>
<td>Rabbi David Aronson</td>
<td>“There are ten thousand families looking to us for the next step in their personal lives. That is a fact, too. Or am I exaggerating?”(^{61})</td>
</tr>
</tbody>
</table>
| 1952 | Rabbi Boaz Cohen | “We … we are not presented exactly with

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57 Ibid.
59 David Aronson, “*Kedat Moshe* VeYisrael,” *PRA* (1951): 120.
60 Ibid., 141.
61 *PJCL*, 63.
the situation … They all get [re]married…. They don’t exist.”

<table>
<thead>
<tr>
<th>Year</th>
<th>Rabbi Name</th>
<th>Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1952</td>
<td>Rabbi Lawrence Charney</td>
<td>“The agunah … simply has disappeared.”</td>
</tr>
<tr>
<td>1958</td>
<td>Rabbi Sanders Tofield</td>
<td>“One is inclined to ask in all seriousness, is there an agunah problem in present-day American Jewry?”</td>
</tr>
<tr>
<td>1968</td>
<td>Rabbi Eli Bohnen</td>
<td>“There are hardly any agunot in America…. The problem of the agunah is quite different now from what it was thirty years ago.”</td>
</tr>
</tbody>
</table>

When, in 1930, Louis Epstein had addressed the matter, unprecedented social upheaval—chiefly mass immigration (which often split families across oceans and facilitated abandonment) and World War I (in which thousands of Jewish soldiers went missing the world over), coupled with the eclipse of Jewish communal autonomy to punish husbands who refused to give a get—had generated an agunah crisis of proportions unfathomable in the rabbinic period. Epstein cried for a remedy to forfend still greater catastrophe:

62 Ibid., 70.
63 Ibid., 80.
64 Sanders Tofield, “The Agunah Problem and Its Solution,” (April 1959) Isaac Klein Papers, Reel 8, JTSA. To be sure, Tofield asked this question rhetorically. He believed that the agunah crisis endured. A good number of his interlocutors felt otherwise.
The situation is much worse in America than I can depict with the etchings of a pen.... It is not possible for rabbis to win from this embarrassment, and from the obligation to handle it, because if we do not deal with the question of the agunah, we will need to deal with questions regarding the mamzerut of the children they will have.67

Epstein’s rhetoric proved prescient. Memory of the agunah crisis precipitated by World War I faded with the destruction of European Jewry in World War II, and improved methods of communication made spousal abandonment more difficult. Yet a new problem emerged from the old: mamzerim. America provided an atmosphere of unprecedented religious choice; when faced with the inability to obtain a proper get, many Jewish women turned without compunction to Reform rabbis to remarry (sometimes at the recommendation of a Conservative rabbi) or left the religious fold entirely, thereby escaping halakhic constraints.68

For many RA rabbis in the 1950s, however, this lessened the urgency of the debate; no need, they reasoned, to upend the halakhah for happily remarried women. Considering the state of the laity,69 New York Rabbi Mordecai Waxman qualified his support for the Lieberman clause at the Joint Law Conference thusly:

I am in favor of this [resolution] because it takes some action.... I am in favor of it, too, because I don't regard it as fundamentally important. I am sure we have missed the boat on the issue, that it is no longer [an] issue in American Jewish life... The agunah problem hasn't really troubled the bulk of Jews for the last twenty years... It isn't significant, it isn't important, and it doesn't weigh on us.70

67 Epstein, Li-She’elath ha-Agunah, 27.
68 Not every Reform rabbi endorsed the practice, but those who opposed it were in the distinct minority. See Joan S. Friedman, Guidance not Governance: Rabbi Solomon B. Freehof and Reform Responsa (Cincinnati: Hebrew Union College Press, 2014), 73. Indeed, a responsum by Reform Rabbi Israel Betan suggests the practice was a given. See Walter Jacob, ed., American Reform Responsa (New York: Central Conference of American Rabbis, 1983), 510–511.
69 This is not an isolated instance. Mordecai Waxman, who became a leading voice of Conservative Judaism, sought constantly to strengthen the identification of laity with the Conservative movement. See Nadell, Conservative Judaism, 251.
70 PJCL, 142.
Indeed, the Lieberman clause passed in no small part because there were so few self-identifying agunot, not because there were so many. There was little practical need to flex halakhic muscle.

