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“Cause Half of Me Loves Half of You?”

**Betrothal by Halves in the Babylonian Talmud and its Implications for
Egalitarianism in Contemporary Jewish Marriage**

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When I teach about the traditional Jewish betrothal formula “*Harei at mekudeshet li*” (“Behold you (f.) are betrothed to me”), there are some questions that typically come up: What if the woman says no? Why must a man initiate marriage in the traditional formula? How can this speech-act that has become an aspect of the wedding liturgy be adapted for both queer couples and a more egalitarian paradigm? A question I have never heard is: What if the would-be groom tries to betroth half of himself to his would-be bride, or tries to betroth half of her to him? Yet, this *is* one of the questions that appears in the discourse of the Babylonian Talmud (Bavli). Both at first glance and upon deeper investigation, it is clear that the Bavli does not present this possibility as a real-world situation that might come up, but rather as a test case to examine the limits of a ritual change in legal status that relies upon both a speech-act and a financial transaction.

The discussion of betrothal by halves, both in the Talmud and in post-Talmudic halakhic literature, relies on the ability of spoken words to create a new reality. The betrothal formula “*Harei at mekudeshet li*” is an example of what the philosopher of language J. L. Austin calls a “performative utterance:” a statement that “is, or is a part of, the doing of an action, which...would not *normally* be described as, or as ‘just,’ saying something.”¹ Marriage is one of Austin’s paradigmatic examples of an instance where performative utterances create a new reality: in an Anglophone Christian or secular wedding, when a man says “I take this woman to be my lawfully wedded wife” and each partner says “I do,” they are making the marriage happen using speech.² The rabbinic betrothal formula serves the same purpose: when a man utters these words, he participates in creating the reality of the betrothal.

¹ J. L. Austin, *How to Do Things with Words*, 2nd ed (Cambridge, MA: Harvard University Press, 1975), 5.

² Austin, *How to Do Things with Words*, 5-6.

Jewish ritual abounds in performative utterances: it is speaking the words of a blessing that transforms the surgical procedure of circumcision into an affirmation of the covenant between God and the Jewish people, that sanctifies holy days over cups of *kiddush* wine, and that gives human beings permission to eat food derived from God's world.³ On the surface, the phrase "*Harei at mekudeshet li*" (or an equivalent statement)⁴ would seem to be a textbook performative utterance and have the power to enact betrothal. However, rabbinic betrothal is not just a speech act, but a financial act: the bridegroom-to-be must offer to his chosen bride an object of some value, and, critically, she (or her father, if she is below the age of majority) must accept it with the knowledge that it is being given in order to effect betrothal.⁵

The fact that a woman (or her father, if she is a minor) must willingly receive the betrothal-money (or an object worth the requisite amount of money—today usually a ring) in rabbinic marriage is particularly salient to contemporary discussions of egalitarianism in heterosexual marriage ceremonies. This is most clear in a set of four halakhic documents released by the Conservative Committee on Jewish Law and Standards (CJLS) in the spring of 2020 regarding a more egalitarian *kiddushin* ceremony or egalitarian alternatives to *kiddushin*. Core to these documents is a dispute between Rabbis Gail Labovitz and Pamela Barmash as to whether *kiddushin* is fundamentally unequal and irredeemable (as Labovitz

³ Though a blessing over wine is said as part of *kiddush*, what distinguishes *kiddush* from ordinary blessings over food is the paragraph that emphasizes the holiness of the day and performatively enacts its sacredness. Blessings over food are understood as making food available/suitable for human consumption, as un-blessed food is still God's property and eating it would be like stealing it from God, as seen on B. Ber. 35a. See Ruth Langer, "Jewish Worship and Liturgy," in *The Cambridge Guide to Jewish History, Religion, and Culture*, eds. Judith R. Baskin and Kenneth Seeskin (Cambridge: Cambridge University Press, 2010), 346.

⁴ See B. Kid. 5b-6b for a discussion of equivalent statements and their ability to establish legitimate betrothal.

⁵ This is made clear on B. Kid. 2a-b, and further on B. Kid. 13a, in a sugya about women who are silent when receiving their betrothal-money—is their silence to be understood as tacit consent, or tacit objection? In any case, it is clear that the woman (or, if a minor, her father) must receive the betrothal-money (and not reject it) in order for the performative utterance to be efficacious.

holds) or has the potential to be reshaped into an egalitarian paradigm (as Barmash holds).⁶

To underscore the degree to which a man must be the sole actor in rabbinic betrothal,

Labovitz emphasizes that only a man can speak the performative utterance that effects

betrothal:

[I]t is the man who makes a statement about the woman's (now changed) status, indicating her exclusivity to him and/or his control over her and/or her status as his betrothed or wife. Only regarding a betrothal in which the man is the sole and fully active party in initiating the betrothal and stating the intent that his actions change her status and create a betrothal...is it absolutely certain that a binding betrothal has taken place.⁷

On the other hand, Barmash emphasizes that a woman must actively accept the offer of

betrothal, as is made clear in t. Kid. 2:8-9, where we learn that if a woman throws the

betrothal-money she is given into a body of water or tells the man to give it to someone else,

she is not betrothed—and thus, without the complete financial transaction, the performative

utterance does not take effect.⁸ For the modern Conservative movement, the woman's role in

taking the betrothal money, and whether we understand her as actively accepting it or

passively receiving it, is key to the viability of rabbinic betrothal as part of the marriage

process within an egalitarian framework.

It is worth quoting the passage from the Tosefta in full:

התקדשי לי בסלע זו, משנטלתו מידו הטילתו לים, או לנהר, אין מקודשת. התקדשי לי במנה, ואמרה לו תנהו לפלי, אינה מקודשת. שיקבלם לי, הרי זו מקודשת. נתן לה קידושה ולא אמ' לה הרי את מקודשת [לי], ר' יהודה או' אינה מקודשת. ר' או' אם עסוקין באותו עניין מקודשת, אם לאו, אינה מקודשת.

⁶ Gail Labovitz, "With Righteousness and with Justice, with Goodness and with Mercy: Options for Egalitarian Marriage within Halakhah," CJLS E.H. 27:1.2020a, approved 14 Apr. 2020; Pamela Barmash, "A Dissent in Part, a Concurrence in Part to Rabbi Labovitz's Teshuvah on Egalitarian Marriage within Halakhah," CJLS E.H. 27:1.2020b; Barmash, "Egalitarian Kiddushin and Ketubbah," CJLS E.H. 27:6.2020a, approved 19 Feb. 2020; Labovitz, "A Dissent to 'Egalitarian Kiddushin and Ketubbah,' by Rabbi Pamela Barmash," CJLS E.H. 27:6.2020b.

⁷ Labovitz, "With Righteousness and with Justice," 5.

⁸ Barmash, "Egalitarian Kiddushin and Ketubbah," 16. Barmash also brings examples from B. Kid. 6b-7a where a woman can use men to create a legal fiction whereby the betrothal is initiated by a man at her instructing. For Barmash, this is further evidence that there is egalitarian potential within traditional *kiddushin*.

התקדשי לי במנה זה, ונמצא מנה חסר דינר, אין מקודשת. היה בו דינר רע יחליף. היה מונה ומשליך לתוך ידה ראשון ראשון, יכולה היא שתחזור בו עד שעה שיגמור.

[If a man said,] “Be betrothed to me with this *sela* [silver coin],” if when she took it from his hand she threw it into the sea or a river, she is not betrothed. [If he said,] “Be betrothed to me for a *maneh* [silver coin of greater value than a *sela*],” and she said to him, “Give it to so-and-so [someone else],” she is not betrothed. [If she said,] “He will receive them for me [i.e., as specifically designated to receive them on her behalf],” behold, she is betrothed. If he gave her the betrothal-money but did not say to her “Behold you are betrothed [to me]”—Rabbi Yehudah says that she is not betrothed, [and] Rabbi [Yehudah haNasi] says that if they were discussing the matter she is betrothed, but if not, she is not betrothed. [If he said,] “Be betrothed to me with this *maneh*, but [the amount given] is actually one *dinar* short of a *maneh*, she is not betrothed. If he was counting [the betrothal-money] and putting it in her hand one [coin] by one [coin], she can go back on [the betrothal] until he finishes [counting and giving her the money].⁹

We see here that though men must initiate betrothal, women are given quite a bit of license to reject the offer, even when they have already begun to accept the money, if they have not yet received all of it.

