

A MAN AND A WOMAN – JUDAISM AND MARRIAGE

Sexual instinct is a functional component of life. Accepted by Judaism as an integral part of the man's life and one of his basic needs, the manifestation of this instinct was regulated in a traditional manner, but it was never considered a taboo. The *Talmud* offered descriptions of equal rights and duties in an intimate relationship between men and women. Sexual ethics among the Jews was never marked by the frustrating underestimation of the importance of sex life or surrounded with silence. Quite to the contrary, it was marked by the religious and common-law regulations which not only accepted the sexual act as natural but also considered it to be a *Mitzvah* (a deed pleasing to God, Hebr.) The positive attitude toward sexual relations as a natural part of human physical and emotional activities was based on the religious belief that everything given by God was sacred. However, what made an act sacred (or forbidden) were the conditions under which it was performed. In this sense, there is an essential difference between the Christian and the Jewish view of human sexuality. According to classical Christianity, sexuality has its origin in the primary sin and is consequently viewed as a vice. Therefore, the sexual act is incompatible with sacred individuals – monks, for instance – but it is allowed in the profane life, as a „prerogative” of the eternal human weakness. On the other hand, the Judaism treats the sexual act as a *Mitzvah* provided it is in accordance with the common-law regulations. It is a vice only within a relationship which is traditionally and socially unacceptable.

The sacred component of sexual behavior was based on the concept of self-control, which implied that the human libido had to be directed and expressed in a certain manner. The right way to accomplish this was through the institution of marriage.

The physical contact between spouses was not reduced to procreation, neither formally or essentially. Apart from its sacred purpose of giv-





ing birth to children (a marriage without children was considered unhappy), a couple's sex life was seen as one of the foundations of their life together, and as a basis for their emotional closeness and development. Fulfilling the „marital duty” was as important as any other obligation in marriage. In order to ensure the continuity of the intimate relationship between spouses, and in situations in which the woman's health could be endangered by another pregnancy, Judaism allowed certain contraceptives, which could be used by women only. According to the *Talmud*, even the ancient Jewish civilization was apparently familiar with both mechanical (a „tampon”) and oral (a medicinal herb beverage) means of protection, though nothing is known about their composition and the way they were prepared (or how effective they were).² Contraceptives for men – interrupted intercourse (the semen is ejaculated outside the woman's body), or sexual abstinence – were considered unnatural and religiously unacceptable. (Both of these methods are in direct contradiction with the First Commandment, which says: Be fertile and multiply, (*Genesis 1:28*); moreover, God sentenced Onan to death because he „spilled his sperm on the ground” to prevent the conception of a child in the levirate with Tamar, his late brother's wife (*Genesis 38: 9-10*).³

According to the *halakha* (regulation, Hebr.), deviations from natural ways of having intercourse were prohibited. This is, in fact, the essence of the Jewish traditional view of sexual relations, which acquired the status of common-law regulation taken from the *Bible* and developed and practically defined in the *Talmud*. Consequently, any unnatural behavior (homosexuality, etc.) was strictly forbidden, from as early as the times of the *Old Testament*. Sexual acts which did not belong to the sphere of sexual deviation but disturbed the natural way of expressing and fulfilling the intimate needs in any way were also prohibited. Those included the above mentioned forms of men's contraception as well as abstinence. Just like the „sexual freedom” in any form did not exist, celibacy as a result of personal choice (unless it was a consequence of a mental or a physical disease) was also absolutely unacceptable as an inadequate psychological and physical living style.⁴

The most natural and normal situation for both men and women was to live together – in marriage, which was treated as a sacred obligation within the Jewish common-law system.⁵ Marriage was given such a great significance that a poor man was allowed to sell his *Torah* (!) in order to improve his financial situation and get married, which was accepted by the society without condemnation. However, marriage was a common-law regulated institution established in accordance with the existing rules created with the purpose to protect the social system as a whole. Consequently, in some cases, there were strict religious prohibitions against getting married.⁶ According





to the *Torah* laws, marriage was not allowed in case of blood kinship (a man could not marry his mother, daughter, sister, granddaughter, aunt, etc.). Also, a man could not marry his daughter-in-law, step-mother, his uncle's wife, or his brother's wife. Furthermore, he could not marry a divorced woman if she did not have a *get* (release papers, Hebr.) issued in accordance with the Jewish religious laws, nor his wife's sister as long as his wife was alive, even if divorced. Of course, all the above prohibitions applied to women as well. Getting married with a member of another religion was also out of the question. As in case of all other prohibitions, these ones had the main purpose to protect the society against pathological phenomena (incest) and to maintain the moral code behind the religious and ethnic structure of the Jewish society.

The Jewish marriage was monogamous. Its secondary form was a levirate (a marriage between a man and his brother's widow) which used to be the man's obligation in certain situations (which will be discussed in the continuation of this text). It is interesting to point out that, in ancient times, polygamy had been allowed which included an official marriage with two women, or with one woman only, while the other had the status of a concubine. This did not affect the women's position, especially not with respect to their children's inheritance rights. However, there were relatively few cases of polygamy so they cannot be taken as a characteristic feature of the Jewish social culture.

