

ארשתִיךְ לִי בְצֶדֶק

*Erastich li b'tzedek*

**New Visions for the  
Halakhic Jewish Wedding**

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### **New Visions for the Halakhic Jewish Wedding**

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The family unit is a central locus of holiness in Judaism. Yet surprisingly little has been written on how to elevate the holiness of the foundational event in the marriage, the wedding, in light of the sea-change that has occurred in the status of women in the last few hundred years. Many Jews (including some who do not self-define as “Orthodox” or “halakhic”<sup>1</sup>) today marry in much the same way as the generations long before them. Nevertheless, a critical mass is forming on the need to systemically re-envision the halakhic wedding ceremony, particularly in recognition of current understandings of marriage as partnership between two people, and the revolution in its gender roles.<sup>2</sup> It is in this light that we aim to present one such seedling for how to reconcile *halakhah* and changing social realities – especially with respect to the newfound appreciation for gender justice in the marital relationship.<sup>3</sup>

While we believe that there is much that is beautiful and powerful in the wedding ceremony, there is no shortage of writers who have exclusively analyzed its virtue.<sup>4</sup> Instead we will examine proposed responses to some of Jewish wedding law’s thorniest challenges.<sup>5</sup> Fortunately, much has also been written concerning these systemic problems in the ceremony.<sup>6</sup>

Many of the “problems” in the traditional ceremony are completely grounded in *minhag* (custom) rather than *halakhah*, and are therefore completely resolvable within Jewish law.<sup>7</sup> For example, those who are uncomfortable with having only the groom speak at a *tish*<sup>8</sup> prior to the ceremony, while the bride greets friends and relatives in another room, can create a *kallah’s tish*,<sup>9</sup> with a parallel *d’var Torah*.<sup>10</sup> Alternatively, the groom and the bride can create new rituals to reflect their desire to greet their guests and be celebrated by them.<sup>11</sup> There are numerous such extra-halakhic

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<sup>1</sup> *Halakhah*, literally “pathway,” is the realm of Jewish law.

<sup>2</sup> We agree with commentators who believe that improving gender relations broadly in society requires particular emphasis on gender relations in religion. Our assumption is that the home is the quintessential institution reflecting gender relations, and therefore the event that starts the marriage – and sets its tone – deserves special focus.

<sup>3</sup> We certainly do not intend to present this as a comprehensive analysis of the problems and potential solutions. Rather this is meant to be primarily a discussion of one new approach.

<sup>4</sup> We particularly recommend *Made in Heaven* by Aryeh Kaplan (1983), for a strictly traditional approach, and *The New Jewish Wedding* by Anita Diamant (2<sup>nd</sup> Ed., 2001), for a sampling of practices across denominations.

<sup>5</sup> The discussion below is more response than solution, because no one has comprehensively “solved” all of the difficulties in the traditional ceremony.

<sup>6</sup> In this realm, we give our recommendation to an article on *Mishnah Kiddushin* by Noam Zohar, “Women, Men and Religious Status: Deciphering a Chapter in Mishnah,” *Approaches to Ancient Judaism* v. 5, ed. Bassler & Fishbane (1993), as well as the chapter entitled, “Brit Ahuvim: A Marriage Between Subjects” in Rahel Adler’s *Engendering Judaism* (1999).

<sup>7</sup> We do recognize, however, that *minhag* can also have great force, and therefore overturning or rejecting *minhagim* can present their own problems. The issues of conflict with family and community norms are beyond the scope of this discussion.

<sup>8</sup> The *hatan’s tish* is a reception for the groom preceding the ceremony.

<sup>9</sup> Elaborate pre-nuptial celebrations for the bride continue to be the rule in many *Mizrachi* (Jews from Arabic countries) communities. See Susan Sered, *Women as Ritual Experts* (1992).

<sup>10</sup> A *d’var Torah* is a speech expounding on Jewish values rooted in traditional text(s).

<sup>11</sup> For example, one such ritual might be to create a “Simchat Hatan” and “Simchat Kallah”, with both the groom and bride sharing words of Torah (as the groom traditionally does) and receiving and giving blessings (as the bride traditionally does).

traditions that can be revalued, discarded, or replaced with new rituals. This ranges<sup>12</sup> from whether the bride wears a veil,<sup>13</sup> to how and whether the bride circles the groom,<sup>14</sup> to whether it is only the groom who stomps a glass<sup>15</sup> under the *huppah*. The main topic of our paper, however, is rituals that do have halakhic ramifications.

Our paper is organized as follows:

We start by exploring the traditional Jewish marriage, considering some of its most glaring shortcomings as well as expanding upon a few sources of its beauty. This exploration begins within an examination of the history of monogamy in Jewish marriage law, and its ramifications for justice in the contemporary wedding ceremony. We then turn to *kiddushin* (betrothal), and discuss why we believe that it lends itself to ever-increasing sanctification as new generations re-conceive it. We next probe the unequal nature of *kiddushin* as we investigate openings for more active participation by the bride. We conclude this section with a brief introduction of divorce law and address how it mirrors much of marriage law's difficulties.

Having set the stage for a discussion of new conceptions of Jewish marriage, we next construct three theoretical frameworks for envisaging these conceptions. The approaches we define and explain we call reinterpretation, symbolic equality, and halakhic innovation. We hope that all potential improvements to the wedding ceremony might be better understood by being situated within one of these methodologies.

We next turn to the core of our discussion – our planned additions to the traditional wedding. We begin by introducing our central proposals: (1) *kiddushin al tannai* (conditional betrothal), (2) a document of commitments regarding sexual fidelity, (3) an active role for the bride in her own betrothal, (4) a “living” *ketubah*, and (5) documents facilitating the delivery of a *get* (divorce decree) in the case of a husband unwilling or unable to give a *get*. We outline the relationship between our tools and our three theoretical frameworks. We then undertake a more detailed discussion of each of these measures. We consider them chronologically, moving from

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<sup>12</sup> The three following examples, and discussion in the footnotes, were selected because they are among the most prominent features of the Jewish wedding on which wedding guests might comment.

<sup>13</sup> The custom of veiling the bride (*bedeken* in Yiddish) dates back to some of the most memorable scenes in the Bible. The matriarch Rebekah veiled herself before meeting Isaac (Genesis 24:65), and it was presumably because of the veiling of Rachel and Leah that Laban was able to “swap” brides without Jacob's knowledge (Genesis 29). It is due to the latter source that all Jewish grooms since Jacob make sure to do the veiling themselves. In addition, when Ruth asks Boaz to marry her, she asks him to place his garment over her (Ruth 3:9) as a sign of commitment to her. Some traditional couples have embraced a new layer of interpretations of the *bedeken*, which can be mutualized by having the bride dress the groom in his white *kittel* (robe) that he will wear during the wedding ceremony. One couple's wedding booklet explains that wearing the veil and the *kittel* symbolize “both our reverence for the unseen and unknowable and our commitment to love one another even when we feel hidden from one another” (Janette and David Hillis-Jaffe, June 1999).

<sup>14</sup> In traditional weddings, the bride circles the groom seven (or three) times after she arrives under the *huppah*. Feminist readings of this practice are split. Some believe that the process of circling the groom connotes female subservency, and reject the practice entirely or else have the groom also circle the bride. Other commentators maintain that the custom comes from the verse, “God has created a new thing on earth: A woman shall go round a man” (Jeremiah 31:22, JPS) and is symbolic of a state of desired equality between the sexes. Rabbi Aryeh Kaplan writes in a long discussion of circling, “One of the symbolisms of the wedding ring is that of the aura of protection that the husband gives the wife. However, in the Messianic era, man and woman will be equal, and the wife will also be able to protect her husband.” (Kaplan, 158-159, citing *Breshit Rabbah* 20:20; *Tanhuma Vayigash* 8; *Gur Aryeh* on Genesis 1:28.)

<sup>15</sup> Breaking the glass is a role traditionally assigned to the groom. The meaning behind the breaking of the glass – to remember the brokenness of the world, our mortality, and the destruction of Jerusalem in the midst of celebration – is entirely separate from the concerns around who does the breaking. A sexist *bubbemeiser* (folk tale) suggests that if both partners attempt to break the glass together, the one whose foot rests on top will dominate the marriage. Others associate glass-breaking with virility and deflowering. (See Diamant, 191-194.) Some couples choose to share the act to counter some of these interpretations (it might be possible, for example, to place a board on top of the glass and have the bride and groom break the glass with their feet side-by-side). Another interpretation is that the woman's circling at the beginning of the ceremony begins a process of drawing close to God that is completed by the man's breaking of the glass at the end of the ceremony.

those that are to occur before the *huppah*, through those that we plan for the *huppah* itself, to those we intend for immediately after we become husband and wife. During this discussion we anticipate several potential criticisms and offer responses to them. We conclude by reaffirming how we feel our proposed wedding ceremony satisfies our twin objectives of honoring both justice and *halakhah*.

By and large, this paper tells the story of our particular journey.<sup>16</sup> This will be reflected throughout, and we have endeavored to bring this to light wherever possible. We will not use this paper as a space to defend either the observance of *halakhah* or the imperative to strive for justice. These are our points of departure. In addition, readers should know that this paper is not meant to be a “how-to” guide, nor is it a full survey of all existing literature on Jewish weddings from ancient to modern times.

### ***A Brief History of Monogamy in the Jewish Tradition***

As we began our wedding-planning journey, we initially sought to learn about the importance of monogamy – a critical foundation of marriage, in our eyes – in Jewish sources. We were quickly surprised by what we learned. In his essay, “The Slow Road to Monogamy,” Walter Jacob writes:

Thousands of years ago the prophets of Israel used poetic imagery of God and Israel in a monogamous relationship and expressed this as their ideal; yet the path of Judaism in that direction has not been easy. Few of our thinkers through the ages have dealt with this issue; none has made it a matter of primary concern. The *halakhah* has moved in the direction of monogamy but . . . only slowly.<sup>17</sup>

Though polygyny<sup>18</sup> is practiced by prominent Biblical forefathers, it would be hard to argue that the text casts their behavior in a positive light. Abraham and Jacob suffer on account of their polygynous marriages. King David provides another example of the pernicious effects of polygyny.<sup>19</sup> While monogamy may be the Torah’s ideal, few of the central characters – with the notable exceptions of Adam and Eve and Isaac and Rebekah – act on this Godly vision.

Traditional understandings of the creation of the human species in *aggadah* (traditional narrative, as opposed to law) point to an even stronger monogamous ideal. “Torah teaches that man and woman were originally created as a single, androgynous unit. God then separated the two, making man and woman into independent persons.”<sup>20</sup> These two separate halves are eternally seeking each other, and each marriage is a step toward a return to Edenic wholeness in the world.<sup>21</sup> The Talmud also explains that each person’s mate is predestined “forty days before the formation of the embryo.”<sup>22</sup>

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<sup>16</sup> We will not, for example, address issues pertaining to lesbian and gay unions or unions of Jews and non-Jews, etc., though we do believe that our theoretical frameworks may be useful for those seeking to affirm the permanence of these and other non-traditional relationships.

<sup>17</sup> Walter Jacob, “The Slow Road to Monogamy,” *Marriage and Its Obstacles in Jewish Law: Essays and Responsa* (Tel Aviv: Rodef Shalom Press, 1999) 57-76.

<sup>18</sup> Judith Antonelli, in her landmark Orthodox feminist Torah commentary, explains that the common term *polygamy* is misused when applied to a situation of men having multiple wives. The precise term for this condition is *polygyny*, while *polygamy* refers to “marriage to more than one person (simultaneously) by both men and women; the term means polyandry [women having more than one husband] and polygyny together.” Antonelli, *In the Image of God: A Feminist Commentary on the Torah* (1997) 507.

<sup>19</sup> His selfish lust for Batsheva (despite already being married to 17 wives!) culminates in his ruthless plot to murder her husband, Uriah, bringing punishment upon the House of David for generations.

<sup>20</sup> Kaplan, 11, citing *Brachot* 61a; *Eruvin* 18a; Rashi on Genesis 2:21, 1:27.

<sup>21</sup> “In a sense, a husband and his wife existed together in the undifferentiated Divine Essence that existed before creation.” See Kaplan, notes 1-4.

<sup>22</sup> Kaplan, 5, explains that this is a euphemism for the moment of co nception.

Despite this ideal, the Talmud appears comfortable with polygyny, albeit with restrictions.<sup>23</sup> For example, the Rabbis suggested that husbands cap the number of their wives at four.<sup>24</sup> The practices of the rabbis themselves cover both extremes. On the one hand, Rabbi Tarfon, a great sage in Babylonia and a *Kohen* (priest), betrothed over 300 women during a famine ostensibly so that they can eat priestly tithes. At the same time, the Rabbis sanctioned a married man's visits to a prostitute, as long as he was careful to leave his hometown and to wear the disguise of a "dark garment."<sup>25</sup>

On the other hand, the Talmud makes one significant move toward holding men and women to the same standard in matters of marital fidelity. In *Mishnah Sotah* 9:9, we see that men who have exhibited sexually immoral behavior are prohibited from bringing their wives to be tested for infidelity: "When the number of adulterers grew large, the [ritual of the] bitter waters stopped, and it was R. Yohanan b. Zakkai who stopped them, as it says, 'I will not punish their daughters for fornicating, nor their daughters-in-law for committing adultery, for they [themselves turn aside with whores . . .] (Hosea 4:14).'"

More significantly, the institution of the *ketubah* (marriage contract) in ancient Jewish communities created a pull towards monogamy. Men's obligation – enforced by the *ketubah* – to use their own property to provide for each wife and her children in the case of divorce or death, created a deterrent to the acquisition of multiple wives. According to Jacob, "the introduction of the *ketubah* undoubtedly limited polygamy to the wealthy even more than in earlier periods."<sup>26</sup> Whether the rabbis intended this result is unclear.

In the Gaonic period (700-1100 CE), special clauses protecting a man's first wife were added to the *ketubah*, and have been unearthed as part of the ground-breaking study of *ketubah* fragments from the Cairo *Geniza*.<sup>27</sup> These clauses stated:

[The man] may not marry or take during the bride's lifetime and while she is with him another wife, slave-wife, or concubine except with her consent, and if he does...he shall from this moment be under obligation to pay her the *ketubah* in full and release her by a bill of divorcement by which she shall be free to remarry.<sup>28</sup>

The next shift toward normalizing monogamy came in the 11th Century with the celebrated *takanah* (ordinance) of Rabbeinu Gershom ben Yehuda (960-1030 CE). The text of this decree has been lost, but its content was clear: Jewish men could marry only one wife. While this represented a major advance for women, it was limited in scope for three reasons. First, it was rejected by Jewish authorities in Spain, France, and the Middle Eastern countries where Jews lived.<sup>29</sup> Second, built into the prohibition was a clause providing for the overruling of the ban: With the signatures of 100 rabbis from three different lands, a man could take a second wife (admittedly this would have most likely been used only if the first wife was insane and therefore could not accept the divorce, or if she had disappeared). Third, and most troubling, Rabbeinu Gershom's decree banned polygyny, but it did not bar a husband from extramarital sex with an unmarried woman.

Married men's extramarital sex with unmarried women could therefore continue unabated, even if it was condemnable. In addition to the continued legality of this extramarital sex, there was a

<sup>23</sup> The monogamous ideal is reflected in the much-heralded monogamous relationship of Rabbi Akiva and his wife Rahel.

<sup>24</sup> Yevamot 44a, 65a; S. D. Goitein, *A Mediterranean Society*, Vol. 3 (Berkeley, 1978) as cited by Jacob.

<sup>25</sup> *Moed Katan* 17; *Tosafot to Kiddushin* 40a as cited by Jacob.

<sup>26</sup> Jacob, 59.

<sup>27</sup> A *geniza* is a collection of damaged writings that contain the name of God, and as such must be buried rather than being otherwise destroyed. Thus, unearthing an ancient *geniza* is akin to finding a time capsule.

<sup>28</sup> L. Epstein, *Jewish Marriage Contract* (1927) 272.

<sup>29</sup> Jacob, 64.

flourishing tradition of concubinage.<sup>30</sup> As Jacob notes, “concubines were accepted, albeit reluctantly, in the Middle Ages among both Sephardic and Ashkenazic Jews and were often considered outside the *herem* (ban) of Rabbeinu Gershom.”<sup>31</sup> Instead of obliterating husbands’ marital infidelity, Rabbeinu Gershom’s *takanah* simply made it difficult for a Jewish man to have more than one wife with *kiddushin* and *ketubah*.<sup>32</sup>

It is important to qualify this discussion of legal developments by noting that social norms and standards of ethical behavior continued to elevate monogamy as the ideal. To this day there is much discussion about improper sexual conduct (*z’nut*), especially within *Haredi* communities. The prohibition against *z’nut* – including the expectation that both bride and groom will be virgins on their wedding night – reinforces the ideal of mutual monogamy.<sup>33</sup>

With the founding of the State of Israel in 1948, this issue came to the fore as some Mizrahi Jews (from Arab lands, such as Yemen) immigrated to Israel with more than one wife.<sup>34</sup> Polygyny is illegal under modern Israeli law, and each polygynous husband was required to pick one woman to be his legal wife. Additionally, he was required by law to continue to support the other wives.<sup>35</sup>

Professor Noam Zohar related an anecdote that encapsulates a presumably common view on monogamy:

I was riding in the taxi when the driver began to talk about his extramarital affairs. I asked him if he thought his wife would be upset if she knew, and he responded, “*Aval mutar l’fi haTorah!*” (But it is permitted according to the Torah!). I countered, “What do you mean, it’s permitted according to the Torah? What about *Ahavta re’akha kamocho* (love your neighbor as yourself)?”<sup>36</sup>

First, this anecdote conveys the perception that the Torah gives license to infidelity. Second, Professor Zohar’s response gives a plausible explanation for how one might read the Torah and draw the opposite conclusion.

