

**אֶתְקַדֵּשׁ, I will Become Sanctified: Toward an Egalitarian Jewish
Wedding**

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Theory and Practice of Ritual: Dr. Rachel Adler**

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Scholarly Writing:** Dr. Rachel Adler and her sister, Laurel Rubin Coppersmith, established this prize in honor of their mother to be conferred on a rabbinic student whose rabbinic thesis, capstone project, or class paper over ten pages in length demonstrates outstanding critical intelligence, insight into its subject matter, and excellent writing.

Introduction

When you think of a Jewish wedding you have attended, often you might recall joyful singing, dancing and celebrating. Unfortunately, for one Hebrew Union College Reform rabbinical student, he is unable to remember his wedding in such a way. The student, who himself is both engaged in the Jewish textual tradition and holds modern liberal values such as gender equality, crafted a wedding with his now-wife that he thought would meet all of their needs. They decided to enact Dr. Rachel Adler's *Brit Ahuvim*, which is completely egalitarian, though not traditional. That is, the ritual does suffice as the *halakhic* equivalency of *kiddushin*, the traditional legal formulation that Jews have been enacting during weddings since the period of the early rabbis. *Brit Ahuvim*, however, is meant to be an egalitarian alternative to the traditional *kiddushin* ritual. This paper will certainly discuss *Brit Ahuvim* and the argument for why *kiddushin* cannot effectively be egalitarian in detail. For now, though, by way of introduction, we want to say the following about this troubling story. Although this student chose to enact *Brit Ahuvim*, he also ended up enacting *kiddushin* as well. Why, you might ask? He claims his family could not bear the idea of him and his wife not enacting this traditional Jewish ritual. His choice to do both *Brit Ahuvim* and *kiddushin* seemed fine at the time but as time has passed he has become increasingly concerned about what exactly was effectuated during his wedding. This combination of worry and confusion is something that we as future Reform rabbis would like to minimize or even eliminate moving forward. We believe that by providing a complete discussion of what constitutes a

legally effective *kiddushin* formulation, the problems that come with enacting *kiddushin* for Jews who value gender equality and the possible alternatives for *kiddushin* for those who want to have a truly egalitarian Jewish wedding, we will improve the process of both wedding planning and ceremonies for people like this HUC student. Hopefully, a Jewish wedding for someone who values both tradition and gender equality can be the pleasant and joyful union that it is meant to be before, during and after the fact.

Jewish Marriage: A Ritual Imbued With Symbolism

When you break a traditional *halakhic* Jewish marriage down into its component parts, there are two main sections: *erusin* (which includes *kiddushin*) and *nisuin* (which includes *chupah*). *Erusin* or betrothal, is a formal state of engagement and *chupah* is the canopy in which the couple stands beneath to be blessed before the community. "In an act of espousal, *erusin*, a man designates a woman to be his own" (Adler, p. 171). After gifting the bride with an object of value and reciting the marriage formula, the couple would be betrothed (Skolnik & Berenbaum, p. 565, citing Ketubot 7b). Then, standing under the *chupah*, the couple completes their marriage with additional blessings called the *Sheva Brachot*.

A closer examination of these two sections of a Jewish wedding reveals different metaphors that are ritually enacted in each of them. In *kiddushin*, the bride symbolizes a piece of property for her husband to acquire (Adler, p. 169). In *nisuin*, the *sheva brachot* show how the new marriage becomes a covenant between two equal partners who are committing themselves to one another. This section of our paper will specifically explore

the metaphors that are associated with *kiddushin* in a traditional Jewish marriage and explain by way of ritual theory why the ritual enactment of classical *kiddushin* for Jews who value gender equality is problematic. A later section of this paper will propose some alternative symbols/rituals for Jewish betrothal that when enacted properly, have the possibility to be convincing egalitarian options.

Traditional marriage in Judaism comprises the acquisition of a woman by a man, as understood through the use of the Hebrew word *lakahat*, "to take," as the biblical verb "to marry" (Deut. 24:1, Ex. 2:1). We first encounter the previously mentioned division of marriage into its two components, *erusin/kiddushin* and *nisuin/chupah*, in Deuteronomy. The bible originally envisioned there would be a year of time in between the two stages of marriage. After an interval of time around one year, the process of acquisition is completed by a second act called *nisuin*. During *nisuin* the man takes the woman under his own roof and consummates the marriage (Adler, p. 171). At first glance, one might instantly compare a marriage to a commercial business transaction between a woman's father and her new husband. In fact, the Hebrew word for husband is *baal*, commonly translated as owner. The Mishnah, though, helps us to understand that a wedding is no ordinary acquisition. Instead, this special acquisition not only involves a purchase but also the religious act of *hekdesh* or the setting aside of something for a sacred purpose. Thus, the early rabbis renamed the first section of marriage, from *erusin* or betrothal, to *kiddushin* meaning sanctification (Adler, pp. 170-172). In the Middle Ages, the Jewish marriage ceremony evolved, bringing *erusin* and *nisuin* together into one ceremony, "presumably because of the uncertain and

