

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

The Noahide Laws - Lesson Thirty-Nine



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Table of Contents:

1. Introduction
2. Source for Marriage
3. Implications of the Marital Concept
4. The Obligation of *Yishuv HaAretz*
5. Marriage
6. Beyond the Minimum
7. Sources & Suggested Elements for a Marriage Service
8. Common Law Marriage
9. Summary

Lifecycle II: Marriage & Pre-Marriage



Introduction

In the last lesson we saw the various prohibited relations and the need for reasonable precautions when it comes to interactions between the genders. In this lesson, we are going to discuss pre-marriage and marriage.

Source for Marriage

*Therefore a man shall leave his father and his mother and cling to his wife,
and they shall become one flesh.¹*

We have learned that this verse is the source of five of the six punishable prohibited relations. However, this verse also states that a man should “cling to a wife.” This implies that marriage is the ideal relationship between men and women.

Yet, we must ask: Does marriage even apply to Noahides? This question hinges on a principle that we learned in an earlier lesson: **Anything stated before Sinai only applies to Noahides if it was repeated at Sinai.**² Therefore, if marriage was mentioned at Sinai, this repetition would be sufficient proof that the concept of marriage applies to all man. Sure enough, Deut. 22:13 states:

¹ Genesis 2:24.

² This is a fundamental principle of deriving the Noahide laws from Sanhedrin 59a.

When a man takes a wife...

In fact, the Talmud devotes an entire tractate, *Kiddushin*, to identifying and analyzing the numerous post-Sinaitic references to marriage. We see then that marriage applies to Noahides as well as to Jews.

Implications of the Marital Concept

*Therefore a man shall leave his father and his mother and cling to his wife,
and they shall become one flesh.*

Having established that the concept of marriage applies to Noahides, we have to then consider both its positive and negative implications.

The positive implication of marriage is that a committed, legally defined, consensual relationship is the ideal for Noahide men and women.

The negative implication of marriage is that noncommittal, undefined, or nonconsensual relationships are the opposite of that ideal. [Nachmanides](#) to Gen. 2:24 writes that the verse warns against promiscuity and licentiousness. However, the [poskim](#) do not derive or specify any prohibited acts of licentiousness (premarital sex, prostitution, etc.) The negative implications of our verse are too broad to imply specific prohibitions. Keeping this point in mind, let's examine another factor.

The Obligation of *Yishuv HaAretz*

*The Lord, Creator of the Heavens, He is the God, the one Who formed the earth... He did not create it for emptiness, he fashioned it to be inhabited...*³

The phrase ...*he fashioned it to be inhabited*... carries *halachic*, practical, weight.

³ Isaiah 45:18.

**Talmud Gittin
41a-b**

The Talmud in [Gittin 41a-b](#) discusses the case of a Canaanite indentured servant who is granted partial release by his employers.⁴ In this situation, his status is in serious doubt. Is he a Jew or a Non-Jew? The Talmud, [Tosafos](#),⁵ [Rashi](#), and other commentaries explain that this “half-free” status is untenable. In such a state the person cannot marry a Jew or a non-Jew and, as the commentaries explain, cannot fulfill his obligation of *yishuv ha-aretz*, making the world settled and civilized. We see that *yishuv ha-aretz* is an obligation for Noahides.

Yishuv HaAretz, settling and civilizing the world, appears to be part of the commandment of *dinim*, establishing civil law. Along with the ideal of marriage and its negative implications against promiscuity, these concepts create a general obligation to avoid licentiousness and socially corrosive sexual behaviors.

However, the specifics of these obligations are not mentioned in any of the *halachic* codes. It may be that these general, conceptual prohibitions were the basis upon which the court of Shem and other early leaders decreed specific prohibitions for Noahide society.⁶ This view may also explain the wording of I Kings 14:24, which states:

...and also prostitution was in the land, and they did all the abominations of the nations...

The verse separates prostitution and the other “abominations” (prohibited relations), implying that they are problematic for different reasons. According to our understanding, prostitution had reached the point that it ran afoul of *yishuv haaretz* and the implications of the marital ideal. However, the “abominations,” as we mentioned in the last lesson, may have been things that were decreed as prohibited by Shem and early Noahide courts. Therefore, they are “abominations,” socially and morally reprehensible behaviors. However, prostitution is not called an “abomination,” because it was connected to an actual prohibition.

