On Family Minhag in a “Mixed Marriage”

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The requirement that children must follow the *minhagim* of their father has two well-established exceptions. First, when one moves permanently from one location to another he or she takes on all traditions of his new community, lest there be dissension in the community. Second, when a woman marries, she takes on the *minhagim* of her husband. Indeed, the second exception is often seen as an application of the first: a woman “moves” from her father’s home to that of her husband’s upon marrying and therefore assumes the latter’s traditions, whether more lenient or stringent than those of the former.[1]

In one of his responsa,[2] Rabbi Haim David Halevy offers a nuanced understanding of this requirement for an inter-communal “mixed marriage.” Rabbi Halevy (1923–1998) was Chief Rabbi of Rishon leTzion from 1951 to 1973, and then Sephardic Chief Rabbi of Tel Aviv from 1973 until his death. His set of responsa *Aseh Lekha Rav* covers a wide range of topics with a display of scholarship, a respect for tradition, and an awareness of new cultural challenges.[3] He called for creativity in halakha to solve newly-confronted problems, insisting that anyone who is simply bound to the written positions of previous generations is a “Karaite halakhist” who is attached only to the written letter.[4]

Rabbi Halevy takes up the case of a secular Ashkenazic man who had married a religious Sephardic woman and had agreed that her family’s traditions be those of their new household. After some time, he became observant and wanted to return to his Ashkenazic roots. The question was whether he may impose his Ashkenazic traditions on his wife and children. In responding, Rabbi Halevy explains how an individual moving into a monolithic community with *minhagim* different from his own differs from a woman marrying a man with different *minhagim*. In the first case, the community must maintain its monolithic character; the newcomer, therefore, must adapt completely to the customs of the community. But the underpinning of the rule in an inter-communal marriage is to maintain *shelom bayit*; therefore, the wife has no need to change her *minhag* if her actions do not interfere with the family dynamics. Thus, for example, there is no reason for her to change the *nusah* of the prayers she has been used to saying, or for an Ashkenazic wife of a Sephardic husband to eat rice on Passover as long as she prepares her husband’s meals with rice. In this case at hand, he concludes, the husband may require that his children now adopt his Ashkenazic traditions with him, but may require such a shift for his wife only in those cases that interfere with family harmony.[5]

In an unpublished later responsum[6] Rabbi Halevy addresses a follow-up question that further nuances his approach: What if after becoming religious, the husband prefers to remain with the Sephardic traditions of his current household? Rabbi Halevy sees no obligation ("*vadai she-ein shum hovah*") for him or his children to return to his roots. At first glance, these two responsa seem contradictory. If it is an obligation to return to his Ashkenazic roots that empowers the husband to turn his family's *minhagim* upside down, why is the husband in the second case permitted to remain with Sephardic customs? It is not due to the fact that he was not required to adopt the *minhagim* of his father unless he had personally observed them as an adult. That applies only to family *minhagim* and not communal customs, which are binding for future generations.[7]

For Rabbi Halevy, both decisions follow naturally from issues of *shelom bayit*. To understand that, we should appreciate that the concept of moving to a new community has changed in our modern world. Originally, the notions of place and community were generally interchangeable. One's community was where one lived. Now our sense of community is pretty much divorced from physical locale. There is no "*minhag* New York" to adopt on moving into New York City; too many competing *minhagim* coexist in the city. But there is surely a *minhag* Habad, for example, to be adopted when marrying into a Habad family, whether one lives in Crown Heights or some far-flung location in which the Habad emissaries live. Each Ashkenazic husband in our responsa had "moved" into a Sephardic "place." The second did it permanently; the first decided to "return home."

