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**THE TWO OBJECTIVES OF
THE INSTITUTION OF MARRIAGE¹
“For She is Your Companion,
and the Wife of Your Covenant.” (Malakhi 2:14)
Rabbi Dr. Binyamin Lau**

Introduction: Marriage According to Rabbi Joseph B. Soloveitchik

In the beginning of his article on marriage,² Rabbi Joseph B. Soloveitchik notes that there are two basic theories about the institution of marriage. The first expresses commitment to the welfare of the group outside the matrimonial union, the partners to the marriage placing themselves at the service of society. The second expresses commitment within the matrimonial union, a commitment rooted in the experience of the joining of two individuals thirsting for love and fellowship. One practical difference between the two theories relates to the place assigned to procreation. According to the first theory, having children is the central element upon which the entire structure of marriage rests. Remove that obligation from marriage, and the institution loses all its meaning. According to the second theory, the significance of marriage is not diminished by the absence of offspring. The very union of the wedded partners is itself the desired creation.

In his typical manner,³ here too Rabbi Soloveitchik tries to uncover both of these motifs in Scripture. The command to “be fruitful and multiply” (Gen.1:28) expresses the essence and goal of the man created in the first chapter of the book of Genesis. Man’s obligation to procreate, which appears in chapter 1, is presented as part of man being God’s partner in the continuous process of creation. The sexual act itself that leads to the perpetuation of man’s seed is not sanctified, but rather natural and compulsory. A partial reading of the Torah, which limits itself to the first chapter, reveals no difference between man’s physical needs and those of a beast. Natural man reacts to the pressures of his own body, and being part of the created world, he too becomes part of

¹ This essay originally appeared in *Granot* Vol. 3, (pg. 138-148) published by Beit Morasha of Jerusalem. Our thanks to Rabbi Lau for permission to translate and print his essay.

² R. Joseph B. Soloveitchik, *Family Redeemed: Essays on Family Relationships*, ed. David Shatz & Joel Wolowelsky (New York: Toras HaRav Foundation, 2000), 31-72.

³ I am primarily referring here to R. Soloveitchik’s treatment of the redundancy in the account of the creation in the first two chapters of Genesis. See his “Lonely Man of Faith.”

the process that perpetuates the creation.

The second chapter of the book of Genesis, which focuses on “It is not good that the man be alone” (2:18), expresses man’s longing to live his life together with a partner. Not a word is said in this chapter about man’s physical needs; it deals not at all with the obligation of procreation, but only with the oppressive loneliness experienced by the first man. The man and the woman have names; they are not part of nature at large, but rather they have become individual, unique, and singular people. Within such a context, marriage had to assume a different meaning, expressing not only the need of the race but also (and perhaps mainly) the desire of the human individual.⁴

When he moves on to speak of Halakha, Rabbi Soloveitchik argues that it interprets the blessing to “be fruitful and multiply” not only as a biological capability that was given to man and now obligates him, but also as a spiritual-halakhic obligation, in the context of which the meeting between man and woman demands a more exalted experience, the aim of which is the formation of a community:

Seen from the halakhic viewpoint, matrimonial community is not realized without embracing three personae. At this level, marriage redeems the productive urge from its animal species orientation and turns it into a spiritual tragic longing of man for his origin or source.⁵ Sexual activity is redeemed by infusing it with a metaphysical mystery theme—namely, man’s desire to give love. One must love not only the real, but the unreal as well, in order to make it real... The central Judaic ethical norm to walk in God’s footsteps and to imitate Him obligates man to become a creator.⁶

Marriage embraces both the subjective aspiration to be redeemed from loneliness, and also the objective institution of a covenant between two individuals who wish to form a community together, and for the sake of that end, accept upon themselves a mutual commitment to each other.

In light of what has been said above, I would like to reexamine the rulings found in *Even ha-Ezer*, which constitute the framework for the building of a Jewish marriage, and see what aspects of the two aforementioned theories, or their combination, find their place in practical Halakha.

The Goal of Marriage

At the very beginning of his *Shulhan Arukh, Even ha-Ezer*, Rabbi Yosef Karo describes the goal of marriage as follows:

Every man is obligated to take a wife in order to be fruitful

⁴ R. Joseph B. Soloveitchik, *Family Redeemed*, 34.

