**Regarding Several Wedding Practices Mentioned at the Beginning of *Ketubot***

**Harav Yaakov Medan[[1]](#footnote-1)**

**Introduction**

 *Ketubot* is considered one of the most challenging tractates in the Babylonian Talmud. Its first two chapters are especially favored by *talmidei chakhamim*, and they are generally integrated in the cycle of tractates studied in the *yeshivot gevohot*. On the other hand, *Ketubot* is not included in the cycle of tractates generally studied in yeshiva high schools. Its first two chapters are filled with discussions regarding *miggo*, “the mouth that forbade is the mouth that permits,” “a majority that is before us,” “a majority that is not before us,” *chazakot me-ikara*, *chazakot de-hashta*, *umdena*, the force of two witnesses, the force of a single witness, *kavu’a*, and many other concepts that form the very foundation of Talmudic scholarship.

 The drawback of studying the aforementioned chapters from the student’s perspective is the intense preoccupation with laws and customs governing the wedding ceremony with respect to matters that have no practical relevance whatsoever in the student’s life. The issue of the husband’s claim before a court on the day after the wedding that he found that his wife was not a virgin at the time of marriage, the questions of whether the woman’s hymen was ruptured as the result of an injury or as the result of intercourse, whether she had engaged in sexual relations prior to her betrothal or during the period between betrothal and marriage, whether the husband is capable of detecting that his bride is not a virgin, whether he is capable of having intercourse with a virgin without causing bleeding, and the rest of the issues discussed in the Gemara are embarrassing sexual questions. As stated above, today these questions have no practical ramifications, and it is because of them that *Ketubot* is not studied in yeshiva high schools. Even in the *yeshivot gevohot*, the *shiurim* relate exclusively to the theoretical dimensions of the cases in the Gemara (*miggo*, *rov*, *chazakot*, and the like), but the Gemara itself has no existential meaning for the student.

It seems to me that such a situation with respect to God’s Torah is impossible. In my eyes, Torah study is an authentic three-way encounter between the word of God and the real world, in which God’s word and Halakha are applied, and between the two of them and the Torah student. When the reality that is encountered by Halakha fails to meet and speak to the student, the Torah study does not create the aforementioned three-way encounter, and it is left limping.

 I have therefore chosen to discuss an issue relating to the first mishna in *Ketubot* and to another mishna appearing later in the chapter, and to the Gemara attached to the two of them:

A virgin is married on Wednesday, and a widow on Thursday, for twice a week the courts sit in the towns, on Monday and on Thursday, so that if the husband has a claim concerning her virginity, he can go early [the next morning] to court.

If someone eats at his father-in-law’s home in Judea without witnesses, he cannot make a claim about [the bride’s] virginity, because he is secluded with her.

Even though the Gemara relating to these *mishnayot* is filled with the theoretical principles mentioned above and they constitute its core, I will not deal with them in this article, but rather with the real-life circumstances that comprise the background of the passage. In other words, I will be dealing with the following questions: What led to the difficult situation in which so many brides were suspected of having already engaged in intercourse, even though they entered into marriage on the presumption of being virgins? Why did this so trouble the Sages of the Mishna and require so many enactments? How are we to understand the situation in which a man marries a woman and the next day he is suspected of trying to free himself of her with the false claim that he found her not to be a virgin? And most importantly, why is it important for a student to spend his days and nights on an issue that is not relevant to him and will never be relevant to him, apart from the abstract principles that may be derived from it?

**The Roman Decrees**

From the words of the Tannaim in various places, we know of decrees that were issued by the Roman authorities against Torah observance, especially during the days of the emperor Hadrian. These decrees were made both prior to the Bar Kokheva revolt and served as one of its causes; after the revolt, these decrees served as punishment. A series of decrees were issued in an attempt to destroy the Jewish family. To a certain degree, these decrees bring to mind Hadrian’s harsh decrees against circumcision, the substance of which is the sanctity of the Jewish family.

