

Kiddushin and Kesharin: Toward an Egalitarian Wedding Ceremony

Cheryl Beckerman

*So they said, 'we must wed'
Their eyes began to sparkle
as they faced all the things to be done.
'Do we mean kiddushin
or is it patriarchal?
Should we have two ketubot or none?'*

—from *shuck* sung at our wedding by Bill Kunin to the tune of Ba-Shanah Ha-Ba'ah

SUNSET SHADING INTO STARLIGHT ON MOUNT SCOPUS, OVERLOOKING THE OLD CITY OF JERUSALEM, LENT A QUALITY OF ENCHANTMENT TO THE JOY OF OUR WEDDING. FOR MY HUSBAND AND ME AND THOSE closest to us, the dancing and celebration after the ceremony were animated in part by delight that our complicated service had actually worked. Our fears that the ceremony would seem too patched together, or that one of us would end up feeling compromised or coerced, vanished—our research and careful planning did not prevent the wedding from being fun.

In the months before our wedding, my then-fiance Joel and I struggled mightily with *kiddushin*, the part of the ceremony that effectuates a marriage according to *halakhah* [Jewish law]. The root of *kiddushin* means “holiness,” with a connotation of separation, being set aside. Traditionally,

the groom gives the bride a ring (or other gift) in the presence of two witnesses and says, *Harei at mekudshet li b'taba'at zo k'dat Moshe v'Yisrael* (“Behold, you are consecrated to me with this ring, according to the law of Moses and Israel”). When she consents, through her silent acceptance of the gift, a marriage has taken place, even if all other familiar aspects of the wedding are missing.

Joel and I were drawn to this ancient language that we found beautiful and meaningful—as long as we ignored the halakhic implications. In Jewish legal terms, *kiddushin* is an unambiguously one-sided monogamy clause, forbidding the wife to all other men. We saw a spiritual side to *kiddushin*, but the more we studied the issue, the more we came to understand it in the context of an entire system of marriage and divorce that is fraught with problems from a feminist perspective. I was hard put to reconcile this meaning with *nissuin*, the second part of the Jewish marriage ceremony, with its seven blessings [*sheva brakhot*] celebrating covenant and partnership between wife and husband and the start of a new family unit as an echo of covenant and partnership with God.

This began an exploration of numerous paths on our way to a ceremony that could work for both of us. Through research, text study, and extensive discussions we weighed a variety of approaches, including leaving *kiddushin* out altogether. Several considerations ultimately precluded this step. Our solution was to supplement *kiddushin* and develop a new segment of the wedding service, which we called *kesharin* [connection]. Thus, however unconventionally, we remained within the confines of *halakhah* while expressing values not explicit in the standard ceremony. The following is an elaboration of our ceremony and how we arrived at it, with the help of a learned and diverse group of friends and Internet correspondents.

The Trouble with Kiddushin

The origins of *kiddushin* are found in the Mishnah [M. KIDDUSHIN 1:] which states that a wife is “acquired” in one of three ways: with money, with a contract, or through intercourse. The first of these three methods became the common practice and the rabbis of the Talmud developed the ritual of *kiddushin* to infuse the proceedings with holiness.

The rabbis took pains to distinguish *kinyan* [acquisition] from

purchase. A ring or other gift represents the money referred to in the Mishnaic passage, but it is given directly to the woman, not to her father or anyone else who could be construed as a “seller.” It need only be worth a *perutah*, the lowest coin of the realm and thus ludicrous if the purpose was commercial. Objects acquired for the Temple were the model for this category of holiness—their acquisition elevated their status and dedicated their use to the sanctuary.