Despite our desperate search for a more hopeful reading of the sources, we were disappointed that the Rabbis did not endeavor to enshrine monogamy in Jewish law. The lack of a clear legal tradition in support of mutual sexual fidelity was a primary stimulus for us as we explored ways to clarify in our wedding ceremony that Rob will be bound to be sexually faithful to Lamelle.

<sup>30</sup> We are grateful for an extensive bibliography on *pilagshut* (concubinage) provided to us by Rabbi David Golinkin of *Machon Schechter* in Jerusalem.

<sup>31</sup> Jacob, 67, notes that Rambam was opposed to the institution of concubinage on the grounds that it constitutes *z’nut* (licentiousness), but he did not positively affirm monogamy (*Yad Hilchot Ishut* 1:4). The *Tur* and *Shulchan Arukh* later prohibited concubinage (*Even Haezer* 26:1). The Rama, however, permitted concubines provided that they observed the laws of *niddah* (*ibid*). For more sources on the *pilegsh* (concubine) see the Conservative Movement’s *tshuvah* on non-marital sex, written by Rabbi Wayne Allen (1994). Thank you to Rabbi David Golinkin for bringing our attention to this *tshuvah*, which provides sources for medieval rabbis both opposing (Rambam, Radbaz) and favoring concubinage for the common Jewish man (Ramban, Rabbi Jacob Emden, Rabbi Abraham ben David, Rabbi Samuel ben Uri Shrage Phoebus, Beit Shmu’el, Kol Bo, Rabbi Yom Tov ibn Ashbili, Rabbi Nissim Gerondi, Rabbi Eliahu Hazan, and others). It should be noted that Rambam’s opposition to concubinage was limited to commoners; he favored concubinage for kings (*Hilkhos Melakhim* 4:4).

<sup>32</sup> In the Babylonian Talmud, the difference between a concubine and a wife is that the wife has *kiddushin* and *ketubah* and the concubine does not. In the Palestinian Talmud, however, the concubine had *kiddushin* but no *ketubah*. See Jacob, 66, citing *Sanhedrin* 21a.

<sup>33</sup> Many thanks to Rav Arie Strikovsky for his insight into the laws of forbidden contact as indicative of modern-day Judaism’s insistence on mutual monogamy.

<sup>34</sup> See Nitza Druyan, “Yemenite Jewish Women: Between Tradition and Change” in *Pioneers and Homemakers: Jewish Women in Pre-State Israel*, D. Bernstein, ed. (SUNY Press: New York, 1993) 77.

<sup>35</sup> Jacob, 71.

<sup>36</sup> Personal conversation with Professor Noam Zohar of Bar Ilan University and the Shalom Hartman Institute, Jerusalem. May 10, 2001.

## **Traditional Betrothal: From Kinyan to Kiddushin**

Having discussed the difficulties in Jewish law concerning marital monogamy, we now turn to the wedding ceremony itself. Jewish marriage takes place in two stages: *kiddushin* (betrothal) and *nesuin* (nuptials). The two stages were once separated by an interval of one year, though in modern times the two parts of the ceremony are contiguous. The status of a betrothed woman was distinct from that of a single woman in that she could have sexual relations with no man, not even her future husband.<sup>37</sup> In ancient times, *kiddushin* occurred with one of three acts: the presentation of money (or, later, a ring made from pure precious metal with a value that can be easily discerned), presentation of a deed (the *ketubah*), and sexual intercourse (represented by the *huppah* and/or *yichud*<sup>38</sup>). Later *poskim* (halakhic authorities) rule that all three must occur. When the groom presents the bride with the ring, he states: *Harei at mekudeshet li b'tabaat zu k'dat Moshe v'Yisrael* ("Behold, you are consecrated to me with this ring according to the law of Moses and Israel").

Strangely enough, in a disturbing twist, the *Mishnah* follows its rulings on the acquisition of wives with rulings on the acquisition of Hebrew slaves, Canaanite slaves, cattle, land, and objects. For this and other reasons, some modern commentators have critiqued *kiddushin* as commodification:

Thus, while the *purchase* of the bride may have dwindled to a mere formality in the rabbinic transformation of marriage, her *acquisition* is no formality. The language of acquisition still accurately reflects a relationship in which the woman has been subsumed and possessed . . . like slaves, land, and cattle, a wife is one of the comforts and assets of the patriarchal household. These associations that link a wife with other life-enriching acquisitions are deepened and justified by the language of *kiddushin*, which seals patriarchal dominion into the very nature of cosmic coherence.<sup>39</sup>

For Zohar, the essence of *kiddushin* is transformation of the woman's sexual status:

A woman, in betrothal, becomes legally bound to her husband in one sense only: he acquires the right to exclusivity in sexual access. This is a "negative" prevention-right, not a "positive" right to sexual services: the notion of "acquiring" a wife does not, in Jewish law, imply ownership of her body.<sup>40</sup>

Despite the concern over the lack of parity in the betrothal process, the Rabbis in the *Mishnah* (200 CE) take two major steps toward greater equity for women. First, by setting the amount required for the *kinyan* (acquisition) as equal to a *prutah*, the smallest unit of coinage of the time, the Rabbis reject the commodification of women; the acquisition is purely symbolic. Second, they rename the overall process of betrothal, calling it *kiddushin* (holy setting-aside).<sup>41</sup> In addition, Judith Hauptman writes at length about the Rabbis' insistence upon a woman's consent to betrothal. She concludes that "the requirement of consent puts to rest the concept of marriage as purchase":<sup>42</sup>

<sup>37</sup> If her future husband was a *Kohen*, she was legally allowed to eat *t'rumah* (priestly tithes) while continuing to live with her family of origin, although in practice she did not, for fear that her family would mistakenly eat food that was forbidden to them as lay Israelites.

<sup>38</sup> *Yichud* is a period of seclusion for the bride and groom immediately following the ceremony.

<sup>39</sup> Adler, 176-177.

<sup>40</sup> Zohar, 38.

<sup>41</sup> This development is noted by the Talmud in *Kiddushin* 2. The Talmud provides at least one additional clue to the true nature of the *kinyan* performed as part of *kiddushin*. It recalls that sacred items for the Temple must be purchased with *kesef*, as opposed to barter. Unilateral acquisition with money is associated with higher levels of holiness. As such, in the Talmud's rejection of *halifin* (barter) as an acceptable form for the *kinyan* of *kiddushin*, we see that the Sages refused to condone women being acquired in the same manner as cattle, land and other objects designated for non-holy use. Barter is necessarily confined to the secular realm; symbolic acquisition with money designates that whatever is acquired in the transaction is made holy.

<sup>42</sup> Judith Hauptman, *Rereading the Rabbis: A Woman's Voice* (Westview, 1998).

The main change [observed] is that marriage evolved over time from the purchase of a woman from her father to a kind of “social contract” entered into by a man and a woman, albeit with him as the dominant and her subordinate. The critical difference between her old status in marriage as chattel-like and her new status as “second-class citizen” is that she acquired, in exchange for [service] to her husband, a wide array of rights and protections.<sup>43</sup>

However, even use of the term “acquisition” may not be as troubling as it first appears. While this verb-root *koof-nun-heh* is the source for the verb “to buy” in modern Hebrew, it is also used in the *siddur* (prayerbook) to describe God’s relationship to the world. This clearly has nothing to do with commercial transactions; *koneh* in the *siddur* is translated as “Creator,” i.e. *v’koneh hakol* (“Creator of all”), *koneh shamayim v’aretz* (“Creator of the heavens and the earth”). *Koneh* is also used for at least one of the more beautiful lines in *Pirkei Avot*: *koneh lecha havei*<sup>44</sup> (“acquire yourself a friend”).<sup>45</sup>

The fact that the Rabbis sought to replace the dominant, acquisitive model of the *Tanakh* with a model of sanctification and “social contract” provides, in our minds, compelling rationale for embracing traditional *kiddushin*. While not the central description of marriage in the Bible, Malachi 2:14 refers to a wife as “friend and wife in covenant,” and the Song of Songs depicts a bridal couple in a fully mutual, holy relationship. It is this vision for marriage the Rabbis bolster by developing *kiddushin*. It also allows us to see current improvements on *kiddushin* – within *halakhah* – as part of a continuum toward greater holiness. Saying to the other, “I set you aside to be holy to me,” seems to speak to the deepest truths of the marriage we wish to create.

Why then, we wondered, should this act be limited to the groom?

### **He Gives, He Speaks: Kiddushin as Unilateral**

We will begin our discussion of the unilateral nature of *kiddushin* by briefly reviewing the process of *kiddushin* as defined by the Talmud. In *Kiddushin* 5b, which discusses the options for enacting a valid *kiddushin*, we learn the following:

If a man gives her money or its equivalent and declares “Behold you are sanctified to me”, she is *mekudshet* (betrothed). But if she gives to him, and says “Behold I am sanctified to you,” she is not *mekudshet*. Rav Papa says: Thus it is only when he both gives and speaks [that the *kiddushin* is valid]...

The model for *kiddushin* as the Rabbis describe it is “he speaks, he gives.” However, the Talmud also leaves a door open for women to initiate the betrothal proceedings. Mar Zutra rules that a woman can be *mekudshet* on the basis of the nonmaterial benefit (*hana’ah*) she receives from an important man to whom she has said, “Here is a coin and I will be betrothed to you.” She becomes *mekudshet* because of the pleasure she experiences as a result of him accepting her gift. Of course, she can only initiate the betrothal; she cannot betroth him.<sup>46</sup>

<sup>43</sup> Hauptman, 60.

<sup>44</sup> *Avot*, *Perek* 1:6.

<sup>45</sup> One might also read a Talmudic discussion on the term to “take” in the Torah verse “when a man takes a wife” (Deuteronomy 22:13) as subtle evidence of a link the rabbis sought to create between the process of marrying and holiness. They relate “take” to a use of the word “take” in Abraham’s purchase of a burial place for his wife, Sarah. In order to make this purchase, Abraham must undergo public humiliation by prostrating himself before the Hittite people (Genesis 23:1-20). Despite this indignity, Abraham does not shirk his duty to provide his wife with an honorable burial. It is said that the greatest acts of *hesed* (lovingkindness) are done for the dead, since they have nothing to give in return. The Talmud’s inference, coupled with the fact that providing for a wife’s burial is one of the traditional obligations of the husband, points to a meta-halakhic teaching: the essence of marriage is *hesed*.

<sup>46</sup> Later, we will see the same level of agency afforded a woman in the divorce process. She can request a divorce from her husband, but she cannot divorce him. He must divorce her.

One source for Rabbinic discomfort with women's participation in their own betrothals is the Rabbinic assumption that "it is the way of men to pursue a woman, but it is not the way of women to pursue a man" (*Kiddushin* 2b). They derive this from the use of the phrase "a man takes a wife" (Deuteronomy 22:13); no parallel phrase such as "a woman takes a husband" appears in the Torah. The Rabbis advance this point by comparing a man's pursuit of a woman, on one hand, to his pursuit of a "lost object," on the other; they want to convey that a man is not complete without a woman. However, the *pshat* (literal meaning) of the Torah verse "when a man takes a wife" does not imply that women cannot or do not pursue men. Indeed, in the story of Ruth we see that it is she, the ancestress of Messiah and a model of *hesed* and piety, who actively pursues her future husband.

### **"Ani mekudeshet, but what about you?": Can Kiddushin Be Reciprocal?**

Based on the Talmud in *Kiddushin*, we know that the process of making a woman *mekudeshet* must be carried out by the man (even if the woman "jumpstarts" the process with an initiating statement like the above "Here is a coin..."). Yet the Talmud never actually addresses whether a woman can make a man *mekudash* to her in addition to the traditional betrothal executed by the man, i.e. a reciprocal *kiddushin*. This is no great surprise – since "*mekudash*" would mean set aside for one's wife – given the history of monogamy discussed above. The legal demand that Jewish men remain sexually faithful to one wife is relatively new in our history.

When we began to consider our ideal marriage ceremony, we immediately seized upon the idea of reciprocal *kiddushin*. In principal, we loved the notion of setting each other aside in holiness. If the essence of *kiddushin* is not purchase, but exclusive sexual access, both parties should be able to enter into the state of being "*mekudash*" / "*mekudeshet*" to the other, we reasoned.

Reform Jews have long recognized the appeal of this rationale and have standardized a double-ring, double-statement ceremony in their liturgy. In Reform weddings, the bride gives the groom a ring and says "*Harei ata mekudash li b'tabaat zo k'dat Moshe v'Yisrael*"<sup>47</sup>, the exact phrase the groom utters to the bride, corrected for gender. As one guide to Reform practice writes:

Jewish tradition considered the woman who married as *mekudeshet* – "made holy," set aside and apart for her husband, consecrated and thus inviolate. In the view of the Reform [movement], this is mutual; both husband and wife are consecrated to each other. They create a sacred entity in the act of *Kiddushin*.<sup>48</sup>

While this type of innovation is standard among Reform Jews, much of the rest of the Jewish world is just beginning to investigate the practice of the bride giving a ring and speaking under the *huppah*.

Among traditional Jews, the reluctance to allow double-ring/double-statement ceremonies is grounded in *minhag* and not *halakhah*. Even feminist author Rachel Adler erroneously insists that in a double ring/double statement ceremony, "according to classical *halakhah*, no *kiddushin* is effected, because equal exchanges cancel each other out. It is as if each participant has given the other a five dollar bill; their circumstances are precisely what they were before the transaction."<sup>49</sup> As we will discuss, we believe Adler's statement to be halakhically incorrect.

<sup>47</sup> Variations on this theme are also practiced within many Reconstructionist and some Conservative communities.

<sup>48</sup> From *Gates of Mitzvah*, a Reform guide to Jewish practice. Cited in Peter S. Knobel, "Love and Marriage: Reform Judaism and *Kiddushin*," *Marriage and Its Obstacles in Jewish Law*, ed. Jacob and Zemer (1999). See also Eugene Milhaly, *Teshuvot on Jewish Marriage* (Hebrew Union College, 1985) 41: "Reform Judaism so changed the liturgy and the marriage ritual that they reflect the aspect of Jewish tradition with perceives marriage as a sacred union of two equals who find completion and wholesome fulfillment in each other."

<sup>49</sup> Adler, 191.

According to *halakhah*, the moment that the traditional formula is recited by the man and the ring placed on the woman's finger (in the presence of two valid witnesses), the woman is betrothed to the man – *mekudeshet*. This process is irrevocable. At the point of *kiddushin*, the woman's status has been altered and a *get* must be issued to dissolve the marriage.<sup>50</sup> Thus, after the traditional *kiddushin* takes place, nothing can impinge on its validity. This view was held by Rav Moshe Feinstein, even though he ultimately discouraged the practice:

In these things where after the groom betroths with a ring the bride also gives the groom a ring under the *huppah* and says “I am betrothed to you” or “You are betrothed to me” certainly the *kiddushin* – since it was after she was betrothed according to the law – are complete *kiddushin* [but] these things are void and silly...”<sup>51</sup>

This view that the *kiddushin* cannot be invalidated by the bride's statement and gift of a ring to the groom is shared by Conservative Rabbi Gordon Tucker:

Now our understanding of marriage, a millennium after Rabbenu Gershom and given the pervasive mutuality in our culture concerning marriage, is such that active language on the part of the woman [during *kiddushin*] is anything but absurd, and thus can be part of a marriage formula in which the groom's parallel (and traditional) declaration is not displaced. Given all this ... one can only conclude that this additional active declaration cannot invalidate the marriage. Anyone who feels otherwise should have the burden of proof.<sup>52</sup>

In his treatment of the “new *minhag* of double-ring ceremonies,” Conservative halakhic authority Rabbi Isaac Klein, concurs:

Some authorities object to this practice since it is a deviation from the traditional pattern, especially if the formula used by the bride is the same as the one used by the groom. Legally, however, there can be no objection. Once the traditional formula has been recited the betrothal is binding, and whatever is added is of no legal significance (Nedarim 87a).<sup>53</sup>

The above sources provide a solid grounding for anyone wishing to add a bride's statement and gift of a ring to the groom under the *huppah* immediately following the traditional declaration and gift by the groom.

However, we ultimately decided not to have Lamelle declare Rob to be “*mekudash*” as part of our ceremony. This decision came about due to our further reflection on what it would mean to have Rob be *mekudash*. It is not possible for a woman to really make a man *mekudash*, because there is no way to make him subject to the rules of being *mekudeshet*, which are inextricably linked to rules of adultery. We now recognize that no amount of *hiddushim* (innovations) on our part will alter this ingrained legal imbalance.<sup>54</sup> True, we wish this were not the case – given the chance to make the laws, we would have made some different choices.

As we will discuss, the status of a married woman in *halakhah* is different than that of a married man. Most glaringly, adultery in Jewish law is a term only used to describe forbidden sexual relations with another man's wife. It is a crime committed only by married women and the men who have illicit sexual relations with married women. As we noted earlier, a married man who has illicit sexual relations with an unmarried woman is not an adulterer. The lack of parallelism in laws concerning adultery is strongest in three instances:

<sup>50</sup> Mendell Lewittes, *Jewish Marriage: Rabbinic Law, Legend, and Custom* (Aronson: New Jersey) 76.

<sup>51</sup> *Igrot Moshe, Even HaEzer* 3:18. We are extraordinarily grateful to Rahel Berkovits for making us aware of this *tshuvah*.

<sup>52</sup> Cited in Cheryl [Chaia] Beckerman, “*Kiddushin* and *Kesharin*: Toward an Egalitarian Wedding Ceremony”, *Kerem* No. 5, 1997, 88.

