**YESHIVAT HAR ETZION**

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

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**LIFECYCLES – HILKHOT ISHUT**

**Rav David Brofsky**

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In memory of Rebbetzin Miriam Wise, Miriam bat Yitzhak veRivkah z”l,

whose *yahrtzeit* is on 9 Tevet.

By Rav Yitzchak and Stefanie Etshalom

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**Shiur #07: *Nisu’in***

**Introduction**

[Last week](http://etzion.org.il/en/shiur-06-kiddushin-1), we noted that there are two parts, or two stages, to a halakhic marriage: *kiddushin* (*eirusin*) and *nisu’in*. The first part, *kiddushin*, is achieved in one of three ways: *kesef* (giving something worth at least a *peruta* to the woman), *shetar* (a marriage document), or *bi’ah* (sexual relations performed with the intention of marriage). The act of *kiddushin* must also include a statement of intent, as well as two witnesses.

We studied the primary means of *kiddushin*, *kiddushei kesef*. We discussed its source (*Kiddushin* 2b), including whether *kiddushei kesef* is of Biblical or Rabbinic origin (see, for example, Rashi, *Ketubot* 3a, s.v. *shavya*; see also Rambam, *Hilkhot Ishut* 1:2, who describes *kiddushei kesef* as “*mi-divrei sofrim*,” and a responsum (Blau 355) in which he insists that laws that are derived from verses are called *divrei sofrim*, but their status is Biblical).

We also explored the nature of this formal act, especially in light of the different terms used to describe *kiddushin* (*kinyan* and *kiddushin*), and we suggested two understandings. Just as an act of *kinyan* entails the buyer giving the seller money in order to create a legal relationship with the object, a man similarly becomes legally connected to a woman, and her ability to remarry may even be “acquired” (*kinyan issur*) through the act of *kiddushin.* Alternatively, we might suggest that the transfer of money itself does not affect the change of status. Rather, the benefit that the woman receives convinces her to devote herself to her husband. This approach is especially compelling in light of the numerous passages that imply that benefit (*hana’ah*) alone can create *kiddushin* (see *Ketubot* 102b; see also *Kiddushin* 3a-3b).

This week, we will focus on the halakhic significance of *nisu’in*. After *kiddushin*, the couple is considered to be “married,” and the woman therefore cannot marry another man (*tefisat kiddushin*), and the relationship can only be terminated through a *get*. However, after *nisu’in* the punishment for adultery is different, a husband may annul his wife’s vows, and if he is a *Kohen*, he must become impure for his wife’s burial (*Kiddushin* 10a). It appears that *kiddushin* initiates a formal, legal relationship between a man and woman, while *nisu’in* and its halakhic ramifications reflect the more intimate relationship between husband and wife.

This *shiur* will attempt to understand the mechanism of *nisu’in* and when and how it is accomplished.

**Nature of *Nisu’in***

We already described *nisu’in* as initiating the more intimate aspect of marriage. What kind of process creates this new layer of relationship? Technically, what act constitutes the beginning of *nisu’in*? We can identify two broad approaches in the *Rishonim*.

Some *Rishonim* appear to maintain that an act or situation that reflects the most intimate aspect of marriage – sexual relations – functions as the beginning of *nisu’in*. Indeed, the verse “when a man takes a wife and is intimate with her” (*Devarim* 24:1), which describes these two stages of marriage, identifies *nisu’in* with *be’ila*, intimacy or sexual relations. For example, the Rambam (*Hilkhot Ishut* 10:1) writes:

Even when [the husband] consecrated [his *arusa*] by having sexual relations with her, he is forbidden to engage in sexual relations with her again until he brings her to his home, enters into privacy with her, and thus singles her out as his [wife]. [Their entry into] privacy is referred to as entry into the *chuppa*, and it is universally referred to as *nisu'in*. When a man has relations with his *arusa* for the sake of [establishing] *nisu'in* after he has consecrated her, the relationship is established at the beginning of sexual relations. This causes her to be considered his wife with regard to all matters.

