



## The Dependence of the Written Law Upon the Oral Law

24<sup>1</sup> "When a man takes a wife who becomes displeasing to him because he finds something indecent about her, he shall write her a writ of divorce, give it to her and send her from his house. <sup>2</sup> And when she leaves his house she goes on to become another man's [wife]. <sup>3</sup> And if her second husband dislikes her and he shall write her a certificate of divorce, give it to her and send her from his house, or if he dies, <sup>4</sup> then her first husband, who divorced her, is not allowed to marry her again after she has been defiled. That would be detestable in the eyes of the Lord. Do not bring sin upon the land the Lord your God is giving you as an inheritance. <sup>5</sup> When a man takes a new wife married, he must not be sent to war or have any other duty laid on him. For one year he is to be free to stay at home and bring happiness to the wife he has taken."

(Deut. 24:1-5)

This passage from Deuteronomy forms much of the Scriptural and traditional basis for the discussion of matrimonial and divorce law in the Talmud. Of course, this text's main concern is not really focused upon spelling out the laws of "how to get married" or "how to get divorced" according to Jewish law: Our text's main focus is to forbid the first husband's taking a back a wife after she has been re-married to someone else, even when that second marriage has been legitimately severed, either through a second divorce or because her second husband has died, leaving her a widow. Our text's concern is that although this woman is legally available to marry a third time, permitting her to return to her first husband would smack of marital "musical chairs," or using the technicalities of matrimonial law (which is supposed cement relationships permanently) to legitimate temporary relationships which normally are subject to the prohibitions of adultery. The last verse, similarly, is also not specifically concerned with spelling out the details of how to marry or bringing joy to a marriage, but rather with the matter of the year-long exemption of the husband of a new wife from being drafted into battle.

And yet the Talmud is quite justified in using these passages as its basis for understanding and spelling out the formalities of marital and divorce laws which the Torah would instruct us to follow. I have always seen these laws as a primary example of how the Talmud understood Scripture and so-called "Oral Law" or tradition and common-law to be intimately connected. Although our passage is focused upon possible use of legal writs of divorce to facilitate the circumvention of what would normally be prohibited as adulterous, we clearly see that the Torah assumes that divorce procedure was supposed to be formalized normally through a document, through the husband's writing a writ of divorce. And the same seems true marital law: The Torah seems to presume that there was a "common-law" formalization of the procedure for getting married which the particular laws here are based upon. No army commander wants to give out draft exemptions, after all! Hence there must have been some formalized distinction made between a "girlfriend" and a wife, as well as a betrothal or wedding from which to date the exemption. The Talmud is entirely correct, then, in interpreting that the term for "taking" or "acquiring" a wife has a meaning alluding to a formalized legal structure. And the Talmud is justified in piecing together that formalized structure from glimpses of wife-acquiring transactions we see elsewhere in the Bible, such as Eliezer's giving rings to Rebecca as a sign of betrothal, the paying of dowries, etc. Even the first law of our Parasha, concerned with the laws of taking a foreign female captive as an Israelite soldier's wife, shows how the Torah takes for granted that the taking of a wife was formalized. And certainly, the formalization of laws of acquisition of a wife to some extent paralleled the formalization of laws for acquisition of much else, which the Torah assumed from the common law of its day. After all, our Parasha also speaks of using fixed, standard weights and measures. And elsewhere our Parasha speaks of laws of paying workers on time. All this assumes formalized procedures for purchasing objects and hiring laborers. And in fact, more recently as we learn more and more about the Ancient Near East through archaeology, we learn that many of these formalized laws and procedures were quite well known and followed for thousands of years. As our Sages have correctly deduced, our Written Torah clearly is meant to rely upon a whole common-law or what we call "Oral Law" tradition. The laws enumerated in our Parasha in particular, more than anywhere else, bring this out for me.