perilous conditions in which the Jews lived. It was also exceedingly inconvenient to have an interval between the two ceremonies since on the one hand the parties were prohibited from cohabiting while on the other all the stringencies of the married status applied to them" (Skolnik & Berenbaum, p. 566). Beginning in the 12th century and continuing to this day, it became the accepted practice to perform the ceremonies together. To understand how the early rabbis understood the act of *kiddushin* to be a holy ritual, we must contextualize the ritual and more generally decipher what constitutes a ritual in the first place.

During Mishnaic times, the early rabbis were interested in sanctification as a means to create boundaries for the sake of making a more perfect universe out of a chaotic world. In the patriarchal society of the early rabbis, women were viewed as categorically fluid. That is, when a woman went from being a daughter to a wife, there was a period of transition. This transition between the boundaries of daughter and wife could be dangerous as autonomous women could have engaged in forbidden sexual relationships called *arayot* and cause the world to become more disordered. Therefore, in Mishnaic times, the early rabbis thought it was necessary to create a ritual which sanctified women to men to create order from out of what could have been a very chaotic time (Adler, pp. 172-173). According to Victor Turner, as cited by Larry Hoffman, the time that occurs between two distinct structures is known as liminality. A culture provides boundaries that can be useful in providing order during these liminal moments. When a ritual is enacted, it uses symbols to reinforce those boundaries (Hoffman, p.

38). Symbols transmit the meaning of a particular culture by using multivocal metaphors which help individuals to comprehend the chaotic world and endure it (Geertz, p. 89).

By enacting the traditional ritual of *kiddushin*, a woman is effectively transferred from the domain of her father to her husband in an acquisition called *kinyan*. Thus, *kinyan* becomes our first metaphor. Symbolically, the ring which the groom gives to the bride helps to illumine the *kinyan* metaphor. When the bride accepts the ring following *birkhat erusin*, she accepts being acquired by the groom. Our second metaphor is called *hekdesh*, most literally translated as property set aside for the temple. Just as a piece of property is reserved for sacred use, so too can a woman be reserved for a man. The blessing over the wine, called *Kiddush*, serves as a symbol of sanctity that reinforces the metaphor of *hekdesh*. Metaphorically speaking, the symbolic acts associated with *kiddushin* on the whole help bring *kinyan* and *hekdesh* together. Ritually, what makes classical *kiddushin* effective only involves the woman going through a legal status change (Adler, pp. 174-176). It is this status change that ensures the liminal moment for a women, as she transitions from a daughter to a wife, will not lead to chaos. Rather, the status change from the orderly bounds of her father to that of her husband can lead to cosmic order (Adler, pp. 175). Much of the marriage imagery in Jewish sources is focused on procreation: Genesis 1:28 provides the mitzvah פְּרוּ וּרְבוּ, "be fruitful and multiply," while elsewhere, Tanakh describes man and woman becoming one flesh (Gen. 2:24) and sealing themselves on one another (Song 8:6). Enacting this unilateral ritual of classical *kiddushin* and thereby activating the metaphors described above should frighten any Jew who values gender equality.

The Problem: For Those That Wish To Enact *Kiddushin* And Be Egalitarian

In his article, *Kiddushin as a Progressive Halakhic Concept: Toward a Theory of Progressive Halakhah*, Reform rabbi and scholar of Jewish law Mark Washofsky began by stating, “It takes no act of deep reading to recognize that traditional *kiddushin* is an exceedingly non-egalitarian affair” (Washofsky, p. 27). From this statement, one might think that Washofsky would be against performing *kiddushin* in the Reform movement, which certainly values egalitarianism. To our surprise, the first section of his article titled “The Problem” argues the opposite point of view. In Washofsky’s mind, progressive *halakhah* is a discipline that at its best, “Can reflect such modern liberal values such as gender equality and yet keep a firm foothold within the traditional discourse of Jewish law” (Washofsky, p. 31). We, two Reform rabbinical students, support the endeavor of progressive *halakhah*. However, we think that the problem is not with the very credible Jewish feminist scholars who Washofsky attacks, but rather, with his own evaluation of egalitarian *kiddushin* being a legitimate option for those who subscribe to his definition of progressive *halakhah*. Based on his article, he himself does not appear to follow his own approach to *halakhah*, at least when it comes to this issue of *kiddushin*. His support of the Reform *takanah* that permits a woman to betroth a man using the same formula that a man uses to betroth a woman does not in truth reflect his own definition of progressive *halakhah*. Washofsky claims progressive *halakhah* should reflect “modern liberal values such as gender equality and yet keep a firm foothold within the traditional