**Sustaining the Jewish Family**

What, then, was its purpose? The 1950s was an era of emphasis on the nuclear family as the organizing center of religious life and vice versa. Ultimately, underlying concern for the scourge of marital dissolution tipped the balance in favor of the Lieberman clause. The clause reimagined the institution of Jewish marriage; Conservative rabbis became soldiers in the battle to prevent divorce. Consider this draft of the clause, informed by Alan Stroock's initial version. It emphasizes the steps a couple must take before legal action:

> The husband and wife look forward to living with each other in the peace, harmony, and mutual understanding required by Jewish conditions, each loving the other as himself and herself and honoring each other beyond oneself. If serious difficulties should arise between husband and wife, they will both seek the counsel of their rabbi to guide them to harmony and reconciliation, in accordance with the tradition of Judaism, before taking steps which might lead to a conviction of differences. In the event either party obtains a civil divorce from the other which is valid under the laws of the state [where the marriage occurred] … each party to the marriage consents to the preparation and delivery of the get at the request of the other party, and if [not, the denied party] … shall have the right to submit the matter to the national beit din for arbitration.71

Should a dispute ever arise between husband and wife, both parties committed broadly to seek out their rabbi (as a representative of the JTS-RA beit din) before their lawyer. To the makers of the Lieberman clause, the benefit could not be overstated. The rabbi channeled the salubrious wisdom of the Torah to save marriages, while lawyers uprooted the domestic seedbed that fostered religious life.

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RA leaders heralded the nuclear family ethic as the Jewish ideal and saw the Lieberman clause as a model of how to sustain it. Rabbi Ira Eisenstein encapsulated this sentiment at the Joint Law Conference as he emphasized the formative role of the home in ensuring religious continuity. Conservative rabbis were powerless without it. For this reason, Eisenstein deemed divorce—a symbol of the undoing of the family—the bane of Jewish life:

The many problems of marital adjustment must not lead merely to an increased divorce rate but must be met by offering the kind of guidance which will strengthen and unify the family.... We just can ill afford to have the bonds of family life weakened, for it is in the home that Jewish tradition is maintained and the basic ethical influences on the child are effected. The synagogue and the school can do little without the full cooperation of the home. It is therefore essential that we put our minds to the task of enlisting all the best talent at our command—the psychologists in social work, educators and the rabbi, the scholar, the doctor, the political leader.72

For even the left-leaning Eisenstein—later the founder of the Reconstructionist Rabbinical College—who ultimately regarded the Lieberman clause as grossly insufficient, the Jewish future depended foremost on the strength of the family unit. Divorce spelled familial atrophy.73

The association of divorce with religious decline harbored broader societal significance. American Jewish families embraced religion as a tool toward social integration after World War II. In an era of burgeoning tolerance—of Will Herberg’s treatise, Protestant-Catholic-Jew74—family and religion reinforced each other and connected Jews with their largely Christian neighbors. “Jews recently arrived in gentile suburbs in the

72 Ibid., 2.
74 In his seminal study of American religion, Herberg argued that Protestantism, Catholicism, and Judaism were all constitutive of what he termed the “American Way of Life,” as “diverse representations of the same ‘spiritual values’ ... [that] American democracy is presumed to stand for.” See Will Herberg, Protestant-Catholic-Jew: An Essay in American Religious Sociology (Chicago: University of Chicago Press, 1955), 38.
postwar years found that their neighbors went to Church and believed in God and expected Jews to do the same,” writes Arnold Eisen of the period.75 Which church one attended mattered less than the fact that one went. Family and religion undergirded a sense of cultural belonging and growing acceptance into the American collective.

Thus, when Rabbi William Greenfeld composed an advisory rubric with which, before the marriage ceremony, rabbis introduced couples to the Lieberman clause, he deemphasized the divorce element. Instead, like Eisenstein, Greenfeld accentuated the importance of marital harmony. He wrote:

[When] we behold symptoms of difficulties, we allow them to develop and to create inestimable harm without consultation with anyone more expert in the field of human relations. I sincerely believe that the overwhelming majority of marriages that end in divorce could be saved if vanity did not prevent an early discussion of differences with an expert in the field. This I ask of you—if difficulties arise that you cannot solve in fairly short order do not hesitate to consult with your doctor, with your rabbi, with a marriage counselor.76

Should couples eschew “vanity” and, as stated in the clause, negotiate their differences before a rabbi, the institution of Jewish marriage and ultimately Jewish life might yet endure. The Lieberman clause could become a conduit for the prosperity of the Jewish family.