However, a sugya on B. Kiddushin 7a-b challenges the notion that a woman’s willingly receiving betrothal-money is an essential step in the process, as it engages deeply with the timing of betrothal and the question of when it takes effect without considering the question of when in the process a woman would receive her betrothal-money and thus consent to the union. In this paper, I analyze the two-part sugya on B. Kid. 7a-b that addresses the question of whether “half” of a person can legitimately be betrothed to another person; that is, whether the speech-act of declaring half of one person betrothed to another can successfully effect betrothal. In addition, I explore different post-Talmudic perspectives on this sugya and the halakhic issues it raises. Taken together, these sources make up one of many examples of how post-Talmudic scholars concretized highly hypothetical scenarios in the Bavli. Whereas the redactors’ project in this *sugya* seems to be that of honing in on what

⁹ t. Kid. 2:8-9.

elements of the ritualized speech-act/financial transaction are truly essential to it within the rabbinic symbolic system, the post-Talmudic scholars' stake is in application; the application or non-application of Geonic interpretive rules to the sugya and of the categories in the sugya to practical halakhah (as far-fetched as it may seem). In their quest to make this sugya applicable to practical reality, post-Talmudic commentators sometimes do and sometimes do not introduce women's role in accepting betrothal into their analysis and adjudication of the sugya. At the end of the paper, I will return to the tension between Labovitz' and Barmash's perspectives on *kiddushin* and gender equality and examine what this sugya and post-Talmudic perspectives on it have to offer to the tension between their two views on rabbinic betrothal's redeemability in an egalitarian world.

For the purposes of this paper, I will be translating *kiddushin* and the words associated with it using the language of "betrothal." Scholars correctly contend that *kiddushin* is not equivalent to betrothal in the Western sense; however, since "betrothal" in contemporary American English does not refer to a specific event or period in the standard Christian/secular American marriage process (we generally use "engagement" instead), I think whatever confusion its use may engender does not outweigh its utility as a one-word shorthand.¹⁰ When I use the word "betrothal" here, I am describing a stage in the marriage process when the bride has been formally "acquired" by her bridegroom and thus a separation would require a halakhic divorce (through a *get*), but before the marriage process has been formally completed.¹¹

¹⁰ For example, Satlow translates *kiddushin* as "inchoate marriage." See Michael Satlow, *Jewish Marriage in Antiquity* (Princeton: Princeton University Press, 2001), 69.

¹¹ Rabbinic marriage occurs in two parts: betrothal (called *kiddushin* or *erusin*) and "marriage" proper (called *nisuin*), which completes the marriage process. Betrothal takes place when (in a traditional heterosexual union) the man says to the woman, "Behold you are betrothed to me"—"*Harei at mekudeshet li*." The betrothal ceremony is accompanied by two blessings, one for wine and one for betrothal itself, as recorded in B. Ket. 7b. The "marriage"/*nisuin* ceremony takes place under the *chuppah*, or marriage canopy, and is accompanied by

This sugya, as printed in the Vilna Romm edition, begins with a statement of the fourth-generation amora Rava that if a man says to a woman, “Be betrothed to half of me,” he effects legitimate betrothal, but if he says, “Half of you be betrothed to me,” he does not effect legitimate betrothal. The contrast between these statements and the standard betrothal formula, “Behold you are betrothed to me,” is the opening to a discussion regarding whether a man can betroth a woman to half of himself (yes, says Rava), or betroth half of a woman to himself (no, says Rava). In the ensuing discourse, Rava’s statement acts as a question – why can a woman be betrothed to half of a man but not a man to half of a woman? What follows is the response of Rava’s fellow fourth-generation amora Abaye, which serves to explain and perhaps sharpen Rava’s opinion/ruling.

אמר רבא התקדשי לי לחציי מקודשת חצייך מקודשת לי אינה מקודשת אמר ליה אביי לרבא מאי שנא חצייך
מקודשת לי דאינה מקודשת אשה אמר רחמנא ולא חצי אשה ה"נ איש אמר רחמנא ולא חצי איש

Rava says: [If he says] “Be betrothed to half of me” - she is betrothed, “half of you be betrothed to me” - she is not betrothed.

Abaye said to Rava: what differentiates “half of you is betrothed to me” [such that] she is not betrothed? The Merciful One says (Deut. 24:1) “[When a man takes] a woman” – “a woman” and not “half of a woman!” [But] here too the Merciful One says “a man” – and not half a man!

To the reader with even cursory familiarity with the sages of the Talmud, it is

immediately noticeable that though Abaye is engaging with Rava’s opinion, no contradictory opinion of his is juxtaposed here—this is unusual. Kalmin, in his study on the relationship between Abaye and Rava, notes that scholars such as Yudelowitz and Halivni understand instances in which “Rava” states an opinion and then Abaye follows with discussion of that

seven blessings, recorded in B. Ket. 7b-8a. In the Talmudic period, these two stages of marriage were typically separated in time; since the Middle Ages, they have taken place in one ceremony, minutes apart. For more detail, see Raphael Posner, “Marriage Ceremony,” in *Encyclopedia Judaica*, vol. 13, 2nd ed., eds. Fred Skolnik and Michael Berenbaum (Jerusalem: Keter, 2007), 565-68.

opinion as places where Abaye is engaging with an opinion of his teacher Rabbah, and not of his contemporary Rava. (Since the names Rava—רבא—and Rabbah—רבה—are different by one letter that is silent in both names, scriptural errors/emendations are common).¹² No manuscript or printed edition of this sugya has Rabbah instead of Rava (though Vatican 111 has the ambiguous רב), so it would be difficult to make a strong case that it is really Rabbah's opinion rather than Rava's that is recorded here.¹³ However, it is possible that Rabbah is the source of this tradition, given how Abaye interacts with it—through interrogation, rather than disagreement.¹⁴ For the purposes of this paper, I will continue calling the amora whose opinion opens our sugya “Rava,” as it appears in the manuscript tradition and printed editions.

Regardless of whether he is responding to his teacher Rabbah or his contemporary Rava, Abaye's statement at first offers plausible textual support for Rava's opinion that “half a man” can be betrothed to a woman but “half a woman” cannot be betrothed to a man. Abaye cites the use of the word *isha* (“woman”) in Deut. 24:1:

כִּי־יִקַּח אִישׁ אִשָּׁה וּבָעָלָהּ וְהָיָה אִם־לֹא תִמְצָא־הֶן בְּעֵינָיו כִּי־מַצָּא בָּהּ עֲרוֹת דָּבָר וְכָתַב לָהּ סֵפֶר פְּרִיטָת וְנָתַן
בְּיָדָהּ וְשָׁלְחָהּ מִבֵּיתוֹ:

A man takes a woman and possesses her. She fails to please him because he finds something obnoxious about her, and he writes her a bill of divorcement, hands it to her, and sends her away from his house...¹⁵

¹² Richard Kalmin, “Friends and Colleagues, or Barely Acquainted? Relations between Fourth-generation Masters in the Babylonian Talmud,” *Hebrew Union College Annual* 61 (1990): 130, and the references cited there. Kalmin argues in this essay that though Rava and Abaye's opinions are often juxtaposed with one another in the Babylonian Talmud, there are very few instances in which they are reported to have had in-person discourse with one another, and many instances of seemingly in-person interactions make more sense as interactions between Abaye and his teacher Rabbah.

¹³ Mss. Munich 95 and Oxford Opp. 248, the Cairo Geniza fragment ms. Kiddushin G240, and both the 1480 Spanish printing and the 1520 Venice printing all have “Rava”/רבא here.

¹⁴ Moreover, given that the second half of the sugya begins with a question posed by Rava, it is not inconceivable that a Rabbah-to-Rava sequence could also have contributed to scribal errors/emendations.

¹⁵ Deut. 24:1 (NJPS).

Because this verse (which is the prooftext for the betrothal/taking of a woman throughout the Bavli chapter – see, e.g., B. Kid. 2a-b) specifically refers to a woman, not to half a woman, there is thus no source text for the betrothal of half a woman. However, Abaye then challenges this very argument by noting that Deut. 24:1 also refers to a man betrothing a woman, not to half a man betrothing a woman. So, at this stage of the *sugya*, it would seem that this verse is insufficient to support Rava's initial statement.

Next, our *sugya* opts for a logical rather than scriptural argument, and points out that while a man can marry two women, a woman cannot be married to two men:

א"ל הכי השתא התם איתתא לבי תרי לא חזיא אלא גברא מי לא חזי לבי תרי וה"ק לה דאי בעינא למינסב
אחריתי נסיבנא

He [Rava] said to him [Abaye]: Now, is this [situation] the same? [Is the above scriptural analogy between men and women legitimate?] In that case, a woman is not suitable (lit., “seeable”) for the house of two, but a man - can he not marry two women? And this is what he says to her [when betrothing her to half of himself]: if I want to marry another, I will marry [her].