It was recommended that one should marry at a young age (eighteen or twenty), though the age limit was increased in case of men who were highly educated and devoted to the study of the *Torah*. Nevertheless, even in such cases the Talmudic scholars gave certain preference to marriage, suggesting that the man would be more composed and learn with more ease, if married.

In order to eliminate any negative feelings of fear before uncertain future and insecurity, or any possibility of having problems in establishing and maintaining good relations, the Jewish common-law defined all rights and duties of marital partners. The wedding ceremony was, thus, understood as a combination of a religious rite and a legal agreement.

The wedding was considered as one of the three most important events in a person's life, and it was accompanied by a rather complex set of customs which differed from one geographic region to another since the Jewish people have lived in the Diaspora for many centuries. Some of the customs are very old, which can be proved by the presence of distinctive magical elements set up to protect the newly-weds against magic spells, or to secure them a happy life and healthy children. In the Talmudic times, the wedding ceremony consisted of two separate rites. The first was the engagement (*erusin* or *kidusin*, Hebr.), which confirmed a man's and a woman's bond in matrimony. But, they were not to start living together before the





true wedding ceremony (*nisuin*, Hebr.) had been performed, part of which included taking the bride to the groom's home. However, during the Middle Ages, these two rites started being treated as one, i.e., performed one after another within the same ceremony. This was done to eliminate the period of separation, and, at the same time, the possibility of any complication in the confirmed but not physically completed marriage.

The choice of a marital partner was made with much consideration.

According to the generally accepted standards of the Jewish traditional society, the best were ready-for-marriage girls from respectable and rich families, goodnatured, of appropriate age, diligent, modest, and capable of running a household. Naturally, the reality was often much different, and therefore, it was not common or recommended for a man to be engaged to a woman he had not met before, no matter how glorified her qualities were. It was necessary to respect the religious and traditional rules when choosing a partner and getting married. Even though the creation of a socially acceptable relationship was of the greatest importance, personal feelings should not have been neglected. Getting married because of financial or any other interests was considered an immoral and unhappy choice. As a matter of fact, according to the Jewish principles, an ideal matrimony had two presuppositions: getting married in accordance with the rules and, because of love.

The delicate choice of a marital partner was everybody's problem – parents, relatives, friends, and, of course, the young man and the girl all actively participated in the process. In the course of time, the profession of a matchmaker developed and became very respected.⁷ In the *Bible*, there is nothing written about finding a wife or a husband, but, according to some comments, it is supposed to have been done both through personal quests and by accepting the help of a third person. The profession of a „matchmaker“ as we understand it today, however, is a much more recent invention.

In the Talmudic times, a marriage used to be arranged by the fathers of the two interested parties. It was not before the 13th century that the term „matchmaker“ (*shadchen*, Hebr.) first appeared in the rabbinical books carrying the meaning it has kept to the present day. Matchmaking was considered a very responsible profession which required not only a great deal of intuition but also extensive knowledge of human psychology and the capacity to be a good judge of characters. In fact, this was an activity which called for educated persons, and, in mediaeval times, it was the profession of many rabbis and scholars. A choice of an adequate marital partner according to man's or woman's wishes, was also possible, to a certain extent. Although the father, as head of the family, was the formal decision maker, the young man or the girl to be married were also given the right to choose their poten-





tial partners, provided their wishes did not contradict the traditional rules. According to the *Mishna*, in ancient Jewish communities meetings without chaperons were organized two times a year, on the Day of Atonement *Yom Kippur* (September or October) and the fifteenth day of the month of *Av* (July or August by the Jewish calendar). On these occasions, young women ready for marriage, dressed in white, would come out into an open field where unmarried men would gather for the same reason.⁸ If „that very one” did not happen to be there, the above mentioned methods of searching and choosing a partner would be pursued again during the year.

The custom which called for the official definition of the conditions (*tenaim*, Hebr.) under which a future marriage was to be confirmed is also a very old one.⁹ The conditions were discussed in a special formal ceremony (*shiddach* Hebr.) with the purpose of imposing moral and practical responsibility to respect the marital agreement. In some communities, the conditions were offered in a written form. This agreement, or a document, included the day and the place the marriage ceremony was to be performed, as well as the financial obligations on both sides. It was customary to bring a dowry which varied in size depending on the agreement and the financial situation. In the Talmudic times, the minimal value set for the dowry was 180 grams of silver. This minimum remained unchanged, even though families always aimed at offering as much as possible as the future bride’s dowry. This was especially important because of the very widespread custom of exhibiting the prepared dowry to the members of the community, that is, to the invited guests and relatives. This custom was practiced, to a certain extent, among the Sephardim and the Ashkenazim living in Yugoslavia as well.¹⁰

Although the dowry was compulsory, the fact that poor families sometimes could not offer it did not create serious problems for the future brides coming from such families. If a girl came from a very poor family, her dowry was collected by the local community from the funds instituted for that very purpose. The marital agreement included the amount set for the dowry. The Ashkenazim had the dowry determined by a common-law regulation, which completely abolished the ancient custom of purchasing the bride (purchase – *mohar*, Hebr.)¹¹

However, the custom of *mohar* was retained in the form of a more generous exchange of goods by some Sephardi communities living in the Middle Eastern countries. As a matter of fact, the groom would „buy” the bride by giving a sum of money to her father. He would also give some presents to the bride herself. In return, the bride would bring a certain quantity of material goods – in other words, the dowry – into the groom’s house. The purchase of a wife is a very old custom which can be traced all the way back the Biblical





timeš, and which was practiced in nomadic and cattle-breeding communities at a low level of social organization. In its original form, the purchase could be accomplished not only by money but also by carrying out some work in the girl's father's house.