⁵ *Ibid.*, 35

⁶ *Ibid.*, 39

and multiply. Whoever fails to occupy himself in procreation is regarded as if he sheds blood, diminishes the image, and causes the *Shekhinah* to be removed from Israel.⁷

The Rema (Rabbi Moshe Isserles), in his gloss to this ruling, adds the following:

Whoever does not have a wife lives without blessing, without Torah, etc., and is not called a man. When a man marries a woman, his sins are stopped off, as it is stated: “He who finds a wife finds a good thing, and obtains favor of the Lord.” (Prov. 18:22)

The Rema’s formulation is based on the opening passage of the *Tur*, *Even ha-Ezer*, which in turn is based on the Gemara in the sixth chapter of tractate *Yevamot*. The *Tur*, in his introductory lines, combines the two reasons for marriage:

God, blessed be His name, who desires the well-being of His creatures, and knew that it is not good that man be alone, therefore, made him a helpmate corresponding to him. And furthermore, since the purpose of man’s creation was that he be fruitful and multiply, and this is impossible without a mate, He therefore commanded him to cleave to the mate that He had fashioned for him. Every man is, therefore, obligated to take a wife in order to be fruitful and multiply. For whoever fails to occupy himself in procreation is regarded as if he sheds blood, as it is written: “Whoever sheds man’s blood” (Gen. 9:6), and adjacent to it: “And as for you, be fruitful and multiply” (*ibid.*, v. 7). And it is as if he diminishes the image, as it is written: “For in the image of God made He man” (*ibid.*, v. 6), “And as for you, be fruitful and multiply” (*ibid.*, v. 7). And he causes the *Shekhinah* to be removed from Israel. Any man who has no wife lives without goodness, without blessing, without a home, without Torah, without a [protecting] wall, without peace. And Rabbi Elazar said: Any man who has no wife is not a man. When a man marries a woman, his sins are stopped off, as it is stated: “He who finds a wife finds a good thing, and obtains favor of the Lord” (Prov. 18:22).

The *Tur* bases the obligation of marriage on two goals: removing man from his state of loneliness, and realizing the purpose of his creation—serving as God’s partner in the act of creation and the perpetuation of the world (through procreation).

⁷ *Shulhan Arukh, Even ha-Ezer* 1:1.

Rabbi Yoel Sirkis, author of the *Bayit Hadash* (the *Bach*) explains the need for a combination of the two goals:

It may be asked: For what purpose did he [= the *Tur*] open with these words of praise at the beginning of his treatise, they being outside the book's purview, for he comes only to decide practical halakha, and thus he should have opened with: "Every man is obligated, etc.?" It seems that [he opened with these words] because there are some people, who owing to their faulty intellect, argue: "Since He fashioned this helpmate for me for my benefit, as it is stated: 'It is not good that the man be alone; I will make him a helpmate corresponding to him' (Gen. 2:18)—I have no desire for this favor, and I do not want it. For in his opinion, it is better for him to live without a wife, and he will find himself a helpmate in a friend or a brother to whose soul his soul is bound. Therefore, in order to remove this error from the heart, he [the *Tur*] said: "God, blessed be His name, etc.," for He, blessed be He, knows who should be his helpmate, and not as man thinks in his heart.⁸

Each of marriage's two goals can, of course, be realized without the other: On the one hand, a man can take a wife in order to escape loneliness – "It is not good that the man be alone." This union is not at all connected to the potential to bring children into the world. It would seem that a good friend might also be able to fill this role of a wife. On the other hand, a man can fulfill the *mitzvah* of procreation without entering into an intimate relationship with his partner. A man who is concerned about the welfare of mankind and the perpetuation of the human species can fill God's world with the seed of Abraham, and they can be fruitful and multiply without the institution of the family.

The novelty in the *Tur*'s words, explains the *Bach*, is that the two aspects of the *mitzvah* are interconnected. The purpose of marriage is to cleave to a woman with an exclusive bond in order to fulfill man's mission in the world. Realization of one of the objectives of marriage is possible, but it will always be partial.

Rabbi Yehoshua Falk, author of the *Derishah*, expands on this idea in a different direction. He points out a difficulty in the words of the *Tur*, who records the two objectives of marriage as complementing each other, when in fact they are contradictory: If the goal is to benefit man, then marriage is the ultimate purpose; but if the goal is to realize man's potential for procreation, then marriage is only a means to the next objective.⁹

⁸ *Bayit Hadash, Even ha-Ezer*, 1.

⁹ *Derishah, Even ha-Ezer* 1:1. There is much room to expand on the difference between marriage as an end and marriage as a means, both according to Jewish thinkers and according to other religions. An initial overview may be found in K. Kahana, *The Theory of Marriage in Jewish Law*,

The *Derishah* reconciles this contradiction: as opposed to animals, man was created male and female together. The separation of man's male and female elements created partiality in man, and this partiality gave rise to man's longing to reunite with his partner. This reunion creates a new whole—the offspring that issues forth from the two of them. Until a person brings a child into the world, he cannot fully restore his own wholeness. Thus, we can understand the verse: “That is why a man leaves his father and his mother, and cleaves to his wife: and they become one flesh.” (Gen. 2:24) The cleaving of a man to his wife is the basis for the creation of the new single flesh, which results from their union. Rabbi Falk's understanding raises the concept of marital union above the realm of the social order—the physical connection of the wedded partners gives expression to the wholeness of creation. This approach is well-known in the world of Kabbalah, from the *Igeret ha-Kodesh* (attributed to the Ramban), the *Zohar*, and many other sources. The kabbalists (and in their wake, the great Hasidic thinkers) see the physical connection between man and wife as a symbol of supernal coupling and an expression of the harmony of all the worlds.¹⁰

We see then that there are three basic positions regarding the purpose of marriage: the functional goal—fulfillment of the *mitzvah* of procreation; the moral goal—removing man from his loneliness; and the spiritual goal—the restoration of the wholeness of man through union with his wife.