Rashi's comment on “a woman is not suitable for the house of two” is to say that since she cannot be married to both men, if half of her remains available for betrothal, then the initial betrothal is not legitimate. This section of the *sugya* entertains the possibility that a being in a half-betrothed/married state means that the other half of the person in this state remains available to be betrothed/married to someone else. Thus, half of a man can be betrothed since he can marry two women in the polygynous world of the rabbis, but a woman cannot since her sexuality, as it were, can only be owned by one man and not split between two. Since a man's wife does not come to own his sexuality, he can marry multiple women should he have the resources and desire to do so.¹⁶

¹⁶ Judith Romney Wegner, *Chattel or Person? The Status of Women in the Mishnah* (New York: Oxford University Press, 1988), 19.

Now that Abaye has sharpened the halakhic logic of Rava's original statement, the Bavli brings a statement of the sixth-generation amora Mar Zutra, which in context serves to refute Rava's initial statement:

אמר ליה מר זוטרא בריה דרב מרי לרבינא וניפשטו לה קידושי בכולה

Mar Zutra the son of Rav Mari said to Ravina: Let the betrothal spread through all of her!

That is to say, Mar Zutra holds that if a man says "half of you be betrothed to me," she is betrothed, because the betrothal "spreads" from one half of her to the other half, making this a legitimate betrothal. Rashi comments that Mar Zutra is using the language of *hekdesh* (property designated, or "sanctified" for ritual use in the Temple), which will become clear in the ensuing justification of Mar Zutra's position. This is not the only time that *kiddushin* is compared to *hekdesh* – in the very first sugya of the tractate on B. Kid. 2b, the linguistic connection between *kiddushin* and *hekdesh* (the root *kuf-dalet-shin*) is cited as the reason that the rabbis use the language of *kiddushin* rather than acquisition (*kichah*, literally "taking"). The Bavli's anonymous voice¹⁷ explains there that just as items that are *hekdesh* are forbidden for non-sacred use, so too is a woman who is *mekudeshet* forbidden for sexual use by any man besides her husband. Though modern scholars dispute this linguistic claim,¹⁸ the

¹⁷ Scholars including Shamma Friedman, David Halivni, and Jeffrey Rubenstein, have devoted considerable effort to identifying the role and dates of the "anonymous voice," "anonymous editors" or "stammaim" (various named for the unattributed material in the Talmud). Though much is unknown about this stratum of the Talmud, suffice to say that most scholars agree that anonymous material tends to be later than attributed material, most if not all anonymous material postdates the Amoraic period, and post-Amoraic argumentation tends to be longer and more complex. See Kalmin, "The Formation and Character of the Babylonian Talmud," in *The Cambridge History of Judaism*, vol. 4, ed. Steven T. Katz (Cambridge: Cambridge University Press, 2006), 840-44, 873; David Halivni, "Aspects of the Formation of the Talmud," trans. Jeffrey L. Rubenstein, in *Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggada*, ed. Rubenstein (Tubingen: Mohr Siebeck, 2005), 339-60; Jeffrey L. Rubenstein, "Introduction," *Creation and Composition*, 1-10.

¹⁸ See Gail Labovitz, *Marriage and Metaphor: Constructions of Gender in Rabbinic Literature* (Plymouth: Lexington Books, 2009), 74-79; Satlow, *Jewish Marriage in Antiquity*, 69.

connection is clearly a salient rabbinic association, as we see in the next lines of our sugya, which begin with a baraita brought in support of Mar Zutra's opinion:

מי לא תניא האומר רגלה של זו עולה תהא כולה עולה ואפי' למ"ד אין כולה עולה ה"מ היכא דמקדיש דבר שאין הנשמה תלויה בו אבל מקדיש דבר שהנשמה תלויה בו הויא כולה עולה

Is it not taught in a baraita: One who says “the leg of this [animal] is an *olah* [offering]” let the whole thing be an *olah*?

And even according to the one who says the whole animal is not an *olah*, these words [only apply in] a case where someone dedicates something (i.e., a part of the animal) upon which life depends, but one who sanctifies something upon which life depends, the whole thing is an *olah*.

This section of the sugya maps the possibility of betrothing “half a woman” onto a halakhic dispute regarding whether one can dedicate part of an animal to the temple (B. Hul. 135a).

There, R. Yose holds that when one part of the animal is dedicated as an *olah* offering, the whole animal is dedicated, while R. Meir holds that dedicating a part of the animal is a dedication of the whole only if the dedicated part is one without which the animal cannot live (e.g., its heart). The Bavli implies that, according to R. Yose's position, a half-betrothed woman is fully betrothed in the same way that an animal of which only a section is dedicated as an offering is fully dedicated. The analogy is *Kiddushin* : woman :: *hekdesh* : animal.

However, the Bavli does acknowledge that women are different from animals in one key way – women, like men, are conscious and thinking beings. Given this, the Bavli's anonymous voice limits the applicability of the comparison between women and sacrificial animals to one specific domain:

מי דמי התם בהמה הכא דעת אחרת הא לא דמיא אלא להא דאמר רבי יוחנן בהמה של שני שותפין הקדיש חציה וחזר ולקחה והקדישה קדושה ואינה קריבה ועושה תמורה ותמורתה כיוצא בה

Are they similar [are the case of the woman and the sacrificial animal similar enough to be a legitimate comparison]? In that case it is an animal and in this case [of betrothal] another thinking being! So they are only similar in accordance with what R. Yohanan said: An animal belonging to two partners: [if] one sanctified half of it and

again took it [back] and sanctified it - it is sanctified but may not be sacrificed, and he makes a substitution and the substitution is like it.

The Bavli seems to imply, then, that women and sacrificial animals are similar in this way: if a woman were to be betrothed to two men, neither betrothal is legitimate and she must be divorced (sanctification : redemption :: betrothal : divorce), just as an animal owned by two partners cannot be sacrificed if it is only half sanctified, and must therefore be redeemed.

At this point, we know that Rava holds that betrothing “half a woman” does not effect a legitimate betrothal, while Mar Zutra holds that it should. Although the anonymous voice of the Bavli asserts in the first half of the sugya that women are different from animals in that they are conscious beings, nowhere in the Talmudic text do we see a connection between this and the notion that women need to accept betrothal-money at some point in the process (though the Tosafot will make that point, as I examine below). So far, the Bavli has not yet engaged the question of timing; that will only become relevant in the second half of the sugya, when the Bavli engages with the question of betrothing both halves of a woman separately. If a woman accepts betrothal-money after a man says to her “Be betrothed to half of me,” Rava holds that she is betrothed. As in any other situation in which a woman who has reached the age of majority (thirteen) accepts betrothal-money, she is agreeing to the betrothal with knowledge of the terms (in this case, that she is only betrothed to “half of” her husband-to-be).¹⁹

At this point in the sugya there appears a list of three things one can learn from the comparison to animal sacrifice.²⁰ This list is not relevant to betrothal, our topic at hand; thus,

¹⁹ For material on the age of majority, see B. Kid. 3b, 16a-b.

²⁰ The three things are: that animals are suspended from eligibility for sacrifice when only half of them is dedicated, that a when something is suspended from eligibility for sacrifice from the moment it is dedicated, the suspension is legitimate, and that money can be suspended from eligibility for dedication. This list also appears in a parallel sugya on B. Tem. 26a-b.

in order to focus on betrothal by halves, I will skip to the second half of our sugya, where the Bavli returns to discussing betrothal.

The second half of our sugya tests the halakhic legitimacy of betrothal by halves through a variety of test cases. Rava poses the basic test case: can each half of a woman be betrothed for half a peruta²¹, such that one whole woman is betrothed for one total peruta:

בעי רבא חציך בחצי פרוטה וחציך בחצי פרוטה מהו כיון דאמר לה חצי פרוטה פסקה או דילמא מונה והולך הוא

Rava asked: [If a man says to a woman] “Half of you for half a peruta and [the other] half of you for half a peruta,” what is [the halakhic status of the betrothal]? [Perhaps] when he says to her [the words] “Half a peruta” he stops it [the process, and it is like she has been betrothed in halves], or maybe he goes on and counts [his counting of money continues to have validity until he reaches the minimum amount of one peruta required to effect betrothal].

One peruta is the minimum amount of money that can effect betrothal. Rava’s question is whether successively saying “half a peruta” and “half a peruta” separately adds up to the one peruta necessary to effect a valid betrothal or whether the initial use of betrothal language in connection with half a peruta—which looks like an illegitimate attempt to betroth half a woman—stops the entire process. We might put the question another way: is “Half of you for half a peruta and half of you for half a peruta” one performative utterance (which could potentially be efficacious) or two performative utterances (the first of which—and indeed neither of which—is sufficient to effect betrothal)?