⁴ Once a Canaanite becomes a servant to a Jew, he is no longer a Jew or a Non-Jew. Instead, he attains a halfway-conversion of sorts: partially non-Jew and partially Jew. Upon gaining complete release from his servitude, the Canaanite is now a Jew in all respects. The situation under discussion is the status of a Non-Jew who is granted incomplete release. What then is his status?

⁵ *Tosafos* to *Gittin* and also to *Bava Basra* 13a.

⁶ As discussed in the previous lesson.

Prostitution and premarital relations, though not intrinsically prohibited, become problems when they impinge on the aforementioned obligations. Therefore, they are not punishable offenses. Noahides have an obligation, though, to regulate or discourage such behaviors as needed to preserve society.⁷

Marriage

Maimonides, based on the Talmud's discussion of pre-Sinaitic marriage,⁸ writes in [Hilchos Isbus 1:1](#) that prior to Sinai Noahides became married via a two-stage process.⁹ This process is not meant to represent the ideal method of marriage, but only the absolute minimum requirements to affect marriage within the Noahide laws. Let's look closer at what these two factors entail:

1) Agreement to become married:

- a. The man and woman must be biblically permitted to each other. No bond of marriage exists between parties who may not marry each other on a biblical level.¹⁰
- b. No one can marry another against his or her will.¹¹
- c. Additionally, one must be mature enough to understand the seriousness of the commitment and the prohibitions and the obligations that it entails. Therefore, there is a minimum age for marriage. This age is certainly no less than the age-of-obligation¹² within the Noahide laws, and may even be higher. If a man and women are not capable enough for marriage, then allowing them

⁷ See *Even HaEzer* 177 and Rashi to Num. 22:5.

⁸ [Sanhedrin 57b – 58b](#).

⁹ See Maimonides and Sanhedrin *ibid*; *Kiryas Sefer* and [Maggid Mishneh](#) on Maimonides *ibid*.; [Minchas Chinuch](#) 35:13 & 19; [Shut Rivash](#) 398. See also [Tosafos HaRid](#) to Bava Basra 16b, Rashi to Sotah 10a. There are far more sources and authorities than can be listed here.

¹⁰ *Parshas Derakhim* and many others. See also [Shevus Yaakov I:20](#) who clarifies that no status of marriage can exist between Jew and non-Jew either.

¹¹ Nachmanides *Milchamot* to Sanhedrin 8; *Nemukei Yosef* Sanhedrin 8; Ran to *Pesachim* 2; See also Rashi to Gen. 24:57.

¹² No one is obligated or liable in the Noahide laws unless he has reached an age at which he can maturely understand his obligations and actions. This age will be the topic of a future lesson.

to marry is actually a detriment to society. Noahides should make these determinations for themselves.¹³

- d. Both parties must understand and consent to the prohibitions and obligations that marriage creates. For example, the woman becomes prohibited to all other men. Similarly, the man must knowingly accept any obligations he may have to his wife.¹⁴
- e. Once the couple has made this agreement, the woman is considered *meorasah*, “betrothed.” At this point she is prohibited to all other men. However, she would not be liable for punishment if she should transgress.¹⁵

2) Consensual marital relations:

- a. Having become betrothed, the marriage is consummated through consensual, normal¹⁶ relations with the specific intent of creating the marital bond.¹⁷
- b. Once the marital act is completed, the woman is considered a *be’ulas ba’as*, a fully married woman.¹⁸

Beyond the Minimum

There is no requirement for witnesses or ceremony for a Noahide marriage. However, we must keep in mind that that *halacha* – Torah law – provides a skeleton, an outline, in which to cultivate meaning, relevance, and importance. It is essential to make Noahide ceremonies meaningful, personal, and relevant to the spouses and their families.

¹³ The [Acharonim](#) discuss the issues in this paragraph at great length. See *Shut Chasam Sofer* YD 317; *Minchas Chinuch* 190; Rashi to Nazir 29b; *Sdei Chemed Peas HaSadeh* III; *Hilchos Melachim* 10:2.

¹⁴ A Noahide man has no biblical obligations to his wife. However, there are certain expectations that are compelled by the concept of marriage and *yishuv haaretz*. We will see these soon.

¹⁵ See note 8 for sources.

¹⁶ “Normal relations” refers to vaginal intercourse in the normal manner. See *Talmud Yerushalmi Kiddushin* 1:1.

