
CONTEMPLATING A JEWISH RITUAL OF SAME-SEX
UNION:

AN INQUIRY INTO THE MEANINGS OF MARRIAGE

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The debate in the United States on same—sex marriage has become a keenly contested social and political battle. The intensity of the conflict may be a bit puzzling. Why should the freedom of a minority to marry threaten marriage for the majority or the idea of marriage itself? How is it that the passions around this issue so often seem to surpass the issue's relative social importance? In part, the explanation lies in the significant transformations already under way in regard to both homosexuality and marriage. Until very recently, both marriage and homosexuality were governed by unquestioned cultural assumptions. Homosexuality was an abominable perversity and marriage a sought—after state of happiness, security, and continuity. Over the past thirty years, in Western societies both of these cultural foundations have been shaken. Homosexuality is no longer considered an unequivocal evil nor is marriage universally deemed an unequivocal good.

Much of the heat of the debate is a function of deeply held religious convictions. Many of the underlying categories of the controversy are theological and the questions they put to us are patently religious. Is nature—or, if you like, “the original intent of the Creator”—corrupted, expanded, or affirmed by homosexuality? Does the biblical creation story define marriage exclusively as the union of one man and one woman? What are the moral and religious meanings of gender? Of sexual pleasure? Is marriage a “natural” institution or is it a sociocultural one, open to change as society changes? Is the sanctification of homosexual partnership a victory for love, an overcoming of gender by justice, or a sign of the corruption and decadence of our time? Although the legal considerations of the civil code surely do not so specify, questions of same—sex marriage are bound up in terms of sacred text and liturgy, sin and sanctity, ritual and ethics, creation and redemption.

If we are to work through the question of same—sex marriage, we will have no recourse but to explore our religious traditions more deeply in order to understand how they have already conditioned our language,

how they may be insidiously and inappropriately investing government in religious tests, and how they may still be able to inform, if not govern, the definition of marriage.

In service of this aim, the purpose of this essay is to explore the idea of same—sex marriage as a religious problem and, more specifically, as a halakhic problem. In traditional Jewish circles, religious problems are framed first and foremost as legal or halakhic problems, problems of praxis. For the sake of this inquiry, we will set aside the questions of the halakhic legitimacy of gay relationships and their formalization, and focus instead on what form such ceremonies ought to take. Should we employ the existing rituals of matrimony used for heterosexual couples, and if not, what other options are available? From the perspective of the Jewish law, what ought a same—sex wedding to look like?

On the surface, jumping over the question of the legitimacy of gay marriage may seem wildly presumptuous. The traditional Orthodox perspective, to date, is essentially univocal in its condemnation of same—sex sexual expression (if somewhat more vociferously for males than for females), and representative bodies have vehemently protested the adoption of same—sex marriage. There are even a few midrashic texts that explicitly decry same—sex marriage, the most famous being that of Rav Huna, the Babylonian rabbi who tells us that the generation of the flood was not obliterated from the world until they wrote nuptial songs for [unions between] males and [between humans and] animals. Beyond the midrashic material associating same—sex marriage with corruption and divine retribution, the rabbis explicitly prohibited such rites. In Deut. 18:3<n—>4, the Torah prohibits copying the practices and customs of the Egyptian pagans. Which practices may not be copied? Those, say the rabbis, that were given legal force from the time of the fathers and their father's fathers. "What would they do? A man would marry a man, a woman a woman, a man would marry a woman and her daughter, and a woman would be married to two men" (Sifra 9:8). The contemporary Orthodox rabbi grounding himself in the halakhah would appear to be free from any duty to delve more deeply into the question. Two factors, however, suggest otherwise.

First, the Orthodox community has begun to actually meet its own gay members. For many, their first encounter with a gay Orthodox Jew was on a movie screen. Sandi Simcha DuBowski's documentary *Trembling before G—d* (released in October 2001) documented the challenges faced by gay Orthodox Jews. *Trembling* became a cultural phenomenon when hundreds of synagogues, Jewish community centers, religious school faculties, students, and professional and community organizations screened the film and held frank postscreening conversations involving the film maker, subjects of the film, and local rabbis. Although the changes are

happening slowly, for many in the Orthodox community, homosexuality is no longer theoretical but quite up close and personal. The gay visibility that has so powerfully affected the larger culture is beginning to make inroads into the Orthodox community. Gay teens are coming out of the closet in high school, couples are divorcing due to the sexual orientation of a spouse, gay parents are seeking religious schools for their children, and gay people of all sorts are sharing their stories with their families, their friends, and their rabbis.

Second, Orthodox mental health professionals have become more confident in their rejection of the characterization of homosexuality as mental illness and are becoming increasingly unwilling to attempt "reparative therapy" with patients. As rabbis come to understand that gayness is not a curable disease but instead an unchangeable feature of a person's basic makeup, they slowly begin to reconsider both their rhetoric and their policies.

Although few if any traditional rabbis will be actively conducting same—sex ceremonies in the near future, they are being asked to weigh in on such events when they occur. Orthodox rabbis are being asked whether it is permissible for family members to attend the "wedding" of a daughter or brother. And once rabbis are in the loop, they begin to ask about the content of the ceremony, and in a number of cases they have quietly contributed to the planning of a "halakhically sensitive" commitment ritual.

My hope is that by exploring the details of praxis—in this case, those of the traditional Jewish wedding—and by considering their relevance (or lack thereof) to same—sex coupling, we may be able to tease out some interesting insights in regard to both homosexuality and marriage. At the very least, by beginning with the formal and liturgical questions involved in the creation of a same—sex wedding ritual, we will be able to clarify our terms, deepen our questions, and provide a much richer frame for the consideration of same—sex marriage.¹

Deconstructing the Dish

The traditional Jewish wedding has a warm and venerable feel to it, and taking it apart in order to better understand it can be a bit demystifying. Many rabbis who conduct Jewish weddings and employ the traditional marital rituals have actively ignored their historical origins, consciously filling them with new meanings or slightly modifying them in order to make them consonant with contemporary experience. This ahistorical sleight—of—hand has helped to construct the Jewish wedding as a beautiful and unassailable black box.

