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*A Comparative Study of Responsa on the  
Jewish Wedding Ceremony*

*By*

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*Thesis Submitted in Partial Fulfilment of the requirements for  
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# *Dedication*

*This thesis is dedicated to the two most wonderful women in my life. My daughter Sarah, who's infectious smile made it just a little bit easier to work on this project. My wife Rochelle, who has given me so much love, support and understanding. It is to them I dedicate not only this thesis but my entire life.*

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## *Digest*

This thesis is a comparative study of the various responsum on the subject of the Jewish wedding ceremony that have been published by the Reform Movement's Responsa Committee and by Moshe Feinstein in his *magnum opus Igrot Moshe*.

Chapter one is an introduction to the Jewish wedding. It serves to give the reader an introduction to the complex nature and the various components that comprise a traditional Jewish wedding ceremony. This chapter also includes a description of the variety of Reform wedding ceremonies that are most prevalent in today's Reform movement. The chapter also outlines some of the issues that both of the communities raise regarding the wedding ceremony, and the establishment of a valid Jewish wedding. Chapter one also contains a discussion of who is qualified to serve as a valid Jewish witness.

Chapter two is an introduction to Responsa literature. It describes the development of the genre from the earliest rabbinic responsa of the Talmud to the present time. Presented in this chapter are outlines of the purposes of both the Reform and Feinstein responsa. This chapter also explains how both of the communities perceive and utilize this genre of *halachic* literature. The chapter

concludes with a discussion of the similarities and differences between the Reform and Feinstein Responsa.

Chapter three is an analysis and comparison of the various responsa. There seems to be four specific issues surrounding the Jewish wedding ceremony that were addressed by both the Reform and Feinstein responsa:

1. Participation of Non-Jews in Processional / Recessional
2. Reform / Conservative Ceremony
3. Who can officiate at a valid Jewish marriage?
4. Location of the Ceremony

The Appendix contains original translations of the Feinstein responsa.

It is hoped that this thesis will add to the scholarship of responsa, and towards a better understanding of how Reform and Orthodox halachic scholars are similar and how they differ.

## Chapter 1

### *What is a Jewish Wedding?*

After God had finished creating the world and all its contents, he said to the man whom he had created: *"It is not good for man to be alone..."* (Gen 2:23). Ever since that moment people have been searching for a mate with whom they can share their lives. Jewish tradition has elevated the concept of marriage from simply finding someone to live and be intimate with, to a union which parallels Israel's relationship with God.<sup>1</sup> Throughout the ages Jewish tradition has viewed marriage as the preferred way of life. It was not good for Adam to live without a partner, the high priest could not fully fulfil his duties if he was not married, and the Talmud lists among the duties of parents to find their children mates.

Although there are several examples of marriage in the Bible, the nature of the Biblical Jewish wedding ceremony is at best vague. The Bible refers to the act of marriage as the "taking of a wife". In Deuteronomy it says that a man *"...takes a wife, and possesses her"* (Deut 24:1), in Exodus it says *"A man from the tribe of Levi went out and took a wife who was also from the house of Levi"* (Exodus 2:1). However from the information given about the patriarchal marriages there must have been some kind of celebration or ceremony: *"Lavan*

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<sup>1</sup> Geoffrey Wigoder Ed The Encyclopaedia of Judaism (Jerusalem: The Jerusalem Publishing House, 1989) p 401.

*gathered all the people of the place and made a feast.*" (Gen 29:22) We know very little about the early patriarchal marriages of Abraham and Sarah, Isaac and Rebecca, Jacob to Leah and Rachel. Abraham simply "took" Sarai as his wife (Gen 11:29). Rebecca is more or less purchased for Isaac, on Abraham's instructions. (Gen 24:50) It is only with Jacob that the Torah begins to take into account the concept of love. When Jacob arrives at the well and meets Rachel, he immediately falls in love with her and wants to marry her. Jacob is faced with the economic reality of not being able to pay the bride price necessary and is forced to work for Rachel's father for seven years. After his long labour he is tricked into marrying Leah the older sister. Still driven by his love for Rachel he works another seven years before being allowed to marry her. What any reader of the Biblical text must conclude is that it is unclear what the procedure for marriage was. What is clear is that there was some kind of ceremony that occurred that marked a change in status for the couple.

What is commonly referred to as a Jewish marriage is in fact a rabbinic innovation, and not a Biblical institution. The earliest detailed description of a Jewish marriage ceremony can be found in the beginning of the *Mishnah*, and further explained in the *Gemarah* of Tractate *Kiddushin*. The text details three ways in which a Jewish wedding can be concluded: 1. by money (ie. payment of a bride price) 2. by contract or 3. by having sexual intercourse for the purpose of

creating a marriage.<sup>2</sup> In the modern traditional Jewish wedding ceremony all three conditions are satisfied: Acquisition by money is satisfied by the wedding ring. It is clear that this transference of property is only symbolic, and that the bride is not being paid for. The very minimal value of the ring makes this very clear. Further, if the bride were bought like a piece of property then the groom - the owner could sell her at will, and this is far from the case. The bride's acceptance of the ring is only a symbol of her acceptance of her husband. In all cases, the Talmud specifies that a woman cannot be acquired without her consent.<sup>3</sup> As part of the wedding ceremony, the husband gives the wife a *ketubah* - also called the marriage contract. The *ketubah* details the husband's obligations to his wife during their marriage. It clearly lays out the conditions of inheritance upon his death, and obligations regarding the support of children produced by this marriage. One of the most important aspects of the *ketubah* is that it outlines what support the woman will receive in the event of divorce, or her husband's death. In general the contents of the traditional *ketubah* are fixed, however, additional conditions can be included by mutual agreement. The act of sexual intercourse following a Jewish wedding ceremony is not part of that ceremony, it merely acts as a symbol of the bride's acceptance of her new husband.

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<sup>2</sup> Bab Talmud Kiddushin 2a.

<sup>3</sup> Bab Talmud Kiddushin 2a-b

Prior to the middle ages the wedding ceremony was split into two separate ceremonies *kiddushin* (betrothal) and *nisuin* (full marriage) that occurred at different times. The word "*kiddushin*" comes from the root קדש (Qof-Dalet-Shin), meaning *sanctified*. Reflecting the sanctity of the marital relationship. However, the root also connotes something that is set aside for a specific (sacred) purpose, the ritual of *kiddushin* sets aside the woman as the wife of a particular man.<sup>4</sup> As soon as *kiddushin* has been concluded the couple is legally married and in order to end the marriage one of the partners must die, or *get* - a Jewish divorce must be issued. During this first stage of marriage the couple did not live together or have any sexual contact.

*Nisuin* (from a word meaning "elevation"), the second part of the wedding ceremony completes the process of establishing a marriage. The groom brings the bride into his home and they begin their married life together. Prior to the middle ages *kiddushin* and *nisuin* would routinely occur as much as a year apart. During that time, the husband would prepare a home for the new family. There was always a risk that during this long period of separation, the woman would discover that she wanted to marry another man, or the man would disappear, leaving the woman legally married but without a husband, and no way to dissolve the marriage.<sup>5</sup> In order to avoid this very unfortunate occurrence the two

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<sup>4</sup> Rambam, Mishnah Torah, Hilchot Ishut 1:3

<sup>5</sup> Rambam, Mishnah Torah, Hilchot Ishut 1:3

ceremonies were eventually held at the same celebration, the ketubah being read in the middle to separate them.<sup>6</sup>

Based on the *Halachic* and Biblical texts the various movements of modern Judaism have developed different models of the Jewish wedding ceremony. The major focus of this thesis will be the debate between the Reform and Orthodox authorities regarding the definition of a valid Jewish marriage.

In their article on Jewish marriage: "*Reform Marriages in Contemporary Halakhic Responsa*"<sup>7</sup>, Norman and Dov Frimer - Orthodox scholars - claim that in order for there to be a valid Jewish wedding the following five conditions must be met:

**1. *Kavanah* (Intent):** This first criteria is the basis of much of the disagreements between the different Jewish movements. Several Orthodox *poskim* (scholars who issue legal decisions which are seen as binding on the community) have written on this subject, but it seems that they can be represented by two views

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<sup>6</sup> For full discussion see: Ze'ev W. Falk *Jewish Matrimonial Law in the Middle Ages* (London: Oxford University Press, 1966) pp 35-85.

<sup>7</sup> Norman E. Frimer and Dov I. Frimer, "Reform Marriages in Contemporary Halakhic Responsa" *Tradition: A Journal of Orthodox Thought* (Fall 1984) pp 7-39.

One opinion represented by Rabbi Joseph Elijah Henkin<sup>8</sup> says that the only criterion necessary to create a valid Jewish wedding is intent. For him if two Jews decide that they wish to form a marital union, and they take part in some formalization of that intent, they are to be considered married under Jewish law. The formalization could be, and Henkin would surely argue should be, a Jewish wedding ceremony conducted according to *halacha*. However, according to Henkin that formalization could be a civil wedding, a non-*halachic* Jewish wedding, or even the couple living together. Henkin believes that if the couple presents themselves to the Jewish community as a married couple, engaging in the activities that other married Jewish couples engage in, then their relationship is to be considered a valid Jewish marriage.

The other opinion presented by Reb Moshe Feinstein<sup>9</sup> claims that the intent really must be defined as the couple intending to create a Jewish marriage by participating in a ceremony that is conducted according to *halacha*, as the Orthodox movement defines it. Thus any marriage that is not entered into by means of a *halachicly* valid ceremony cannot be considered a Jewish union.

## **2. *Amirah* (Statement)**

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<sup>8</sup> Rabbi Joseph Elijah Henkin *Perushei Ivra* sec 4 nos. 1, 5. (For more information see: Getsel Ellinson, Nissu'in Shelo Kedat Moshe VeYisrael [Non-*Halachic* marriage] (Tel Aviv: Dvir Publishing House, 1975) pp 129-153.

<sup>9</sup> See Appendix for translations of the Igrot Moshe responsum used in this study.



This is a formal public verbal statement made by the groom to the bride stating his intent to create a Jewish union. The Torah states that a "... *man takes a wife, and possesses her.*" (Deut 24:1). The Bible does not have one case of a woman concluding a marriage. The text of *B. T. Kiddushin* 5b says: "*Tanu Rabbanan: How does one marry a woman using money? If he gives her money and says to her: "You are hereby married to me" ... she is married ... If she gives the money and says to him: "I am hereby married to you" she is not married... If he gives the money and she says to him: "I am hereby married to you" it is a safek (dubious, under suspicion)*" Thus according to the Talmud and the later *halachic* codes<sup>10</sup> it is not acceptable for the woman to make a statement to the groom. It is the groom's responsibility to present the symbolic acquisition price to the bride and make the statement: "*You are hereby married to me*".

### **3. Nitinah & Kabbalah (Giving and Receiving)**

Although closely related to *Amirah*, *Nitinah & Kabbalah* are somewhat different. In Jewish law two Jews do not decide to create a Jewish union, a man acquires a woman as a bride - "*When a man takes a woman as his wife...*" (Deut 24:1). Marriages are concluded like other kinds of business transactions: there is a contract, a payment and a receipt of goods. However, it is necessary for the woman, of her own free will, to accept the offered ring, document or act of

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<sup>10</sup> B. T. Kiddushin 5b-6a, Maimonides, Hilchot Ishut 3:1, Shulchan Aruch, Even HaEzer 27:1

sexual intercourse in order for the *kiddushin* to be valid. This rule can be traced back to the Genesis narrative, when Rivka's permission is needed before Abraham's servant is allowed to take her to become Isaac's wife. Not only are the terms and conditions for the wedding outlined in the *ketubah* - the contractual document, but also the groom's responsibilities towards the bride in the event that the marriage ended in death or divorce. This symbolic acquisition is done as a demonstration of the intent of the couple to establish a Jewish union.

#### **4. Ratson (will or Desire)**

Not only must a couple have the intent to create a Jewish marriage, they must also have the desire or will to create one. They must both freely agree to all the aspects of the ceremony and the rights and responsibilities that will come from being a married couple. Frimer surmises that the purpose of this element is: "to build up an ambience of partnership and cooperation throughout the [wedding] service and beyond."<sup>11</sup>

#### **5. Edim (Witnesses)**

The final necessary ingredient for a *halachically* acceptable Jewish wedding ceremony, as Orthodox Judaism understands it, is that the ceremony take place in front of two qualified witnesses. It is the witnesses who are

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<sup>11</sup> Frimer, p. 10

responsible, if necessary, for testifying in front of a *Beit Din* that all the *halachicly* required components of a Jewish marriage have been fulfilled. However, the most important reason that two witnesses are required is to witness the symbolic acquisition of the bride by the groom. The witnesses to a marriage serve a constitutive function, rather than a purely evidentiary one. Thus the marriage would be completely invalid without having been conducted in the presence of the two acceptable witnesses.