 The decrees that are familiar to us are primarily the prohibition of marriage and its adjuncts, and a prohibition of divorce with a *get* according to Jewish law. We shall not deal here with the prohibition of divorce with a *get*, but merely cite a few examples:

If she produced a *get* without a *ketuba*, she is entitled to collect the amount of her *ketuba…* Rabban Shimon ben Gamliel said: Since it is a time of danger, a woman is entitled to collect her *ketuba* without a *get* and a creditor is entitled to collect [his debt] without a *prozbul*. (*Ketubot* 9:9)

We have learned in the mishna (*Gittin* 6:2): A woman who says [to an agent], “Receive my *get* for me,” requires two sets of witnesses: two to say, “In our presence she told him,” and two to say, “In our presence he received and tore it…” Why must he tear it? R. Yehuda said that Rav said: This was taught in the time of persecution. (*Gittin* 64a)

Originally, they said that [a woman] who produces a *ketuba* must produce a *get* with it; these are the words of R. Meir. But the Sages say: From the time of danger they enacted that she should tear it in the court and collect with it. (*Tosefta*, *Ketubot* 9:6)

 It would seem that the mishna in *Ketubot* that was cited earlier deals with a law that applies at all times. But the background of this law is a decree that was enacted banning marriage in accordance with Jewish law.

Why did they say that a virgin is married on Wednesday? So that if he [the husband] has a claim concerning [her] virginity, he can go early to court. If so, let her be married on Sunday? Rather, because he prepares what he needs all the days of the week, they enacted that he should marry her on Wednesday. From the time of danger, they were accustomed that he should marry her on Tuesday, and the Sages did not object. (*Tosefta*, *Ketubot* 1:1)

The accepted explanation notwithstanding, I find it difficult to assume that the Roman decree related exclusively to marriage taking place on Wednesday and that its entire objective was to nullify this enactment of the Sages. It is more reasonable that the decree related to all marriage, but the authorities sent out inspectors only on Wednesday because that was the day on which weddings would regularly take place owing to the rabbinic enactment mentioned in the mishna. During a time of persecution, the Sages permitted people to marry in secret on a different day so that they would not be caught.

 What was the punishment meted out to someone caught marrying a woman? The Gemara (*Ketubot* 3b) explains:

What is [meant by] “danger”? If we say that they said: A virgin who is married on Wednesday shall be put to death, [would it say], “they were accustomed [that he should marry her on Tuesday]?” We should abolish it [i.e., marriage on Wednesday] entirely! Rabba said: [The meaning of “danger” is that the Romans] said: A virgin who is married on Wednesday must have sexual intercourse with the [Roman] ruler first.

The Babylonian Talmud understands that if marriage constituted a mortal danger, the Sages would have entirely abolished the enactment to marry on Wednesday. The implication is that the danger must be on a lower level, namely, that the virgin would “only” have to have sexual intercourse with the ruler first, and women could usually evade such a decree.[[2]](#footnote-2) That they could evade having intercourse with the ruler but they could not evade a death sentence can be explained as follows: there is a limit to the number of women with whom the ruler can or wishes to have sexual intercourse, but there is no limit to the number of women that could be put to death for violating the decree. Furthermore, putting one’s life in danger was absolutely unacceptable in the eyes of the Gemara, but exposing oneself to the danger of intercourse was more acceptable.[[3]](#footnote-3)

 All this, however, fits in with the accepted understanding of the Babylonian Talmud – that the Roman decree was limited to marriage on Wednesday. According to my understanding of the *sugya* – namely, that the Roman decree related to all marriage but on Wednesday the authorities would send inspectors to oversee the decree – it would seem that it would be better not to entirely abolish the enactment to marry on Wednesday, even if this involves a mortal danger. For it was precisely the existence of the enactment that provided cover for those who married women on Tuesday.

 Inasmuch as the *Yerushalmi* (1:1; 24d) does not specify otherwise, it would seem that it understands that we are dealing with a threat of execution.[[4]](#footnote-4) This is the general meaning of the term “*sakkana*,” and the *Bavli* too initially explained thus until it rejected this understanding due to a question.