The Rambam's Influence on the Paradigm of Marriage in the *Shulhan Arukh*

The *Shulhan Arukh*, in many places, gives expression to the first position. It is quite possible that Rabbi Yosef Karo was influenced by the Rambam's understanding of the goal of marriage. The Rambam expresses his attitude toward the family unit in two places. He dedicates an entire chapter of his *Mishneh Torah* to the *mitzvah* of procreation,¹¹ and there he clearly implies that the relationship between man and woman exhausts itself in the *mitzvah* of having children.

The following example illustrates this point. The Sages discussed the question whether one is permitted to live a reclusive life: a man without a wife, or a woman without a husband. The mishnah in tractate *Yevamot* states: “A man may not abstain from procreation unless he already has children.” (*Yevamot* 6:6) Rabbi Yehoshua adds in a *beraita*: “If he had children in his youth, he should also have children in his old age.” (*Yevamot* 62b)

Regarding the first clause of the mishnah, the Gemara proposes two possible understandings. The first possible understanding is that one who has children

(Leiden: Brill, 1966). This, however, is not the forum to discuss the issue in greater detail.

¹⁰ See Dr. M. Posen, “*Hayei ha-Nisu'in ve-Hayei ha-Mishpaha be-Aspaklariyat ha-Kabalah*,” *Mishpahot Beit Yisrael*, 67-75.

¹¹ *Mishneh Torah*, *Hilkhot Ishut* 15.

may abstain from procreation, but may not remove himself from marital life:

This supports what Rav Nahman said in the name of Shemu'el: Although a man may have many children, he must not remain without a wife, as it is stated: "It is not good that the man be alone."

The second possibility is that one who has already fulfilled the *mitzvah* of procreation is permitted to remove himself altogether from marital life, contrary to the opinion of Shmuel. The Gemara in its conclusion accepts the first possibility. One practical ramification is that a person who has already fulfilled the *mitzvah* of procreation is permitted to marry a woman who is unable to have children.

In the continuation, the Gemara records the position of Rav Matana that the law is in accordance with the view of Rabbi Yehoshua, to which Rav Tanhum bar Hanila'i adds: "Any man who has no wife lives without joy, without blessing, and without goodness. In the West, it was stated: Without Torah and without a [protecting] wall." We see then that the Gemara clearly favors life that is lived together in fellowship with a partner.

In the transition from the Gemara to the Rambam, these rulings undergo a transformation. The Rambam in *Hilkhot Ishut* codifies both the words of the Sages and the words of Rabbi Yehoshua. The position of the Sages is reflected in halakhah 1:

A woman who after marriage gives her husband permission to withhold her conjugal rights from her, is permitted to do so. When does this apply? When he has children, for in that case he has already fulfilled the commandment to be fruitful and multiply. If, however, he has not yet fulfilled it, he is obligated to have sexual intercourse with her according to his schedule until he has children, because this is a positive commandment of the Torah, as it is said: "Be fruitful and multiply." (Gen. 1:28)¹²

The position of Rabbi Yehoshua the Rambam brings in halakhah 16:

Even if a man has already fulfilled the commandment to be fruitful and multiply, he is still obligated by Scribal enactment not to cease being fruitful and multiplying as long as he has the power to do so, because whosoever adds one soul to Israel has as much as built a whole world. It is also a precept of the Sages that no man should live without a wife, in order that he should not come to unchaste thoughts, nor should a woman live without a husband, in order that she should not become

¹² *Mishneh Torah, Hilkhot Ishut* 15:1.

subject to suspicion.¹³

The Rambam's concluding words, which explain the rationale for his ruling, are a reworking of what Rav Tanchum says in the Gemara. The Rambam records the bottom line: "No man should live without a wife," but offers the following rationale: "in order that he should not come to unchaste thoughts." In other words, for the Rambam, a wife fulfills two objectives. First, she bears him children, and after he has fulfilled this *mitzvah*, she protects him from sinful thoughts. The Rambam makes no mention of what the Gemara says about the joy, blessing, and goodness of life lived with a partner. The final clause, "nor should a woman live without a husband, in order that she should not become subject to suspicion," is also absent in the Talmudic source. However, the Rambam's source may be a *tosefta* in *Yevamot* which states that: "A man is not permitted to remain without a wife, and a woman is not permitted to remain without a husband."¹⁴

The Ramban as well understands that Rabbi Yehoshua does not disagree with the Sages, but rather he adds a rabbinic obligation to continue having children, even after the Torah *mitzvah* has been fulfilled. Since it is only ideally (*le-khathila*) that this *mitzvah* must be observed, a person cannot be compelled to do so against his will. The Ramban, however, concludes: "But a man should never be without a wife, for one is forbidden to remain without a wife."¹⁵ He too records the position of Rav Tanchum, but without the Rambam's explanation: that the goal of the relationship is to protect the man from unchaste thoughts.