Based on his understanding of the Talmud, Maimonides states in the *Mishnah Torah* that the following ten classifications of people may not serve as witnesses: women, slaves, minors, lunatics, the deaf, the blind, the wicked, the contemptible, relatives, and interested parties.<sup>12</sup> The categories that have caused much disagreement between the Liberal and Orthodox Jewish movements are: *the wicked and the contemptible*. Menachem Elon clearly defines *wicked and the contemptible*

*A fortiori, agnostics (epikoresim) and heretics, including those who transgress law or ritual from conviction or malice, are wholly and irrevocably disqualified (Yad Edut 11.10, Sh. Ar., HM 34:22).*

This definition would clearly include all those Jews who do not see themselves as part of an Orthodox community. It seems that Elon is almost specifically

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<sup>12</sup> Maimonides Yad Edut (9:1)

addressing the liberal branches of Judaism. Both Reform and Conservative Jews often have some knowledge of the laws, but have made the choice not to follow some or all them – this, in the eyes of many Orthodox authorities makes them *apikorsim*.<sup>13</sup> Elon defines “contemptible” as: “...people who do not conform to the conventions of society and are therefore incompetent witnesses.”<sup>14</sup> Thus from an Orthodox perspective, any Liberal Jew (meaning any non-Orthodox Jew) cannot serve as a witness because they are classified as both “wicked” and “contemptible”. They may also be female, blind and or deaf, but that seems to be secondary. They are first and foremost disqualified because of their non-Orthodox status. The *Mishnah Torah* and *Shulchan Aruch* both state that the following kinds of people are to be disqualified as witnesses: 1. People who eat while walking in the market place in front of all the people. 2. Those who are immodest and walk in the market place nude. 3. People who take charity from non-Jews, even though they don't really need it.<sup>15</sup> What the texts seem to be implying is that those people who act outside the accepted community norms are to be excluded as acceptable witnesses. Liberal Jews, because they do not see themselves as obligated to preform *mitzvot*, in short because they don't see themselves as Orthodox, are by definition of the Orthodox community acting

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<sup>13</sup> Menachem Elon The Principles of Jewish Law (Keter Publishing House: Jerusalem, 1975) pp. 605-611.

<sup>14</sup> Elon, The Principles of Jewish Law pp. 605-611

<sup>15</sup> Yad (Edut 11:5) & Shulchan Aruch (HM 34:18)

outside the accepted community behaviour, and are disqualified as being witnesses

It is interesting to note that the highest Israeli Rabbinical court issued a ruling that permitted the acceptability of non-observant witnesses. The *beit din* ruled that the reason non-observant Jews were excluded as witnesses was because it was presumed that since they transgressed the *mitzvot* they could not be trusted to tell the truth. The court felt that in today's climate of widespread non-observance that claim could not be substantiated. They ruled that it was possible for a person to transgress the *mitzvot* and still qualify as a valid witness. "If the *beit din* established that if he [the witness] would not benefit from lying, then we accept him as a kosher witness."<sup>16</sup> It is interesting that the American responsa authors, Orthodox and Reform, make no mention of this very important ruling. It is clear that the court was trying its best not to invalidate the majority of Jews living in Israel as witnesses. The court and Feinstein may have had similar goals for their respective rulings. Feinstein disqualifies any non-Orthodox witness so that he can release women from the obligation to secure a *get*. Since this ruling was published in 1950, shortly after the establishment of the state, it is possible that the *beit din* did not want to disqualify non-Orthodox witnesses so

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<sup>16</sup> Osef Piskei Din shel ha -Rabbanut ha-rashit Le-Erez Yisrael, (Jerusalem: bet ha din ha gadol le iruim - 1950) p. 137 (The court cited Rambam, Hilchot Edut 24 as one of their sources for their ruling. However, this citation is incorrect as no chapter 24 exists in Hilchot Edut. It is possible that they were referring to chapter 10:4 which lists all the reasons a person can be considered an invalid witness.)

that they could accept testimony of Holocaust survivors regarding the deaths of people, freeing countless women to marry again. What this ruling does demonstrate is that there is clearly more than one way to define who is a valid witness

The modern traditional Jewish wedding has the following components:

### ***Aufruf***

For an entire week prior to the ceremony the bride and groom do not to see each other. During Shabbat morning services the week prior to the wedding it is customary for the groom to be given the honour of an *aliyah* (the honour of reciting a blessing over the Torah reading). Following the *aliyah* the *gabbai*, or the synagogue's rabbi will recite a *Mi Sheberech* for the couple. This *aliyah* is known as an *Aufruf*. Often after the prayer is finished people throw candy expressing the hope that the couple may enjoy a sweet life together

### ***Bedeken***

The day of the wedding, both the bride and the groom fast. Before the ceremony, the bride's veil covers her face in remembrance of the Rebecca who veiled her face when she was first brought to Isaac to be his wife. The groom then removes the bride's veil, in remembrance of the trick Laban played on Jacob, when he switched Leah for Rachel. After this brief ceremony the veil is replaced over the bride's face. It is at this time that the *ketubah* is signed by the

two witnesses. Other people may sign the *ketubbah*, such as the officiating rabbi, or the bride and groom themselves, but it is the signatures of the witnesses that makes the document and the marriage valid.

### ***Chuppah***

The ceremony itself lasts 20-30 minutes, and consists of the *kiddushin* and the *nisuin* rites, separated by the reading of the *ketubbah*. The bride and groom stand beneath the *chuppah*, a canopy held up by four poles, symbolic of their first home, and of the husband bringing his bride into the marital home. During *kiddushin*, the bride approaches and circles the groom. Two blessings are recited over wine: one the standard blessing over wine - *boreh pri hagafen*, and the other detailing which sexual relations are permitted and forbidden to Jews. The groom then places a ring that he has owned or purchased, on woman's finger and says "*Be sanctified (mekudeshet) to me with this ring in accordance with the law of Moses and Israel* ". After *kiddushin* is complete, the *ketubah* is read aloud.

### ***Nisuin***

The *nisuin* ceremony follows. The bride and groom recite, or often a rabbi or *hazan* recites and the bride and groom say amen to seven blessings (*sheva brachot*) in the presence of their two designated witnesses and a *minyan* (prayer



quorum of 10 adult Jewish men. The two witnesses can be included in the *minyan*). The essence of each of the seven blessings is:

1. ... who has created everything for his glory
2. ... who fashioned human beings
3. ... who fashioned the humans in his image ...
4. ... who gladdens Zion through her children
5. ... who gladdens groom and bride
6. ... who created joy and gladness ... who gladdens the groom with the bride
7. and the standard prayer over wine.

Following the final blessing the couple takes a drink from the wine. The groom then smashes a glass with his right foot. This action has been interpreted many different ways, the two most common are: 1. To symbolize the destruction of the Temple. 2. To demonstrate that even at times of great joy, there is always a little bit of sorrow. The broken glass is the symbol of sorrow.

### ***Yichud***

The couple then retires briefly to a completely private room for the first time in their relationship.<sup>17</sup> This is symbolic of the groom bringing his bride into

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<sup>17</sup> Lamm, Maurice The Jewish Way in Love and Marriage (New York: Jonathan David Publishers, 1991) p. 147



the marital home. This is followed by a festive meal, which is in turn followed by a repetition of the *sheva brakhot* during the *Birkat HaMazon*. Exuberant music and dancing traditionally accompany the ceremony and the reception.

### ***Reform Ceremonies***

In short there is no one standard Reform Jewish wedding ceremony. Because it would be all but impossible to detail the various different wedding ceremonies that are used within the Reform Movement, I will restrict myself to those that have been published in the Reform *Rabbis Manual*<sup>18</sup> The "*Historical and Halachic Notes*" section of the Rabbis Manual contain a detailed description of Reform wedding praxis.

### ***Ketubah***

At one time the *Ketubah* had been abandoned by the Reform movement in favour of a **Certificate of Marriage**. However in recent years it has become widely reinstated. However, the text of almost all *ketubot* used by Reform rabbis differ from the traditional text in one key area: "...*they are documents of mutual obligation rather than stipulations made only by the male partner.*"<sup>19</sup> It is very common for couples to write sections of their *ketubah*. Another common change

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<sup>18</sup> David Polish and W. Gunther Plaut, Rabbi's Manual (CCAR New York 1988)

<sup>19</sup> Rabbis Manual p 237

is that may *ketubot* include a clause which empowers either party to secure a *get* (Jewish Divorce document), which must be issued in order to *halachicly* end the marriage. The traditional *ketubah* text does not have this clause and many women are left unable to marry within Judaism because their former husbands refuse to issue them a *get*. Or the *get* is used to force women into a very unfair divorce settlement. This was one of the reasons Reform Judaism abandoned the practice of issuing *ketubot*.

### **Wedding Rings**

In direct opposition to traditional practice Reform Judaism allows the bride to give a ring to the groom, after he has given her a ring. The accompanying formula was to be adapted for the bride to say to the groom. The reason for this is:

*"The traditional formula "Harei at mekudeshet li. " indicated that the bride was being "set aside" for the husband alone. While in ancient times the husband was able to contract other marriages, the wife was to have but one husband. Many Reform rabbis insist, therefore, that wen the bride places a ring on the finger of the groom, she is to mirror his declaration in order to establish an ambience of total equality and to say, "Harei ata mekudash li. " This is to emphasize that both husband and wife are now "set*

*aside" for each other in full equality.*<sup>20</sup>

### **The Reform Wedding Liturgy**

The Reform Rabbis Manual has four different versions of the wedding ceremony. Each of the ceremonies contains more or less of the traditional ceremony. What each of the Reform versions has in common is the basic structure: 1. Welcome 2. *Kiddushin / Erusin* 3. Reading the *Ketubah* 4. *Nisuin* 5. Rabbi's Address. It has also become very common for some Reform Rabbis to include the civil ceremony within the Jewish one. At some point in the service usually as part of the rabbi's remarks the rabbi will say: *"And now I ask you, in the presence of God and this assembly: Do you \_\_\_\_\_, take \_\_\_\_\_ to be your wife, to love, to honour and the cherish? And do you \_\_\_\_\_, take \_\_\_\_\_ to be your husband, to love, to honour and the cherish?"*<sup>21</sup> The various elements of a traditional wedding service are in most cases not in the traditional order, but for the most part the sentiments of each

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<sup>20</sup> Rabbis Manual p. 238

<sup>21</sup> Rabbis Manual p. 74

element are present in each version of the ceremony (see chart below).<sup>22</sup>

However, the traditional wedding liturgy does not exist in the manual at all.<sup>23</sup>

Thus clearly there can be no definitive statement as to the composition of a Reform wedding ceremony except to say that there is no uniformity in Reform wedding ceremonies.

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<sup>22</sup>

\* The Number indicates the order the rubric appears in the ceremony.

Service Number	Welcome	<i>Kiddushin / Erusin</i>	Reading of <i>Ketubah</i>	<i>Nisuin</i>	Rabbi's Address
I	1	3	5	4	2
II	1	3	5	2	4
III	1	4	N/A	2	3
IV	1	2	4	3	5

<sup>23</sup> It must be noted however, that the absence of the traditional liturgy does not mean that it is not used by Reform Rabbis. Several of the Reform rabbis use the Conservative rabbis manual which does contain the traditional text. Many rabbis who are dissatisfied with any extant printed ceremony and have, mixed and matched or created their own.

## *Chapter 2*

### *What is Responsa Literature?*

Responsa are answers to questions that address modern problems of Jewish law or practice. Since the time of the *Geonim*, when Jewish individuals or communities have encountered problems or questions that were not specifically addressed by the *halachic* literature, they have appealed to the scholars of their generation for answers to their questions. Scholars, almost always rabbis, examine the specific problem or concern, consult the relevant *halachic* materials and then issue a responsum on the subject. Over the years hundreds of thousands of these decisions have been produced throughout the world. To date there have been over three thousand volumes of responsa collections published, which include well over 300,000 Halachic judgements.<sup>24</sup> The sheer volume of Responsa literature is a clear indication of its importance. It is through the medium of Responsa that The Tradition is allowed to grow and develop with the times, ensuring that it remains vital to Jewish customs and practices.

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<sup>24</sup> Menachem Elon, *Jewish Law* (Philadelphia: Jewish Publication Society, 1994) p. 1462

In his book *Responsa: Literary History of a Rabbinic Genre* Peter Haas has defined Responsa literature as:

*\*... written replies to legal, moral, or exegetical questions put to a rabbinic authority, usually by another rabbi. In general these replies consist of three parts. First, they repeat the question, or at least give the gist of the question; second, they analyse the issue in light of Scripture and other religious literature; and third, they render an answer or resolution.*<sup>25</sup>

In this thesis I will focus on two collections of responsa: Reform Responsa and the Responsa of Rabbi Moshe Feinstein. For the purposes of definition, I will restrict my study of Reform Responsa to those published by the Central Conference of American Rabbis' Responsa Committee. Similarly, I will restrict myself to those responsa written by Moshe Feinstein that have been published in his Responsa collection *Igrot Moshe*.

