

Ksharim



Lesson 37

Marriage



1. Outline:

- a. A study of elements in the marriage ceremony and customs that reflect a connection to the land of Israel.
- b. Laws that set the value of marriage against the value of living in the land of Israel.
- c. A discussion of some of the issues and dilemmas involving marriage and the state in Israel today (the fact that there is no civil marriage or divorce in Israel and the problem of *mamzerut*) and their implications and relevance to different approaches to Jewish nationhood.

2. Introduction

Marriage and family life are central values in Judaism. Jewish law and custom is family oriented and transmitting eternal truths to one's children is the mainstay of Jewish thought. Israel, as we have seen, is also a central value in Judaism. It is therefore interesting to see how these two important principles reflect and reinforce each other. References to the land of Israel are intentionally included in the wedding ceremony itself. On the other hand, what happens when these two principles come into direct conflict with each other? The centrality of marriage in Judaism also makes it a lightning rod for issues in Israel today dealing with religion and state, Jewish identity and nationhood. If marriage is the Jewish framework for families and families are the bricks out of which the Jewish nation is built then the question of what constitutes a marriage is not just a personal one but a national one as well and one which the state today is struggling answer.

3. Goals:

- a. To make the class aware of the references to Israel embedded in the traditional wedding ceremony and other customs and texts related to marriage.
- b. To study the competing values of sanctity of marriage and living in Israel when a conflict arises between them.
- c. To study the issues surrounding marriage in modern Israel and to try to understand why marriage more than any other lifecycle ritual has become the business of the state, as well as the implications of the different arguments on the Jewish identity of the state and the concept of nationhood.

4. Expanded Outline:

a. References to Israel in the Marriage Ceremony.

1. The traditional Jewish wedding ceremony is a combination of symbolic acts representing the sanctity of the union and the new home being created, together with the contractual legal undertakings of each side to the other within marriage. (See source 1). As such there is no obvious need to mention or commemorate the land of Israel - yet certain customs and blessings do just that.
2. Seven blessings are traditionally recited under the wedding canopy. The blessings begin with praising G-d for His creation in general and creation of the human being and proceed with praise for the creation of the human as a "two part creature," woman and man. The blessings express the hope that the new couple will rejoice together forever as though they are the original couple, Adam and Eve in the Garden of Eden. Both the fifth and seventh blessings recall the land of Israel, linking and drawing a parallel between the joys of the new couple with that of a rebuilt Zion. The fifth blessing reads: "The barren city shall rejoice as her children are gathered within her in joy. Blessed are Thou G-D who causes Zion to rejoice with her children." The seventh states: Blessed art Thou G-D who created joy and happiness, the bride and the groom...Soon may we hear in the cities of Judah and the streets of Jerusalem the voice of happiness and the voice of joy, the voice of the groom and the voice of the bride, the happy shouts of wedding parties from their canopies and the music of youths from their feasts of song..." (see source 2).
3. The well known custom of breaking the glass at the end of the ceremony is also thought to symbolize the destruction of the Temple. Although there are other sources to the custom the most popular explanation is that the breaking of the glass is meant to symbolize the destruction of the Temple thus enacting the verse "I will hold Jerusalem above my chiefest joy." Moreover, a common custom among the Orthodox in Israel is to sprinkle ashes on the groom's head at this point and have him recite the verse "If I forget thee O Jerusalem." (It is rather ironic that it is precisely this moment, the breaking of the glass, that is most associated with the wedding celebration and joy, always causing a loud round of *Mazel Tovs*)

4. It is considered a great mitzvah to celebrate a wedding and bring joy to the bride and groom. In order to emphasize how important and meaningful this is the Talmud likens the one who has gladdened the heart of a bridegroom to one who has rebuilt the ruins of Jerusalem. On the opposite end of the spectrum the Talmud reports that the very altar in the Temple weeps for one who divorces his first wife. (See source 3).
5. Another custom connected with weddings is that of the *Aufruf* – or *Shabbat Chatan* - the “Groom’s Sabbath” which for Ashkenazim occurs on the Shabbat preceding the wedding, while the Sephardim observe it on the Shabbat after the wedding. On that Shabbat the groom is given the honor of being called to the Torah; he sometimes chants the Haftorah and is usually showered with candies and sweets. One of the sources for this custom links it with the special gate designated for bridegrooms at the entrance to the Temple. Anyone who walked through this gate was automatically identified as a bridegroom thus enabling the rest of the people present to wish him well, bless him and share in his joy. In its place, after the destruction of the Temple, Shabbat was designated as the time to give the entire community a chance to bless the new couple and share in its joy. (See source 4).
6. **Question for Discussion:** Why are blessings recalling a rebuilt Zion included in the marriage service? What type of connection is being recalled? How is the marriage being linked with the land of Israel?

