**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

**LIFECYCLES – HILKHOT ISHUT**

**Rav David Brofsky**

**Shiur #23: Laws of the Wedding**

**A Second Marriage**

In previous *shiurim*, we addressed the details of the wedding ceremony. The laws and customs discussed related primarily to a first wedding. At times, a man or women may marry for a second time, after a divorce or after the death of a spouse.

In some situations, a man or a woman may marry for a second time before having children with a previous spouse or while still raising children. Aside from the *mitzvot* to have children, known as *perivya u-rivya* (*Bereishit* 9:1, 7) and *shevet* (*Yishayahu* 45:8), which we will discuss in a future *shiur*, the Talmud (*Yevamot* 62b) teaches that one should continue to bear children in a second marriage:

R. Yehoshua says: If a man married a woman in his youth and she passed away, he should marry another woman in his old age. If he had children in his youth, he should have more children in his old age, as it is stated: “In the morning sow your seed, and in the evening do not withhold your hand; for you do not know which shall prosper, whether this or that, or whether they both alike shall be good” (*Kohelet* 11:6).

Therefore, a second marriage may entail the fulfillment of *perivya u-rivya, shevet*, having more children, and raising an educating (*chinukh*) these children.

Men and women may also marry later in life as well, well after raising their families. Does the Torah encourage marriage even after child-bearing age? Aside from the *mitzva* to care for those is need, including the “*almana*” (widow), the Talmud (ibid. 61b) teaches that there is inherent value and importance in being married:

R. Nachman said in the name of Shmuel, who said: Even if a man has several children, it is prohibited to remain without a wife, as it is stated: “It is not good that the man should be alone” (*Bereishit* 2:18).

There are several reasons given for this, although ostensibly, “it is not good that the man should be alone” applies to women as well (see Rema, EH 1:13).

**A Divorcee and Remarrying One’s Wife (*Machazir Gerushato*)**

It is important to note that a *gerusha* (a woman who is divorced from her husband) may not marry a *kohen* (*Vayikra* 21:7). Furthermore, when a divorcee remarries, she may not remarry within 90 days of her divorce, in order to be certain that she may distinguish between children from her first and second husband (*Yevamot* 41a; Shulchan Arukh, EH 13:1).

A man is permitted to remarry his wife after they were divorced, unless she has already been married to someone in the interim (*Devarim* 24:1-4). Some *Rishonim* (Sefer Ha-Chinukh 580) write that there is even a *mitzva* to remarry his wife. They derive this from the Talmud Yerushalmi (*Ketubot* 11:3; see also *Vayikra Rabba* 34:14), citing the prophet Yishayahu, who exhorts the Jewish People: “and from your flesh you shall not hide.” R. Yaakov says in the name of R. Eliezer that this applies even to one's ex-wife. Others insist that if their marriage is not repairable, there is certainly no mitzva for them to remarry (Radbaz 8:153). Remarrying one’s divorcee is not perceived halakhically as “festive,” and therefore the wedding may be performed on Chol Ha-Moed (Shulchan Arukh, OH 556:2), as well as during Sefirat Ha-Omer (Mishna Berura 493:1), and possibly even during the three weeks between Shiva Asar Be-Tamuz and Tisha Be-Av (see Mishna Berura 551:15).

**A Widower (*Alman*) and Widow (*Almana*) – Remarrying After the Death of a Spouse**

 The Talmud teaches that one who has lost a spouse should not remarry right away. The *gemara* (*Moed Katan* 23a) teaches that “during the entire thirty day period of mourning, it is prohibited to marry.” Some *Rishonim* (Rosh, *Moed* *Katan* 3:48; see also Shulcḥan Arukh, YD 393:1) explain that one may not get married even without a festive meal, which is already prohibited during the thirty-day mourning period.

 In addition to the regular prohibition to marry during the thirty-day period of mourning, the Talmud (ibid.) teaches that after one’s wife passes away, the prohibition lasts beyond the thirty days of mourning:

If one’s wife died, it is prohibited to marry another wife until three festivals pass since her death. R. Yehuda says: Until the first and second festivals have passed, he is prohibited from marrying; before the third festival, however, he is permitted to do so.

The *Rishonim* disagree as to whether the *halakha* is in accordance with the first view (Rambam 6:5; *Hagahot Maimoniot*), which requires the mourner to wait until three festivals have passed, or the second view (see Ramban, *Torat HaAdam*, *BeSimcḥa Keitzad*, and Rosh ibid.). Shulcḥan Arukh (YD 392:2) rules that the mourner must wait until three festivals have passed.

 What is the reason for this extra stringency? Rosh explains that waiting until three Festivals have passed “is not an additional layer of mourning, but rather to ensure that his first [wife] will be forgotten and [her memory will] fade from his mind when he is with the second [wife].”

