

Ki Teitzei: Marraige

- Rabbi Shlomo Riskin discusses two opinions about the commandment to marry; is it for the sake of procreation, or does it contain its own intrinsic values and blessings even, for instance, if procreation is impossible. He cites a discussion between Rambam and Rash on two sides of the question.

Parshat KiTetze: The Command to Marry
By Shlomo Riskin

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Efrat, Israel - "When a man takes a woman and has relations with her..." (Deut. 24:1)

Our Biblical portion deals with marriage and divorce, but I would like to devote this particular commentary to the Rabbinic concept of marriage. Our Sages took the two opening phrases of the above cited verse to refer to two separate aspects of Marriage: "when a man takes a woman" in the act of betrothal or engagement (Kiddushin or Erusin; the groom's gift of a ring accepted by the bride in the presence of two proper witnesses, reciting the formula "Behold, you are sanctified to me with this ring in accordance with the laws of Moses and Jerusalem"), "and has relations with her" in their home, as an expression of marriage (Nissuin, literally taking her up to his home, when they actually live together as husband and wife; in Mishnaic times, one year after the betrothal). Certainly by the Gaonic period (700-1000 CE) the two phrases were combined in one ceremony, beginning with the betrothal, then the reading of the Ketubah (marriage contract awarding alimony and an insurance policy to the wife) as a form of intermission, and - as the climax - the recitation of the seven blessings of marriage under a nuptial canopy symbolizing the new home; Ashkenazic Jews even conclude the ceremony with the bride and groom spending at least 7-8 minutes alone behind locked doors in a guarded room (Yihud).

However, despite what I have just recorded, there is a fascinating disagreement amongst our Sages (12-16th centuries) as to whether or not there is a bona fide commandment to get married. Asheri, known as the Rosh, insists that there is no such commandment; the only real command is to have children ("Be fruitful and Multiply" Gen 1:28), and the natural - and legal - preparation for procreation is marriage. If one does not wish to - or is biologically incapable of - having children, marriage is not at all necessary.

He derives his position from the very unique formulation of the Betrothal blessing: "Blessed art thou O Lord our G-d King of the Universe, who has sanctified us with His commandments and has commanded us against forbidden relationships... Blessed art thou, who has sanctified his nation Israel by means of the nuptial canopy and betrothal (Sanctification)." He argues that the usual blessing of a commandment is clear-cut and specific: "Blessed art thou who has sanctified us with his commandments and commanded us to...", rather than this formulation, which tells us which sexual relations are forbidden! He therefore concludes that this rather uncharacteristic

blessing is praising G-d for providing a concept such as marriage, but is not at all a blessing over a commandment to marry (Asheri to B.T. Ketubot, chapter 2). For Asheri, marriage is merely a precursor for procreation!.

Maimonides strongly disagrees, insisting both in his Book of Commandments (command 213) and in his magnum opus Mishneh Torah (Laws of Marriage1,1) that there is a separate and mandatory commandment incumbent upon everyone to get married!

Built into this difference of opinion is a conceptual divide over the fundamental purpose of marriage as well as the possibility of birth control, or sex without procreation. According to Asheri, marriage is solely for the purpose of procreation, and he seems to preclude sex unless it can (at least possibly) lead to pregnancy. Maimonides holds open the door for the possibility of sex without procreation, whether it be with the use of birth control (under certain conditions approved by a rabbinical authority) or after the period of menopause.

Even more significantly, Rav Yosef Karo, author of the famed religio-legal compendium Set Table (16th cent), opens the section dealing with the laws of personal status, “It is incumbent upon every man to marry a woman in order to be fruitful and multiply” clearly siding with Asheri (Shulhan Arukh Even HaEzer Chapter1, law 1). Rav Moshe Isserles immediately disagrees, citing many other reasons for marriage aside from procreation: “Whoever has no wife is bereft of blessing, is bereft of Torah, is bereft of joy, and is considered to be only half a person”(ibid).

His position on marriage as a companionship between two “loving friends” looks back to the sixth of the seven nuptial blessings, (“Rejoice, yes rejoice, loving friends, just as your creator enabled you to rejoice in the ancient Garden of Eden...”), as well as to the introduction to the Laws of Personal Status of the Tur written by Rabbenu Yaakov, the son of Asheri, who says, “May the name of the Holy one blessed he be blessed, because He wishes only good for his creatures, and He knows that it is not good for the human being to be alone!, therefore, He made for him a help-mate, a wife. An additional thing (but not the main reason) is that it is the intent of creation that the human being be fruitful and multiplies, and that is impossible without a help-mate.” These two authorities, Rabbenu Yaakov and Rav Moshe Isserles, are confirming the view of Maimonides, that marriage is a far deeper experience than mere procreation, that human beings existentially require loving companions who will mitigate existential and social loneliness and will allow for loving partnership in the rearing (not only bearing) of a family.

From this perspective, the blessing at the time of betrothal becomes very clear. Husband and wife have an exclusive relationship, a oneness of body and soul, which enables them to be very special “loving friends” with a mutual commitment of faithfulness more powerful than any other human bond. Hence other sexual relationships are forbidden, and the Almighty sanctifies His nation by means of a commandment more exalted than any other, an act whose very name is sanctification (Kiddushin), the commandment of marriage.

(Submitted by Nisson Shulman)