Many people have made the claim that Reform Judaism is a *non-Halachic* movement. Yet since the beginning of Reform Judaism in Germany, Reform scholars have been writing *halachic* literature. So at least in part Reform

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<sup>25</sup> Haas, Peter. *Responsa: Literary History of a Rabbinic Genre* (Alt, Georgia: The Society of Biblical Literature, 1996) p. 1

Judaism cannot be considered a non-halachic movement. A non-*halachic* movement would be one which simply rejected *halacha* and never looked back. Perhaps it would be better to call Reform Judaism a movement that rejects the absolute authority of the *halacha*, while maintaining that it has some influence on how Reform Jews should live their lives. So how then does a system of legal literature function within a community that rejects the legitimacy of the legal system upon which all responsa is based? Reform Rabbis have produced a large collection of Responsa dealing with all areas of Jewish life. The authors of Reform Responsa have utilized the traditional *halachic* texts, and the form and structure of their Responsa are very similar to the traditional Responsa, albeit from a liberal religious perspective. Solomon B. Freehof, one of the first Reform scholars to make responsa his life's work, notes that within the Reform community Responsa is to be used "as a general guide rather than as authoritative law."<sup>26</sup> Walter Jacob, who succeeded Freehof as chair of the Responsa Committee wrote:

*"We have looked at Halacha in a different and we believe, more creative way than other Jewish groups. We have not looked to the Orthodox for approval; rather, our responsa and the guides which we have*

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<sup>26</sup> Solomon B. Freehof The Responsa Literature (Philadelphia: Jewish Publication Society, 1955) p. 274

*written have linked the past to the present and sought to make Halacha meaningful to new generations.<sup>127</sup>*

This statement was written in 1983, it reflects a continued movement of Reform Judaism towards taking *halacha* much more seriously. Eight years later Rabbi Jacob wrote a much stronger appeal for the implementation of Responsa in the lives of Reform Jews:

*"In the struggle between guidance and governance the latter must be our path. Guidance no longer fits our mood. It was appropriate thirty years ago, but we have outgrown it and need governance. This means that we will adopt measurable standards. Individuals who wish to remain outside this system will need to work out a rationale for their actions rather than hide behind vague feelings of autonomy. Too often the specifics of our religious life have been lost through inertia and unwillingness to take Reform Judaism seriously cloaked behind autonomy."<sup>128</sup>*

For Freehof Responsa were a guide to the Reform community, something that would help Reform Jews make their autonomous decisions. For Jacob, writing

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<sup>127</sup> Walter Jacobs, American Reform Responsa (New York: Central Conference of American Rabbis, 1983) p. XVI.

<sup>128</sup> Walter Jacobs, Questions and Reform Jewish Answers (New York: Central Conference of American Rabbis, 1992) p. XXIV.



thirty years later Responsa has a very different role to play in the lives of Reform Jews. It is clear that Jacob views the role of Responsa and the Responsa Committee to set the standard of communal behaviour. At the end of the introduction to Questions and Reform Jewish Answers Jacob wrote:

*"So, together (referring to the Reform Responsa published by Freehof and himself) we have probably dealt with more than three thousand questions in the last thirty-five years in addition to the responsa of our predecessors. There is, therefore, a good beginning for a Reform Halacha which can make general statements on a large number of business, medical, interreligious, ethical and ritual issues for Reform Jews. It is time to place them into a form which will appropriately govern us and set standards for our lives."*

What the actual role of Reform Responsa is, at the present time is very difficult to say. It can be noted that no motion to adopt the findings of the Responsa Committee as binding on the members of the American Reform community has been put forth or adopted. For the time being then, Reform responsa holds its time honoured position of being the *halachic* answers to questions, produced by a group that institutionally does not see *halacha* as binding, but might,

depending on each individual's perspective, see it as a guide, or perhaps as personally binding

The Responsa written by Moshe Feinstein on the other hand are seen as binding decisions by the Orthodox community, or at least binding by those who see themselves as part of Feinstein's community. The modern Orthodox community can trace its roots back only as far as the emancipation. Along with the emancipation came new ideas and concepts of how Judaism should be organized - Sabbateanism, Hasidism, Reform and Zionism all were radically different than Rabbinic Judaism. In many ways Modern Orthodoxy emerged in response to the various post-emancipation Jewish groups that posed challenges to the religious status quo. Thus Modern Orthodox groups produced responsa that:

*"In addition to their traditional roles as legal rescripts and opportunities for the display of rabbinic virtuosity, these responsa must now take on the added task of demonstrating the moral and intellectual superiority of traditional Rabbinic values over against the secular offerings of modern European culture."<sup>29</sup>*

On several occasions Feinstein makes statements aimed at disqualifying or discounting the reliability of non-orthodox opinions or practices.

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<sup>29</sup> Haas, p. 214.

According Haas there are several rhetorical norms or assumptions that are common amongst Modern Orthodox responsa. Some of them have been present throughout the history of the responsa literature, and others are newer phenomena that are unique to late twentieth century Orthodox Judaism. The first assumption is one that has been guiding authors of responsa since Talmudic times. The assumption is that the author of any responsa must take into account what his predecessors have written, and "*...through pilpul or other analyses are able to show that (any) contradictions (to his opinion) are irrelevant.*"<sup>30</sup> The acceptance of this technique by the Orthodox community has resulted in many rulings that are directly opposite to conventional practice. "*The law is free to move in new and, in some cases, surprising directions.*" For example Moses Schreiber (Hatam Sofer)'s responsum on the burial of a Jewish suicide "*...makes it possible, if not mandatory, to bury virtually every Jewish suicide in a Jewish cemetery*"<sup>31</sup> Despite the fact that all previous traditions and text indicate that an person who committed suicide should not be buried in a Jewish cemetery.

The second assumption is that the nature of Orthodox Rabbinic training is unique and that only the Orthodox rabbi alone has the skills and knowledge necessary to correctly answer *halachic* questions. The logic follows that Jewish

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<sup>30</sup> Haas, p. 255

<sup>31</sup> Haas, p. 256

law is so complex and such a highly refined system, that it requires a specific kind of training to be able to properly interpret it, and render a *halachicly* valid judgement. Thus any *halachic* rulings or responsa issued by non Orthodox rabbis are dismissed out of hand:

*...one must be committed to the acceptance of Torah  
- both the Written and Oral Law - in its entirety. One  
who refuses to accept the divinity and binding  
authority of even the most minor detail of Halakhah is,  
ipso facto, disqualified ... R. Moses Feinstein, has  
written in no less than nine different responsa which  
appear in his Iggerot Mosheh that all who identify  
themselves as non-Orthodox clergy must be  
considered to be in this category.<sup>32</sup>*

This attitude is reflected in a number of ways in Orthodox publications. It seems to be an Orthodox scholar's convention to go to extreme lengths not to refer to non-orthodox rabbis as "רב / Rabbi". Feinstein for example distinguished between Orthodox and non-Orthodox rabbis by referring to all Orthodox rabbis as "רב / rav"<sup>33</sup> which has been the Hebrew convention for a Rabbi since the

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<sup>32</sup> David Bleich, Contemporary Halakhic Problems, Volume III (New York: Ktav Publishing, 1989) p. 91

<sup>33</sup> Moshe Feinstein, Igrot Moshe Even HaEzer I, #76, p. 177-178.

rabbinic period. However, non-Orthodox rabbis are referred to as "ראב"י / rabbi", a phonetic rendering of the English. This practice clearly establishes a distinction between those who have Orthodox ordination, and those who do not. Non-Orthodox rabbis are not seen as having the same claim on the traditional title. The title "Rabbi" is given to the non-Orthodox rabbis but only as a courtesy, it does not have the same meaning within the Orthodox community as it would if the individual had earned Orthodox *S'micha*. Norman and Dov Frimer, who purport to be objective scholarship rather than religious literature also follow this convention. In their article seem to go out of their way to refer to Reform rabbis as anything but rabbi. They refer to Solomon B. Freehof as "Dr." which one could argue is legitimate because of his earned Ph. D. However, it must be noted that the jacket covers of the Freehof Responsa volumes refer to Freehof as "Rabbi"<sup>34</sup> In other parts of their article they refer to Reform rabbis as, "scholars" or as "religious leadership"<sup>35</sup> However, in the closing paragraphs they refer to Reform rabbis as "rabbis" but in this instance it would have been almost impossible for them to do otherwise.

The third assumption is based on the very complex and unique questions that are posed to rabbis today. In general it is becoming harder and harder to

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<sup>34</sup> See Solomon Freehof, *Reform Responsa for Our Time, New Reform Responsa, and Modern Reform Responsa*

<sup>35</sup> Frimer, p. 25

find precedents from the classical Jewish legal sources that address the situations or questions that today's rabbinic authorities are being asked. Thus in order to render a responsum rabbis are being forced to make broader and less clear associations to the traditional sources. "*Consequently, each responsum is built on a network of choices, judgements, assumptions, and assertions...[which] increases the ways it (the responsum) can be challenged or reinterpreted*"<sup>36</sup> This often results in two Orthodox *poskim* arriving at two diametrically opposed opinions of the same question.

It is true that Reform and Orthodox responsa are very different. They are published by communities who have two very divergent ways of studying *halachic* literature. As noted above the Reform movement does not view *halacha* as binding, and the extent to which decisions are made on *halachic* basis are at present left up to the individual Reform Jew. It seems that the attitude of Reform Judaism towards responsa is that, while not bound by the *halacha* many members of the Reform community would like to know how Reform Judaism understands the traditional *halacha* on a wide range of topics. It is then up to the individual to decide what their actions will be. The Orthodox community on the other hand, operates in a very different way. Once the question has been asked and answered, the members of the community are bound to observe the answer given. There are however several similarities between the two communities'

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<sup>36</sup> Haas, p. 256

responsa. It is these assumptions according to Haas, that the two styles of responsa share that make them part of the same genre of literature.<sup>37</sup> Haas believes that: *"Whether Orthodox or Liberal, the presence of the author as rabbi stands at the forefront in these texts in a way that is more obvious than in previous responsa types."*<sup>38</sup> In short his argument is that the acceptability of any responsum is in large part based on who the author is. Haas argues that modern responsa are written primarily in the first person and almost always give the authors personal opinion of the question. Thus *"Halakhah does not move inexorably out of the logic of the tradition or the text, but rather grows out of the thinking or personal understanding of the rabbi who is authoring the reply"*<sup>39</sup> Haas attributes the use of this style to the influence of modern western ideas and perceptions

The second characteristic that both Orthodox and Reform responsa share is the audience for whom they are written. In past eras responsa were written for the benefit of other rabbis. It was assumed that the general population did not have the requisite skills necessary to understand the material. *"Modern responsa are no longer assumed, or designed, to be meaningful only to other rabbis. Rather, modern responsa, whether Orthodox or Reform, are intended to*

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<sup>37</sup> Haas, p. 313

<sup>38</sup> Haas, p. 313

<sup>39</sup> Haas, p. 313



address a wider audience.<sup>40</sup> Haas attributes this to modern society's consumer attitudes. Thus modern authors of responsa, including the Orthodox ones write knowing that they must provide arguments that will seem convincing to their audiences: "...knowing full well that they are engaged in a battle for the hearts and minds of their readers. Responsa are thus shaped to convey to the reader the reasonableness of the halakha."<sup>41</sup> Hopefully making it both acceptable and accessible to as wide a readership as possible. This methodology is evidenced by the language the responsa are composed in. The liberal movements compose and publish their responsa in the vernacular, and almost all the Orthodox writers of responsa use some form of modern Hebrew. There are even some very left wing Orthodox rabbis who write responsa in the vernacular.<sup>42</sup>

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<sup>40</sup> Haas, p. 313

<sup>41</sup> Haas, p. 314

<sup>42</sup> Haas, p. 314



## *Chapter 3*

### *Reform and Feinstein Responsa: Compare and Contrast*

This study will seek to determine the similarities and differences between Reform responsa, represented by the published responsa of the Central Conference of American Rabbis' Responsa Committee, and Orthodox responsa, represented by the published responsa of Rabbi Moshe Feinstein in his published responsa collection Igrot Moshe. The topic of the wedding ceremony was chosen because both the Orthodox and Reform communities' questions regarding the wedding ceremony are similar. The wedding ceremony is also one of the few topics about which Reform and Orthodox authors of responsa comment on each other's positions. There are four specific areas in which the two communities share similar questions:

1. Participation of Non-Jews in Processional / Recessional
2. Reform / Conservative Ceremony
3. Who can officiate at a valid Jewish marriage?
4. Location of the Ceremony

This study will analyse these four areas, looking for similarities and

differences and how the two communities use the medium of responsa to express their view of an issue regarding the Jewish wedding ceremony. In addition we will examine how the two communities respond to each others stance on the definition of a valid Jewish marriage

### **1. Participation of Non-Jews in Processional / Recessional**

Both communities want to know if it would be acceptable for non-Jews to have a non-liturgical role in the wedding ceremony. Both of the answers given are brief. In fact they are the shortest responsa that we will examine. Feinstein states that non-Jews may not have any role in the wedding ceremony. He claims that it is a "*...religious matter and that non-Jews cannot act as wedding attendants...*"<sup>43</sup> He bases his prohibition not on traditional *halachic* texts but on his assumption that if this practice would have been permitted it would have encouraged people to disregard the prohibition against intermarriage. He said that if the rabbi explained the religious nature of the ceremony to the family they would not have been upset at not being able to include non-Jews. Feinstein went on to say that the inclusion of the non-Jew in the wedding ceremony, while not expressly forbidden certainly would not "*...extend the honour of the Torah*"<sup>44</sup> In his opinion the custom of parents escorting their children to the *chuppah* cannot be found in the *Gemera*, and so it could in theory be done away with

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<sup>43</sup> Moshe Feinstein, Igrot Moshe (Yoreh Daiah III, #106 2) p. 349

<sup>44</sup> Igrot Moshe (Yoreh Daiah III, #106 2) p. 349

completely. However, he adds that it is a widespread custom that has been around for a long time and that we should respect its place as *Minhag Avotanu* (customs of our ancestors) and not discontinue its practice.