discourse of Jewish law.” We find his omission of any convincing textual argument rooted in the discourse of Jewish law to support the possibility of a *kiddushin* which can be both valid and egalitarian along with his inability to truly resolve the issues of gender inequality inherently apart of classical *kiddushin* to be highly problematic. Fortunately, there are progressive *halakhists* that care deeply about the values Washofsky claims to hold including traditional Jewish discourse and the modern liberal value of gender equality. These scholars tackle the resulting problems of classical *kiddushin*. Of the many problems associated with *kiddushin* as it exists, two are particularly troubling, especially for those striving toward egalitarianism: first, setting up marriage in the realm of acquisitions of property and animals is disturbing; second, establishing marriage through an effective *kiddushin* places the husband in control of the divorce proceedings. If he chooses not to show up to the *Bet Din* or provide his wife with a *get*, she has no recourse to control her own destiny.

Rachel Adler, a Jewish feminist scholar, demonstrates this first problem with *kiddushin* and its classification of the woman as property of her husband. She claims the exchange of rings is "a legal transaction in which the bride is acquired by a declaration of exclusive possession and a ring, ... categoriz[ing] women as a special kind of chattel over which the husband has acquired rights" (Adler, p. 169). Jewish sources provide for the legal transfer of women from one domain to another through *kinyan*, acquisition, "an act by which a subject unilaterally acquires specified rights over an object," like in commercial transactions (Adler, p. 174). "The Mishnah (M. Kiddushin 1) posits formal parallels between the acquisition and divestiture or alienation of women,

fields, and slaves, which the Gemara then explains and justifies. The basis for establishing that women are 'taken' rather than reciprocally linked to men is an analogy between the language of 'taking' in Abraham's purchase of the field in Ephron (Gen. 23:13) and the phrasing, "if a man takes a wife" (Deut. 22:13)" (Adler, p. 174).

Adler appreciates the "liturgical celebration" offered by the *Sheva Berakhot* and other elements of a traditional Jewish wedding, drawing on metaphor to illumine the vibrancy of the relationship between loving partners and connecting them to "the covenantal reconciliation of God and Israel" (Adler, p. 169). She also, however, recognizes that even the most beautiful and egalitarian offerings cannot change the fact that in order for *kiddushin* to be legally effective, the man must obtain his bride as his property. In describing unilateral acts, the Babylonian Talmud demonstrates the legally acceptable marriage transactions: "Marriage cannot be initiated by the woman (Kiddushin 4b), nor can it result from mutual exchange (Kiddushin 3a, 6b). The man cannot acquire her with a loan or a conditional gift (Kiddushin 6b). He cannot bestow himself upon the woman; he must declare 'you are mine' and not 'I am yours' (Kiddushin 6b). Processes in which both parties are active participants are explicitly rejected. The man must take, and the woman must be *taken*" (Adler, p. 176).

In her focus on the *Sheva Berakhot*, the Seven Blessings, as the "union from which redemption flows," Adler offers her case for altering *kiddushin* and explains why having a double-ring ceremony even cancels out *kiddushin*: "According to classical halakhah, no *kiddushin* is effected, because equal exchanges cancel each other out. ... In addition, she says, "The problem with marital *kinyan* is not simply that it is unilateral,

but that it commodifies human beings. ... *Kinyan* of persons violates values conscientious people have come to regard as moral goods" (Adler, p. 191). Adler is clear in her absolute rejection of *kiddushin*: "The vocabulary and constitutive assumptions of *kiddushin* cannot be made to reflect a partnership of equals" (Adler, p. 191).