From the ideological right of the RA, Finkelstein voiced similar concerns in conversation about the Lieberman clause. “In order to make Jewish marriage a significant, lasting, meaningful institution,” he argued, “we must find some way to enforce the decisions of our Beth Din.”77 What compromised the institution of marriage? For Finkelstein, secular divorce was a blot on the social fabric; the RA could not address the agunah problem in isolation from it. As Rabbi Wolfe Kelman paraphrased Finkelstein’s sentiments elsewhere:

76 William Greenfeld, “Explanation of New Ketubah,” Isaac Klein Papers, Reel 8, JTSA.

Benjamin Steiner
Is it not a fact that the mores of American society have often reduced marriage laws in general to a mockery, mores which we have not resisted sufficiently? Are we to condone frequent travesties against the integrity of the family as a result of people’s readiness to perjure themselves (if necessary) in order to get a divorce, to rush to divorce at the slightest provocation, to disregard what happens to children of broken homes? … The real question is whether it is possible for Jews in America to live in accordance with Jewish law.\(^78\)

Finkelstein lamented the impact of midcentury American jurisprudence on the sanctity of the family.\(^79\) Although legal statutes in all states in the 1950s required just cause for civil divorce—predicated on the principle of “fault”—couples routinely flouted these laws and “perjured themselves” to ensure the court’s blessing to end marriage. “This dilemma played out in courtroom scenarios in which marital partners, attorneys, and judges often colluded in staging a drama,” describes one source, “‘proving’ to the law’s satisfaction that one partner had committed an offense against the marriage.”\(^80\) Finkelstein invoked the Lieberman clause as the organizing center of a Herculean effort to shelter the domestic sphere against the easy dissolution of marriage all too prevalent in the secular world.

Still, the decision to insert a prenuptial clause within the ketubah as a defense of marriage—and not chiefly as an avenue to divorce—is illogical. Were there no other means to achieve that end? Here a cross-denominational comparison is helpful: In April 1954, one month before the RA convention, the Reform Hebrew Union College Department of Human Relations sponsored a conference on the nexus between psychology and the modern rabbinate. The first presentation, by Rabbi Stanley Brav, addressed the efficacy of the “premarital interview”:

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78 Minutes of the steering committee, 23–24 December 1952, David Aronson Papers, 2/4, JTSA.
79 Finkelstein knew this all too well. He had his own divorce woes that no doubt informed the urgency with which he tackled the question.
The premarital interview is a good occasion for establishing a lasting friendship between a young couple and a religious teacher who shows concern for their welfare…. No teaching situation is ever so promising, no pupils ever more receptive … if only the minister is prepared to become the counselor who enters emphatically, as well as intelligently, into meeting the needs of those who confront him.81

For Brav, the premarital interview was an opportunity to build lasting bonds. For rabbis Conservative and Reform alike, that window was especially narrow. The premarital interview would often be the only opportunity an officiating rabbi would ever have to address the couple on such intimate terms. For the first and often last time, a rabbi could expect the couple’s full attention.82

As a written affirmation of the ongoing role of the rabbi in the lives of his laity, the Lieberman clause was, primarily, an effort to expand the window of opportunity. The goal was idealistic, to be sure, but not purely academic. In 1959, JTS inaugurated a Marriage Counseling Bureau for couples in need, based on a resolution adopted at the Joint Law Conference six years prior.83 Counseling—coupled with the clause and the beit din—would further efforts by Conservative leadership to heal and elevate Jewish families. The steering committee justified the bureau in these words:

The Marriage Counselling [sic] Bureau is an outgrowth of our activity in the joint Beth Din and the ketubah which we have been using for the past number of years. Among the important results of the ketubah has been the re-establishment of the role of the rabbi as guide to a married couple in order to prevent the dissolution of a family wherever possible.84

82 See also Rebecca L. Davis, More Perfect Unions: The American Search for Marital Bliss (Cambridge: Harvard University Press, 2010), 163.
84 Zev Nelson to colleagues, 19 June 1959, Isaac Klein Papers, Reel 4, JTSA.
The intent of the Lieberman clause should be understood along these lines. Marriage was not a single event but a life-long process, and the rabbi now presented himself before it began as a facilitator of familial stability.