Whatever the gloss put on kiddushin, the concept of acquiring a bride, the one-sided nature of the acquisition, the derivation of the ritual from property law, the fact that acquisition is the only legal basis of a traditional Jewish marriage, and the woman’s passivity in the proceedings all reflect assumptions about gender roles that we found untenable as a basis for marriage today. Scholar Judith Romney Wegner has demonstrated that it is the woman’s sexuality and not her personhood that is acquired in kiddushin, but this was small comfort.¹

According to normative halakhic opinion, what the woman says in the ceremony, even if she addresses the man with language identical to his and gives him a ring, has no effect on the one-way acquisition that takes place through his agency. Some Orthodox authorities forbid a double ring ceremony outright, while others, notably the prominent decisor Rabbi Moshe Feinstein, merely dismiss it as *hevel v’shtut* [vanity and foolishness].² For some Conservative and liberal Orthodox rabbis, the halakhic irrelevance of the woman’s participation provides the latitude to permit double ring ceremonies with the bride speaking right after the groom. Others take care not to give the appearance of two-way acquisition, and the bride recites scriptural verses to the groom only later in the ceremony.

This kind of liberalism may reflect good will and sensitivity to modern sensibilities, but it does not address the actual structural inequities of the halakhic system. In the context of its Mishnaic origins, neither Joel nor I believed that in kiddushin a two-way acquisition is possible, no matter how the ceremony is done. Furthermore, we came to realize that mutual acquisition was not our goal. The whole concept of acquisition imposes monogamy as a condition of ownership, rather than as an expression of the commitment of two loving partners. What we wanted was a counterbalance to kiddushin that defined marriage clearly in terms of mutuality, not

permission for me to echo back the same formula.

The more deeply we delved, the more we found the institution of kiddushin problematic. Even as we attempted to understand kiddushin in terms of holiness and mutuality, we could not ignore the halakhic consequences that remain all too real in our day—personified by the problem of the *agunah*—a woman who cannot remarry because her husband cannot or will not give her a *get*, a bill of divorce.

The thinking of Rivka Haut, a prominent and courageous Orthodox activist for the rights of agunot, was especially persuasive as we refined our picture of kiddushin. Haut does not actually propose changes to the marriage ceremony. But her clear depiction of *gerushin* [divorce proceedings] as a kind of mirror image of the marriage ceremony sheds light on the nature of the acquisition masked by the language of holiness in kiddushin.³ The counter-formula to consecration (*harei at mekudeshet li*) is *harei at muteret l’kol adam*, “Behold, you are permitted to any man.” This parallelism left us unconvinced by arguments that “unilaterally set-aside” is an obsolete or incidental meaning of kiddushin, too far removed from its origins to be a problem. And no cosmetic alterations to kiddushin alter the utter passivity of the woman receiving a *get*. The divorce ceremony, and the reality of thousands of women who are kept from remarriage by estranged husbands who cannot or will not grant a divorce, informed our perception of a system of kiddushin-gerushin in need of redemption.

Our ideal, we realized early on, was an egalitarian Jewish marriage-divorce system, and not simply an egalitarian wedding. The clauses and codicils to the *ketubah* [marriage contract] that halakhic thinkers have devised to prevent the plight of agunot seemed to us to address a symptom, not the problem. An alternative wedding ceremony which has legal substance and meaning ought to have as a counterpart a hypothetical dissolution ceremony, though we were defeated by the magnitude of such a task.⁴

Exploring Possibilities

Less halakhically oriented friends couldn’t see the problem. The solution to standard kiddushin in many progressive circles is to “transvalue” it, to use Mordechai Kaplan’s term for bringing new meaning to old forms. For Jews who do not feel bound by normative interpretations of Jewish law,

transvaluation permits the retention of language and custom whose resonances are positive, even if their significance within the halakhic system is problematic. The case was made compellingly from abroad:

In my Jewish world it is actually very common, nearly universal, for a woman to say [*harei ata mekudash*] under the *huppah* [marriage canopy] with every ounce of intention and reality that a man does. Because of the evolutionary nature of religious practice, as more and more couples have the woman say these words under the *huppah* at their weddings, doing so [is becoming] *dat Moshe v'Yisrael* [the law of Moses and Israel].... Traditional rabbinic halakhah is not about to change to accommodate the feminist principles you know to be *emet v'emunah* [right and true].... I suggest empowering yourself and daring to make some long-needed changes. Why do you continue to vest with authority over your life someone who says that your words under the *huppah* are *hevel v'shitut*?