The *Shulhan Arukh* only records the man's obligation to marry a woman, even if he has already fulfilled the *mitzvah* of procreation, but makes no mention of an obligation falling upon a woman to marry. The Rema, glossing the *Shulhan Arukh's* ruling that a woman is not commanded about procreation, adds the aforementioned words of the Rambam: "Nevertheless, there are those who say that a woman must not remain without a husband, in order that she should not become subject to suspicion."¹⁶

The obligation to maintain the marital framework even when it will not lead to offspring can be understood in exclusively sexual terms, as we find in the Rambam, but it can also be explained in social terms.

The first approach is found in various *rishonim*, who see marriage as a way

¹³ *Ibid.*, 15:16

¹⁴ *Tosefta Yevamot* 8:4. This is the reading found in *Tosefta*, MS Vienna, which R. Saul Lieberman used as the base text. In the printed versions of the *Tosefta*, we find just the opposite: "A woman is permitted to remain without a husband." Based on these variant readings (and the *halakhot* that follow from them), Lieberman tries to reconcile the Rambam's ruling here and his ruling in *Hilkhot Isurei Bi'ah* 21:26, where he permits a woman not to marry. See *Tosefta ki-Peshutah*, *Yevamot*, p. 68.

¹⁵ Ramban, *Milhamot ha-Shem* on the Rif, *Yevamot*, chap. 3.

¹⁶ *Hagahot ha-Rema* on *Shulhan Arukh*, *Even ha-Ezer* 1:13.

to protect a man from the sin of illicit sexual thoughts and relations. Thus, for example, writes Rabbi David Kokhavi, author of *Sefer ha-Batim*:

Since the principle objective of marriage is perpetuation of the species, and because one of the goals of marriage is bodily cleanliness and protection from unchaste thoughts, our Rabbis said: A person who lives without a wife lives without goodness.¹⁷

Rabbi David Kokhavi adapts the source that gives expression to the social framework of the institution of marriage, and uses it as an additional factor to strengthen the man's moral status, to preserve his physical purity, and to prevent sinful thoughts.

A practical difference between these two emphases may be seen in a discussion found in the commentaries to the *Shulhan Arukh*. Rabbi Shemuel Feivish, author of the *Beit Shemu'el*,¹⁸ cites the view of the Rambam that a man is obligated to engage in sexual intercourse according to his schedule until he fulfills the *mitzvah* of procreation, but after he has fulfilled this *mitzvah*, his wife may waive her right to conjugal relations. The *Beit Shemu'el* asks: If the woman's waiver is valid, then it should be accepted even before the man fulfills the *mitzvah* of procreation; and if it lacks validity, then even after he has fulfilled the *mitzvah*, it should not be accepted, because the man is still obligated in the *mitzvah* of "in the evening, do not withhold your hand," the Scribal enactment to continue having children even after a man has fulfilled the *mitzvah* of procreation. The *Beit Shemu'el* is forced to explain that perhaps the man can fulfill his obligation to continue having children with another woman.

Rabbi Chayim Yosef David Azulai (the *Hida*)¹⁹ argues that after a man has fulfilled the *mitzvah* of procreation, his wife is permitted to waive her conjugal rights, but the husband must still engage in marital relations from time to time, in order to fulfill the *mitzvah* of continued procreation. The *Otzar ha-Poskim*²⁰ brings in the name of the *Beit Moshe* that this requires sexual relations at least once every thirty days, because the husband must maintain a framework of "derekh eretz," normal marital life.

The implication is that the *mitzvah* of continued procreation involves not only bringing more and more children into the world, as it would appear from the simple reading of the words of Rabbi Yehoshua in the gemara (*Yevamot* 62b). Rather, a man living with his wife constitutes a value in and of itself, and therefore he should fulfill the *mitzvah* of continued procreation, because that is "derekh eretz." Here the *Beit Moshe* (and perhaps also the *Hida*) joins the Rema,

¹⁷ R. David Kokhavi, *Migdal David*, positive precept 215, 262. For additional sources, see R. David Lau (rabbi of Modi'in), "Heter Isurim le-Tzorekh Peru u-Revu," *Techumin* 23 (5763), 231-236.

¹⁸ Lived in Poland and Germany, 17th century.