At any rate, the man was obliged to offer material compensation which was understood as a guarantee (*eravon*, Hebr.) that the marriage would be consummated. In the post-Talmudic times, this symbolic guarantee was replaced by a concrete object – a ring – given to the bride on the engagement day. The ring has remained a significant part of the engagement ceremony to the present moment.

In the Talmudic times, the way the dowry was to be used in case a married woman with no children happened to die was described in a great detail. The husband inherited the whole dowry. However, in the course of time, a conclusion was reached that this was not the optimal solution, which led to the introduction of some changes in the legal regulations relating to the dowry. The likelihood of such a tragic turn of events (the mortality rate being much higher in the distant past) could affect the bride's father's decision regarding the size of dowry he was ready to offer for his daughter. For that very reason certain limitations were introduced in the 12th century in cases of childless marriages with respect to the extent of the husband's right to his late wife's dowry. The final version of this religious and common-law regulation was provided in the rabbinical ordinances from the 18th century, according to which, the husband had the right to inherit the whole dowry only in case his wife died after having been married to him for at least five years.

The *tenaium* – marriage conditions – included the possibility of penalty for the one who would break the agreed upon engagement without any objective reason. In addition to the penalty, the person was obliged to make up for all the expenses the other side had been exposed to while preparing for the engagement, as well as to give back the wedding presents. Since such situations normally created many financial problems and interpersonal conflicts, very often the rabbis suggested that the matrimony ceremony took place in accordance with the agreed upon conditions, after which the newly weds would be admitted a divorce (*get*, Hebr.) right away.

The preparations for the wedding ceremony started from the moment the marriage was confirmed through the engagement ceremony, and they proceeded until the last week before its performance. The way the community treated the future bride and groom tells quite a lot about the local folklore and the traditional customs which were combined with certain religious and magical elements. The Ashkenazim showed respect for the groom by inviting him to read from the *Torah* in the synagogue on the *Sabbath* prior to the wed-





ding day. On that occasion, the members of the community would sprinkle the groom with rice or sweets in order to assure health, happiness and fertility of the future couple. In the Sephardi and Ashkenazi communities alike, there was a custom for the future husband and wife to give presents to each other (*sivlonot*, wedding gifts – Hebr.). They also organized the so-called „bachelor (or maiden) dinner“, a public celebration well-known in other cultures as well. The oriental Sephardim had an interesting custom, within the „maiden dinner“, of putting henna on bride’s hands which was a symbol of innocence and was considered a powerful protection against magic spells. The custom which characterized all the Jewish communities was the one connected with the future bride’s obligation of having a ritual bath in the *mikveh* (ritual bathroom, Hebr.)¹² That was the woman’s first bath in the *mikveh* (provided it was her first marriage) and she needed to be cleansed before she became a married woman, that is, before she engaged in sexual intercourse with her husband. The future bride would go to the bathhouse accompanied by an elderly woman, normally a relative. According to the religious laws, the ceremony of the woman’s ritual cleansing by entering the *mikveh* is connected to the menstrual cycle and should be repeated once a month.

The wedding day should be chosen with great caution, for it could not fall during any of the important holidays (*Sabbath*, for instance), or on a day of national mourning. The *Talmud* contains some special rules of behavior in cases of unfavorable turn of events such as the death of one of the newlyweds’ parents, or the death of a person belonging to the same local community. If one of the parents died (on the wedding day), he (or she) was buried upon the completion of the wedding ceremony, and the mourning started seven days later. On the other hand, if any other member of the community happened to die on the wedding day, the funeral was carried out immediately, while the wedding ceremony was delayed for seven days, and it was performed after the initial mourning period had passed. In the course of time, however, this two customs assimilated and the ceremony was delayed for seven days in case any member of the community passed away on the wedding day.¹³

There were no particular rules related to the outfits the young couple would wear to the wedding ceremony. The custom for the bride to be in white, her head covered by a cap, developed very gradually through history. Wearing a veil, however, originates from very ancient times and it a rule ordered by the *Mishna*. The rule applied to virgins only, i.e., to women who got married for the first time. The veil was adopted by the Sephardi and the Ashkenazi communities (especially the Orthodox ones) all over the world, and it was also used by the Yugoslav Jewish women who decided to get married in accordance with the religious laws. The veil was an integral part of the bride’s dress, which cov-





ered her face during the wedding ceremony. The dressing style, as well as the way the bride was decorated, were influenced by the material culture of the local (broader) community. Consequently, the appearance of the bride varied considerably, ranging from moderate Central European civil outfit of rather „severe lines”, over richly embroidered „merrier” dresses of Mediterranean style, to the Middle Eastern explosion of colors and „heap” of jewels, ducats and other ornaments. Men also dressed according to the local customs. The exceptions were made in certain Orthodox communities where the groom wore the *kittel*, an outfit which was also worn for *Yom Kippur*. The presence of this religious symbols in the groom’s outfit was not mandatory, and sometimes he wore the *kittel* under the common black garment of the Orthodox Jews. During the ceremony, the groom would wrap the prayer shawl (*tallith* or *tales* (Yid-dish)) around his shoulders.¹⁴