<sup>53</sup> Isaac Klein, *A Guide to Jewish Religious Practice* (JTS Seminary: New York, 1979, 1992) 396.

<sup>54</sup> We are particularly grateful to Prof. Noam Zohar for this point.

- (1) In the Torah, a married woman who commits adultery deserves the death penalty, along with her co-conspirator (Leviticus 20:10, Deuteronomy 22:22). A married man who has sexual relations with a woman who is not his wife (as long as she is not someone else's wife) is not punished. Although the Rabbis ruled that the death penalty can no longer be administered, this disparity is helpful for understanding the inherent legal inequalities in the marriage relationship.
- (2) The descendants of an adulterous woman are considered *mamzerim*, tragically forbidden to marry Jews who are not also *mamzerim*. Yet at the same time, children born out of wedlock to the unmarried mistress of a married man are perfectly "kosher" Jews.
- (3) If a married woman commits adultery, she is henceforth *asur* (forbidden) to her husband. If the rabbinical court becomes aware of her transgression, they must compel her husband to divorce her (this is true even today in the Israeli rabbinical courts). However, if a married man has sexual relations with a woman who is not his wife (even a married woman, since we no longer have the death penalty for adultery), the rabbinical courts may recommend that the couple reconcile and seek *shalom bayit* (peace in the home).

These three terrible injustices are far beyond the scope of our ability to innovate within *halakhah*. We have no choice but to accept the fact that a man, try as we might, cannot halakhically be *mekudash* by a woman – nor would we want to double the reach of these awful legal punishments. (As we saw above, it is halakhically permissible for a couple to use the language of "*mekudash*" during their ceremony to achieve a kind of "symbolic" – if not actual – parity. This option will be discussed at greater length below.)

### **Kiddushin and Gerushin: Entry and Exit Through the Same Door**

The power imbalance inherent in *kiddushin* is mirrored by the power imbalance inherent in *gerushin*, Jewish divorce. Many couples find discussions of divorce repugnant on the eve of marriage. However, taking our cue from traditional Judaism's insistence on the *ketubah* as a fundamental part of the wedding ceremony, we decided to begin our marriage with "eyes wide open." This paper cannot adequately touch on the vast body of literature concerning the injustice of Jewish divorce law. However, we learned quickly that halakhic innovations concerning the beginning of a marriage (*kiddushin*) must be accompanied by innovations concerning the end of a marriage (*gerushin*). The *Mishnah* views the entrance and exit to marriage as linked: "A woman is acquired in three ways, and she acquires herself [i.e., is divorced] in two ways" (*Mishnah Kiddushin* 1:1).

Though modern rabbis have devised brilliant and creative solutions for other modern halakhic problems (such as *mehirat hametz*,<sup>55</sup> *heter mechira*<sup>56</sup> and *heter iska*<sup>57</sup>), the tragic inequality of divorce law has continued to prevail. One commentator writes:

In ancient times the fact that a husband could easily initiate a [divorce] was balanced by the Rabbis' enabling a wife to sue for divorce on numerous grounds, and the Rabbinical Courts would exert pressure upon a husband to comply. However, the radical change of the social and political condition of the Jews in the modern era in Western Europe and America has created a new context . . . Jewish

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<sup>55</sup> *Mehirat Hametz* (sale of *hametz*, products with leaven, which Jews are prohibited to own during Passover) was enacted in order to let Jews "sell" their *hametz* to non-Jews for the duration of Passover, and then buy it back at the end of the festival.

<sup>56</sup> *Heter mechira* (permission of sale) was enacted to ease restrictions on agriculture during the sabbatical year in Israel, allowing land owned by Jews to be "sold" to non-Jews for the year in which it would otherwise lie fallow.

<sup>57</sup> *Heter iska* (permission of transaction) was enacted in order to let Jews charge interest to other Jews, which was prohibited by the Torah.

courts no longer exist in the old sense [in the Diaspora]; hence, Jewish divorce is now entirely a matter of consent between the parties, and this puts the wife at a very great disadvantage.<sup>58</sup>

The essential problem is that since *kiddushin* (betrothal) is a unilateral process effected by the man, he has unilateral power to reverse the process and effect *gerushin* (divorce). Further, he must do this of his own free will. If he refuses or is incapable of giving his wife a *get krittut* (bill of divorcement), she cannot remarry without knowingly assuming the status of an adulteress. As we saw above, her children from any subsequent marriage would be *mamzerim*, even if she and her former husband completed a civil divorce. This applies to both *agunot* (chained women) – whose husbands have disappeared or become mentally incompetent to give a *get* – and women whose husbands refuse to give a *get*, known as a *mesuravot get*. Of this tragedy, one scholar writes:

The subject of the *agunah* has held the attention of more rabbis for more time than probably any other single problem, and for those who tried to find solutions that would remain within the framework of *halakhah* it has proved almost insurmountable.<sup>59</sup>

## ***Toward Tikkun: Three Halakhic Frameworks***

Having given a brief overview of some of the systemic problems with the marriage ceremony, we now turn to our discussion of ways to counter these difficulties (and others that are less serious). Throughout the process of designing our ceremony, we often found it helpful to reflect upon the general halakhic approach that we had in mind at any given time. We ultimately developed a schematic of three different halakhic methodologies.<sup>60</sup> Any one approach need not be privileged over the other; different approaches can coexist within the same ceremony. The common thread shared by the three halakhic approaches is a commitment to adding to the traditional ceremony while not subtracting from it. After presenting these three halakhic approaches, we will share a fourth quasi-halakhic technique that we chose not to embrace. In a later section, when we discuss in detail the path that we have chosen, we will provide examples of times when we chose one approach over the others.

### **(1) Renewal Through Reinterpretation**

How do we define and interpret meaning? If the meaningfulness of an action is determined by the actor's personal sense of authenticity, then how are we to guarantee the authenticity of the prayers and rituals that lace our days? Does meaning inhere in the ritual itself or is it a construct of the community witnessing and/or performing the ritual? A starting point for addressing this question is Laura Levitt's discussion of the *ketubah*, the marriage contract: "One might ask why, historically, *ketubot* were made to look so beautiful. What is the relationship between the aesthetic and the legal, this particular contract and its decoration?"<sup>61</sup>

Just as a *ketubah*, decorated in accordance with the purpose of *hiddur mitzvah*,<sup>62</sup> can come to represent more than its legal content, the traditional wedding ceremony can be imbued with a layer of meaning above and beyond its legal significance. This method of "reinterpreting" the meaning of

<sup>58</sup> *Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement, 1927-1970*; David Golinkin, ed. (Rabbinical Assembly and Institute of Applied Halakhah: Jerusalem, 1997) 916. This quote is from a *tshuvah* (rabbinic responsum) entitled "*T'nai b'kiddushin*" by Rabbis Bohnen, Gershfield, Kreitman, and Siegel.

<sup>59</sup> *Proceedings*, 914. Though the system is tipped in favor of men, Rabbeinu Gershon's second *takanah* ruled that a divorce must be accepted by the woman. This means that it is now possible for a woman's disappearance, insanity, or malicious refusal to accept a *get* to result in men's suffering.

<sup>60</sup> Though we discuss these three methodologies only in the context of the wedding ceremony, we believe that they have broader applications for other ritual practices.

<sup>61</sup> Laura Levitt, *Jews and Feminism: The Ambivalent Search for Home* (London: Routledge, 1997) 30.

<sup>62</sup> *Hiddur mitzvah* is the principle that any object used in fulfilling a commandment should be made as beautiful as possible.

the marriage ceremony, we would argue, takes place in some form at all Jewish weddings today – from Reform to *Haredi* (ultra-Orthodox) communities. Many rituals created long ago for one purpose are now performed with little or no timbre of their original intention. In most circles a wedding is pure *simcha*, with nary a thought to marketplace-varieties of *kinyan*.<sup>63</sup> As values and social contexts have been clarified and transformed – particularly with respect to gender roles – the wedding ceremony and its resonances have inevitably changed as well.

Thus, ancient rituals may still be in use, and they have acquired new meanings and layers of interpretation through the centuries. Hundreds of new *minhagim* (customs) now adorn the Jewish wedding of antiquity. As an illustration, Rabbi Aryeh Kaplan, a widely-read author on marriage, writes that the bride's traditional gift of a *tallit* (fringed prayer shawl) to the groom signifies the gift of her heart, since there are 32 fringes, and the word associated with the number 32 is *lev*,<sup>64</sup> which means "heart." When the groom recites "*Harei at mekudshet li b'taba'at zo, k'dat Moshe v'Yisrael*," this phrase adds up to 32, and as such the groom is giving his heart to the bride with this statement. Similarly, some modern commentators portray the bride's circling of the groom as an empowered act: "Some women have reintroduced the bride's circling, seeing it not as a token of subservience but as a powerful act of definition: she creates the space the couple will share."<sup>65</sup> Just as most Jewish brides and grooms today are married with the unspoken reinterpretation that marriage means mutual monogamy, couples living in the Diaspora also implicitly agree to be bound by an additional set of civil laws if their marriage should end in divorce.

The preservation of the traditional Jewish wedding ceremony is therefore not an anti-feminist move. In fact, we believe it is admirable for a couple to consider the needs of their community when crafting a ceremony. There are several legitimate reasons for innovating through reinterpretation without making additions to the public ceremony. The bride and groom add their own layer of interpretation either privately (e.g., the bride giving the groom a ring in *yichud*) or publicly (e.g., writing about their intention to do this in a booklet prepared for the guests). The bottom line, however, is that bride and groom celebrate the meaning that inheres in the ceremony over and above its legal meaning.

## **(2) Symbolic Equality**

For many couples, reinterpretation is a necessary but not sufficient component for creating a marriage ceremony for equals. In this view, for the bride and groom to enter into a marriage of mutuality, they must both speak during the wedding. The active voice of the bride during the ceremony is symbolic of her equality within the marriage, regardless of whether or not her statement and/or her gift of a ring to the groom have halakhic potency.

The prototypical example of symbolic equality in the marriage ceremony consists of the bride giving a ring to the groom and reciting a verse from the *Tanakh*.<sup>66</sup> The most common source for the bride's statement is a verse from Song of Songs, perhaps the quintessential Jewish text for valuing and validating the sexuality and beauty of both partners in a relationship. Frequent choices are *Ani l'dodi v'dodi li* (I am my beloved's and my beloved is mine, 6:3) and *Simeni chachotam al libecha* (Set me as a seal upon your heart, 8:6). One other popular choice for the bride's statement is from Hosea 2:21-22: *Erastich li l'olam, erastich li b'tzedek, uv'mishpat, uv'hesed, uv'rachamim. Erastich li b'emunah,*

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<sup>63</sup> As discussed above, the *Mishnah* in *Kiddushin* juxtaposes *kinyan* of livestock, of slaves, of wives, and so forth. Presumably almost no one today would think of writing the *Mishnah* in this manner, or could dream of mentioning these categories in the same breath.

<sup>64</sup> The system of *gematria* attributes a number to each letter of the Hebrew alphabet. It is then possible to add up the numerical value of any Hebrew word as a way of making mystical inferences between different words with the same value, etc.

<sup>65</sup> Anita Diamant, *The New Jewish Wedding* (Fireside: New York, 2001) 110.

<sup>66</sup> The *Tanakh* is the Hebrew Bible, containing the Torah, Prophets and Writings.

*v'yada'at et Hashem* (I betroth you to me forever, I betroth you in justice, in legality, in lovingkindness and in compassion. I betroth you in faith, and you shall know God).

As noted above, the halakhic validity of the marriage is no way compromised by the addition of a statement by the bride or by the bride giving a ring to the groom. However, despite the *halakhah*, there does seem to be a great deal of discomfort around this practice, especially when the bride says the traditional betrothal formula (corrected for gender) back to the groom.

Yet even in Israel, where the rabbinate forbids so-called double-ring ceremonies, couples and their rabbis have initiated creative rituals allowing women to give their fiances rings. Our teacher Rahel Berkovits was married in Israel with her uncle, Rav Dov Berkovits, as *meseder kiddushin*. With the *p'sak* of Rav Shaar Yeshuv Cohen, former Chief Rabbi of Haifa, Rav Berkovits permitted Rahel Berkovits to give her husband, David, a ring at the *bedeken* and say, "Take my ring and I will be betrothed to you," based on language from the Mar Zutra's discussion of betrothal via *hana'ah* discussed above. Though this clearly had no legal significance with respect to the *kiddushin*, it was an act deeply rooted in the tradition.

One of the best models we found for symbolic equality was the marriage ceremony of Beverly Gribbetz and Ed Greenstein. Gribbetz and Greenstein were married in 1986 under the auspices of a group of Orthodox rabbis, including the well-known scholar Rabbi Yitz Greenberg. Their wedding ceremony prioritized women's involvement, including having a *kallah's tish* and a woman reading the *ketubah*. Their approach to *kiddushin* was their most unusual feature. Instead of using the traditional "*Harei at mekudeshet li*" formula, Gribbetz and Greenstein chose an equivalent formula found in the Talmud and major codes.<sup>67</sup> Under the *huppah*, the groom performed the traditional *kinyan kesef* and recited, "*Harei at li le'isha kedat Moshe v'Yisrael v'ani ishekh*" (Behold, you are my wife according to the laws of Moses and Israel and I am your husband). The bride responded, "*Ani ishtekha kedat Moshe v'Yisrael ve'atta li le'ish*" (I am your wife according to the laws of Moses and Israel and you are my husband). Following the reading of the *ketubah*, the bride then presented the groom with a ring and recited the "*Erastich li l'olam*" verses from Hosea (see above). The groom responded to the wife's statement with another quote from Hosea symbolizing a redemptive vision of equality between men and women: "On that day, says God, you will say, 'My man' (*ishi*) and not 'my master' (*baali*)" (Hosea 2:18). Gribbetz and Greenstein describe their approach to *kiddushin* as follows:

By responding in the way we arranged, the *kallah* only affirms the *kiddushin* that had taken place. But from a rhetorical perspective, she makes her voice heard on a par with that of the *hatan*. The ring that the *hatan* gives the *kallah*, as was said, represents the valuable by which the *hatan* effectuates *kiddushin*. But outside the *huppah* ceremony itself, in society, the ring symbolizes the commitment of a wife to her husband. That commitment is surely mutual, and we chose to follow the practice of having the *kallah*, now a married woman, *eshet ish*, present the *hatan* with the gift of a ring, a representation of love and not an instrument of *kiddushin*.<sup>68</sup>

One other outstanding model for attaining symbolic equality is the marriage ceremony created by Chaia Beckerman and Rabbi Joel Berman.<sup>69</sup> Though they, like us, originally sought to mutualize *kiddushin*, they concluded that this would be both impossible and undesirable. Beckerman ultimately rejected *kiddushin* as an operative category for her relationship to Berman; Berman, on the other hand, felt that the traditional meaning of *kiddushin* was relevant in his relationship to Beckerman. The couple ultimately added language to soften the one-sided nature of the traditional *kiddushin* formula as they simultaneously added a new section to the marriage ceremony – "*Kesharin*"

<sup>67</sup> The Aramaic version of this phrase (*Harei at li le'intu*) is found in *Kiddushin* 5b, as well in as Rambam's *Mishneh Torah*, *Nashim*, *Hilkhot Ishut* 3:6 and the *Shulhan Arukh*, *Even Ha'ezer* 27:2.

<sup>68</sup> Dr. Beverly Gribbetz and Dr. Ed Greenstein, "Something Old, Something New." Full version of the manuscript provided by authors, June 2001. Published in edited form in the Jewish Orthodox Feminist Alliance Journal, 1998-99. We are grateful for their assistance.

<sup>69</sup> See Beckerman, above.

(connection). This was Beckerman's opportunity to express her connection to Berman by reciting an adapted Biblical verse and giving him *tefillin*.<sup>70</sup> Their *kiddushin* ceremony, which preceded *kesharin*, went as follows (in Hebrew):

Groom: With your consent and by your will: Behold you are consecrated to me, with this ring, according to the law of Moses and Israel.

Bride: So I am consecrated to you.

Groom: *Call me your man and not your master* (Hosea 2:18). Just as you have lovingly and willingly accepted the exclusivity that *kiddushin* mandates, so do I declare this day before the Almighty and before my community, that I am bound by this same *kiddushin*, permitted to you and forbidden to all others. Your liberties are my liberties and your restrictions my restrictions, as it is said: *Whither thou goest, I will go, and whither thou lodgest I will lodge; thy people shall be my people, and thy God, my God* (Ruth 1:16).<sup>71</sup>

A recent wedding in Jerusalem echoes Berman and Beckerman's ceremony. In this version, the groom also prefaced his statement with "With your consent and by your will," and the bride answered "So am I consecrated to you." A *d'var Torah* was given, and then the bride presented a ring to the groom accompanied by language from Malachi 2:14 ("friend and wife in covenant"): "With your consent and by your will, be my companion and my covenantal partner according to the laws of Moses and Israel." The groom responded, "So I will be your companion and covenantal partner."<sup>72</sup> It is possible that this groom and bride, whose wedding we did not attend, borrowed the application of the Malachi verse from ancient Palestinian *ketubot* that also include such language.<sup>73</sup>

Since these gestures are superfluous to and do not invalidate the *kiddushin*, we are surprised that many rabbis require couples to read the *ketubah* or have some other break in the ceremony before allowing the bride to present the groom with a ring. Some rabbis even require that the entire formal ceremony finish (through the *Sheva Brachot* of *Nesuin*) before allowing the bride to recite her verse and give the groom his ring, or mandate that this action occur before, but not under, the *huppah*. Perhaps these steps are taken to underscore that the additional statements and ring are purely symbolic – as opposed to halakhic – additions, yet we can find no significant halakhic rationale for refusing the bride her opportunity to participate immediately after the traditional *kiddushin*.<sup>74</sup> It is our feeling that rabbinical reluctance to allow the bride to speak and give a ring during the formal *huppah* ceremony reflects social and professional pressure, as well as a reluctance to change established *minhag*.<sup>75</sup>

One final example of the approach of symbolic equality is the widespread practice of having two *ketubot* – an "official" *ketubah* with the "standard" Aramaic text and a separate *ketubah* or other document more clearly reflecting the values inherent in the relationship between bride and groom.

