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

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**LIFECYCLES – HILKHOT ISHUT**

**Rav David Brofsky**

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**Shiur #09: *Ketuba* (2)**

**Introduction**

[Last week](http://etzion.org.il/en/ketuba), we began our discussion of the *ketuba*, the third component of the Jewish wedding (along with the *kiddushin* and *nisu’in*). We noted that the Talmud (*Ketubot* 10a) cites a debate between R. Shimon ben Gamliel and R. Nachman regarding whether the origin of the *ketuba* is Biblical or Rabbinic. R. Shimon ben Gamliel apparently maintains that the basic obligation of the *ketuba*, at least regarding a *betula*, is *mi-deoraita*. R. Nachman maintains that the obligation of *ketuba* is Rabbinic, as the *gemara* (*Yevamot* 89a) says, “What is the reason that the Sages instituted a marriage contract in general, for an ordinary woman? So that she will not be demeaned in his eyes, such that he will easily divorce her.” The *gemara* and *Rishonim* explain that this debate may have numerous practical ramifications.

 Rabbeinu Tam (Tosafot, *Ketubot* 10a, *s.v. amar*) rules in accordance with R. Shimon ben Gamliel, noting that it is customary to write in the *ketuba* “which is rightfully yours from the Torah” (*de-chazi likhi mi-deoraita*). However, most *Rishonim* disagree with this view.

 We also noted the important position of the Rambam, who in a number of places rules in accordance with the opinion that maintains that the *ketuba* obligation is Rabbinic (*Hilkhot* *Ishut* 10:7; 11:14), but elsewhere implies that the *ketuba* has a different, Biblical origin (see, for example, *Sefer Ha-Mitzvot*, neg. commandment 355). The Rambam seems to maintain that while the formal obligation of *ketuba* is Biblical, its form and details are Rabbinic. The Rambam appears to believe that the *ketuba* is not just a monetary obligation; it is a defining factor of the marriage. The Rambam views all relationships that are not first formalized by *kiddushin* and *ketuba* as by definition inappropriate, and therefore prohibited. In other words, *kiddushin*, and the *ketuba*, in its Biblical sense, are meant to transform a fleeting sexual relationship into a relationship that is based on obligation and responsibility.

 This week, we will briefly discuss the content of the *ketuba*.

**Content of the *Ketuba***

The *ketuba* is made of up numerous sections. There are four financial obligations mentioned in the *ketuba*: the basic *ketuba* obligation (*ikar ketuba*), the *tosefet ketuba* (the additional obligation), the *nedunia* (dowry) that the woman brings into the marriage, and the husband’s commitment to be financially responsible for the *nedunia* (*tosefet nedunia*). In addition, the *ketuba* testifies to the marriage and the husband’s commitment to bear responsibility for the *ketuba*. Finally, the *ketuba*, like other legal documents (*shetarot*), includes the names of the bride and groom, the date, and the signatures of those who witnessed the groom’s acceptance of the *ketuba* obligations.

1. **Testimony to the Marriage**:

The *ketuba* begins with an account of the marriage and the marital obligations that the husband accepts upon himself:

…The bridegroom [...] son of [...] said to this [...] daughter of [...], “Be my wife according to the law of Moses and Israel. I will work honor, feed and support you in the custom of Jewish men, who work, honor, feed, and support their wives faithfully.”

The *ketuba* relates how the husband betroths his wife, and commits to “honor, feed, and support [her] in the custom of Jewish men.”

 This part of the *ketuba* appears to testify to the marriage of the couple. Some *Acharonim* suggest that the *ketuba* may therefore not be written and signed the day before the wedding, as it would appear to be dishonest. Others insist that we should not relate to this section as if it were testimony. Indeed, at most weddings, the *ketuba* is signed and the husband accepts these obligations upon himself before the wedding.

2. **The Basic sum of the *Ketuba***

The *ketuba* describes the basic obligation of the *ketuba*. The *mishna* (*Ketubot* 1:2) teaches that the *ketuba* of a *betula* (virgin) is 200 *zuz*. It is customary to write the *ketuba* for 200 *zuz* for almost all women who are married for the first time, although in certain circumstances some are accustomed to write “*iteta*” (woman) instead of “*betulta*” (virgin) in order to avoid blatant dishonesty. The *ketuba* for an *almana*, *gerusha,* or *giyoret* (widow, divorcee or convert) is 100 *zuz*.