The Bavli’s anonymous voice initially addresses this question by removing the variable of whether the phrase “half a peruta” can initiate the process of counting betrothal-money (since it is less than the minimum amount). It posits a situation almost identical to the

²¹ A peruta is the smallest copper coin in the money system the Rabbis use, and the smallest halakhically significant amount of money. See *The Practical Talmud Dictionary*, ed. Yitzhak Frank (Jerusalem: Ariel Institute, 1991), s.v. “פרוטה.”

one above—a man tries to betroth a woman in two stages of one-half each—except that in this case, he offers one peruta for each half:

אם תימצוי לומר מונה והולך הוא חציין בפרוטה וחציין בפרוטה מהו כיון דאמר לה בפרוטה ופרוטה
פסקה למילתיה או דילמא כל ביומיה מונה והולך הוא

If you can say he goes on and counts [the counting of the money continues to have validity until he reaches the minimum amount of one peruta], [here is another question:] [if he says] “A peruta for half of you and a peruta for half of you” - what is it [would this be two perutot total]? [Perhaps] because he said to her “by a peruta” and “peruta” he cuts off his statement [and she is not betrothed for half a peruta] or maybe all day he can continue counting [and she is betrothed for whatever the final amount is, in this case, two perutot].

Since in this case the initial utterance specifies the peruta necessary to effect the betrothal, this scenario isolates the problem of whether his initial monetary utterance ends the transaction or whether he can continue to add to the monies offered throughout the day. If he can continue to count for the whole day, that would indicate that in the initial case Rava presented, his continued counting would be valid until he reaches the peruta needed to betroth the woman.

What is notably absent from the discussion is any discussion about when in this process a woman would or would not accept the betrothal-money. If the process “cuts off,” would she take the betrothal-money then, or would she collect it all when the prospective husband verbally betroths the other half of her? Perhaps more importantly, the Tosefta discussed above notes that a woman can go back on her agreement to the betrothal until she has received all of the betrothal-money, but the potential challenge this could pose is not brought to bear in our sugya.

Next, the Bavli challenges the possibility that counting can continue by posing the question of whether such a two-step transaction can be spread over two days: the man states

that she will receive one peruta on the day he is speaking and one peruta the next day. In this situation is the betrothal-price one peruta or two?

את"ל כל ביומיה מונה והולך הוא חציית בפרוטה היום וחציית בפרוטה למחר מהו כיון דאמר לה למחר פסקה או דילמא הכי קאמר לה קדושין מתחלו מהאידנא ומגמר לא ניגמרו עד למחר

If you can say he goes on and counts [here is another question:] [if he says] “A peruta for half of you today and a peruta for half of you for tomorrow” - what is it [is the total one or two perutot]? [Perhaps] because he said to her “for tomorrow” he cuts it off [i.e., the transaction ends with the attempt to betroth for the inadequate amount], or perhaps thus is he saying this to her: [the process of] betrothal begins now and will not be complete until tomorrow.

This question pushes the reader to consider the limit to the amount of time within which a transaction must be completed. It is as if the Bavli’s anonymous voice is pushing anyone who can accept that transactions need not be completed at one time to consider the possibility that they need not even be concluded within a single day. Again, the potential for the woman to renege on the betrothal over the course of days would seem salient to this discussion; however, it does not make an appearance.

The end of the sugya presents a challenge to our entire premise: it asks whether any verbal division of a woman into halves negates the possibility of betrothing her through that utterance. In order to test this legal limit, the anonymous voice of the Bavli asks about the halakhic significance of betrothing “both halves” of a woman for one peruta:

שני חציית בפרוטה מהו הכא ודאי בחד זימנא קאמר לה או דילמא אין אשה מתקדשת לחצאין כלל תיקו

“Both halves of you for a peruta” - what is it [is it legitimate betrothal]? Here, is it definitely legitimate since he is speaking to her all at once [naming the entire peruta rather than naming only half of it at first as before], or perhaps a woman cannot be betrothed by halves at all. Let [the problem] stand [*teiku*, i.e., we have found no resolution].

This proposed performative utterance presents no ambiguity about whether the potential husband legitimately offered an entire peruta for the betrothal. He does. But the legitimacy of

the betrothal is not obvious to the Bavli's anonymous voice, presumably because of the man's reference to "both halves" of the woman. Perhaps this particular utterance effects an imagined splitting of the woman into two halves and thereby renders the entire process illegitimate! This means that the disagreement between Rava and Mar Zutra regarding whether "half a woman" is entirely betrothed or not will not be resolved in the Talmud. However, the second half of our sugya does seem to tacitly resolve the first half—if even betrothal of both halves of a woman might not effect legitimate betrothal, then we can surely infer a complete rejection of Mar Zutra's proposal that the betrothal of half a woman would spread to all of her and become legitimate. The dialectic of the second half of the sugya does give some clarity, then, as it serves to uphold Rava's assertion that half a woman cannot be betrothed.

At first, one might read this sugya alongside t. Kid. 2:8-9 and deduce that that the necessity of a woman actively accepting betrothal (and the possibility of her rejecting it) became a less pertinent issue either over time or geographically. The Tosefta is a product of the land of Israel and the Bavli is, of course, a product of Babylonian Jewish culture. The line of Tosefta stating that a woman can go back on the betrothal until the man finishes giving her the money, which we cited before (t. Kid, 2:8-9), appears in the Yerushalmi (Y. Kid. 2:1), which is both earlier than the Bavli and from the land of Israel, but not in the Bavli.²² In addition, though the second half of the sugya begins with at least a purportedly Amoraic statement (since it is attributed to Rava), the different scenarios posed are all presented without attribution and in Aramaic, which indicates that they might be from a later stratum of

²² This is according to a search on AlHaTorah.org for this specific phrase of t. Kid 2:9 on 16 Feb. 2023. One cannot prove an absence with a source, but when I searched for this phrase, the only Talmudic texts that came up were from the Yerushalmi.

the text.²³ However, there is a sugya in the Bavli that includes significant amounts of anonymous material in Aramaic that directly relates to the question of a women's verbal or nonverbal consent to a betrothal on B. Kid. 12b-13a. Therefore, I am inclined to read the notable absence of any concern about when in the scenarios presented in our sugya a woman would accept the proposed betrothal as evidence that ~~the~~ everything in this sugya is so purely hypothetical that such realia as when a woman might receive betrothal-money are not of interest to the anonymous editors of this material.

Post-Talmudic Readings of B. Kid. 7a-b

Commentary on and codification of the law stemming from this sugya seem to operate on two levels: adjudicating the halakhic status of situations in which a woman is betrothed by halves and attempts to tease out in what circumstances betrothal by halves might occur. On the level of adjudication, more (though not all) attention is paid to the second half of the sugya—the second half is the basis for most of the codification regarding this sugya. Commentary (as opposed to codification) does address the first half of the sugya, particularly to address the question of why a man might want to betroth half a woman to himself or betroth a woman to half of himself.

The Rambam (Moses Maimonides, Fustat, 1138–1204) writes in his *Mishneh Torah* that a woman can be betrothed to “half” of a man, since this is as if the man is informing the woman that he will have another wife, but that a man cannot betroth “half” a woman, since she cannot be married to two men. Thus far the Rambam paraphrases Rava's opinion and Abaye's sharpening of his reasoning while ignoring Mar Zutra's challenge. The Rambam

²³ Kalmin, “The Formation and Character of the Babylonian Talmud,” 840-42.

also rules here that a man cannot say “Behold you are betrothed to me and to him”—effectively betrothing half a woman to himself and half of her to another man—which is a logical extension of the halakhah that half a woman cannot be betrothed to one man.²⁴ Where the Rambam’s rulings get interesting, however, is in his approach to the second half of the sugya. He writes:

אמר לה, הרי חציך מקודש לי בפרוטה וחציך בפרוטה, או שאמר לה, הרי חציך מקודש לי בחצי פרוטה וחציך האחר בחצי פרוטה, הרי זו מקודשת:
אמר לה, חציך מקודש לי בפרוטה היום וחציך בפרוטה למחר, שני חציך בפרוטה, שתי בנותיך לשני בני בפרוטה, בתך מקודשת לי ופרתך מכורה לי בפרוטה, או בתך וקרקעך לי בפרוטה, בכל אלו מקודשת בספק:

If he said to her, “Half of you is betrothed to me for a peruta and half of you for a peruta,” or if he said to her, “Half of you is betrothed to me for half a peruta and the other half of you for half a pruta” – she is betrothed.
If he said to her, “Half of you is betrothed to me for a peruta today and half of you for a peruta tomorrow,” “Both halves of you for a peruta,” “Both of your daughters for both of my sons for a peruta,” “Your daughter is betrothed to me and your cow sold to me for a peruta,” or “Your daughter and your land to me for a peruta” – in all these [cases] she is betrothed out of doubt.²⁵