—E-mail from Rabbi David Mivasair, August 17, 1995

We learned that Rav Zalman Schachter-Shalomi has used *tenayim* [conditions that are set out when the couple become engaged] to address the *agunah* problem, among other issues. His *tenayim* begin with a list of situations that the couple would consider as invalidations of the marriage if they were to occur. The important stipulation is that intention counts: "This is what we the bride and groom mean when we say *harei at(a) mekudeshet (mekudash) li b'taba'at zo k'dat Moshe v'Yisrael* and this is what we have in mind when we receive the rings and give our consent to this marriage." (English text relayed to us by Rabbi Jeffrey Marker.)

The commentary by Rabbi Gordon Tucker on a *ketubah* circulated within the Conservative movement certainly goes as far as to say that intention matters:

...one of the important determinants about what counts as a valid Kiddushin formula is what the parties understand by the language used, and what the local usage is....Now our understanding of marriage, a millenium after Rabbenu Gershom and given the pervasive mutuality in our culture concerning marriage, is such that active language on the part of the woman 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, and the fact that there is no

doubt (given that the caterer has been paid, etc.) what everyone is up to...one can only conclude that this additional active declaration [*harei ata mekudash li*] cannot invalidate the marriage. Anyone who feels otherwise should have the burden of proof.

Some of this sounds like halakhic affirmation of Rabbi Mivasair's argument that mutual declarations of consecration are not only appropriate but effective. Yet while Rabbi Tucker regards in a positive light the egalitarian additions that right-wing sources deplore, his advocacy does not demolish their arguments that this is halakhically meaningless. Is the woman's active role part of effecting the marriage or is it allowed because it cannot undo the man's *kinyan*? In retrospect, this is precisely where some of our local advisors seemed to waffle. Perhaps the answer is simply: both.

We learned more about Tucker's thinking from one of his students: ...In a class with Gordon Tucker, we studied the writings of Yale Law professor and halakhic scholar Robert Cover, who advocated legal changes based on "legal narrative," i.e., working through variant legal texts to discover the concepts underlying a particular law and then determining whether there is sufficient basis for change. In my mind Kiddushin is such a case for while there is a clear narrative of "acquisition" of the woman, there is a more dominant narrative throughout rabbinic history which views the woman not as "property" but as a human being with rights and responsibilities...As a result, to change the fundamental basis of Kiddushin away from "acquisition" of one party by another, to a mutual *kinyan* of rights and responsibilities by both parties would be in line with the greater halakhic narrative. This is a radical step but...the more I study the more I believe that our system is not a "formalistic" one but one which regularly engages in policy considerations based upon narrative.

—E-mail from "Erev Rav" Ed Harwitz to Joel Berman, August 6, 1995

Steeped in kabbalah as well as Talmudic texts, our friend and teacher Dr. Shai (Steve) Wald sees revelation through halakhah as ongoing, the essence of Jewish law becoming clearer in every generation. In conversations with us, he traced the changing meaning of marriage from biblical times to our day through text and tradition to reach an egalitarian interpretation of *kiddushin* as mutual acquisition and commitment. Thus Wald believes that the woman taking an active role in the ceremony and even giving a ring is entirely

appropriate, although he maintains that the basics of what the man says and does cannot be changed.

