

# A PROPOSAL TO WITHHOLD DIVORCE DECREES ON GROUNDS OF EQUITY

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## ABSTRACT

This article discusses several issues in connection with refusal of a husband to grant a *get* to his wife in order to permit her to remarry in compliance with Jewish law. Although it is contended that a *get* is a rescission of a contract rather than a religious act, secular courts have found constitutional impediments to enforcing agreements to execute a *get*.

The article argues that, as a court of equity, a divorce court may withhold a civil decree in the face of non-cooperation of one of the spouses regarding a *get*. Such power can certainly be conferred upon a court by means of statute. The article proposes legislation empowering a court to withhold a decree of divorce in circumstances in which such a decree would result in an inequity to one of the parties. Refusal to remove an impediment to remarriage of a spouse is one such inequity.

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