### **(3) Halakhic Innovation: Efforts to Create Binding Equality**

Having outlined the models of reinterpretation and symbolic equality, we now turn to our final model or approach for addressing disconnections between Jewish law and deeply held values:

<sup>70</sup> Tefillin (phylacteries) are small boxes containing scriptural passages worn during morning prayers by observant Jewish men and a small but increasing number of observant Jewish women.

<sup>71</sup> Beckerman, 96-97.

<sup>72</sup> "Wedding Service of Andrea Kuti and Greg Alexander," May 2001. Printed for wedding guests.

<sup>73</sup> See Mordechai Akiva Friedman, *Jewish Marriage in Palestine: A Cairo Geniza Study*, Vol. 1 (Tel Aviv, 1980) 19.

<sup>74</sup> We have not come across any *tshuvot* challenging Rav Moshe Feinstein's assertion that *halakhah* is not violated in a ceremony in which a woman gives her husband a ring under the *huppah* immediately following her acceptance of a ring from her husband. (See discussion above in section entitled "'Ani mekudeshet', but what about you?: Can *Kiddushin* Be Reciprocal?")

<sup>75</sup> Though *minhagim* should not be changed without thought, we believe they beg reevaluation when leaving them unchanged violates communal values. In this case, at least in most modern circles, the violated communal value is the equality of men and women.

halakhic innovation. In this model, problems with the traditional Jewish wedding ceremony are addressed by adding innovations permissible within the halakhic framework. This approach draws upon Judaism's ingrained appreciation for innovation, even in the midst of its preservative tendencies: *Iy efshar le-bet midrash be-lo hiddush* (Hagigah 3a) ("There cannot be a house of study without innovation"). Instead of adding symbolic gestures of equality to the ceremony, this approach uses *halakhah* itself to achieve the desired result – a just marriage, or the closest approximation of this goal.

This approach is predicated upon understanding the *kiddushin* and the *ketubah* as living, breathing legal arrangements, rather than outmoded "symbolic" forms. For example, most couples today consider the *ketubah* to be just what it claims not to be – a mere formula.<sup>76</sup> The traditional *ketubah* contains three separate financial commitments made on behalf of the groom (*mohar*, *nedunya*, and *tosefta*) to ensure the well-being of the wife in the case of divorce or death of the husband. Its original purpose – insuring economic protection for the more vulnerable spouse and delineating roles and responsibilities within the marriage – is apparently, by and large, no longer considered crucial. Many couples today employ the symbolic equality approach by signing a *ketubah* that does not, in most cases, reflect a meaningful commitment on the part of either spouse. As mentioned above, they then create a parallel egalitarian document – not intended to be a legal commitment – that reflects their moral or other obligations to one another.

The approach of halakhic innovation encourages a couple to make one, halakhically binding *ketubah*. This *ketubah* would be true to its ancient yet progressive purpose of ensuring financial sustenance for a dependent spouse.<sup>77</sup> Without violating halakhic requirements, it would contain real commitments that the bride and groom agree to undertake.

This example of innovation with halakhic impact is one of many available to the bride and groom. Other major additions to reflect gender equality that we will discuss in the next section include changes in the *kiddushin* itself to give legally significant voice to the bride,<sup>78</sup> as well as creative pre- and post-wedding documents that aim to alleviate glaring shortcomings in divorce law.

### **One final quasi-halakhic option: Kiddushin that is Halakhically Invalid**

Our point of departure has been halakhic Jewish wedding. Nevertheless, we will briefly discuss one exception noteworthy because it appears in the literature as a way to mitigate the problems of unilateral *kiddushin* and *get* altogether. This approach to the wedding would presumably best suit those who want their wedding to have all of the traditional rituals and cadences while intentionally and subtly rendering it halakhically invalid. For example, such a couple could have a traditional wedding and yet have the groom give the bride a ring that he does not own, or they could have a woman serve as *ed* (witness) to the marriage.<sup>79</sup> Though the bride and groom appear to have *kiddushin*, their decision to create a wedding ceremony devoid of legal weight would make a statement about the horrors of the *agunah* problem, since many *batei din* would rule that there had never been a marriage in the first place. This method is the diametric opposite of the method of

<sup>76</sup> The statement "This is not an *asmakhta*" – a mere formula – appears near the end of the traditional *ketubah*.

<sup>77</sup> According to some scholars, such as Jacob Neusner in *Judaism: The Evidence of the Mishnah* (University of Chicago Press, 1982), the *ketubah* was one of the rabbis' most progressive innovations. Cited in Judith Hauptman, *Rereading the Rabbis: A Woman's Voice* (Westview, 1998), 61.

<sup>78</sup> One example of halakhic innovation that might be particularly appealing to some comes directly from the pages of the Talmud. In *Kiddushin* 8b, in a discussion of various conditions to the *kiddushin*, the following example is raised: If the groom says to the bride, "Be betrothed to me by this loaf of bread" (using bread instead of a ring) and she says, "Give the bread to the dog", so long as the dog is hers, then the wedding is valid. This might be our ideal wedding ceremony – our Israeli mutt, Haya, would presumably agree!

<sup>79</sup> For an example of discussion of this approach to *kiddushin*, see Cheryl [Chaia] Beckerman, "Kiddushin and Kesharin: Toward an Egalitarian Wedding Ceremony", *Kerem* No. 5, 1997, 99.

halakhic innovation discussed above, which transforms traditional practices but remains within *halakhah*.<sup>80</sup>

## ***Our Proposed Wedding Ceremony: Justice as Patchwork***

With *halakhah* and justice as our key aspirations, “marrying” the two became our focus. The result is a proposed marriage ceremony that has evolved considerably from its original form, yet has remained anchored in traditional sources. We have also benefited enormously from wide-ranging conversations with many of our teachers in Jerusalem. Our proposal is a collage of band-aids designed to help us come closer to the ideal of *tzedek, tzedek tirdof*.<sup>81</sup> We will hope that our wedding will be a small step toward *tikkun*.<sup>82</sup>

A strong consensus developed between the two of us regarding how to utilize the various theoretical frameworks. We discuss each of the three approaches in turn.

### **Renewal Through Reinterpretation**

We will not pursue large-scale “innovation through reinterpretation” for several reasons. The first and perhaps most important is the fact that we have few family members and friends with a strong tie to the traditional ceremony. For us reinterpretation – to the extent that we find it at all compelling – is best served in a community steeped in understanding of the traditional ceremony and deeply aware of the new resonances the couple seeks to layer onto it. We have rejoiced at traditional weddings where the bride has not spoken under the huppah, and felt that the context of mutuality in the couple’s relationship remained entirely clear. Yet we would not feel comfortable with this arrangement for ourselves. However, we do hope to use reinterpretation occasionally in our ceremony. For example, reinterpretation helps explain Lamelle’s decision to circle Rob under the huppah: We will preserve this custom, affirming those traditional sources that portray circling in a positive – even feminist – light. More generally, we are choosing to see the latter half of the ceremony as the *ikar* (core) of the wedding. Not only must a husband and wife undergo *nesuin* before they are permitted to be sexually intimate with one another; the seven blessings at the heart of *nesuin* are filled with beauty and portray marriage as a mutual enterprise.<sup>83</sup> For us, understanding *nesuin* to be the most significant, sealing part of the ceremony will help ameliorate the concerns we have with the one-sidedness of *kiddushin*.

### **Symbolic Equality**

We do rely upon the second method, “Symbolic Equality,” at points throughout our ceremony. Many creative couples have used this approach to design powerful, moving weddings. Nonetheless, we are uncomfortable with basing our marriage on the *appearance* of equality. Though we do not employ this model as our organizing principle, we have nevertheless chosen to use it in a few cases. First, we utilize “symbolic equality” to mitigate our discomfort with the exclusion in *halakhah* of women as witnesses in matters related to marriage. Instead of acquiescing completely to women being barred from these roles, we have chosen to ask two women to serve as *measherot* – endorsers – for all documents that will be signed by two male *edim* (witnesses) and the bride and

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<sup>80</sup> One other technique that has gained more prominence in recent years is the *brit ahuvim* (lovers’ covenant) ritual developed by Rachel Adler, discussed at length in her book *Engendering Judaism* (1998; 192-207). Adler creatively uses *pilagshut* as a precedent for legal relationships that are consciously not Jewish marriages according to *halakhah*. Because she rejects *kiddushin* altogether, we have chosen not to discuss her model at length, though we find it a fascinating new development.

<sup>81</sup> “Justice, justice shall you pursue.” Deuteronomy 16:20.

<sup>82</sup> *Tikkun* means “healing.”

<sup>83</sup> Many modern *poskim* hold that couples with *kiddushin* – and even *tannaim*, which we made over a year ago right after our engagement – require a *get* for dissolution. Thus, in that sense, there is very little legal distinction between the two stages.

groom. It is important to us that learned and pious women, as well as men, give their approval to our marriage, and we have chosen this symbolic gesture to reinforce this value that we share.<sup>84</sup> No less significant, we utilize symbolic equality for Lamelle's gift of a ring to Rob, which will occur after she is *mekudeshet* – legally a married woman, in the tradition of Gribbetz and Greenstein (see above). This part of the ceremony will be discussed as part of the next section, in order to situate it within the context of the ceremony as a whole.

## **Halakhic Innovation**

We hope to make the most of the third framework as we seek ways to ensure increased legal parity in the wedding. We first sought to do everything possible to ameliorate the unacceptable injustice in divorce law. Second, we wanted to ensure for Lamelle some kind of active role in effecting *kiddushin*. Third, we aspired to legally require Rob to be monogamous, a restriction that marriage would already require of Lamelle (see above). We will expand on each of these goals, in turn. We will supplement the traditional wedding ceremony before, during, and after the *huppah*.

Our basic additions can be summarized as follows:

### **Outline of Proposed Additions to the Wedding Ceremony**

*Starred items will be discussed at length below*

#### **(1) Before the Huppah**

- (a) *Kiddushin al tannai 1* (addresses inequality in divorce law) \*
- (b) *Shtar Haskamot* (addresses sexual fidelity) \*

#### **(2) Under the Huppah**

- (a) Rabbinic confirmation of adherence to *Tannaim 1* (before *kiddushin* and *nesuin*)
- (b) *Kiddushin al tannai 2* (creates an active role for the bride in her own betrothal) \*
- (c) Reading of the *Shtar Haskamot*
- (d) Bride's gift of ring to groom
- (e) A "Living" *Ketubah* \*

#### **(3) After the Huppah**

- (a, b, c) Documents facilitating the delivery of *get* \*

We discuss each of these in turn.

## **Before the Huppah**

### **(1a) Kiddushin al Tannai (Conditional Betrothal)**

*Kiddushin* can be enacted subject to certain conditions being fulfilled. "If the condition is fulfilled, the betrothal takes effect; if it is not, the betrothal is null and void *ab initio*."<sup>85</sup> In fact, the Talmud holds that all betrothals are conditional on the approvals of the rabbis: "*Kol demekadesh adaata derabbanan mekadesh veafkainhu rabbanan lekiddushin minay*" – Everyone who betroths a woman does so on the basis that the betrothal is sanctioned by the law of the Rabbis; and as the betrothal is subject to the approval of the Rabbis, the Rabbis can, if the necessity arises, annul the betrothal (Ketuvot 3a).

<sup>84</sup> For those who would be concerned about the validity of a document signed by women as well as men – even if the women's signatures were clearly labeled "*measherot*" and not "*edot*" – there would be the option of having two copies of each document – one with *edim* and *measherot*, and one with *edim* only.

<sup>85</sup> Mendell Lewittes, *Jewish Marriage: Rabbinic Law, Legend and Custom* (Aronson).

Conditional betrothal and conditional marriage are discussed throughout the Talmud.<sup>86</sup> Certain requirements must be met, according to the Talmud, for a conditional contract to be effective. The most important is that the contractual conditions must be parallel to the conditions arranged by the tribes of Reuven and Gad (Numbers 32).<sup>87</sup> This means that four criteria must be met: (1) The agreement must specify the outcome if the condition is met (“positive case”) and if the condition is not met (“negative case”). (2) The positive case must be stated first. (3) The condition must be stated before the act. (4) The condition must be possible to execute.<sup>88</sup>

Aside from the Talmud, one can find numerous precedents for conditional betrothal. Most notably, Rabbi Israel of Brunn (c. 1400) authorized a conditional betrothal for a woman whose brother-in-law was an apostate, so that she would not be left an *agunah* if her husband were to die and her brother-in-law refuse to perform *halitzah*.<sup>89</sup> The French Rabbinate in 1907 and later the Turkish Rabbinate in 1924 required all marriages to carry a condition that remedied the *agunah* problem. The French proposal was publicly denounced, however, for its reliance on civil courts (it invalidated any marriage that had been dissolved by civil divorce). The Turkish proposal was “largely ignored by the European rabbinate” and rejected in Palestine. Rav Eliezer Berkovits gave *kiddushin al tannai* its next major boost in his book *Tannai b'Nesuin uv'Get* (1966). This was followed by a *tshuvah* adopted by the Conservative movement in 1968.<sup>90</sup>

## Our First Use of Kiddushin al Tannai

*Kiddushin al Tannai* was originally suggested to us as a potentially helpful tool by our teacher Rahel Berkovits, granddaughter of Rav Eliezer Berkovits. Our ideal strategy was then developed in conversations with Professor Zohar. We plan two separate uses of conditional betrothal. The first will involve the signing of a separate document prior to the ceremony. In the next section – Under the Huppah – we discuss the second use of *kiddushin al tannai*, which will be part of the betrothal formula itself. In that section we also respond to three potential concerns with our use of *kiddushin al tannai*.

The first set of conditions addresses the inequality in divorce law (See Appendix A for our *Deed of Clarification Concerning the Conditions of Kiddushin*). We will sign a separate document before the ceremony in order to avoid a cumbersome reading of the *tannaim* under the *huppah*. Under the *huppah*, the officiant will confirm our acceptance of the *tannaim* before proceeding with *kiddushin*, and again before proceeding with *nesuin*.<sup>91</sup> The document specifies that the groom’s reference to “the laws of Moses and Israel” in his betrothal statement indicates his acceptance of the conditions outlined in Appendix A. This includes the possibility of a *bet din* invalidating the betrothal according to *kol d'mekadesh addata d'rabbanan mekadesh* (Ketuvot 3a - see above). A rabbinic mandate for retroactive invalidation of *kiddushin* is bolstered in the following cases: the husband’s disappearance, mental incompetence, and refusal to give a *get*, as well as the wife’s disappearance, mental incompetence, and refusal to accept a *get*.

Our reasoning is as follows: A wife has always been able to ask her husband for a *get*. The *tannaim* we propose would ensure that the wife is empowered to proceed to have the marriage invalidated (and thus be free to remarry according to Jewish law) in the case where the husband

<sup>86</sup> See, for example, *Kiddushin* 8b, *Yevamot* 107a, *Yevamot* 110a, *Nedarim* 28a, *Nedarim* 30a, *Kiddushin* 19b.

<sup>87</sup> *Nedarim* 11a. See also *Encyclopedia Talmudica*.

<sup>88</sup> See, for example, Hayyim Scheid, *Marriage* (JPS, 1973).

<sup>89</sup> *Halitzah* is the ritual by which a woman’s brother-in-law relinquishes his obligation to marry her after the death of his brother, her husband. A woman’s right to marry her dead husband’s brother originally served (along with the *ketubah*) to protect women and children by ensuring their sustenance after the husband’s death. Due to Rabbeinu Gershom’s ban on polygyny, *halitzah* is mandatory in all instances today (Klein, 389).

<sup>90</sup> Bohnen, Gershfield, Kreitman and Siegal, “*T'nai B'kiddushin*,” *Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement, 1927-1970*, ed. David Golinkin (Jerusalem, 1997).

<sup>91</sup> See *Yevamot* 110a.

could not or would not give the *get*. By consenting to these *tannaim*, the husband and wife agree to parity in ending their marriage. With these *tannaim* in effect, both parties are always given an “out” if the marriage goes awry.

## **(1b) Shtar Haskamot (Document of Commitments) Pertaining to Sexual Fidelity**

The next additional act that will take place before our *huppah* is the signing of a document pertaining to our commitment to mutual sexual fidelity. Elsewhere in this paper we have written about the extensive disparity between wife and husband in terms of legal requirements to be monogamous. As a result of these findings, we first envisioned making the marriage contingent on the husband's fidelity using a separate *tannai*. Since the wife's fidelity in marriage is assumed, we wanted to address the case where the husband was infidel *and also* would not or could not give a *get*. In this case, we reasoned, if the marriage was conditional on the husband's fidelity, the wife could petition a *bet din* to have the *kiddushin* invalidated, and thus avoid being trapped in a dead marriage. We thought this might provide a deterrent for the husband's infidelity roughly equal to the deterrent already in place for the wife's infidelity. However, what we later realized was that by empowering a woman to initiate annulment proceedings with the aforementioned *tannaim* (addressing issues of divorce inequality), we are already providing her with the tool she needs. With this agreement in place, she would be able to find relief in the case of a husband who is infidel and then is unwilling or incapable of giving her a *get*. Thus, we ultimately decided against making a separate *tannai* to address the legal disparity between husband and wife in the realm of sexual fidelity. Our first set of *tannaim* already handle this case.