The Reform responsum began with an explanation of who and what kinds of people are necessary to establish a *halachicly* valid Jewish wedding. The discussion centers around the need for valid witnesses to sign the *ketubbah* and to witness the giving of the ring. Both of which non-Jews were deemed to be ineligible. The responsa then states that the non-liturgical escorts and attendants are not “...*legally necessary witnesses*... *Then certainly there seems to be no objection to their presence*.”<sup>45</sup> Freehof concludes the responsum by stating that there was a custom to include non-Jews in the non-liturgical aspects of the wedding celebrations by having non-Jewish musicians.<sup>46</sup>

Both of the communities agree that non-Jews should not play any liturgical role in the wedding ceremony. Feinstein forbids the inclusion of non-Jews in any aspect of the wedding because he feared that this would if not lead to more intermarriages “...*make it easier for the non-observant, that they will not feel shame that they have intermarried*.”<sup>47</sup> Feinstein looked at the far reaching

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<sup>45</sup> Solomon B. Freehof, Reform Responsa (New York: Ktav Publishing, 1973) p. 191

<sup>46</sup> Reform Responsa p. 191

<sup>47</sup> Igrot Moshe (Yoreh Daiah III, #106.2) p. 349

effects of having non-Jews participate in the wedding, while the Reform responsum seems to be strictly addressing the halachic issue of the permissibility of having non-Jews participate.

The Reform responsum provided textual proof for both its definition of acceptable witnesses, and for the inclusion of non-Jews in the wedding celebrations. Feinstein on the other hand had provided no textual basis for forbidding the inclusion of non-Jews. However, he does cite a Talmudic passage that provides support to his suggestion that the non-Jew be provided with an explanation that the wedding is a Jewish religious ceremony and that it is not appropriate for non-Jews to participate. The text that Feinstein quotes is Bab. Talmud Avodah Zarah (26A), which is a discussion of when a Jewish midwife can transgress the laws of Shabbat in order to help a non-Jewish mother deliver a baby. R. Abaye holds that one can explain to the non-Jewish expectant mother that: *"Only for our own, who keep the Sabbath, may we disregard the laws, but we must not waive the Shabbat laws for you who do not observe it."*<sup>48</sup> Feinstein seemed to imply that if a woman in labour could be expected to accept the explanation that Jews and non-Jews are not equal under Jewish law and practice, then a person who wishes to participate in a wedding ceremony would also be able to accept this explanation. It almost appears that Feinstein is really grasping at straws to include some kind of proof-text for his decision. It is clearly

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<sup>48</sup> Bab. Talmud Avodah Zarah 26A.

a decision made on the basis of his experience in the American Jewish community, not one derived from *halachic* sources. The same text that Feinstein used to support his conclusion that non-Jews should be excluded from participation in the wedding ceremony could be used to support the inclusion of non-Jews in the ceremony: "*R. Joseph held the opinion that even on Shabbat it is permitted for a Jewish midwife to assist a non-Jew, even for payment, to avoid any ill feelings.*"<sup>49</sup> Clearly this is an example of Haas's claim that modern Orthodox authors of responsa through the texts they choose to quote can make a claim for one side of an issue, over the other.<sup>50</sup>

## **2. Reform / Conservative Ceremony**

There are two Reform and four Feinstein responsa that take up the issue of a Jewish wedding ceremony that is not done according to Orthodox interpretation of *halacha*.

The first Reform responsum on this topic was called: "*Reform Marriage Formula*".<sup>51</sup> Using a very interesting technique Freehof wrote in the persona of his strongest Orthodox critic - Moshe Feinstein. The question that is presented

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<sup>49</sup> Bab. Talmud Avodah Zarah 26A

<sup>50</sup> Haas, p. 256

<sup>51</sup> Solomon B. Freehof Reform Responsa For Our Time (Cincinnati: Hebrew Union College Press, 1977) pp. 191-195

asks about the *halachic* implications of having the bride recite a mirror statement following the traditional statement recited by the groom. Since the questioner was concerned with the *halachic* implications, Freehof in a somewhat backhanded manner provided him with a *halachic* answer, in the persona of Moshe Feinstein. Freehof stated that if Feinstein would have answered the question at all he would have said that any oath the woman said would have had no *halachic* import, and would have been considered complete nonsense. A Jewish wedding is concluded when the groom symbolically takes possession of the bride by giving her a ring and by reciting the *halachic* formula. There simply is no opportunity for the bride to give a ring to the groom or to recite any formula

Freehof then changed tactics and stated that as Reform Jews we must *"...be willing, for the sake of conscience, to brush aside the possibilities of these Halachic consequences."*<sup>52</sup> He then proposed a middle ground for those not comfortable simply disposing of the *halachic* tradition. His proposal, which is the one used in the Reform Rabbi's Manual calls for the bride to use a non-*halachic* sounding formula: *"Thus we are not troubled by sounding Halachic when we are really in this case contra-Halachic."*<sup>53</sup>

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<sup>52</sup> Reform Responsa For Our Time p. 194

<sup>53</sup> Reform Responsa For Our Time p. 195

The second Reform Responsum that dealt with the validity of Reform wedding ceremonies is entitled: *"Orthodox Aspersions Against Reform Marriages"*<sup>54</sup>. This responsum was written as a response to a question regarding a trend by some Orthodox rabbis to declare marriages preformed by non-Orthodox rabbis invalid. Freehof began by stating that there are "...*certain technical differences between Orthodox and Reform marriages as to witnesses, ketuba, and so forth*"<sup>55</sup>. Freehof then went on to question the *halachic* validity of one group declaring the marriages of another invalid. He outlined the three requirements for an Orthodox Jewish marriage: 1. *Minyan* 2. *Ketubah* 3. *Kosher* witnesses, but then asked if these requirements were indispensable. Freehof asserted that the most basic requirement, the one thing that establishes that a couple is married beyond any other, is that they appear to be living as a married couple in the eyes of the community. This assertion is based on the passage in Bab Talmud Ketubot (72b-73a), where it states that a man can be assumed not to have (non-marital) sex with a woman unless it is for the purpose of establishing a Jewish marriage. Freehof quoted several post Talmudic sources that support the Talmud's assertion that if a couple is living together as husband and wife, their marriage is deemed to be as valid as if they were married in a *halachically* valid Jewish ceremony. Freehof concluded this section of citations

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<sup>54</sup> Solomon B. Freehof Recent Reform Responsa (Ktav Publishing House, 1973) pp. 194-203.

<sup>55</sup> Recent Reform Responsa p. 194.



with Joseph Henkin, a twentieth century posek, who said: "*...if a man lives with a woman and the Jews of the neighbourhood know it, it is a full marriage*"<sup>56</sup>

Freehof acknowledged that the opposite opinion also exists within the law, but he felt that the evidence was so weighted in favour of non-Orthodox marriages being *halachicly* valid that he dismissed them as insignificant: "*...any Orthodox official who casts doubt on the validity of such marriage is not only callous to human consideration, but ignores the main development and tendency of Orthodox law*".<sup>57</sup> Freehof then launched into a long discussion of how every community of Jews has different wedding customs and that for one group not to recognize the validity of the other's weddings is not only contrary to Jewish tradition established since Talmudic times, but also very damaging to the hegemony of the Jewish community.

Moshe Feinstein wrote four responsum that dealt with the validity of non-Orthodox Jewish marriages. For him the central issue which is prevalent throughout all four of the responsum is the validity of witnesses. If the witnesses were not *kosher* then he deemed the wedding invalid. Feinstein also dismisses non-Orthodox wedding ceremonies as invalid because they do not follow established Orthodox customs.

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<sup>56</sup> Solomon B. Freehof Recent Reform Responsa p. 197

<sup>57</sup> Solomon B. Freehof Recent Reform Responsa p198



The first Responsum dealt with the question: "[What is the status of] a wedding ceremony preformed by a Reform Rabbi?"<sup>58</sup> In this responsum Feinstein argued that a wedding preformed by a Reform Rabbi was not a valid Jewish wedding for two reasons: the validity of the witnesses, and the composition of the ceremony. Feinstein asserts that unless two *kosher* witnesses saw the groom give a ring to the bride and recite the traditional formula the wedding is not valid. However, Feinstein must account for the Hatam Sofer's ruling that if two *kosher* witnesses saw a wedding from a distance they could serve as the official witnesses to the ceremony, and it would be considered valid. Feinstein dismissed the application of the Hatam Sofer's ruling claiming that it was totally based on the assumption that the witnesses could safely assume that the wedding they saw, if not heard, was conducted according to *halachic* standards. Feinstein claimed that with regard to weddings done by Reform Rabbis it was impossible to make that assumption. Feinstein made the following statement about Reform rabbis and the wedding ceremonies they conduct: "All the Reform Rabbis invent a ritual of their own and say that 'this' is *kiddushin*"<sup>59</sup> Feinstein does not provide any sources for his assumptions about Reform wedding ceremonies. He simply makes his statements as if they were generally accepted common knowledge.

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<sup>58</sup> Igrot Moshe (Even HaEzer I #76, p. 177-178)

<sup>59</sup> Moshe Feinstein Igrot Moshe (Even HaEzer I #76, p. 177-178)

The second issue that Feinstein dealt with was the relevance of the couple's cohabitation. Feinstein cited Bab. Talmud Gittin (81a-b) which says that it can be assumed that a man will only engage in sex (outside of marriage) to establish a valid Jewish marriage through *Kiddushey Biah*. However, Feinstein claimed that because the couple believed that the Reform ceremony had created a valid Jewish marriage the ensuing acts of sexual intercourse and cohabitation could not be presumed to be *Kiddushey Biah*. There would be no reason for a couple who thought that they had been married in a valid Jewish ceremony to participate in *Kiddushey Biah*. Feinstein cited Bab. Talmud Ketubbot (73a): "*If a man knows that his Kiddushey Kesef was valid, then he cannot claim Kiddushey Biah, because in his mind the wedding has been concluded. Any sexual intercourse that subsequently occurs is for the purpose of consummating the already established wedding - not to establish the wedding.*"<sup>60</sup> He concluded the responsum by stating that because of this doubt regarding the *Kiddushey Biah* no valid Jewish wedding was established and the woman does not require a *get* in order to remarry in a valid Jewish wedding ceremony.

It is clear that Feinstein and Freehof disagree on the definition of *Kiddushey Biah*. The question is what were their intentions in making their claims. They both quoted the same texts, especially the Ketubbot 73a passage. Freehof interpreting it to mean that any couple who lives as a husband and wife

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<sup>60</sup> Moshe Feinstein *Igrot Moshe* (Even HaEzer I #76, pp. 177-178)

are considered to have a valid Jewish wedding. While Feinstein dismissed this claim and declared that only through the *halachically* proscribed rituals of *kiddushin* in its variant forms could a couple establish a valid Jewish marriage. Freehof was clearly looking to establish a common ground between the divergent Jewish movements. He wanted to be able to say that all Jews, and all Jewish marriages could be considered *halachically* valid. His vision of an ideal Jewish community would have been one in which variant beliefs and traditions could have been observed, and accepted as valid by everyone. Feinstein on the other hand approached this discussion from a very different perspective. He did not seem to care about the unity of the Jewish community, at least not in this responsum. In this Responsum he seems to be trying desperately to remove the need for a woman to obtain a *get*. By declaring that non-Orthodox marriages are not valid Jewish marriages he is enabling the woman to marry within the Jewish faith, while not requiring her to secure a *get* which she had been unsuccessful in doing.

The second Feinstein responsum which dealt with the validity of Reform wedding ceremonies reiterates the same two issues as the first responsum but added a third - the acceptability of rumor.<sup>61</sup> Feinstein quoted Isserless's ruling that one should disregard any rumors unless they were presented at the time the

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<sup>61</sup> *Igrot Moshe* (Even HaEzer I #77, p. 178 - 180)

event occurred.<sup>62</sup> Thus one could argue that since no rumor was present at the time the couple were married by the Reform rabbi, any doubts or rumors regarding the ceremony cannot be raised at a later date. However, Feinstein went on to claim that this ruling does not apply because the wedding was conducted by a Reform rabbi and in all such ceremonies there is an assumption of doubt regarding the validity of the wedding. This responsum seems so similar to the previous one it begs the question as to why it was written, and then included in Igrot Moshe. It might be that someone raised the issue of the rumor after the first responsum was written and Feinstein felt it necessary to cover that eventuality. At the conclusion of the second responsum, as with the first, Feinstein makes a clear ruling that the woman is free to marry anyone she wishes without the necessity of obtaining a *get*.