Although the loss of naïveté required may be disenchanting to some, unpacking the structural and liturgical elements of these rituals will offer

us an unusual opportunity to think about the possible meanings of marriage and to replace our shared confusion with a bit more understanding. In order to do this, we will first ground the conversation with a description of the structure of the traditional Jewish wedding ceremony and the basics of each ritual, and then we will return to each component and ask whether and how it might apply to same-sex couples.²

There are two rituals and one legal document that make up a Jewish wedding. They are the espousal ceremony called *erusin*, the nuptial celebration called *nisuin*, and the marriage contract called the *ketubah*. Formally speaking, *erusin* made a woman prohibited sexually to the world and *nisuin* permitted her to her husband. Once *erusin* was contracted, no other man could preempt the husband. Initially, *erusin* and *nisuin* were distinct rituals commonly separated by a full year, during which time families devoted themselves to preparing the dowry, the wedding banquet, and the couple's future home. Sexual relations were not permitted to the espoused couple until the completion of the *nisuin*.³ The rabbis commonly referred to the *erusin* as *kiddushin*, meaning "sanctification," and the *nisuin* as *huppah*, meaning "canopy." In the twelfth century, the time lapse between the espousal and the nuptials was removed and these two rituals were fused together into a single matrimonial ceremony.

The *ERUSIN*

The *erusin* begins with two blessings: the first is the standard blessing recited upon wine and the second is the espousal blessing proper (*birkat erusin*).⁴ "Blessed are you Lord, ruler of the universe, who has sanctified us by his commandments, and commanded us regarding forbidden connections and has forbidden us those who are merely espoused, but has permitted to us those lawfully married to us by *huppah* and *kiddushin*. Blessed are you, O Lord, who sanctifies his people Israel by means of *huppah* and *kiddushin*." This blessing is obviously said by or for the groom, the "us" being a collective reference to Israelite men. The blessing appears to have been instituted as a warning to couples who might otherwise have engaged in sexual relations during the original time lag between the two ceremonies.⁵

The *erusin* itself consists of an act by which the groom gives an object of value to his bride. Traditionally, he puts a ring (which he owns) on the right forefinger of the bride and recites the following statement: "Behold you are sanctified to me by this ring according to the laws of Moses and Israel." By accepting and so acquiring the ring, the bride gives to her groom exclusive access to her sexual body. She is now sexually off limits to all other men. Were the couple to recant at this point, a legal divorce

would be required. Fundamentally, the marriage is enacted by this transfer. The act must be initiated by the man and responded to freely by a woman before witnesses. It is by definition a public affirmation that both parties have knowingly and voluntarily entered into a marriage contract with one another.

The legal means by which the espousal is contracted is acquisition. The word used in Deut. 22:13 for taking a wife (*kihah*) is the same word used in Gen. 23:13 for Abraham's "acquiring" the Cave of Machpelah. The Mishna introduces the tractate of *Kiddushin* by telling us that "a woman can be acquired (*kinyan*) by money, written document, or sexual intercourse."⁶ Witnesses were required for all three methods. Because of the immodesty of arranging for witnesses, sexual intercourse was essentially eradicated by later authorities as a means of realizing a marriage contract. The standard marriage ceremony was initiated by the transfer of an object of value, typically a ring, from one party to another. The act is unilateral and the man is the sole initiator of the transaction. Were a woman to "take" a man by the same ritual formula (reciting the formula of "Behold you are sanctified to me . . ." and the giving of a ring), the act would have no halakhic meaning.⁷ It is clear that he is buying and she is selling—but exactly what is up for sale and what is meant by ownership in this circumstance?

Because, formally speaking, ownership is about rights, one might say that the husband acquires certain rights in relation to his wife's body. Following the *erusin*, he "owns" an aspect of her body (of which he cannot partake until after the *nisuin*). However, this is a very unusual sort of ownership. When one owns an object, one has the right to do with it what one wants, to restrict others from its use, to loan it to someone, or to give it away.⁸ This is not the case with a wife. A wife is not like a loaf of bread that may be shared with others.⁹ Moreover, the law does not permit a husband to force his wife to engage in sexual intercourse. If she refuses, he may try to seduce her, but he is not permitted to force her. Moreover, whether he has desire or not, he is obligated to satisfy his wife's sexual needs, at the very least once weekly. The ownership that *erusin* confers is neither absolute nor conventional.

Because the marital bond could not be understood as an ordinary form of chattel ownership, the rabbis appear to have associated the woman's change of status with another ritual metaphor, that of the sanctification of property—*hekdes*. Any person was free to make a pledge to give an object or animal to the Temple by means of simple statement. Once uttered, the object becomes *hekdes*, the sanctified property of God, and could not be used for any secular purpose. It is forbidden to the world and permitted only to the custodians of the Temple. *Kiddushin*, like *hekdes*, is a method of transformation, a formula for the creation of something

holy. By an act of *kiddushin*, a woman's sexuality becomes *hekdesb*, sanctified and therefore off limits to all men other than her husband.

