**YESHIVAT HAR ETZION**

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

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**LIFECYCLES – HILKHOT ISHUT**

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**Shiur #18: Laws of the Wedding (8)**

**Customs and Laws of the Wedding**

**Introduction**

[Last week](http://etzion.org.il/en/laws-wedding-7-customs-and-laws-wedding)**, we discussed the role of *eidim* (witnesses) in the marriage ceremony. We noted that according to the Talmud (***Kiddushin* 65a; see also Shulcḥan Arukh, EA 42:2**), *kiddushin* that is performed in front of only one witness is not valid. This led some** *Acharonim* to explain that unlike *dinei mamonot* (cases of financial matters), the *eidim* not only testify as to what they saw, but their mere presence enables the change of legal status. This is known as “*edut le-kiyum ha-davar*.”

We discussed the qualifications of the witnesses and how witnesses may be disqualified due to their identity, physical or developmental state, their behavior, or their relationship to the *chatan*, *kalla*, or each other.

Finally, we mentioned that it is customary to designate witnesses under the *chuppa*. This practice is most likely based on an opinion cited by the Ritva (*Kiddushin* 43a, s.v. *itmar*). According to this view, the principle of “if one of them is found to be a relative or is otherwise disqualified, their entire testimony is voided” applies to the *kiddushin* performed at the wedding ceremony. In other words, if there are relatives present at the giving of the *kiddushin*, all *eidim* who witnessed the ceremony are disqualified. Therefore, “whenever there are valid and invalid witnesses at the (*kiddushin*) ceremony, it is necessary to designate the *eidei kiddushin*, because if not, since there is an invalid witness among them, the testimony of all of them is disqualified.” By designating witnesses to the exclusion of others, the “*kat*” of *eidim*, which does not include disqualified witnesses, is defined.

In truth, the halakha is in accordance with the view of Tosafot (cited in Rema 42:4), and we are therefore not concerned that “if one of them is found to be a relative or is otherwise disqualified, their entire testimony is voided.” There is thus no need to designate *eidim*. Nevertheless, a number of *Acharonim* (see, for example, Radvaz 2, ch. 707; Shakh, CM 36:8; Beit Meir 42:2; Ketzot Ha-Choshen 36:1) record that it is customary to designate the *edei kiddushin*. The Arukh Ha-Shulchan (EH 42:31) explains that “[since] those who are at the wedding ceremony are often distracted by the wedding music, and they do not witness the actual *kiddushin*, [witnesses are designated] in order that two witnesses should see the *kiddushin*… and since those standing under the *chuppa* who see the *kiddushin* are generally related to each other, and those who are valid *eidim* generally stand far from the *chuppa* and do not at all see the *kiddushin*… it is proper for the *chatan* to designate the witnesses however in order to spare him this embarrassment and responsibility it is proper for the officiating rabbi to designate the *eidim*.” If the *eidim* were not designated, and other people witnessed the *kiddushin* ceremony, the wedding is still valid (see Otzar Ha-Poskim 22:25:6).

Interestingly, the *Acharonim* disagree as to whether designating the witnesses excludes specifically disqualified people from the appointed group of *eidim*, or whether it also disqualifies and excludes all other people witnessing the wedding ceremony. This question arises when one of the two appointed witnesses turns out to be disqualified. Can other guests then be counted as *eidim*? While some *Acharonim* maintain that under these circumstances, the wedding is invalid and the *kiddushin* must be performed again (see Mahari Weil; see also Minchat Asher 2:82), others maintain that the other guests may serve at witnesses and the wedding is valid (see Mahari ben Lev 1:17:101; Iggerot Moshe EA 4:46).

**The Wedding Ring**

It is customary to perform the *kiddushin* through *kiddushei kesef* (Rambam, *Hilkhot Ishut* 3:21). A man betroths a woman by giving her money, or something of financial value, worth at least a “*peruta*.”

The custom to perform *kiddushei kesef* with a ring dates back to at least the Geonic era (Teshuvot Geonim, Harkabi 65). The Sefer Ha-Chinukh (*mitzva* 592) cites this custom as well:

And given that which what I mentioned is the foundation of the commandment, Israel is accustomed to perform the betrothal with a ring, so that it be a constant commemoration on her hand, even though it is possible to betroth her with the value of a small coin (*peruta*) alone.