The third Feinstein responsum is a restatement of the arguments presented in the first two. However, in this responsum he compared and differentiated between a Reform wedding ceremony and a civil ceremony.<sup>63</sup> He said that in many ways a marriage established through a civil ceremony had a higher level of acceptability than a wedding established through a Reform ceremony. His assumption was that if a couple got married by a Reform rabbi their understanding of the ceremony would be that it was a valid Jewish

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<sup>62</sup> Moses Isserless Shulchan Aruch (Even HaEzer 46:3)

<sup>63</sup> Igrot Moshe (EH III #25, p. 447)

ceremony, which established a valid Jewish marriage. Thus the couple could not be presumed to have followed the Reform ceremony with *Kiddushey Biah*. As has been discussed above, it would not have been logical for the couple to have done so. In their eyes they had established a Jewish marriage, why would they establish it for a second time? On the other hand a couple married in a civil ceremony would know that they had not established a Jewish marriage and thus it could be presumed that they would engage in *Kiddushey Biah* in order to establish their marriage as a valid Jewish marriage. Feinstein concludes the responsum by stating that:

*However, this is true only in theory, but not when the insistence of a get would make this woman an Agunah (eg. if her husband refuses to grant a Get). In such a case, if they were married in a civil ceremony, we would say that there was no halachic validity to the marriage.*<sup>64</sup>

It is clear that Feinstein wished to do anything he could to avoid having to declare women *agunot*.

Feinstein's fourth and final responsum on this area of the wedding ceremony concerns the validity of Conservative marriage ceremonies. In this responsum Feinstein admitted that it was possible, although very doubtful that

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<sup>64</sup> *Igrot Moshe* (EH III #25, p 447)

*halachically* acceptable witnesses would have been present at a wedding ceremony conducted in a Conservative synagogue by a Conservative rabbi. However, he stated that even if such witnesses were present there would have been enough doubt regarding the practices of Conservative rabbis that the wedding would have been deemed invalid. Thus obviating the necessity for the woman to secure a *get*.

Throughout all four of the responsa Feinstein went to extraordinary measures to free women from the obligation of securing a *get*. In the process he succeed in alienating almost every branch of non-Orthodox Judaism and several groups within the Orthodox community. However, it is clear that he was trying to deal with the very troubling *agunot* issue. That is not to say that he did not take full advantage to express his disdain and rejection of non-Orthodox Jewish religious praxis. Throughout the responsa he made sweeping generalizations regarding the practices of the Reform and Conservative rabbis. Not once did he ever provide any citations as to where he derived his assumptions of the Reform and Conservative movements.

It is fascinating to note that both Feinstein and Freehof utilized very similar techniques in writing their responsa. Both were addressing the issue of the validity of a non-Orthodox wedding ceremony, but both also addressed the much broader issue of pluralism. Feinstein utilized every opportunity to criticize

and delegitimate the Reform Movement. It is clear that he has little if any respect for any expression of Judaism that is not Orthodox. Similarly Freehof used the question of the validity of a woman reciting an oath during the wedding ceremony to address Feinstein's desire to declare Reform weddings as invalid. While both authors were careful to answer the question presented to them, they also take full advantage to address a related but not directly relevant topic.

### **3. Who can officiate?**

The third issue that both communities have inquired about is who has the authority to officiate at a Jewish wedding. There are three Reform and two Feinstein Responsum on the topic. It must be noted however, that several of the previous Feinstein Responsum that have been examined deal with this issue to some extent. Both communities seem to be concerned with the same aspect of the question: what or who gives a person the right to officiate at a Jewish wedding?

The first Reform Responsa dealt with the topic by answering the question: "*May cantors perform Jewish marriage services without an ordained rabbi presiding over the ceremony?*"<sup>65</sup> The responsum began with a detailed description of the most basic definition of a Jewish marriage - when two Jews

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<sup>65</sup> Walter Jacob American Reform Responsa (New York: Central Conference of American Rabbis, 1983) p 398.



live together as husband and wife then according to Jewish law they are to be considered married. As recently as the 14th century Jewish scholars such as Isaac bar Sheshet were questioning the need to have ordained rabbis officiate at a wedding. In his response to the Chief Rabbi of France who declared all French Jewish weddings not preformed under his auspices to be invalid:

*Isaac bar Sheshet is puzzled by this Franco-German emphasis on a so-called ordination, and says that if the ceremony of the documents (in the case of a divorce) are correct, on what ground can anyone dare to declare them invalid?*<sup>66</sup>

Freehof then went on to say that despite the fact that a Jewish marriage conducted without the services of a rabbi is valid and binding, it has been the accepted custom for hundreds of years for ordained rabbis to officiate at Jewish weddings, and to discontinue this practice would be detrimental to the entire community. Freehof cites two basic reasons for requiring an ordained rabbi to officiate: *... professional privilege and technical ability... Therefore, anyone who comes in and takes these away from him [the ordained rabbi] commits actual robbery, as one would in taking away the livelihood of any other workman.*<sup>67</sup>

However, it is the technical knowledge that seems to be much more important to Freehof than the professional privilege. He quoted Bab. Talmud Kiddushin (6a)

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<sup>66</sup> Walter Jacob American Reform Responsa, p 398

<sup>67</sup> Walter Jacob American Reform Responsa, p 399



which says: *"He who does who does not understand throughly the nature of the marriages...shall have no dealings with them."*<sup>68</sup> Freehof concluded the responsum by stating that despite the lax attitude of the Reform movement towards the observance of *halacha*, many if not all Reform rabbis are very strict when it comes to approving a marriage. Very often Reform rabbis will have many educational programs that are designed to help couples understand the importance and significance of marriage. His final point is that by allowing others to officiate at a wedding it would be reducing the *"...solemnity, dignity, and impressiveness of marriage"*<sup>69</sup> Freehof uncharacteristically did not temper his decision very much. He was very strongly opposed to lay officiation at Jewish wedding ceremonies.

Freehof's second responsum dealt with much the same issues. He was asked if it would be acceptable for laity to compose their own marriage ceremonies and not involve a rabbi or any Hebrew in the liturgy. The first part of the Responsum dealt with the use of the vernacular in prayer and ritual. After a lengthy discussion of how Jewish law does permit the use of the vernacular for almost every prayer, Freehof concluded that by eliminating the Hebrew it would have severed any ties to the countless generations of Jews who had preceded the couple. *"Much is lost if all Hebrew is removed form the ceremony, but it*

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<sup>68</sup> Walter Jacob American Reform Responsa, p 400

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<sup>69</sup> Walter Jacob American Reform Responsa, p. 401.

*cannot be held that the marriage is invalid if the Hebrew is omitted.*<sup>70</sup> However, he was careful to point out that it would still qualify as a valid Jewish marriage.

The second half of the responsum deals with the necessity of having an ordained rabbi officiate at the ceremony. Freehof begins by stating that secular laws may prevent a lay person from officiating at a wedding ceremony. Freehof then turns to the Jewish legal tradition. He begins by stating that according to the most basic rules of Jewish marriage no ordained rabbi is required to establish a Jewish marriage. However, he continues by quoting Bab. Talmud *Kiddushin* (6a and 13b) which state that only a person knowledgeable in the laws of Jewish marriage should officiate at a wedding.<sup>71</sup> He goes on to say that so many intangible aspects of a Jewish wedding would be lost without the officiation of an ordained rabbi that the tradition should be maintained.<sup>72</sup> However, he is clear that such a wedding would be a valid Jewish wedding.

The third, and most recent Reform responsum, written by the CCAR Responsa Committee and edited by Walter Jacob addressed the question: "*May the president of a congregation or any other designated layman perform Jewish*

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<sup>70</sup> Solomon B. Freehof Reform Responsa For Our Time (Cincinnati: The Hebrew Union College Press, 1979) p. 200

<sup>71</sup> Reform Responsa For Our Time, p. 204

<sup>72</sup> Reform Responsa For Our Time, p. 205

*marriage ceremonies?*<sup>73</sup> Jacob began the responsum with an outline of the three ways the Talmud and Shulhan Aruch permit Jewish weddings to be established: document, payment, or sexual intercourse - all three must have as their express purpose the establishment of a Jewish wedding. Jacob then began his discussion of the officiant. He provided a chronological thread of proof texts that began with the apocryphal book of Tobit (7:12), then some rabbinic texts Bab. Talmud Kiddushin (6a, 13a), from there he moves to some eleventh and twelfth century texts concerning the wedding ceremony - Abraham Freiman, *Seder Kiddushin Venisu-in* (p. 403) and Maimonides (Responso, 156), he concludes by quoting the Maharil (Hilchot Nisuin). All of the texts he choose show that in order to officiate at a wedding the officiant must possess intimate knowledge of the laws of marriage, and in the later texts demanded that the officiant be an ordained rabbi. The responsum concludes by stating that for the last six hundred years wedding ceremonies have been the almost exclusive domain of ordained rabbis and he sees no justification for altering the status quo. Jacob takes this argument one step further by providing a modern reason that weddings should remain within the purview of the ordained. He said that today's couples should undergo pre and post-marital counselling. He made the claim that it is very hard for couples to create Jewish homes, and that it requires the support and skilled intervention by an ordained rabbi to properly assist them in doing so. He concluded the responsum by saying that the laws of the state

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<sup>73</sup> Walter Jacob *American Reform Responsa*, p. 401

must also be taken into account, and they may prevent a non-ordained person from officiating.

The Jacob responsum differs from the Freehof material in several ways, but most significantly Jacob utilizes not only the Talmud and Shulchan Aruch but other less well known publications of Jewish legal literature. The sources are also provided in chronological order. However, the answer that Jacob and the Responsa Committee provide does not differ in its message from Freehof's. In short the answer given by both Freehof and Jacob is no, only ordained Jewish clergy may officiate at a Jewish wedding. The other difference is that Jacob includes members of the Cantorate in his definition of Jewish clergy, whereas Freehof did not. Both of Freehof and Jacob seem to have believed that if a marriage was officiated by someone who was not ordained it would not in any way effect the validity of the wedding. *Bedivad* - once the action had been taken, we must accept the wedding, but that does not mean that the process through which that union was established is approved of.

As we have seen in the Feinstein Responsa that have been examined, the only valid Jewish wedding is one officiated at by an Orthodox rabbi. In his responsa concerning a civil wedding<sup>74</sup> Feinstein must deal with the real possibility of an assumption of *Kiddushey Biah* because the man knew that the

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<sup>74</sup> Feinstein, (Even HaEzer IV, #80, p. 145)

ceremony was not a Jewish ceremony and thus it could be assumed that any sexual intercourse that followed the wedding could have been *Kiddushey Biah* and would have established a valid Jewish wedding. Feinstein ruled that since there were no *kosher* witnesses to the couples brief two day marriage, and that the man was completely unknowledgable of common Jewish laws, let alone something as complex as the laws of *kiddushin*, it cannot be assumed that the couple participated in *Kiddushey Biah*. Thus Feinstein once again is successful in freeing the woman from the requirement to secure a *get* - ameliorating the *Agunah* problem.

The second section of the Responsum presents the case of a woman who had been married for thirteen years and divorced from her husband and had come before an Orthodox rabbi to be married to another man. Feinstein ruled that because the witnesses who signed the *ketubah* were invalid, this invalidated the wedding, and the rabbi was permitted to marry the couple. In the eyes of Judaism no valid Jewish marriage had ever existed.

The third and final section of the Responsum deals with the validity of a Reform rabbi reciting *Birkat Erusin*. Feinstein ruled that since Reform Jews do not accept the divine nature of the written and oral Torah, any blessings they recite are likened to secular words and are not deemed to be a blessing.

In all three sections Feinstein provided the reader with his opinion of the circumstances. He did not provide any textual proof or other outside references. He simply stated what he believed the *halacha* to be. He made broad assumptions about non-Orthodox Jews and didn't feel the need to substantiate them with any proof, textual or otherwise. This is, strangely enough almost opposite to how the Reform responsa were constructed. In both the Freehof and Jacob material there is extensive quoting and citations from almost every area of Jewish legal literature. Very few assumptions are made by the authors of the Reform Responsa without some textual citations to back them up.

#### **4. Location of the Ceremony**

The fourth and final topic that is dealt with by both communities is the location of a Jewish wedding ceremony. There is one Reform and two Feinstein responsum on the topic.

