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### **From Polygamy to Pre-Nup: A History of Jewish Marriage**

There is a story told in the name of Rabbi Nachman of Bratslav, a seventeenth-century Hasidic master:

A group of people who have been to a wedding are on their way home. One says, “It was a beautiful wedding. I liked the food.” Another says, “It was a great wedding. The music was marvelous.” Still another one says, “It was the best wedding I ever went to. I saw all my good friends there and we had a terrific time.” Rabbi Nachman, who has overheard them, says, “Those people weren’t really at a wedding.”

Then, another wedding guest joins this troupe and says, “Baruch HaShem! (Blessed be the Name!) Thank God those two got together!” At that Rabbi Nachman says, “Now, that person was at a wedding (Diamant 27)!”

From ancient times through modern day, Judaism seems to have straddled the paradox of marriage. Within our ancient texts we see evidence of men and women forming loving bonds. On the other hand, Jewish law has always created rules and regulations regarding long-term human relationships. Is this a conflict or a confluence? As we follow Jewish marriage throughout the ages, we will examine both the personal and the business aspects of partnership and how Judaism has attempted to honor both.

### **Ancient Times-Rabbinic Period**

The first of the 613 mitzvot in the Torah, “Pe’ru ur-vu” – be fruitful and multiply, formed the basis of marriage in ancient times. Towards this end, sexuality and procreation were made holy by the partnership of men and women, the primary purpose of which was the creation of new life (Diamant 32).

On the other hand, Jewish marriage of antiquity was defined greatly by the honor and shame community in which the people lived (Satlow 103). And, few life events held more potential for the transfer of honor than marriage. It was expected that a good match would be found, a beneficial deal struck, and the children would follow the plans that were initiated by the parents. Every juncture presented a possibility for shame and social disaster, and nothing was more crucial than the bride being a virgin at the time of her first marriage (Satlow 104). Men were typically in their late teens when they were married and women in their early teens. As a rule, the fathers arranged the match. The girl was consulted, but the "calling of the damsel and inquiring at her mouth" after the conclusion of all negotiations was merely a formality. In those days a father was more concerned about the marriage of his sons than about the marriage of his daughters. This was because the father received a dowry for his daughter whereas he had to give a dowry to the prospective father-in-law of his son when marrying him off. The price paid by the father of the groom to the father of the bride was called *mohar*. The mohar was not always paid in cash. Sometimes it was paid in kind, or in service. Marriage, as with any type of purchase, consisted of two acts. First, the mohar or price was paid and an agreement reached between the families of the bride and groom. During the betrothal period something like an engagement party occurred that was characterized by celebration and blessings. Despite all the legalities after the betrothal, the husband to be would send gifts to his bride indicating an

understanding that there was both a business and personal aspect to this lifelong commitment (Satlow 69). This betrothal was followed by the wedding, when the bride was brought into the home of the groom, who took actual possession of her (Schauss).

During the Rabbinic period and beyond, the rabbis created a legal entity that could be called “Jewish marriage.” Many of these traditions, created more than 2000 years ago, are ones that we still practice, in some form or another, today. Rabbis created many of these rules, in part, as a vehicle for establishing identity. In addition, the rabbis were committed to fleshing out the will of God in every aspect of daily and contemporary legal trends within the Roman world (Satlow 68). Jews had the opportunity to integrate into non-Jewish communities with full rights of Roman citizenship, or they could identify with Christians, so the Rabbis needed to establish what it meant to stay within the Jewish community (Satlow 265). It is within this context that the ketubah, one of the oldest and one of the least romantic elements of Jewish marriage was born. It was (and, in some cases, still is), primarily, a legal contract and in some ways a precursor to the pre-nup. In its traditional form, the ketubah does not mention love or trust or the establishment of a Jewish home or even God. Written in Aramaic, the traditional ketubah was a document signed by two witnesses who testified that the groom “acquired” the bride in the prescribed manner and that he agreed to support her. This was not a mutual agreement; the bride only had to willingly accept the groom’s proposal of marriage. The ketubah was then given to the bride as a surety of her rights and her husband’s duties. The ketubah was actually a very progressive document for its time because it provided women the legal status and rights in marriage. It is also credited with strengthening the Jewish family since it made divorce a more costly decision for the husband (Diamant 84-89).

Although the rabbis considered marriage divine in origin, they also understood that it was not an easy relationship and that it was one that could fail. The Talmud devotes great attention to the rights and responsibilities of brides and grooms, wives and husbands. The laws regarding marriage cover everything from dowries to sexual conduct to divorce. These laws are complicated and often contradict each other. They are made up of ideas written in a patriarchal society. The laws, however, were progressive for their time in establishing some rights for women. For instance, women had the legal right to refuse any suitor and under aged girls could not be betrothed. Although only men could grant divorces, women were entitled to sue for divorce on some grounds, including sexual incompatibility. Conjugal rape is explicitly prohibited in the Talmud. And despite the fact that wives were “acquired” in much the same manner as property, men were required to treat them with respect and tenderness or risk God’s wrath (Diamant 34-35).

