

Dear Shearith Israel family,

Covid-19 Update. Nice and simple this week – BAU:



We are still using Paved Paradise aplenty. Just this past week we enjoyed kiddush al fresco. We also hosted an outdoor klezmer concert. Why not? Through our collective efforts, we have the use of a unique and gorgeous urban oasis. We are going to keep using it and sharing it with the community for as long as we are able.

Gittin Challenges Continued. For about a month now, as we work through the global Daf Yomi learning cycle of Tractate Gittin, I have been trying to gain consensus for the proposition that:

The Jewish approach to divorce is about as enlightened and fair-minded a system as any operating within the constraints of dealing with fallible human beings could be.

I have laid out the positive, constructive, even proactive approach that the Talmud takes to protecting the wife. That philosophy continues in the pages learned this week as well (pages ~26-32). For example, the Talmud faces the conundrum of what to do when, through no fault of anyone’s, someone initiating a divorce is prevented from following through. In many parts of Jewish law, faultless obstacles, or being *אֵינָא* (Onays), is a defense to not doing something required in a prescribed or timely way. One example often bruited in the Gittin context is when Husband gives Wife a *get* effective in 30 days unless Husband by then returns from a trip and

nullifies the *get*. Husband is then stuck right on the other side of a river and can't make it home in time. Getting stuck is not at all his fault, let's suppose. In other areas of Jewish law, the unavoidable interference with the plan would act as a defense. Here, however, the Talmud says (page 30a; discussed again on 34a):

אין אינא בְּגִיטין

That is, being faultless is insufficient in the area of divorce. Wife is entitled to rely on strict compliance with the conditions laid down initially. She is considered divorced, keeps her dowry, and can remarry even when Husband was waylaid and couldn't make it back through no fault of his own.

Still, I am close to declaring defeat in gaining a consensus for my resolution. Nobody wants to wait for a new Sanhedrin to change rules that, to us today, seem unfairly to hinder the wife's freedom. Nor do too many want to ignore the circumstance where the rule favoring intentionality on the part of Husband – as laid out on the very first page of the Tractate ([see my email of May 18, 2023](#)) – has its nastiest bite – for the *aguna*, which for these purposes can include wives whose husbands refuse to give them a *get* out of spite or malice.

In response to Judge Hellerstein's suggestion last week, that we use courts of equity to deem done what ought be done, Claude Nadaf says there is support in Jewish law for that approach (but then he goes farther than I'm willing to):

When the husband disappears, the Jewish court declares the wife free but it should be made to work both ways for fairness. Let's face it, Jewish laws are set in a paternal society in Talmudic times and for that matter Biblical times except for the brief Divine litigation of the daughters of Selofhad deciding otherwise, which proved society should be corrected via upgraded Torah laws.

Larry Kobrin feels that Jewish history points to an even "more aggressive approach to" the problem of the *aguna*:

During the period of the Geonim, religious courts (betei din) would in appropriate cases declare the original marriage transaction to be hefker or void, thus canceling the marriage and freeing the woman.

That kind of analysis underpins some efforts of contemporary courts to do something similar to free women trapped by vindictive husbands, but mainstream halachic jurisprudence has rejected it.

Perhaps we should be urging our halachic authorities to return to that precedent once again and thus avoid the need for all the complicated "workarounds" that we now have.

I know some of the Jewish leaders who today are grappling with the challenges and heartaches caused by the problems of *agunot*. These leaders are not weak. They are brilliant and

courageous. They are working within a framework of Jewish law and are successful in helping countless women. But there remain so many *agunot* in distress that one wonders if it might be useful to seek counsel from thinkers like Judge Hellerstein, Larry Kobrin, Claude Nadaf (and others, including Pearl Shifer, whose heart-breaking story [not of her own] deserves consideration).

Shearith Israel does what it can as a community to act in support of guidelines to ostracize husbands who act out of spite or ill-will and refuse to grant their wives a *get*. But doesn't it feel like we can be doing more? Concretely, how do we get there from here? Please send in your thoughts.

Built Back Better.

So Many Books, So Little Time. I just read *Magisteria: The Entangled Histories of Science and Religion*, by Nicholas Spencer. The book presents a historical analysis of the sometimes rocky, sometimes supportive "entanglement" (hence the book's subtitle) between science and religion.

There isn't much new in the book's basic treatment of the hypothesis. The author's approach to history is better than workmanlike, though, as I have mentioned in the past, how is it that historians today seem to rely so heavily on secondary sources? The author's ability to mine interesting and often unpredictable quotes out of interesting people of the past is truly remarkable. (Indeed, we could have a bunch of quote/unquote challenges just based on his citations; he finds quotes that will surprise you mightily as having come from one or another great scientist or religious thinker.) Spencer doesn't cite any of Rabbi Sacks's works, which are equal in intelligence to most of what the author does discuss in explaining why there need not be a war between religion and modern science. I can't resist but include just one Rabbi Sacks example (this one supplied by Barbara Reiss citing [his 2007 article](#)):

The current argument between "religion" and "science" is deeply unnecessary. It involves a caricature of religion and a parody of science. It is structured around a set of absurd oppositions, between science and superstition, reason and revelation, knowledge and wishful thinking, as if scientists and religious believers were incapable of realising the limits of their respective domains. We need both: science to tell us how the world is, religion (and philosophy) to tell us how it ought to be.