Another Jewish feminist scholar, Melanie Landau, questions why Mishnah Kiddushin 1:1 is placed within the same mishnaic chapter as the laws on the acquisition of cattle and land. She explains, "Rabbi Noam Zohar notes that the placement of this acquisition in the context of a mishnaic chapter detailing other acquisitions, sets the tone for the social hierarchy between men and women that the acquisition creates" (Landau, p. 37). Landau thinks "that marriage is a *unique* form of acquisition encumbered by the legal consequences that are demonstrated in this chapter, even if it lacks the legal characteristics that would be normally applied to the acquisition of land or movable objects. She believes there is a connection between women's social inferiority (reflected in the acquisition of betrothal) and their exclusion from the performance of religious rituals as elucidated in the second part of the first chapter of Mishnah Kiddushin" (Landau, p. 38). She explores the role women play as vehicles for men to pursue the commandments: "Perhaps also women are being used as a foil for creating privilege around male commandments that the less than righteous regular male Jew may otherwise occasionally experience as a burden on time and energy" (Landau, p. 38). Adler builds on Landau's argument by asking, "What is it that has been made holy by *kiddushin*?" (Adler, p. 178). Isaiah Gafni explains that the act of marriage itself

was not holy, but instead, it offered the vehicle through which a rabbinic man could achieve holiness, "by performing the (exclusively male) commandment to increase and multiply. Hence, the espousal blessing does not end 'Blessed are You who sanctify *huppah* and *kiddushin*,' but rather, 'Blessed are You who sanctify Israel by means of *huppah* and *kiddushin*" (Adler, p. 178).

Landau points out that "non-reciprocity is one of the most important elements in maintaining gender hierarchy" (Landau, p. 39). The woman's silence is regarded as her consent to the betrothal in Kiddushin (Landau, pp. 39-40). "Although this is a general rabbinic principle that silence is considered consent, this principle has potential menacing effects in the case where a woman may not fully know exactly what the consent involves. Hence, in order for the act to take legal effect she does not actually have to say anything. The act of betrothal is something that a man does to a woman. Despite the fact that a legal relationship is being created between two people, only one of them has to do something for the relationship to be established" (Landau, p. 40). Indeed, Adler (p. 171) identifies only one unambiguous act of consent in this realm, in the marriage of Rebekah, when her father and brother ask, "Will you go with this man?" (Gen. 24:58).

Not only can the husband acquire his wife through her silent consent, but through the legal formulation of *kiddushin*, a man can simultaneously acquire several women with one statement. Landau points out Mishnah Kiddushin 2:7's referencing the possibility of the simultaneous acquisition of multiple wives, each requiring a formal divorce if they do not want to remain married to him:

If one betrothed a woman and her daughter, or a woman and her sister together, they are not betrothed. And it once happened in the case of five women, among whom were sisters, that a certain man took a basket of figs, which [belonged to them and which] contained Sabbatical Year produce, and he said, 'Behold you are all betrothed to me with this basketful,' and one of them accepted on behalf of all of them. And the sages said the sisters have not become betrothed (Mishnah Kiddushin 2:7 in Landau, p. 40).

The second problem with kiddushin is the way it designates the husband as the sole gatekeeper of *gerushin*, Jewish divorce. "Non-reciprocity of rights between men and women in marriage and divorce is both reflective and constitutive of the acquisitional marriage. The effect of the non-reciprocity of the acquisition in marriage is reflected in the one-sided nature of the divorce process as well: that the male has the right to choose and refuse divorce at his will reflects the non-reciprocity of marriage" (Landau, p. 55). In controlling the domain of *gerushin*, the husband maintains the sole authority to initiate divorce, restricting his wife's decision to leave the marriage. Even if she does attempt to seek a divorce, the husband holds the power to refuse a *get*. Rav, R. Abba bar Aivu, suggests, in Kiddushin 12b, flogging as the punishment for one who nullifies a *get* already sent to his wife, for one who declares that his *get* has been coerced (thereby invalidating it), and for one who lives in his father-in-law's home (over concerns that he might sin with his mother-in-law) (Steinsaltz 2015b, p. 60).

"In her analysis of ways in which to ensure justice and gender equality in the family, Susan Moller Okin argues that the "relative potential of the exit options for the two parties is crucial to the power structure" (Landau, p. 55). Without this equality, the woman is placed in a vulnerable position, where she cannot leave the marriage by her own will. The one-sided nature of marriage and divorce does not come from the sages'

reliance on scripture, since scripture does not provide the steps for the divorce procedure. Judith Wegner argues that the sages of the Mishnah believed a woman should have no legal authority to divorce her husband: "This view is consistent with their position that once a man has a legitimate claim on a woman's biological function, control over that function remains with him until he chooses to give it up; and it supports my assertion that where a man's rights over a woman's sexuality are at stake, the Mishnah will systematically deprive the woman of her personhood" (Wegner in Landau, p. 56).