The site of the wedding ceremony was chosen in accordance with the local customs.¹⁵ It was essential to follow the rules and provide the conditions related to the marital agreement, prescribed by the Jewish religious legislature, but the ceremony itself could take place in the synagogue or in the open air. In some Jewish communities, it was customary for the ceremony to take place in the open, though in most Sephardi and Ashkenazi communities, it was carried out inside the synagogue. Another interesting point is that a rabbi did not have to attend the ceremony, provided all the necessary preparations were carried out so that the wedding could be performed in accordance with the prescribed rules. One of the unavoidable rules was the gathering of ten adult males – *minyan* (Hebr.) – whose presence was necessary in order to proceed with the ceremony in a proper way. However, in reality, in addition to all the above conditions, it was customary for the wedding ceremony to be performed by a competent person – most commonly a rabbi, so that all potential mistakes or irregularities which could endanger the legitimacy of the marriage would be avoided.

The custom to start the wedding ceremony by putting together the nuptial agreement is very old. The nuptial agreement – *ketubbah* (Hebr.) became obligatory as early as in the first century BC, representing a traditional and legal act complementary with the complex religious rite of marriage.¹⁶ Before the Middle Ages, when it became customary to join the engagement and the wedding rites together within the same ceremony, the nuptial agreement had been prepared and signed before the engagement ceremony would take place. For that reason the engagement had a meaning of the formal wedding ceremony, while the wedding itself, performed after a certain period of time, was considered as the final step toward its realization. The period from the moment when the *ketubbah* was signed to the actual wedding, which



marked the initiation of the couple's life together, created a certain confusion in the common-law procedure, because the sexual relations were prohibited before the nuptial agreement was signed, but also before the wedding ceremony was completed. In other words, even when the man signed the *ketubbah* and, at least formally, started his married life, he had not been considered married yet. Since unnecessary waiting and the ban on sexual intercourse between the newlyweds created difficulties in certain situations, the traditional marital law, provided for the possibility of joining the engagement and the wedding ceremonies into one.

Before the dual engagement/wedding ceremony could start, it was necessary to have the *ketubbah* – the nuptial agreement ready.

The ceremony of signing the nuptial agreement was followed by a ritual act, by which the groom accepted to take all the responsibilities quoted in the agreement. The rite was the symbol of „offering” and „giving gifts”. In other words, the groom would take a trivial thing from the rabbi – a handkerchief, a piece of garment or similar, smooth it and stretch it slightly, and give it back. After this symbolical gesture, two witnesses would sign the *ketubbah*, and, in most communities, the groom would do the same. The rite of signing the *ketubbah* was almost the same in all the communities, but there were some differences in the sequence of events during the procedure. While in some communities it was customary to sign the document first and then perform the described symbolical act, in other communities the symbolical act was performed during the ceremonial reading of the *ketubbah*, between the engagement and the wedding ceremonies. This custom is more common in Orthodox Jewish communities, where the *ketubbah* is being written during the ceremony, while the groom delivers a speech he prepared in advance for the occasion. His speech is normally interrupted by jokes and songs of friends and relatives who attend the ceremony, in order to create a relaxed and joyful atmosphere.

The groom, followed by his companions, walks up to the bride and covers her face with the veil. Meanwhile, the rabbi recites a benediction. This procedure, known as „covering the bride” (*bedeken di-kale*, Hebr.), was typical for the Ashkenazi communities¹⁷, while the Sephardim did not have it. The next step was the rite of lighting candles, and sometimes even torches, which was carried out by the bride's and the groom's parents. The significance of this rite has not been clearly explained yet, but it is being attributed to two possible sources – the ancient magical act of driving away the evil spirits, or as a symbol of the eternal Jewish ties with God and the *Torah*, i.e., with the moment of the „enlightenment” on the Mount Sinai. After a while, the young couple's fathers would leave the wedding procession and, followed by joyful voices and music, lead the groom to a site known as the *chuppa* (canopy,





Hebr.) which consisted of four separately erected wooden pillars with nicely decorated and embroidered cloth stretched on their tops. The *chuppa* is the symbol of the skies, the heaven high above, which is the original meaning of the term. (In case the fathers were not alive, or the bride and the groom were orphans, the groom was led to the *chuppa* by two relatives or friends.) In the communities in the Diaspora, the groom would stand under the *chuppa* with his face turned in the direction of the land of Israel; if the ceremony took place in Israel, he would look in the direction of Jerusalem. In Jerusalem, he would look towards the Synagogue. While the rabbi recited the benedictions, the bride would come up followed by hers and the groom's mothers. The bride's entering the *chuppa*, to join her future husband was followed by the magical rites which varied according from one Jewish community to the other. Their purpose was to protect the couple against the evil spirits and spells. In the Ashkenazi communities, once under the *chuppa*, the bride would go around the groom seven times and then she would stand by his right side. The circle and the number seven are attributed magical protective powers and are magical elements known and commonly used in many other cultures as well. The oriental Sephardim symbolically protected the newlyweds as their relatives shredded a piece of cloth or paper with scissors.