Our friends and correspondents raised important questions of community and authority. Community affirmation mattered to us because we understood a wedding as a public statement. However, the guests invited to gather around our huppah ran the gamut of ideologies, observances and denominational affiliations. We could only guess what kinds of innovations this ad hoc community, drawn from the various communities in which we have a foothold, would recognize as being according to the laws of Moses and Israel. We did not think anyone at the wedding would be contemptuous,

*we wanted our actions to be comprehensible
and taken seriously*

but we wanted our actions to be comprehensible and taken seriously. Our guests had seen me through the travails of being single in a highly family-oriented society; more significantly, they had stood by Joel as he mourned his late wife. Their rejoicing and their understanding were important dimensions of the day, particularly in the absence of state recognition.⁵

As to authority, defining it jointly was complicated by our own diverging orientations. Joel, studying daily with Wald and others whose commitment to halakhah was absolute, was increasingly concerned that without valid kiddushin, the wedding would be “kosher-style” rather than authentic. But influences abroad, both personal and published, had raised my awareness of the dated social assumptions underlying the halakhic system, making my sense of being commanded by it far more tenuous than was once the case. In the absence of greater responsiveness to women, I was loath to “buy in” to the standard kiddushin.

My wariness of kiddushin predated my own serious exploration of the subject. I remembered that Rachel Adler, an old friend and mentor, found it problematic and avoided it in her second marriage ceremony. She contends that kiddushin, derived from property law and defined by layers of biblical and rabbinic precedent as a transaction in which a man acquires rights over a woman, is a trap and irrevocably at odds with the theological development of

the nissuin section of the ceremony. Thus, though she too draws on Robert Cover’s understanding of legal narrative, she applies it only to nissuin, with its metaphors that point “toward increasingly mutual and egalitarian descriptions of covenant.” Adler explains:

“The acquisition of human beings implicit in kiddushin violates other values conscientious people have come to regard as moral goods....We have reached a point where it is possible to envision and sometimes to realize, marriages in which two remain two, marriages that are not incorporations but covenants....A piece of property cannot commit to a covenant.”⁶

Adler’s 1987 Brit Ahuvim ceremony with David Schulman retained nissuin and the general structure of the traditional wedding ceremony but replaced kiddushin with a ritual that draws on partnership law. The dry legalities of early Talmudic partnership law might make it seem a scant improvement on property law as the source of a wedding service, but Adler points out that marriage is an economic as well as social institution. Unlike the traditional marriage contract, partnership agreements bear witness to resources that are communal and the need for joint decisions about them. In halakhah, says Adler, partnership can be seen to mediate between the partners’ needs for autonomy and for interdependence. The pact, formed by mutual agreement, can be terminated by either party.

The idea of grounding our ceremony in the language and law of *shutafut*, partnership, appealed to both of us, as a reflection of how we saw marriage and as an attempt to find new categories rooted in halakhic precedent for sanctifying relationships. I hoped in this way to demonstrate faith in the potential for flexibility and adaptability within the system, if not among its adjudicators. Yet we could not see our way clear as a couple to a kiddushin-free ceremony. Short of eliminating kiddushin, we looked at altering it.⁷

In our form-versus-content dispute, Joel was quite ready to “wrap” innovation around kiddushin, just so it was valid. I, on the other hand, wanted it halakhically suspect, yet I cared more than he about having it feel traditional. I sought to alter the words or actions just enough to stay outside some of the halakhic traps, but keep the cadences. Thus, for example, my preference was to omit the ring and reference to it in the ceremony, leaving us with consecration of the union without the public token of acquisition.

A Marriage of Minds

As the wedding date approached, it appeared ever less likely that there would be time to find a solution that would be considered halakhic without traditional kiddushin. Progress came only with Joel's wise suggestion that we stop talking and each write up our ideal ceremonies independently, from the reception before the huppah through the breaking of the glass.

What Joel came up with articulated the inherent two-way essence of kiddushin taught by his mentor by making explicit the requirements that the bride consent and the husband be monogamous. He began by prefacing the traditional *harei* at ("Behold you are consecrated to me...") with a simple formula, *birshuteikh u-virtzoneikh* ("With your consent and by your will"). As he put the ring on my finger I would agree aloud, replying, "So am I consecrated to you." His response was taken from the Book of Hosea: "Call me 'my man' [*ishii*] and not 'my master' [*ba'ali*, the word commonly used for 'husband' in Hebrew]."