What we plan to do, instead, is to use a *shtar haskamot* (document of commitments) regarding spousal fidelity (See Appendix B for our *Document of Commitments*). This document will be read and signed by *edim* and *measherot* before the ceremony. Though it is not intended as a legal document, the fact that it will be witnessed means that it could theoretically be used by a *bet din* to facilitate divorce or annulment proceedings. Furthermore, it is an example of “symbolic equality” that we readily embrace. We now turn to proposed additions for under the *huppah*.

### **Under the Huppah**

## **(2b) Our Second Use of Kiddushin al Tannai: Bridal Prerogative**

As noted above, Rebekah's consent to marry Isaac is not merely assumed. Her family actively seeks her out and asks her, “Will you go with this man?” Likewise, the Talmud in *Kiddushin* 41a states: “Rav Judah says in Rav's name: ‘One may not give his daughter in betrothal when she is a minor [but must wait] until she grows up and says ‘I want so-and-so.’” Our commitment to justice prevents us from imagining a foundational legal event for our marriage that is performed exclusively by one of us. Even if we cannot change the halakhic universe such that *kiddushin* would become a fully mutual process, we insist that the bride at least have an obvious role in effectuating her own betrothal.

Our second use of *kiddushin al tannai* makes the betrothal conditional upon the bride's active participation. We propose that the groom say the traditional betrothal formula, followed by a condition that the *kiddushin* will not take place until the bride has performed a specified action. Since she is not considered *mekudeshet* until she acts, she is able to be an active agent in her own betrothal.

Truly, the bride already possesses a very important passive role, given that her consent is needed for the *kiddushin*. However, there is no halakhic impediment to her taking an active role to indicate this consent, as well. Our proposal, developed in consultation with Professor Zohar, is that our *kiddushin* have a “timed-release mechanism”:

Rob: *Harei at mekudeshet li be-taba'at zu k'dat Moshe v'Yisrael, al menat she-timseri li shtar ha-haskamot she-katavnu.*<sup>92</sup> (Puts ring on Lamelle's finger.)

Lamelle: (Gives Rob the document of commitments regarding sexual exclusivity, mentioned above.) *Harei ata meyuchad li b'zeh.*<sup>93</sup>

At the moment Lamelle hands Rob the document of commitments, she is *mekudeshet* – but not before. Lamelle's statement to Rob at this point in the ceremony utilizes language from *Kiddushin* 6a, which lists “*meyuchedet li*” as a potential alternate wording for “*mekudeshet*.” The root *yud-chet-daled* provides an unmistakable connection between oneness (“one” is *echad*) and “singling out” (*meyuchad* in modern Hebrew means “special”). Tosafot explain that one meaning of “*mekudeshet li*” is “*meyuchedet li*.”<sup>94</sup> Rashi translates “*harei at meyuchedet li*” as “You are one with me,” based on Genesis 2:24, “And they shall be one flesh.” We think it is particularly appropriate that Lamelle use our *shtar haskamot* as the instrument by which she participates in the *kiddushin*.<sup>95</sup>

Additional grounding for this plan of action can be found in a different section of the aforementioned *tshuvah* by Rav Moshe Feinstein.

“...and if they would stipulate a double condition according to the laws of conditions that the *kiddushin* would be established only if she would also give him a ring afterwards also with a declaration certainly the *kiddushin* would be valid when the condition was fulfilled...”<sup>96</sup>

As mentioned earlier, Rav Moshe ultimately disapproves of such arrangements. Yet he unequivocally states that the *kiddushin* is valid even when the *kiddushin* is contingent on the bride giving the groom a ring. Here we only propose that the *kiddushin* be completed with a document from the bride, not a ring.

After the *kiddushin* is complete, the *shtar haskamot* will be read out loud before Lamelle proceeds to give Rob a ring. For those still unconvinced by Rav Moshe's *tshuvah*, and looking for a *hefsek* (pause) between the *kiddushin* formula and the bride handing the groom a ring, the reading of this document provides just such a break. Following this, Lamelle will present Rob, now her husband, with a ring and recite the “*Erastich li l'olam...*” passage from Hosea. This passage has special meaning for us since we recite it each weekday morning when we put on our *tefillin*. In addition, our teacher Rabbi Levi Lauer understands the order of the passage to be extremely significant. In order for *hesed* and *rahamim* to exist, there must first be *tzedek* and *mishpat*. This belief is the driving force behind our entire project with our wedding ceremony, and perhaps our *raison d'etre*.

Rob will respond to Lamelle's gift of a ring with a statement from *Shir ha-Shirim*. *Matzati et she-ahavah nafshi* (I [have] found my soul's love – Song of Songs 3:4).

<sup>92</sup> Behold, you are betrothed to me with this ring, according to the laws of Moses and Israel, on the condition that you give me the document of commitments that we wrote.

<sup>93</sup> Behold, you are set aside / made special to me with this.

<sup>94</sup> Tosafot on *Kiddushin* 2b, as cited by Milhaly, 35.

<sup>95</sup> Halakhically, she could use any object, even a ring. We have chosen to use the document, however, because we feel that doing so makes more of a statement about marital fidelity. Also, this strategy allows us to make our *shtar haskamot* part of the actual ceremony.

<sup>96</sup> Rav Moshe Feinstein, *Even haEzer* 3:18.

## Concerns with Kiddushin al Tannai

Now that we have outlined the two major ways in which we propose to utilize *kiddushin al tannai* in our ceremony, there are three potential challenges that we would like to address. The first regards whether a condition contravenes a law of the Torah. In a discussion of the matter in *Kiddushin* 19b,<sup>97</sup> Rabbi Meir holds that “He who makes a condition contrary to what is decreed in the Torah, his condition is null.” In the case of marriage, Rabbi Meir explicitly refers to the husband’s obligation to provide his wife with food, clothing and conjugal rights; a husband cannot betroth a woman on the condition that he will not provide her with any of those three things, since he is required to do so by Torah law. However, Rabbi Judah disagrees. He holds that a condition pertaining to financial matters (in this case, food and clothing) is legitimate (i.e. only conjugal rights cannot be denied).<sup>98</sup>

In our case, none of the conditions that we wish to enact will contravene a Torah law. Our *tannaim* addressing the inequality in divorce law do not contradict the Torah law that a *get* must come from the man of his own free will, because it deals with invalidating the *kiddushin* and not with forcing the man to give a *get*. In fact, built into our agreement is the principle that a husband will naturally prefer giving his wife a *get* to rabbinical invalidation – the halakhic presupposition *en adam oseh b'ilato be'ilat z'nut* (no man wishes to have his sexual relations to be considered licentiousness). As Berkovits argues, when a man is at risk for having his *kiddushin* invalidated (which would mean that his cohabitation with his wife would have been *z'nut*), he has it fully “within his power to affirm the *kiddushin* should the necessity arise, by giving a *get*.”<sup>99</sup> In the cases of disappearance and mental incapacity, *batei din* (rabbinical courts) are more likely to intervene to facilitate the end of a marriage on behalf of a trapped woman or man.<sup>100</sup>

In the case of the *tannai* pertaining to the woman’s participation in her own betrothal, we are also sensitive to the concern about contravening any Torah laws. The woman is not attempting to betroth a man, which (as discussed above) is simply a legal impossibility at this time. She is simply helping to “close the deal” for her own betrothal. This is, in any case, an extension of the Rabbinic law that a woman must consent to be betrothed, which has Biblical roots in the betrothal of Rebekah (Genesis 24:57-58).<sup>101</sup>

The second concern that could be raised regarding *kiddushin al tannai* is one of timing. Agreements listing several alternative outcomes are not permitted as a matter of Torah law.<sup>102</sup> An example of this is “I give this object to whichever of my sons will arrive first at Jerusalem to

<sup>97</sup> See also *Ketubot* 56a.

<sup>98</sup> *Kiddushin* 19b.

<sup>99</sup> Bohnen, Gershfield, Kreitman and Siegel citing Berkovits, 66, 165.

<sup>100</sup> Rav Moshe Feinstein provides one line of reasoning for annulment in the case of mental illness: “Regarding a woman who marries a man and after several weeks he disappeared from her...because he has a mental illness... and she has been an *agunah* for fourteen years and is asking the rabbis to try and correct her situation...and it is obvious that this mental illness is a major defect and makes him unfit to be anyone’s husband...it stands to reason that if she did not know her husband had this illness, and even if she did know but she thought he had been completely cured and only after the marriage did she discover he was ill...this should be considered a mistaken transaction and the betrothal should be annulled.” *Even HaEzer* 1:80. Cited in *Jewish Law Watch: The Agunah Dilemma, Case Study Number Two* (Center for Women in Jewish Law, Schechter Institute for Jewish Studies, 2000).

<sup>101</sup> “And they said, ‘Let us call the girl and ask for her reply.’ They called Rebekah and said to her, ‘Will you go with this man?’ And she said, ‘I will.’ (Genesis 24:57-58) That Rebekah’s consent was sought is significant given that she is the biblical figure most linked with marriage. The bridal blessing given to Rebekah, “O sister! May you grow into thousands of myriads!” (Genesis 24:60) is still used for brides today, Rebekah’s veiling of herself upon seeing Isaac before their marriage is seen as the source of veiling customs for today’s brides, and perhaps most important, Rebekah and Isaac were the only monogamous couple among the matriarchs and patriarchs.

<sup>102</sup> An “agreement [containing] subject matter which is to be ascertained after the act; that is, at the time of making the agreement it is not known what the subject matter of the agreement is, and it is only stated in the form of several alternatives” is not allowed according to Torah law. See Bohnen, et al, 922.

celebrate Passover.”<sup>103</sup> However, each of our *tannaim* contain single stipulations that will be either valid or invalid, depending on the actions of the parties, i.e. “if x, then y; if not x, then not y.” Furthermore, the authors of the 1968 Conservative *tshuvah* make a distinction between two types of conditions pertaining to a future event. With the first type, which they call a “suspensive condition,” an agreement does not take effect unless a specified fact is true or becomes true. With the second type, which they call a “resolutive condition,” an agreement takes effect when it is made “...but [it is] subject to being nullified if a specified fact becomes true at some time in the future. This sort of condition is . . . not mentioned in the Talmud with respect to marriage, but was in certain circumstances resorted to in medieval times to prevent [a woman from becoming an *agunah*].”<sup>104</sup>

Therefore, according to post-Talmudic precedents for conditional betrothal, it appears that we are not at risk of violating this prohibition with the *tannaim* concerning divorce, since our first set of *tannaim* fall in the second “resolutive” category. According to Rabbi David Golinkin, this kind of *tannai* document is routinely signed prior to marriages taking place under the auspices of Conservative rabbis, who rely upon the 1968 *tshuvah*.<sup>105</sup> In addition, our second *tannai*, giving the bride an active role in *kiddushin*, is a simple “suspensive” condition. It does not pertain to a future event that will take place during the marriage; instead, the condition is neatly fulfilled at the moment of *kiddushin*.

The third major challenge to *kiddushin al tannai* is that it must observe the basic requirements of all conditional accords established by the Biblical agreement between *bnei Gad* and *bnei Reuven* (enumerated above in our introductory discussion of *kiddushin al tannai*). The *tannaim* that we plan to sign prior to the *huppah* satisfies all of the four criteria listed above. They specify the outcome if the condition is met and if the condition is not met; the positive case is stated first. The condition will be stated before the act, and the condition is certainly possible to execute.

The *tannai* that will be stated under the *huppah*, though, with regard to the active participation of the bride in her betrothal by the groom, is a bit more complex. We wondered if, indeed, the *tannai* stated under the *huppah* would only be valid if we “doubled” it and stated the negative case as well, i.e. “If Lamelle does not hand Rob the document, she is not *mekudeshet*.” However, Professor Zohar explained, this *tannai* is different from the other *tannaim* we plan to enact because it involves an “*al menat*” statement. In an email, Prof. Zohar writes:

According to Maimonides (Laws Concerning Marriage 2:27), no double conditional is required wherever the “*al menat*” language is used. This is the Gaonic opinion, held also by Rif. The Tosafists however disagreed and Rosh ruled with them [the Tosafists]. In the later codes (Tur and Shulhan Arukh, *Even Ha-Ezer* 38) this is recorded as a dispute. Since, however, in the case at hand the woman’s consent to be married is clearly predicated on the condition, it seems to me that even the Tosafists might agree that unless it is fulfilled, she is not married (a similar point is made by the commentator on Shulhan Arukh, Bet Shemuel, *ibid*, near the end of sub-section 2). So all in all, I’d say there is firm halakhic basis for regarding this condition as effective without doubling it.<sup>106</sup>

We have therefore addressed three difficult challenges to *kiddushin al tannai*: a *tannai* cannot contradict Torah law, it must be properly timed, and it must accord with the agreement between the tribes of Reuven and Gad. We now turn to four possible alternative mechanisms for mitigating the impact of the unequal divorce laws. We will explain why we chose not to utilize them, but instead chose to rely on *kiddushin al tannai*. They are:

- (1) Creating a prenuptial agreement relying on civil court involvement (commonly called the “Lieberman Clause”);

<sup>103</sup> Bohnen, et al, 922.

<sup>104</sup> Bohnen, et al, 918-919.

<sup>105</sup> Rabbi David Golinkin, personal interview, June 11, 2001; Schechter Institute of Jewish Studies, Jerusalem.

<sup>106</sup> Professor Noam Zohar, email correspondence, July 1, 2001.

- (2) Using a financial prenuptial agreement to penalize a recalcitrant husband, common in many Orthodox circles;
- (3) Relying on an extra-halakhic tribunal delineated before the wedding;
- (4) Depending on annulment by a *beit din* in the case of recalcitrance, disappearance, or mental incompetence.

We will briefly address each of these possibilities in turn.

### **The Lieberman Clause**

Rabbi Saul Lieberman developed an addition to the *ketubah*<sup>107</sup> in the late 1950s that would require both bride and groom to accept the dictates of the Joint Beit Din of the Conservative movement in all matters pertaining to their marriage, particularly in the case of a *mored*, or recalcitrant spouse. Any *mored* would be bound to accept the Beit Din's directive to issue his wife a *get*. (Clearly, a similar clause could be developed in Orthodox circles to reference Orthodox rabbinical courts.)

Though a pioneering effort – and still in active use – this clause has many flaws. According to the current Chair of the Conservative movement's Joint Beit Din (which continues to hear cases brought under the Lieberman Clause), there are three primary problems. First,

In order to force the recalcitrant partner to appear and follow the directives of the Beit Din, one must get an American court to enforce the clause. From our point of view this is degrading to *halakhah* because, in effect, it says *halakhah* cannot solve its own problems and must rely on the civil courts<sup>108</sup>....[Second, in] the United States many state supreme courts will not accept the Lieberman clause because, according to them, it violates the principle of separation of church and state.

Third, as proven by several cases still pending in Israel, even imprisonment – the strongest penalty available to civil courts – still does not ensure that a recalcitrant husband will give a *get*.<sup>109</sup>

### **Financially Penalizing Prenuptial Agreement**

This technique, the most common in many Orthodox circles, involves the couple signing a document prior to the *huppah* that would essentially blackmail a recalcitrant husband. If he refuses to appear before a *bet din*, he is forced to pay a daily or monthly fine.<sup>110</sup> The assumption is that the *agunah* crisis would be mitigated if a *mored* (rebellious husband) were forced to pay for his intransigence.

The primary flaw in this effort is again its enforceability, and again, its reliance on civil courts. Furthermore, financial penalties agreed upon in advance are no guarantee. Sadistic husbands can potentially “punish” their wives by paying these fees for months or years, trapping their estranged wives.

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<sup>107</sup> Later the Conservative movement added a pre-*huppah* document to be signed by bride and groom attesting to their full understanding of the *ketubah* including the Lieberman clause. Speech entitled “*Agunot*”, Rabbi Mayer E. Rabinowitz, at the *Agunot* Conference in Jerusalem, July 1998. See the website of the Virtual Jewish Library at [www.us-israel.org/jsource/Judaism/agunot.html](http://www.us-israel.org/jsource/Judaism/agunot.html).

<sup>108</sup> This criticism is similar to one leveled at the practice of the French rabbinate in the first decades of the twentieth century, who added a *tannai* to all weddings that made all *kiddushins* invalid if the couple received a civil divorce and the husband refused to grant a *get*. This is discussed extensively in Rabbi Eliezer Berkovits's landmark 1966 book “*Tnai be'Nissuin uv'Get*.” See commentary in Bohnen, et al, 919-923.

<sup>109</sup> Speech entitled “*Agunot*”, Rabbi Mayer E. Rabinowitz, at the *Agunot* Conference in Jerusalem, July 1998. See the website of the Virtual Jewish Library at [www.us-israel.org/jsource/Judaism/agunot.html](http://www.us-israel.org/jsource/Judaism/agunot.html).

<sup>110</sup> For a recent such text from the Rabbinical Council of America (Orthodox), see: [www.orthodoxcaucus.org/prenup/prenupform.htm](http://www.orthodoxcaucus.org/prenup/prenupform.htm).

## **“Bet Hesed” Tribunal**

One couple recently created a new approach to the *agunah* issue that they term a “*bet hesed*,”<sup>111</sup> in which the bride and groom sign a document before the *huppah* to establish something akin to binding arbitration. In cases of dispute with regard to divorce, the bride and groom would each appoint to a committee someone learned in Jewish law. These two appointees then choose a third person to join them in ensuring the prompt and fair transfer of a *get*.

This is a creative and useful development, but one that is again hard to enforce should either spouse later reject its binding nature.

