

The Text of the *Ketubbah*

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This paper was adopted as the Majority Opinion on April 27, 1983 by a vote of 13-6-1. Members voting in favor: Rabbis Isidoro Aizenberg, Jacob B. Agus, Ben Zion Bokser, David M. Feldman, Morris Feldman, Edward M. Gershfield, Wolfe Kelman, David H. Lincoln, David Novak, Barry S. Rosen, Morris M. Shapiro, Israel N. Silverman and Henry A. Sosland. Members voting in opposition: Rabbis Kassel Abelson, Ephraim L. Bennett, Robert Gordis, Mayer E. Rabinowitz, Joel Roth and Harry Z. Sky. Abstaining: Rabbi Alan J. Yuter.

Note: Two papers were adopted on April 27, 1983 as Minority Opinions, "Sociological Reality and Textual Traditions: Their Tension in the Ketubbah," a paper by Rabbis Joel Roth and Daniel Gordis, adopted by a vote of 6 in favor, 9 opposed and 5 abstentions; and "A Proposal for the Text of the Ketubbah," a paper by Rabbi Robert Gordis, adopted by a vote of 5 in favor, 10 opposed and 5 abstentions. They appear following this paper.

In his paper, "A Proposal for the Text of the *Ketubbah*," Rabbi Robert Gordis argues, "In view of the widespread change in sexual mores, to write *betulta* in the *ketubbah* means to perpetuate what is manifestly an untruth." He further argues, "In a day when the equality of women is widely accepted as an ethical value...many of us are sensitive to the description of the *ketubbah* of the state of chastity of the bride, when no such corresponding epithet is applied to the groom." He therefore suggests that we use the term *panyeta*, single, unmarried, instead of *betulta*.

Rabbi Gordis does not suggest to us what to do with the rest of the *ketubbah*. Shall we continue to use the phrase *kesef zuzei matan deḥazei likhi mide'oraita*, or, to follow his logic, change it to *kesef zuzei meah deḥazei likhi miderabbanan*?

Even though I am hesitant to disagree with our master and teacher, Rabbi Gordis, nevertheless, *Torah hi velilmod ani tzarikh*.

Looking through the sources, I came to the conclusion that the term *betulta* in the *ketubbah* should not be read as an inference regarding the bride's chastity or virginity, but rather regarding her entitlement to 200 zuz.

It is an accepted fact in the Talmud that a *bogeret* (adolescent) is not a *betulta* in the literal sense. For instance, a *kohen gadol*, who is enjoined to marry a *betulah*, may not marry a *bogeret*. "Our rabbis taught: 'And he

shall take a wife in her virginity,' excludes one who is adolescent." (*Yevamot* 59a). A special *ribui* is needed for an unmarried adolescent to be included among those relatives towards whom a *kohen* may defile himself. "'That is near' includes a betrothed (sister); 'unto him' includes a sister who is an adolescent" (*Yevamot* 60a). In other words, the term *betulah* would have excluded the *bogeret*.

Even though a *bogeret* is not considered a *betulah* in the biblical, literal sense, everyone agrees that she is considered a *betulah* from a monetary point of view and is therefore entitled to 200 zuz. It is obvious, then, that in the *ketubbah* the term *betulta* refers not to the bride's physiological status, but to her monetary rights.

Rambam rules:

המפותרת שלא רצתה להנשא למפתה . . . ה"ז נותן קנס . . . ואם רצו וכנסה
אינו משלם קנס אלא כותב לה כתובה כשאר הבתולות (הלכות נערה בתולה פ"א
הל' ג)

The Tur cites this opinion of the Rambam, as well (*Even Ha'ezer* 177:1). Note the *leshon HaRambam*: כותב לה כתובה כשאר הבתולות.

Even though she is not a *betulta* physiologically, nevertheless, because she is entitled to the 200 zuz, the Rambam had no qualms in writing *betulta* in the *ketubbah*.

The question before us is therefore: In view of the realities of our sexual mores, is the modern bride entitled to 200 zuz? Should we decide in the affirmative, we should then have no qualms about writing *betulta* in the *ketubbah*.

Before I address myself to the above question, I would like to make the following assumption. Even though it would be quite naive to assume that the bride before us is physiologically a virgin, it is not so naive to assume that it is the groom who is responsible for the fact that she is not a virgin. "Most women have only one premarital sexual partner whom they eventually marry" (*Essentials of Psychology*, Dennis Coon, p. 541).

Let me now reiterate the ruling of the Rambam and the Tur:

ואם נשאה המפתה כותב לה כתובה כמו לשאר הבתולות.

Whether this ruling also applies when the *mefuttah* is a *bogeret* is not clear. The Pithei Teshuvah quotes the Hatam Sofer, who maintains that the Rambam's and the Tur's ruling applies only to a *na'arah*, but not to a *bogeret* (*Pithei Teshuvah*, *Even Ha'ezer* 66:6). The Shemesh Tzedakah, on the other hand, maintains that the ruling also applies to a *bogeret* (*Pithei Teshuvah*, *Even Ha'ezer* 177:12). Even the Hatam Sofer agrees that she

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(the *bogeret*) is entitled to the 200 zuz when the persuasion to have sex with him took place after the engagement (*Pithei Teshuvah, Even Ha'ezer* 66:6).

Rabbi Moshe Feinstein rules in a case of a couple who were married civilly for several years and now want to be married *kedat Moshe veYisrael* that *betulta* should be written in the *ketubbah* (*Iggerot Moshe, Even Ha'ezer* 101).

CONCLUSION

- (1) *Betulta* in the *ketubbah* refers merely to a monetary right of 200 zuz.
- (2) Most women have only one premarital sexual partner whom they eventually marry.
- (3) Due to the fact that the value of today's *ketubbah* is merely traditional, we could easily accept the ruling of those authorities who maintain that the ruling of the Rambam and the Tur also applies to a *bogeret*.
- (4) Changing from *betulta* to *panyeta* could be misinterpreted as a public acceptance of our present sexual mores.

I therefore recommend that we leave the traditional practice unchanged.