Which festive days are considered to be “festivals”? Some (*Taz* 392:2 cites the *Sefer HaAgudah*) suggest that Rosh HaShana and Yom Kippur may count as “festivals,” just as they do regarding the cancellation of *shloshim*. Most *Rishonim*, however, maintain that they do not count as “festivals,” as it is not the number of festivals per se, but rather experiencing the *simchat Yom Tov* of three festivals, which permits the widower to remarry. This is the conclusion of Shulcḥan Arukh.

Regarding Shemini Atzeret, *Pitchei Teshuva* (392:1) cites the *Dagul MeRevava*, who suggests that Shemini Atzeret may count as one of the three festivals. R. Akiva Eiger, cited by his son-in-law R. Moshe Sofer (*Chatam Sofer* 2:350), disagrees. They do, however, permit a widower to remarry if twelve months have passed, even if three festivals have not (i.e. his wife passed away on Chol Ha-Moed Pesacḥ, and he remarries during Adar II). *Gesher Ha-Chaim* (21:9:3) rules that Shemini Atzeret may count as one of the Festivals.

The Talmud (ibid.) relates to situations that might justify marrying before three Festivals have passed:

And if he does not have children, he is permitted to marry another wife immediately due to the need to fulfill the *mitzva* to be fruitful and multiply. Similarly, if his wife died and left young children, he is permitted to marry another wife immediately, so that she might take care of them. There was an incident when the wife of Yosef the Priest died, and he said to her sister at the cemetery [immediately after the funeral]: Go and care for your sister’s children. But even though [he married her immediately], he did not engage in sexual relations with her for a long time afterward. [The *gemara* asks:] What is the meaning of the term, “a long time”? R. Pappa said: After thirty days.

Thus, the Talmud permits a man who has not yet fulfilled the commandment to procreate, or who has young children who need to be cared for, to marry shortly after his wife’s death. The Yerushalmi (*Yevamot* 4:11) rules that the mourner may even marry if he has no one to care for him.

 Accordingly, the Shulcḥan Arukh (YD 392:3) rules that one who has not yet fulfilled the commandment of *peru urevu* may be married and have relations after the seven-day mourning period. One who has small children or marries someone to care for him may be wed after the *shiva*, but may not have relations until after the thirty-day mourning period (Rema, ibid. 3). Similarly, one whose close relative passed away shortly before the wedding should first observe the *shiva* and may be married immediately afterwards (Shulcḥan Arukh, YD 342).

Regarding the allowance to remarry shortly after his wife’s death because he has no one to care for him, Rema (*Yoreh De’ah* 392:2) rules that this applies even to one who is wealthy, and he records that widespread custom of remarrying before three festivals have passed. The *Acharonim* offer additional reasons for this practice. For example, the *Pitchei Teshuva* (3-4) cites *Shevut Yaakov*, who suggests that we do not object to those who wish to remarry early, due to a fear of sexual promiscuity. *Dagul MeRevava* expresses the fear that since nowadays we perform the *eirusin* and *nisu’in* together, if the widower is not allowed to remarry, someone else may marry the woman.

The *Rishonim* (Mordekhai, *Moed Katan* 936; see also *Bach* 392:4, cited by *Shakh* 2) write that although technically, a woman whose husband died may remarry after the thirty day period of mourning, she must wait three months. Otherwise, if she became pregnant, the identity of the father would be unclear. Some record that it is customary for a woman to wait until a year has passed, possibly because her children are mourning their father for the entire year (*Taz* 392:3).

One who is permitted to marry during *shloshim* or during the twelve-month period of mourning may hold and participate in normal wedding festivities.

**Similarities and Differences in the Wedding Ceremony of a Second Marriage**

 The *Acharonim* mention a number of customs and practices regarding a second marriage, such as not sending out invitations, limiting the amount of guests, not including one’s children from a deceased spouse in the wedding ceremony, etc. These customs are not followed by all, and in this section we will address only halakhic differences and differences due to wide-spread custom.

There are a number of similarities between a wedding performed for a never-married bride and groom and a wedding performed for a bride and groom who have already been married. For example, it is customary for the bride and groom to fast on the day of their second wedding as well (Mishna Berura 573:8). It is customary (although not universally) for the bride to wear a white dress. The ceremony includes the *sheva berakhot* and concludes with the breaking of a glass.

However, there are also a number of differences.

When the bride has already been married, regardless of whether the groom has been previously married, the woman’s *ketuba* is for 100 *zuz*. In some communities, the *tosefet ketuba* (i.e. the sum added to the main part of the *ketuba*) is also half of the sum promised for a first marriage. In addition, the bride is described as an “*armalta*” (a widow) or a “*matrachta*” (a divorcee).