Similarly, even a doubtful marriage will require divorce. With tensions between Orthodox and liberal communities over the authority of Jewish law in marriage, there also arise issues relating to Jewish divorce. When Reform, Conservative or Modern Orthodox rabbis perform wedding ceremonies, even if an Orthodox rabbi would not consider the ritual a proper wedding, Mishnah Kiddushin 4:9 makes it clear that if there is the possibility that the couple were married, they will still require a *get*. "The acquisition of a woman by a man has such great potency that it can even be carried out by a male of unknown identity. In such a case, doubt about the identity of a man who married her, or the order in which men betrothed a single woman, will not ameliorate a woman's need for a divorce if she is to marry someone else" (Landau, pp. 41-42). Even without knowing who it is who betrothed her, the woman still must obtain a *get*. The mishnah states:

If one authorized his representative to give his daughter in betrothal, but he himself went and gave her in betrothal, if the betrothal by him preceded his betrothal, his is a legal betrothal, but if that by his representative came first then this betrothal is legal; but if it is not known, both of them must give letters of divorce, but if they so wish it, one may give her a letter of divorce and the other may wed her (Mishnah Kiddushin 4:9 in Landau, p. 42).

Torah provides examples of how the couple is to be treated during the period between *erusin* and *nisuin*, even in cases of doubtful *kiddushin*. "From the bride's perspective, with engagement the commitment to marriage was deemed so firm that a betrothed woman who willingly engaged in sexual intercourse with a man other than her husband was to be treated as an adulteress and stoned to death (Deut. 22:23-27)" (Block, p. 58).

What Options Are There For Both A Jewish and Egalitarian Wedding?

Since *erusin* is a legal matter, not only between bride and groom, but also between their families, some couples choose to document their agreement as *tena'im* or written conditions (Cohen, p. 104). According to Arnold Cohen, this can be accomplished by writing the couple's conditions upon engagement or even just prior to the wedding ceremony. Couples may also choose to write two sets of *tena'im* between their engagement and wedding ceremony, "the second to reinforce the first and to deal with any agreed changes" (Cohen, p. 104).

Beginning in the Middle Ages, some communities began to add legislation around the process of betrothal, protecting themselves from what they deemed were unsuitable marriages (Cohen, p. 107). "Examples of such conditions were that the marriage had parental or family backing, that ten members of their community had to be present at the betrothal, or that the official rabbi or his deputy must be present" (Cohen, p. 107). Through this added legislation, communities took on a larger responsibility for the marriages taking place among their inhabitants. This power, claimed through a rule

of civil law of confiscation of assets, provides communities the authority to invalidate the betrothal of their inhabitants. Using the "doctrine of *hefker ha-kahal hefker*--the community has the power to confiscate assets; in other words, if the leaders of a community declared the ring (or whatever value is used for the *kinyan*, "acquisition") for the purpose of a particular betrothal is confiscated, there would be no valid betrothal as no value had actually been passed from the man to the woman" (Cohen, p. 107, citing Resp. Rashba 1:1206).

In the Conservative Movement, the Lieberman clause is added to the Ketubah text to protect women from becoming *agunot*. The Rabbinic Assembly's responsum explains: "The Lieberman clause is included, necessitating that *kinyan* be made between the witnesses and both the husband and the wife. And, as is our current practice, the Letter of Intent urged by the Joint Beit Din to accompany the signing of the *ketubbah* should be used, just as it is when a *ketubbah* containing the Lieberman clause is written and signed on the wedding day. However, the document approved for use as a תנאי בקידושין, cannot be used in this instance. Such a stipulation can only be made at the time of betrothal and not retroactively. In our case we are assuming that valid *kiddushin* had taken place on the day of the wedding and we cannot now retroactively apply a condition to them" (When There Was No Ketubbah, EH 66:3.2002).

Rav Eliezer Berkovits in his *Tenai be'nisuin uv'Get* (Condition in Marriage and Divorce) creates conditions where a *get* is unnecessary. "First, if a person did not repeat their condition at significant times -- such as marriage and sexual intercourse -- then it is assumed that he or she has abandoned the condition. Secondly, there is a presumption

people would not engage in illicit sexual relations and therefore if they either had sex or they got married (where intention for sex is assumed) then those actions would be within the framework of marriage" (Berkovits, in Landau, p. 106). Berkovits' innovation comes in protecting the woman against her being an *agunah*, a chained woman. "By accepting the condition marriage he may be seen to be diminishing his own power to withhold a divorce from his wife because he has agreed to certain ramifications to his own behavior" (Landau, pp. 107-108).

