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LOVE and LAW

The Rejection of Jewish Marriage Law Poses A Threat to the Unborn and to Our People

Jews who have not been brought up in the full Jewish tradition are often taken aback at the way in which Judaism expresses its concerns about marriage and married life. Even when predisposed to a sympathetic appreciation of the Torah tradition, such people cannot understand the severely legal manner of the Jewish doctrine of marriage. When discussing the relationship between husband and wife, the Talmud speaks of *mitzvah* and *din*, of *halachah* and *issur*, of rights and duties—exactly, it seems, in the same terms of its discourses on civil and commercial law. Is there no difference, people ask, between the area of domestic relationships and these others? Is not the derogatory charge of “legalism” so often pressed against us justified in the light of Judaism’s treatment of marriage in the language of commandments and prohibitions, laws and duties? The modern mentality cannot understand that these laws referring to family life should constitute as much as one fourth of the entire *Shulchan Aruch*, the code of Jewish law; that married life should be based on any factor other than love.

Of course, husband and wife, parents and children, cannot think only of their rights and their demands upon each other. For a family to be successful there must be love and patience and tenderness and a willingness to forgive and forget and forego. The Talmud (*Kiddushin* 41a) teaches that the famous commandment, *v’ahavta le’reiacha kamocha*, “You shall love your neighbor as yourself,” refers, in the first instance, to one’s wife. And Maimonides codifies as Jewish law (*Hilchos Ishus* 15:19) the statement of the Sages that a man should honor his wife more than himself—in the manner in which he provides for her—and love her as much as himself.

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Having said this—it is a self-evident principle—we must add another truism: love itself is an insufficient basis for life. Solomon proclaimed that *Azah ka-maves ahavah*, “Love is as strong as death.” Love is powerful, one of the most powerful forces in the universe; but, unregulated and undirected, it can also be deadly and destructive.

Why is this so?

FIRST, without law we cannot distinguish between licit and illicit love; the limits of love’s expression are gone, and one does not know where it will lead. That “love is the only law” is an ancient Christian teaching with disastrous implications: some of them are being spelled out in our own times, as Christian antinomianism is being wedded to the permissiveness of the New Morality. Thus, the scandalous effort by a group of Episcopalian priests to legitimize homosexual “marriages” provided both partners truly love each other.* Once love is set up in opposition to law (and the tension between them is always resolved in favor of love), love itself can become a menace to all other values cherished by civilized men. This is an insight anticipated in the Torah’s use of the term *chesed* (love) for a particular form of incest: the same quality of G-d’s redemptive relationship to man, and man’s outgoing goodness to his fellow man, is deemed ugly and repulsive, an abomination, when it is uncontrolled and undisciplined.

SECOND, human love, for all its eminence in life and in doctrine, does not remain the highest value of all. Judaism teaches man that he must submit his entire life and his most cherished commitments to the higher authority of G-d Himself. There is a love that transcends our love for parents and wife and children—

*See my articles in *Jewish Life* (Jan. Feb. 1968) and in *Tradition* (Winter 1968) on this subject.

and that is love for G-d. There is a judgment that surpasses any human judgment no matter how ethical and that is the divine judgment. This, indeed, is the teaching of the *Akedah*: Abraham, despite his passionate and deathless love for his only son, bows his head and submits to the divine decree to offer up his only son as a sacrifice. The Law of G-d takes precedence over the love of man.

This is the only authentically religious position open to believers. The subordination of *Ahavas Hashem* to human love characterizes, essentially, a secularist-humanist view.

THIRD, without law, love "conquers all," but it also *destroys* all—including itself. Law is that which allows love to endure within the context of life. The *mitzvos* provide the framework in which true and authentic love can flourish; otherwise it may spend itself prematurely.