Rema (EA 27:1) cites this practice in the name of the Tikunei Zohar.

The Mordekhai (1240-1298), in his commentary to *Kiddushin* (488), mentions that it is customary to use a gold ring for *kiddushin*. The *Rishonim* discuss whether the *kiddushin* is valid if the *kalla* believed that the ring she receives is made from gold, when it is really made of silver or copper (see Otzar Ha-Poskim 31:15). Therefore, one should not use a gold plated silver ring for the *kiddushin*. Similarly, one should not use a ring with an inscription, nor should one use a ring with a stone, as the ring’s value is not clearly apparent, and the *kalla* may not wish to be betrothed with a ring of a lesser value than she thought (see Shulchan Arukh, EA 31:2 ).

The ring must belong to the *chatan*. Thus, the groom must pay for the ring, and he cannot use a ring which was stolen or borrowed (Rosh 35:2; Shulcḥan Arukh 28:19), or which was given to the *chatan* as a conditional gift (*matana al menat le-hachzir*, see Shulchan Arukh ibid. 20).

Sometimes, a *chatan* is given a ring by his parents, or others. He may use this ring for *kiddushin* if it is given to him as a gift and he performs a proper *kinyan* by raising the ring three *tefachim* (see Arukh Ha-Shulchan 28:84), or if it fits completely into his hand (see Netivot Ha-Mishpat, CM 198:3).

What if the *chatan* borrowed a ring in order to use it for the *kiddushin*? The Rosh (*Kiddushin* 1:20; see also Mordekhai, *Kiddushin* 545) asserts that since the ring was lent to the *chatan* with the awareness that it was to be used for the *kiddushin*, “we attest to the fact that [the lender] had full intention to give it to him in manner acceptable for *kiddushin*, so that the woman would be betrothed with it.” This ruling is partially based on another passage in the Talmud (*Moed* *Katan* 26b), which teaches that if Reuven lends Shimon a shirt so that Shimon can visit his sick father, and when Shimon arrives at his father’s house he finds that his father has passed away, he may perform *keri’a* and tear the shirt (and then pay Reuven for the damage caused). This implies that Reuven lent the shirt with the intention that if Shimon were to become a mourner, the shirt would be considered his and he may perform the mitzvah of *keri’a*.

The Rashba (3:273) disagrees and explains that while one who lends his shirt to his friend gives him implicit permission to tear the shirt, it is not viewed as a gift. Therefore, regarding the case of *kiddushin*, the ring did not belong to the *chatan*, and the *kiddushin* are thus not valid.

Although the Shulchan Arukh (EA 28:19) rules in accordance with the Rosh, many *Acharonim* write that one should take the position of the Rashba into account (see Avnei Nezer, EA 136; Yabi’a Omer, EA 6:6).

If the ring belonged to the *kalla*, before the ceremony, it must be given to the *chatan* with the intention that it belongs to him. However, if the *kalla* did not properly “give” the ring to the *chatan*, even the Rashba rules that “when they have been designated for marriage, and she accepted it with the intention to be betrothed, we can testify to the fact that it is fine with her and that she has resolved in her heart that the ring should be his” (based on a different passage in *Kiddushin* 13a). Some *Acharonim* (see Chatam Sofer, *Gittin* 20b; Beit Shmuel, EA 124) disagree and cite a different passage that appears to contradict this ruling (see *Gittin* 20b).

If the *kiddushin* was performed with a borrowed ring, even if the *kalla* lent her ring to the *chatan* for the *kiddushin*, some *Poskim* rule that the *kiddushin* should be performed again with a ring fully owned by the *chatan*. (See R. David Stav and R. Avraham Stav, *Sefer Avo Beitekha*, ch. 18.)

The *mesader kiddushin* asks the witnesses under *chuppa* if the ring is worth a *peruta* (Rema 31:2), and he should ensure that the *chatan* fully acquires the ring (see Beit Shmuel 28:49).

**The *Kiddushin***

It is customary to say the following formula before giving the ring to the *kalla*: “*Harei at mekudeshet li be-taba’at zo ke-dat Moshe ve-Yisrael*,” “Behold you are consecrated unto me with this ring in accordance with the law of Moshe and [the People of] Israel.” This text is cited by numerous *Rishonim* (see *Sefer Ha-Manhig*, *Hilkhot Eirusin*; Maharam Mintz 109; Shulchan Arukh and Rema 27:1). The *chatan* and *kalla* must know the meaning and intention of this sentence. Some *mesadrei kiddushin* say the above formula and the *chatan* repeats after him.