Nothing about the man's body is articulated by this traditional ritual. Her status changes, his does not. He is formally free to take other wives. Adultery is only the wife's sexual disloyalty. A married man may be branded a degenerate or a cad by the community, but his extramarital affairs with unmarried women are not formally considered adultery. Originally, polygamy was permitted to those men with the means to support and sexually satisfy more than one wife. Despite the formal permission, the norm throughout Jewish history was essentially monogamous, in part due to the pragmatic difficulties of sustaining multiple wives. For example, there is no evidence of a single rabbi in either the Jerusalem or the Babylonian Talmud having had more than one wife. Later in the twelfth century, under the influence of Christian custom and around the time that the ideals of romantic love were being popularized by troubadours in France, Jewish religious authorities began to strongly discourage and then finally to prohibit the practice of polygamy.¹⁰

Consequently, today, when a groom gives his bride a ring, he too is being formally limited to a single partner. So although the act is technically unilateral, the consequences are not. Still, the fundamental legal roots of *kiddushin*, even if they have been largely reduced to a metaphor, are deeply morally troublesome if not offensive to the egalitarian sensibilities of many in the contemporary social context.

The *Ketubah*

Following the *erusin* and before the *nisuin*, a marriage contract, called a *ketubah*, already drafted, signed, and witnessed, is given by the groom to the bride. The rabbis initiated the requirement of the *ketubah* in order to protect women from the unfettered male powers embedded in the inherited institution. Both prerogatives, that of marriage and that of divorce, were to be initiated by men. One needed a woman's consent to contract a marriage; but a divorce could be effected by a man even against a woman's will. Because few premodern women could earn a living wage, the sale of her pristine sexuality to a man who would support her for life was perhaps a woman's most fundamental power. Once her virginity was given away, a woman was particularly vulnerable to a husband's whims. Because a man was legally free to divorce his wife for any reason, a woman could easily find herself divorced, destitute, and practically without hope for remarriage. This problem so deeply concerned the rabbis that they created a disincentive for husbands to summarily divorce their wives by binding them to a contract to pay a sizable sum of money in just such a case.

The contract, called a *ketubah*, is not a marriage contract per se. It is an agreement that roughly delineates the duties of both parties in the marriage, marks the monies brought into the union by each side, and specifically obligates the husband to pay the wife prescribed sums of money in the event of divorce or of his decease. After the *ketubah* is read and handed over to the woman, the second portion of the wedding ceremony, the *nisuin*, begins.

The *NISUIN*

The *nisuin* is a public accompaniment of the couple to their shared domicile, an affirmation of the beginning of their intimate life together, and a celebration of their union with family and friends. The *nisuin* is marked by seven blessings that speak of the creation of human beings in God's image, Adam and Eve brought together in the Garden of Eden, and the future restoration of Zion in joy and delight. After the wedding blessings are recited, the groom breaks a glass to signify that the joy of the wedding does not completely erase the sadness of the destruction of Jerusalem and the Holy Temple, and with this gesture to the brokenness of life, the music, dancing, and celebration begins.

Following this ceremony, the couple is permitted and indeed enjoined to share sexual intimacy. Originally, the couple was accompanied to the groom's home or to a colorfully decorated tent symbolizing the groom's domicile, where the consummation of the marriage took place. Eventually, more delicate sensibilities determined that a symbolic nuptial chamber would be preferable and a canopy on four poles was substituted for the real thing. However, because there was still a need for a more private encounter (even if it did not include the first sexual intercourse), after the *nisuin* the couple is ushered into a private room where they can be alone together, unchaperoned, for the first time. It is a symbolic beginning of their now fully sanctioned sexual intimacy.

This is the essential format of the traditional Jewish wedding. Liberal rabbis have introduced egalitarian modifications of various sorts into the service, but despite these attempts, the fundamental legal structure of *kiddushin* has largely been retained. What elements of this service ought to be adopted by gay couples seeking a commitment ritual?

In order to create an appropriate gay wedding ceremony we will need to pay attention to the appropriateness of the various liturgical elements but also to the implicit conceptual frames that give marriage substance. So, let us revisit the *erusin*, the *ketubah*, and the *nisuin* in order to imagine their relevance to gay coupling and commitment.

Erusin Revisited

The central legal engine of *erusin* is acquisition. Women are acquired by men through *kiddushin*, men are not acquired by women. Initially, the bride price was a serious sum of money, but eventually the real purchase became symbolic as the hefty sum was replaced with a token gift worth not less than the lowest coin of the realm. Still, the metaphoric frame of *erusin*, the idea of “buying” a wife, even if only a symbolic act, is surely disturbing for contemporary sensibilities, straight or gay. Liberal rabbis who use *kiddushin*, as well as some Modern Orthodox rabbis, make efforts to mask the origins of the rituals by adding elements to the ring ceremony.

Traditionally, the man places the ring on the woman’s finger and says, “By this ring be thou sanctified unto me [i.e., You are exclusively mine] according to the laws of Moses and Israel.” In order to create a greater sense of mutuality, Liberal rabbis innovated an exchange of rings. Non—Orthodox rabbis have made the mutuality total by having the woman use the same language that the man uses, “Be thou sanctified unto me . . .” For Orthodox rabbis, however, the double—ring ceremony is particularly problematic because if rings are exchanged in succession, then technically speaking no *kiddushin* has occurred. No transaction, no change of status, is effected because the parties have simply traded gifts, a ring for a ring. Some Modern Orthodox rabbis have tried to retain the one—sided halakhic act of acquisition while providing a sense of mutuality by adding a second ring ceremony later in the service, during which the bride gives the groom a ring and says a beautiful, if legally inconsequential, line from the Song of Songs such as “I am my beloved’s and my beloved is mine” (6:3).

Jewish feminists have challenged not only the cosmetic adjustments of Modern Orthodox rabbis, but even the adjustments of Liberal rabbis, claiming that they do not address the fundamental problem of acquisition. According to Rachel Adler, the unilateral nature of the *kiddushin* is not the only problem. The problem of *kiddushin* rests as well in its fundamental legal ground as a purchase.¹¹ If Adler is right, then the double—ring ceremony, well—meaning as it may be, does not solve the problem. The adding of the bride’s gift of a ring to the groom only responds to the dilemma of one commodification by adding another. In Adler’s view, mutual dehumanization will not heal the ritual.