The Rambam appears to believe that one can achieve *nisu’in* either through marital relations or even after *yichud* (seclusion), known as the *chuppa*. It is not surprising, therefore, that the Rambam maintains that this seclusion must be “*reuy le-bi’a*.” Therefore, if the bride is currently in a state of ritual impurity (after menstruation), and they are thus prohibited from having marital relations, the *nisi’un* is not achieved:

Once an *arusa* has entered the *chuppa*, her husband is allowed to have relations with her at any time he desires, and she is considered to be his wife with regard to all matters. Once she enters the *chuppa*, she is called a *nesu'a*, although [the couple] has not engaged in sexual relations.

[The above applies when] it is fitting to engage in relations with the woman. If, however, the woman is in the *nidda* state [when relations are forbidden], the marriage bond is not completed and she is still considered to be an *arusa*,although she entered the *chuppa* and remained in seclusion [with her husband].

This issue is subject to debate (see Shulchan Arukh, EH 61:1). We will discuss this specific issue on another occasion.

Others suggest that *nisu’in* is achieved not be an act of (or a situation which enables) marital intimacy, but in a more formal manner that reflects their marital relationship. For example, The Ran (*Ketubot* 1a, s.v. *oh*) cites a view that describes *nisu’in* as the bride entering the husbands “domain” (see also Hagahot Ha-Gra, Shulchan Arukh, EH 55:9). Interestingly, some *Rishonim* (see Tosafot, *Yoma* 3b, s.v. *le-chada*) maintain that *nisu’in* is marked by the bride going out with her special head covering (*hinuma*). This view is somewhat curious, as according to our custom, the *nisu’in* would thus be performed at the “*badeken*” (when the *chatan* lowers the veil over the bride’s face), which is performed before the *kiddushin*.

These approaches lead us to ask a number of important and relevant questions. First, must the *kiddushin*, by definition, precede the *nisu’in*? In other words, does the *nisu’in* add another layer to, and thus complete, the marriage process, or do both the *kiddushin* and *nisu’in* reflect (and initiate) different aspects of the marriage, so that theoretically, the *nisu’in* may be performed before the *kiddushin*? The Mishneh La-Melekh (*Hilkhot Ishut* 10:2) discusses this question (see also Hagahot Mordekhai, *Kiddushin* 2:546.) Similarly, the *Acharonim* (see Ohr Sameach, *Hilkhot Ishut* 10; Avnei Nezer 38:17) discuss whether the *nisu’in* requires witnesses (*edim*). Some explain that if the *nisu’in* is simply an expression of their marital relations, then there would be no need for witnesses, but if it is achieved by another formal act, it may require witnesses.

The Shulchan Arukh (EH 55:1) cites a number of views regarding the definition of *nisu’in*/*chuppa*. R. Yosef Karo writes:

This seclusion (*yichud*) is known as entering into the *chuppa,* and it is called marriage in all places.

R. Moshe Isserles (Rema) adds:

There are those who say that the *chuppa* is not considered seclusion. Rather, the groom must bring her into his house for the purposes of marriage (*Ran* at the beginning of *Ketubot*).

And there are those who say that the *chuppa* is when they spread a cloth over her head at the time of the blessing, and there are those who say that a virgin's *chuppa* is when she goes out in a headdress, and for a widow when they become secluded.

The Rema concludes:

The simple custom nowadays is to call the *chuppa* a place where they place a cloth on poles and bring the groom and bride underneath in public, and he betroths her there and they say the blessings of betrothal and marriage, and then they walk them to their house and they eat together in a secluded place. This is how the *chuppa* is done now.

Incidentally, there are different customs regarding whether to arrange *yichud* after the wedding ceremony. Traditional Ashkenazic custom, as mentioned above, is that the *chatan* and *kalla* are secluded after the *chuppa*, and this is witnessed by *edim*. Sephardim generally do not follow this practice. We will return to this issue when we discuss the practical aspects of a wedding.

Next week, we will discuss the third fundamental component of the wedding – the *ketuba*.