**The 1959 Version**

The dissemination of the new *ketubah* to the broader Conservative community did not end discussion about the Lieberman clause. Instead, the search began for a better formula. Rabbi Ben Zion Bokser—a rare advocate of the clause at the Joint Law Conference and a longstanding traditionalist—recalibrated the clause in consultation with seminary director and lawyer Stanley Friedman. The RA distributed the revised edition in early 1959. It stipulated:

> And both together agreed that if this marriage shall ever be dissolved under civil law, then either husband or wife may invoke the authority of the *Beth Din* of the Rabbinical Assembly and the Jewish Theological Seminary of America or its duly authorized representatives, to decide what action by either spouse is then appropriate under Jewish matrimonial law; and if either spouse shall fail to honor the demand of the other or to carry out the decision of the *Beth Din* or its representatives, then the other spouse may invoke any and all remedies available in civil law and equity to enforce compliance with the *Beth Din*’s decision and this solemn obligation.

If the 1954 Lieberman clause cloaked reference to divorce in rhetoric about the sanctity of the Jewish family, Bokser’s and Friedman’s efforts reflected a newfound desire for rhetorical specificity that could withstand a challenge in secular courts and in turn assist actual *agunot*.

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85 For example, Bokser opposed the decision of the CJLS to sanction the driving to synagogue on Shabbat and rejected liturgical changes in the 1946 Conservative siddur. See Nadell, *Conservative Judaism*, 43.


Yet the revised clause reflected Bokser’s vision, not a collective endorsement. Conservative rabbis looked to more effective measures. The 1959 RA Proceedings make but passing mention of the document. And when the RA posthumously published Rabbi Isaac Klein’s widely distributed Guide to Jewish Religious Practice (1979), it included the old translation. The very impulse that prompted the rhetorical focus on divorce in the new translation heralded the irrelevance of the clause itself. Indeed, for most Conservative rabbis, the Lieberman clause never constituted an apt barometer of success vis-à-vis the agunah problem. Rather, across the Conservative ideological spectrum, a coalition had coalesced in 1954 about the role of the clause in strengthening the family.

In the wake of World War II, the Conservative rabbis felt the weight of Jewish survival on their shoulders. They sought to leverage halakhic reform to cultivate religious observance among the laity. “If we don’t take hold of ourselves and cross the threshold then we shall find ourselves in the midst of the kind of anarchy that no one will be able to control,” said Rabbi Jacob Agus, who spearheaded efforts toward halakhic change. Rabbi Ira Eisenstein agreed: “We are trying to save ourselves from this terrible plague of lawlessness.” By “lawlessness” and “anarchy,” Eisenstein and Agus imagined American Jewry bereft of the anchor of Jewish standards—standards that both reinforced the Jewish family and depended on its strength. As a defense of the family, the Lieberman clause was to be not a surefire defense of agunot per se, but rather a symbol of the dynamic Judaism the RA envisioned.

How, then, to frame the creation of the clause in historical perspective? The Lieberman clause was not about the changing of halakhah and inevitable Orthodox rebuttal. Indeed, its framers aimed to forestall such efforts. They produced a prenup in spite of, not in step with, prior RA efforts to reform halakhah. From the very intentional rhetoric of the Lieberman clause text to a marriage counseling service established at JTS to encourage reconciliation, the clause paid homage to the Jewish family. “[A] number of us see the [agunah] issue raised by

89 PJCL, 47.
the Rabbinical Assembly as secondary to other vital matters such as the future orientation of Jews in Israel and America and the building up of Torah generally,” wrote Finkelstein to Lieberman in 1952. Ultimately, “the building up of Torah generally” took center stage. Because for the men of the RA, proper prenups encouraged marital harmony, marital harmony ensured domestic prosperity and strong religious identity, and strong religious identity ensured rabbinic relevance and the sustained integrity of Judaism.

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