Adler’s critique makes a good deal of sense, especially for gay and lesbian Jews. Even if heterosexuals might want to sustain the frameworks of *kiddushin*, why should gay couples do so? Because there is no venerable tradition of same—sex union upon which to build and no gender difference to enact ritually, however benignly, why would gay couples want to adopt *kiddushin*? Given that there are no traditions in regard to same—sex

unions, why not be totally free to choose a mode of effecting and celebrating our unions that has no taint of inequality or commodification?

The question to ask at this point is why the sages of the Talmud employed the language of acquisition in the first place. Might the metaphor of ownership be more than a remnant of patriarchal domination? Despite the moral pitfalls of the language, it may be that marriage is bound up in ownership because, for all its uncomfortable associations, it still comes closest to what couples intend. The giving of oneself and especially one’s sexual body to another in love is often articulated as a belonging. “You are mine” is what we mean when we give a ring. “I am yours” is what we mean when we let our partner place it on our finger.

Different couples imagine different sorts of relationships when they marry. They may or may not share their finances; they may or may not be able to live full—time in the same city; they may or may not have other families demanding of their time and money. But whatever couples may mean by their commitments in marriage, they are always committing to an exclusivity of a sort. Or to put it another way, although loving one person does not preclude loving another, in marriage we delineate a sort of access to our heart and to our body that cannot be shared with others outside the marital relationship.

Marrying is not like making a best friend or acquiring the perfect business partner or roommate. It is about a union that is unique and unlike all others. Although various cultures (and individuals) have marked the violation of exclusiveness at different points on a continuum from eye contact to sexual intercourse, the meaning of marriage is surely bound up in some mix of sexual and emotional exclusivity.

Marital ownership/exclusivity was once one—sided. Men “owned” women. What happens to the notion of ownership when it is mutually agreed on and mutually undertaken in love, when both “own” each other? Bilateral ownership may well transform the relationship from one of patriarchal possession and control into one of profound solidarity.

Monogamy in biblical tradition was primarily a limit in regard to female sexuality. If both parties are indeed “sanctified” to the other, then there would be no room for non—monogamous frames of marriage for either partner. Some members of the gay community have claimed that this restriction is a feature of heterosexual marriage that ought not to be carried into gay marriage. The structure of the *kiddushin*, as focused as it is on the giving over of one’s sexual body exclusively to one and only one partner, would not tolerate such notions of open marriage.

Given this understanding of *kiddushin*, gay couples committing to an exclusive relationship may be inclined to appropriate the *kiddushin* ritual and give two separate gifts of a ring, each accompanied by the formal sanctification, “Behold, you are consecrated to me by this ring according

to laws of Moses and Israel.” Because at present there is no widely accepted Mosaic or rabbinic rule that could be said to ground this sort of “*kiddushin*” ritual for gay couples, it may be best to exclude the latter phrase. However, this excision leaves a significant vacancy in the ritual. The phrase “according to the laws of Moses and Israel” lets us know that the words spoken and the commitments undertaken have a social context and sanction in a particular community. Marriage as an institution has little meaning unless there is a communal administration of some sort within which it makes a difference. Unfortunately, we cannot already have what we are in the process of building. Because we are only now creating the norms and the community that will take same—sex marriage seriously, we cannot now have the authority we seek. In the meantime, couples belonging to religious communities that support same—sex marriage might add “according to the custom of . . .” and add whatever synagogue or communal or religious body is the acting authority.

Another possibility is to contextualize the commitment in a much more personal way by adding the phrase “before my family, my friends, and my God.” The advantage is that this works without any real communal sanction and that it rings true to many people that what is most important to them is that their commitment be honored both by their close associates and by God. Its weakness is that it is so personal that it lacks any frame of convention. Were the couple to change their minds the next morning, they could, in fact, part without a trace, having nothing but their own feelings to which to be held accountable.

This is one of the most difficult aspects of social change. It demands the capacity to act before a stage has been built, to be without any context, indeed to do in order to weave the very context that will make being possible. Dramatic social change always includes a fantasy. It demands that one behave as if the redemption has already come. Gay couples are “marrying” in order to create the very possibility of same—sex marriage as a cultural and legal reality. As such, while there is no “administration” of gay marriage, no solid ground of social or legal responsibility to which to be held accountable, the oath taken before friends, family, and God may be the closest frame to duty that can be mustered.

In the absence of an administration that defines the terms of commitment formally undertaken at a wedding and enforces them, at the very least it would seem important to ensure that both parties actually understand what they can expect from one another, what they are committing to one another before God. In this circumstance, a more specific delineation of the contracted rights and duties to which both parties have agreed would seem to be an important part of the formal ritual. Were couples to entertain such a formulation, then there would be a need for a document drafted by both parties in advance that would address the details. Were

such a document drafted, then each member of the couple in turn could place a ring on the partner’s finger and say, “Behold, you are consecrated to me by this ring according to the promises I made to you.”

Ketubah Revisited

The *ketubah* essentially accomplishes two tasks: it protects the woman from a man’s power to summarily divorce his wife on a whim, and it sets out the obligations of each party. The standard *ketubah* requires the groom to promise one hundred silver pieces in the event of divorce or death. The bride is expected to bring from her family a dowry valued at one hundred silver pieces and the groom is to add to her dowry another one hundred silver pieces of his own. In total, every couple was expected to begin their lives together with two hundred silver pieces, and were he to divorce her, she would receive all three hundred silver pieces in the settlement. The protections of the *ketubah* were noble when they were enacted, but in practice contemporary U.S. divorce law exceeds these stipulations.

In addition to financial matters, duties and obligations of other sorts are recorded. He obligates himself to pay for her food and clothing and provide for her sexual needs, and she is expected to serve him and create a household according to “the custom of Jewish wives.” The specific delineation of duties in the *ketubah* is highly gender role—determined and would not be typical or representative of the nature of marriage for many contemporary couples.