The Rambam introduces the idea that in some of these cases there is doubtful betrothal (*safek kiddushin*) which would still require her to receive a get from the man to whom she was doubtfully betrothed if she wants to be married to someone else.²⁶ Though doubtful betrothal is not mentioned in our sugya, it does appear in other sugyot in this chapter. For example, on B. Kid. 5b, the Bavli’s anonymous voice states that if a man gives a woman money but she (rather than he) says the verbal formula (presented there as “Behold I am betrothed to you”) there is doubtful betrothal. But should the man give the woman money and say “Behold I am your husband,” Shmuel says that there is not *even* doubtful betrothal (in such a case, Shmuel

²⁴ Rambam, *Mishneh Torah*, Hilkhot Ishut 3:9

²⁵ Rambam, *Mishneh Torah*, Hilkhot Ishut 3:10

²⁶ The cases of betrothing two daughters or a daughter along with a sale of a cow or land appear in the sugyot that follow our sugya, which explains the appearance of these cases in connection with our case in the Rambam.

sees it as completely clear that no betrothal has occurred). Since the Rabbis are stringent and require a *get* before marriage to another man in a case of doubtful betrothal, it would appear that there is no practical difference regarding whether there is certain or doubtful betrothal in the cases upon which the Rambam rules.

The Rambam's introduction of *safek kiddushin* here makes good sense in the broader context of how he tends to rule on sugyot that conclude with *teiku*—he tends to rule leniently when the only prohibitions involved are rabbinic and stringently when there are biblical prohibitions involved. Given that there is a strong biblical prohibition against adultery (defined as a woman having sex with any man besides her singular husband), the Rambam would be expected to rule stringently, as he does here, by categorizing women in our situation as doubtfully betrothed.²⁷ The stringent ruling of doubtful betrothal requires that the woman receive a *get* before she is betrothed to any other man, thus preventing any potential for adultery. However, the Rambam does not rule that all these scenarios effect doubtful betrothal; the first two, he says, effect certain betrothal. Later medieval scholars explain that the Rambam is following a Geonic rule of interpretation that in scenarios introduced in the Bavli by *im timtze lomar* (“if you can say”), the ruling in that scenario cannot be one of doubtful status—thus, he concludes that in the situations where a man says, “Half of you for half a peruta and half of you for half a peruta” or “Half of you for a peruta and half of you for a peruta,” there must be certain betrothal.²⁸ Since the biblical prohibition of adultery demands a stringent ruling and *im timtze lomar* demands certainty in status, the Rambam

²⁷ Louis Jacobs, *Teyku: The Unsolved Problem in the Babylonian Talmud: A Study in the Literary Analysis and Form of the Talmudic Argument* (London and New York: Cornwall Books, 1981), 304-07.

²⁸ Piskei haRosh on Kiddushin, 1:7; Maggid Mishneh on Mishneh Torah, Ishut 3:10. The Geonim were early medieval Jewish scholars centered in Baghdad.

rules that in these situations, there is certain betrothal (and a woman would, of course, need a *get* to marry a different man).

The Ravad (Rabbi Abraham ben David of Posquieres, Provence, 12th c.) takes issue with the Rambam's ruling, and notes that since the final line of the sugya questions whether betrothal by halves effects betrothal at all, all the cases the Rambam lists here should result in doubtful betrothal.²⁹ This argument makes good sense: since the end of the sugya calls into question the very validity of betrothal by halves, it is odd that the Rambam would rule that certain kinds of betrothal by halves effect certain betrothal while others effect doubtful betrothal. Moreover, it is challenging to tease out a logic by which "Both halves of you for a peruta" would effect doubtful betrothal while "Half of you for (half of) a peruta and the other half of you for (half of) a peruta" would effect certain betrothal, since the former statement rules out any concern about when counting ends while still involving the requisite amount of money. The Ravad's well-reasoned criticism that we see here is congruent with his overall approach to the Rambam's codification: he points out an incongruity between the Rambam's terse ruling and the Talmudic text, and in doing so critiques both the Rambam's methodology and his ruling itself.³⁰

However, the Rambam does have defenders on this issue, notably the Migdal Oz (Shem Tov ben Avraham ibn Gaon, Spain and Palestine, 1283-c.1330) and the Maggid Mishneh (Vidal of Tolosa, late 14th c.). The Migdal Oz defends the Rambam's use of the methodology regarding instances of *im timtze lomar*, and explains this method of analysis by comparing our sugya to a sugya on Bava Kamma 37a and how the Rif (Rabbi Yitzhak ben

²⁹ Hasagot haRavad on Mishneh Torah, Ishut 3:10

³⁰ Menachem Elon, *Jewish Law: History, Sources, Principles*, trans. Bernard Auerbach and Melvin J. Sykes, vol. III (Philadelphia: Jewish Publication Society, 1994), 1224-25.

Yaakov Alfasi, North Africa and Lucena, 1013-1103), whose interpretations were among the most respected, interprets it.³¹

However, the Maggid Mishneh, who is often a defender of the Rambam, takes a middle path: like Ravad, he thinks the fact that at end of the sugya “Both halves of you for a peruta” comes to a *teiku* should indicate that every case in this sugya must be one of doubtful betrothal (regardless of whether it is introduced with *im timtze lomar*), but ultimately holds that the Rambam’s stringency is warranted in this case, since any woman “who puts out her hand to receive betrothal-money needs a *get* [to marry another man].”³²

Like the Ravad, the Rosh (Rabbi Asher ben Yechiel, Cologne and then Toledo, ca. 1250–1327) was deeply critical of the Rambam’s omission of Talmudic source material in the *Mishneh Torah* and was unafraid to rule in ways different than those of the Rambam in his code *Piskei ha-Rosh*, even when he moved from Cologne to Castile, where the Rambam’s rulings were central to the halakhic culture.³³ When ruling on our sugya, the Rosh makes a similar argument to that of the Ravad when he puts the Rambam in conversation with Rabbeinu Hananel (Hananel ben Hushiel, Kairouan, 11th c.). In his codification of this sugya, the Rosh goes through the four scenarios—betrothing by halves, betrothing two daughters to two sons for one peruta, betrothing a daughter and selling a cow for one peruta, and betrothing a daughter and selling land for one peruta—presented in this section of the gemara (B. Kid. 7b), noting that Rabbeinu Hananel says that all four of them come to a *teiku* and thus we are stringent regarding them (which would imply considering they involve doubtful

³¹ Migdal Oz on *Mishneh Torah*, Ishut 3:9; Ephraim Kanarfogel, “Assessing the (Non-)Reception of *Mishneh Torah* in Medieval Ashkenaz,” in *‘In the Dwelling of a Sage Lie Precious Treasures’: Essays in Jewish Studies in Honor of Shnayer Z. Leiman*, eds. Yitzhak Berger and Chaim Milikowsky (New York: Yeshiva University Press, 2020), 134; Elon, *Jewish Law*, 1251.

³² Maggid Mishneh on *Mishneh Torah*, Ishut 3:10; Elon, *Jewish Law*, 1232-33.

³³ Elon, *Jewish Law*, 1227-28, 1251-53; Judah Galinsky, “Ashkenazim in Sefarad: The Rosh and the Tur on the Codification of Jewish Law,” *The Jewish Law Annual XVI* (2006): 4-5.

betrothal and require a get).³⁴ The Rosh then contrasts Rabbeinu Hananel's opinion with that of the Rambam, and gives us some clarity as to why the Rambam rules the way that he does, by explaining how he followed the Geonim in reading *im timtze lomar*.³⁵ However, like the Ravad, the Rosh pays attention to the way the last line of the sugya calls into question the initial problem Rava sets and the first case that follows it (the cases that the Rambam rules effect certain betrothal), and says that if the final case comes to a *teiku* and effects doubtful betrothal, all the more so should the first cases effect doubtful betrothal. We see here not only the Rosh's tendency to criticize the Rambam, but also his reliance on the text of the Talmud itself, rather than on the traditions of those post-Talmudic scholars who came before him.³⁶ Whereas the Rambam relies on the interpretive tools of the Geonim, the Rosh brings a *sola Talmuda* approach more characteristic of his Ashkenazi origins, and tries to harmonize the entire sugya with itself rather than squeeze it into the boxes of other scholars' interpretive methods.