Although the *kalla* must willingly accept the ring and wish to be married, she does not generally respond to the *chatan’s* statement (see *Kiddushin* 13a and *Maharam Mintz* 109). While she may answer “yes” or “I wish to be betrothed to you,” if she says “Behold you are consecrated unto me” to the *chatan*, some question the validity of the *kiddushin* (see Otzar Ha-Poskim 27:40:3).

It is customary for the *chatan* to take the ring in his right hand; if he is left-handed, he takes the ring in his left hand (see Be’er Heitev 27:1). The *kalla* extends the index finger of her right hand (see *Rokeach* 351), even if she is left-handed, as the right hand symbolizes love (Tikunei Zohar 21). Although it is customary to perform the *kiddushin* in this manner, if the ring is given or received in a different manner, it is certainly valid (see Arukh Ha-Shulchan 27:4).

**A *Chatan’s* Ring and a Double Ring Ceremony**

In recent years, it has become quite common for married men to wear wedding rings, and some couples even insist that the *kalla* present the ring to the *chatan* as part of the wedding ceremony. Are these practices halakhically valid and/or permissible?

Some suggest that a man wearing a ring may be a violation of the biblical verse, “Like the practice of the land of Egypt, in which you dwelled, you shall not do, and like the practice of the land of Canaan, to which I am bringing you, you shall not do, and you shall not follow their statutes” (*Vayikra* 18:3). The Rambam (*Hilkhot Avoda Zara* 11:1) describes how one should not imitate the non-Jews, “not their manner of dress, nor their haircuts.” It appears, however, that one only violates this prohibition by adopting a practice of behavior that has no apparent reason, simply in order to be similar to the non-Jews (Maharik 88; see Rema, YD 178:1). R. Moshe Feinstein (Iggerot Moshe, EA 4:32:2) rules that wearing a wedding ring is not a violation of this prohibition.

Others suggest that wearing a wedding ring may violate the biblical prohibition of “nor may a man wear a woman's garment, because whoever does these [things] is an abomination to the Lord, your God” (*Devarim* 22:5). However, due to the fact that men’s rings are different than women’s rings (see Yabi’a Omer, YD 6:14), as well as the fact that rings are no longer perceived as “women’s clothing,” there appears to be no halakhic objection to a man wearing a wedding ring.

May the *kalla* give the *chatan* a ring during the wedding ceremony? In a number of response, R. Moshe Feinstein (Iggerot Moshe, EA 3:25; 4:13) dealing with weddings performs by Reform and Conservative rabbis, notes that among the many reasons to invalidate these weddings, “the fact that she is giving [the ring] demonstrates that his giving the ring was only a gift, and not in order that they should be become man and wife.” Elsewhere, however, he upholds weddings performed in this manner, and he rules that if an Orthodox rabbi is coerced into permitting this ceremony, the wedding is valid.

R. Feinstein (ibid. 3:18) objected to the “double ring ceremony” for numerous reasons. First, he feared that it may violate “*chukat ha-akum* (see above). Second, he was concerned that people might think that a woman giving the *chatan* a ring is an integral part of the ceremony. Finally, people may forget that a halakhic *kiddushin* is only one-sided, i.e. the man offers *kesef kiddushin* to the *kalla*. R. Soloveitchik (see Mi-Peninei Ha-Rav 272) and other *poskim* similarly object to a two ring ceremony.

Nevertheless, R. Feinstein (Iggerot Moshe, EA 4:13) writes that when the *mesader kiddushin* feels that there is no other choice, the *kalla* may give the *chatan* a ring and the rabbi explains that the official ceremony is completed. Similarly, R. Yaakov Ariel advised Tzohar rabbis, who perform weddings primarily for non-religious Jews, that they may permit the *kalla* to present the *chatan* with a ring before the breaking of the cup, at the end of the ceremony. Indeed, this is the practice at many “*chiloni*” weddings. However, it appears that the preferred practice is not to incorporate an additional giving of a ring into the *kiddushin*.

Next week, we will discuss the reading of the *ketuba* and the *sheva berakhot*.