## **Annulment by a Bet Din**

A controversial and courageous modern Orthodox *bet din* headed by Rabbi Emanuel Rackman, former Chancellor of Bar-Ilan University, has begun freeing *mesuravot get* by annulling their marriages (*hafka'at kiddushin*). This technique relies on the above-discussed principle by which rabbis can rescind their approval of an earlier *kiddushin*. Using similar solutions the Conservative Movement's Joint Bet Din also annuls marriages in the case of a recalcitrant spouse. As discussed above in the discussion of *kiddushin al tannai*, the mere threat of annulment often propels recalcitrant husbands to grant a *get*.

However, since annulment is still relatively rare and performed with such great hesitation, at this time in history no bride or groom can rely upon it without having first created their own set of *tannaim* related to dissolving their marriage. With *kiddushin al tannai*, annulment in the case of recalcitrance is explicitly authorized by the bride and groom in advance. As we discuss later, this still is just an improving patch, and not a perfect solution. We will later innumerate some of the other patches we hope to use in order to alleviate even the theoretical possibility of the wife (Lamelle) becoming an *agunah*.

## **(2e) A Living Ketubah**

Legal scholars in the United States argue vehemently over whether the U.S. Constitution – the covenantal document for *Artzot haBrit*<sup>112</sup> – is “living” or purely historical. While this is clearly not the point of our paper, the idea of a document as “living” compelled us to rethink our relationship to the *ketubah*, a covenantal document predating the U.S. Constitution by 1700 years.

The original purpose of the *ketubah*, as stated above in our discussion of halakhic innovation, was to protect the more vulnerable spouse – invariably the wife. Hauptman explains that the conditions of the *ketubah* provide “a complete insurance policy.”<sup>113</sup> Rather than simply see the *ketubah* as an archaic ritual component of a Jewish marriage, we have chosen to embrace the *ketubah's* premise of support for the economically vulnerable spouse, and add to the traditional text language to protect both wife and husband at the time of divorce or death of spouse (See Appendix C – *Ketubah*).

We have also chosen to reconfigure the marital obligations traditionally assigned to the husband and wife, respectively. Written between the lines in a traditional *ketubah* is the assumption that, “When a man marries a woman he is obligated to her in ten things and he merits from her four things” (*Shulchan Aruch: Even HaEzer* 69a). Specifically, the husband's obligations are to provide his wife with her *ketubah*, her food, her clothing, her conjugal rights, her health care, ransom if she is taken captive, her burial, and sustenance for her and her heirs after her husband's death.<sup>114</sup> The wife is obligated to provide her husband with the work of her hands, anything she finds, the fruit of whatever she brings to the marriage (i.e. if she brought sheep to the marriage and they had lambs,

<sup>111</sup> Court of lovingkindness, as opposed to *bet din* (court of judgement).

<sup>112</sup> Hebrew for the United States, lit. “Lands of the Covenant.”

<sup>113</sup> Hauptman, 67.

<sup>114</sup> This last item on our list is an umbrella description for three separate items in the *Shulchan Aruch*.

the lambs would belong to the husband), and inheritance.<sup>115</sup> In addition, the Talmud discusses various household chores that the wife must perform for her husband: grinding, baking, laundry, nursing “his” child, working in wool (*Mishnah Ketuvot* 5:5) and mixing his drink, making his bed, and washing his face, hands, and feet (*Ketuvot* 61a).<sup>116</sup>

*Mishnah Ketubot* says that the obligations of the *ketubah* are assumed even if there is no *ketubah*. The mere possibility of not having a *ketubah* demonstrates that the text of the *ketubah* is open to change – especially additions.<sup>117</sup> Rabbi Aryeh Kaplan (104) mentions seven different versions of the *ketubah* in passing, though he does not talk about what distinguishes each one. Ancient *ketubot* unearthed from the Cairo *Geniza* and studied by Rabbi Mordecai Akiva Friedman and elsewhere contain dramatic differences from the versions in use today. Perhaps the most striking feature of several *ketubot* from Elephantine is the inclusion of a reciprocal divorce clause.<sup>118</sup>

Given the strong precedent for variation in the content of the *ketubah*, we looked to the Talmud to guide us as we sought to make additions to the text used commonly today. As we saw in our discussion of *tannaim*, a man cannot betroth a woman without agreeing to at least provide for her conjugal rights (according to R. Judah; as we mentioned, R. Meir adds to this food and clothing). However, except for these Biblical obligations that a husband cannot legally relinquish,<sup>119</sup> husband and wife are free to make their own arrangements for the marriage relationship. *Bava Kamma* 8b discusses the wife’s ability to declare that she will not rely on her husband to feed her, and in return will retain her own income. Likewise, any obligations discussed in the *Shulchan Aruch* (other than conjugal rights) can be renegotiated and take the place of the original terms of the *ketubah*. Rachel Berkovits’ *Heskem Nesuin* (marriage agreement) was designed to take the place of the conditions of the *ketubah*, stating: “The couple agrees between them that all of the conditions in this agreement will have the force of the conditions of the *ketubah*.” The document goes on to renegotiate the couple’s marital obligations, revising the guidelines set forth by the *Shulchan Arukh*. Their document was signed by a member of the (*Haredi*) *Bet Din* of Jerusalem, who instructed them to make a separate *kinyan* under the *huppah* for it.<sup>120</sup>

The most powerful precedent for making these sorts of additions comes from *ketubot* written in ancient *Eretz Yisrael*<sup>121</sup>:

Most Palestinian-style *ketubbot* contain a number of elements which appear to convey to the document the form of a mutual contract between two parties. The wife’s status seems, almost, to be approaching equality with the husband’s. This contrasts sharply with the Babylonia *ketubba* which essentially may be characterized as a testimony of unilateral obligations undertaken by the husband to the wife . . . One of the most characteristic elements of the Palestinian *ketubbot* has been called “mutual obligations.” The groom’s undertaking to “nourish, provide for, honor and esteem” the bride is paralleled by her undertaking to “serve, attend, honor, and esteem him.” The mutuality of the contract is again emphasized in several of the concluding formulae in which the consent of both parties to the contents of the *ketubba* is confirmed and where both give instructions for the writing and signing of the document.<sup>122</sup>

<sup>115</sup> *Shulchan Aruch, Even haEzer* 69b-69c.

<sup>116</sup> *Ketuvot* 61a. See also Hauptman, 161.

<sup>117</sup> We thank Professor Noam Zohar for bringing this to our attention. Email correspondence, May 31, 2001. See also Kaplan (114): “It is not necessary to include these items [the husband’s obligations] in the *ketubah*, since even without a contract, the husband has this obligation.”

<sup>118</sup> Friedman, 19 (Overview). See especially Chapter V, “Interruption and Dissolution of the Marriage,” Section A: “Divorce: The Wife’s Right to Demand Termination of the Marriage” (313-346).

<sup>119</sup> See Exodus 21:9.

<sup>120</sup> We are grateful to Rahel Berkovits for sharing her marriage documents with us, and for her continued assistance with our project. *Heskem Nesuin* of Rahel Berkovits and David Aisenthal, December 22, 1997.

<sup>121</sup> The Land of Israel.

<sup>122</sup> Friedman, 19. Of course, the “mutual obligations” listed here are scripted by societal sex-roles, but this does not eclipse the fact that the bride’s obligations – and not just the groom’s – are listed in the ancient Palestinian *ketubot*.

Our proposed *ketubah* also renegotiates our basic obligations to each other, and we will include them in one unified document.<sup>123</sup> We also want to make explicit the unwritten conditions of the *ketubah* as they will apply to our marriage partnership. We have carefully supplemented the traditional language with our new language, rather than subtracting any of the traditional language. Our proposed additions are as follows: First, when we listed Rob's obligations to Lamelle, we provided a complete list (although we combined all obligations of inheritance and maintenance of children into an umbrella statement that Lamelle would inherit Rob at the time of his death should he precede her in death). Second, we had Lamelle accept upon herself almost all of the same obligations.<sup>124</sup>

We then stated our negotiated terms for economic partnership, including our plan to share assets,<sup>125</sup> rather than have Rob provide Lamelle's food in exchange for her giving him her income. Next we listed our arrangements for the case of divorce:<sup>126</sup> along with ethical guidelines, we each pledged to support the other (and any children from the marriage) for a specified period in case one of us became unable to maintain the same standard of living that she or he had before the divorce. We also added a promise that both of us would facilitate traditional halakhic divorce proceedings if necessary, *has v'shalom*.<sup>127</sup>

Finally, we made a few semantic changes throughout. Lamelle is referred to as "our *kallah*" just as Rob is called "our *hatan*."<sup>128</sup> Our marriage is referred to as *shutafut* (partnership), language taken from the ancient Palestinian tradition.<sup>129</sup> Even though the traditional value of the rabbinic marriage settlement (analogous to the *mohar* for Jews-by-birth) for female converts is 100 *zuzim*, Rob

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<sup>123</sup> In recent years couples have increasingly chosen to make one document with additions to the common *ketubah*. See, for example, the wedding program of Greenstein and Gribbetz, discussed above in the section describing "symbolic equality". We had originally planned to create a *heskem nesuin* similar to Rahel Berkovits'. Professor Zohar encouraged us to add our additional language directly to the *ketubah* on halakhic grounds: "I am sure this is halakhically superior to preserving the traditional language while producing an additional document with divergent content." (Email correspondence, May 31, 2001.)

<sup>124</sup> The one exception was conjugal rights (*onah*). We value and appreciate that in Judaism, sex is holy. The fact that nowhere are women commanded to sexually satisfy their husbands, while men are commanded to sexually satisfy their wives, seems like a welcome corrective to today's social norms. We want to affirm an ancient tradition that seems to oppose the sexual exploitation of women and favor a man providing sexual pleasure to his wife. Of course, in practice, this obligation is hopefully a fully mutual undertaking.

<sup>125</sup> We excluded the monies of the *ketubah* from this economic arrangement. We did this in order to symbolically preserve the traditional role of the *ketubah* as a protective agreement. According to law, if the husband initiates a divorce, the wife is entitled to the *ketubah* money, so long as his reason for divorcing her is not due to her misconduct. Hauptman (104) writes, "A husband who divorces his wife without good reason must liquidate assets in order to pay her the amount he promised her at the time they married." Likewise, if she requests a divorce from him, he keeps the *ketubah* money (except the *nedunya* [dowry] that she brings to the marriage), unless she has a legitimate reason for requesting a divorce. For a discussion of what offenses might cause a woman to leave her marriage without a *ketubah* settlement, see *Mishnah Ketubot* 7:6.

<sup>126</sup> Friedman (313) shows that a Jewish wife in ancient times had more rights, with respect to divorce, at least, than a modern Jewish wife: "The complete passivity of the wife in divorce was not the universal standard within Jewish tradition, despite the apparently unequivocal statements [in the Babylonian and Palestinian Talmuds]. [A wife's] right [to initiate divorce proceedings against her husband] is embodied in a stipulation written in the marriage contracts from the fifth century B.C.E. Jewish community of Elephantine. As we learn from the Geniza fragments, such a stipulation was written in the *ketubbot* of Palestine through the eleventh century. Passages that reflect the wife's rights for a divorce can be identified in the Talmudic literature. And in some localities, this usage became accepted legal practice in post-Talmudic times."

<sup>127</sup> *Has v'shalom* means "God Forbid!" Since we will sign the *tannai* providing for the wife's legal ability to have the marriage retroactively invalidated, we did not pursue adding language to our *ketubah* about the wife's right to initiate divorce.

<sup>128</sup> The alternative language for the bride is typically *betulta* (virgin), although since Lamelle is a convert, the word in our *ketubah* would have been *giyurta* (proselyte). See Kaplan, 109-110 for a comprehensive list of traditional possibilities.

<sup>129</sup> Friedman, 19.

will offer Lamelle 300 *zuzim* (about \$450)<sup>130</sup> as a symbolic marriage settlement.<sup>131</sup> (Rahel Berkovits' *ketubah* itself listed *no* monetary values – instead, their *meseder kiddushin*<sup>132</sup> allowed them to write *sach mesuyam*, which means “a specified amount.”<sup>133</sup>)

Our *ketubah* will include our mothers' names as well as those of our fathers. Finally, we wrote the document in Hebrew, rather than in Aramaic, which reflects our insistence upon it being a living document.<sup>134</sup>

We feel confident that our “living” *ketubah* meets all halakhic requirements for *ketubot*, especially given the *Mishnah's* insistence that the terms of the *ketubah* take effect even when there is no document – all the more so, they should take effect when there *is* a document that truly reflects the obligations of the bride and groom!

## **After the Huppah**

### **(3a-c) Documents to Facilitate the Delivery of a Get**

We now move to the last phase of addition to the wedding – one that takes place after the *huppah*, when we are officially husband and wife. This set of documents is yet another preventative measure to avoid the lack of parity in divorce. Rob will sign three documents authorizing representatives to deliver a *get* to Lamelle under various circumstances whereby he is unable or unwilling to do so himself (See Appendices D, E, F – *Three Documents of Appointment*).

The idea of conditional divorce – pre-authorizing divorce before it might even be a possibility – dates back to Rabbinic interpretations of the Bible. The first husband of Batsheva was said to have written her a provisional *get* before going off to war. If he had returned (which he did not), the *get* would have been nullified. This explains how David could have married her when it seemed that she was presumably still married to Uriah (See 2 Samuel 11). In *Ketubot* 9a-9b, Rav Shmuel bar Nachmani said that R. Yonaton said: “Everyone who goes out into the war of the House of David writes for his wife a deed of divorce (*get critut*).”

This tradition of the House of David spread to the rest of the Jewish world, as rabbis sought to prevent *iggun* (the state of being trapped in a dead marriage) as a result of soldiers being Missing In Action, or wartime casualties without identified physical remains. The text of two of the documents that we will sign comes to us from Professor Zohar. He took the text regarding a husband's disappearance (Appendix D) from the (*Haredi*) *Bet Din* of London, where it has been used since World War I,<sup>135</sup> and modified it slightly to apply in the case of a recalcitrant husband (Appendix E). The third document (Appendix F), which deals with the case of mental incompetence, uses the same basic text with our own modifications to account for this third potential case.

These three documents provide for the delivery of a *get* to the wife in all circumstances under which she would have normally been trapped. Since it is possible, though complicated,<sup>136</sup> for a *bet*

<sup>130</sup> See Kaplan, 113 for information on calculating the modern-day equivalent pricing. Mishnah Ketuvot 5:1 states, “If he wishes to obligate himself to an additional 10,000 *zuz*, he could do so.” Hauptman (66) writes that the traditional sums of 100 and 200 *zuz* “were only a starting point, not the actual price agreed on.”

<sup>131</sup> The number 300 has symbolic meaning for us; it is the gematria for the Hebrew version of the last name we will be taking upon marriage: *Rimon* (Hebrew for pomegranate) / Ryman (English version, a combination of our own last names).

<sup>132</sup> The *meseder kiddushin* is the officiant organizing the betrothal process. In this case, it was Rahel Berkovits' uncle (and another of our teachers), Rav Dov Berkovits.

<sup>133</sup> Conversation with Rahel Berkovits, May 2001.

<sup>134</sup> However, in principle we would be happy to translate it into Aramaic if it were deemed necessary.

<sup>135</sup> The State of Israel uses similar mechanisms to protect spouses of combat soldiers (Diamant, 216).

<sup>136</sup> As noted above, Rabbeinu Gershom's second *takannah* (ordinance) ruled that a woman must accept a *get* in order for it to be valid. However, this ruling can be overturned with *heter meah rabbanim* (the permission of 100 rabbis).

*din* to issue a *get* without a woman's consent, no parallel document is needed in order to ensure Lamelle's acceptance of a *get* in the case of her unwillingness or inability.

## Other Proposed Elements of Our Ceremony

In addition to the elements mentioned above, we are proposing other creative symbolic and halakhic additions to our wedding ceremony. Two of them merit mentioning in this paper: *kinyan shutfut* and having women recite *Sheva Brachot*.

Though we do not embrace Rachel Adler's *Brit Ahuvim* model for ourselves, we will extract one component from her ceremony: the revival of *kinyan shutfut*, an ancient method of signaling acquisition that had fallen into disuse. The typical ritual act used to ratify an agreement is *kinyan sudar*, in which one of the contracting parties takes a pen or scarf from the other party and lifts it.<sup>137</sup> The object is then returned to its original owner.<sup>138</sup> In the case of the *ketubah*, the groom takes the scarf from the bride or her representative, signifying his acceptance of the obligations contained therein. If we were to use *kinyan sudar* for our *ketubah* in which the bride's obligations are made explicit, it is likely that the bride's acceptance of the document would also need to be ratified.<sup>139</sup> As an alternative, Adler's proposed method of *kinyan shutfut*<sup>140</sup> holds great appeal for us. *Shutfut* (partnership) is the word used in our *ketubah* to describe our marriage. This method involves each party contributing an item to a pouch (*l'hatil b'kis*)<sup>141</sup> and then lifting the pouch together to signify joint acceptance.<sup>142</sup> Besides its legal value, this gesture of acceptance has weighty symbolic value, since we will each choose a meaningful item to place in the pouch. We plan to use this method of ratification wherever we would have used the more common *kinyan sudar*.

The second additional element of our ceremony that we wish to mention is the increasingly common practice of having women participate in the reading of the *Sheva Brachot* (Seven Blessings). While we plan to have an officiant (who incidentally will be male) read all seven of the blessings in Hebrew under our *huppah*, we will ask women to participate in the *Sheva Brachot* after the wedding meal.<sup>143</sup> We long for the time when this practice is viewed as standard.

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<sup>137</sup> According to Kaplan (102) the source for *kinyan sudar* is Ruth 4:7 which reads, "This was the ancient practice in Israel . . . to confirm all things: a man would take off his shoe and give it to the other party. This, among the Israelites, would create an obligation." A scarf, handkerchief or other article could be substituted for a shoe. Kaplan also cites *Baba Metzia* 47a.