Joel's next words attempted to add stringency to the ban on polygamy decreed by Rabbenu Gershom just over 1,000 years ago, since the halakhic implications for a woman accepting kiddushin go far beyond what the ban imposes upon a man. "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.*" The quotation is from the Book of Ruth, the convert who is mother of the House of David.

The next turning point came when we finally saw that despite Joel's intellectual appreciation of my difficulties with kiddushin, on a very basic, even primal level, he did identify with the desire to take a wife, to possess. Once he realized this and I absorbed it, our path paradoxically became simpler. I had resisted a straight traditional ceremony on the grounds that acquisition had nothing to do with what marriage meant to us (and it was intolerable to think that my cherished tradition could not accommodate what I found meaningful in pledging myself to another). But if it really meant so much to my partner that I be "his," the gap between ritual and

reality was in fact not as great. While the abstract demands of halakhah seemed demeaning and only impelled me to argue, I found myself wanting to accommodate Joel's emotional needs.

The discomfort of acquiescing to being "taken" as wife was mitigated by a number of factors. First, I suspected that the need to possess was more or less standard male programming (as my desire to accommodate his needs was female programming).² I preferred Joel, with his self-awareness about it, to the self-styled feminist men who had broken my heart in the past! And there were moments as we discussed it that I too related to a perhaps atavistic impulse to be "taken." Certainly part of me had longed all along for the familiar words of kiddushin as a sign of Joel's commitment, whatever their halakhic significance. I was moved by his valiant attempts to respond to my own concerns, as evidenced in his kiddushin, and I knew he was sincere in declaring himself equally bound to me by it. I recalled that in other circumstances I defend accommodating the "*frummet* common denominator" when more and less stringent interpretations of religious requirements clash. We were getting down to the wire in terms of time; with the advance guard of relatives and friends due to arrive within days, we had to settle on a ceremony. And most importantly, our managing to understand kiddushin in its most ancient sense helped me discover a parallel way to address Joel under the huppah and feel satisfied.

When I scrutinized my love for Joel and my desire to be married to him, I found possession to be utterly beside the point. What was vital for me was connection, bond, relationship. Once we concluded that this reflected a truth about gender difference that went beyond our differences in personality, it made more sense to express the need for bond in a new section, rather than tacking it onto kiddushin. The attempt to parallel the structure of kiddushin helped determine the content of what we called *kesharin* (connection).

The new section followed kiddushin and the reading of our ketubah. To parallel the invocations preceding kiddushin (*Brukhim ha-ba'im b'shem Adonai and Mi barukh al ha-kol*), we began with a passage from Hosea, the book of Prophets that Joel quoted during kiddushin. A common choice for incorporation into wedding ceremonies, it is said every morning upon donning tefillin: *And I will betroth you to me forever. I will betroth you to*

me in righteousness and in justice and in kindness and in mercy. I will betroth you to me in faithfulness. Our friend, cantor Mikhal Shiff-Matter, sang this and passages earlier in the ceremony to the melody traditionally used for chanting the Song of Songs.

We also wanted a blessing to begin this section, to parallel the presence of the blessing before kiddushin. Borrowing from the Adler/Schulman ceremony, we chose the blessing that is recited upon seeing a rainbow: "Blessed are You, O Lord our God, sovereign of the universe, who remembers the covenant." It refers to the pact God made with Noah and his descendants after the flood [GENESIS 9:15], "a covenant of trust and a pledge not to harm." As we embarked upon our marriage, we wanted to evoke the promise of the continuity of the generations and to express gratitude that we had found each other (like the rainbow, a "quotidian miracle," in the words of our friend Peretz Rodman). And bringing Noah into the ceremony added a universalist element (as did including the verses from Ruth).¹⁹