In proposing a *Brit Ahuvim*, a marriage between subjects, Adler makes the case for reframing "the legal portion of the ceremony in terms of partnership law rather than property law as it is currently categorized" (Adler, pp. 169-170). She claims that only after this change in the legal component of marriage would the ceremony "accurately reflect the kind of marriage to which egalitarian couples mean to pledge themselves" (Adler, p. 170). Adler in no way believes that her solution to egalitarian marriage is *halakhic*. At the same rate, she does affirm that *Brit Ahuvim* is formed from *hilkhot shutfut*. In other words, it may not follow the previous line of Jewish property law, but *Brit Ahuvim* is most certainly grounded in other Jewish laws and values. In fact, Adler points out three requirements of *Brit Ahuvim* for it to be considered a *halakhic* partnership. They are a partnership *brit* or deed, a statement of personal undertaking to support the partnership and finally *kinyan* or a symbolic act of acquisition (Adler, p. 192-193). Another upshot of using partnership law in place of property law is that it does not require a *get* to be dissolved. Rather, when the terms of the partnership are not being met by either person it can be dissolved (Adler, p. 199)

Adler proposes that *Brit Ahuvim* be a replacement for the act of *kiddushin*. Peter Knobel believes that Adler is making explicit the recognition within Reform Judaism that "words and symbols that are identified with traditional Jewish marriage do not accurately reflect contemporary Progressive Jewish marriage" (Knobel, p. 29). By enacting the three parts of the *Brit Ahuvim* we resolve this issues by employing a legal structure which allows words and symbols to be enacted that do reflect the contemporary values of progressive Judaism.

Adler has proposed a few new symbols and ritual enactments that provide new possibilities for metaphor with a *Brit Ahuvim*. With the first requirement of a partnership deed comes the first symbol, a written covenant deed or *brit*. *Brit* as a symbol has many resonances inside the Jewish religion alone. As Adler reminds us, in chapter 4 of Hosea, the marital relationship can be understood to be the central metaphor for Israel's covenant with God (Adler, p. 172). Therefore, by ritually enacting a covenant relationship with a partner, we have the possibility to embody the most holy type of relationship we know. The second metaphor in *Brit Ahuvim* is that of *kinyan*. While *kinyan* is also one of the main metaphors in *kiddushin*, Adler purposely chooses different symbols for her ritual. She warns, "In *kiddushin*, the woman's acceptance of a ring from the man signifies that she consents to be purchased symbolically from herself by him" (Adler, p. 195). Adler worries about there being any doubt that *kiddushin* is taking place rather than *brit ahuvim*. So while *kinyan* is still meant to be an acquisition, it is an acquisition of equal partnership and should not be symbolized by rings. Instead, she suggests a form of *kinyan* that was used in ancient times to specifically represent

partnership acquisition. Basically, this can be symbolized by each member of the partnership putting items of value into a bag and then lifting it up together. The act of lifting something up represents a *halakhic* claim of ownership, which would be shared in this case (Adler, p. 196). By each member of the partnership having a responsibility to put items into the bag and lift it up together, the ensuing metaphor becomes one of equal responsibility. In fact, this form of *kinyan* cannot be effective unless each person takes an active role unlike *kinyan* in classical *kiddushin* in which the man is the only active agent. The result of this ritual is a completed *brit* between two partners which harkens to the covenant between Israel and God and provides access to the highest level of cosmic order known in the universe during this liminal and possibly chaotic moment. Of course, one of the main requirements of any ritual is that it be convincing. The wedding couple and the community should be convinced by the enactment of the symbols that there is a status change happening through this acquisition of partnership. Although Adler does not mention this in her article, she did explain to our class that a couple could choose to both place rings in the bag and then exchange them privately after the ceremony. In any case, because rings are such a long standing tradition in not only Jewish weddings but western culture in general, this may be the biggest hurdle for *Brit Ahuvim*, and why we also want to suggest one final alternative for *kiddushin*.

Around the same time that Adler published her work on *Brit Ahuvim*, an Orthodox rabbi and scholar in Israel named Dr. Meyer S. Feldblum, proposed a new alternative to classical *kiddushin*. He was inspired by the major problem he observed in Israel of *aggunim* or chained women whose husbands will not grant them a divorce, the

possibility of *mamzerin* and finally a largely dissatisfied secular Israeli population with marriage in Israel. He calls his innovation *derekh kiddushin*. For him, the motivation is not necessarily gender equality but creating a more effective system of marriage in light of it. Feldblum says, “In light of the drive by women of our day for equality in all areas of life, there is an “evident presumption” that many women, if they only knew what was mentioned above [the requirement for assent to be acquired in marriage] would absolutely refuse to agree to the *kinyan* of traditional Jewish marriage (*kiddushin*)” (Greenstein, p. 20). Feldblum’s main suggestion is as follows: in place of classical *kiddushin*, he suggests a new formula for the declaration of marriage. The formula would be *harey at m’yudet li*. This formula would not constitute a *halakhically* effective *kiddushin*, which is his goal. That being said, there are many critiques of this alternative to *kiddushin* from both the liberal and Orthodox Jewish worlds. For the purpose of this paper, which is written with liberal values at heart, we will focus on the liberal critiques beginning with David Greenstein himself.