The Tur (Rabbi Jacob ben Asher, Toledo, ca. 1269–1343) synthesizes the codifying approach of the Rambam with his father's (the Rosh's) approach to halakhah. Like the Rambam, the Tur addresses both halves of our sugya, but while the Rambam addresses them in the same order as the Talmud, the Tur flips the order and addresses the second half of the sugya (as well as the issues of betrothing multiple daughters or a daughter along with property) before addressing the question of betrothing half a person. In *Tur* Even haEzer 31:7 he writes:

³⁴ Rabbeinu Hananel on B. Kid. 7b. All four end with a *teiku* in the Vilna edition of the Talmud but not in the Rosh's presentation of the sugyot – his version lacks the word *teiku* in the middle two scenarios. In most manuscripts—mss. Munich 95, Oxford Opp. 248, Vatican III, all four scenarios conclude with a *teiku*. However, in the Cairo geniza fragment Ms. Kiddushin G240, the second scenario posed by Rava, regarding selling two daughters for one peruta, lacks the word *teiku* at its conclusion.

³⁵ Piskei haRosh on Kiddushin, 1:7.

³⁶ Elon, *Jewish Law*, 1227-28, 1251-53.

אמר לה התקדשי לי חציך בחצי פרוטה וחציך בחצי פרוטה או שאמר לה חציך בפרוטה וחציך בפרוטה או חציך בפרוטה היום וחציך בפרוטה למחר או שני חציך בפרוטה או שאמר לחברו ב' בנותיך לשני בני פרוטה או בתך ופרתך בפרוטה או בתך וקרקעתך בפרוטה בכולהו כתב ר"ח דהוי ספק קדושין ועבדינן לחומרא והרמב"ם כתב דחציך בחצי פרוטה וחציך בפרוטה או חציך בפרוטה וחציך בפרוטה הוה קדושין ודאי ואידך הוה קדושין ספק ודעת א"א הרא"ש ז"ל כדברי ר"ח

If he said to her, “Be betrothed to me, half of you for a peruta and half of you for half a peruta and half of you for half a peruta,” or if he said to her, “Half of you for a peruta and half of you for a peruta,” or “Half of you for a peruta today and half of you for a peruta tomorrow,” or “Both halves of you for a peruta,” or if he says to his fellow, “Both of your daughters for both of my sons for a peruta,” or “Your daughter and your cow for a peruta,” or “Your daughter and your land for a peruta”—in all these [cases], Rabbeinu Hananel wrote that there is doubtful betrothal and we are stringent [i.e., require a get].

But the Rambam wrote that [if a man said] “Half of you for half a peruta and half of you for half a peruta” or “Half of you for a peruta and half of you for a peruta”—[in these two cases] there is certain betrothal but in the others there is doubtful betrothal. And my father the Rosh holds like Rabbeinu Hananel.³⁷

As is typical, the Tur comes down on his father’s side and rules that in cases where a man says “Half of you for (half a) peruta and half of you for (half a) peruta” there is doubtful betrothal. In the parallel section of the Shulchan Aruch, Rabbi Joseph Karo (Safed, 1488–1575) rules in accordance with the Rosh (and Tur), but (true to the work’s straightforward style) does not address the dissenting opinion of the Rambam.³⁸ However, in his earlier more comprehensive analytic work *Beit Yosef*, Karo gives an extensive halakhic history on the topic, bringing not only the Rambam and the Rosh but also the writings of several other scholars to bear.³⁹

Despite the Rambam’s popularity and renown, in this case, those who criticized his tendency to omit citations to the Talmudic text and previous scholarship seem to have won

³⁷ Arba’ah Turim, Even haEzer 31:7.

³⁸ Shulchan Aruch, Even haEzer 31:7; Isidore Twersky, “The Shulhan ’Aruk: Enduring Code of Jewish Law,” in *The Jewish Expression*, ed. Judah Goldin (New York: Ktav, 1970), 326-27.

³⁹ Beit Yosef, Even haEzer 31:7. In his discussion, Karo cites the Rosh, the Tur, Rabbeinu Hananel, the Rambam, the Ran (Nissim ben Reuven, Girona, 1320-1376), the Ravad, the Maggid Mishneh, the Rashba (Shlomo ben Avraham ibn Aderet, Barcelona, 1235-1310), and the Tosafot.

out: the Tur notably rules with his father that all the cases presented in the second half of our sugya result in doubtful betrothal. This ruling seems to have squelched any further attempts to hold by the Rambam using the Geonic method of reading “*im timtzeḥ lomar*,” and made the Rosh’s ruling the normative one. What we see in the halakhic disputes that precede the post-Rosh consensus is a good example of the debates around the primacy of the Bavli itself in halakhic adjudication: the Rambam (representative of a more Sefaradi approach) relies primarily on the interpretations of his post-Talmudic predecessors and their rules of interpretation, while the Rosh (representative of a more Ashkenazi approach) relies on the dialectic of the Bavli itself and a way of reading that harmonizes the entire sugya. Both approaches, though, assume that the situations the Bavli posits might occur in practical reality, and take for granted that they warrant concrete halakhic rulings. Whereas the sugya in the Bavli seems to bring the issue of betrothal by halves to investigate how far a phrase can stray from the performative utterance “Behold you are betrothed to me” and still be efficacious, post-Talmudic readers take the casuistic style of the Bavli at face value, and rule on these scenarios as if they might occur in real life.

The introduction of realia to the interpretation of our sugya is even clearer when we examine post-Talmudic approaches to its first half. The Tur brings together two categories that are challenging to imagine existing in reality, the half-betrothal and half-servitude, and adjudicates as if one might encounter them in real life. His treatment of the first half of our sugya (and related halakhic issues) reads as follows:

הרי את מקודשת לי לחצאין מקודשת אבל אי אמר חציך מקודשת לי או הרי את מקודשת לי ולפלוגי אינן קדושין מי שחציו עבד וחציו בן חורין שקדש בת חורין הווי ספק קדושין וצריכה גט מספק המקדש מי שחצייה שפחה וחציה בת חורין הווי קדושין לחייב עליה אשם וצריכה גט חציה שפחה וחציה בת חורין שנתקדשה לראובן ונשתחררה ואח"כ קדשה אחר שניהם הווי ספק קדושין וצריכה גט משניהם או אחד מגרש ואחד נושא ואם מתו אחיו של אחד חולץ והשני מיבם

“Behold you are betrothed to me by halves” – she is betrothed. But if he said to her, “Half of you is betrothed to me” or “You are betrothed to me and to So-and-so” – there is no betrothal.

A man who is half-slave and half-free who betroths a free woman – behold there is doubtful betrothal and she needs a get from out of doubt. One who betroths a woman who is half-slave and half-free – behold there is betrothal to make [him] liable for an guilt-offering (*asham*) on her account and she needs a get. One who is half-slave and half-free and who became betrothed to Reuben and then freed [from slavery], and after that another betrothed her – both of them have doubtful betrothal and she needs a get from both of them. Or one divorces [her] and one marries [her]. And if the two of them die – the brother of one does halitzah and [the brother] of the other becomes her levirate husband.⁴⁰

The Tur begins with a straightforward explanation of the halakhah grounded in the first half of our sugya, without mentioning the key reason that betrothing half a woman does not effect betrothal (the second in the Talmud and the one listed by the Rambam and others, including the Tur’s father the Rosh): that while a man can marry two women, a woman cannot marry two men.⁴¹ In addition, the Tur brings this sugya together with B. Gittin 43a’s discussion about the betrothal of people who are half-slave and half-free. The connection makes sense: both deal with complex situations involving people divided in halves, each of which has a different legal status, whether betrothed/unbetrothed, or slave/free.

The Meiri (Rabbi Menachem Meiri, Catalonia, ca. 1249–1315) also looks at B. Gittin 43a alongside our sugya. However, whereas the Tur links these two topics thematically without interpreting one in light of the other, the Meiri uses B. Gittin 43a to make halakhic sense of our sugya on B. Kiddushin 7a-b. The Meiri seems to assume that betrothing half a woman is equivalent to a case of betrothing a woman who is half-slave and half-free, in which case only her free half is fit for betrothal. Since the Rambam (whom the Meiri cites here) holds that a woman who is betrothed in such a situation does not have complete

⁴⁰ Arba’ah Turim, Even haEzer 31:8.