The Reform Responsum dealt with a couple who wished to be married in the home of the bride's parents.<sup>75</sup> The bride and the groom were Jewish but the bride's parents were not. In fact the bride's parents were very active Roman Catholics who had several pieces of religious art which would be in prominent

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<sup>75</sup> Walter Jacob Contemporary American Reform Responsa (New York: Central Conference of American Rabbis, 1987) pp 288-289



view during the ceremony. Jacob began praising the family relationships, commenting on how wonderful that the bride's parents had embraced their daughter's choice to become a Jew. He then quoted some later *halachic* authorities who supported his position that it would be fine for a Jewish wedding to take place in that environment. He concluded the responsum by stating that the ceremony should include as many Jewish symbols such as the *chuppah* as possible. That everything should be done to detract attention from the Christian statuary and other religious art.

Feinstein wrote two responsum on the topic. The first is a very lengthy involved responsum, while the second is a short opinion based responsum. The first responsum deals with an Orthodox man who for administrative reasons wishes to use a Conservative synagogue for his daughter's ceremony and reception.<sup>76</sup> Feinstein began his answer by questioning the permissibility of an Orthodox Jew being seen entering a Conservative synagogue. Feinstein quoted Bab. Talmud Avodah Zarah (43b) which supported the assumption that a Jew can pray despite any Christian imagery being present. However, Feinstein said that in his opinion anyone who entered a conservative synagogue would have been suspect. The reason he stated for not allowing Orthodox Jews to enter Conservative synagogues is because once exposed to Conservative Judaism the Orthodox Jew would have become Conservative and change the nature of

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<sup>76</sup> Igrot Moshe (Orach Hayim III, #30, p. 325) p. 325



the Orthodox synagogue. Feinstein then began to deal with the argument that it would be acceptable to attend the wedding ceremony because it would not take place at a time when members of the Conservative synagogue would be gathering for prayer. Feinstein used the Avodah Zarah passage to prove that if the Conservative congregants were not going to be there for services then it would have been acceptable for an Orthodox Jew to attend the wedding. However, he went on to say that the father of the bride should have been encouraged to find a different location for the wedding.

The second Feinstein responsum on the topic dealt with the permissibility of an Orthodox rabbi's officiation at a wedding in a Conservative synagogue. Feinstein permitted a rabbi to do this, but instructed that the rabbi should make very clear to everyone assembled who qualifies as a valid witness. Feinstein concluded by trying to talk the rabbi out of doing the wedding, but stated that there would be no question of regarding the validity of the marriage itself.

Interestingly enough the two communities seem in total agreement on this issue. Both feel that the best place for a wedding is on 'home ground' but that a wedding conducted by the rabbi of the congregation or community in another location is a completely valid Jewish wedding. However, Feinstein does take full advantage of the opportunity to express his feelings about the Conservative Movement. In several places Feinstein warns against going into, or becoming

too close with the Conservative congregation. His prohibitions seem very defensive, much like a parent forbidding a child to go into a toy store at the mall. What his intent was there is no way of knowing. But it is possible that when he wrote the responsum the Orthodox movement was probably losing many members to conservative congregations.

## *Conclusion*

What then can we conclude from comparing the Feinstein and Reform responsa material? One significant conclusion is that the two communities share a number of questions regarding the wedding ceremony. They both want a clearly defined set of rules or guidelines as to what constitutes a Jewish wedding, who is able to officiate at a Jewish wedding, and where a Jewish wedding ceremony should be held. It is also interesting that for the most part the two communities relied on the same halachic texts to prove their point. Often the text was interpreted so differently as to render an opposite ruling, but the process that the two authors utilized is almost identical.

There are however some significant differences between the Feinstein and the Reform responsum. Whenever Feinstein made a claim regarding Reform praxis or belief he did not provide any citation as to where he gleaned this information. In several of the responsum that have been examined he made claims about the composition and nature of the Reform Jewish wedding without any reference to a Reform Rabbis manual or other publication. It seems that Feinstein expected his audience (mostly like minded co-religionists) to believe that what he stated as common knowledge which did not require a proof-text. The other significant difference is that the Feinstein material is binding on that section of the Orthodox community that follows Feinstein's rulings. While the

Reform material is presented by the Reform community as an answer to a question, what the reader does with the answer is up to the individual. The Reform Responsa are not binding in any way on the constituents of the Reform community. Another very dramatic difference between the two is that Reform responsa will often examine the effect of a decision on the larger community, and will allow modern situation to influence the decision. The differences are there, but the similarities are much more striking. This may be one of the last common grounds between the Orthodox and Reform communities

## *Appendix*

### *Moshe Feinstein - Igrot Moshe Responsa*

#### **1. Participation of Non-Jews in Processional / Recessional**

*Igrot Moshe* (Yoreh Daiah III #106.2, p.349)

Non-Jewish father to escort Jewish daughter to the *huppah*. One Rabbi wants to allow him to do this because he does so many good things for the [Jewish] community of the city.

In this case it has occurred to one rabbi to permit a non-Jewish father to escort his daughter by a Jewish woman (thus the daughter is Jewish) to the *huppah*. However, the rabbi should be rebuked. Despite the fact that his intentions are good, and that the man (the father) is an important man in the community who does many good things for many Jews. After people see the rabbi include this non-Jew in the wedding ceremony, they might belittle the importance of the prohibition [forbidding intermarriage]. Even though, this prohibition is still taken very seriously even by those who transgress many other prohibitions. Even if it turns out that a number of Jews are indebted to this non-Jew and they don't want to make him angry, for fear of financial loss [presumably, if he stops donating and or supporting Jewish interests], it's reasonable to assume that if we explain to him that it is a religious matter and

that non-Jews cannot act as wedding attendants, he won't be upset. As Abaya said regarding Shabbat in Bab. Talmud Avodah Zara p. 26:a.

And also we see that this rav wants to allow all the non-Jewish fathers, [and not just this one who is of some importance] to take part in the service. His advice is that the congregation should purchase Yayin Mevushal (boiled wine, that according to *halacha* Jews are permitted to drink with non-Jews) so that the father can pour the wine for the couple as is [the non-Jewish] custom. Alternatively that all fathers and mothers will not escort their children to the *huppah* in order to eliminate any distinction between Jewish, and non-Jewish parents. God forbid that this should be done to make it easier for the non-observant, that they will not feel shame that they have intermarried. This is to give aid and assistance to these sinners. Surely, these and similar ideas should be condemned.

Having non-Jewish attendants at a wedding ceremony does not extend the honor of Torah. However the issue of appropriate wedding attendants is not mentioned in the Gemara. The custom of the parents of a bride or groom escorting their children to the *Huppah* is also not found in the Gemara. However, the custom of having parents lead their children to the *huppah* can be found everywhere. Since it has become the prevailing custom (*Minhag Avotanu*) to escort the bride and groom to the *huppah* we should not change it. Just as we do

not change the customs we like or agree with, we should not change the ones we don't like or agree with. We don't change [the custom] in order that we not offend [our ancestors].

## **2. Reform / Conservative Ceremony**

*Igrot Moshe* (Even HaEzer I #76, p. 177-178)

[What is the status of] a wedding ceremony preformed by a Reform Rabbi?

May his honour be increased, my friend the rabbi and gaon our teacher my rabbi - Nachum Dinesen.

Concerning the case of a woman who was married by a Reform Rabbi, and every single person who attended the wedding were non-observant Jews who desecrate Shabbat, and even go so far as to transgress all the negative *mitzvot* of the Torah. The meal [following the ceremony] was not *kosher*, and everyone ate it [thus there could not have been any *kosher* - people deemed fit to be witnesses in attendance].

After some time past, her husband left her and she was unable to secure a *get* (Jewish bill of divorce) from him. But is this necessary, can we permit her

to remarry [without securing a *gef*], since the wedding was not done according to the laws of the Torah?

His words are correct, a wedding performed by a Reform rabbi is not considered *kiddushin* (a Jewish wedding) so long as it is clear that there were no *kosher* witnesses who saw the groom give the bride a ring and then say to her 'Behold I consecrate you to be my wife.' [They are considered valid witnesses] even if two *kosher* witnesses had seen this exchange from far away and they did not see if the rabbi had [selected witnesses who were *kosher*], or if the order of the wedding service had a blemish, or that there was a mistake made by the rabbi in choosing the witnesses to the marriage. Thus the Hatam Sofer in his responsa Even HaEver chapter 100, ruled: That the wedding was valid, and that according to *halachah* no new act of *kiddushin* was required, because the *kosher* witness knew for a fact that the ceremony itself was conducted properly. The two were indeed married and should not be required to remarry according to usual or *kosher* wedding rituals. The (two *kosher* witnesses) who were there, even if they could not see or hear what was going on with the ceremony knew that the purpose of the event was for the couple to get married, and they can assume that the ceremony was done according to the laws. (The Hatam Sofer is basing his ruling on the premise of *Anan S'haday* - 'something known for a fact' something that is public knowledge, whose validity is established even if it was not actually seen by eyewitness. However, Feinstein, rejects this premise as



being inapplicable to Reform marriage ceremonies because of the generally accepted facts that Reform rabbis do not adhere to *halachic* standards when performing marriages.)

It is obvious that we cannot apply the theory of *Anan S'haday* to Reform marriages, (It is impossible to assume that the Reform Rabbi made sure that the basic elements of the marriage ceremony - groom giving object to bride; groom making the *kiddushin* statement observed by the *kosher* witnesses <sup>77</sup>) Those non-observant ones among the Reform [Rabbis] who officiate at marriages do not officiate at *kiddushin* (proper Jewish marriages), according to the accepted order of the marriage ceremony that has been handed down from hand to hand (generation to generation).

All the Reform Rabbis invent a ritual of their own and say that 'this' is *kiddushin* (There is not even the low level of presumed validity that existed with regard to Samaritan ritual practices).<sup>78</sup> Regarding the testimony of people who do not see or hear what occurred during the ceremony, but they knew that the Rabbi was reading a wedding service, they can not be considered as witnesses, who have witnessed a wedding done according to Torah, even if the groom did give the bride the ring and recited the vow according to Jewish law. But it is not

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<sup>77</sup> See chapter 1 for details on Reform Jewish marriage ceremonies

<sup>78</sup> See Bab. Talmud Chulin 4a

necessary to worry about this because there were no *kosher* witnesses, thus it is clear that the wedding ceremony that took place can not be considered *kiddushin*.

But we still must address the issue of man and a woman living together as husband and wife. If they are living together in such a way as they are seen by observant Jews to be living as a married couple, then for all intents and purposes they are married (Gittin 81a-b). In some cases, witnessing a couple living together is sufficient to establish a presumption of *Kiddushey Biah*, thus the marriage is valid even if there was no ceremony witnessed, or if no valid ceremony occurred. It's obvious that sexual intercourse can be seen as *Kiddushey Biah* only when the man knows that the wedding ceremony itself had no *halakhic* validity, so that we can say his intercourse was undertaken for the purpose of creating *kiddushin*.

It is a simple thing for the man to say that [their sexual activity] is not for the purposes of *kiddushin*, and then only later say that it was for the sake of *kiddushin*, as it is explained in the Bab. Talmud Kettubot p. 73. If a man knows that his *Kiddushey Kesef* was valid, then he cannot claim *Kiddushey Biah*, because in his mind the wedding had been concluded, and a valid Jewish marriage established. Therefore, any sexual intercourse that subsequently occurred would be for the purpose of consummating the already established

wedding - not to establish the wedding. Thus using this logic to relate to the current case, if the couple thought that the ceremony conducted by the Reform Rabbi established *kiddushin*, then any sexual intercourse that followed could not be considered *Kiddushey Biah*.

It is clear that if they go to a Reform Rabbi, this would explain why they had the wrong idea, that they were married according to *kiddushin*. But in reality the ceremony (done by the Reform Rabbi) has no legal Jewish status.

But about the ones who commit great perversions, the heretics, who transgress everything that is forbidden in the Torah, one can not say about them that they qualify for the precept that a man only engages in sexual intercourse for the purpose of establishing a Jewish marriage (*Kiddushey Biah*).

Even if we are stringent, however, the presumption that men do not have sex (outside of marriage) except for purpose of establishing a marriage (*Kiddushey Biah*) does not apply here, as we said above, because even among the observant Jews, a mistake in the assumption regarding the validity of the act of *kiddushin* means that any act of sexual intercourse that follows would not be done in order to effect a marriage (The people involved already think they are married, so in their minds there is not need to get married again. Thus the sexual intercourse is purely to complete, or consummate the union, which has already

been sanctified). However in this case since there were no witnesses who saw the groom give the bride a ring, or recite the formula, a *get* is not required and she is permitted to anyone she wants [because no valid Jewish marriage ever existed.]

***Igrot Moshe (Even HaEzer I #77, p. 178 - 180)***

The case of a woman who was married in a Reform Temple

May his honour be increased, my friend the Rav HaGoan Meir Vagner  
rabbi in Washington.

