

Marriage Ritual

Rabbi Jane Kanarek

What are the components of a classical Jewish wedding ceremony and how do these components intersect with a same-sex marriage ritual? This piece aims to provide a framework for thinking about same-sex marriage rituals by laying out the legal components of the traditional wedding ceremony. The classical ritual will provide the framework for looking at questions that a rabbi may confront when considering performing a same-sex marriage.¹ This piece does not aim to provide a history of the marriage ritual's development, a statement on the halakhic permissibility of two-ring ceremonies, or a definitive answer to what a same-sex ritual should look like, but instead a context for exploring the ritual.²

Ketubah, Kiddushin, and Nissu`in

The classical Jewish wedding ceremony is comprised of three main components: 1) *Ketubah*; 2) *kiddushin* or *`erusin*; 3) *huppah* or *nissu`in*. I begin by discussing *ketubah*.

Ketubah

The rabbinic *ketubah* is primarily a financial contract, a written document that articulates the husband's financial commitment to his wife should he predecease or divorce her. It does not effect the couple's marriage. The *ketubah* places the husband's property on lien to fulfill the document's financial obligations. In rabbinic and medieval times, the *ketubah* thus served both as an incentive against divorce and as financial protection for the woman.

The *ketubah's* expressed provisions of the husband to the wife include: *'ikar ketubah* (the fixed sums of 100 or 200 zuz), *tosefet ketubah* (any additional money the husband wants to stipulate), food, clothing, and sexual relations. A dowry from the woman to the man, for which he takes financial responsibility, is also listed. Other conditions, although not usually written in the text of the *ketubah* include: a husband's responsibility to redeem his wife if she is taken captive, to heal her when she is sick, and to bury her when she dies. A man cannot evade the *ketubah* responsibilities by refusing to have one written and witnessed. These obligations are considered to be rabbinic conditions (*tenai beit din*)³ that automatically take effect with the marriage. Nevertheless, a written *ketubah* remains a requirement for entering the *huppah*.⁴

There are two main traditions of *ketubah* texts, Babylonian and Palestinian. The Babylonian tradition, utilizing fixed formula, predominates Ashkenazi tradition. The Palestinian textual tradition is more fluid and some *ketubot* include first-person volition clauses such as, "A son of B, have said (or hereby say) intentionally, willingly, voluntarily, and of my own choice...."⁵ Sephardi *ketubot* evidence this more fluid tradition of wording. In Ashkenazi tradition the *ketubah* is signed by the witnesses prior to *kiddushin* and then read in between the two ceremonies of *kiddushin* and *nissu`in*. In Sephardi tradition, the *ketubah* is signed and read after *kiddushin*.

Kiddushin

The first part of the marriage ritual that transforms the couple's status in regard to one another is called *kiddushin* or *`erusin*, commonly translated as "betrothal." The *kiddushin* ritual begins with a blessing over wine, continues with *birkat `erusin*,⁶ and concludes with *kiddushin*, the giving of a ring from the man to the woman in front of two witnesses with the

1 I use "sex" here to refer to the biology of being "male or female." This is in contrast to gender, the meanings societally assigned to that biology. Of course, sex is not limited to male and female binaries.

2 For an overview of the marriage ceremony's history, see Ivan G. Marcus, *The Jewish Life Cycle: Rites of Passage From Biblical to Modern Times* (Seattle: University of Washington Press) 124-193.

3 M. Ketubot 4:7-12; Mishneh Torah Hilkhos `Ishut 12:1-2.

4 Hilkhos `Ishut 10:7; Shulhan Arukh Even Ha-Ezer 66:1.

5 Mordechai Akiva Friedman, *Jewish Marriage in Palestine: A Cairo Geniza Study*. Vol. 1. (Tel Aviv and New York: Tel Aviv University, The Jewish Theological Seminary of America, 1980) 145.