I will give you the settlement of 200/100 silver *zuzim*, which is due you according to [Biblical] law, as well as your food, clothing, necessities of life, and conjugal needs, according to the universal custom.

The value of 100 or 200 zuz in modern currency is the subject of great debate. The *Shulchan Arukh* (EH 66:6) rules that 200 *zuz* is approximately 120 grams of silver, while the Rema rules that is equals 960 grams.

3. **Dowry (*Nedunia*) and** ***Tosefet Nedunia***

The Rambam (*Hilkhot Ishut* 16:1) describes two types of dowry, the property that the woman brings into the marriage. One type, known *as nikhsei tzon barzel*, is recorded in the *ketuba*. The husband has full use of this property, but also takes full responsibility for it in the case of loss. Another type, *nikhsei melug*, is not recorded in the *ketuba*. Although the husband benefits from the profits of *nikhsei melug*, it belongs to the wife and remains her sole responsibility.

In the Middle Ages, Ashkenazic communities began writing a uniform amount as the *nedunia*, so as not to embarrass those who did not have a lot of property to bring into a marriage (Raavan, *Hilkhot Ketubot*,s.v. *af al pi*; Maharam of Rothenburg 4:673):

Ms. [...] agreed, and became his wife. This dowry that she brought from her father’s house, whether in silver, gold, jewelry, clothing, home furnishings, or bedding, Mr. [...], our bridegroom, accepts as being worth [...] silver pieces (*zekukim*).

The groom commits to an additional sum of money, which covers his responsibility for the dowry.

4. ***Tosefet Ketuba***

It is customary for the groom to commit to an additional sum, known as the “*tosefet ketuba*.” In diaspora communities, the *tosefet* usually appears as “100 *zekukin kesef*.” In many communities in Israel, it is customary to write a specific *shekel* amount, often corresponding to a year’s salary. Many authorities caution against writing an exorbitant sum, which may be viewed as an *asmakhta* and not an honest commitment.

Our bridegroom, Mr. [...] agreed, and of his own accord, added an additional [...] silver pieces (*zekukim*) paralleling the above. The entire amount is then [...] silver pieces (*zekukim*).

The groom then summarizes the total amount that the groom accepts upon himself.

5. At the end of the *ketuba*, the groom backs up his commitment with financial insurances.

Mr. [...] our bridegroom made this declaration: “The obligation of this marriage contract (*ketuba*), this dowry, and this additional amount, I accept upon myself and upon my heirs after me. It can be paid from the entire best part of the property and possessions that I own under all the heavens, whether I own [this property] already, or will own it in the future. [It includes] both mortgageable property and non-mortgageable property. All of it shall be mortgaged and bound as security to pay this marriage contract, this dowry, and this additional amount. [It can be taken] from me, even from the shirt on my back, during my lifetime, and after my lifetime, from this day and forever.”

If necessary, the *ketuba* may be collected from the groom’s property, and even from property that he will acquire in the future.

6. Finally, the witnesses testify that the groom performed a *kinyan*, through which he commits to the obligations that appear in the *ketuba*.

This *kinyan*, known as a *kinyan sudar*, is a form of a *kinyan chlipin*. In a traditional *kinyan chalipin*, the *mokher* and *loke’ach* (seller and buyer) perform a trade; the *loke’ach* gives a *keli* (vessel/object) to the *mokher*, and the *mokher* transfers ownership of the object/property. The Rema (see Shulchan Arukh, CM, *Hilkhot Mekach U-Memkar* 195:3) writes that in the case of *matanot* (gifts), it is common for the witnesses to give the *keli* to the *mokher*, and for the *mokher* to then give the gift, legally, to the recipient.

In the case of the *ketuba*, the rabbi, serving as the agent of the bride, gives the *keli* (often a cloth, or pen) to the groom, who thereby legally commits to that which is written in the *ketuba*. The witnesses observe this *kinyan* and then sign the *ketuba*.

The witnesses sign their names, testifying that they witnessed the proper execution of the *ketuba*.

And we have completed the act of acquisition from Mr.[...] son of [...] our bridegroom, to Ms. [...] daughter of [...], regarding everything written and stated above, with an article that is fit for such a *kinyan*. And everything is valid and confirmed.

We will discuss the details of filling out the *ketuba* and performing the *kinyan* in a future *shiur*.