⁴¹ Mishneh Torah, Hilkhhot Ishut 3:9;

betrothal until she is free, the Meiri reasons that a woman who is half-betrothed would not have complete betrothal until all of her is betrothed—thus, in such a case, she is not actually betrothed at all.⁴²

Like the Tur, Karo also mentions the half-slave/half-free sugya on B. Gittin 43a in BY Even haEzer 31:8.⁴³ In the *Shulchan Aruch*, Karo comes to the same halakhic conclusions as the Tur, though what they include and exclude here is notably different:

האומר לאשה: התקדשי לחציי, הרי זו מקדושת. הא למה זה דומה, לאומר לה: תהי אשתי את ואתרת, שנמצא שאין לה אלא חצי איש. אבל אם אמר: חצני מקדושת לי, אינה מקדושת, שאין אשה אחת ראוייה לשנים. וכן האומר: הרי את מקדושת לי ולזה, אינה מקדושת

One who says to a woman, “Be betrothed to half of me,” – she is betrothed. To what is this similar? To one who says to her “You and another will be my wife,” such that she only has half a husband. But if he said, “Half of you is betrothed to me” – she is not betrothed, since a woman is not fit for two [husbands]. And similarly the one who says, “Behold you are betrothed to me and to this one” – she is not betrothed.⁴⁴

Here Karo, unlike the Tur, includes the reasoning for why a half-betrothed woman is not betrothed—she is not “fit” for two men. He excludes the halakhah about betrothing women who are half-slave and half-free. This exclusion probably serves Karo’s endeavor of making the *Shulchan Aruch* straightforward; a person’s being half a slave is not a situation his readers are likely to encounter in the real world.⁴⁵ In Karo, we see a bit more of an awareness of the hypothetical nature of some Talmudic cases/thought experiments, though he does take betrothal by halves at face value.

So far, we have focused on medieval codifiers and commentators (rishonim) who try to tease out the practical halakhah that can be gleaned from our sugya, without regard for the

⁴² Meiri, Beit haBechirah on B. Kid. 7a-b; Mishneh Torah, Hilkhot Ishut 4:16

⁴³ Beit Yosef, Even haEzer 31:8.

⁴⁴ Shulchan Aruch, Even haEzer 31:8.

⁴⁵ Moses Isserles (Krakow, 1530-1572) has no glosses on the halakhot discussed in this paper in his *Mappah* to the *Shulchan Aruch*.

circumstances under which such rulings might be necessary. However, some rishonim do attempt to make sense of *why* a man might attempt to betroth a woman by halves. In doing so, they come up with different reasons why someone might want to verbally betroth half of himself to a woman or half a woman to himself. I came across two approaches—those of the Meiri and the Ritva (Rabbi Yom Tov ben Abraham, Seville, 13th-14th c.)—as to why a man would want to betroth half of himself, and one (the Tosafists) that focuses on circumstances under which one might attempt to betroth half a woman.

In their commentaries the first half of our sugya, both the Meiri and the Ritva understand a man choosing to say “Behold you are betrothed to half of me” as a sort of insurance policy on his right to marry an additional wife. In his interpretation of the first line of the sugya (which states that such a statement effects legitimate betrothal), the Meiri writes that a man would say such a thing so that he can marry a second woman in the future with his first wife’s permission—the assumption being that if she agreed to accept betrothal to only “half” of her husband, she is consenting to having at least one co-wife.⁴⁶

The Ritva makes a similar argument to the Meiri about why a man might seek to betroth a woman to half of himself. He writes that even though a man does not need to make this stipulation at the time of betrothal in order to marry another wife later, verbally betrothing her to only half of himself at the outset serves as a protection from his first wife’s later bringing charges against him to a *beit din* that he cannot marry a second wife against her wishes. This interpretation seems to reflect a halakhic reality in the Ritva’s world sharply different from that of the Talmud: all the opinions recorded in the Bavli assume a reality in which a woman has no agency in initiating betrothal or preventing a man (even her husband)

⁴⁶ Meiri, Beit haBechirah on B. Kid. 7a-b.

from betrothing another woman. In contrast, the Ritva seems to assume a reality in which it is conceivable that women could prevent him from betrothing another woman—otherwise, why would he assume that the Talmudic text is in reference to such a situation? Moreover, the Ritva adds:

א"נ באתרא דנהיגי דלא למינסב אלא חדא איתתא כגון אלו הארצות שלנו דמדינא מצי מעכבא עליה שלא לשאת אשה אחרת עליה דכיון שנהגו בכך אדעתא דהכי אינסיבא ליה וכאלו התנו עמו דמי וכן קבלתי ממורי רבינו ז"ל

Alternatively, in a place where it is the custom to only marry one [woman] like these lands of ours, she can legally prevent him from marrying another woman [in addition to herself], for since they are accustomed to this (i.e., marrying only one wife), she gave herself to him in marriage with that intention, and it is as if they made that condition with him. And thus did I learn from my teacher our Rabbi, may his memory be a blessing.⁴⁷

According to the Ritva's read, then, betrothing a woman to "half of" oneself is a means for a man to get around a prevailing local custom of monogamy and secure his right to marry an additional wife in the future.

It is not only here that the Ritva assumes women have somewhat more agency than a surface-level reading of the Bavli text would assign to them. In his comment on the difference the Bavli makes between a woman and a sacrificial animal (following Mar Zutra's assertion that the partial betrothal should spread throughout her like partial sanctification spreads throughout a sacrificial animal), he writes regarding the Bavli's assertion that a woman is a "*da'at acheret*," another conscious being:

הא למה דומה לראובן שהיה דר בביתו של לוי ומכרו לשמעון וכתב לו בסתם ביתי מכירה לך ולוי נכנס לו ערב שלא איבד זכותו שיכול לומר לו אתה לא כתבת אלא שמכרת לי ביתך וזה ביתי היא וכל כיוצא בזה

But to what is this similar? To [a situation in which] Reuben was living in Levi's house, and sold it to Shimon, and wrote to him [on the bill of sale] an unspecified "My house is sold to you." So Levi entered it in the evening and did not lose his right to it, since he [Levi] could say to him [Reuben], "You only wrote that you sold me

⁴⁷ Ritva on B. Kid. 7a.

your house, and it is my house” – and all that is like this [the situation of a woman being another conscious being].⁴⁸

How is a woman like a house that Reuben cannot really sell because he does not really own it? She cannot really be bought and sold (or dedicated) because she actually owns herself, just like Levi actually owns the house. Ritva’s assertion that unmarried women past the age of majority (whether never-married divorced, or widowed) own themselves is not a departure from the Talmudic understanding of women’s status. However, this is a somewhat striking description of women’s agency, particularly in conjunction with the assertion that women might prevent their husbands from marrying additional wives if there was no betrothal-time stipulation that his first wife was only marrying half of him.

The Tosafot also bring a reading of real-life circumstances to which our sugya could reasonably apply, regarding a situation in which a woman (who presumably does not understand the halakhah) accepts betrothal from a man for only half of herself but may or may not actually want to be fully betrothed to the man. In that case, only once she accepts betrothal for the other half of herself can we assume that she is consenting to the betrothal, which would mean that the case of “half of you for a peruta and half of you for a peruta” (upon which this passage of Tosafot is commenting) does effect betrothal.

ואם תאמר אמאי לא יועיל והא לא אמר לעיל דלא פשטו קידושין בכולה אלא משום דאיכא דעת אחרת ואינה מתרצה אלא למה ששומעת אבל אם היינו יודעים שמתרצה בכולה פשטו קידושין בכולה והכא גלי דעתה שמתרצה בכולה וי”ל דאי הוי מיירי דאמר לה בלשון קידושין אין ה”נ דהוּו פשטו קידושין בכולה אבל הכא איירי דאמר לה הרי את מאורסת לי או בחד מהני לישני דלעיל

And if you say, why does it not effect [betrothal]? But does it not say above that betrothal does not spread throughout all of her [the view of Mar Zutra] Rather, it is because there is another conscious being here and she is only satisfied as to what she heard [i.e. half-betrothal]. But if we were to know that she is entirely satisfied, [then] the betrothal has spread through all of her, and she has revealed her intention that she is satisfied as to all of her. And it must be said that if it is the case that he spoke to her in the language of betrothal, it is indeed the case that the betrothal spread

⁴⁸ Ritva on B. Kid. 7a.

throughout all of her! But here is a situation in which he said to her “Behold you are betrothed to me” or one of the ways of saying [betrothal] above [in a previous sugya about legitimate verbal formulae for betrothal].⁴⁹

Here, Tosafot take Mar Zutra’s opinion that half-betrothal should spread to the entire woman (like a sacrificial animal) seriously and counter with this point: that since a woman has consciousness and agency when accepting betrothal-money, she should be able to accept betrothal for both halves of herself separately if she wants. The Tosafot here engage in their typical mode of harmonization: they bring together the assertion that women are conscious beings in the first half of our sugya with the halakhic problem regarding betrothal by halves in the second half of our sugya.⁵⁰ To make the sugya make sense as a whole, the Tosafot introduce an element of realia to the second half of the sugya—they point out that a woman must actually receive the betrothal-money, and since she can decide whether to accept betrothal by halves or not, she should be able to accept it if she chooses.⁵¹

Conclusion: Is Rabbinic Betrothal Redeemable?

In the introduction to this paper, I highlighted a dispute between Rabbis Gail Labovitz and Pamela Barmash, two members of the Conservative CJLS, regarding the potential for rabbinic betrothal to be incorporated into an egalitarian paradigm of Jewish marriage.