Rather than seeing it as a prescribed ideal, the notion of the wife "moving" to the "place" of the husband may be viewed as a technique for maintaining *shelom bayit*. It would be a mistake to think that "ideal" families have no disagreements; divergence of opinions is unavoidable. *Shelom bayit* does not mean always avoiding arguments; it means being able to resolve them and not allowing them to fester. A well-established and agreed-upon plan known to the parties before the marriage helps bring *shelom bayit*. When couples from different locations are to marry, the *Shulhan Arukh*[8] sets out the circumstances under which the husband can compel his wife to move to his community. But these rules surely do not prevent the couple from deciding between themselves where they choose to reside, even if it be the husband who moves and adopts the different *minhagim* of his new community.

It would be interesting to debate the underlying rationale for the rule that the wife should defer to her husband, be it philosophic, sociological, or whatever. It should not be understood as fulfilling God's declaration to Eve that "[your husband] will rule over you" (Genesis 3:16). That statement is not an obligation, says Rabbi Aharon Lichtenstein:

For example, at the beginning of the same verse it is said to Eve, "In pain shall you bear children." No one questions a woman's right to facilitate limiting her suffering when giving birth, as in taking prenatal courses, an epidural or general anesthesia. We do not encounter a religious moral obligation to give birth in pain to one who is not so interested. Is that to be said in relation to the rest said there? Does the verse only describes a natural reality with which one may contend, or is any variation from the verse's description in conflict with God's will?

This question stands on the interpretive and ideological level. In relation to this specific issue, I follow the Rambam and posit that marriages are partnerships without mixing in concepts of ruler and ruled, ideas that are not at all relevant to our world. In the view of Hazal, the household is built on the husband honoring his wife as himself.[9]

Seeing a marriage as a partnership of equals opens up another dimension in the discussion of family *minhag*. Traditionally, marriage has been generally viewed as the woman leaving her parental community and entering that of her husband. But there is another perspective, one described by Rabbi Joseph B. Soloveitchik:

The Torah has defined the central commitment of the marital community in an unequivocal manner. “Therefore shall a man leave his father and his mother and shall cleave unto his wife and they shall be one flesh" (Gen. 2: 24). There is an equation here. The marital community replaces the parental community. Until one’s marriage, the young man or woman belonged to a parental community consisting of three *personae*: the husband, wife, and child. On the day of their marriage they leave the community into which they were cast by the Almighty and substitute for it a marital community which they enter voluntarily, by free choice.[10]

Marriage is not just a successful partnership, but an existential community. Adam and Eve met and a new metaphysical community, not just a successful partnership, was born.[11]

When a new community is formed from two groups, its *minhagim* follow those of the majority group. If we see a marriage as the formation of a community in which neither member is dominant, we might well consider the position of Rabbi Moshe Feinstein that when two equal groups form a community, they may decide to adopt the lenient position on any issue, making it now permissible to all. Since on one issue one community might be lenient and on another issue stringent, the result may well be that the *minhag* created of the new community will not be identical to either half.[12] Those, then, who see a marriage as a new community formed by two equal components might well create a family *minhag* that will be an amalgam of the respective *minhagim* of the husband and wife. (This is not to suggest that Rav Moshe himself feels that a marriage is a new community formed from two equal components, but rather suggests how his principle applies for those who do.)

Rabbi Nachum Eliezer Rabinovitch, late Rosh Yeshiva of Yeshivat Birkat Moshe in Israel,[13] approaches the issue of competing *minhagim* in new *yishuvim* (settlements) in Israel from the perspective of this being an age of *Kibbutz Galuyot* (Ingathering of the Exiles).[14] He insists that all community members should feel that their *minhagim* are valued, viewing all as equal in this respect. In the area of public prayer, the *shaliah tsibbur* should set the *nusah* for each service. On the Rosh HaShannah and Yom Kippur, where Ashkenazic and Sephardic services involve significantly different *piyutim* and melodies, the community should create an amalgamated *nusah* in which all community members’ traditions are recognized. Halakhic rulings of the *yishuv’s* rabbi should not decide one way for Ashkenazim and another for Sephardim. The popular notion that Sephardim always follow the Bet Yosef and Ashkenazim the Rama is not halakhically binding according to Rabbi Rabinovitch. The *Shulhan Arukh* was not accepted as a stand-alone authority, but rather an authority together with its commentaries. Each issue should be investigated independently and thoroughly by the contemporary *posek*, and the same ruling should apply to all.