6 For slightly different texts of *birkat `erusin*, see B. Ketubot 7b, Hilkhos `Ishut 3:24, SA Even Ha-Ezer 34:1.

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phrase *harei`at mekudeshet li be-taba'at zo ke-dat moshe ve-yisra`el*. This formulation of the ritual grows out of M. Kiddushin 1:1, T. Kiddushin 1:1, and B. Ketubot 7b. M. Kiddushin 1:1 states the following:

A woman is acquired in three ways and acquires herself in two ways. She is acquired by money, by document, or by sexual intercourse. The school of Shammai says: with a *dinar* or the equivalent of a *dinar*. The school of Hillel says: with a *perutah* or the equivalent of a *perutah*....And she acquires herself with a divorce document or by the death of her husband.

This mishnah provides the three methodologies through which a woman becomes betrothed to a man: money, document, or sexual intercourse. The custom has become to effect betrothal using a ring (a form of money) worth at least a *perutah*, the smallest unit of rabbinic currency. T. Kiddushin 1:1 adds that the man needs to speak a language that indicates *kiddushin* (*harei`at mekudeshet li, harei`at m`ureset li, harei`at li le-ita`*)⁷ along with giving the woman money. After *kiddushin*, the woman has the status of *`eshet`ish*. She is now forbidden to have sexual intercourse with all other men. Should either of them wish to undo this status, a *get* is required.

Kiddushin, as *birkat`erusin* indicates, is primarily a private ritual, a ritual that articulates the closing off of other personal options. As it betroths the two people to one another, it references the Levitical texts of the forbidden sexual relations (Leviticus 18), informing us of relational prohibitions and then the ways in which this couple can become permitted to one another: through *huppah* and *kiddushin*. *Kiddushin* is thus a personal ritual where, at least in its more traditional form, a specific man acquires a specific woman.

Nissu`in

Although the most distinct ritual aspect of *nissu`in* is the *sheva berakhot*, these seven blessings do not in fact effect the couple's transition from betrothed to fully married.⁸ *Huppah* takes that ritual role, enacting the transition of the woman into the husband's household. The marriage is complete when the woman makes this change of domicile.⁹ Maimonides appears to require two actions in order to fulfill the requirements for *huppah*: being alone together (*yihud*) and bringing the woman into the man's domain (*hava`ah le-veito*).¹⁰ Rabbi Moses Isserles records three different ways in which *huppah* can be fulfilled: the woman wearing a veil, a cloth spread over the heads of the couple, and a cloth suspended on four poles.¹¹ The *yichud* room is also a means of fulfilling the requirement of *huppah*.

The recitation of *sheva berakhot*, known in the Bavli as *birkat hatanim* — the groom's blessing — provides the marriage ritual with its communal and mythical context.¹² First, these seven blessings must be recited in the presence of a minyan. As such they move the wedding from the more private moment of *kiddushin* with its requirement of two witnesses,¹³ to a public celebration of the couple. Second, the *sheva berakhot* reference the creation story and the garden of Eden. In so doing, they signal a change from *kiddushin* as a moment of closing to marriage as a moment of connection with Judaism's grand narrative of the beginnings of humanity. According to M. Ketubot 5:2 the rituals of *kiddushin* and *nissu`in* did not have to take place at the same time and could even occur more than twelve months apart.

7 "Behold you are sanctified to me," "behold you are betrothed to me," "behold you are my woman/wife." B. Kiddushin 6a provides additional possibilities. See also Ritva on B. Kiddushin 6a.

8 Hilkhot `Ishut 10:6.

9 For a critique and reformulation of the usual ritual procedure where the groom waits under the *huppah* (his "home") for the bride to join him, see Karen Miller, "Reshut HaKallah: The Symbolism of the Wedding Canopy," *JOFA Journal* 4:2, 2003.

10 Hilkhot `Ishut 10:6 with the commentary *Lehem Mishnah*. See also SA Even Ha-Ezer 55:1.

11 SA Even Ha-Ezer 55:1. For the meaning of "*be-hinuma*" as a young bride being taken out of her father's house accompanied to music see Marcus 156.

12 B. Ketubot 7b-8a contains a debate about whether the number of these blessings should be five or six. Six is determined as the requisite number and the blessing on wine is added to make a total of seven blessings. See Hilkhot `Ishut 10:3, SA Even Ha-Ezer 62:1.