## Shabbat Ki Tetse

September 9-10, 2022 | 14 Elul, 5782

### SHABBAT SCHEDULE

Hertz: p. 840 | Haftarah: p. 857

Kaplan: p. 966 | Haftarah: p. 1238

**Candle Lighting** | 6:57 pm

**Friday Evening Services** | 7:00 pm | Main Sanctuary

**Zemirot** | 8:15 am

**Shahrit** | 9:00 am | Paved Paradise

**Youth Program** | 10:00 am | Led by Gabi & Raph | Fidanque Youth Room

**Kiddush** | following services | Paved Paradise | *Sponsored by Vicki & Sam Katz*

**Shabbat Afternoon Class** | 6:00 pm | Rabbi Soloveichik | *This session sponsored by the Roberts Family in memory of N. Craig Roberts, MD*

**Evening Services** | 6:45 pm | Main Sanctuary

**Habdala** | 7:49 pm

### Weekday Service Times

#### Morning Services

Sunday: 8:05 am

Monday-Friday: 7:05 am

#### Evening Services

Monday-Thursday (Minha/Arbit & Selihot): 6:30 pm

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## HIGH HOLIDAYS

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DEADLINE: This Monday, September 12

### High Holiday Seating Reservations

*For Members & Guests*

We are offering both Indoor Services in our Main Sanctuary and Outdoor Services next door on Paved Paradise.

Both services will be beautiful and uplifting, and Rabbi Soloveichik will be spending time with each and delivering his sermons at both.

*For more detailed information on the venues and to place your reservation, please visit [shearithisrael.org/hh-5783](http://shearithisrael.org/hh-5783).*

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### Shabbat Teshuba Derasha

Rabbi Meir Soloveichik

Shabbat, October 1 | Following Morning Services

Sponsorship opportunities are available.

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### Place Your Lulab & Etrog Orders

Deadline: October 2

Purchase your lulab & etrog set through the synagogue at [shearithisrael.org/lulab](http://shearithisrael.org/lulab).

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## COMING UP

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### Communal Beth Olam Cemetery Trip (& Tour)

Sunday, September 18 | 10:00 am - 11:30 am

At Beth Olam Cemetery | 2 Cypress Hills Street, Ridgewood (Queens), NY

Join the Hebra Hased Va'Amet for our annual visit to Beth Olam Cemetery where members can visit the graves of loved ones before the High Holidays and participate in a memorial service in the Calvert Vaux-designed "metaher house." A highlight of the visit is an illuminating tour given by our sexton, Rev. Zachariah Edinger.

*Registration coming soon at [shearithisrael.org/events/beth-olam-trip2022](http://shearithisrael.org/events/beth-olam-trip2022).*

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## THIS SHABBAT

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### Shabbat Youth Program

Shabbat Mornings | 10:00 am | Led by Gabi & Raph | Fidanque Youth Room

Gabi and Raph are back for weekly Shabbat and Holiday youth groups! Bring your kids - and have your kids bring their friends - and enjoy.

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## COMING UP

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THIS WEDNESDAY

### *In-Person Book Event*

**Nina Wachsmann, Author of *The Gallery of Beauties*,  
in conversation with Shearith Israel trustee, David Sable**

*Integration Without Assimilation:*

*The "Modern Jew" in Renaissance Venice*

**THIS Wednesday, Sept 14 | In Person at Shearith Israel (no livestream)**

**7:00 pm, following 6:30 pm evening services**

In the city that invented the concept of the 'Ghetto,' it is surprising to learn that the Jews lived separately but not isolated from the culture around them in the seventeenth century. Rabbis were not only leaders in the Jewish community, but scholars, mathematicians, statesmen and playwrights. The music, art, and innovative foods which filled the city, filtered into the Ghetto, finding its way into synagogues and homes.

In a salon-like discussion with trustee David Sable, Nina Wachsmann will bring to life this unusual city and its unusually modern Jews, from her research for her novel of historical suspense, *The Gallery of Beauties*.

**Attendees can purchase the book at the event - and have it signed - at 30% off the retail price (\$12 instead of \$17.95), while supplies last!**

*Register at [shearithisrael.org/events/nina-wachsmann](http://shearithisrael.org/events/nina-wachsmann).*

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### Young Families Welcome Back Shabbat Picnic Shabbat, September 24 | following kiddush

Welcome back! Enjoy a potluck picnic on Paved Paradise and share your summer stories. Bring your kids, and have your kids bring their friends, and save room for a Haagen-Dazs ice cream dessert!

*RSVP at [shearithisrael.org/events/welcome-back-picnic](http://shearithisrael.org/events/welcome-back-picnic).*