Historically, the *ketubah* was a template that was often modified to meet differing sorts of individual contractual interests. When the couples wished to stipulate duties and freedoms different from the norm, they were free, within certain limits, to change the language of the *ketubah*. A woman was free to ask that her *ketubah* specify that she would not do specific household chores and would instead contribute to the household income from her own resources, or she could ask for a stipulation that she be free to visit her family so many times a year and so on. These stipulations portray a male—dominant cultural norm in which a woman might easily be prevented from visiting her parents or siblings by her new husband and so might feel the need to make such interests explicit and contractually binding. Details of this sort, which helped to clarify the specifics of the particular relationship, were commonly worked out by families and by the couple in advance.

Heterosexual Orthodox couples desiring an egalitarian relationship still employ the standard *ketubah* in the interests of hallowing the rabbinic tradition. They adopt the form but not the social message. But it would make little sense for traditional gay and lesbian couples to follow suit.

Whether heterosexual couples find the patriarchal sex—role divisions problematic or not, gay couples simply do not have such gender distinctions to address, nor any long history of traditional ritual to honor. So if gay Jews choose not to use the *ketubah*, should another sort of document replace it? How should same—sex couples specify the duties and expectations of their relationships?

We could just dispense with the *ketubah* and its delineation of specifics altogether. It is common for marrying couples today to structure their own vows, which serves a similar purpose. Personal vows of love and commitment can be romantic and powerful, even if they are legally inconsequential. No one could take an ordinary wedding vow to court to prosecute for satisfaction of the terms, claiming the party of the first part did not fulfill “to have and to hold.” Contemporary weddings are highly melodramatic affairs that speak grandiosely about romantic love, but whose formal commitments are vague—calling parties “to love, protect, and cherish” each other “till death do us part.” The question that rarely gets answered at weddings is “What exactly are these two people committing to?”

Now, it may be that vagueness is an unavoidable element, or even a necessary feature of marital commitment. Marriage is the sort of commitment that grounds itself in persons rather than in a set of well—defined contracted duties, and for good reason. The full set of obligations that will ensue over a lifetime following the “I do” can never be anticipated, much less delineated. Love commits us to duties whose specifications we cannot know in advance. However true it is that a vow of love cannot be fully quantified into a set of actions, the modern penchant for sentiment over content may still be a disingenuous way to avoid the fact that duties contracted must be fulfilled no matter what one happens to be feeling. Feelings inaugurate our commitment to action; we do not commit to feel, we commit to do. If so, then what sort of marriage contract ought we to draw up? How do we formally articulate what we mean by marriage?

Of course, we may well need to invent totally new ways of contracting our love relationships. Rachel Adler has suggested the use of a legally binding relation described in the halakhah that is fully mutual and beyond gender, that of legal partnership.¹² Partners in an economic enterprise are *shutafim* in Hebrew. They are bound to each other in a mutual fashion and can obligate themselves in specific ways as determined by their agreement. Such a contract, a *shetar shutafut*, could replace the *ketubah*. It would mark the establishment of the partnership and stipulate the duties that both enjoined upon each other. Partnership was traditionally accomplished by each party putting assets into a bag and lifting it together, symbolizing the joining together of their individual properties into a single enterprise. This ritual might be added to the giving of rings as a formal way to mark the joining of two households into one and not the adoption

of a woman into the household of a man. The text would stipulate the duties and obligations of each partner to the other that emerge from their shared love. Both would sign it along with witnesses. It would provide couples an opportunity to discuss in advance many sensitive concerns and allow them to construct a partnership to fit their unique circumstances. As well, the document ought to stipulate how the relationship may be terminated and under what conditions.

Shutafut is a model of formally and legally delineating what, in fact, a union demands of each partner. It marks a full disclosure of assets and sets up a clear set of commitments for two parties to join their resources together for the purpose of creating a shared home. Interestingly, the sages considered partnership to be more than the giving over of financial resources toward a shared endeavor. A medieval halakhic authority, Rabbi Abraham ben David Zimri (referred to as the Ra’avad), uses astonishing language to describe business partnership. Each party in a partnership, he suggests, becomes an *eved ivri*, a Jewish slave, to the other. Conceptually, Jewish slavery was a world apart from its harsh Roman counterpart or from the brutality of the European colonial slavery of Africans. For example, the halakhah obligated a master to give a slave food and lodging that was qualitatively similar to his or her own. Even so, the notion of partnership as slavery is surely jarring. However, here again, the mutuality of servitude transforms the very notion of slavery into something very different. Similar to the double—ring ceremony of *erusin*, the mutuality of slavery makes both parties slave and master, transforming a hierarchical relationship into a relationship with a profound union of rights and obligations. Each party enters into such a relationship knowing that he or she will serve and be served in love. Perhaps this is the deeper meaning of “I am my beloved’s and my beloved is mine” (Song of Sol. 6:3).

It is customary in the establishment of a partnership (*shutafut*) that each party put something of value into a bag and then both lift the bag to inaugurate their joining together in a shared enterprise. This ritual marks the fact that the resources of two people are being pooled in the service of their new partnership. In order to situate this ritual in a more personal rather than merely businesslike context, it may be helpful to ask each partner to recite the line “I am my beloved’s and my beloved is mine” from the Song of Sol. 6:3, which captures the ideas of partnership, mutual belonging, sexual exclusivity, and love, all in one.

The *erusin* is the decisive act of marriage. It is about the closing off of options. For some people, the choice of marriage is an act of determined ferociousness, a killing off of a myriad of potential lives in order to actually live one life. *Erusin* is the formal relinquishing of the infinite possibilities that loving one person uniquely demands. This sort of commitment entails a reckoning with mortality and a welcoming of finitude. Of

course, a new—and in its own way infinite—territory is born by the decision to love one person. The joy of this new world is at the center of the *nisuin*.