<sup>138</sup> For discussion of this practice see Kaplan, 102.

<sup>139</sup> Rahel Berkovits was required by the Jerusalem Rabbinate to make a separate *kinyan* on her *heskem nesuin* under the *huppah*.

<sup>140</sup> See Adler, 256 n. 85, citing Menahem Elon, *Acquisition: The Principles of Jewish Law* (Jerusalem: Keter, 1975).

<sup>141</sup> *Mishnah Ketubot* 10:4.

<sup>142</sup> See *Mishnah Kiddushin*, perek 1. Also see Adler (256 n. 86), who cites *Baba Batra* 84b for a discussion of "lifting as a sign of the acquisition of movable property."

<sup>143</sup> For halakhic explanations of this increasingly-common custom, see Rabbi Joel Wolowelsky, who has written articles in Hebrew (*Ammudim*, Kislev 5743) and English (*Tradition*, Spring 1986) as cited by Gribbetz and Greenstein; also the *psak* of our former *rosh yeshivah*, Rabbi Danny Landes, Pardes Institute of Jewish Studies, Jerusalem. Additionally, we support the practice of having women say *Sheva Brachot* under the *huppah*. This view is supported in a *tshuvah* (Vol. 4, pp. 91-103, EH 34:4; dated 5751) by Rabbi David Golinkin, and was approved unanimously by the Masorti (Conservative) Movement in Israel. The *tshuvah* asserts that "if we follow [the explanations of the Rambam, Ran, Rashi or Abudraham] there would be no reason to exclude women from uttering blessings of praise [Rambam, Ran] or from helping the bride and groom to rejoice [Rashi, Abudraham]" and say the *Sheva Brachot* under the *huppah*.

## ***Erusin B' Tzedek: Looking Forward***

Admittedly, our patchwork “solution” is not complete.<sup>144</sup> To truly solve the problems we have discussed, we would need a Sanhedrin, or at least a group of *poskim* with enough clout and courage to make changes to the legal status of women in marriage and divorce.<sup>145</sup> Nevertheless, despite halakhic limitations, there is much room for creativity. Sadly, some fear that any change in the wedding ceremony foretells the beginning of the end of halakhic Judaism. We feel quite to the contrary. The wedding holds great hope for the future, particularly as a critical juncture to integrate ideals of justice with Jewish observance. As a lifecycle event experienced by nearly all Jews, and one transformational by definition, the wedding is strategically and morally an ideal locus for a renewed dialogue between modernity and tradition. In an age in which people throughout the world are searching for meaning, we believe that Judaism is a compelling source and framework for such a search, and that both symbolically and legally the wedding ceremony can be reinvested with much new and timely meaning. Ultimately, we hope to use the discussion and rituals we have discussed above in our own wedding, but we also seek in some small way to add our voices to the conversation about strengthening and uplifting this holiest of moments.

Our aim is to take a step closer to actualizing the ideal of justice in marriage (and divorce) envisioned by the prophet Hosea (2:21-22):

וארשתוך לי לעולם  
וארשתוך לי בצדק, ובמשפט, ובחסד, וברחמים  
וארשתוך לי באמונה  
וידעת את יי

***I will betroth you to me forever***

***I will betroth you to me in justice, in legality, in lovingkindness, in compassion.***

***I will betroth you to me in faith, and you will know God.***

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<sup>144</sup> There will always be those unwilling to accept anything that threatens the status quo, and *batei din* (rabbinical courts) who could find sources that would challenge those that we have relied on. As Rabbi Tarfon says in *Avot* 2:2, “You are not obligated to finish the work, but neither are you free to neglect it.”

<sup>145</sup> When the two of us say “*Hashiva Shofteinu kebarishonah*” (Renew our judges like in the beginning) as part of our daily prayers, we are praying for near-miraculous halakhic renewal. Given the new universe of gender relations, this would, among other things, solve the heartbreaking problem of *agunot* and the disparity of unilateral *kiddushin*.

# APPENDICES

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**Appendix A:** Deed of Clarification Concerning the Conditions of Kiddushin (English)  
*Shtar Havhara l'Inyan Tannai Kiddushin* (Hebrew)

**Appendix B:** Document of Commitments (English)

**Appendix C:** *Ketubah* (English)  
*Ketubah* (Hebrew)

**Appendix D:** Document of Appointment (for the case of disappearance) (English)  
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**Appendix E:** Document of Appointment (for the case of recalcitrance) (English)  
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**Appendix F:** Document of Appointment (for the case of mental incompetence) (English)  
*Shtar Minui* (for the case of mental incompetence) (Hebrew)

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APPENDIX A

# Deed of Clarification Concerning the Conditions of Kiddushin

Let it be known that the *hatan* Moshe Feivel ben Shimon v'Susha Hasha (Robert Mark, son of Sy and Sandra) together with the *kallah* Batyah bat Avraham v'Sarah (Lamelle Daile, daughter of Larry and Melanie) stated:

Let this be known that when the *hatan* betroths the *kallah* on the 14<sup>th</sup> of Elul 5761: When the *hatan* says, "According to the law of Moses and Israel," his intention with this statement is that the *kiddushin* depends on the approval of the rabbis (*Kol demekadesh adaata derabbanan mekadesh veafkainhu rabbanan lekiddushin minay* – Everyone who betroths a woman does so on the basis that the betrothal is sanctioned by the law of the Rabbis; and as the betrothal is subject to the approval of the Rabbis, the Rabbis can, if the necessity arises, annul the betrothal; *Ketubot 3a*).

If any one of the following things does not happen, then the *kallah* will be *mekudeshet*. If any one of the following does happen, the *kiddushin* is invalidated and the *kallah* will not be *mekudeshet*:

- (1) If Lamelle comes to the bet din and it is determined that at least 12 consecutive months have elapsed without any communication from Rob to her, or if Rob comes to the bet din and it is determined that at least 12 consecutive months have elapsed without any communication from Lamelle to him.
- (2) If the bet din decides that Rob is obligated to give to Lamelle a *get krittut*, but after 3 months he continues to refuse (God forbid) to obey this judgment, or if the bet din decides that Lamelle is obligated to accept a *get krittut* from Rob, but after 3 months she continues to refuse (God forbid) to obey this judgment.
- (3) If Rob becomes a mentally incompetent person who is not able to give a *get* for at least three consecutive months, and Lamelle wants to be divorced from Rob, or if Lamelle becomes a mentally incompetent person who is not able to accept a *get* for at least three consecutive months, and Rob wants to divorce her.

We, the witnesses and endorsers of the *kiddushin*, affirm:

The *hatan* and the *kallah* said orally everything written above in the clarification of the conditions of *kiddushin*. This is like the conditions undertaken between *b'nei Gad* and *b'nei Reuven* (Numbers 32).

The *hatan* Moshe Feivel ben Shimon v'Susha Hasha (Robert Mark, son of Sy and Sandra) signed with the signature of his hand

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The *kallah* Batyah bat Avraham v'Sarah (Lamelle Daile, Daughter of Larry and Melanie) signed with the signature of her hand

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And as evidence, we, the Witnesses, have signed:

\_\_\_\_\_

Endorsers:

\_\_\_\_\_

Date: \_\_\_\_\_

APPENDIX A

שטר הבהרה לעניין תנאי בקדושין

og sj hc (vrsbxu hlx ic ern yrcur) vatj vatxu iugna ic kchhp van i, j v hf gush huuvk  
:urnt (hbknu hrk , c khhs kntk) vrau ovrct , c vh, c vkfv

van , sf" i, j v rnut ratf :t"xa, kuktc s"hc vkfv , t asen i, j v ratfa gush huuvk  
asen *ibcrs t, gst asens kf* : ihs , hc , gsc ohhuk , ihausev uhvha vzc u, buuf "ktrahu  
(t"d , ucu, f) "vhhn haushek *ibcr uvbhgeptu*

ihausev 'vreh ikvka ohrcsvn sj t ot /, asuen vkfv 'vreh tk ikvka ohrcsvn sj t ot  
/, asuen vbht vkfvu ohpe, obht

kchhp vann vgsuv hkc urcgh vzn r, uh ut ohasuj 12-a grfuh ihs , hck vh, c vbp, afk ot (1)  
ihs , hck kchhp van vbphafk ot ut 'vh, ck  
/kchhp vank vh, cn vgsuv hkc urcgh vzn r, uh ut ohasuj 12-a grfuhu

tuv ohasuj 3 hrj t kct ' , u, hrf yd vh, ck , , k chhj kchhp vana yhkj n ihs , hc ot (2)  
vann kcek , chhj vh, ca yhkj n ihs , hc ot ut 'vzv ihsk , hmk (oukau xj ) crxk lhann  
/vzv ihsk , hmk (oukau xj) crxk vfhann thv ohasuj 3 hrj t kct ' , u, hrf yd kchhp

vmur vh, cu 'r, uh ut ohasuv 3-k yd , , k kufh vbhta vyua rsdc vhhv kchhp van ot (3)  
ut ohasuv 3-k yd kcek vkufh vbhta vyua rsdc vhhv, vh, c ot ut ' kchhp vann ard, vk  
/v, ut ardk vmur kchhp vanu 'r, uh

:ohrhvnmn ubj bt

sd hbc htb, f ihausec htb, ihhgk vrvcv ryac vkgnk cu, fa kf vp kgc ushdv vkfvu i, j v  
(ck rcsnc) /icutr hbcu

:ushi , nh, j omgc ;eu, r, hk o, j (vrsbxu hlx ic ern yrcur) vatj vatxu iugna ic kchhp van i, j v

\_\_\_\_\_

vsh , nh, j omgc ;eu, r, hk vn, j (hbknu hrk , c khhs kntk) vrau ovrct , c vh, c vkfv

\_\_\_\_\_

ubt ubn, j vhhtrku

ohsg

\_\_\_\_\_

\_\_\_\_\_

, uratn

APPENDIX B

# שטר הסכמות

## Document of Commitments

With deepest joy and expectation, we commit to loving and honoring each other for the rest of our lives. Ours is a marriage of minds, souls, hearts, and bodies. We hope that as our love for each other deepens, so will our love for other human beings deepen. But our relationship with other human beings will now forever be changed – we are now set aside for each other, and our bodies are consecrated only for each other.

After giving Robbie this document, Lamelle becomes to him מקודשת, which Tosefot defines as מיוחדת. Likewise, from this moment, Robbie becomes מיוחד to Lamelle.

All sexuality in our marriage will be holy. All will be consensual, loving, and geared toward mutual pleasure – our bodies are not mere instruments. Our model for sexuality in our marriage is found in the Song of Songs.

We will, as much as possible, resist the dominant culture of sexual objectification and degradation. This resistance is exemplified by, but not limited to, our decision neither to frequent establishments nor buy products whose sole purpose is to promote the objectification or degradation of other human beings.

We hope to remember this promise twice each day as we recite the words of the *Shema*: ולא תתורו אחרי לבבכם ואחרי עיניכם (Do not follow after your heart or after your eyes). This verse acknowledges that sexual fidelity is not an easy mission.

We pledge ourselves to monogamy in married life, promising to live in complete sexual fidelity. This document will serve as evidence that both partners entered into this marriage with this sacred promise in mind.

*Signed on the 14<sup>th</sup> day of Elul, 5761*

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Robert Mark Hyman, Son of Sy and Sandra  
משה פיבל בן שמעון וסאשה חאשה

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Lamelle Daile Rawlins, Daughter of Larry and Melanie  
בתיה בת אברהם ושרה

עדים (Witnesses):

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מאשרות (Endorsers):

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## APPENDIX C

# KETUBAH

On the first day of the week, 14<sup>th</sup> of the month of Elul in the year 5761 since the creation of the world, according to how we count dates in Poyntelle, Pennsylvania:

Our *hatan* Moshe Feivel ben Shimon v'Susha Hasha (Robert Mark son of Sy and Sandy), said to our *kallah* Batyah bat Avraham v'Sarah (Lamelle Daile daughter of Larry and Melanie):

"You are my wife according to the law of Moses and Israel. And I will work, honor, feed and support you according to the custom of Jewish men who work, honor, feed and support their wives in truth and faithfulness. I will give you money in the amount of 300 *zuzim*, as well as your food, clothing, conjugal rights, healthcare, redemption [if you are taken captive], and burial."

*Marat* Batyah our *kallah* agreed and she became a married woman. The dowry that she brought from her parents' home in jewelry, clothes, dishes, home furnishings, bed linens, and books, our *hatan* accepted as his responsibility for an amount equal to 100 *zekukim*.

*Mar* Moshe Feivel of his own will added 100 *zekukim* more. The total is then 200 *zekukim*.

*Mar* Moshe Feivel our *hatan* said:

"The obligations of this marriage contract I accept upon myself and upon my heirs after me. They can be paid from the best portion of my property, whether I own it now or I don't own it already or I will own it in the future, including property with security and property without security. All of it will be mortgaged as security to pay this marriage contract, even from the shirt on my back, during my lifetime and after my lifetime, from today until forever. If I die, this woman will inherit me if we are still married at the time of my death."

*Marat* Batyah our *kallah* said:

"I accept upon myself the obligations to work, honor, feed and support this man, including his food, his clothing, his healthcare, his redemption [if taken captive], and his burial. If I die, this man will inherit me if we are still married at the time of my death."

The *hatan* and the *kallah* together said:

"All household work will be shared by the two of us. All property – money, items, and interest (except for the *ketubah*) that we bring to our marriage partnership will be joint property, shared by the two of us. The work of our hands from this moment forward will belong to the two of us. Whatever we find from this moment forward will belong to the two of us. In the future, if we want to arrange a divorce (God forbid), the two of us agree now to the following conditions, as a minimum:

APPENDIX C

- (1) To treat each other with lovingkindness, honor and care.
- (2) All property – money, items and interest (except for the *ketubah*) that we acquire in our marriage partnership will be split equally between us. If this amount is not enough to ensure the same standard of living of each one of us for one year, each one of us is obligated to ensure the same standard of living for each one of us for this period. When we said “the same standard of living” our intention with this is the standard of living like we had before the divorce. We agree to use the best portion of the property that is ours at the time of the divorce – property with security and property without security. All of it will be mortgaged, if necessary, as security to ensure a good standard of living of each one of us.
- (3) If we have children at the time of the divorce, each one of us is obligated to ensure the same standard of living for the children until age 18.
- (4) We agree to undergo marital therapy before finalizing the divorce.
- (5) Moshe Feivel ben Shimon v’Susha Hasha promises to give a get of his own free will according to the law of Moshe and Yisrael, and Batyah bat Avraham v’Sarah promises to accept a get of her own free will.

The obligations of this *ketubah* were accepted by our *hatan* Mar Moshe Feivel ben Shimon v’Susha Hasha and our *kallah* Marat Batyah bat Avraham v’Sarah, according to the laws of the Sages of blessed memory. The additional conditions made by our *kallah* Marat Batyah, and the agreement entered into by our *hatan* and our *kallah* together were accepted by the *hatan* and the *kallah*. This agreement is not a speculation or a sample document, or anything like that.

We made a kinyan between the *hatan* Mar Moshe Feivel ben Shimon v’Susha Hasha and the *kallah*, Marat Batyah bat Avraham v’Sarah, on everything that is written above.

And everything is valid and confirmed.