Observing our own society confirms this unhappy assertion: rarely before has the word "love" been as popular. Despite some recent assertions that "love is dead," it remains the cheapest commodity on the market today. It fills the scrapbooks of countless teenagers; it is the chief attraction of all popular magazines; it is sentimentally blared forth on television and peddled in the cinema. Oversized buttons and signs implore us: MAKE LOVE, NOT WAR; and in the name of love, war is declared against the Establishment. Society in general—not only the avant-garde—is successively discarding all traditional laws and religious and moral restraints. Yet who is it who will maintain that human relations nowadays are usually characterized by an excess of love?

The Hippies recognize the cynicism and cant and hypocrisy that lie at the heart of modern society. They are sensitive to this corruption and this rot, this lack of genuine love. Yet they make the disease worse by giving unrestrained expression to what they consider love while at the same time abandoning all laws and restraints which alone can make it meaningful by channeling it properly. Their life is amoral, uncreative, and astoundingly self-centered—and egocentricity and authentic love do not go well together. Any sane person—especially one over thirty!—can see that this is a caricature of love and life. Like a living cartoon, it does expose the ludicrous bluff and bluster in our society; but it has no solutions to offer, no cures for the ills it protests. It cannot therefore be taken as a serious social movement. The trouble with "Flower Power" is that it has no roots and therefore must wither. This is not meant to challenge the sincerity of the New Moralists or Hippies and Yippies or college radicals. Their sincerity is entirely irrelevant. But we have no proof whatever that genuine love is more characteristic of these circles and their much vaunted

"honesty," than of the "hypocritical" establishment. Indeed, the more love becomes a doctrine that is preached, the less is it available as a reality that is experienced.

SO JUDAISM APPRECIATES the importance of love as a basic ingredient in successful and meaningful human relations. But it knows that love cannot flourish if we do not place it in the context of justice. The Kabbalah teaches that *Chesed* (love) alone is overwhelming and destructive, but when it is dialectically joined to *Gevurah* (law and justice), it yields *Tiferes*—harmony and beauty and truth. Love must have the protection of laws and duties and restraints. Those fortunate enough to experience love, must direct it and orient it properly, and must always consider its effects on others—on old and young, on contemporaries—even on the unborn.

Finally, we must not ignore those (and they constitute a large segment of humanity) who cannot or do not experience love. Their inner life is emptier than those who are capable of feeling love, their emotional life is attenuated and poor. But such people are no less decent or moral or ethical than those who do love. They have every right to a decent life, and to the protection of their emotions, of their families, of their children—no less so than those fortunate enough to be endowed with the capacity for love. The Erich Fromm's, who consider the absence of the capacity for love an instance of mental illness, may be right. But as long as a large number—perhaps a majority—of human beings are so afflicted, there is no warrant for basing all of social ethics on love alone.

Jewish law creates the conditions under which love can flourish in human relationships, and under which people can live humanly with each other even if they do *not* attain love. If one examines the consistent manner in which the Talmudic Sages applied the commandment *Ve'ahavta le'reiacha kamocha*, he will discover that its correct translation ought to be not "Love your neighbor as yourself," but "Act lovingly towards your neighbor as you would act towards yourself."*

IT IS PRECISELY because of Judaism's concern for the integrity of marriage and home that it legislates on such matters. In fact, the more important the subject, the more does Judaism hedge it about with laws. It is *because* marriage is so sacred and sexuality so sensitive that Torah prefers to protect it by *law* rather than wax *poetic* about it romantically. Torah considers marriage and family and *yichus* (the legitimacy of lineage) so significant, that it will not leave it to the whim of sudden passion and instantaneous infatuation.

That is why *Gittin* and *Kiddushin* (divorce and marriage) abound in such complex technicalities. Marriage

*See the commentary of Ramban on this verse.

The Torah is the center of our lives as individuals and as a people. Its mitzvos guide our conduct, its ideals define our destiny. It has served us well throughout our long history. We are naturally as flawed as others, subject to the constant blandishments of the yetzer ha-ra no less than others, and prone to the same corruptions that afflict other human beings; yet the Torah has made possible for us a family life more moral and more stable than any people has ever known.

is a lifelong relationship of the most significant and far-reaching consequences which is initiated by a single ceremony or contract. Therefore, we must make sure that both parties know exactly what they are doing, that both offer their free and untrammelled consent, in order that no avoidable errors be perpetrated. Hence, the Halacha's insistence upon the formality of the ring, of the witnesses, of the proposal formula, of the proper quorum, and so forth, so that there be no misinterpretation or misunderstanding of what is occurring.