In the atmosphere in which the legal and the ritual (the rational and the irrational) proceedings were combined harmoniously, the first rite of the wedding ceremony – the engagement (*erusin* or *kiddushin* – Hebr.) began.

Over a glass or a cup of wine, the rabbi would recite the special benediction related to the confirmation of the marriage. He would then give some wine to the bride and the groom to drink. In the original version of the ceremony, the groom would say the benediction by heart, but this was later on transferred to an official person to do, for practical reasons.

After having taken a few sips of wine from the same glass, the groom would put a ring on the bride's right hand index finger, saying a special marriage prayer by repeating its words after the rabbi. The procedure had to be performed before two witnesses who could not be relatives of the newlyweds. The marriage ceremony performed without witnesses was not considered valid. Putting the ring on the bride's right hand index finger was part of the original version of the ceremony. However, in time, this ritual has been modified. In some modern congregations, the Reformist ones, for example, the engagement ring could be put on some other finger as well (the ring-finger, for example). Furthermore, a more universal custom in which the bride and the groom exchange rings has been adopted by the Jewish communities as well.¹⁸ The ring could be made of any metal, but it should not be less valuable than what was prescribed by the *Talmud*.





The engagement and the wedding rites were separated from each other by the reading of the *ketubbah* – the nuptial agreement¹⁹. The nuptial agreement was read aloud by the rabbi or some other man, a wedding guest the newlyweds wanted to pay the special honor to. As a rule, the *ketubbah* was written, and read, in Aramaic, no matter where in the world the ceremony took place. A short passage from the *ketubbah* was then read in Hebrew (in Israel) or in the language of the local community (in the Diaspora). Even though some variations were to be expected in the reading of the *ketubbah*, its core and original importance has remained unaffected by the migrations and the passing of time. Modifications of the original language in which the Jewish nuptial agreement was to be written and read, which involved using a local alphabet and a local language for that purpose, was unacceptable for the longest time.

Unfortunately, the assimilation and the acculturation process has to a certain extent affected the majority of Jewish communities, resulting in failure to observe the above outlined restrictions related to the structure and the form of the *ketubbah*. Consequently, *ketubbot* written in languages other than Aramaic can be found in different Jewish communities, as is the case of the 1862 *ketubbah* from Zemun, completely written in German. (It was the nuptial agreement arranging the marriage between David A. Suzin and Rebeka – Ruvkula, a daughter of Moses Abraham Ozer. The document is now property of the Jewish Historical Museum in Belgrade, ser. no 538). Such examples are very rare, but they still attract much attention especially in the light of the fact that Jewish communities in the Diaspora, including the one on the territory of former Yugoslavia, have been very successful in preserving their traditional, ethnic and religious identity for the longest time. Nonetheless, a certain degree of acculturation in every aspect of Jewish social life has been unavoidable due to the extensive and long-term contacts with other religions and other cultural systems.

When the reading ceremony is complete, the *ketubbah* is given to the bride to keep. If a woman happened to lose her *ketubbah*, her sexual relations with her husband were prohibited until a new document of the same content was written.

The second rite – the wedding (;*nisuin*, Hebr.) was then performed, as the essential part of the celebration, which marked the real beginning of the marriage and the main purpose of the whole ceremony. The *chuppa* remained the essential symbolic component of the wedding ceremony, though in many communities during the mediaeval and modern times it was being replaced by the prayer shawl, the *tallith*, simply stretched by the groom over his bride's and his own heads. (Among the Yugoslav Jews, the *chuppa*





has still remained, more than the *tallith*, a part of the wedding ceremony.) It should be pointed out that in ancient Jews the term *chuppa* was used to denote a definite physical space – the groom's tent, a cottage, or similar where the newlyweds were to begin their life together. Upon the completion of the wedding rite, the wedding guests followed the bride to the groom's *chuppa* which represented a symbolic place where the marriage began. The *chuppa* was the foundation for the spiritual and material growth of every couple's relationship.²⁰ And even though the original *chuppa* has been modified, i.e., reduced to a symbolic construction, first made completely of wood, and, later, as a combination of wooden pillars decorated with cloth, its symbolic meaning has remained unchanged.