There is no parallel custom to breaking the glass at either a brit or bar mitzvah. Why specifically at a wedding is a sign of mourning in honor of the Temple included? (Another custom commemorating the destruction is leaving a small part of a new house unplastered, how does this connect to the wedding custom?).

How can the joy of a marriage be compared or related to the joy of rebuilding Jerusalem? What role does the Temple play in the story of the gates? Is that a role the land of Israel is meant to play in Jewish consciousness?

b. The Land of Israel vs. the Sanctity of Marriage

1. Both the sanctity of marriage and the land of Israel are important values in Jewish thought and practice. What happens then when

a conflict arises between them? The Talmud deals with several such issues.

2. The sages ruled that a person living in the land of Israel was not permitted to leave it. (There are some Orthodox Jews today who do not travel abroad for this reason). They listed three exceptions to the rule. One is permitted to leave the land in order to: 1) to learn Torah, 2) to make a living, 3) to find a wife. (See source 5).
3. Another ruling deals with the fate of an existing marriage when one spouse wishes to live in the land of Israel and the other does not. According to halacha a man may divorce his wife if she refuses to move with him to the land of Israel, and is exempt from paying her *ketuba* (i.e., she is at “fault” in the divorce). Likewise a woman may sue for divorce and is entitled to her *ketuba* if she desires to live in Israel and her husband does not. (See Source 6)
4. **Questions for Discussion:** Is it clear from these sources which value takes precedence over the other? Why do you suppose one is permitted to leave the country to find a spouse while an existing marriage may be broken to allow one spouse to live in Israel? How do these laws reflect the value given to the land of Israel? There are parallel laws allowing a son to disobey his father in order to live in the land – is it the same thing?

c. Issues of Marriage and Divorce in Israel Today

In the following section I will try to briefly and objectively describe the status quo in Israel today regarding the laws of marriage and divorce as well as the issues involved. Besides the actual debate itself the class can also discuss why it is that marriage alone out of all life cycle events and rituals has generated such debate and state involvement.

1. In Israel today marriage and divorce are governed by religious law. In other words the law of the land recognizes only religious authorities and law as binding in these areas. There is no civil law pertaining to either marriage or divorce. All citizens are married according to their religious affiliation. Jewish law in these areas is defined as halacha which is determined by the Chief Rabbinate, i.e., Orthodox Jewish law. This situation originated in Ottoman Law which defined “personal status” law by religious affiliation. In regard to Jews it was legislated into Israeli law in 1953 in the The Law of Rabbinical Courts (Marriages and Divorces) – 1953 (see source 7). The rabbi performing the

wedding is considered, according to the Law of Population Registry - 1965 and the Law of the Chief Rabbinate - 1980, the official Marriage Registrar. The notice of the marriage is transmitted directly from the regional rabbinate to the Interior Ministry. The rabbi performing the wedding is also authorized, according to the Law of Financial Relations Between Couples - 1973, to put into effect a financial agreement between the couple, if they have agreed to arrange such a document. After the marriage, such an action will require certification by a court. There is no religious or legal obligation to write such an agreement.

2. This situation has caused many difficulties and much controversy. As Israel absorbs more non-Jews, both Russian Olim who are non-Jews and foreign workers who live in the country, the lack of civil marriage means that there is no authority empowered to perform marriages or divorces between Jews and non-affiliated people or between themselves unless they belong to a recognized religious group. Also according to halacha there are certain marriages that are forbidden: a cohen and a divorced women or convert, a *mamzer* with another Jew, a divorced women with a man identified as her lover while she was still legally married. As these marriages are prohibited by halacha the rabbinate will not perform them. However if the couple manages to get married (for example, by civil marriage in another country) the marriage is recognized *de facto*. (see source 8)
3. Another source of discontent is the fact that many Israelis feel alienated and unhappy with the traditional ceremony as offered or performed by the Rabbinate-approved rabbis. They perceive the rabbi as a functionary of the state bureaucracy, who generally does not have any kind of personal relationship with the couple, and often represents a culture that is foreign to them. They would prefer a liberal, innovative or personalized ceremony instead, ceremonies which are not officially recognized. (see source 9)
4. There are many attempts to bypass the Rabbinate by getting married out of the country, known in Israel as a "Cypriot " marriage since Cyprus is the preferred destination for such trips, being close and inexpensive. This works because a foreign marriage certificate is recognized by the ministry of interior. Those who want an alternate Jewish ceremony then do it separately and rely on their foreign certificate to register as a married couple. (see source 10) Other couples choose to marry in alternate ceremonies and remain officially unmarried. Approximately 30,000 Jewish marriages are registered annually in Israel. 82% of these are registered with the rabbinate and are performed in accordance with Jewish tradition. 81% of Jewish Israelis consider it 'very important' or 'important' to be married with a rabbinic blessing. Almost half (49%) of this population believe that there should be legal civil marriage in Israel, though only 26% would opt for this alternative. (These statistics are

compiled from the Central Bureau of Statistics and the study of the Avi Chai Foundation, February, 2002; other studies suggest that a higher percentage of couples would opt out).