For this reason, the Halachah places even greater emphasis upon the technicalities of *gittin* than upon *kiddushin*, because the former has such a massive impact upon the lives of two people—usually more. Every detail therefore becomes exceedingly important. To undo a relationship is even more difficult than creating it in the first place. With all the difficulties imposed by Halachah in divorce, these laws have been the safeguard of Jewish morality throughout the ages.

These considerations explain the very special care that the Halachah insists must be taken in any matter relating to marriage or any situation where there exists the possibility of *mamzerus*, illegitimacy. Too much depends upon this and so every precaution must be taken.

It is deeply distressing that some Jews, through no fault of their own other than ignorance, are often caught up in tragic situations. Unfortunately, people are sometimes innocently misled and later discover that they face horrendous problems. Hence, knowledgeable Jews have a duty to inform others that if, as often happens in the course of life, they are ever beset by a problem in this area, they ought always inquire of competent rabbinical authority—and the emphasis is on the word “competent.” Every Jew must remember that rabbis who function in marital matters must be fully Orthodox, experts in the field, and ethical individuals. When we disqualify those who do not fully accept the authority of Jewish Law, it is not a matter of pique or institutional rivalry, but of principle

and law as well as common sense. Unfortunately, there are some few Orthodox rabbis whose credentials are questionable, and one must therefore always check carefully in advance—no less than one solicits opinions about the reputation of a physician or a surgeon.

These matters, about which extreme caution should be exercised, include marriage and divorce; remarriage of any person who has previously been married; proselytization or marrying a proselyte or a descendant of a proselyte; the adoption of children, whether Jewish or non-Jewish. *The problems that exist in such cases can be enormous; most of the unhappy consequences are avoidable if we are wise enough to inquire before proceeding impulsively.*

THE TORAH IS THE CENTER of our lives as individuals and as a people. Its *mitzvos* guide our conduct, its ideals define our destiny. It has served us well throughout our long history. We are naturally as flawed as others, subject to the constant blandishments of the *yetzer ha-ra* no less than others, and prone to the same corruptions that afflict other human beings; yet the Torah has made possible for us a family life more moral and more stable than any people has ever known. At the very least it has given us a guilt feeling which acts as a marvelous restraint on further degeneration. The Jewish tradition does not often speak overtly of love; yet its legal restraints and the duties it imposes have given it the greatest opportunity for expression.

No matter how much an Orthodox Rabbi wants to maintain good relations with all Jews, whatever their convictions, he can only view with the deepest sorrow the havoc wrought by Reform when it abandoned Jewish marriage law. *This was probably the most irresponsible act in the recent annals of the Jewish people.* Based on a piece of spurious scholarship, Reform proclaimed that a civil divorce is adequate, and that a *get* is unnecessary for remarriage. It overlooked the glaring inconsistency of insisting that marriage should be a religious ceremony, while divorce may

be a civil ceremony. As a result, it cavalierly dismissed the fact that the Halachah considers the previous marital bond still in full force. Therefore, the person who remarries without a religious divorce is living in adultery, and the children of such a union are illegitimate.