 It is not necessary to say that the *Bavli* and the *Yerushalmi* disagree. For it is possible that prior to the revolt, violation of the decree carried the punishment of sexual intercourse with the ruler, whereas following the revolt the decree became more stringent, and henceforth carried the punishment of death for any woman married in accordance with Jewish law. If my understanding of the *Yerushalmi* is correct, then the disagreement between the two Talmuds might be limited to the question of when the enactment mentioned in the aforementioned *Tosefta* was made – at the beginning of the revolt or during the period following the defeat, when the Roman decrees were intensified. Proof to this may be derived from the fact that the *Yerushalmi* was familiar with the decree to have intercourse with the ruler:

And they decreed that the Roman officer should have intercourse with her first. They enacted that her husband should have intercourse with her while she is still in her father’s home; since she knows that her husband’s fear is upon her, she will be dragged [to the Roman officer by force]. In any event, will she not in the end have intercourse with the Roman officer? She is under compulsion, and a woman [who had intercourse with another man] under compulsion is permitted to her husband. (1:5, 25c)

In any event, the decree seems to have been connected to the Bar Kokheva revolt, for it was mainly enforced in Judea, the center of the revolt:

If someone eats at his father-in-law’s home in Judea without witnesses, he cannot make a claim about [the bride’s] virginity, because he is secluded with her. (*Ketubot* 1:5)

This point is made in greater detail in the *Tosefta* (1:4), as attested to by R. Yehuda, who lived in the generation following the defeat in the Bar Kokheva revolt:

R. Yehuda said: In Judea, originally, they used to search the bridal chamber and the bridegroom and the bride three days before [entering] the bridal chamber. But in Galilee they did not do so. In Judea, originally, they used to leave the bridegroom and the bride to be secluded one hour before [their entry into] the bridal chamber, so that he would become familiar with her. But in Galilee they did not do so. In Judea, originally, they used to appoint two groomsmen, one of the bridegroom’s and one of the bride’s family, but nevertheless they would appoint them only for the marriage. But in Galilee they did not do so. In Judea, originally, the groomsmen used to sleep in the place where the bridegroom and the bride slept. But in Galilee they did not do so.[[5]](#footnote-5)

 If follows from both Talmuds that the seclusion prior to the marriage ceremony and the various examinations to which the bridegroom and the bride would be subjected were because of the decree to have intercourse with the ruler in Judea.

 A few words are in order about the enactment regarding the father-in-law’s home in the mishna. It would seem from the Gemara that the eating in the home of the father-in-law was nothing but seclusion with the bride (similar to the custom among Ashkenazim to seclude the bridegroom and bride for a meal after the wedding ceremony, only that they would do this prior to the wedding ceremony), so that he should become familiar with her and therefore not detest her after she has forced intercourse with the ruler. But they did not seclude the two so that the bridegroom should have intercourse with his bride before the ruler did, for it is obvious that if he must have intercourse with her, he cannot later make a claim regarding her virginity, as argued by the mishna.[[6]](#footnote-6)

 On the other hand, according to the *Yerushalmi* cited above, it would seem that the Sages enacted that the bridegroom should have intercourse with his bride before she was taken away by the ruler. It is possible that this is the difference between the “*hegemon*” mentioned in the *Bavli* and the “*istratius*” mentioned in the *Yerushalmi*. The “*hegemon*” was the ruling governor, whereas the “*istratius*” was a military officer. Perhaps there were two decrees: 1) to have intercourse with the “*hegemon*,” but he had intercourse with only a minority of the women, for he was only a single person. The Sages thus contented themselves in Judea with the enactment that the bridegroom should seclude himself with the bride for a meal, without requiring that he have intercourse with her prior to the wedding, as follows from the *Bavli*. At a later stage, the brides were handed over to the military officers, of whom there were many, and therefore they could have intercourse with many brides. At that point, the Sages enacted, as is stated in the *Yerushalmi*, that the bridegroom should have intercourse with his bride before she would be taken by the officer, while he is “eating in the home of his father-in-law,” as stated in the mishna, and thus before his entry into the bridal chamber at the time of marriage.