¹⁹ Cited in *Pithei Teshuvah*, *Yoreh De'ah* 1, #1.

²⁰ *Otzar ha-Poskim*, letter 3.

who understands that marriage is a value that must be realized irrespective of the *mitzvah* of procreation. Thus, we are returned to the precincts of the *Tur*, who tried to combine both values as the objective of marriage, as opposed to the position represented by the Rambam.

The Rambam's position that the goal of marriage is offspring also finds expression in other *halakhot* in chapter 15 of *Hilkhot Ishbit*. In halakhah 3, the Rambam deals with the figure of Ben Azzai as a model for emulation. He writes that if a person yearns to immerse himself in constant Torah study and cleave to it all his life, and, to further that end, he does not take a wife, he commits no sin, provided that his sexual passions are not aroused. If, however, he is repeatedly overcome by his passions, he is obligated to take a wife, even if he already has children. Here, too, it is clear that the reason for marriage is not connected to man's loneliness or his need for companionship, rather a wife's purpose is to save her husband from sin.

In halakhah 7, the Rambam records the law obligating a man to divorce his wife if after ten years of marriage she has still not borne him children. In such a case, divorce is compulsory, and if he does not want to divorce her, the court forces him to do so and flogs him until he is ready to comply. This ruling as well emphasizes the fact that the purpose of marriage is having children and fulfilling the *mitzvah* of procreation. There is no room for an intimate relationship that does not allow for the fulfillment of this *mitzvah*.

At the end of the chapter, the Rambam devotes two *halakhot* to guidelines for the husband and the wife on how they are to treat each other with respect, love, and patience. But, as stated above, the whole relationship is only legitimate when its objective is procreation and fulfillment of the *mitzvah* of having children.

In his *Guide for the Perplexed*, the Rambam describes his attitude toward marital relations as follows:

By then, he will have detached his thought from, and abolished his desire for, bestial things—I mean the preference for the pleasures of eating, drinking, sexual intercourse, and, in general, of the sense of touch, with regard to which Aristotle gave a clear explanation in the “Ethics,” saying that this sense is a disgrace to us. How fine is what he said, and how true it is that it is a disgrace! For we have it in so far as we are animals like the other beasts, and nothing that belongs to the notion of humanity pertains to it. As for the other sensual pleasures—those, for instance, that derive from the sense of smell, from hearing and from seeing—there may be found in them sometimes, though they are corporeal, pleasure for man as man, as Aristotle has explained.²¹

²¹ *The Guide of the Perplexed*, II:37

Much has been written about the influence of Greek culture on the crystallization of the Rambam's world of values. While it is true that most of the Rambam's rulings have Talmudic sources, his words often betray an underlying outlook, on the basis of which he decides to cite one source and omit the other. All the rabbinic dicta that speak of the loneliness of bachelorhood, the absence of joy among the unmarried, and the like—the Rambam chose to omit.²²

It seems to me that the rulings of the *Shulhan Arukh* may best be understood in light of the Rambam's *Hilkhot Ishut*, their point of departure being: "In order to engage in procreation." In contrast to the *Shulhan Arukh*, the Rema in various places gives expression to the alternate position, which seeks to include in the motive for marriage the social element of "It is not good that the man be alone."

Delaying the *Mitzvah* of Procreation

There are many practical differences between the two positions regarding the objective of marriage.²³ One of them relates to the issue of delaying the *mitzva* of procreation. This is one of the questions most frequently asked by young couples, at least in religious Zionist circles, where women enjoy a social status equal to that of men. I am not talking about family planning following the birth of a son and a daughter, but immediately upon entering into marriage.

There are many reasons that a young couple may wish to put off having children: the woman's desire to complete her higher education, a feeling of insecurity during the initial period of married life (personal or economic), and various personal plans. Already thirty years ago, Rabbi Aharon Lichtenstein, Rosh Yeshiva of Yeshivat Har Etzion, noted the frequency of this question: "Almost every halakhic authority, be he a rabbi or a *rosh yeshiva*, who maintains broad contact with young couples, on the threshold of marriage or beyond, can testify to the many queries reaching him in this domain."²⁴

²² For an expanded discussion of the Rambam's position regarding the family and its function, see R. Yona Ben Sasson, "Yesodei Torat ha-Musar shel Hevra u-Mishpaha be-Mishmatam shel Rambam ve-Rihal," *Mishpachot Beit Yisra'el*, 77-131.

²³ I would like to mention another practical difference between the two objectives of marriage, namely, the permissibility of the husband's offering of assistance to his wife during labor. For many generations, the husband played no role whatsoever in the birthing process. At most, he sat outside the labor room in order to hear the news that a child was born. The birthing woman was assisted by other women—a professional midwife or a female relative. Thus, there was no need to deal with the issue whether it was permissible for a husband to assist his wife during labor. Today, with the strengthening of the personal bond between husband and wife, the birthing woman often requests that her husband remain at her side throughout her labor and childbirth. Thus, we come to the halakhic issue whether the husband may assist his wife during labor, when she is already regarded as a *nidah*. See R. Shelomo Dichovsky, "Harga'at Yoledet u-Me'uberet," *Techumin* 23 (5763), 237-240.