Nisuin Revisited

Originally, the *nisuin* was the communal accompaniment of the bride to the home of the groom, the public recitation of the seven wedding blessings, the privacy of the couple (and originally the consummation), followed by the banquet. During the twelfth century, the canopy was instituted as a symbolic groom's domicile and in lieu of the couple's first consummation, the bride and groom are ushered into a private room in which they can share a few intimate moments behind a closed door before joining their guests at the banquet.

The *nisuin* is the joyous part of marriage. It is the ceremony that formally permits the bride and groom to be physically intimate with each other. If *erusin* is about sexual restriction, then *nisuin* is about sexual expression. The *erusin* moves from the public toward the private, while the *nisuin* moves from the private back to the public. The *erusin* is a segregation, the *nisuin* an inclusion, a weaving of the personal into the communal, by public acknowledgment and joyous celebration. This inauguration of the most intimate element of a couple's shared life is celebrated with family and friends amid dancing, music, and a lavish feast.

Last, the *nisuin* provides the cosmic frame for the whole affair. A wedding is about much more than the romantic joining of two lovers. It is about marking the love of two people as part of heaven's greater purposes. At the center of the *nisuin* is a story, a narrative that holds the power of what we are doing. If we are celebrating the love of two people, then a party will do. If we are tracing the lines in some grander plot in which the love of two is situated, then we have more solid ground for spiritual depth.

The master story of the traditional wedding is conveyed with the seven blessings chanted under the *huppah* before family and friends. They are arguably the most beautiful part of the service.

1. Blessed are You, Lord our God, Ruler of the universe, who created the fruit of the vine.
2. Blessed are You, Lord our God, Ruler of the universe, who created everything for your glory.
3. Blessed are You, Lord our God, Ruler of the universe, shaper of humanity.
4. Blessed are You, Lord our God, Ruler of the universe, who has shaped human beings in his image, an image patterned after his likeness, and established from within it a perpetuation of itself. Blessed are You, Lord, shaper of humanity.

5. May the barren one exult and be glad as her children are joyfully gathered to her. Blessed are You, Lord, who gladdens Israel with her children.

6. Grant great joy to these loving friends as You once gladdened Your creations in the Garden of Eden. Blessed are You, Lord, who gladdens the groom and bride.

7. Blessed are You, Lord our God, Ruler of the universe, who created joy and gladness, groom and bride, merriment, song, pleasure and delight, love and harmony, peace and companionship. Lord, our God, may there soon be heard in the cities of Judah and the streets of Jerusalem the voice of joy and the voice of gladness, the voice of the groom and the voice of the bride, the rapturous voices of grooms from their bridal chambers, and of young people feasting and singing. Blessed are You, Lord, who gladdens the groom together with the bride.

The first blessing over wine is the way the tradition inaugurates joyous celebrations. The second and third blessings introduce the theme of creation. The second blessing is surprisingly apt for a same-sex wedding. It affirms that everything, perhaps even same-sex love, was created for the glory of God. The third blessing honors the creation of the human being. This blessing surely could be contextualized to apply well enough to gay weddings. However, we will soon see that the themes of creation are particularly relevant to straight weddings.

The next four blessings open up increasingly larger circles of relationship, carrying the love of two into ever more expansive frames of reference. Blessing four is about planting within the human body the power to reproduce. One of the obvious ways that marriage expands the love of two is through family. The duty to reproduce is the first commandment of the Torah. It is considered an affirmation of God's creation to participate in the refurbishment of humanity.

Blessing five is both about children and about the redemptive renewal of Zion in the end of days, when our mother Sarah, the once barren one, will rejoice in the return of her children to the land of Israel. Especially for Jews, family is the foundation of the covenantal promise. God takes Abraham outside and says, "Look up to the heavens, and count the stars if you can . . . so shall be your children" (Gen. 15:5). The Jewish people is a chain of generations all bearing an ancient covenant with God begun with Abraham and Sarah. Jesus made disciples to carry his message; Abraham and Sarah made a baby.

Marriage extends the love of two outward, beyond the family to the community. The stability of community is aided by the fact that the disruptive power of sexual self-interest has been largely neutralized by marriage. Communities of singles are much more unstable, much more transient, and less prone to sinking roots in a particular place or building

lasting institutions. Although this is surely a generalization to which there are exceptions, monogamous marriage is how sexuality can be given its due so that other socially constructive efforts can proceed more smoothly.

The focus of romantic love is narrow. In its most frantic tropes, romantic passion utterly abandons the world. *Nisuin* articulates the love of two not only as a turning inward, but also as a reaching outward toward others. It is a pious custom for brides and grooms to walk down the isle toward the *huppah* reciting psalms and praying for the needs of others. The turning away from the self at this moment is deemed so powerful that heaven cannot help but answer these prayers.

The last two blessings draw an even wider circle beyond the Jewish people to include the world. Blessing six refers to the bride and groom as loving friends. It is a beautiful expression that suggests an emotional bond quite distinct from the patriarchal role divisions of the *ketubah*.¹³ The blessing continues and reminds us that every groom and bride are Adam and Eve in Eden. They reframe every straight wedding as a return to Paradise. Were the world to end and leave only the bride and groom, humanity could begin again. The wedding ritual marks every straight wedding as a reenactment of the beginnings of humanity. Mystically, to witness a wedding is to see a glimpse of Eden, the very beginning when human loneliness was healed in the union of Adam and Eve.