Now, illegitimacy, *mamzerus*, imposes a terrible burden on such children: they are forbidden to marry any others save those in the same category. Too much human tragedy has resulted from this irresponsibility for us to remain silent. That is why, whatever anyone may believe about religious freedom in Israel, we must draw the line at matters of *Gittin* and *Kiddushin*. It is bad enough that Reform has destroyed the happiness of so many men and women in this country, often forcing a young couple to make a tragic choice between love for each other or loyalty to the basic tenets and laws of their faith. We dare not acquiesce by our silence in the destruction of the unity of the Jewish community of the State of Israel as well. One can only hope that enlightened Reform leaders will themselves come to this realization and attempt to correct the situation—or at least not endeavor to impose it on Israeli Jews. Israeli secularists and American Reform spokesmen—and some editorialists in the Anglo-Jewish press who are, as is well known, the ultimate authorities in all matters affecting Judaism from marriage law to culinary fashion—have knowingly or unknowingly misrepresented the position of American Orthodoxy. They have asserted that the introduction of civil marriage and divorce in the State of Israel would not be divisive and create no insuperable difficulties, appealing to the example of American Jewry where co-existence reigns supreme. While it is true that in general communal matters, many Orthodox Jews and a number of Orthodox Jewish institutions have co-operated with Reform and Conservative groups, it is simply not true that such accommodation has extended to Halachic issues, and it is certainly untrue that no serious complications have arisen. Orthodox Rabbis now must inquire, as a matter of course, of every prospective bride and groom about divorces and conversions of their parents and grandparents. When we discover anything of this nature in the lineage of the couple, sanctioned by Reform, we know that in most cases we cannot condone the marriage. Usually, the situation is incorrigible: *me'uvav she'lo yuchal lisekon*, as the Talmud calls it. Such couples often go “shopping” for Reform or Conservative dispensations—imposing on their progeny the prospect of the same heartbreak in years to come.

THESE MATTERS ARE NOT at all pleasant to discuss. Denouncing those who do not share our convictions is not always the criterion of *yiras shomayim*, nor is it always the best way to bring such people closer to Torah. But these threats to our peoplehood are too important and too menacing to pass over them in

polite silence. It is our duty as responsible Jews to let our fellow Jews know the facts, lest, by default, we share in the guilt of creating human misery. It is bad enough that so many Jews have chosen to live outside the pale of Jewish law. But to impose the burden of illegitimacy upon an innocent child who may one day choose to reclaim his Jewish heritage, is to be guilty of an act of unspeakable cruelty. Our zeal in making all Jews aware of these facts derives from the deepest feelings of human compassion.

The prophet Isaiah proclaims, *Ki mei No'ach zos li*, “For this is as the waters of Noah to me.” Just as I have sworn, says G-d, not to bring another Flood to the world, so will I not punish My people again. But the Zohar, (*Lev. 14b*) asks: Is this not a strange expression? Should the waters of the flood not be referred to as such, *mei mabbul*, “the waters of the Flood,” rather than as *mei No'ach*, “the waters of Noah?”

The answer of the Zohar provides us with a pertinent insight: when the Almighty wishes to bring destruction upon a world deserving of such cataclysm, He first informs the pious of that generation, hoping that they will intercede before G-d for their fellow men, and that they will inspire their contemporaries to righteousness so that, having changed their ways, G-d may feel free to change His decree. Thus Moses pleaded before G-d and preached to his fellow men, and thus did the prophets after him. Noah, however, failed to do this—he was concerned only for himself. When G-d told him that a flood would destroy every existing thing, he built an ark for himself and his family—worried about Noah and no one else. Because of this spiritual self-centeredness and his indifference to the religious well-being of his fellow men, he carries the eternal stigma of having the Flood known as *mei No'ach*, “the waters of Noah.” The devastation, the destruction, the calamity bear his name as he bears some of the blame.

We Orthodox Jews must not be guilty of the same kind of spiritual egotism under the pious guise of not wanting to interfere in the lives of others. We are not *interfering* when we bring to our fellow-Jews, who have abandoned Jewish marriage law, the message of Torah. We are *discharging our responsibility to them* and to their children, and to their children's children, and to generations yet unborn, informing them and cautioning them about the Torah's law of marriage and legitimacy and its implications for them.

HAVING DONE THAT, we shall discover that just as the punishment for irresponsibility comes in the form of water—the *mei No'ach*—so the reward for the proper responsibility is also “water,” but of a different kind, and also spoken of by the prophet Isaiah: “*And the entire world will be filled with the knowledge of the Lord, even as the waters fill the sea.*” □