Regarding the case of a woman who was married in a Reform Temple and it is known if there were any people there who could have possibly have served as *kosher* witnesses. The couple have lived together for several weeks in a non-Jewish neighbourhood, and it is not known if any *kosher* witnesses saw them living together. She said that because of his uncivilized habits (lit: 'wild ways') he had not had sex with her since the wedding. The doctors, too, in a letter they wrote to the civil courts (since that is a requirement for a civil divorce) confirmed that she remained a virgin. The man she married was completely licentious, and he transgressed all the laws of the Torah, he profaned Shabbat. He was urged to give her a *get* - Jewish divorce. he was [even] offered lots of

money [to do this]. But he did not want to grant her a Jewish divorce. Thus she will remain an *Agunah* (woman ineligible to marry according to Jewish law). For this reason, I have been asked to express my humble opinion as to whether she may be allowed to marry [in a Jewish ceremony] on the grounds that the *kiddushin* was invalid, because no act of *Kiddushey Biah* occurred because the marriage was not consummated.

Regarding this marriage, although there were no *kosher* witnesses who [were part of the] ceremony, we still have to be concerned that people who could be *kosher* witnesses saw the couple enter the temple for the wedding or saw them leave from there. The Hatam Sofer has ruled in a famous *teshuvah* that such "distant witnesses" suffice to establish a presumption of valid *kiddushin*. However, [the Hatam Sofer] referred to a wedding done by a rabbi who knew what the laws of *kiddushin* are and he is presumed to be observant of the *halacha* (Even though the Orthodox rabbi in the Hatam Sofer's case did not know that the second witness beside himself was a relative of one of the couple). For this reason and this reason alone, that Hatam Sofer can rely on the "distant witness theory", because what those "distant witnesses" saw can be assumed to be a ceremony that was done according to *halacha*. [However,] this wedding done by a Reform Rabbi, was done by someone who did not know anything about what a good (*halachicly* appropriate) *kiddushin* is and was not concerned about any issue relative to the laws of Torah. Most of these Rabbis

do not conduct a *halachicly* acceptable *kiddushin* ceremony. (Feinstein is operating under the assumption that the Reform ceremony did not include the rabbinic formula for *kiddushin*). Nor can we say that the doctors, in their testimony, can speak to whether what occurred in the Temple was a valid act of *kiddushin* or not. If we *could* say that they knew what went on in there (ie. we could make an assumption of the format of the ceremony then the principle of *Anan S'hadey* - reasonable assumption could be applied. However, there were many things that might have rendered the wedding ceremony invalid. If the groom gave her a ring that the bride had previously owned, this would have invalidated the ceremony. If he had used a ring that he had previously given her as a gift and simply added the statement *haray at*. this would have invalidated the marriage. We should ~~especially~~ take note of the possibility that there was no actual act of *kiddushin* at all. If the couple merely exchanged rings, and the bride also made a statement that paralleled the grooms *haray at*. [as is customary in many reform congregations] then this would also invalidate the ceremony. This is just a lot of nonsense that they have learnt from the non-Jews. It is well know that each and every one of them [referring to Reform Rabbis] makes up new ways [of officiating at a wedding]. Thus even if [the ceremony] was done according to the laws of *kiddushin*, that [the bride] was given a ring, and the formula recited by the groom to the bride according to the laws of the Torah, it still would not have meant anything, because no *kosher* witnesses were present. The Hatam Sofer wrote that "knowledge" (by the witnesses) depends precisely

upon their having seen evidence of a wedding conducted by knowledgeable rabbis. Thus in the Hatam Sofer's case where [it was known that] knowledgeable rabbis came to officiate, they recited the *Birkat Erusin* and *Nissuin* but it did not mean anything because it was in front of people who did not know anything, and thus could not give testimony to the validity of the wedding. [They simply did not know what a valid wedding was supposed to be, so could not give testimony that this wedding was valid.]

However, we still must deal with the possibility of a rumor or some common knowledge regarding this couple. Many people who knew them are of the opinion that they are married, and we follow the rule that one must not disregard or declare persistent rumors as being worthless. (This is dealt with by Moses Isserless in the *Mapah* to the *Shulchan Aruch Even HaEzer* 46:3. In this section Isserless finds that if the rumors were not present at the time the marriage ceremony was conducted, then they can be ignored. However, if the two men who acted as witnesses to the wedding come and testify that they did hear this rumor at the time of the wedding then it should be given credibility.) However, we don't have to worry [about this concept] because the "rumor" from the beginning was that the woman was married in a Reform Temple (by a Reform Rabbi), [in such cases] the validity of *kiddushin* is always in doubt. (We have a principle in such cases that "The rabbis will examine this doubtful case and see whether it is valid." - *Shulchan Aruch Even HaEzer* 46:3) Similarly,



rumor has it that they are married, but we have reason to doubt whether the ring was worth [the minimum amount of] a *pruta*. In such a cases, we investigate the rumor, and should we find that indeed there was a problem with the wedding, then we do not disregard the rumor. Moreover, as the commentaries *M'chkak Holechet* and *Beit Shmuel* tell us in their comments on Shulchan Aruch (Even HaEzer 46.4), the reason some say that we do disregard the rumor is because the ruling was based on a Rabbinic ordinance. And in a case of doubt over a Rabbinic ordinance, we follow the more lenient opinion. This is according to R Yitchak bar Sheshet. Thus we disregard this rumor.

Since the wedding ceremony meant nothing, and the couple erroneously supposed that the wedding was a valid *kiddushin*, it does not matter that they lived together as a husband and wife would, because any sexual intercourse they engaged in was done so on the presumption that the original *kiddushin* was valid, and not to establish a *kiddushin*. This is described in B. Talmud Ketubot 73, and a ruling is given by the Rema at the end of chapter 31. This topic is also discussed in the Shulchan Aruch (Even HaEzer 149.3).

Since this couple, and almost every Jew who lives in America is ignorant of the Jewish laws, and do not even know the most obvious laws, then we cannot presume that either they (the couple), or anyone else knew that a man can effect *kiddushin* through an act of sexual intercourse. Thus we find that



written in the Gemara that there is a disagreement regarding the importance of whether a man knew that the *kiddushin* was invalid or not. If he knew it was invalid then he could have participated in *Kiddushey Biah*. However if he presumed the wedding ceremony to have effected *kiddushin* then any post-ceremony sexual relations would be presumed not to have been *Kiddushey Biah*.

(NOTE: The next section deals with the issue of the validity of the medical doctor's testimony to the woman's status as a virgin. Since this does not directly relate to the wedding ceremony I have omitted it. The responsum then continues with a discussion of the couple living together, and the problems that situation created. The responsum then concludes with the following paragraph.)

However, we need to know just who was in attendance at the wedding and to determine, by means of witnesses, that they were in fact unfit or inappropriate to serve as valid witnesses. For those about whom this is well known (ie. they are known to publicly violate Shabbat), this public knowledge is enough to establish that they were ineligible to serve as valid witnesses. Other people, whose Shabbat violations are not so well known, will require testimony before a *biet din*. There is a *machloket* as to whether testimony which disqualifies someone from serving as witnesses needs to be taken in their presence. However, since this is a case of *Agunah*, and we seek to do

everything we can to permit the woman to marry again, we can be lenient here and not require these people to be present when we investigate their religious behaviour.

After it has been made clear that no *kosher* witnesses were present who saw that the wedding was done according the Jewish law, she is thus permitted [to marry anyone] as I have explained in the previous responsum.

***Igrot Moshe* (EH III #25, p. 447)**

Reform Wedding Ceremony: His honor, my friend the Gaon, our teacher, my Rabbi - David Slomo Shapiro of Milwaukee.

His honor saw what I wrote about wedding ceremonies conducted by Reform Rabbis. That one should not be concerned with them, since they have no halachic validity. They are not valid because not only do they not have any *kosher* witnesses, but many if not all of them fail to perform any concrete acts of *kiddushin*.

Despite the fact that the groom gave the bride a ring, [which is the classic way of concluding a valid Jewish marriage *kiddushin*], she gave him a ring as well. And her gift proves that his gift was precisely that: A simple gift on the occasion of their wedding. But no *kiddushin* took place, for perhaps even the

appropriate words were not spoken. We cannot say that they "sanctified each other" in that his gift was for *kiddushin* and hers was for no legal purpose. For they did not preform *kiddushin* at all, they merely respond to the rabbi's question whether they wish to be married ... and afterwards they give the rings to each of the as a sign that the marriage of which they have spoken should take place. Yet such an act has no halachic validity even if preformed before two valid witnesses.

In any case [one will] logically infer that they [the wedding ceremonies done by Reform Rabbis] are not legitimate, even if the couple remain married (ie. live together as if they were married) for several years. In fact Reform marriages [are less *halachicly* valid) than civil marriages, since in civil marriages even those Jews who are not religious understand that a civil marriage is not a Jewish marriage. In such a case there is room to suggest that the groom did not rely on the civil ceremony but rather performed Jewish marriage by way of sexual intercourse (*Kiddushay Biah*). However, in regards to a Reform marriage, where every [ignorant] person thinks that the ceremony is creating legitimate *kiddushin*, and all acts of martial intercourse are performed without the requisite intent for *Kiddushay Biah* - marriage through sexual intercourse. Since the couple think that they have through the Reform Ceremony established a Jewish marriage there cannot be any presumption that they would engage in *Kiddushay Biah* (Which consists of intercourse done for the explicit intent of creating a

Jewish marriage. If the couple thinks that they have been *halachically* married by a Reform marriage ceremony, then any acts of marital intercourse cannot be considered *Kiddushay Biah*). Reform weddings are equivalent to the case of one who preforms *kiddushin* with a coin that isn't worth a *perutah*, in which case the subsequent acts of sexual intercourse do not create *kiddushin*.<sup>79</sup>

In the case of a civil marriage, when none of this applies [since everyone knows that this is not a Jewish marriage], there is reason to require a get on the possibility that the marriage has halachic validity. This is according to the position of Rav Yosef Henkin (who also holds that Reform marriage ceremonies are halachically valid, in opposition to Feinstein). However, this is true only in theory, but not when the insistence of a get would make this woman an Agunah (eg. if her husband refuses to grant a Get in such a case, if they were married in a civil ceremony, we would say that there was no halachic validity to the marriage). This is true according to the opinions of R. Yitchak ben Sheshet (14th Century Spain / North Africa), R. Yosef Karo (The M'haber), and Isserles. Thus in the case of a wedding ceremony preformed by a Reform Rabbi, there is no reason to be stringent, particularly when there were children from that marriage, we don't want rumors of *mamzerut* to spread concerning them.

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<sup>79</sup> Bab. Talmud Ketubot 73a

Concerning the status of the children of a woman who was married by a Conservative Rabbi, and her husband did not grant her a *get* in order for her to remarry. She remarried regardless without a *get*.

11 *Heshvan* 5740 (November 1, 1979)

To his honour, my beloved grandson, Rabbi Mordechai Tendler

[The woman in this case was in an abusive relationship. She attempted on several occasions to secure a *get* but her husband refused to grant it to her. She then married a second man without the *get*. Her children (a boy and a girl) have become observant Jews. The majority of the responsum dealt with the question of the *mamzarut* status of the children. The very last section dealt with the woman's first wedding ceremony which was preformed by a Conservative Rabbi.]

4. The essence of the doubt over the Conservative wedding ceremony. Despite the fact that there were *kosher* witnesses, the ceremony was not done according to Jewish Law.

The problem is not that the Conservative rabbi himself served as one of the witnesses at the wedding; since he is [by virtue of his being a Conservative rabbi] toratically disqualified, because of his status as an *apicourous*. Even if there were two *kosher* witnesses present, they too are disqualified by the fact that they joined with an unfit witnesses. It is possible that no *kosher* witnesses were present, since such people do not frequent Conservative synagogues. It is possible that the [ceremony conducted by the Conservative Rabbi] was invalid despite the fact that there were two *kosher* witnesses at the wedding ceremony. This [generalisation] can be made because it was a wedding officiated at by a Conservative rabbi, and in their synagogues you can't find one person who is observant of the *mitzvot* in the Torah. Even if there were two *kosher* witnesses they are disqualified [because of the Talmudic precept that if one witness that signed the document was an invalid witness then the testimony of the other witnesses cannot be accepted. However the Talmud also contains the opposite opinion, stating that if two valid witnesses are required and they sign the *ketubbah*, and another other invalid witnesses also signed it, the document is still valid and the testimony of the two valid witnesses is acceptable. Rambam in the Mishnah Torah follows the first Talmudic opinion - if one witness is found to be invalid the testimony of the other witnesses are deemed inadmissible]. For example, if they formed their witness group at the time of the wedding their admissibility may not have been checked carefully enough. Also, they did not have the intent to be witnesses, rather they were just like all the others who

attended the wedding, who also did not intend to be witnesses to the wedding. Further, this person was "witnessing" the wedding only to tell people the news (not to be an official witness, his words are not binding. See Bava Metz 66a) regarding the wedding of *Ploni* to *Plona*. This [opinion can be found in Helkat Mechokek, a commentary to the Shulhan Aruch Even HaEzer 42, note 6.