²⁴ R. Aharon Lichtenstein, "Be-Petah ha-Sha'ar," in *Tibnun ha-Mishpaha u-Meni'at Hirayon*, ed. R. Elyakim Ellinson (Tel Aviv, 5737), 3.

Rabbi Lichtenstein emphasizes the seriousness and gravity with which one must relate to this question, for it stems not from spiritual laziness or disrespect, but from intense earnestness and a true conflict of values. Against the collective value, which demands concern for the nation, stands the personal value, legitimate from both a human and a Torah perspective: continued Torah study, acquiring a vocation, professional advancement, ensuring emotional stability, preparing for appropriate education of the children, and others.

It is important to emphasize, already at this stage, that the practical confrontation with this question must be conducted on the personal and individual level, and not by issuing general and sweeping guidelines. However, the very opening up of the issue for discussion is important, both halakhically and educationally. From a halakhic perspective, if Halakha embraces possible allowances for a couple to delay the *mitzvah*, these should be made known to every halakhic authority who encounters these questions. From an educational perspective, it is important that serious religious couples struggling with the dilemma be aware of the discussion, so that they may widen the channels of communication with the world of Halakha and its authorities in order to clarify the issue. Ignoring the question, or recycling a sweeping prohibition without discussion, will lead these couples, God forbid, to cut themselves off from the world of Halakha. Many couples who decide on their own to delay the *mitzvah* will live “as the thief is ashamed” (Jer. 2:26), thinking that there is nobody with whom to consult. I wish to contribute to this discussion the distinction between the various positions that we saw with respect to the essence of marriage.

First of all, we must narrow the discussion about delaying the *mitzvah* of procreation, and focus exclusively on the essential question—pushing off the positive precept for a reason that is not clearly a matter of *piku’ah nefesh* (saving a life). Other issues that arise in the responsa literature—with respect to contraceptives—are not unique to our discussion. They appear in every discussion regarding contraception, even when we are dealing with couples who have already fulfilled the *mitzvah* of procreation.²⁵

The Rambam²⁶ rules that a husband is permitted to abstain from his conjugal duty, with the consent of his wife, only after he has already fulfilled the *mitzvah* of procreation. But as long as he has not fulfilled the *mitzvah*, he is obligated to have sexual intercourse with her according to his schedule, because

²⁵ The primary issues are the prohibitions of *hotza’at shikbvat zera le-batalah* (wasted seminal emission) and castration. As for the first prohibition, the use of contraceptives that do not interfere with natural sexual intercourse is accepted by most halakhic authorities as not involving the prohibition of *hotza’at shikbvat zera le-batalah*. See R. Elyakim Ellinson (cited above, note 27), chap. 7: “The Prevalent Means Today.” As for the prohibition of castration, most authorities agree that the prohibition only applies to a procedure that is irreversible, but not to a temporary measure. See *Igerot Moshe*, III, no. 15; *Tzitz Eli’ezer*, IX, no. 51, and many other responsa.

²⁶ *Mishneh Torah, Hilkhot Isbut* 15:1.

procreation is a positive precept by Torah law.

These words of the Rambam constitute the halakhic basis for the sweeping opposition voiced by the halakhic authorities to every question concerning contraception prior to the fulfillment of the *mitzvah*. The *Tur* and the *Shulhan Arukh*²⁷ cite the words of the Rambam as normative Halakha, as do many contemporary halakhic authorities.²⁸ Thus, for example, Rabbi Shelomo Aviner addresses the question whether a couple is permitted to space their children if they have not yet fulfilled the *mitzvah* of procreation:

This question is very complicated. For on the one hand, it is unimaginable to push off and delay fulfillment of the *mitzvah*. On the contrary, one should strive with all one's powers to fulfill it, as the Rambam rules... However, exceedingly difficult family situations do at times present themselves. Sometimes there is a succession of many boys or many girls, and the mother finds herself in a difficult physical or mental state. Sometimes there are women for whom pregnancy, childbirth, and child care are extremely difficult, and starting immediately with a new pregnancy weighs heavily upon them.²⁹

In the continuation, Rabbi Aviner emphasizes that any allowance to use contraception prior to the fulfillment of the *mitzvah* of procreation is limited to situations of serious difficulty, but not where the problem is economic or the desire to complete one's studies or the like:

In such a situation, there is certainly no allowance whatsoever, for people marry for the purpose of procreation, and so there is no possibility of exempting oneself from it, unless there is a situation of danger. Even if one wishes to do this in order to study Torah, there is no allowance.³⁰

Rabbi Aviner's words assume what we said above regarding the goal of marriage. According to the Rambam, and in his wake also the *Shulhan Arukh*, the objective of marriage is "in order to engage in procreation." When this is the objective, it is impossible to discuss other values of the type mentioned by Rabbi Lichtenstein. If, however, we take into halakhic consideration the position of the Rema (based on the *Tur*), which includes among the reasons for marriage also the motivation of "it is not good that the man be alone," there is room to discuss the question. If a young man and a young woman fall in love and

²⁷ *Even ha-Ezer* 76:6.