13 Although Karo requires ten for *birkat`erusin*, this is an *ex post facto* requirement. Without a minyan the blessing can still be recited and not having a minyan certainly does not invalidate the betrothal. See SA Even Ha-Ezer 34:4.

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Thinking About a New Marriage Ritual

In her chapter entitled, “*B’rit Ahuvim: A Marriage Between Subjects*,” Rachel Adler argues that the rituals of *kiddushin* and *nissu`in* are incompatible with one another. *Kiddushin* is, at its foundation, a ritual which reflects an imbalance of power where the woman is acquired like a piece of property by the man. Since for Adler *kiddushin* “commodifies human beings,”¹⁴ even using two rings does not change the problematic nature of the betrothal ritual.¹⁵ The *sheva berakhot* of *nissu`in*, on the other hand, paint marriage as a mutual covenant. Adler suggests that the, “*Sheva Berakhot* must rise up and cast out *kiddushin*.”¹⁶ In place of *kiddushin*, she suggests a ritual called *shutafut*, partnership. *Shutafut* aims to create a legal and covenantal relationship, a *b’rit ahuvim*, based on partnership law and the idea of a joint holding of economic resources. The ritual has three components: 1) A written partnership deed; 2) A verbal statement where each partner commits her or himself to certain acts for the sake of the partnership; 3) An acquisition, *kinyan*, of the partnership. The first is fulfilled through the *shtar b’rit*, a deed which spells out the couple’s emotional and financial commitments to one another. The second is fulfilled by verbal statements made by the couple. The third is fulfilled by the couple placing symbols of their shared resources into a pouch and lifting it. The ceremony takes place under a *huppah*, and *shutafut* is followed by the *sheva berakhot*. For same-sex couples, Adler suggests modifying the language “bridegroom and bride” to *re'im ahuvim*, “loving companions.”¹⁷ Since this marriage ritual consciously sidesteps *kiddushin*, Adler argues that should the couple choose to dissolve their marriage, a *get* would not be required.¹⁸ *B’rit ahuvim* is a partnership ritual for same-sex couples as much as for heterosexual couples.

In contrast to Adler, Rabbi Steven Greenberg argues that *kiddushin* is not the broken component of the marriage ritual. Instead, for same-sex couples *sheva berakhot* need to be transformed. Greenberg contends that acquisition, ownership is an essential part of marriage, the giving of one’s sexual and emotional being to another person. When this ownership is bilateral, enacted by the giving of two rings, the marriage ritual may have been transformed from one symbolizing patriarchal possession to “...one of profound solidarity.” Same-sex couples could thus utilize *kiddushin* to effect their change of relational status. Greenberg leaves open the question of whether gay couples would choose to utilize the language, “according to the laws of Moses and Israel.”¹⁹

In contrast to *kiddushin* which is redeemable, Greenberg questions the appropriateness of *sheva berakhot* for gay couples. For Greenberg, these blessings represent a master narrative which take us back to Adam and Eve, the beginning of life, and through physical birth, progeny, leading towards a redeemed Jerusalem. The change from “bride and groom” to “beloved companions” would only be cosmetic. Greenberg seeks a ritual that answers the question, “What are homosexuals here for?”²⁰ He suggests *kiddush levanah* (sanctifying the moon) as one mythic alternative to the story of the *sheva berakhot*.²¹

Adler and Greenberg share a commitment to imagining a two-step wedding ceremony that is legal, covenantal, and egalitarian. In this, they remain within the framework of the two-stage — betrothal and then marriage — rabbinic ceremony. They also advocate a document that outlines the terms of the marriage, financial as well as emotional. Each simultaneously maintains and reshapes the classical marriage ceremony. But their differences of opinion about that ritual

14 Rachel Adler, *Engendering Judaism: An Inclusive Theology and Ethics* (Philadelphia: Jewish Publication Society, 1973) 191.