All in all, however, the book is excellent and a great read.

And in one particular, *Magisteria* is especially meaningful for me. Years ago I published an article explaining why I thought it was risky to try to employ scientific explanations to support religious rituals (if you really want to read it I will get you a cite or a pdf). In the article, I was talking about how history had treated the health benefits of circumcision. It was perilous to rely on supposed health benefits, I thought, since health/science mores change out from under us; relying too heavily on claimed health benefits puts religious observance at risk when, years later, the supposed health benefits come under attack.

Look at how beautifully the brilliant (and religiously adherent) Nineteenth Century scientist James Clerk Maxwell handled the same issue, as quoted in *Magisteria*. Maxwell was asked about the “creation of light” in Genesis 1:

If forced to make a comparison, he said that it would be tempting to say that the light of the first day means an ‘all-embracing ether, the vehicle of radiation, and not actual light, whether from the sun or from any other source’. However, he stressed that this was in accordance with the science of 1876 ‘which may not agree with that of 1896’, and went on to say that he would be very sorry ‘if an interpretation founded on a most conjectural scientific hypothesis were to get fastened to the text in Genesis’. The ‘rate of change of scientific hypothesis’ was ‘much more rapid than that of Biblical interpretations’, so that ‘if an interpretation is founded on such an hypothesis, it may help to keep the hypothesis above ground long after it ought be buried and forgotten’ – or conversely drag a religious hypothesis down when it fell” (p. 296)

Our Spring Song List. Gabriella Styler suggests

- [The Sweetest Sounds](#), another great song by Ella Fitzgerald. It has as much to do with Spring as many of the others – meaning nothing. But these are great, happy, Spring-like songs, so on the list it goes.

I want to add

- [Fly Me to the Moon](#), by the Chairman of the Board himself, Frank Sinatra, here with Count Basie’s orchestra. Totally kosher, given its specific reference to Spring.
- [The Lusty Month of May](#), from *Camelot*, and
- [If Ever Would I Leave You](#), also from *Camelot*

There are many more great Spring songs, but I think we are coming to the end of our list. Herewith the current list, with a “last call” for next week:

- [Younger than Springtime](#) from *South Pacific* by Rodgers and Hammerstein
- [April in Paris](#) by Count Basie
- [April Showers](#) by Frank Sinatra
- [June is Bustin’ Out All Over](#) by Rodgers & Hammerstein from *Carousel*
- [Spring is Here](#) by Ella Fitzgerald
- [Spring Can Really Hang You Up The Most](#) by Ella Fitzgerald
- [It Might As Well Be Spring](#) by Rodgers & Hammerstein from *State Fair*
- [Appalachian Spring](#) by NY Philharmonic, conducted by Leonard Bernstein
- [Can’t Stop the Spring](#) by the Flaming Lips
- [Some Other Spring](#) by Billie Holiday
- [Waters of March](#) by Art Garfunkel
- [It's A Beautiful Day For A Ballgame](#)
- [Did You See Jackie Robinson Hit That Ball](#)
- [April Come She Will](#) by Simon & Garfunkel

- [Veronika It's Springtime](#), by André Rieu & The Berlin Comedian Harmonists
- [The Waters of March](#) by Susannah McCorkle
- [You Can Never Hold Back Spring](#), by Tom Waits
- [Will You Remember \(Sweetheart\)](#), from the movie *Maytime* (1937), by Sigmund Romberg and Rida Johnson Young, with the song sung by Nelson Eddy & Jeanette MacDonald
- [Chapel of Love](#), by *The Dixie Cups*
- [Green Grass](#), by Gary Lewis and the Playboys
- [The Ninth Man](#), by Abie Rotenberg
- [Ninth Man II](#), by Abie Rotenberg
- [Remember How We Suffered](#), from Rachel Bloom's *Crazy Ex-girlfriend*
- [April Love](#), Pat Boone's rendition
- [Sunshine on My Shoulders](#), by John Denver
- [Spring Will Be a Little Late This Year](#), by Frank Loesser
- [Waiting For The Sun](#) by The Doors
- [It's a Beautiful Morning](#) The Rascals
- [Here Comes The Sun](#) by The Beatles
- [Mr. Blue Sky](#) by ELO
- [Take Me Out to the Ball Game](#)
- [Spring Vacation](#) by The Beach Boys
- [The Rain Song](#) by Led Zeppelin
- [I Can See Clearly Now](#) by Jimmy Cliff
- [Daydream](#) by The Lovin' Spoonful
- [The Lullaby of Spring](#), by Donovan
- [Blue Skies](#), written by Irving Berlin, sung here by the incomparable Ella Fitzgerald
- [The Sweetest Sounds](#), by Ella Fitzgerald
- [Fly Me to the Moon](#), by Frank Sinatra
- [The Lusty Month of May](#), from *Camelot*, and
- [If Ever Would I Leave You](#), also from *Camelot*

Thank you all. Bless us all. Shabbat shalom. Here! *Kaminando kon Buenos*.

Louis Solomon, Parnas