²⁸ *Minhat Yitzhak*, V, no. 113; *Igerot Moshe, Even ha-Ezer*, I, no. 102, and others. See *Otzar ha-Poskim*, I, no. 17.

²⁹ R. Shlomo Aviner, *Banekha ki-Shetilei Zeitim* (Jerusalem, 1984), 36.

³⁰ R. Aviner joins to his ruling the view of R. Avraham Dov Auerbach, rabbi of Tiberias, who makes the aforementioned distinction.

wish to join themselves in the covenant of marriage, but for reasons that do not constitute *piku'ah nefesh*, but rather a serious personal need, they do not want to have children right away—is it preferable for them to get married and live together, putting off the *mitzvah* of procreation, or is it better that they push off the marriage? This is the question that is currently being asked and we cannot ignore it.

From a halakhic perspective, as long as the couple have not joined in matrimony, the *mitzvah* of procreation does not fall on the woman, and thus from her perspective there is no problem pushing off the wedding until whatever obstacles stand in the way (studies or the like) have been removed. As we have seen, the law that obligates a woman to marry is not at all clear, and the Rambam derives it (apparently based on the *Tosefta*) from the rationale “in order that she should not become subject to suspicion.” The question then centers on the man, who is indeed bound by the *mitzvah* of procreation, whether he is permitted to push off the wedding, if he wishes to marry this particular woman. Various responsa imply that one is permitted to push off marriage because of a desire to marry a specific woman.³¹ This seems to follow explicitly from a responsum of Rabbi Yosef of Trani, the Maharit. In the course of his answer to a question dealing with an adult man who became engaged to a minor girl and was waiting for her to reach maturity, he deals with the issue whether his waiting involves a nullification of the *mitzvah* of procreation. In the course of his discussion, the Maharit draws a comparison between the man’s obligation to the engagement and an oath taken not to fulfill a *mitzvah*, which has no force:

Perhaps they only said that an oath coming to nullify a *mitzvah* is not valid when the *mitzvah* is totally nullified, as in the case taught in [chapter] *Elu mutarin*: “A *sukah* that I will not build, a *lulav* that I will not take, etc.” In the case of oaths it is permitted, for one cannot take an oath to transgress a *mitzvah*. But here, since in the end he will marry and fulfill the *mitzvah* of procreation, it is not called nullification... To summarize, we are not authorized to uproot this oath that it should not be valid, for the reasons that I have explained.³²

The Maharit means to say that delaying a *mitzvah* is not comparable to its nullification, and so, if a person takes an oath to delay a *mitzvah*, the oath is binding.³³ This being the case, it is possible that if a young man and woman

³¹ See *Pithei Teshuvah, Even ha-Ezer* 1, #5; and see also *Responsa Maharam Schik, Even ha-Ezer*, #1.

³² *Responsa Maharit*, II, *Yoreh De'ah*, no. 47. See the response of Rav Henkin to this article, where he rejects the possibility of relying on the Maharit in our case. He argues that while the Maharit maintains that one who takes an oath to delay the *mitzvah* of procreation is not regarded as one who takes an oath to nullify a *mitzvah* (and so the oath is binding), he nevertheless agrees that putting off the *mitzvah* of procreation involves a transgression.

³³ We also find in an entirely different context the idea of delaying a *mitzvah* in order to fulfill

plan to marry, and they will be putting off the *mitzvah* of procreation because they want to delay their marriage until certain obstacles have been removed, there is no halakha preventing them from pushing off their marriage.

We, however, are being asked a different question: In our social reality, where the couple's relationship is liable to lead to serious complications if they do not get married, is it right to forbid them to delay the *mitzvah* of procreation, or is it preferable to allow them to live together as a married couple and use contraception? In our society, people are marrying at a later age, and we must do everything possible to help young people enter into marriage. Recognizing that marriage is not just an instrument to facilitate bringing children into the world, but that it constitutes a value in and of itself, in the sense of "it is not good that the man be alone," obligates the halakhic authorities to exert themselves to encourage young people considering marriage. If leniency in the form of an allowance to delay the *mitzvah* of having children is likely to decide the issue in favor of a wedding, this should be given serious consideration. Over against the reasons that forbid a married man (as opposed to a bachelor) to delay the *mitzvah* of procreation,³⁴ there are reasons to allow a couple to delay fulfillment of the *mitzvah* for a limited period of time, provided that they translate their emotional attachment into a marital bond. In order to encourage marriage, stress should be placed on the words of the Sages that an unmarried person is not whole, that a married person is protected from sinful thoughts, that a man without a wife lives without joy, and the like. Considerations that involve giving preference to a light transgression over a more severe transgression are found in abundance in the halakhic literature. One of the most striking and well known examples is the Rambam's ruling allowing a Jewish man to marry an emancipated slave with whom he is suspected of having had intercourse prior to her emancipation (against an explicit mishnah), as he says:

We did this so as not to put obstacles in front of penitents. And we said: Better that he eat the gravy, and not the fat itself. And we relied on what the Sages said: "It is time to act for the Lord; they have made void Your Torah" (Ps. 119:126). And we help

it later in a more embellished manner. In *Terumat ha-Deshen*, I, no. 35, R. Yisrael Isserlein was asked about pushing off *Birkat ha-Levanah* to Saturday night, when the blessing can be recited with the entire congregation. In his responsum, R. Isserlein distinguishes between a delay which is liable to bring about its nullification, which is forbidden, and a delay which will bring about its fulfillment in a more embellished manner, which is permitted. There is, of course, a difference between the nullification of *Birkat ha-Levanah*, which is not a positive *mitzvah* but only a blessing of praise, and pushing off procreation which is a positive *mitzvah*.

³⁴ See the letter of R. Shlomo Zalman Auerbach in R. Aviner's article (cited above, note 17), p. 38, which states that the allowance to delay the *mitzvah* does not apply to a married person, but only to a bachelor, for one who lives with his wife and engages in normal marital relations occupies himself with the *mitzvah* of procreation. Here too R. Auerbach relates to marital life strictly from the perspective of procreation, and not from the perspective of "It is not good that the man be alone."

him to marry her with gentleness and tenderness.”³⁵

Thus far, we have spoken about the need for Halakha and its authorities to be attentive to and help young couples enter into marriage. On the other hand, a sweeping allowance to push off the *mitzvah* of having children places all the weight of marriage on the relationship and on the satisfaction of having escaped the loneliness of bachelorhood. This understanding totally undermines man's obligation to serve as God's partner in the act of creation by establishing a family. The halakhic authority must clarify for the couple struggling with this issue the obligation on nationalistic grounds to build a home and family, at the basis of which lies the obligation to have children. Only a proper presentation of the two objectives of marriage, and their internalization on the part of the couple, can provide the necessary background for a useful and constructive discussion of the issue of family planning. In my opinion, the guidebooks written for brides and grooms must consider the frequency of this question, and allow the couple preparing for marriage to understand that discussing the issue is legitimate. The couple will have to arrive at a practical decision in personal consultation with a rabbi, but in order for the couple to get to the rabbi, they must see that he is ready to listen to them.

An example of this approach may be found in Rabbi Elyashiv Knohl's new book, "*Ish ve-Ishah – Pirkei Hadrahkhab le-Hatan ve-Kalah*."³⁶ The entire book is based on the author's conscious listening to the many grooms that he had guided and the many couples that he had accompanied to the *hupah* and beyond. Halakhically speaking, there is nothing revolutionary in the book, but it grants legitimacy to the asking of questions. Rabbi Knohl devotes an entire chapter to the issue here under discussion, pointing out the importance of having children and building a family, but he does not recoil from dealing also with the queries of couples wishing to delay having children until after they have overcome certain difficulties in their new path. As an introduction to the discussion, Rabbi Knohl writes: "Many rabbis are sensitive to this issue, and they will make every effort to exploit the power of allowance in order to help the couple find what they are seeking within the framework of Halakha."³⁷

In the course of the chapter, Rabbi Knohl outlines the factors that permit a couple to delay the *mitzvah*. At the end of the chapter, he once again invites the couple to find a rabbi with whom they are close and upon whose halakhic judgment they rely, and suggests that they clarify the issue with him and receive halakhic guidance on the matter. Such a voice encourages couples who are struggling between the value of observing Halakha in its plain sense, and the

³⁵ *Responsa Rambam*, ed. Blau, # 211. An analysis of the Rambam's responsum, its novelty and its influence upon later halakhic authorities, may be found in my article: "*Takanat ha-Shavim be-Giyur*," in *Devarim, Kovetz Ma'amarim le-Tziyun Eser Shanim le-Merkaz Ya'akov Herzog be'Ein Tzurim*, 5760.

³⁶ Published by *Makhon Shiluvim, Yeshivat ha-Kibbutz ha-Dati Ein Tzurim*, 5763.

³⁷ Knohl, *Ish ve-Ishah*, 241.

value of developing their individual and joint personalities at different paces, to remain connected to the world of Halakha and build their marriage on its foundations.