If we want to prioritize a Jewish wedding which is both egalitarian and in line with tradition, Greenstein makes his own suggestions of how to improve upon *derekh kiddushin* and tie it together with the rest of *erusin*. *Erusin*, which includes both *birkhat erusin* and the act of *kiddushin* accompanies by a declaration. Traditionally, *birkhat erusin* speaks only to the male and all of the *arayot* or sexual prohibitions for a man which originate in the torah. Greenstein suggests the blessing should say: *v’asar lanu et ha himmud, v’hitir lanu et sh’ahavah nafshenu al y’dei huppah v’qiddushin*. Who has forbidden covetousness to us while permitting of us our soul love by means of huppah

and kiddushin (Greenstein, p. 25). For the act of *kinyan*, he suggests maintaining a ring ceremony for the same concern we already acknowledged when discussing Adler's *Brit Ahuvim*. In order to distinguish this act from traditional *kinyan*, he says that the woman should preferably give the ring first. In addition, an appropriate public declaration should be made by both the bride and groom to carefully distinguish the act from effecting *kiddushin*. The preferable formula, while not a *halakhic kiddushin*, should both come from halakhic authorities and resist unilateral acquisition. In addition, he believes in opposition to Adler, that it should still instill a sense of exclusive ownership but one that is mutual and not to be confused with *kiddushin*. Thus, he suggests a formula of declaration inspired by Maimonides which says, *harei ani mitkadeshet l'ka* for the bride and *harei ani mitkadesh lakh* for the groom (Greenstein, pp. 26-27). By using the *hitpa'el*, the reflexive Hebrew *binyan*, "Each is creating a change of status to themselves and dedicating that changed status to the other, rather than presuming to effect a change upon the partner through the gift of the ring" (Greenstein, p. 26). Since this form of acquisition is both mutual and not *halakhically kiddushin*, Greenstein claims divorce can also be done by a mutual process rather than through a *get* (Greenstein, p. 27). Gail Labovitz largely adopts Greenstein's suggestions in her paper titled *With Righteousness and With Justice, With Goodness and With Mercy Considering Options for Egalitarian Marriage Within Halakha*. She however, suggests that the name be changed to *hitkashut*, as offered by conservative rabbi Avram Reisner (Labovitz, pp. 30-31). We too agree with this choice, as it further differentiates the enactment from *kiddushin* and reflects its use of the *hitpa'el*.

Conclusion

When a couple decides to have a Jewish wedding, they are turning towards the Jewish culture to provide some boundaries that can be useful in providing meaningful order during this important liminal moment. If the couple comes from a progressive background and values egalitarianism, they are likely not only looking to Judaism to make meaning and order out of this rather chaotic moment of transition but also to do so in a way that treats each member of the couple equally regardless of gender. Finally, the ritual needs to be convincing for both the couple and community so that no one is left behind in the chaos. We believe our paper shows that no form of *kiddushin* can satisfy all of the above conditions. Fortunately, through our understanding of both ritual theory and Jewish law, we can conclude by saying that both Adler's *Brit Ahuvim* and Feldblum/Greenstein/Labovitz's *Hitkadshut* propose convincing alternatives to *kiddushin* that should be considered by any Jewish couples who want to remain as true to Jewish tradition as possible while still valuing the liberal value of gender equality. In the section below, we will provide a possible outline for both of these rituals followed by commentary to guide the ritualizer in their performance of either one.

Scripts for Ritual Enactment in Place of Kiddushin:

Option 1: Brit Ahuvim

1. Blessing over the Wine
2. Reading the *B'rit Ahuvim* Document
3. Ritual of Partnership Acquisition (*kinyan*)

To distinguish the blessing over the wine from a blessing associated with *kiddushin*, Adler suggests passing the wine around to all those in the *huppah* (Adler, p. 197).

When guiding couples through the planning for their wedding, it is important to discuss with them the role of the B'rit document, as effectuating "a partnership of equals." Unlike the *ketubah*, which does not effectuate *kiddushin*, this document instead requires the formulation "'Behold you are sanctified to me' (exclusively acquired by me) and by his giving and her accepting the ring" (Adler, p. 196).