The marriage was finally confirmed by saying seven benedictions (*sheva berahot*, Hebr.) over another glass or a cup of wine.²¹ The rabbi was given the choice to recite all seven benedictions or only some of them. In most cases, he would say the first one, while the remaining six were offered to one or several chosen wedding guests. Reading the benedictions at a wedding ceremony was considered a special honor. The procedure ended as the bride and the groom drank the blessed wine, after which the groom was expected to break the empty glass by stepping on it. The same rite is carried out in Israel and in the Diaspora, with slight modifications in accordance with the local customs. One of the variations, for example, is breaking a glass full of wine against the wall, in order to perform the magical „appeal” to material prosperity and bounty. At any rate, the purpose of this rite is quite transparent, and it is to remind the newlyweds of the life's ups and downs which have to be taken with a light heart and an optimistic eye. The rite may also be connected with the tragedy in which the Jerusalem Synagogue was destroyed, and which marked the beginning of the endless Diaspora.

At the very end of the wedding ceremony, the so-called *yihud* was performed – the characteristic Ashkenazi custom which originates from the Talmudic times when the beginning of the marital life used to be marked by the bride's coming into the groom's *chuppa*²² The *yihud* included a ritual procedure simulating the original wedding ceremony from the ancient times: immediately after the marriage had been confirmed, the newlyweds went to a separate room. The exact time they could spend alone in the room was not precisely defined or limited, but it usually lasted for just a few minutes (this was an exclusively symbolic gesture), after which the newlyweds would return to join the wedding party.

The wedding celebration also included a formal dinner and music. Music, and, according to some sources, dancing, were unavoidable parts of the ceremony from the most ancient times. In the course of time, various musical





forms and instruments have developed, as well as different dances associated with the wedding ceremony.²³ A popular dance is the so-called *Mitzvah* dance, performed by two groups of dancers: a group of men including the groom, and a group of women including the bride who would dance without mixing with one another.

The *Mitzvah* dances were characteristic for both Ashkenazim and Sephardim. In some of the later, more informal forms of the *Mitzvah* dance, the men and the women could dance together. In those cases, the male wedding guests were allowed to dance with the women including the bride, but they had to wrap the bride's hand in a piece of cloth first to avoid a direct contact. At the beginning of the 19th century, the male and female dancers danced together holding onto the edges of handkerchiefs so as to avoid direct contact. The main purpose of this symbolic separation was to prevent, or at least reduce inciting sexual desire which could be provoked by physical contact. Throughout the wedding celebration, the bride was paid a special attention. She would usually sit surrounded by the chosen guests, while the *badchen* (a professional entertainer hired for such occasions – Hebr.), singing and telling jokes all the time, invited the wedding guests to dance with her. The priority was always given to the parents and the groom, who were followed by other guests called in the proper order according to the status they enjoyed within the community. The most beautiful and colorful dances were invented by the Ashkenazim living in the countries of Eastern Europe. These included, for example, some energetic male dances known as *Red*, *Karaho* and *Hopke*, as well as female dances such as the *Koylih* danced in a group, or the „Bottle” dance (performed with a bottle on the head), etc.

The wedding ceremony ended with the *birkat amazon* (Hebr.), the act of expressing gratitude, and by repeating the seven benedictions over a cup of wine.

The bride's first visit to her husband's house was accompanied by a special ritual procedure as well. There are many local variations as to the way of welcoming the woman in her new home: throwing rice, coins, etc., at the bride's feet, while she is entering the house; cracking the cake (*ruska*, Hebr.), especially made for that occasion, over the newlyweds' heads,²⁴ etc. Regardless of their form, all the ritual proceedings had a clear magical connotation whose most common purpose was to drive the evil spirits and spells away, to support fertility, health and prosperity of the marriage.

The Jewish tradition calls for the continuation of the celebration and the festive atmosphere for a certain period of time after the wedding. If it was the first marriage for both newlyweds, the whole year following their wedding was marked by the signs of their wedding ceremony. The couple





continued to be called „the bride” and „the groom”. The groom was paid a special attention: he was not obliged to go to the army, except in case of a defensive war. During the first seven days after the wedding (excluding the *Sabbath*) the feast was in fact continuing in the house of the newlyweds.

During that first week, the man was spared from work, and in the newlyweds' house, dinners were arranged for at least another ten persons, each time with one special guest present. During each of the meals the seven benedictions were recited at the table. In case it was the man's second marriage the described festive atmosphere lasted for just one more day after the wedding.

Part of the Jewish common-law was the obligation to commit to the levirate marriage under certain circumstances.²⁵ The term levirate originates from the word *levir* – brother-in-law (Hebr.) and it denotes a marriage between a widow and her late husband's brother, i.e., her brother-in-law. The levirate, in fact, is one of the oldest customs widely spread among many tribal communities within different cultural and economical systems.

According to the Jewish tradition, this specific form of stipulated marriage applied only to the situation when the late person did not have any children of his own. The obligation of the levirate included only the late person's oldest brother on his father's side who was born before the husband's death. But, if the „eldest” happened to be much younger than his late brother, or even still a child, the widow had to wait until he became of legal age in the religious sense (after the *Bar Mitzvah* (Hebr.) ceremony), when it was possible to confirm a levirate.

