



Re-Envisioning Jewish Commitment and Marriage for the 21st Century

Unit 2: Kiddushin: Progressing beyond Patriarchal Roots

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*וְהָיָה בַּיּוֹם הַהוּא יִקְרָא אֱלֹהִים אֶתְּךָ אִשִּׁי וְלֹא תִקְרָא אֵינִי לִי עוֹד בַּעֲלִי.
On that day, says God, you will call [me] Ishi, and no more will you call Me Baali
Hoshea 2:18*

The previous unit portrayed the beauty of the traditional wedding ceremony, but that is not the whole story. When the sons of Jacob agree to an alliance with the residents of Shechem, they say: “We will give our daughters to you and take your daughters to ourselves” ([Genesis 34:16](#)). This reflects the common attitude of Biblical times that women were primarily objects, given or taken at the prerogative of their fathers and husbands, even leveraged as property and political pawns. On several occasions in the Torah, we see that the groom pays the father a bride-price in exchange for the “purchase” of his wife ([Exodus 22:16](#); [Deuteronomy 22:29](#); [Genesis 24:53](#), [29: 18](#), [34:11](#)). But only once, in the story of Rivkah, is the bride’s consent sought ([Gen. 24:57](#)).

Erusin: Ancient Acquisition

In light of the prevailing biblical approach, it is not surprising that women are related to as objects rather than subjects in the first section of the wedding known as either the [Erusin or Kiddushin](#) ceremony. The [blessing](#) said just before a man gives his bride a ring is as follows:

*Blessed are You, my Lord our God, Sovereign of the Universe, who has made us holy in God’s commandments, and has commanded **us** concerning forbidden unions, forbidding us those who are betrothed, permitting us those who are wedded to us through the rite of the canopy and sacred covenant of marriage. Blessed are You, Lord, who sanctifies God’s people Israel by the rite of the canopy and sacred covenant of marriage.*

The groom then gives her a ring and says:

“Behold you are sanctified to me according to the law of Moses and Israel”

Far from being a romantic moment, this part of the ceremony is foremost a transaction in which the ring signifies the groom’s rights over his wife. Since according to traditional Jewish law, men cannot be betrothed and are strictly speaking not commanded to be monogamous, the “us” referred to in the blessing is the men. The subject of the blessing is sex, and once the bride accepts the ring, any extra-marital sex she has will be classified as adultery. Both she and the man with whom she has relations have theoretically committed a capital crime. The groom, however, has no parallel requirement.

From Bride Price to Insurance Policy

However, in late antiquity, we see that the Biblical model, at least from an economic perspective, begins to moderate somewhat. Instead of the husband paying the father for his bride in advance of the marriage, the rabbis transform that “bride price” into a sort of promissory note called a “[Ketubah](#),” or marriage contract, intended as security for the woman in case of divorce:



At first, they used to prescribe (kotvin) two hundred zuz for a first marriage and 100 for a second, and consequently they grew old and could not take any wives. It was then ordained that the amount of the ketubah was to be deposited in the wife's father's house. At any time, however, when the husband was angry with her, he used to tell her, 'Go to your ketubah'. It was ordained, therefore, that the amount of the ketubah was to be deposited in the house of her father-in-law. Wealthy women converted it into silver, or gold baskets, while poor women converted it into brass tubs. Still, whenever the husband had occasion to be angry with his wife he would say to her, 'Take your ketubah and go'. It was then that Simeon b. Shetah ordained that the husband must insert the pledging clause, 'All my property is mortgaged to your ketubah'. ([Talmud Ketubot 82b](#))

Early commentators debate precisely how to understand this Talmudic passage, but remarkably, according to all interpretations, the financial arrangements behind a marriage were not necessarily about making sure that women get what they deserve. Rather, they were designed primarily to create market incentives that would encourage a stable family, and they evolved to benefit women in response to market forces.

According to [some early commentators](#) (most prominently, [Rabbenu Hannanel](#) as well as the modern scholar, [Judith Hauptman](#)), this Talmudic passage describes a three-stage process attributed to the great first century sage [Shimon ben Shetah](#). Originally, as discussed above, payment for the bride was made to the father upfront. However, this placed marriage out of reach for many people. By modifying the custom to allow the bride price / Ketubah money to be set aside but stay in the groom's family home, the barriers to marriage were reduced. However, because the money was already designated, it remained relatively easy for a husband to divorce his wife without massive immediate financial consequences. In the third stage, the general lien on the husband's property discouraged him from divorcing his wife – because doing so would require selling assets to finance the settlement. In a world where women were vulnerable without male protection, Shimon ben Shetah created a more stable framework for marriage in which the woman need not fear being discarded on a whim by her husband. In addition, by transferring the payment from before to after the marriage, the woman becomes the recipient of the money instead of the father. In case of the dissolution of the marriage, the woman will have sufficient funds on which to rely for a year or two before entering a new marriage.

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Consent

Perhaps the most significant shift in rabbinic attitudes towards “women as property” is hinted to in the symbolic “price” they set for the wedding ceremony. While the [rabbis](#) emphasize that there are commonalities between “acquiring” a wife and acquiring a field, slave, or an animal, there are also very significant differences. The acquisition “price” of a woman is set deliberately small, a mere penny (*pruta*), in order to emphasize its symbolic nature and distinguish it from standard ownership of property.

Most importantly, unlike a field, a slave or an animal, the rabbis insisted that the [woman must consent](#) to being acquired. The demand for consent mitigates the otherwise unilateral nature of marriage—she is no longer a passive object, but actively indicates her desires. Additionally, once consent is a necessary condition, women have power to negotiate better conditions and as they do, they improve their own social status..