According to R. Asher b. Yechiel - the Rosh, someone who could have qualified as a valid witness who happened to attend the wedding cannot be considered a witness, since he would have needed to have intended to serve as a witness from the beginning of the wedding. However, the Beit Shmuel, also a commentary to the Shulhan Aruch, Even HaEzer 42, disagrees with this and does not disqualify such person as a witness. The decision of Isserless is that they are not disqualified from being witnesses. Thus according to one [authority] if the [witnesses] were far away they would be disqualified. In any case it is possible to doubt [the validity of those witnesses].

It is also possible to [suspect the] wedding ceremony itself because it might not have been done according to the laws of Jewish marriages, since the rabbi is not an expert in the laws of *kiddushin*. Even if he was knowledgeable, he probably didn't care about following the laws in order to make sure the ceremony was done properly. Many people do "creative things" under the *chupah*: the bride gives the groom a ring and says some kind of formula. Many "rabbis" have instituted this practice in the wedding ceremony, and it is thus impossible to tell

who is marrying whom (lit. taking symbolic possession - is the *kiddushin* being preformed by the bride or the groom). Did the groom marry the bride or did the bride marry the groom? Perhaps we can look at this as an act of joy, that [the bride] gave [the groom a ring] as a symbol for all time that they will live together as man and wife [but this kind of ceremony is clearly NOT a real *kidushin*]. [The ring the bride gave to the groom] should not be seen as *kinyan* (acquisition), that is mandated in the Torah. If this is the case then perhaps their intention was not to be married according to the laws of the Torah, and thus they did not have a Jewish marriage and there would be great doubt, but I have not yet found proof for this supposition. If a real (Orthodox) rabbi is forced to acquiesce in such creative wedding customs, he must inform the parties that the bride's actions of giving the ring and saying a formula are not constitutive of marriage but rather an expression of love for the groom, by the bride after she has become his wife.

### **3. Who can officiate, and what constitutes a valid Jewish marriage**

*Igrot Moshe* (Even HaEzer IV, #80 p. 145)

An unmarried woman says that she married a man in a civil ceremony and lived with him for two days.

19 Kislev, 5722 (Nov 27, 1961)



This question concerns a single woman who had never been married, but who in 5715 (1954/5) travelled with a man to Florida. They were married in a civil ceremony in Henderson North Carolina which is full of non-Jews, and she lived with him for only two days while they were on their way to Florida. When they arrived in Florida they separated from each other. My opinion is that she is to be believed [based on the legal principal] that if one believes those statements of a stranger that condemn them, then one must also believe the statements of a stranger that benefit them. (If she was going to lie about the circumstances surrounding the wedding, it would have been more logical and easier for her to simply omit any mention of the event). Thus [based on her testimony we can conclude that] there was no *kiddushin* / valid Jewish wedding [because the wedding ceremony was a civil one it does not qualify as *kiddushin* / valid Jewish wedding). Furthermore, there is no reason to observe a stringent ruling in this case by invoking the legal principal that a man is presumed not to participate in casual sexual intercourse, thus assuming that the intercourse that occurred was for the purposes of establishing a marriage [because this particular man cannot be assumed to have knowledge of that principal and it certainly can't be assumed that he followed it.] Since they were only together for two days, and there were no *kosher* Jewish witnesses who knew about this, thus [in the eyes of Judaism no marriage ever existed between this woman and man, so] she is permitted to marry anyone [in a valid Jewish ceremony] and there are no doubts about her status [as a single and never married woman.]

Concerning the case of a woman who comes before your honour requesting that he officiate at her wedding, but she had been previously married for 13 years. Her [husband] left her and she became an Agunah (woman ineligible to marry and can't secure a divorce). You examined circumstances of the first wedding and it became very clear to you that all the witnesses [that signed] the *ketubah* were not fit to be witnesses. One of the witnesses was the brother in law of the groom [so he is disqualified because of his familial relationship] The second witness was a Reform [Jew, and he is disqualified because the Reform movement has rejected the divine nature of the written and oral *Torah*, thus any member of the Reform Movement cannot be considered *kosher* witness.] The person officiating at the wedding was a Conservative Cantor, who is among a group of people about whom it can be presumed that they are heretics. Thus you are certain that there were no *kosher* witnesses. Upon further investigation it was proven that all the people who attended the wedding profane Shabbat except for two: the grandfather of the groom and the brother in law (both of whom are not eligible to be witness because they are related). The caterer also profaned Shabbat (This invalidates the *Seduat Mitzvah* / the festive meal which according to Jewish law should follow a Jewish wedding ceremony.) For 13 years they lived amongst non-Jews, and the Orthodox [community] did not know about them. Thus it is permissible for you as an Orthodox rabbi to marry them [because in the eyes of Judaism the woman has never been married].

In regards to the case of a Reform Rabbi who pronounced the *Birkat Nisiuin* under the *Hupah*, this *bracha* means nothing to him [and he is disqualified because the Reform movement has rejected the divine nature of the written and oral Torah, thus any member of the Reform Movement cannot be considered a *kosher* witness]. So because he is a non-observant Jew, a *bracha* said by him is equivalent to saying secular words, to which no one should say Amen.

Sincerely

Moshe Feinstein

*Igrot Moshe* (Orach Hayim III, #30, p. 325)

What about the case of a wedding which will take place in the social hall in a Conservative Synagogue?

19 Elul 5722 (September 18, 1962)

May his honour be increased, my friend the rabbi and gaon our teacher,

Menachum Tzvi

Eichanstein of the Beit Din of Saint Louis.

The problem is that a man has not been able to find a place suitable to hold the ceremony and reception for the wedding of his son, except in the social hall of a Conservative congregation. The ceremony will take place in the sanctuary, but not at a time when [congregants] would be coming for services. You, your honour, will officiate at the wedding and the rabbi of the Conservative Synagogue will not be there at all. Are you permitted to attend and officiate at the wedding? Similarly, all the Orthodox guests -- are they entitled to attend the wedding? What is the law? And what is the proper course of action for a community leader (ie. even if the law technically allows for the wedding to take place there what should one do)? You ask my humble opinion in regards to this matter.

As far as your argument is concerned, namely, that it should not be forbidden to attend because many observant Jews will be there and hence there is no suspicion that you will be there to pray, as it is explained in *Mesechet Avodah Zarah* 43b: "Thus in the Synagogue Dasaf Vetiv in Neheriaha a statue was set up, but Samuel's father and Levi went there to pray without worrying about the possibility of suspicion!" Thus in this case where there will be many Torah observant people one should not worry that they will be suspected of going to pray there. My opinion on the matter is that even though this is the law that one should not be suspicious [of someone who is seen entering a Conservative synagogue].

This is commented on by The Rosh in Yoreh Dayah chapter 141, at the end of the 4th section, and also in Magen Avraham section 244, sub section 8 regarding this issue.

However, the Avodah Zarah passage refers to matter on which most Jews are not suspect, such as idolatry and *chilul* Shabbat. However this case concerns many people who are indeed suspect: people attend these synagogues all the time. They become Conservative Jews overnight, and the change Orthodox synagogues into Conservative Synagogues. Thus it would not be possible to say that people are not forbidden [from attending the wedding in a Conservative synagogue for fear of the effects it may have on them]

However, if the wise leaders of the community (ie. the Orthodox rabbinate, or well know Orthodox scholars) are going to be present, then it is possible that the people will not be suspected of a transgression because they are not common people. In that case, no suspicion applies since these rabbis would surely not be counted among those who would easily become Conservative; these *Hachamim* know that this is Assur. (ie. their reputation is such that no one would even think that they would be doing anything inappropriate).

And according to the Beit Yosef and the Siftei Kohen, number 27. If there are only two Learned ones, then they are not suspect. But it is difficult to rely on the

argument that, as rabbis, these attendees would not be suspected (of any Conservative tendencies). Perhaps the multitude do not realize their standing as rabbis. In the case of laity who are considered religiously knowledgeable we must be concerned about them even if many of them attend a Conservative synagogue, even when they are knowledgeable lay persons or rabbis.

This is especially true concerning the prohibition against praying in a Conservative synagogue, an Issur (something forbidden) which is not explicitly stated in Jewish texts, and is therefore thought by many to be a non-serious matter. R. Shmuel Edels (The Marasha 1555-1631, wrote Hiddushey Halachot found in the back of most version of the Talmud) writes that even with the "lightest" prohibitions we are concerned even when the "many" commit the act. And even though Magen Avraham permit a contractor to work for a Jew on Shabat when the multitude see the act and do not suspect the Jew of ordering it this is true only because the laws of Shabbat are taken very seriously by most people and *not* because a multitude see it done. Moreover, the Siftei Kohen in chapter 100 section 27, quoting R. Yerucham says that even when an act normally forbidden is permitted on account of the "multitude" argument, that act is still a bad thing to do and should be avoided.

However, if the wedding is taking place at a time when people are now going to pray, and they know that it will be in a hall which will be used for the ceremony and then the reception for the marriage, then in this case it is not forbidden [for an

observant person to enter a Conservative synagogue]. This has been taught in Avodah Zarah page 11: *"It is taught in the Mishnah: In a city which has non Jews living in it, it is permissible to leave. If the non Jews leave the city it is permissible to enter. How should one get there during the time that the road is dedicated to traffic going to that place - it is forbidden [to travel there], however if it is possible to [use the road] to go to another place then one may use the road."* Despite the fact that the road to the city gathers them together in order to take part in their idolatrous festival, so that they can participate in Avodah Zarah. This can be found in The Rosh chapter 149, section 2. At a time when the non-Jews (star worshippers) are not gathering to commit blasphemy, it is permissible to enter [the road and then the city] even if the road [one is required to use] does not pass on to another location. Thus [in this case] one might think that since the social hall [of the Conservative synagogue] is forbidden because those who [usually] attend [commit Avodah Zarah using the about reasoning] it is permitted to go to a wedding ceremony in the synagogue. This is according to the ruling by The Rosh, because [the wedding] will not be taking place at the time when people would be coming to pray. Thus even though, it is written in The Rosh brings another opinion which forbids entry into the idolatrous place whenever there is another road leading out of the place, it is reasonable to say that this opinion applies only to Avodah Zarah, because of its seriousness. But in this case, we can rely on the first opinion (which allows entry when the "idolaters" aren't gathered) which is not disputed by anyone.



We can also see that there is some disagreement about what I have said regarding this town which is explained in the Tur by the Rashba who held the opinion, that one should not go there for any other reason, except only to say that one should not be found there, and should not know that others went and speak to one of them there. But if one were to speak to one who permanently lives in the town, the Rashba also agrees that it is permissible to use a road that also goes to another town, or another place. Thus in the case of the wedding ceremony, which is an important event, and is not at the time of prayers, and he only associates with those who are there for the wedding ceremony it is not forbidden according to Hilchot Gadol and also according to the Rashba - the prohibition of not being permitted to enter a city in which Avodah Zarah is practised, does not apply to this situation.

Thus the ruling is that it is not forbidden to go to the reception of a wedding that will take place in the social hall [of the Conservative synagogue]. It is also not forbidden to attend the ceremony which will be held in the sanctuary of the [Conservative synagogue]. Despite the fact that in an orthodox synagogue some prohibit holding a wedding ceremony inside the sanctuary, because in this sanctuary they do not follow the practices and laws of the Torah, it is not a sanctified place and can thus be used for the ceremony, and all agree on this point.

However, one should remain distant from their [Conservative] synagogue,



and not go there very often because we are concerned that some will say that "This rabbi is a friend of the Conservatives and their synagogue." However, since this is not an actual prohibition but merely a stringency, if a rabbi decides that there is a great need to do so, he may be lenient. Thus, if you (the correspondent) feel there is a need to do this wedding there, and as long as this is not a regular occurrence, since you are "on the spot" and know that no further error will come of this, then you may decide to go there, and none can doubt the correctness of that decision.

*Igrot Moshe* (Even HaEzer IV #16 - question 4, p. 32)

Fourth question: Is it possible for an Orthodox rabbi who is observant of all the *mitzvot* of the Torah to go to a Conservative synagogue to officiate at a wedding, and also to make sure that the wedding ceremony is done according to *Halacha*?

If [the wedding is to be held] in a private house that is not part of the [Conservative] synagogue then the Orthodox rabbi may go and officiate, even though the home itself belongs to a Conservative Jew.

[Feinstein responds to the suggestion] that the officiating rabbi should announce that only those people who observe the laws of Shabbat and the other laws of the Torah can act as witnesses. Basing his ruling on the presumption that even at a

Conservative synagogue there will be some observant Jews. However, [Feinstein responds by stating that.] There is no working presumption that observant Jews will be present, since those people who are observant are required to keep their distance from a Conservative synagogue. On the contrary, since the wedding is at a Conservative Shul we must presume that there will be no observant Jews in attendance.

Should we try to persuade the officiating Orthodox rabbi to take two observant Jews with him to the Conservative Shul? It is better to prevail upon him not to go at all. If this won't work, then the best thing is to say nothing to him; otherwise, it might be concluded that you display some consent to his act (the decision to do the wedding there), which is improper at any rate.

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