 If what I said is correct (and there are various ways to reject my arguments, though in my opinion they are forced), there were three stages with respect to the decrees issued during the days of Hadrian against the building of a Jewish family. During the first stage – I conjecture that this was at the beginning of the hostile actions against the Roman authorities, perhaps at the beginning of the twenties of the second century C.E. – a decree was issued that any woman who was married in Judea (specifically) would be taken the first night to the house of the ruler for “interrogation and a warning,” as it were. There, the ruler would do with her as he pleased. The Sages of the Mishna[[7]](#footnote-7) then enacted, as stated in the *Bavli*, that the bridegroom should eat a meal at the home of his father-in-law, and during this meal he should seclude himself with his bride so that he should become familiar with her, and also so that his fear should be cast upon her. The relationship that would develop between the bride and her groom would ensure that she would not be willingly seduced by the ruler, even if he threatened her. If she did not allow herself to be seduced, the ruler might leave her alone. Even if he forced himself upon her, she would still fall into the category of a woman who engaged in intercourse under compulsion, who is permitted to her husband. At the same time, the bridegroom would feel closer to his bride, and the suspicions arising the next day about what happened the previous night in the ruler’s house would not bring him to detest her; he would take her as his wife despite his suspicions. During this period, people began to ignore the Sages’ enactment that the wedding ceremony should take place specifically on Wednesday in order to evade the ruler’s informers, and the Sages raised no objections, as stated in the *Tosefta*.

 During the second stage – which I conjecture coincided with the intensification of hostile activities toward the middle or even the end of the twenties of the second century C.E., when additional Roman legions arrived in *Eretz Yisrael* to suppress the rebellion – all the decrees became more severe, including the decree against establishing a Jewish family. The commanders of the legions and their crew of aides were wont to use the native women in the conquered lands for their sexual pleasure. In other countries, the women oftentimes cooperated with them. The harshening of the decree led to the brides of Judea being handed over to the Roman officers. At this time, the Sages enacted that the bridegroom should not only eat a meal at his father-in-law’s home, but even have intercourse with his bride. In this way, the connection between them would be strengthened in the ways mentioned above.

 Another comment about a particular law from those difficult times (in the *Yerushalmi*, ibid.):

The wives of the *kohanim* – what would they do? They would hide themselves. Let also the wives of ordinary Israelites hide themselves! Word would go out, and the authorities would hear, and they [the wives of *kohanim*]and they [the wives of ordinary Israelites] would become mixed together.

Ordinary women could at times conceal themselves, but the Sages preferred that they submit themselves to the legionnaires in order to cover for the brides of the *kohanim*, so that the latter not become forbidden to their husbands (for the wife of a *kohen* becomes forbidden to him even if she had intercourse under compulsion, which is not the case regarding the wife of an ordinary Israelite).

A similar situation regarding a different law is also reflected in the mishna:

Similarly, if gentiles say to women: “Give us one of you that we may defile her, and if not, we will defile you all,” then let them all be defiled rather than hand over to them one soul from Israel. (*Terumot* 8:12)

The similarity between these laws lies in the mutual responsibility cast upon women to preserve each other’s purity. The enactment regarding a woman who is not married to a *kohen* not to hide herself but rather to knowingly expose herself to the danger of defiling herself through intercourse with another man in order to save thereby another woman who is married to a *kohen* required great courage and spiritual strength on the part of the Sages, and an especially strong bond of trust with the people upon whom the enactment was cast. The degree of mutual responsibility that reveals itself in this situation is also astounding.

 The third stage may have started after the actual rebellion broke out and met defeat, and after decrees were passed banning all observance of the Torah and its precepts. Marriage in accordance with Jewish law may now have been punishable by death, as the *Yerushalmi* seems to imply. It stands to reason that at this point the Sages encouraged bridegrooms to marry their brides not on Wednesday, in order to evade the informers. The *Tosefta* (according to the understanding of the *Yerushalmi*, which I understand as referring to a third stage) presents this with the words, “and the Sages did not object,” and not as a rabbinic enactment to uproot marriage on Wednesday. The Sages refrained from uprooting their original enactment so that the Romans would continue to oversee Wednesdays, and in that way those who secretly got married on other days would be saved.