Witnesses:

\_\_\_\_\_

Endorsers:

\_\_\_\_\_

APPENDIX C

# כתובה

vrhpxk ot, vc 'okugv , thrc rj tk t"xa, , ba kukt asuj c s"h', cac iuatrv ouhc  
:vhhckxhp 'kybhupc

ub, kfk rnt (vrsbxu hix ic ern yrcur) vatj vatxu iugna ic kchhp van ubb, j  
:(hbknu hrk , c khhs kntk) vrau ovrct , c vh, c

ohrcd dvbnf l , ut xbrptu iuzt 'scft 'sucgt hbtu /ktrahu van , sfh, at , t hrv"  
;xf lki, t /, ubntbcu , ntc ovh, uab , t ohxbrpnu ohbz 'ohscfn 'ohscug rat ohsvh  
"/l , ruceu 'l buhsp 'l , tupr 'l , bug 'l , uxf 'l buz n if unf 'ohzuz , utn auka l xc

ot 'vhruv , hcn vthcv rat thbusv /aht , at v, gn thvu vnhfxv ub, kf vh, c , rn  
ubb, j kche ovhkg 'ohrpxu vyhn haunha ' , hc haunha 'ohkf 'ohauckn ' ohyhaf, c  
/oheuez vtnk vuav l xc , uhrj t

/oheuez ohh, tn tuv l xv ztu /r, uh oheuez vtn ;hxuv ubumrn ubb, j kchhp van rn  
:rnt ubb, j kchhp van rn

kgu hnmg kg kcen hbbv ' , tz t, pxu, u ' , tz thbusb ' , tz vcu, f rya ka ohcuhj v"  
vz ot 'uhafg h, ukgcc vz ot 'hhxfb ka r, uhc cuyv ekj vn ovk okak ohkufh /hharuh  
tkk ohxfbu , uhrj t og ohxfb , ucrk 'sh, gc h, ukgcc vvhv vz ot ut 'h, ukgcc tk rcf  
' , tz t, pxu, u ' , tz thbusb ' , tz vcu, f rya ouka, k , uhrj tf ifaunh kfv /, uhrj t  
, tz vat 'h, un ka vrenc /okug sgu ouhvn 'hhj hrj tu hhj l anc ' hcdk , uxfv ukhpt  
"h, un , gc ohtuab ihhsg ubj bt ot h, ut arh,

:vrnt ub, kf vh, c , rn

'ubuzn , ucrk 'vzv ahtv , t xbrpku iuzk 'scfk 'sucgk ohcuhj v , t hnmg kg , kcen hbt"  
ihhsg ubj bt ot h, ut arhh vzv ahtv h, un ka vrenc /u, ruceu 'ubuhsp 'u, tupr 'u, uxf  
"h, un , gc ohtuab

:t, uumc urnt ub, kfu ubb, j

sckn) , hchru ohrcs ' ;xf -- ohxfbv kf /ubhbak , up, uan vbhiv , , hcv , usucg kf"  
vz gdrn ubhsh vagn /ubhbak ; , uan xfb uhvh ubka , up, uak ohthcn ubta (vcu, fv  
ot sh, gc /ubhba ka vvhv l khtu vz gdrn tmrb rat kf /ubhba ka vvhv l khtu  
:, uj pk 'ikvksf ohtb, k v, g ohnhfxn ubhba '(u"j ) ard, vk vmrb

/rehu sucf 'sxj c uz kt vz dvbb ubt (1)

uekuj h ubka , up, uac aufrb ubta (vcu, fv sckn) , hchru ohrcs ' ;xf -- ohxfbv kf (2)

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sj t kfk ohhj , nr v, ut j hycvk hsf hs ubht vz oufx ot /ubhba ihc vuua iputc  
sj t kfk ohhj , nr v, ut j hycvk chhj ub, htn sj t kfzt', j t vba lank ub, htn  
ohhj v , nrk thv ub, buuf "ohhj , nr v, ut" ubrnt ratf/, tz vpue, lank ub, htn  
, gc ubhxfb ka r, uhc cuyv ekj c an, avk ohnhfxn ubbv /ihaurdv hbpk ubk v, hva  
, uhrj tf'l rum ah ot 'ifaunh kfv /, uhrj t tkk ohxfbu , uhrj t og ohxfb -- ihaurdv  
/ub, htn sj t kf ka ohhj , nr v, ut , t j hycvk

ignk ohhj , nr v, ut j hycvk ub, htn sj t kf chhj 'ihaurdv , gc ohskh ubk uhvh ot (3)  
/18 khd sg ohskhv

/ubhtuahb ouhx hbpk hduz kuphy rucgk ohnhfxn ubbv (4)

van , sf hapuj v ubumrn yd , , k j hycn vatj vatxu iugna ic kchhp van (5)  
/hapuj v vbumrn yd kcek vj hycn vrau ovrct , c vh, cu 'ktrahu

vatxu iugna ic kchhp van rn ubb, j kg ohkcuen , tz vcu, f rya ka ohcuhj v  
'vrau ovrct , c vh, c , rn ub, kf ka ohpxubv ohtb, v /k'z ubhnfj , ufkhvf 'vatj  
vz ofxv /ub, kf kgu ubb, j kg ohkcuen uhv uhsj h ub, kfu ubb, j uxhfb uhkta ofxvuu  
/vzk vnusv rcs kf ut 'l n xn o, x ubhtu "'t, fnxt" ubht

/, tz vcu, f ryac cu, fv kf kg vkfvu ubb, j v ic ihbe ubhag

/ohheu rhra kfvu

:ohsg

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;, uratn

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APPENDIX D

**Document of Appointment**

Date \_\_\_\_\_

I hereby authorize *b'nei Yisrael* in New York, Boston, Los Angeles, and Jerusalem such that each one of them will be empowered to write a *get* to my wife Batyah bat Avraham v'Sarah in my name and her name for the sake of *gerushin*, and any pair will be empowered to sign the *get* in my name and her name for the sake of *gerushin*, and each of the pairs will be empowered to give the *get* to my wife (the aforementioned) if it happens that I do not appear and no communication comes from me to her throughout twelve consecutive months. And even if I did not communicate with her during the twelve months because of the force of circumstances beyond my control, I hereby command in any case that each one of the *b'nei Yisrael* in New York, Boston, Los Angeles, and Jerusalem may write a *get*, and each pair may sign, and each [one] of these [pairs] may give a *get* [to my wife] even up to 100 *gittin* [so that] one *get* arrives into the hands of my wife Batyah bat Avraham v'Sarah and she will be divorced from me according to the law of Moses and Israel.

After the writing and signing of the *get* the *sofer* will give it to one of the *b'nei Yisrael* found in New York, Boston, Los Angeles, or Jerusalem. Each one of them I have authorized to be my *shaliach* to bring forth the *get* to the hand of my wife after its writing and signing, and the hand of the *shaliach* is like my hand, his actions like my actions, his mouth like my mouth, his speech like my speech. I give him permission to appoint a *shaliach* in his place, as a *shaliach* of a *shaliach*, even up to 100 *shlichim*, even in writing through the mail, and even without force [of circumstances that might usually prevent one from fulfilling one's role as a *shaliach*], to deliver the *get* to my wife in any place that he finds her, or that the *shaliach* of the *shaliach*, up to 100 *shlichim* [finds her]. As soon as the *get* arrives in her hand from his hand or from the hand of his *shaliach* or the hand of the *shaliach* of the *shaliach*, even up to 100 *shlichim*, she will be divorced from me and permitted to any man. In particular, I declare with all my heart that the fact that we will henceforth be living together as a married couple will not annul this authorization. I hereby authorize in this document the writing of a *get*, its signing, and its delivery to the hand of my wife and also it is truthful for you to say that I did not do this in order to placate her, and I take this upon myself like a *herem* and an oath of the Torah that neither this *shilichut* nor the *get* will be cancelled. As evidence, I have signed with my own hand.

The undersigned witnesses confirm: "Moshe Feivel ben Shimon v'Susha Hasha said orally all that is stated above for the sake of writing and signing the *get*, giving it to the hand of his wife in the way stated in this document. He signed this in our presence, and to give this greater validity, we will sign, also":

\_\_\_\_\_

Witnesses:

\_\_\_\_\_

\_\_\_\_\_



APPENDIX E

**Document of Appointment**

Date \_\_\_\_\_

I hereby authorize *b'nei Yisrael* in New York, Boston, Los Angeles, and Jerusalem such that each one of them will be empowered to write a *get* to my wife Batyah bat Avraham v'Sarah in my name and her name for the sake of *gerushin*, and any pair will be empowered to sign the *get* in my name and her name for the sake of *gerushin*, and each of the pairs will be empowered to give the *get* to my wife (the aforementioned) if after the bet din decides that I am obligated to give to her *get critot*, it happens that three months pass. [This will take effect] even if I am overwhelmed by my *yetzer* and its force will be heard from my mouth or from the mouths of those who write things to cancel this permission. I am hereby handing down now a message not to listen to these very words of refusal (*has v'shalom*), and I hereby command in any case that each one of the *b'nei Yisrael* in New York, Boston, Los Angeles, and Jerusalem may write a *get*, and each pair may sign, and each [one] of these [pairs] may give a *get* [to my wife] even up to 100 *gittin* [so that] one *get* arrives into the hands of my wife Batyah bat Avraham v'Sarah and she will be divorced from me according to the law of Moses and Israel.

After the writing and signing of the *get* the *sofer* will give it to one of the *b'nei Yisrael* found in New York, Boston, Los Angeles, or Jerusalem. Each one of them I have authorized to be my *shaliach* to bring forth the *get* to the hand of my wife after its writing and signing, and the hand of the *shaliach* is like my hand, his actions like my actions, his mouth like my mouth, his speech like my speech. I give him permission to appoint a *shaliach* in his place, as a *shaliach* of a *shaliach*, even up to 100 *shlichim*, even in writing through the mail, and even without force [of circumstances that might usually prevent one from fulfilling one's role as a *shaliach*], to deliver the *get* to my wife in any place that he finds her, or that the *shaliach* of the *shaliach*, up to 100 *shlichim* [finds her]. As soon as the *get* arrives in her hand from his hand or from the hand of his *shaliach* or the hand of the *shaliach* of the *shaliach*, even up to 100 *shlichim*, she will be divorced from me and permitted to any man. In particular, I declare with all my heart that the fact that we will henceforth be living together as a married couple will not annul this authorization. I hereby authorize in this document the writing of a *get*, its signing, and its delivery to the hand of my wife and also it is truthful for you to say that I did not do this in order to placate her, and I take this upon myself like a *herem* and an oath of the Torah that neither this *shlichut* nor the *get* will be cancelled. As evidence, I have signed with my own hand.

The undersigned witnesses confirm: "Moshe Feivel ben Shimon v'Susha Hasha said orally all that is stated above for the sake of writing and signing the *get*, giving it to the hand of his wife in the way stated in this document. He signed this in our presence, and to give this greater validity, we will sign, also":

\_\_\_\_\_  
Witnesses:

\_\_\_\_\_

# hubhn rya

\_\_\_\_\_, "hvgc

'iuyxucc 'eruh-uhbc ohtmnbv ktrah hbc , t vbnn hbhrv vyn ou, j v hbt  
 vrau ovrct , c vh, c h, atk yd cu, fh ovn sj t kfa ohkaurhcu xk'dbt-xukc  
 oaku vnaku hnak ydv kg un, j h ovn ohba kfau ihaurd oaku vnaku hnak  
'ihs , hc euxpha sj t ot , rfzvh, atk ydv , t i, h ovn sj t kfau ihaurd  
hbpe, h ot ukhptu ohasj vauka urcgha grth' , u, hrf yd vk , , k chuj n hbbva  
uhafgn rxun hbbv 'uz vtarv kuyhck ohrcs hc, f hpn ut hpn ugnahh uj ufnu hrmh  
 ktrah hbc , t ohbp kf kg vuumn hbhrv u'j curhx hrsc o, utk gunak tka vgsun  
 , d cu, fh ovn svt kfa ohkaurhcu xk'dbt-xukc 'iuyxucc 'eruh-uhbc ohtmnbv  
 sj t yd ghda sg ihyhd vtn sg ukhptu i, h ovn sj t kfu un, j h ovn ohba kfau  
 /ktrahu van , sf hbnn thv ard , , u h, at hshk

'eruh-uhbc ohtmnbv ktrah hbcn sj tk rpuxv i, h u, nh, vu u, ch, frj t ydvu  
 hj hka , uhvk vbnn hbbv ovn sj t kfa ohkaurhc ut xk'dbt-xukc 'iuyxucc  
 u, hhagu hshf ush tv, u vshk u, ut i, hku h, atk u, nh, j u u, ch, frj t ydv lhkuvk  
 j hkau utehrj c j hka , uagk , uar uk hbt i, ubu hrucsf urucsu hpf uhpu h, hhagf  
 ruxnk xbut hkc ukhptu rtusv hsh kg c, fc ukhptu ohj hka vtn sg ukhpt j hka  
 j hka ut uj hka ut tuv vbtmha ouen kfc vrau ovrct , c vh, c h, atk ydv  
 shn ut uj hka shn ut ushn vshe ydv ghda f ; fh, u ohj hka vtn sg ukhpt uj hka  
 /ost kfk , r, unu hbnn uc , arudn thv tv, ohj hka vtn sg ukhpt uj hka j hka  
 hhj c l khtu itfn h, at og vlvta vn hf 'ykj unu rund ckc rhvmn hbt aurhdcu  
 u, nh, j u ydv , ch, fk uz vtarvc vbnn hbta hubhnv vz hsh kg kyuch tk , uaht  
 , gucacu orj fhkg kcen hbbvu vh, xhhp tka rruk , bntb odu h, at shk u, rixnu  
 /hsh , nh, j omgc h, n, j vhtuku ydv , t tku , uj hkav , t kyck tka vru, v  
 kf vp kgc vatj vatxu iugna ic kchhp van shdv vyn ohnu, j v ohsg ubhbp  
 shk u, bh, bu u, nh, j u ydv , ch, fk hubhn oak uz vtarvc vkgnk ohruntv ohrcsv  
 ; eu, r, hk uz vtarv kg vkgnk o, j ubhbp cu uz vtarvc runtv iputcu, at  
 :ubt ubn, j vhtuku ush , nh, j omgc

\_\_\_\_\_  
 :ohsg

APPENDIX F

**Document of Appointment**

Date \_\_\_\_\_

I hereby authorize *b'nei Yisrael* in New York, Boston, Los Angeles, and Jerusalem such that each one of them will be empowered to write a *get* to my wife Batyah bat Avraham v'Sarah in my name and her name for the sake of *gerushin*, and any pair will be empowered to sign the *get* in my name and her name for the sake of *gerushin*, and each of the pairs will be empowered to give the *get* to my wife (the aforementioned) if it happens that I become mentally incompetent to give my wife a *get* (*has v'shalom*) according to the opinion of a medical doctor appointed by a *bet din* in New York, Boston, Los Angeles, or Jerusalem. I hereby command in any case that each one of the *b'nei Yisrael* in New York, Boston, Los Angeles, and Jerusalem may write a *get*, and each pair may sign, and each [one] of these [pairs] may give a *get* [to my wife] even up to 100 *gittin* [so that] one *get* arrives into the hands of my wife Batyah bat Avraham v'Sarah and she will be divorced from me according to the law of Moses and Israel.

After the writing and signing of the *get* the *sofer* will give it to one of the *b'nei Yisrael* found in New York, Boston, Los Angeles, or Jerusalem. Each one of them I have authorized to be my *shaliach* to bring forth the *get* to the hand of my wife after its writing and signing, and the hand of the *shaliach* is like my hand, his actions like my actions, his mouth like my mouth, his speech like my speech. I give him permission to appoint a *shaliach* in his place, as a *shaliach* of a *shaliach*, even up to 100 *shlichim*, even in writing through the mail, and even without force [of circumstances that might usually prevent one from fulfilling one's role as a *shaliach*], to deliver the *get* to my wife in any place that he finds her, or that the *shaliach* of the *shaliach*, up to 100 *shlichim* [finds her]. As soon as the *get* arrives in her hand or from the hand of his *shaliach* or the hand of the *shaliach* of the *shaliach*, even up to 100 *shlichim*, she will be divorced from me and permitted to any man. In particular, I declare with all my heart that the fact that we will henceforth be living together as a married couple will not annul this authorization. I hereby authorize in this document the writing of a *get*, its signing, and its delivery to the hand of my wife and also it is truthful for you to say that I did not do this in order to placate her, and I take this upon myself like a *herem* and an oath of the Torah that neither this *shilichut* nor the *get* will be cancelled. As evidence, I have signed with my own hand.

The undersigned witnesses confirm: "Moshe Feivel ben Shimon v'Susha Hasha said orally all that is stated above for the sake of writing and signing the *get*, giving it to the hand of his wife in the way stated in this document. He signed this in our presence, and to give this greater validity, we will sign, also":

\_\_\_\_\_

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

# hubhn rya

\_\_\_\_\_, "hvgc

'iuyxucc 'eruh-uhbc ohtmnbv ktrah hbc , t vbnn hbhrv vyn ou, j v hbt  
 vrau ovrct , c vh, c h, atk yd cu, fh ovn sj t kfa ohkaurhcu xk'dbt-xukc  
 oaku vnaku hnak ydv kg un, j h ovn ohba kfau ihaurd oaku vnaku hnak  
vyua rsdc hbta vreh ot , rfzbv h, atk ydv , t i, h ovn sj t kfau ihaurd  
'eruh-uhbc ihs , hc hsh kg vubnn tpur ka u, gs hpk h, atk yd , , k kufh ubhta  
 ktrah hbc , t ohbp kf kg vuumn hbhrv ohkaurhc ut xk'dbt-xukc 'iuyxucc  
 , d cu, fh ovn svt kfa ohkaurhcu xk'dbt-xukc 'iuyxucc 'eruh-uhbc ohtmnbv  
 sj t yd ghdha sg ihyhd vtn sg ukhptu i, h ovn sj t kfu un, j h ovn ohba kfau  
 /ktrahu van , sf hbnn thv ard , , u h, at hshk

'eruh-uhbc ohtmnbv ktrah hbcn sj tk rpuxv i, h u, nh, vu u, ch, frj t ydvu  
 hj hka , uhvk vbnn hbbv ovn sj t kfa ohkaurhc ut xk'dbt-xukc 'iuyxucc  
 u, hhagu hshf ush tv, u vshk u, ut i, hku h, atk u, nh, j u u, ch, frj t ydv lhkuvk  
 j hkau utehrj c j hka , uagk , uar uk hbt i, ubu hrucsf urucsu hpf uhpu h, hhagf  
 ruxnk xbut hkc ukhptu rtusv hsh kg c, fc ukhptu ohj hka vtn sg ukhpt j hka  
 j hka ut uj hka ut tuv vbtmha ouen kfc vrau ovrct , c vh, c h, atk ydv  
 shn ut uj hka shn ut ushn vshe ydv ghdhaf ; fh, u ohj hka vtn sg ukhpt uj hka  
 /ost kfk , r, unu hbnn uc , arudn thv tv, ohj hka vtn sg ukhpt uj hka j hka  
 hhj c l khtu itfn h, at og vhtva vn hf 'ykj unu rund ckc rhvmn hbt aurhdcu  
 u, nh, j u ydv , ch, fk uz vtarvc vbnn hbta hubhnv vz hsh kg kyuch tk , uaht  
 , gucacu orj fhkg kcen hbbvu vh, xhhp tka rnuk , bntb odu h, at shk u, rixnu  
 /hsh , nh, j omgc h, n, j vhttku ydv , t tku , uj hkav , t kyck tka vru, v  
 kf vp kgc vatj vatxu iugna ic kchhp van shdv vyn ohnu, j v ohsg ubhbp  
 shk u, bh, bu u, nh, j u ydv , ch, fk hubhn oak uz vtarvc vkgnk ohruntv ohrcsv  
 ; eu, r, hk uz vtarv kg vkgnk o, j ubhbp cu uz vtarvc runt v iputcu, at  
 :ubt ubn, j vhttku ush , nh, j omgc

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:ohsg