

## **Halakhic Prenuptial Agreement**

### **Practical Guidance for Rabbis with our distinguished panelists Rabbi Yona Reiss and Rabbi Shlomo Weissmann**

*A Working Questions and Answers Document*

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#### **Purpose of This Document**

This document summarizes practical guidance for rabbis regarding the RCA Halakhic Prenuptial Agreement, based exclusively on the content of a senior rabbinic panel discussion. It is intended to assist rabbis in implementation, counseling, and administration.

Where the panel provided clear guidance, that guidance is recorded below.

Where questions were raised but not fully resolved, this document explicitly notes that additional clarification or policy guidance is required.

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#### **1. What is the purpose of the RCA Halakhic Prenuptial Agreement?**

Based on the panel discussion, the agreement is intended to:

- Prevent get-refusal
- Create a halakhically valid support obligation
- Ensure civil enforceability so that Beth Din rulings can be implemented
- Encourage timely cooperation with Beth Din processes

The panel emphasized that the agreement is structured to avoid concerns of a coerced get and reflects longstanding halakhic precedent.

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#### **2. Is the prenup widely accepted?**

##### **Guidance from the panel:**

- The agreement is widely used in North America
- It is endorsed by leading rabbinic authorities
- It is recognized by major batei din

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### 3. When should the prenuptial agreement be signed?

#### Guidance from the panel:

- The agreement should be signed **well before the wedding**.
- Signing weeks or months in advance is preferred.
- Signing at the wedding or immediately beforehand creates risk of:
  - Claims of duress
  - Enforcement challenges
  - Practical crises if one party refuses at the last moment

#### Practical guidance:

- Rabbis should introduce the prenup early in the engagement period.
- Discussion should occur while there is time to address objections or resistance.

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### 4. Is notarization required?

#### Guidance from the panel:

- Notarization is strongly recommended in all cases and significantly strengthens the agreement.
- Some states require notarization by statute. Even where not required, notarization is highly recommended

#### Practical guidance:

- Rabbis should ensure notarization as part of standard execution.
- Online notarization is acceptable and was explicitly mentioned as a viable option.

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### 5. Is the prenuptial agreement halakhic, legal, or both?

#### Guidance from the panel:

- The agreement is both halakhic and legal.
- Halakhic validity was carefully vetted by leading poskim.

- Legal enforceability is essential to its halakhic effectiveness.
- The civil enforcement mechanism strengthens, rather than undermines, the halakhic framework.

**Practical implications:**

- Rabbis should present the agreement as a dual-track document.
  - Neither aspect should be minimized in explanation to couples.
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**6. Are witnesses required, and who may serve as witnesses?**

**Guidance from the panel:**

- Once both parties sign, the agreement is valid even without witnesses.
- There is a halachic preference for kosher witnesses, but if such witnesses cannot be found, or there is a strong desire on behalf of the parties to honor particular people as witnesses, any secularly legal and valid witnesses may sign, including:
  - Women
  - Individuals who are not Shabbat observant

**Additional points raised:**

- Notarization is more significant than witness identity.

**Practical guidance:**

- Do not delay execution due to difficulty obtaining witnesses.
  - Prioritize notarization over witness selection.
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**7. How should the halakhic prenup interact with a civil (financial) prenup?**

**Guidance from the panel:**

Two acceptable structures:

1. Incorporating halakhic prenup language into a civil prenup (language is available at [www.theprenup.org](http://www.theprenup.org))
2. Executing the halakhic prenup as a separate document

**Clear warnings from the panel:**

Civil prenuptial agreements must not:

- Supersede or nullify the halakhic prenup
- Contain boilerplate language overriding all prior agreements
- Waive spousal support in a way that undermines halakhic obligations
- Waive ketubah-related obligations in a manner that creates halakhic problems (this problem can be avoided by adding a provision in the civil prenup saying, “In any event, and notwithstanding anything to the contrary in this agreement, Husband's obligation to Wife shall be no less than the lowest possible valuation under the Ketubah, which is the then market price of 1,000 grams of silver.”)

**Practical guidance:**

- Rabbis should encourage review of civil prenups when relevant.
  - Attorneys may need guidance regarding carve-outs preserving the halakhic prenup.
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**8. What is the optional arbitration paragraph?****Guidance from the panel:**

- The optional paragraph grants Beth Din authority to adjudicate:
  - Financial matters
  - Custody
  - Child support
  - Other divorce-related issues
- This paragraph transforms the prenup into a comprehensive arbitration agreement.

**Reasons given for including it:**

- Prevents litigation in secular court.
- Promotes halakhically appropriate dispute resolution.
- Reduces financial and emotional strain.
- Prevents forum shopping.

- Allows Beth Din to operate efficiently, including professional consultation.
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## **9. What happens if one spouse conditions participation on broader Beth Din jurisdiction (i.e. custody matters, etc.)?**

### **Guidance from the panel:**

- The paragraph regarding Beth Din adjudication should be signed; there are no negatives, and only positives.
- Signing the paragraph ensures that all matters will be handled in Beis Din, which is halachically preferable, and the Beth Din of America, under the guidance of Rav Willig, rules based off of the standards of secular law, especially regarding equitable distribution, spousal maintenance, and custody.
- Additionally, signing the optional paragraph makes it more difficult for either of the parties to play games, as everything will be decided by the Beth Din

### **Practical implication:**

- Rabbis should encourage every couple to sign the Beth Din adjudication paragraph.
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## **10. Why is the standard prenup not reciprocal?**

### **Guidance from the panel:**

- The structure reflects:
  - The halakhic support obligation embedded in marriage as expressed in the ketubah
  - Historical precedents
- Empirically, the majority of problematic cases involve husbands refusing to give a get.

### **Practical implication:**

- The one-directional structure was described as intentional and grounded in precedent.
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## **11. When is a reciprocal prenup appropriate?**

### **Guidance from the panel:**

- Reciprocal versions are halakhically valid.
- They may be used when:
  - Couples express a preference for a reciprocal framework
  - Family or communal dynamics necessitate compromise
  - The alternative is no prenup at all

### **Specific note:**

- The California version is reciprocal due to state legal requirements.
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## **12. Does the prenuptial agreement work in practice?**

### **Guidance from the panel:**

- In the majority of cases, the agreement works without formal enforcement.
- Often, it operates “in the background,” encouraging early cooperation.
- In contested cases, it significantly improves outcomes, ensuring a timely Get in almost all cases.
- Cases that would otherwise be prolonged are resolved more efficiently.

### **Limitation acknowledged by the panel:**

- No document can prevent all misuse or bad faith behavior.
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## **13. What is the purpose of the \$150 per-day support obligation?**

### **Guidance from the panel:**

- The amount reflects a reasonable estimate of daily support costs.
- It is a support obligation, not a punitive penalty.
- It was carefully calibrated to avoid halakhic concerns of coercion.
- The obligation is independent of other financial support arrangements.

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#### **14. Should the support amount be adjusted?**

##### **Guidance from the panel:**

- It is best to keep the \$150 amount for now, as a number that is too high may create a halachic problem.
- Higher amounts of \$175 or even \$200 may be appropriate for couples with higher standards of living.