15 For a commentary on the permissibility of using two rings in a same-sex marriage ceremony along with the woman reciting *harei `atah mekudash li be-taba'at zo ke-dat moshe ve-yisrael* see Rabbi Gordon Tucker, “Egalitarian Ketubah” at <http://www.ritualwell.org/lifecycles/intimacypartnering/jewishweddingscommitmentceremonies/sitefolder.2005-06-07.5921979856/primaryobject.2009-09-14.6282951464>. The classic position against double-ring ceremonies is by Rabbi Moshe Feinstein in *Iggrot Moshe*, Even Ha-Ezer 3:18. While a commonly heard objection to a double-ring ceremony is that the two-way process renders the acquisition (*kinyan*) an exchange or barter (*halifin*), a transaction forbidden for the purposes of *kiddushin* (B. Kiddushin 3a-b), Rabbi Feinstein does not mention *halifin* as the reason for prohibiting the bride’s giving of a ring. While her action is legally meaningless (*hevel ve-shetut*), he nevertheless forbids her from doing so lest people come to think the bride’s giving of a ring is also necessary in order for *kiddushin* to be effective. Rabbi Feinstein clearly recognizes the power of people’s ritual actions to change law!

16 Adler, *Engendering Judaism* 190.

17 Adler, *Engendering Judaism* 192-198.

18 Adler, *Engendering Judaism* 199-206.

19 Steven Greenberg, “Contemplating a Jewish Ritual of Same-Sex Union: An Inquiry into the Meanings of Marriage,” *Authorizing Marriage? Canon, Tradition, and Critique in the Blessing of Same-Sex Unions*, ed. Mark D. Jordan (Princeton: Princeton University Press, 2006) 89-91.

20 Greenberg, *Contemplating* 97.

21 Greenberg, *Contemplating* 97-101.

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are instructive for our thinking about same-sex weddings. Adler offers a model that can be used for both same-sex and different-sex weddings. In presenting an alternative to *kiddushin*, she creates a ceremony that “looks different” than the wedding ritual with which many are familiar. However, maintaining *huppah* and *shevah berakhot* also gives that new ritual familiarity.

Adler’s ceremony raises important issues: First, if *kiddushin* is broken and primarily about the acquisition of a woman by a man, do we want to recreate that paradigm in same-sex weddings? Or, free from halakhic precedent, perhaps we would rather move outside of *kiddushin* and utilize other rabbinic legal paradigms to initiate the marriage relationship. Adler proposes *shutafut*. Another model could be derived from the legal category of vows or oaths. Second, do we want to have one marriage ritual for all Jewish couples? In other words, is the type of relationship being created as important as the sexes of the couple? If so, perhaps one ritual is the appropriate choice.

Greenberg’s piece likewise raises important issues for consideration. Unlike Adler, he proposes that the narrative of same-sex marriage differs from that of straight marriage. If so, do we want to consider creating a different ritual, or partially different ritual, for same-sex marriages? In addition, does marriage between two men have a different narrative than marriage between two women, thus necessitating different rituals?

Greenberg asks us to consider that *kiddushin* may be the appropriate legal framework for betrothal. If Greenberg is correct, then we must consider whether *kiddushin* is about creating a particular connection between a man and a woman or whether *kiddushin* may better be viewed as ritualizing and legalizing an exclusive and monogamous emotional and physical bond between two Jews. In this view, *kiddushin* is less about the sexes of the couple and more about the type of relationship being created, a relationship that exists only between these two people. Finally, do we want to retain the legal function of *huppah* as the second-stage of marriage, the shift in household, but perhaps create another ritual that frames the meaning of *huppah* differently than the *sheva berakhot* do?

To move a step further, what would it mean to step outside this framework of *kiddushin* and *nissu`in* entirely? Would a marriage ritual that did not utilize at least some of the symbolism of either *kiddushin*, *huppah*, or *sheva berakhot* function as effective ritual? Would the couple feel themselves to have undergone this significant change of status? How will guests experience the ritual? Ritual change is always a complicated matter — raising legal, historical, emotional, and visceral issues. This essay has aimed to lay out the framework of the classical marriage framework as well as two paradigms for altering it. Adler and Greenberg may have different answers about what is broken in Jewish marriage ritual, but standing at the center is one question: how do we sanctify our relationships in the context of ancient ritual and law? That is our challenge when thinking about and enacting same-sex marriages.



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