Our symbol for connection, given in place of a ring, was tefillin, which Joel had already requested as his wedding gift from me. To parallel *harei at*, I found poetic expression for "connectedness" in contemporary ketubah that borrowed from early marriage contracts in the Eretz Israel tradition.²⁰ The formula *Heyei li l'chaver u-l'ish briti k'dat Moshe v'Yisrael* ("Be my companion and my covenantal partner, according to the law of Moses and Israel") is based on a verse from the book of the prophet Malachi. I prefaced the formula with an echo of Joel's words to me: *birshutkha u-virtzonkha* ("With your consent and by your will"). I followed it with an explanation: "Accept these tefillin as a symbol of bond and connection, as it is said, *You shall bind them as a sign upon your hand* [DEUTERONOMY 6:7].

Joel gave his explicit assent: "So will I be your companion and covenantal partner." As Joel had in kiddushin, I followed formula and gift with a personal message to elaborate upon and clarify my intentions: "I will cherish and maintain the connection between us all the days that we are wed. I have chosen you as a lifelong friend, according to the teachings of *Avot d'Rabbi Natan*: 'Acquire for yourself a companion.' May this marriage be a covenant of partnership and trust, and thus may we establish a household in the land of, and among the people of, Israel."

The formula *Heyei li l'chaver* lacks legal standing, but the words

were nonetheless a pact between us and articulated a vision of marriage as partnership, a partnership whose enterprise is the establishment of a family unit. The formula does not answer my desire that monogamy cease to be the sole legal basis of a Jewish marriage, but it begins to address it.

Perhaps companionship, covenant, partnership and trust, the components of marriage that I wanted to invoke, are truly all aspects of monogamy when it is promised in kiddushin. I applaud interpretations in this direction, but to see these positive components of marriage as an outgrowth of a vow of monogamy only taints them for me when the vow is part of an unequalitarian institution. By balancing kiddushin with kesharin, the former became more like an exclusivity clause in a larger contract—an important dimension in the marriage but not the only one.

The covenantal language of the nissuin ceremony that ordinarily follows kiddushin might seem like an appropriate place for the sentiments I expressed, but we chose not to change it and to instead develop kesharin, lest we imply that kiddushin is more for the man and nissuin for the woman. In our eyes, this would be an unfortunate shortchanging of nissuin, whose seven benedictions culminate with God's own rejoicing with the bride and groom.

ONE COUPLE'S CEREMONY MAY NOT GO FAR IN SOLVING THE QUANDARY OF women's status in Judaism that is so apparent in the inequities of the marriage/divorce system. It does represent a statement of faith that there is room in an evolving tradition for feminist and egalitarian sensibilities. We would like to think that our changes to kiddushin and our tempering it with kesharin have taken the Jewish wedding ceremony in the direction of its essence. Or perhaps, as our more mystically inclined friends maintain, such changes even contribute to influencing what that essence is.

We suspect that halakhic change will come through the efforts of both those who struggle within the system and those who step outside it. Nothing would make us happier than seeing learned and creative people take what we have done a step further.

Cheryl (Chaia) Beckerman, an editor and writer, married Joel Berman in September 1995. Readers interested in the full ceremony or the ketubah (written by Dr. S. Wald) can reach the couple at 77 Ma'aglei Yavneh St., Jerusalem, or via e-mail (mscb@pluto.nssc.huji.ac.il).

Erusin (Betrothal)**ברכת ארוסין**

ברוך אתה יי, אלהינו מלך העולם, אשר קדשנו במצוותיו, וצונו על העריות, ואסר את הארוסות, והתיר לנו תני אישות בקדשה וטהרה על-ידי חופה וקדושין. ברוך אתה יי מקדש עמו ישראל על-ידי חופה וקדושין.

Blessed are you, our Eternal God who rules the universe, who has made us holy through Your commandments and instructed us about forbidden relations and permitted intimacy in holiness and purity. Blessed are you, who sanctifies your people Israel through huppah and kiddushin.

ברוך אתה יי אלהינו מלך העולם, בורא פרי הגפן.

Blessed are you, our Eternal God who rules the universe, Creator of the fruit of the vine.