We recommend also considering incorporating what Rachel Adler calls the "poison pill" formulation written by Rabbis Julie Pelc Adler and Amitai Adler, as cited in Labovitz after reading the *Brit* and before doing the *kinyan* ritual:

Therefore, this partnership is effective on the condition that no rabbinical court among the People Israel call this covenant a *kiddushin* marriage (whether intentional or accidental), and pass a judgement which states that if, God forbid, there comes a reason to dissolve this partnership, that the bridegroom and bride require a get divorce; and if this condition is fulfilled, and a court does judge so, then this partnership and covenant will be deemed nullified and it shall have been void ab initio (Adler and Adler, in Labovitz, p. 45).

The vehicle for sharing rings and other objects of value, the lifting of a bag, has its roots in ancient times, "exclusively for partnership acquisition: symbolically pooling resources in a bag and lifting it together" (Adler, p. 196). After the couple reads the *B'rit Ahuvim* document, they each place an item of value into a designated bag. "These may be objects that are especially eloquent of their owners' personalities: a musical instrument, a much-consulted book, a legacy from a beloved relative or teacher. Partners may choose to explain the objects' significance and the particular contribution to the relationship they represent" (Adler, p. 196). Finally, they couple may choose to include rings in the bag. "In this way, the rings are acquired specifically as tokens of partnership. When the partners lift the bag together, they make a blessings, using their preferred *berakhah* formula ... 'Blessed are you ... who remember your covenant and is faithful to your covenant and keeps your word'" (Adler, p. 196).

Option 2: Hitkadshut

1. Blessing Over Wine
2. Modified *Birkhat* Erusin
3. Conditional Statement
4. Exchange of Rings with *Hitkadshut*

Based on the work of Greenstein and Labovitz, we propose the following modifications for *Birkhat* Erusin:

We praise you, Adonai our God, Sovereign of the universe, who hallows us with mitzvot and **enables us to sanctify this marriage**. We praise You, Adonai our

God, who sanctifies our people Israel through **שׁוֹתִפּוֹת**, this sacred rite of marriage at the huppah.

In Gail Labovitz's unpublished article, "With Righteousness and With Justice, With Goodness and With Mercy: Considering Options for (More) Egalitarian Marriage Within Halakhah," she proposes a similar text for *Birkhat* Erusin: "...commanded us 'sanctify yourselves and be holy,' and permitted us this one to that and that one to this by means of *huppah* and [covenant] [sanctifying oneself], in sanctity, purity, and faithfulness. Blessed are You, Lord, Who sanctifies Israel" (Labovitz, p. 41).

Under the *huppah*, immediately before the *hitkadshut* ceremony, the rabbi asks the bride and groom to respond to the following condition (based on the CJLS formulation for *kiddushin al t'nai*), making it known that this wedding does not effectuate *kiddushin*. It is important to include this so that there is no doubt for either the couple or the witnesses as to whether the couple is bound to the laws of *kiddushin*.

Do you enter this marriage [according to the laws of Moses and the people of Israel and] [if the couple have set conditions on the marriage: and according to the conditions you have undertaken and] according to the understanding that this act of self-betrothal/partnership is not for the purpose of *kiddushin*, now or during the duration of your marriage? Both parties should answer: 'Yes.' (Labovitz, p. 43).

We recommend also considering using what Rachel Adler calls the "poison pill" formulation written by Rabbis Julie Pelc Adler and Amitai Adler, as cited in Labovitz before *hitkadshut*:

Therefore, this partnership is effective on the condition that no rabbinical court among the People Israel call this covenant a *kiddushin* marriage (whether intentional or accidental), and pass a judgement which states that if, God forbid, there comes a reason to dissolve this partnership, that the bridegroom and bride

require a get divorce; and if this condition is fulfilled, and a court does judge so, then this partnership and covenant will be deemed nullified and it shall have been void ab initio (Adler and Adler, in Labovitz, p. 45).

During the exchange of rings, under Hitkadshut, we recommend the following texts based on Greenstein (p. 27) and Labovitz (p. 41):

Bride to groom: Harei ani mitqadesh l'kha b'taba'at zo (k'dat Moshe v'Yisrael)

Bride to bride: Harei ani mitqadesh lakh b'taba'at zo (k'dat Moshe v'Yisrael)

Groom to bride: Harei ani mitqadesh lakh b'taba'at zo (k'dat Moshe v'Yisrael)

Groom to groom: Harei ani mitqadesh l'kha b'taba'at zo (k'dat Moshe v'Yisrael)

Translation: "I hereby sanctify myself to you with this ring (according to the traditions of Moses and Israel)"

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