5. In an attempt to address the dissatisfaction with the Rabbinat a group of Religious Zionist Rabbis have formed an organization called Tzohar, ("skylight") dedicated to making the traditional ceremony more meaningful and personal for all couples within the bounds of halacha. They also refuse to accept any money for officiating at weddings, which helps ease the added frustration of having to pay for a service you really don't want and aren't at all pleased with. (see source 11)
6. The problems get worse with the issue of divorce. Here the rabbinical courts have often proven inefficient and unresponsive to the sensibilities of the general population. There is much criticism about the status of women within the existing framework since by Jewish law a husband must grant his wife divorce and while she can sue for divorce the halacha is reluctant to force a husband to grant one against his will.
7. Many organizations and lobby groups are pushing for a reform and the legislation of civil marriage and divorce in Israel. At first glance this demand seems not only justified but inevitable. Stopping the Rabbinat's monopoly on marriage and divorce would allow all people as well as all Jews to act in accordance with their personal beliefs. (see source 12). Such is the case in the Jewish world outside Israel. Jews choose the type of Jewish wedding they want (if any) and are married by their respective rabbis in accordance with that movement's laws and customs. Furthermore even in Israel, Orthodoxy's stranglehold on marriage is unique. There is no state law requiring that a child be circumcised or called to Torah on his bar mitzvah or that a person be buried according to Jewish law, so why in regard to marriage must religious law be enforced nationally?
8. There is a complication. The halacha mandates that any child born of an illicit relation (one prohibited in Leviticus Chapter 18) is considered a *mamzer*. A *mamzer* is prohibited to marry any other Jew except another *mamzer*. One of the illicit relationships that produce a *mamzer* is one between a married woman and a man who is not her husband. According to halacha as long as a woman does not receive a valid *get* or Jewish divorce then she is still married to her first husband, even if she has been granted a civil divorce. Any children produced in her second marriage will be classified as *mamzerim*. Observant Jews are forbidden from marrying them. Therefore allowing Jews to divorce outside the halacha is likely to create a situation where Orthodox Jews will not marry other Jews. It is this scenario that is used to justify the status quo – despite its many shortcomings.

9. The problem of *mamzerut* was one of the reasons some rabbis required the Ethiopian Jews to convert. The accepted mode of divorce among Ethiopian Jews did not comply with accepted halacha and therefore there was a real chance that many would be classified *mamzerim*. Since a convert is considered as a “newborn,” conversion was one way of saving many from such a classification that would have prevented them from marrying other Jews in Israel.
10. Once again the argument can be made that in the rest of the world Jews act according to their religious consciousness and affiliation and in the case of marriage between Orthodox and other Jews the specific couple and their community choose whether to accept the marriage or not. Why not in Israel?
11. The answering argument is that while in the Diaspora the fact that an Orthodox Jew may see himself as forbidden from marrying a reform Jew is a cause of division between the different streams of Judaism and may be the cause of personal tragedies, it doesn't threaten the nationhood of the Jewish people. Judaism continues to exist as a pluralistic religion within the host nation. In Israel where there is an attempt being made to create a nation of Jews, where Judaism is conceived in terms of nationality and not just religion such fragmentation of the society may pose a real threat not just to Jewish unity but to Jewish nationhood. The claim that is usually raised is that such a move would lead to the creation of two separate nations in the country.
12. This issue is currently being debated at all levels of Israeli society with different proposals. It seems that the ultimate solution will be an indication of the ability of different types of Jews to work together in the interest of Jewish unity and nationhood. (see source 13)

Conclusion:

Marriage holds a unique and significant place in Judaism. It is the framework of the Jewish home and family, the bearers of Jewish tradition. It is this special status that on one hand encourages comparisons and connections with the imagery of the land of Israel, another central value and framework in Judaism. On the other hand it is because marriage is so highly valued and the family perceived as the basis of the Jewish nation that the laws governing marriage have become concerns not of just the rabbis but of the state itself.