Along with the levirate, the Jewish marital law instituted a specific counterpart – a custom known as *haliza* (woman's exemption, absolution, Hebr.).²⁶ In the period of parallel existence of both customs, the woman, who had to wait for the levirate or the *haliza*, was allowed to join another man in a temporary matrimony. He was obliged to give her divorce when the time came for one or the other procedure prescribed by the custom-law to be executed. In spite of its temporary status, the children born in these temporary marriages were not considered to be extramarital (*mamzerim*, Hebr. plural). However, after the monogamous marriage had been adopted by the Jewish society as the only official one, the *haliza* pushed out the levirate as the form of marriage associated with polygamy, at least in a certain number of cases. Thus, the levirate disappeared from the custom code of the Jewish society, and the question remains to be asked – what was the reason for still having the *haliza*? Though definitely abandoned in practice, the levirate was, obviously, left preserved on some formal level of the traditional conscience, for, the *haliza* continued to be practiced with the status of a very official and significant procedure.





The procedure was conducted by three officially appointed rabbis and two other members. The rite was performed in the morning, on a site previously chosen by the five men. The woman had the obligation of fasting for a certain period of time before the *haliza*. She and her brother-in-law had been given the instructions about what to say during the procedure. (Their statements had to be made in Hebrew, regardless of the location of the Jewish community in question.) Also, to make the procedure valid, the woman and the levir had to answer some questions in order to confirm that they were both of legal age and mentally healthy, as well as that ninety one days had passed after her husband's death (to avoid any possibility of eventual pregnancy). Although the levirate had ceased to be practiced, the presiding rabbi would still ask the levir a formal question, whether he wanted to marry the widow, or to give her the absolution. Of course, her brother-in-law would give her the absolution after which the so-called *haliza shoe* ritual would be performed: the woman would take off a specially made leather shoe (a moccasin, without any metal details) from his foot. This was, in fact, the essential symbol of the whole procedure, after which the woman was free to continue with her life, that is to marry another man. She would give the leather moccasin to her brother-in-law as a gift.

Up to the present day, the Eastern European Ashkenazim add another part to the ritual *haliza* procedure: the levir has to lie down, placing the upper part of his body on the table which was used for the deceased person's ceremonial bath. Through this rather morbid ritual the levir is actually taking over his dead brother's position in accordance with the marital common-law. In England and Germany, another, quite different, ritual procedure was applied for the occasion: the levir would guarantee, by his signature deposited on his brother's wedding day, to give his sister-in-law the *haliza*, if she ever needed it. This „cruel” act had a very practical purpose of defining the relations from the very start, which actually made it appear very modern. Nevertheless, it is easy to understand why it was not so popular.

The Jewish marital law allowed a very extraordinary possibility – to get married through an intermediary, where the third person literally played the role of a „deputy”, representing the absent bride or the groom. In addition to giving the permission to represent him (or her) during the wedding procedure, the absent person was obliged to name precisely his (or her) wishes and requests and the third person was to act in accordance with them. In order to make the wedding valid, the deputy had to act according to the accepted obligation, without any improvisations or exceptions. The most interesting was the fact that the „deputy” did not have to be of the same sex as the „original”. (Naturally, this was a purely administrative procedure which did not involve any sexual relations.)





Generally speaking, mentally disturbed persons were not allowed to get married.²⁷ The act of marriage was to be accepted with full consciousness and responsibility, and marital life did not only require emotions, but performing the marital duties as well. Marrying a mentally disturbed person, was not acceptable for several reasons: first, the genetic factor was taken into consideration and all possible precautions were taken to prevent genetically transmitted diseases; and second, the mental incompetence of one partner would gravely affect the quality of the married life. However, objective assessments of different mental disorders and their intensity are difficult to make even today, despite all the technological and scientific advances. It is easy to imagine how difficult it was to determine the degree of someone's mental incapacity in the ancient times. If, a person diagnosed with a mental disorder, was considered to be in control of his or her mental capacities, he/she was allowed to get married despite all the risks involved.

According to the *Bible*, deaf and mute individuals were not allowed to get married. In the course of time, the common-law forgot about this restriction, since these handicaps were not illustrative of the person's mental and physical health (though those disorders could be hereditary). In such cases, the engagement and the wedding ceremonies were performed in the usual way, with the necessary presence of a person who was familiar with the „sign language“.

The sacred duty of living together did not encompass the threatening aspect of the „sealed fate“. If the marital relationship of two people was really bad, overloaded with serious problems and without a real hope for improvement, a divorce could be reached upon the initiative of either the man or the woman. A marriage was dissolved by the rabbinical court (*Beth Din*, Hebr.), in accordance with very precisely defined proceedings complementary with the religious regulations (*halachot*, Hebr.).²⁸ During the divorce procedure the unhappy spouses were not required to state explicitly what their marital problems were.

According to the Jewish laws, the wish for a divorce expressed by both partners was sufficient. More precisely, unhappiness in any form or shape was a reason enough to get a divorce, without any need or attempt to put blame on either of the spouses. A man who spent ten years in a marriage without children could get a divorce. Likewise, a woman who could get a divorce if she was neglected by her husband, if her husband made their life together empty and unbearable, if he worked too hard or was unable to provide for her, etc.