Blessing seven is based on the prophecy of Jeremiah following the destruction of Judea in 586 bce. Amid the ruins of the destroyed capital city, he promises that a day will come when there will again be singing and dancing in the streets of Jerusalem. He tells of wedding revelry and the sounds of children playing in the street. In Jeremiah's mythic frame, every straight wedding becomes a promise of a rebuilt Jerusalem, of a perfected world, more real and more attainable because it speaks not only of the lives present, but also of the generations to come that will be born out of this very moment. At every heterosexual wedding we are witnesses to the beginning and the end of time; we are carried back to Eden and forward to a Jerusalem rebuilt in joy and gladness, pleasure and delight, love and harmony, peace and companionship.

As beautiful and moving as these marital narratives are, they cannot be appropriated for a gay wedding because they do not constitute a gay story. The first few blessings might be salvaged, though by themselves they do not tell us what a gay wedding is, and the last four blessings do not seem right at all for same-sex weddings. Though gay couples are able to raise families, gay unions do not revisit Adam and Eve and the birth of life itself, nor do they promise the physical continuity toward the redeemed Jerusalem that Jeremiah envisioned. The linking of the generations past and future to a same-sex couple underneath the canopy is, at best, much less obvious. We must find more apt images and metaphors for gay love

and commitment, not only for the love of truth, but for the realness and power of the moment that we are celebrating. The poignancy of the moment for straight couples works because the metaphors are experientially genuine, mythically alive, and emotionally compelling. To employ them when they are not cheapens what is actually true and wondrous about same-sex marriage.

In straight marriage, God is linking the generations, connecting us all to our ancestors and to our future progeny, to Eden and Jerusalem. What is God up to in gay marriage that could be honored and celebrated? In fact, the question may be asked even more boldly: What are homosexuals here for? What larger purpose do we suppose God may have in mind for gay people? Is there an inherited sacred narrative that may frame gay love as part of God's great plan? Of course, there is no ready-made biblical narrative. A historically reviled sexuality cannot easily find its holy way. However, there is a sliver of the creation story, an interpretive midrash of the rabbis, and a mystical ritual that may offer a possibility.

In the Beginning

The heterosexual focus of the creation story begins with Adam and Eve. Our starting point will be God and the origins, not of gender, but of partnership. Before creation, God alone fills existence. God's oneness is without division or separation. One is always all—powerful without needing any power—over to be so. One is stable and sure, unchanging and whole. The seed of creation is the idea of more than one. At the moment of creation, the magisterial oneness of God, according to Jewish mystics, concentrated itself to leave room for an—other. Creation begins with the possibility of two.

Two are a rickety thing, a temptation, a suspicious thing, an ecstatic, thrilling, dangerous thing. Two always have a history. The pain and pleasure of difference, the tragedy and glory of the lines that separate things, are the subtext of the first chapters of Genesis. Separation between things inaugurates creation. Light and dark, day and night, the waters below and above, the dry land and the seas are all separated. It is by these separations that creation unfolds. Much as the infant separates first physically and then psychically from its mother, little by little, the world comes to be by separations amid the chaos.

However, twos pose a problem. Separation is a birth pang that passes, but once there are two, how are they to relate? On the third day of creation, two great lights are created. The Hebrew word for lights (*meorot*) is missing a letter in the plural ending. The missing letter is not crucial for the meaning of the word, but the irregularity seems to suggest that something is wrong.

The sages explain that the pair of lights, the sun and the moon, was unstable in a way related to their being two. These twin creations became so highly problematic that God had to alter the original plan.

On the third day, we are told, God made the sun and the moon. “And God made the two great lights, the greater light to rule the day and the lesser light to rule the night, and the stars” (Gen. 1:16). Thus, after introducing the sun and the moon both as great, the text adds that, actually, one light was great and the other was lesser. The contradiction between the verses generated a legend that is recorded in the Talmud.

“And God made the two great lights,” but later it says: “the great light and the lesser light”! The moon said before the Holy One: Master of the world, is it possible for two kings to share (literally: to use) one crown? God said to her: Go and diminish yourself! She said before God: Because I asked a good question, I should diminish myself? God said: Go and rule both in day and in night. She said: What advantage is that? A candle in the daylight is useless. God said: Go and let Israel count their days and years by you. She said: They use the daylight [of the sun] to count seasonal cycles as well. . . . Seeing that she was not appeased, the Holy One said: Bring a (sacrificial) atonement for me that I diminished the moon! This is what R. Shimon ben Lakish said: What is different about the sacrifice (lit. ram) of the new moon that it is offered “for God” [“And one ram of the flock for a sin offering for God” (Num. 28:14) meaning for God’s sin]? Said the Holy One: This ram shall be an atonement for me that I diminished the moon.¹⁴

The problem of two great rulers sharing a single crown is a problem that God does not anticipate. The problem is raised by the moon, and the Creator solves the problem with a fixed hierarchy. The moon complains that she got the raw end of the deal just for asking a tough question, one that ostensibly might have been thought out in advance by the Creator. Failing to appease her, God accepts the duty to offer a sin offering on the occasion of every new moon, a monthly atonement for the lesser status he forced on her.

The moon’s diminishment is understood by the sages as a sin committed against the moon for which God asks to atone. The midrash is an invitation by the rabbis to project a world of restored harmony and equality. A liturgy of sanctifying the new moon was begun in Talmudic times and embellished by later mystical traditions. If God brings a sacrificial atonement for the diminishment of the moon, then there must be some desire on high to truly repent of the wrong done to her. The laws of repentance require it. We learn that there is no forgiveness for sins between parties until the offended party has been appeased. A sacrifice alone cannot right a wrong done. Implicit in the midrash of the first century is Rabbi Isaac Luria’s prayer for the moon’s restoration.