**The Sages’ Enactments**

 Beyond the personal and national humiliation caused by the Roman decrees against the building of a Jewish family, these edicts had a serious effect on the preservation of matrimonial peace and harmony. The Sages of that period, through their laws and enactments, tried their very best to help and repair, but the degree of their success remains unclear. This is very broad topic, and I shall restrict myself to a few examples that will clarify with what the Sages of that period had to contend. To further that end, let us return to the *Tosefta* cited above:

R. Yehuda said: In Judea, originally, they used to search the bridal chamber, and the bridegroom and the bride three days before [entering] the bridal chamber. But in Galilee they did not do so. In Judea, originally, they used to leave the bridegroom and the bride to be secluded one hour before [their entry into] the bridal chamber, so that he would become familiar with her. But in Galilee they did not do so. In Judea, originally, they used to appoint two groomsmen, one of the bridegroom’s and one of the bride’s family, but nevertheless they would appoint them only for the marriage. But in Galilee they did not do so. In Judea, originally, the groomsmen used to sleep in the place where the bridegroom and the bride slept. But in Galilee they did not do so.

 It is the way of marriage, at least at its initial stage, to radiate a spirit of love and fidelity. The marriage described in the *Tosefta* radiates a spirit of unbearable suspicion and deception. The enactment deals with a bridegroom who acts fraudulently toward his bride, claiming that he had entered into the marriage in error because she was not a virgin on their wedding night. But why would he marry her if his intention was to fraudulently cast her from his house after their first night together? Surely he must trouble himself and lay out a great sum of money on the wedding feast! Not to mention his shame before his family and friends, whom he had invited to the feast, and regarding the presents that he received from them!

R. Yose said in the name of R. Ila: A man is not likely to make his expenses [for the wedding] and [then] slander his wife. (*Yerushalmi*, ibid.)

 We are forced to the conclusion that we are concerned that the bridegroom will change his mind after the first night, despite the fact that initially he had loved his bride. His love notwithstanding, he is liable to find her repulsive after she has been forcibly dragged off to the ruler or the military officer, even if he has no clear knowledge of what took place during the night that she was with him. In order to rid himself of her, he is liable to falsely claim that he found her not to be a virgin owing to previous promiscuity. Therefore, the Sages enacted that the groom should be searched for three days, lest he bring in another sheet to the bridal chamber in order to take it out clean of hymenal blood and claim that he had entered into the marriage in error owing to her previous promiscuity. The groomsmen remain close to the bride and groom on their wedding night in order to watch over the groom so that he not try to act fraudulently. It is very possible that the groomsmen will force him to tell the truth and continue living with his wife. But what is the future of such a marriage?

 Moreover, it follows from the *Tosefta* that we are also concerned that the bride will try to deceive the bridegroom and we set up groomsmen to watch over her as well. The *Yerushalmi* explains this as follows (ibid.):

Rather, this is how we understand [the case] where there was no examination and blood was found. She says: It is hymenal blood, and he says: No, it is the blood of a bird.

We see, then, that the possibility exists that the bride will secretly bring the blood of a bird into the bridal chamber, and use it to stain the sheet, thus concealing her previous promiscuity and loss of virginity.

According to the *Yerushalmi*, the groomsmen are not entirely believed. Rather, one of their functions is to frighten the bride into proper behavior:

Since you say it is not testimony by Torah law, they should not be appointed! Rather, that the daughters of Israel should not engage in licentious behavior. (Ibid.)

The question may be raised: why were the daughters of Israel suspected of such conduct during this particular period? It may be that the very fact that they knew that they would eventually be taken by force to the Roman officer following their wedding brought them to despair, so that they no longer felt it important to preserve their virginity for marriage, but rather they succumbed to casual pre-marital sexual relations.

**Preserving the Jewish Family**

 When we offer thanks to God on Yom Ha-Atzmaut for having granted us Jewish sovereignty in a state of our own, it is fitting to consider the issue with which we have been dealing. We should thank Him, among all the other things, for the freedom to marry in accordance with Jewish law, without having to fear the appalling experience that couples in Judea had to go through on the night that was supposed to be the happiest in their lives, their wedding night. The joy of the wedding night is important in itself. It is important sevenfold because of its contribution to the future life of cooperation, love, and friendship between husband and wife. The young married couples in the days of the Tannaim missed out on the beauty of this experience because they did not enjoy independence and Jewish rule, and they were abandoned to the whims of evil Roman emperors, corrupt rulers, and lecherous military officers who knew no boundaries.