Also, a woman could get a divorce in case her husband had sexual problems, he was unfaithful, had a heavy infectious disease and, ultimately,





if he physically abused her. In theory, a divorce was defined by the religious regulations as a change of situation „offered” by the husband, and „accepted” by his wife. Consequently, the man was the one who „asked” for a divorce, while the woman was the one who „got” it. In practice, however, the divorce proceedings were conducted with equal respect for both sexes.

A divorce is denoted by the term *get* (dismissal or divorce letter; Hebr.).²⁹ In fact, it was a document, of which the husband and his wife received two separate copies, which included only their personal data, the date and the place when and where the *get* was issued, without citing any reasons for the act. According to the regulations, the *get* must not be a pre-printed document, but rather prepared in accordance with the given circumstances, for every life situation has its specific characteristics.

Apart from the rabbinical court, a procedure used to dissolve a marriage had to be performed before a notary (*sofer*) and two witnesses. The notary and the witnesses had to be believers, and not relatives to one another, or to either of the spouses. If it was impossible to find suitable witnesses, the members of the rabbinical court were allowed to take over their function. Before the procedure to prepare the *get* was started, the court was ordered to confirm that both marital partners agreed on getting divorced. At the same time, the court had the obligation to try to reunite and reconcile them, though it did not have to consider the actual reasons for the dissolution of marriage, nor their financial situation. Formally, it was very easy to dissolve a matrimony, with both of the partners present. If it happened that either one of them could not attend the *get* hearings, the marriage dissolution was executed in the presence of an intermediary who received the *get*, in the name of the absent person. This function could be taken over by any of the officials of the community (members of the *Beth Din* or the notary). After she received the *get*, the woman could get married to another man, but not before the ninety second day after the divorce (on account of eventual pregnancy, to avoid any possible dilemmas about the paternity rights). The Jewish marital law, however, included the possibility of „another try”: the woman could marry her former husband for the second time, if she had not married and divorced another man in the meantime. In order to be valid, the divorce, just like the wedding ceremony, had to be dissolved in accordance with the religious and traditional laws.

According to the Jewish religious regulations, a civil marriage, and a divorce resulting from it, administered by the state authorities, was not accepted as valid. It is interesting to point out that the *halachot* are still respected in Israel. In the Diaspora, the validity of a marriage and a divorce depends on the actual state laws. In the former Kingdom of Yugoslavia, or more precisely, before the Second World War, the church weddings, in principle, used to have





the status of official and formal nuptial procedures. Civil weddings were not necessary, although they were sometimes performed even by the Sephardim and Ashkenazim, especially immediately before the War.³⁰ In the more distant past, during the previous centuries, religious weddings were the only ones accepted by the society (not only in the Jewish culture). Since 1945, however, the situation has been changed by the Yugoslav state laws, which consider a marriage formally valid only if it has been confirmed before the civil authorities, while church weddings have been considered a matter of personal choice.

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¹Hayyim Schneid, *Marriage*, Keter books, Jerusalem 1973, pp. 1-2.

²*Ibid*, p. 2.

³*Ibid*, p. 2.

⁴*Ibid*, pp. 3-4; and Cadik Danon: *Zbirka pojmov iz judaizma* (Collection of Judaism terms), SJOJ, Beigrade, 1996, pp. 168-169.

⁵Cadik Danon: *Zbirka pojmov iz judaizma* (Collection of Judaism terms), SJOJ, Beigrade, 1996, p. 168.

⁶*Ibid*, p. 171.

⁷Hayyim Schneid: *Marriage*, Keter books, Jerusalem, 1973, pp. 10-11.

⁸*Ibid*, p. 10-11.

⁹*Ibid*, p. 13.

¹⁰Data from a survey of the Jewish Historical Museum, 1984.

¹¹Chayyim Schneid: *Marriage*, Keter books, Jerusalem, 1973, p. 15.

¹²*Ibid*, pp. 16-17.

¹³*Ibid*, p. 21

¹⁴*Ibid*, p. 21

¹⁵*Ibid*, p. 24

¹⁶*Ibid*, pp. 24-27.

¹⁷*Ibid*, p. 29.

¹⁸*Ibid*, p. 33, and Cadik Danon: *Zbirka pojmov iz judaizma* (Collection of Judaism terms), SJOJ, Beigrade, p. 170.

¹⁹Hayyim Schneid: *Marriage*, Keter books, Jerusalem, 1973, p. 36.

²⁰*Ibid*, pp. 36-40.

²¹*Ibid*, pp. 40-41.

²²*Ibid*, p. 41.

²³*Ibid*, pp. 42-47.

²⁴This is an old less typical custom observed in some Sephardi communities. *Ibid*, p. 48.

²⁵Eugen Veber, *Uvod u jevrejsku veru* (Introduction to Judaism), Beigrade, 1993, p. 100.

²⁶Hayyim Schneid, *Marriage*, Keter books, Jerusalem, 1973, pp. 51-52.

²⁷*Ibid*, p. 53.

²⁸Cadik Danon: *Zbirka pojmov iz judaizma*, SJOJ, 1996, Beigrade, p. 171.

²⁹*Ibid*, pp. 171-172.

³⁰Data taken from the survey conducted by the Jewish Historical Museum, 1984.