Kiddushin (Consecration) קידושין

ברשותך וברצונך - הרי את מקדשת לי כטבעת זו כדת משה וישראל.

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

אכן אני מקדשת לך. So am I consecrated to you.

"תקראי אישי ולא תקראי עוד בעלי" (הושע) ...
כשם שאת קבלת על עצמך ברצון ובאהבה את הקדושין האלה, כך גם אני מקבל על עצמי. אני מאשר היום בפני הבורא ובפני

הקהל הזה, שאני מותר לך ואסור לאחרות. האיסורים החלים עליך חלים גם עלי, והמותר לך מותר לי, כל ימי כלולותינו, שנאמר, "כי אל אשר תלכי אלק, ובאשר תליני אליו, עמך עמי, ואלהיך אלהי." (רות)

Call me your man and not your master. (HOSEA)

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)*

קריאת הכתובה Reading of the Ketubah**קשרין (Connection) Kesharin**

"וארשתיד לי לעולם וארשתיד לי בצדק ובמשפט ובחסד וברחמים: וארשתיד לי כאמנה ונדעת את יי."

I will betroth you to me forever. I will betroth you to me in righteousness and in justice, and in kindness and in mercy. I will betroth you to me in faithfulness. (HOSEA)

ברוך אתה יי אלהינו מלך העולם וזכר הברית ונאמן בבריתו וקיים במאמרו.

Blessed are you, our Eternal God, who remembers the covenant and keeps your promise faithfully.

ברשותך וברצונך - הִיָּה לִי לְחֵבֵר וְלֵאִישׁ
 בְּרִיתִי כְּדַת מֹשֶׁה וְיִשְׂרָאֵל.
 קָבַל תְּפִלִּין אֵלָיו לְעֵדוּת לְקִשְׁר בֵּינֵינוּ,
 שְׂנֵאמֶר, "קִשְׁרַתֶּם לְאוֹתַי עַל יָדְךָ." (ס' דברים)

With your consent and by your will: Be my companion and my
 covenantal partner, according to the law of Moses and Israel. Accept
 these tefillin as a symbol of bond and connection, as it is said, *You
 shall bind them as a sign upon your hand.* (DEUTERONOMY)

אָבֵן אֶהְיֶה לְךָ לְחֵבֵר וְלֵאִישׁ בְּרִיתְךָ.

So will I be your companion and covenantal partner.

אֲשׁוּמֹר עַל הַקִּשְׁר בֵּינֵינוּ כֵּל יָמֵי כְּלוּלוֹתֵינוּ.
 כְּחֵבֵר לְחַיִּים כְּחֵרְתִּי בְּךָ, כְּאֲמֹר "קִנְיָה לְךָ חֵבֵר."
 יְהִי רְצוֹן שִׁיְהִיו נִשְׂוֹאִין אֵלֶּה בְּרִית שְׁלֵם שְׁתוּף
 וְאֲמוֹן וְשִׁנְבְּנָה בֵּית נֶאֱמָן בְּיִשְׂרָאֵל.

I will cherish and maintain the connection between us all the days
 we are wed. I have chosen you as a lifelong friend, according to the
 teachings of Avot d'Rabbi Natan: Acquire for yourself a companion.
 May this marriage be a covenant of partnership and trust, and thus
 may we establish a household in the land of and among the people
 of Israel.



Notes:

- Judith Romney Wegner, *Chattel or Person? The Status of Women in the Mishnah* (Oxford University Press, 1988).
- Rabbi Moshe Feinstein, *Iggeret Moshe, Even Ha Ezer* 3:18.
- Rivka Haut, "The Aguna in Divorce," in D. Orenstein (ed.), *Lifecycles: Jewish Women on Life Passages and Personal Milestones* (Woodstock, VT: Jewish Lights Publishing, 1994).
- We would not expect any engaged couple to be motivated to devise divorce proceedings, but we were glad to hear of recent attempts by the Reconstructionist movement and others to address the problem.

