**YESHIVAT HAR ETZION**

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

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**LIFECYCLES – HILKHOT ISHUT**

**Rav David Brofsky**

**Shiur #27: Laws of the Wedding**

***Shana Rishona*: The First Year of Marriage**

**The Prohibition of Going to War during the First Year of Marriage**

**Regarding the first year of marriage, the Torah (*Devarim* 24:5) teaches:**

**When a man has taken a bride, he shall not go out with the army or be assigned to it for any purpose; he shall be exempt one year for the sake of his household, to give happiness to the woman he has married.**

**Unlike the others who are permitted to return from battle, such as “one who has built a new house and has not dedicated it… one who has planted a vineyard and has never harvested it… [and] one who has betrothed a woman but has not yet married her” (*Devarim* 20:5-7), a man who has just been married is completely exempt from participating in a *milchemet reshut* (a voluntary war).**

 **The Talmud (*Sota* 44a) notes that in addition to what appears to be a positive commandment (“to give happiness to the woman he has married”), the Torah mentions the prohibition twice: “he shall not go out” and “neither shall he be charged.”**

**The *gemara* asks: And since the Torah states: “Neither shall he be charged with any business,” why do I need to be taught: “He shall not go out with the army”? The *gemara* answers: The Torah adds this clause so that he will violate two prohibitions. If he goes out to war: “He shall not go out with the army,” and: “Neither shall he be charged.”**

**The *gemara* concluded that the Torah repeats the prohibition in order to teach that if the *chatan* goes out to war, he violates two prohibitions.**

 **The *Rishonim* disagree as to how to understand this. The Rambam (*Sefer Ha-Mitzvot*, neg. commandment 311), for example, lists only one prohibition:**

**For a groom not to be held liable for any type of public service – e.g., army, guarding the walls [of a city], and the like – as the *pasuk* [**[***Devarim* 24:5**](https://www.chabad.org/9988#v5)**] states: "He shall not go out to the army, nor be charged with any duties.”**

**The Sefer Ha-Chinukh similarly lists one negative commandment.**

**The Ramban, however, disagrees in his comments to the Rambam’s *Sefer Ha-Mitzvot* (neg. comm. 311), insisting that there are actually two negative commandments:**

**I maintain that there are actually two separate *mitzvot*, as one who sends a *chatan* to perform any of the labors violates the negative commandment of “he shall not be charged,” while one who sends him to war violates a different prohibition in addition to the first.**

**The Ramban appears to distinguish between sending a *chatan* to perform war-related labors on the home-front, which violates one prohibition, and sending the *chatan* out to fight, which constitutes an additional prohibition.**

**The Positive Commandment of *Shana Rishona***

 **In addition to the prohibition(s) described above, the Torah teaches that the *chatan* is supposed to “give happiness to his wife.” The *Rishonim* appear to disagree as to whether this commandment merely formulates the reason for the prohibition or whether there is an additional, unrelated commandment to “give happiness to his wife.”**

 **Some *Rishonim* describe a broader obligation. For example, the Rambam (313) writes that the *chatan* is commanded “not to leave his house – in other words, [not to] go out to business – for the entire year.” Similarly, elsewhere (pos. comm. 214), he writes:**

**The *chatan* should be alone with his wife for an entire year; he should not travel out of the city, go to the army, nor be charged with similar things. Rather, he should give her happiness through the end of the year.**

**Here too the Rambam mentions that the *chatan* should stay with his new wife and should not leave the city. This idea is found in the Sefer Ha-Chinukh (581), and the *Yereim* (228) as well. Others, as we shall see, believe that the there is no broader obligation to “give happiness” to his wife; rather, this is merely an explanation for the exemption from war.**

 **This question may relate to the *Rishonim’s* discussion regarding the reason for this *mitzva*. R. Menachem HaBavli (see Chatam Sofer EH 2:155, who cites Sefer Ta’amei Ha-Mitzvot, neg. comm. 342) explains that the Torah fears that the *chatan* will be preoccupied with his new wife and thus unable to concentrate during battle, and the Torah therefore exempts him from fighting. The Sefer Ha-Chinukh provides a different rationale:**

**It is from the roots of the commandment that God … that we should dwell with the woman that is designated for us to raise seed for a whole year from the time that he marries her. [This is] so that [his] nature becomes used to her and to have [his] desire cling to her and to bring her form and all of her acts into the [heart], to the point that all the acts of another woman are foreign to his nature, as every nature generally seeks and loves that to which it is accustomed. And from this, a man will distance his path from an [other] woman, and he will turn his thought to the woman that is fitting for him; and the offspring that she will bare him will be proper, and the world will bring up grace in front of its Creator.**

**The Sefer Ha-Chinukh insists that this *mitzva* is intended to strengthen the couple’s relationship, prevent the *chatan* from being distracted by other women, and create a proper environment within which they will raise their children.**

 **This question may also relate to a discussion among the halakhic authorities as to whether this *mitzva* applies nowadays, and if so, what its scope is and if the woman may relinquish her right to the *shana rishona* (*mechila*).**

**As noted above, the Rambam in the *Sefer Ha-Mitzvot*, as well as the Sefer Ha-Chinukh and Yereim, maintain that the husband’s *shana rishona* obligation to his wife surpasses his military exemption during the first year. However, a number of *Rishonim*, including the Semag (pos. comm. 121; neg. comm. 230) and Meiri (*Sota* 43) imply that the commandment of “he should give happiness to his wife” is simply the reason for his exemption from going out to fight, and it therefore does not apply nowadays. In the *Mishneh Torah*,the Rambam makes no mention of this *mitzva*, nor does the Shulchan Arukh. Despite the central halakhic authorities’ silence regarding this *mitzva*, numerous *Acharonim*, including the Chokhmat Adam (129:19) and Kitzur Shulchan Arukh (149:13), apply this *mitzva* nowadays.**

**Scope of the Obligations of *Shana Rishona***

 **The most practical and discussed ramification of this *mitzva* relates to whether it is prohibited for a husband to be separated from his wife for an extended period during their first year of marriage. A number of *Rishonim* write that a husband should not travel and separate from his wife for the entire year (see Chokhmat Adam 129:19; Kitzur Shulchan Arukh 149:13), even for the purpose of his livelihood (see Binat Adam 129:37). As we saw above, the Rambam (*Sefer Ha-Mitzvot*, neg. comm. 311) and Sefer Ha-Chinukh (ibid.) mention not leaving even for the sake of *parnasa.* (See Radbaz 1:228 who insists that what is recorded as the Rambam’s view is a scribal error.)**

**Others maintain that the husband may travel during the first year of marriage. For example, the Minchat Chinukh (482) observes that the Sefer Ha-Chinukh’s position has no support in earlier sources. This is the position of the Chatam Sofer (2:125), as well as those *Rishonim* mentioned above who do not accept that such a prohibition exists at all. Some permit leaving one’s wife for the sake of livelihood (Radbaz ibid.).**

**Some *Rishonim* suggest that the wife may forgo this *mitzva* and allow her husband to travel during the first year (see two opinions cited in the Sefer Ha-Chinukh ibid.), but a number of *Acharonim* (see Chokhmat Adam and Kitzur Shulchan Arukh ibid.) reject this opinion.**

**The Arukh Ha-Shulchan (EH 64:4) explains that the *mitzva* to “give happiness” to one’s wife does not refer to actual “*simcha,*” but rather to “bring her enjoyment and fulfill her wills any way possible.” This additional effort is meant to form the building blocks of their relationship, from which they will benefit throughout their entire lives.**