### **Judaism and Polygamy**

Abraham had two wives, Sarah and Hagar. Isaac had only one wife. Jacob married two sisters, and his wives' slaves. The sons of Jacob as well as Moses and Aaron seem to have lived in monogamy. Among the Judges, however, polygamy was practiced, as it was also among the rich and the nobility. Elkanah, the father of Samuel, had two wives. The tribe of Issachar was noted for its practice of polygamy. Caleb had two concubines while David and Solomon had many, a custom which was probably followed by all the later kings of Judah and of Israel. In contrast, the last chapter of Proverbs, which is a description of the purity of home life, points to a state of monogamy (Polygamy). So, while Jews clearly practiced polygamy for far longer than is discussed, from the beginning of Jewish history, there seemed to be great conflict regarding the practice.

The Rabbinical era that began with the destruction of the second temple in Jerusalem in 70 CE saw a continuation of some degree of legal acceptance for polygamy. However, the Jewish Codices began a process of restricting polygamy in Judaism. The Rambam's Mishneh Torah while maintaining the right to multiple spouses, and the requirement to provide fully for each as indicated in previously cited sources, went further: "He may not, however, compel his wives to live in the same courtyard. Instead, each one is entitled to her own household (Silberberg)." Finally, the most authoritative codex, the Shulchan Aruch, builds on all of the previous works by adding further restrictions: "...but in any event, our sages have advised well not to marry more than four wives, in order that he can meet their conjugal needs at least once a month. And in a place where it is customary to marry only one wife, he is not permitted to take another wife on top of his present wife (Silberberg)."

Approximately 1000 years ago, the noted German scholar, Rabbi Gershom "the Light of the Diaspora (960-1028)," banned polygamy. This ban was accepted as law by all Ashkenazi Jews but was not recognized by Sephardic and Yemenite communities. The Jews of Spain and of Italy as well as those of the Orient continued to practice polygamy for a long period after that time, although the influence of the prohibition was felt even in those countries. Some authorities suggested that Rabbi Gershom's decree was to be enforced for a time only, namely, up to 5000 A.M. (1240 C.E.), probably believing that the Messiah would appear before then; but this opinion was overruled by that of the majority of medieval Jewish rabbis. Even in the Orient monogamy soon became the rule and polygamy the exception. Practically, only the wealthy could afford the luxury of many wives. In Africa, where Mohammedan influence was strongest, the custom was to include in the marriage contract the following paragraph: "The said bridegroom . . . hereby promises that he will not take a second wife during the lifetime of the

said bride . . . except with her consent; and, if he transgresses this oath and takes a second wife during the lifetime of the said bride and without her consent, he shall give her every title of what is written in the marriage settlement, together with all the voluntary additions herein detailed, paying all to her up to the last farthing, and he shall free her by regular divorce instantly and with fitting solemnity.. (Polygamy)" This condition was rigidly enforced by the rabbinic authorities (Polygamy).

There were a few loopholes with regard to Rabbi Gershom's ban on Polygamy. A man was allowed to marry a second wife under certain extenuating circumstances. For example, if the wife's deteriorated mental condition rendered her halachically incapable of receiving a Jewish divorce, a dispensation signed by 100 rabbis was necessary, and the husband was required to place the amount of money promised in the ketubah in an escrow account in the event that conditions would one day allow the wife to receive the divorce. In some exceptional cases, bigamy was permitted; but this was in very rare cases only, and the consent of 100 learned men of three different states was required. One witness who testified to the death of a woman's husband was sufficient to permit the woman to remarry. In the case of the woman's disappearance, some authorities were of the opinion that the testimony of one witness was not sufficient to permit the husband to remarry. Later authorities, however, permitted him to remarry even when there was only one witness to testify to the death of his wife, and even when that witness did not know her personally, providing that after he had described the deceased woman the husband recognized the description as that of his wife (Polygamy)

The Jews of Spain practiced polygamy as late as the fourteenth century. The only requirement was a special permit for which a certain sum was paid into the king's treasury each time a Jew took an additional wife. However, the Spanish Jews, Italian Jews and Jews in the

Orient, soon gave up these practices. In Philadelphia, in 1869, the Reform rabbis conference decided that "the marriage of a married man to a second woman can neither take place nor claim religious validity, just as little as the marriage of a married woman to another man, but, like this, is null and void from the beginning (Silberberg)." And today, although the Jews of the East live under Mohammedan rule, they rarely practice polygamy (Polygamy). In Israel in accordance with Western ethics, polygamy is illegal although provisions were instituted to allow for existing polygamous families emigrating from countries where the practice was legal (Silberberg).