Dr. Rebecca Lesses called our attention to early textual sources to build on: stipulations in early Palestinian ketubah and fifth century BCE Elephantine papyri enabling both wife and husband to initiate divorce proceedings. See *The Ketuba Texts of Eretz Israel* (1981), volume 2 of Mordechai Akiva Friedman's *Jewish Marriage in Palestine: A Cairo Geniza Study* (p. 13, lines 22-23); the first volume, *The Ketuba Traditions of Eretz Israel* (1980), provides discussion of the history and legal context (pp. 332-346) (New York: Tel Aviv University and Jewish Theological Seminary of America). Adler also discusses these sources in the "B'rit Ahuvim" chapter of her forthcoming book.

Living in Israel, where civil law coexists uneasily with religious law, complicated the picture. In the diaspora it might be possible to have conventional kiddushin but to specify in the ketubah or in a prenuptial agreement referred to in the ketubah, what divorce proceedings would look like should they ever become necessary. We had in mind setting out in advance what we would each say, to guarantee that the concerns that animated the wedding ceremony would be mirrored in any ceremony of dissolution; stipulating that the *bet din* [rabbinic court] presiding would be comprised of one rabbi chosen by each of us and one of our own choosing [per BT SANDHEDRIN 3]; and committing ourselves to seek counseling first. A legal advisor made it clear to us, however, that even if we found halakhic sanction, "conditioning matters of status" is not possible under Israeli law. Couples who divorce in Israel have no real alternative to the rabbinic courts.
- We were unwilling to register the marriage with the Israeli chief rabbinite, an institution whose authority we both reject and which would have permitted neither our unconventional halakhic ceremony nor our choice of rabbi, a good friend ordained by the Masorti [Israeli Conservative] movement. Like others who make this choice, we had a civil ceremony abroad that serves as the basis for state recognition of the marriage.
- Rachel Adler, "B'rit Ahuvim: A Marriage Between Subjects," in *Engendering Judaism* (Philadelphia: Jewish Publication Society, forthcoming).
- We found several examples of couples who deliberately devised a kiddushin that was not halakhically valid. That way, in the event that a husband disappeared or refused to give a *get*, Orthodox rabbis would likely deem the marriage invalid, a divorce through their auspices would be unnecessary, and the woman would not become an agunah. However, in Israel, no matter how far-reaching the changes to the ceremony, in the event of dissolution, the rabbinic courts would likely order a *get Tsafek* or *get T'chuma*, that is, a divorce in case the marriage was halakhically valid despite irregularities. Nevertheless, changing the kiddushin would still probably offer protection against the plight of agunah: If a husband vanished in times of war or through other calamity, or refused to grant a *get*, the rabbinite would be disposed to help the wife. Any questions about the authenticity of the ceremony

would provide grounds for declaring the marriage invalid, thereby releasing her for subsequent marriage.

8. Of course some men are less possessive than others. But at least a few who were skeptical of our generalizations "got it" when Joel posed the following question: What would your feelings be if your partner cheated on you? The question is itself not one that I would have come up with, but the answers most of the time bore out the thesis. The men found that part of the injury would indeed be their sense of having their partner "stolen" from them. The women, like the men, spoke of feelings of betrayal, but without possessiveness as an element.
9. Adler, *op. cit.*
10. We also borrowed from the Adler-Schulman ceremony at the signing of the ketubah before the huppah, substituting for the usual *kinyan sudar* [a symbolic affirmation of the agreement] a very old form of *kinyan* described in Talmudic partnership law. Each of us put a personal belonging into a single sack to signify its becoming common property, and then we lifted the sack together. I contributed a *tanakh* [Bible], while Joel contributed a *tzedakah* [charity] box. With these items and the marriage canopy awaiting us, we symbolically evoked the combination that is wished for newborn Jewish children: Torah, huppah, and *ma'asim tovim* [good deeds].
11. Friedman, *op. cit.*