

RENEWAL OF MARRIAGES FOR COUPLES WITHOUT GET

Rabbis Kassel Abelson and Mayer Rabinowitz

This paper was approved by the CJLS on December 1, 1999, by a vote of nineteen in favor and one opposed (19-1-0). Voting in favor: Rabbis Kassel Abelson, Elliot N. Dorff, Paul Drazen, Samuel Frint, Baruch Frydman-Kohl, Myron S. Geller, Arnold M. Goodman, Vernon H. Kurtz, Alan B. Lucas, Aaron L. Mackler, Daniel S. Nevins, Paul Plotkin, Mayer Rabinowitz, Avram Israel Reischer, Joel E. Rembaum, James S. Rosen, Joel Roth, Elie Kaplan Spitz, and Gordon Tucker. Voting against: Rabbi Judah Kogen.

The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

שאלה

A couple has been divorced by the civil court for several years. They never obtained a גט. They have not married other people during this period. They would like to “remarry.” If they may, is there a special ceremony in such a case? May a rabbi perform the ceremony?

תשובה

Civil Divorce

The classical sources do not deal with civil divorce and remarriage. However the Rambam touches on a related issue in a discussion of a doubtful divorce, or a defective *get*:

אם גרש את אשתו בגט פסול או שהיתה ספק מגורשת ורצה להחזירה הרי זו מותרת לבעלה ואינו צריך לחדש הנשואין ולברך שבע ברכות ולכתוב כתובה עד שתתגרש גרושין גמורין.

If he divorced his wife with a defective *get* or there was a doubtful divorce and he wants to take his wife back, she is permitted to her husband. He does not need to renew the marriage (נשואין), and to recite the Seven Blessings (שבע ברכות), and to write a new ketubah, until there is a full divorce.¹

¹ Rambam, Hilkhot Gerushin 10:3.

Similarly, the Even HaEzer discusses a case where a husband had issued a rabbinically defective *get* and would like to reaffirm the marriage ties instead of issuing a kosher *get*:

מי שגירש את אשתו בגט שיש בו פסול מדבריהם או שהיתה ספק מגורשת ורצה להחזירה צריך לקדשה אבל אינו צריך לברך ז' ברכות ולא לכתוב לה כתובה אחרת.

Someone who has divorced his wife with a rabbinically (but not Biblically) defective *get*, or if there is a doubt if she is divorced and he wishes to take his wife back he must betroth her. However, he does not have to recite the *שבוע ברכות* or to write for her a new ketubbah.²

The requirement of the Even HaEzer that *צריכה לקדשה*, “he must betroth her,” is in a case where there was a *get* but some defect was found in it, or where there is a doubt about the divorce. In our case there was no *get* or doubtful divorce. She is still married to him. Hence no *קדושין* would be required.

The Rambam states that there is no need to *לחדש נשואין*, to renew the marriage. The Magid Mishnah *ad locum* says that if there is a doubtful divorce then the Rambam requires new *קדושין*. But once again our case does not require or permit new *קדושין*.

The original ketubbah implies that if she is freed to marry another man then she is entitled to collect what is due her. Since she is not allowed to marry another, due to the fact that she is still married, the original ketubbah is still in effect. Therefore a new ketubbah is not required. In fact the Rambam states:

שהמגרש את אשתו והחזירה סתם על כתובתה הראשונה החזירה.

If a man divorces his wife and remarries her, he does so based on the original ketubbah.³

A contemporary posek, Rabbi Moshe Feinstein, deals with a case of a couple that had been divorced in a civil court two years before and are now reconciled and wish to be remarried. They require a civil ceremony, but do not want to go to a judge lest they be mistaken for non-observant Jews and would like a rabbi to “remarry” them. Rabbi Feinstein advises against a ceremony, even without *ברכות*, lest it mislead people into believing that a civil divorce has standing in Jewish law.

However, there is a change in the situation of the couple. The husband will be taking her anew to his home, as was the case in the beginning of the marriage. Rabbi Feinstein advises the rabbi to sign the civil license and have it witnessed. This would also avoid the need for the couple to have to resort to a judge for the civil license, which would also be misleading, albeit in a different way.⁴ It is interesting to note that Rabbi Feinstein approves of a rabbi acting solely in a civic capacity, even where there is no specific Jewish religious role for the rabbi.

A Religious, Psychological and Civil Need

A civil divorce is not recognized as a divorce by Jewish law. Hence the couple is still married, according to Jewish law. We concur with Rabbi Feinstein that there is a role for the rabbi in the renewal of their marriage relationship. But we would not limit the rabbi's role to filling out the civil license, though this is important.

² Even HaEzer, Hilkhot Gittin 150:4.

³ Rambam, Hilkhot Ishut 16:30.

⁴ R. Moshe Feinstein, *Iggrot Moshe*, Yoreh De'ah, B, siman 44.

The civil divorce has left its mark on everyone who is involved. The man and woman have lived their lives as divorced for years. If there are children, the children know that their parents were divorced by the civil courts, and they need a symbolic reunion of their parents. In the eyes of society they are divorced. And, there needs to be a civil marriage ceremony to reestablish a legal relationship.

Of utmost importance the couple has chosen not to go to a judge to perform a civil ceremony. They have come to a rabbi, for they are looking for a religious renewal of their relationship. They are part of our community, and we should be responsive to their need.