Furthermore, the Talmud Yerushalmi (*Ketubot* 1:1) implies that while the *nisu’in* for a *betula* is achieved through the “*chuppa*” (either standing under the *chuppa* or through covering the bride with the *hinuma* [veil]), the wedding of a widow is only achieved through seclusion (*yichud*). Some *Rishonim* (Mordekhai, Maharil, and Bach) insist that only martial relations initiate the *nisu’in* status. Others claim that full seclusion, within which time one could have marital relations, initiates the *nisu’in*. Rambam does not distinguish between a *betula* and an *almana*; both require full seclusion. The Shulchan Arukh (OH 339:5 and EH 64:5) rules that the *chuppa* alone does not initiate the *nisu’in* for a widow. Therefore, the *badeken* is not performed for a women married for the second time (see Arukh Ha-Shulchan, EH 55:24). In some communities, the bride wears the veil over her face but the groom does not perform the *badeken*. Furthermore, it is customary not to send the couple to a *yichud* room (seclusion) immediately after the wedding. Finally, if the wedding occurs on Friday, the couple should be secluded before Shabbat, as it is prohibited to affect a *kinyan nisu'in* on Shabbat (Shulchan Arukh, EH 64:5). These laws apply to a divorcee as well.

***Shivat Yemei Simcha* and *Sheva Berakhot***

There are two other significant differences between a first marriage and a second marriage – the *yemei simcha* and the *sheva berakhot*. Although we will discuss these topics in greater depth in a future *shiur*, we will discuss here that which is relevant for our topic.

The Talmud (*Ketubot* 7; see Shulchan Arukh, EH 64:1) teaches that when a man marries a *betula*, he is obligated to “rejoice” with her for seven days. The man should not work and should dedicate the week to celebrating with his wife. It does not matter whether the man was previously married.

The *Rishonim* disagree regarding a man who was never married who weds a woman who has already had marital relations (*be’ula*). While some maintain that he spends three festive days with her (Rambam, *Hilkhot Ishut* 10:12), others (see Ran, *Ketubot* 2a, *s.v. achat*) insist that he dedicate an entire week to rejoice with his wife. The Shulchan Arukh (EH 64:2) cites both views. Regarding an *alman* (a man who is divorced or widowed) who married a *be’ula*, all agree that the obligation to rejoice with his wife lasts for three days. In both of these cases, the woman may forgo (*mochelet*) these festive days.

In addition to the days the husband dedicates to rejoicing with his wife, the Talmud (*Ketubot* 7b) also teaches that the *sheva berakhot* are recited for a number of days after the wedding, at every meal. The Shulchan Arukh (EH 62:6) rules that if either the *chatan* or *kalla* have not been married before, the *sheva berakhot* are said for the entire week.

Regarding the marriage of a man and woman who were both previously married, the Talmud (*Ketubot* 8a) teaches:

R. Ashi happened to come to the house of R. Kahana to attend a wedding. The first day he recited all seven blessings. From that point forward, if there were new faces present, he recited all the blessings, and if not, he would say: It is merely an extension of the original celebration. He would recite the blessing, “In Whose dwelling is joy,” in the *zimmun* prior to Grace after Meals, and the sixth blessing after Grace after Meals, “Who has created.”

The *Rishonim* offer different explanations of the *gemara*. Rambam (*Hilkhot* *Berakhot* 2:9) explains that the *sheva berakhot* are said for the entire day of the wedding. Rosh (*Ketubot* 1:13) rules that the *sheva berakhot* are said at the first meal after the wedding, even if it is held during the evening, which is considered to be the next day. Rabbeinu Yerucham writes that the *sheva berakhot* are only said at the first meal on the actual day of the wedding.

 Some (Beit Yosef in *Bedek Ha-Bayit* 62; see also Arukh Ha-Shulchan, EH 64:33) rule that the *sheva berakhot* may be said, in this case, even during the evening after the wedding ceremony. Many *Acharonim* (see Beit Shmuel, ibid. 5; Chokhmat Adam 129:4; Kitzur Shulchan Arukh 149:4) rule that in this case, *sheva berakhot* should not be recited. In this case, the wedding and festive meals should preferable be held on the same day (Arukh Ha-Shulchan ibid.).

 The *mitzva* to rejoice for the entire first year of marriage (*shana rishona*), which we will relate to in a future *shiur*, applies to a second marriage as well, regardless of whether one or both partners were previously married. It does not apply if one remarries his divorcee (*Sota* 44b and Sefer Ha-Chinukh 582).

 Next week, we will discuss the festive week after the wedding and the *sheva berakhot* in greater detail.