Restoring the Moon: The Ritual of *Kiddush Levanah*

The monthly Jewish ritual of the sanctification of the new moon, *Kiddush Levanah*, is recited during the waxing phase of the lunar cycle.¹⁵ Commonly, the prayer is said at the conclusion of the Sabbath falling during this period. On this Saturday evening following the end of the prayer service, the congregation files outdoors and, underneath a visible moon, chants *Kiddush Levanah*. The sources of the first paragraph are biblical and rabbinic, but the messianic prayer that follows is pure Jewish mysticism:

They taught in the school of Rabbi Yishmael: Were Israel able to greet their Father in heaven only once a month, it would be enough. Abaye says: For this reason it should be said standing.¹⁶ “Who is she, coming up from the desert, leaning on her lover?” (Song of Sol. 8:5)

May it be your will, O Lord, my God and the God of my fathers to fill in the darkness of the moon that she not be diminished at all. And let the light of the moon be as the light of the sun, and as the light of the seven days of creation, just as she was before she was diminished, as it is said: “the two great lights.” And may we be a fulfillment of the verse: “And they shall seek out the Lord their God and David their king.” (Hosea 3:5) Amen.¹⁷

This tradition of the moon’s diminution and its future restoration in the world to come is explicitly understood by Rashi, the most famous of medieval Jewish exegetes, as a veiled reference to women. He says that in the world to come, women will be renewed like the new moon.¹⁸ This prayer, chanted before a waxing moon, imagines an increasing feminine light that will someday be restored to its full equality with the masculine light. If God atones for diminishing the moon and for the subjugation of Eve to Adam after the sin in the garden, then the way things are is not the way things ought to be or ultimately will be. The disharmonies that attended the banishment from Eden, the conflict between humans and the natural world, and the hierarchy of the sexes, these are just the beginning of a great drama, the last act of which will include God’s joyous restoration of the moon.

Perhaps the place to end our same-sex marriage narrative is with the restoration of the moon and the healing of the hierarchy between men and women so apparent in the traditional wedding service. The ancient story of the moon’s diminution and our monthly prayer for her renewal and restoration is already an established and venerable ritual introduced into Jewish custom by R. Yitzhak Luria in the sixteenth century. It is a beautiful ritual, full of dramatic imagery and power of its own. Its relationship to gay marriage is twofold.

The moon is a veiled reference to the feminine in the world, or perhaps, as mystics might say, to the feminine face of God, the *Shekhinah*. Our prayer for its restoration is our hope that we have indeed learned how two can rule with one crown, the sharing of power without hierarchy. Perhaps this is what God ought to have said to the moon in the first place, unless of course, this is the sort of knowledge that can only be acquired over time, a great deal of time, and at great cost. Only the fullest of loves makes it possible for two to rule with one crown. In this midrash we are offered an image of a love beyond gender that embodies neither submission nor domination, but equality and partnership. Might it be that gay relationships are perhaps a harbinger of the moon's restoration, a forward guard to the coming redemption?

Remarkably, this text provides a narrative that also carries us back to both themes of creation and redemption. Although gay unions may not recapitulate creation and redemption in the same way that heterosexual unions do, it appears that the same two tropes are there after all. Straight unions are about the love of Adam and Eve that bears new life. Gay unions are about the flaws of the creation that we are called on to fix. Gay couples, who by definition cannot employ the scaffold of patriarchy to work out their power arrangements, have little choice but to learn how to share a single crown. Whereas straight unions offer a promise of a future redemption in flesh and blood, gay unions help to pave the way for us to heal the very problem of difference, and in a gesture no less redemptive than the rebuilding of Jerusalem, to restore the moon to her former glory.

In practice, the ritual of *Kiddush Levanah* includes the giving and receiving of peace. Under the faintest sliver of the moon's white crescent, each of those assembled blesses the new moon and then turns to one another and says, "*shalom aleichem*," peace be unto you, to which a reverse greeting is returned, "*aleichem shalom*," unto to you be peace. This greeting of peace is shared with three different people and often with a clasping of hands, so while one is seeking three different people to greet, one is being greeted by others. The effect is a moment of communal bonding that is overtly mutual and about the interplay between giving and receiving. What better way to articulate the communal effect of marriage than to spread out its hope of peace and love between two toward the whole community.

The mystical prayer for the restoration of the moon serves as a foil to the degradations of the biblical creation story that unconsciously inhabit the traditional wedding. Before the first couple leaves the garden, Eve's destiny is set in both desire and subjugation: "Your urge shall be for your husband and he shall rule over you" (Gen. 3:16b). For thousands of years, the ongoing punishment of Eve has become Adam's abiding interest prettified by gowns and flowers. *Kiddush Levanah* reveals the fractures

of the story, grasps them as a challenge to God's goodness that will in time be fixed, and calls on us to insure that the love we honor at a wedding will be shared with the wisdom of heart by which two can rule with a single crown.

While there are surely other creative ways to conduct a Jewish same-sex wedding, this sort of halakhic inquiry has, I hope, demonstrated how a close reading of wedding traditions can help to clarify what we mean by love, sex, gender, sanctity, and most important, marriage. Ought marriage rituals to sustain or resist the traditional gender role division? How far ought contemporaries to take their commitment to gender equality? Does marriage by definition entail a commitment to monogamy or may couples opt out of monogamy? What, if anything, does marriage have to do with children? Are there specific duties that couples undertake to perform for one another and should they be explicit? Are there understood terms of release from the marital promises and should they be spelled out? What, if any, are the extended familial, communal, and religious responsibilities entailed by marriage? And last, in what ways might gay coupling differ in any of these matters?

By choosing the exclusive and monogamous structure of Jewish marriage (*kinyan*), creating new halakhic frameworks for enacting the formal relationship of couples (*shutafut*), and seeking a unique narrative to undergird and remythologize the ritual (*Kiddush Levanah*), I have not intended to resolve these questions, but rather to demonstrate how such a legal inquiry can be used to highlight what is at stake in the content of our wedding rituals, straight or gay. Whether the canopy and the rings are absolute necessities or not, a clearer understanding of what marriage means to us surely is.