Our community, too, is not Rabbi Feinstein's community. He knows his community and its needs, when he advises the rabbi not to give legitimacy to a civil divorce, by not having a Jewish ceremony. The primary need of our community, however, is for a Jewish and religious affirmation of what is a renewal of a relationship that had been estranged. The miracle of such a reconciliation, and the ability to bridge disruptive differences in a relationship, needs to be celebrated.

Not a Marriage but a Renewal

Rabbi Feinstein's concern about according legitimacy to civil divorce, and weakening the felt need for a Jewish divorce, can be handled in a different way. The rabbi in an interview should explain that, according to Jewish law, a civil divorce does not end a Jewish marriage. A Jewish divorce is required. Hence the ceremony that will be performed is not a Jewish marriage, but a renewal of their previous marriage, a celebration of the end of their estrangement. The term "renewal ceremony" should be used by the rabbi in all discussions with the couple. The rabbi should encourage the couple to use the term "renewal ceremony" with their family and friends, and if invitations are sent out, the invitations, too, should use the term "renewal ceremony" and not "remarriage." This also should be emphasized in the rabbi's remarks during the ceremony, so that those attending will not be misled.

Renewal Ceremony

The renewal ceremony should pay heed to the cautions of both the Rambam and the Even HaEzer and not use a new ketubah, though the original ketubah, when identified as such, may be read again. If the original ketubah is no longer available, a **כתובה דאירכסא** (replacement) should be provided and identified as such. The **ברכות ארוסין** and the **שבע ברכות** are not to be recited, to avoid **ברכות לבטלה** (mention of God's name in vain).

The rabbi will have to develop a ceremony which, while it should not be a marriage ceremony, may utilize some parallel elements. The *Moreh Derekh* has a section on anniversary ceremonies (vol. 1, pp. C68-70) containing material which, with a little modification, can be used in a renewal service.

Keep in Mind

1. While the Rabbinical Assembly has a policy forbidding its members to participate in a purely civil ceremony, this renewal ceremony also has religious overtones. Note that a civil marriage license is required, and should be filled out and witnessed before the ceremony.

2. A new ketubah should not be filled out. If the old ketubah is used it should be described as the same one used at the first wedding. If a **כתובה דאירכסא** (replacement) is used it must be identified as such (reading aloud the part which indicates it is a replacement). However if the couple wants to write **תנאים**, the rules that will be the basis of their old/new rela-

tionship, they should be encouraged to do so. It should be signed before the ceremony. If this document is used at the ceremony, it should not be designated as the ketubbah.

3. Since a huppah symbolizes the home, it may be used during the ceremony. However, reference should be made to the fact that “once before you stood under the huppah to establish a Jewish home, and now you are renewing your relationship and are re-establishing your home, affirming your determination to once again make a life together.”

4. If rings are used, it is preferable to use the original wedding rings. If they are no longer available, new rings may be used. However, it is prohibited to use the *הרי את מקודשת לי* formula. Substitute, for the husband, *וארשתיך לי לעולם*. . . . For the wife, it is appropriate to say *דודי לי ואני לו*.

5. The *ברכות ארוסין* should not be used. The *שבע ברכות* should not be recited with *שם ומלכות*. An abbreviated version may be used (see p. C69, vol. 1 of *Moreh Derekh*). The blessing over wine should be recited, and both drink from the wine, followed by *שהחינו*.

6. The rabbi, in his or her remarks, should refer to the fact that this is not a marriage, but the renewal of a relationship that had been broken and is once again made whole (*שלם*).

Conclusion

A couple that has been divorced in the civil courts, but has not gotten a Jewish divorce, is still considered to be married by Jewish law. Neither party has remarried in the interim. If they decide to reconcile, they do not require a Jewish marriage ceremony. However a renewal ceremony which celebrates their reconciliation is strongly recommended. A rabbi should compose an appropriate ceremony and perform it. However, a new ketubbah should not be written, nor should the traditional *שבע ברכות* be recited.

APPENDIX: SAMPLE CEREMONY OF RENEWAL

(Based on the Anniversary service found in the RA *Moreh Derekh*.)⁵

Rabbi's words of introduction:

[NUMBER] years ago, in the presence of family and friends you consecrated your love for each other. The challenges of marriage and the difficulties you experienced in your relationship brought you to a parting of the ways. Today you are renewing your marriage and consecrating your life together, promising one another to share the joys and sorrows, the tasks and responsibilities of family life. May God bless you and strengthen your resolve in the years ahead.

Ring Ceremony:

[GROOM], will you now take the ring and place it once again on [BRIDE]'s finger, affirming *וארשתיך לי לעולם*, “I will betroth thee to me forever.”

[BRIDE], will you now take the ring and place it on [GROOM]'s finger, affirming *דודי לי ואני לו*, “My beloved is mine, and I am his.”

The original ketubbah or תנאים may be read.

[GROOM] and [BRIDE], [NUMBER] years ago you stood under the huppah and heard the *שבע ברכות*, the Seven Benedictions, recited. I will now repeat a version of these blessings, following which you will sip from the same cup of wine, symbolizing your renewed determination to share all that life brings, both its joys and its sorrows.

Blessing over wine, followed by שהחינו.

⁵ See *Moreh Derekh*, Rabbinical Assembly, section on Anniversary celebrations.