### **Middle Ages-Modern Times**

As time marched on, and Jews settled into the societies where they had migrated, focus on the actual relationship between men and women increased. The following Midrash portrays God as a perpetual shadchan, or matchmaker, for the whole world:

Once a Roman matron asked Rabbi Jose bar Halafta: "how long did it take the Holy One, blessed be He, to create the world?"

He said to her, "Six days."

"From then until now what has He been doing?"

"The Holy One, blessed be He, is occupied in making marriages."

"And is that His occupation?" the woman asked. "Even I can do that. I have many men slaves and women slaves in one short hour I can marry them off."

"This may appear easy in your eyes," he said, "yet every marriage is as difficult for the Holy One, blessed be He, as the dividing of the sea of Reeds."

Then Rabbi Jose left her and went on his way.

What did the matron do? She took a thousand men slaves and a thousand women slaves, placed them in two rows and said, “This one should wed that one, and this one should wed that one.” In one night she married them all. The next day they came before her-one with a wounded head, one with a bruised eye, another with a fractured arm, and one with a broken foot.

“What is the matter with you?” she asked.

Each one said, “I do not want the one you gave me.”

Immediately the woman sent for Rabbi Jose bar Halafta and said to him:

“Rabbi, your Torah is true, beautiful, and praise-worthy.”

“Indeed a suitable match may seem easy to make, yet God considers it as difficult a task as dividing the Sea of Reeds,” Rabbi Jose acknowledged (Diamant 33).

During the Middle ages, matchmakers were actually learned men and rabbis. By the 18<sup>th</sup> century, they were fast talking used car salesman types. A Yiddish proverb proclaimed: “God does not punish the shadchan for telling lies.” The profession withered away in Europe during the enlightenment when the idea of romantic love as a basis for marriage swept the Jewish world (Diamant 33-34).

For many generations the selection of an auspicious wedding date was of the utmost importance, although customs varied over the centuries and continents. The Zodiac was often consulted in hopes of invoking good spirits and fooling evil ones. It was considered prudent to marry on the new moon, the first day of the Jewish month (Rosh Hodesh). There were even superstitions involving particular days of the week (Diamant 63).



Ever since the 7<sup>th</sup> century, a ring has been the traditional and preferred object of exchange. Only one ring....given from groom to bride is required. A band made of a single pure metal, with no holes breaking the circle, represents the wholeness achieved through marriage and a hope for an unbroken union (Diamant 82-83).

The Baal Shem Tov said that if a couple was fighting, they should read the ketubah aloud to each other because this would help them remember the day of their marriage, when they affirmed their covenant with each other, when they were surrounded with love and good wishes, and when God entered their relationship (Intermarried A-listers and Us).

### **Divorce**

Jewish law has always been just as concerned with the dissolution of marriage as with its creation. A traditional Jewish divorce involves the writing of a formal document called a get, which is commissioned by the husband, delivered to the wife, and acknowledged by a bet din, a rabbinical court. While there are a few cases in which a wife can obtain a get or compel her husband to give her one, traditional Jewish divorce requires the man to take action. A woman who hasn't obtained a get, may not remarry as a Jew. If she does, her children will be considered illegitimate, and, according to Jewish law, may never marry Jews. This is not the case for husbands, whose subsequent children, born of Jewish wives, are legitimate. All Orthodox and many Conservative rabbis will not officiate at a second marriage without first confirming that a get has been obtained. A traditional get, like a ketubah, is written in Aramaic and must be executed by a sofer, a professional scribe (Diamant 214-15).

Today, most Reform and Reconstructionist rabbis will perform second marriages without a get. However, many liberal Jews are interested in having Jewish closure to the divorce even if they do not pursue a get. Meaning and healing can frequently be found in a Jewish rite that

formally acknowledges the end of a relationship that began under Jewish auspices. In Non-Orthodox divorce rituals both partners symbolically grant each other permission to remarry and also affirm a new start for themselves (Diamant 216-217).

According to Anita Diamant, "...Jews of the 21<sup>st</sup> century cannot marry the same way as their parents did, much less their great-grandparents. The world has changed too much. Our expectations of marriage are not the same. We are different kinds of Jews (Diamant 32)." 50% of us marry outside the faith and over 60% are not affiliated with a synagogue. Some rabbis perform interfaith marriages as well as gay and lesbian marriages. And, Jewish partners are more likely to meet on JDate than anywhere else. And, yet, Jewish marriages continue to occur as they did in antiquity, with modern interpretations. Ketubah's are re-written to reflect today's partnerships, rings are chosen together, and love has replaced acquisition. And, even though women no longer need to be married for financial support or even to have a baby, the formal bond of partnership is still chosen by the majority of Jews.

Our Torah tells in Genesis "A man should therefore leave his father and mother and be united with his wife, and they shall become one flesh." The Jewish idea of marriage is two halves becoming one, completing each other, and no matter the laws and rules at any particular time in history that is an ideal for all time.

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