⁴⁹ Tosafot on B. Kid. 7b.

⁵⁰ Talya Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Culture* (Philadelphia: University of Pennsylvania Press, 2011), 184.

⁵¹ In an essay comparing the ideological approaches of Rashi and Tosafot to women’s agency in agreeing to marriage, Aryeh Cohen argues that while “Rashi understands that for the marriage system to work, a woman’s cooperation is necessary... Tosafot, on the other hand, assume that a woman’s investment in the system of marriage is so great that it, for all intents and purposes, precludes the possibility of a woman’s refusing to participate.” A detailed analysis of the Tosafistic approach to this sugya as compared to those Cohen analyzes is beyond the scope of this paper, but it is worth considering how that the Tosafot’s overall ideological approach might impact our understanding of how they assert women’s agency in this sugya. Cohen, “This Patriarchy Which Is Not One: The Ideology of Marriage in *Rashi* and *Tosafot*,” *Hebrew Union College Annual* 70-71 (1999-2000): 115.

Labovitz argues that women's essentially passive role in rabbinic betrothal renders it irredeemably patriarchal, and posits that though *kiddushin*-made-egalitarian might be part of an egalitarian *wedding ceremony*, it cannot create an egalitarian *marriage*, since it is still predicated on a man's acquisition of a woman.⁵² To Barmash, on the other hand, the requirement that a woman actively accept betrothal (should she be of age, as she would be in Barmash and Labovitz's cultural context), as delineated in t. Kid. 2:8-9, makes rabbinic betrothal ripe for reinterpretative innovation as part of establishing an egalitarian union.

The Reform approach to creating an egalitarian marriage hews, in ceremony, more closely to Barmash's view, and in theory, somewhat more closely to Labovitz's. That is to say, in the Reform marriage ceremony, as outlined most recently in the American Reform rabbis' manual *L'chol Z'man V'eit*, both partners of any gender might recite the traditional betrothal formula "Behold you are betrothed to me..." to one another (and someone marrying a man would recite it in masculine language).⁵³ These performative utterances, and the mutual exchange of rings, are identical in Barmash's responsum.⁵⁴ However, "Behold you are betrothed to me" is only one of three options presented in *L'chol Z'man V'eit* presented for couple to say to one another here—the other two are taken from Song of Songs 6:3 and Hosea 2:21-22. Moreover, Reform divorce does not require a *get*, and thus is not understood as halakhically binding betrothal.⁵⁵ Though Reform weddings can involve the aesthetic of rabbinic betrothal, they reject its halakhic framework as fundamentally non-egalitarian, as Labovitz does.

⁵² Labovitz, "A Dissent," 1-2.

⁵³ *L'chol Z'man V'eit: For Sacred Moments: The CCAR Life-Cycle Guide*, ed. Donald Goor (New York: Central Conference of American Rabbis Press, 2015), Marriage 25.

⁵⁴ Barmash, "Egalitarian Kiddushin and Ketubbah," 41.

⁵⁵ *L'chol Z'man V'eit*, Marriage 38-40.

However, although Reform Jews do not conceive of rabbinic *kiddushin* as betrothal in the traditional mode, which necessarily involves a financial transaction, we do use the language of “kiddushin” to describe not only this section of the wedding ceremony but Jewish marriage itself.⁵⁶ To do so, we engage in a similar sort of wordplay as the Rabbis of the Talmud: as they equate *kiddushin* to *hekdesh* to emphasize a betrothed woman’s fitness for only one “use” (by a specific man, as *hekdesh* is fit only for Temple use),⁵⁷ we connect *kiddushin* to *kedushah*—holiness, sanctification, and the sense of partners being “set apart” for one another.⁵⁸

Because I hold that a deeper engagement with the Talmudic and post-Talmudic sources that address betrothal and marriage can only be beneficial to a thicker Reform Jewish approach to weddings and marriage, I posit that it would be valuable for Reform Jews, and Reform clergy (who are tasked with guiding couples through the marriage process) in particular, to engage more deeply with rabbinic discourse from past and present regarding betrothal and marriage. This would allow us to better inform couples about the traditions in which our wedding ceremonies are rooted, grapple with them about patriarchy and gender equality, and make better informed decisions about our own officiation practices. Moreover, though there are benefits to using the “sanctification” framework for *kiddushin* in the contemporary world, there is a drawback: anecdotally, I have heard rabbis wrestle with the notion of “sanctifying” unions that push the boundaries of marriage norms—in the past,

⁵⁶ For an example, see CCAR Responsa Committee, “Same-Sex Marriage as Kiddushin,” CCAR Responsum no. 5774.4 (2014).

⁵⁷ B. Kid. 2b.

⁵⁸ For one of innumerable examples of this rhetoric, see Jeffrey K. Salkin, “What’s Jewish about the Jewish Wedding?” ReformJudaism.org, <https://reformjudaism.org/beliefs-practices/lifecycle-rituals/weddings/whats-jewish-about-jewish-wedding>, accessed 20 Feb. 2023.

regarding “same-sex” marriages and, more recently, regarding multi-partner relationships or consensually non-monogamous couples.⁵⁹

Given all that, what does the discourse around betrothal by halves have to offer to the dispute between Rabbis Barmash and Labovitz regarding the redeemability of rabbinic betrothal? My analysis yields some support for the notion that traditional *kiddushin* is so rooted in patriarchy that an egalitarian marriage paradigm must reject it: most significantly, the second half of our sugya and the vast majority of its post-Talmudic interpretation ignore necessity of a woman (past the age of majority) accepting betrothal in order for it to take effect. We might imagine that the hypothetical reasoning in the Talmudic text itself and the more concrete approaches in its codification might be rather different if the woman’s role in the process were understood as more relevant to the scenario at hand. Moreover, the very notion of dividing a woman in half can be understood as rather objectifying and offensive (especially given that “half of a man” is understood in polygynous terms), especially when the baraita regarding sacrificial animals is used to support Mar Zutra’s opinion that the betrothal of half of her should spread to the rest of her. Few would argue that a comparison of women to livestock is a “usable past” for egalitarian innovation.

However, we also see in the Talmudic and medieval discourse moments that lend support to Barmash’s position, that a woman’s agency is essential enough to rabbinic betrothal that it can be reformulated and redeemed: for one, though most post-Talmudic interpretation of our sugya’s second half ignores the role of the woman in accepting betrothal, the Maggid Mishneh does reference that a woman must put out her hand to receive

⁵⁹ For more discussion of polyamory in Reform Judaism, see Nikki DeBlosi, “Toward a New Framework for Reform Jewish Views on Polyamory,” *CCAR Journal: The Reform Jewish Quarterly* (Fall 2022): 76-92, and Eliana Fischel, *How Open is Our Tent? Polyamorous Relationships in the Jewish Context*, rabbinic thesis (HUC-JIR/NY, 2018).

betrothal in order for her to need a get in the case of doubtful betrothal.⁶⁰ More significantly, both the Meiri and the Ritva understand betrothal by halves as a mechanism for women to consent to having at least one co-wife, which could provide a usable past for modern consensual non-monogamy. In addition, Bavli's emphasis on women as being conscious beings, which both the Ritva and the Tosafot pick up as indicating women's self-ownership and agency.⁶¹ In these sources, we see a usable past ripe for integration into contemporary work on egalitarianism in Jewish marriage.

It is appropriate that we are left, like our sugya, at a *teiku*. Depending on which evidence we find more compelling, we might think the scales tip toward redeemability or away from it. Perhaps *kiddushin* is “doubtfully” usable as a paradigm for marriage not rooted in a man's acquisition of a wife. In any case, though, I hope that we can continue to deeply engage with tensions between patriarchy and egalitarianism, tradition and innovation, hypotheticals and concretization, and more as we continue to struggle toward a more just and more thickly Jewish paradigm of committed partnership.

⁶⁰ Maggid Mishneh on Mishneh Torah, Ishut 3:10.

⁶¹ Meiri, Beit haBechirah on B. Kid. 7a-b; Ritva on B. Kid. 7a; Tosafot on B. Kid. 7b.

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Lastly, I do not take it for granted that I have been able to immerse deeply in a text such as this one—where the fact that a woman is indeed a “*da’at acheret*,” an independent mind, cannot go without saying, and where the sages use exegetical gymnastics to demonstrate that women are not obligated to learn or teach Torah (B. Kid. 29b). So, I am grateful, too, to the Holy One of Blessing, who let me live in this time, even with all its complexities and challenges, because now is the only time I know of when a gay daughter of a once-interfaith union could have the opportunities I have had to study Torah. May we go from strength to strength.