R. Rabinovitch concedes that many rabbis require the wife to accept the husband’s *minhagim* in all matters. But, he says, in this period of *Kibbutz Galuyot* a wife should retain her *minhagim* that do not impact on her husband (like *nusah tefilah*), “but even with regard to *minhagim* that have impact on her husband, the two of them may agree on a unified *minhag* as they wish.”[15]

These decisions create a family *minhag* that obligates their children, until they might move to a different community when they in turn marry.

Notes

[1] See, for example, R. Moshe Feinstein, Responsa *Iggerot Moshe*, *Orah Haym* 1:158, "There is no 'moving from one place to another' greater than a marriage, and this is a permanent move."
[2] R. Haim David Halevi, "H*ovat isha linhog ki-minhag beit ba'alah*," *Tehumin*, vol. 6, 5745 [1985], pp. 79–84.
[3] See, for example, Haim Jachter, "Rav Haim David HaLevi: An Underappreciated Sephardic Gadol," *Jewish Link*, available at https://jewishlink.news/features/27217-rav-haim-david-halevi-an-underappreciated-sephardic-gadol; and Hayyim Angel, "Embracing Tradition and Modernity: The Religious Vision of Rabbi Haim David Halevi," *Jewish Ideas*, available at https://www.jewishideas.org/article/embracing-tradition-and-modernity-religious-vision-rabbi-haim-david-halevi. For a full study of Rabbi Halevy's thought, see Marc D. Angel and Hayyim Angel, *Rabbi Haim David Halevy: Gentle Scholar and Courageous Thinker*, Urim, Jerusalem, 2006.

[4] R. Haim David Halevi, "*Da'at Torah be'inyanim midiniyim*," *Tehumin*, vol. 8, 5747 [1987], p. 376.
[5] Writing from the perspective of how much authority the husband has over his wife, R. Moshe Feinstein concludes (Reponsa *Iggerot Moshe, Even HaEzer*, 2:12) that a husband cannot impose his personal stringencies on her. Thus he cannot restrict her from using a wig instead of a scarf as a head covering as that was his personal stringency and not the view of the majority of *posekim*. On the other hand, he rules (EH 1:59) that a wife whose community requires her shaving her hair must defer to her husband if he objects because she is obligated to please him in matters that affect them both. He argues later (EH 4:32(10)) that these two rulings are consistent.
[6] Addressed to me, dated 28 Tishrei 5755 [October 1, 1994].
[7] See, for example, R. Yair Bachrach, *Havat Yair*, no. 126.
[8] *Even HaEzer* 75.
[9] R. Aharon Lichtenstein, "*Ma'amad ha'isha be'idan haModerni*," *Alon Shvut Bogrim*, Kislev 5736 [November 1975], number 23, pp. 110 f, available at http://etzion.org.il/he/download/file/fid/16488.

[10] R. Joseph B. Soloveitchik, *Family Redeemed*, eds. David Shatz and Joel B. Wolowelsky, (Toras HoRov, 2000), p. 29.
[11] *Ibid*., p. 17.
[12] R. Moshe Feinstein, Responsa *Iggerot Moshe, Yore De'ah* 2:16.

[13] See, for example, "Rabbi Jonathan Sacks on the passing of Rav Nachum Rabinovitch z"l," available at https://rabbisacks.org; and Yoni Rosensweig, "My Rebbe – Rav Nachum Eliezer Rabinovitch," available at https://thelehrhaus.com/commentary/my-rebbe.
[14] R. Nachum Eliezer Rabinovitch, Responsa *Siach Nachum*, nos. 86–87.
[15] R. Nachum Eliezer Rabinovitch, Responsa *Siach Nachum*, no. 88.