¹⁷ See Maimonides *Hilchos Isbus* 1:1; *Shut Rivash* 398; *Minchas Chinuch* 35:13 & 19.

¹⁸ See note 8 for sources.

Additionally, since the process of marriage changes the status of the partners involved, it is appropriate to hold a service in which their new statuses are witnessed and announced to the world.

Sources and Suggested Elements for a Marriage Service

- **Wedding Canopy** – Getting married beneath a canopy is a requirement of Jewish law. Some *Rishonim*, however, imply that it is not a Jewish innovation. Instead, they state that it was part of the marriage ceremony even in ancient pre-Sinaitic times. This is certainly not enough evidence to imply that one *should* use a marriage canopy. However, it is enough to prove that it is acceptable for Noahides and doing so is not considered *chiddushei dat*. After all, the symbolism of the canopy applies equally to both Noahides and Jews (this will be discussed in the live class).
- **Wedding Rings** – the Talmud in Sanhedrin 58a writes that when a Noahide’s marriage ends, the woman “uncovers her hair in the marketplace.” In other words, she goes about bareheaded in public. Some have cited this passage as proof that married Noahide women should cover their hair.¹⁹ However, it appears that the issue is not covering hair, but that the woman should have public sign that she is married. Since this is the underlying reason, then covering the hair would not accomplish this purpose. After all, most people would not interpret it as a sign of marriage. However, a wedding ring certainly accomplishes this in America. Therefore, it is appropriate to give rings as part of the ceremony of marriage. Once the couple is married, they should be careful to wear their rings whenever in public.
- **Marriage Document** – Because accepting the obligations and prohibitions associated with marriage requires full knowledge and consent of the parties, these obligations and expectations must be specified and known to both the man and woman. The best way of guaranteeing this is for the parties to write vows and acknowledge them to each other. These vows should mention the prohibitions created by marriage and the obligations of marriage. Alternatively, and perhaps more effectively, would be to draft a list of the mutual agreements

¹⁹ *Sefer Sheva Mitzvos HaShem VI:6:9.*

of the husband and wife. The following is a suggested outline for such an agreement:

On the _____ day of the week, the _____ day of the month of _____ in the year _____, here in the city of _____, _____ (groom) said to his bride, _____: "Please become my wife according to the laws of Noah as commanded to the world in ancient times and reaffirmed through the hand of Moses at Sinai. I pledge to _____, and I accept all of the expectations and obligations of a husband unto his wife, as well as any prohibitions created unto me by becoming your husband. Together we will build a home and, together, fulfill the divine vision of yishuv ha-aretz, settling and civilizing the world according to God's will."

On this day, _____ said unto her groom: "I will become your wife, according to the laws of Noah as commanded to the world in ancient times and reaffirmed through the hand of Moses at Sinai. I pledge to _____, and I accept all of the expectations and obligations of a wife unto her husband, as well as any prohibitions created unto me by becoming your wife. Together we will build a home and, together, fulfill the divine vision of yishuv ha-aretz, settling and civilizing the world according to God's will."

Before all of the undersigned, the bride and groom have together entered into the bond of betrothal with the intention of creating a complete bond of marriage.

Groom

Bride

Witnesses

De Facto (Common Law) Marriage

We should note that an unrelated man and woman who live together without being married may acquire the de facto status of marriage or betrothal.²⁰ For this reason, it is not advisable that Noahide men and women share living spaces together prior to marriage.

²⁰ See *Hilchos Ishus 1:1* and commentaries. This is written about extensively in the *poskim* and commentaries.

Summary of the Lesson

1. Gen. 2:24 introduces the concept of marriage. The fact that it is iterated at Sinai indicates that it applies to Noahides as well.
2. Marriage implies not only what is appropriate, but what is inappropriate. However, it does not do so with enough specificity to imply particular prohibitions.
3. The Talmud states that *yisbuv haaretz*, settling and civilizing the world, is an obligation of all mankind. For Noahides it implies certain prohibitions and responsibilities.
4. Minimally, marriage requires full agreement to accept the status of marriage and consummation via relations.
5. Although this is the minimum, it is important that the deeper, human and spiritual aspects of marriage be acknowledged and celebrated.
6. Noahides may use a wedding canopy.
7. One should possess a sign that she is married.
8. Since complete knowledge is required to accept the status of marriage, it is advisable that the bride and groom have some sort of a marriage document or vows that acknowledge their obligations and expectation.