Thus, [Rashi](#) reads the first stage of the Talmudic passage above differently. He would translate it as follows:

At first, they would merely write (ketvin) a debt of two hundred zuz for a first marriage and 100 for a second, and consequently they grew old and could not take any wives. It was then ordained that the amount of the ketubah was to be deposited in the wife's father's house.

According to Rashi, women refused to marry their husbands based on a mere promise of future payment—“who says you will actually have the money or that I’ll be able to really collect it should the need arise? I want a guarantee!” They refused to marry without that guarantee, and the halakhah changed to meet their demands.

Basic Inalienable Protections

By the time of the canonization of the Mishnah in 200 CE, the rabbis also regulated the rights of husband and wife within marriage and provided certain basic inalienable protections for the woman, as enumerated by Maimonides:

1. When a man marries a woman, whether she is a virgin or a non-virgin, whether she is above the age of majority or a minor, and whether she was born Jewish, is a convert or a freed slave, he incurs ten responsibilities toward her and receives four privileges.
2. Of his ten responsibilities, three stem from the Torah. They include *sha'arah*, *kesutah v'onatah* ([Exodus 21:10](#)). *Sha'arah* means providing her with subsistence. *Kesutah* means supplying her with garments, and *onatah* refers to conjugal rights.

The seven responsibilities ordained by the rabbis are all conditions [of the marriage contract] established by the court. The first is the fundamental requirement of the marriage contract. The others are referred to as *t'na'ei ketubah*, the conditions of the marriage contract. They are:

- a) to provide medical treatment if she becomes sick;

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- b) to redeem her if she is held captive;
 - c) to bury her if she dies;
 - d) the right for her to continue living in his home after his death as long as she remains a widow;
 - e) the right for her daughters to receive their subsistence from his estate after his death until they are married;
 - f) the right for her sons to inherit her *ketubah* in addition to their share in her husband's estate together with their brothers [borne by other wives, if she dies before her husband does].
3. The four privileges that the husband is granted are all rabbinic in origin. They are:
- a) the right to the fruits of her labor;
 - b) the right to any ownerless object she discovers;
 - c) the right to benefit from the profits of her property during her lifetime;
 - d) the right to inherit her [property] if she dies during his lifetime. His rights to her property supersede [the rights of] all others. ([Rambam Laws of Marriage 12:1-3](#))

As Professor Judith Hauptman writes: “In a sense, this is a complete insurance policy. She will be provided for if catastrophe strikes during marriage. She will be provided for after she is widowed. Her children will be provided for after the death of her husband: Her sons will inherit his estate as well as hers and her daughters will be maintained by it.” ([Hauptman 67](#)) This goes a long way towards mitigating the woman’s vulnerability, but as Hauptman points out, protections are offered only to the woman and not the man because she is so much more vulnerable. He remains relatively all-powerful in the marriage as well as society at large.

Medieval Expansion

The trajectory of the greater protection of women continues in the Middle Ages, particularly in the Ashkenazi world, with the ban of polygamy:

(10) Rabbenu Gershom [ben Yehuda] decreed excommunication on one who marries [another woman] in addition to his wife, though he did not decree excommunication in [the case of] a *yebama* [a widowed sister-in-law to whom one is obligated in levirate marriage], ...And his decree has not spread to all countries. And he only decreed excommunication up until the end of the fifth millennium

(11) It is good to make a declaration in relation to forbidding and to excommunicate a person who takes more than one wife

[Shulchan Arukh Even haEzer 1:9-11](#)(without the Remah’s gloss)

Known as the [Herem deRabbenu Gershom](#), this ban on polygamy has been widely accepted for the last Millennium. Even the Sephardic world, which did not adopt this ban and universally [prohibit polygamy](#) until the mid-1970s, under pressure from the modern state of Israel, traditionally placed [severe limits](#) on the practice of polygamy.

Business, Not Romance

So where is the romance? And what about the mutual, loving and redemptive partnership we explored in Unit 1, that simultaneously echoes Eden and evokes redemption? By legislating these protections for women, the Talmud communicates unequivocally that before it is possible to speak of romance, it is essential to deal with rights and protections. In the words of philosopher [Emmanuel Levinas](#): “Authentic humanism is materialistic humanism” (page [96](#)). Claims of romantic, altruistic, and freely given love must be reflected in economic power. Furthermore, what Levinas (page [97](#)) wrote in connection to worker’s rights can also be applied to marriage: “Hearts open very easily to the working class, wallets with more difficulty. What opens with the most difficulty of all are the doors of our homes.”

Summary and Conclusions

We have traced the objectifying, imbalanced power dynamics of Biblical marriage, as well as the ways these conditions have steadily improved over the last two thousand years. Whereas women were once purchased, they are now guaranteed a significant divorce settlement. In addition, they and their children are protected both during and after marriage, and polygamy is prohibited. In the patriarchal world of the rabbis, these protections are still far from creating a balanced marriage and providing protection to vulnerable women. But they do teach us two essential lessons.

First, they trace a trajectory towards a more just world which we can continue to build on in contemporary times. If the rabbis of old felt it advisable to gradually improve the status of women, modern rabbis should certainly do the same. Second, demanding better conditions for ourselves as women is a sacred duty which in no way conflicts with the love of Torah and Jewish tradition. Just as demands by women for more security were embraced by the sages and led to a more stable family, continued demands by women today for improvement will surely be answered. In the following two units we will outline the most pressing areas in need of improvement, and suggest ways for improving them through social and rabbinic action.

Issues for Further Study:

Jewish tradition is not unique in its patriarchal attitudes towards marriage and women as chattel. One such expression was the English Medieval idea of [coverture](#), in which women had no legal standing beyond her husband. However, there was also a [wide variation](#) in approach. [Muslim law](#) also has many commonalities with Jewish divorce. However, while men can easily divorce their wives, in Islam [either women or the court](#) can also initiate.