 The difficult circumstances that bridegrooms and brides were forced to contend with could have destroyed the Jewish family. One of the great Tannaim of that period uttered these harsh words concerning the future of the Jewish family:

It has been taught: R. Yishmael ben Elisha said: … From the day that the wicked government came into power, which issues cruel decrees against us and forbids to us the observance of the Torah and the precepts and does not allow us to enter into the “week of the son” [circumcision]… we ought by right to bind ourselves not to marry and beget children, and the seed of Avraham our father would come to an end of itself. However, let Israel go their way: it is better that they should err in ignorance than intentionally. (*Bava Batra* 60b)

The celebration of marriage included fear, mortal danger, suspicions, the bride becoming repulsive to the groom, the feeling of despair and abandonment, deceptions, forcing the suspicious husband to remain in the marriage, and the like.

 The Sages had no alternative but to intervene in the intimacies of married life, with stringent supervision over the sheet used for the couple’s first union, with close chaperoning of the couple during their most intimate moments, and with halakhic intervention that bordered on prying and invasion of privacy. Our Sages sacrificed important values in order to allow the Jewish family to survive in shameful conditions and be able to wait for better times, which eventually arrived after many years had passed and after many of the Sages who had instituted these enactments were no longer among the living.

**The Continuing Relevance of the *Sugya***

 At first glance, the issue at hand is not a truly halakhic question, but rather a historical question, whose place is not in the *beit midrash*. But this is not the case! The discussion regarding the various aspects of the claim concerning the bride’s virginity deals with the entire spectrum of factors that our Sages considered when they came to rescue the Jewish family in a time of persecution. This discussion also addresses the question of priorities when forced to choose between bad and worse; of “setting aside this because of that” when abusing the right to privacy and forcing their laws to invade the private realm; and how to do this. The weight of the presumption that “a person does not make the effort of preparing a feast and then lose it,” as well as the other rationales, varies from generation to generation in accordance with changing circumstances. We still have much to learn about how the Sages decided issues based on the circumstances of their times, in order that we can learn how to lead the people and how to weigh each factor in relation to other factors.

 All this is an important discipline within Torah, and I pray that we should merit arriving at the Torah’s truth when we come to provide proper guidelines at the proper time. The road to achieve this is paved with the need to understand the weight of each *miggo*, each *rov*, each *chazaka*, each *umdena*, and many other halakhic details. But it is not only these things that we must understand. In order to apply the Torah of truth in each and every generation, we must also grasp the weight and import of the Sages’ decrees and understand their period properly.

1. Translated by David Strauss [↑](#footnote-ref-1)
2. The Re’a and other commentaries explain that “the Sages did not object” relates exclusively to the fact that they continued to marry on Tuesday even after the danger passed, but during the period of danger they certainly refrained from marrying on Wednesday. [↑](#footnote-ref-2)
3. Compare this to Avraham, who arrived with Sara in Egypt (*Bereishit* 12) and afterwards in Gerar (ibid. 20). It is possible that Pharaoh and Avimelekh did not want to take Sara as a wife, but to act in the manner of the ruler and claim the right to be the first to engage in sexual intercourse with a virgin. Thus, Avimelekh said to Yitzchak: “One of the people might easily have lain with your wife” (*Bereishit* 26:10), and not “might easily have taken her as a wife.” [↑](#footnote-ref-3)
4. This is also the understanding of S. Lieberman in *Tosefta Ki-Fshutah* to p. 56 (beginning of p. 187). [↑](#footnote-ref-4)
5. And similarly in the *baraita* cited in *Ketubot* 12a, which apparently is this *Tosefta* in a slightly different formulation. [↑](#footnote-ref-5)
6. After the wedding, he can certainly not argue that when he had intercourse with her in his father-in-law’s house she was already then not a virgin, for if this were the case, why did he marry her? [↑](#footnote-ref-6)
7. According to this time-frame, we are speaking of R. Akiva and his colleagues; R. Gamliel, R. Eliezer and R. Yehoshua possibly might have still been alive. [↑](#footnote-ref-7)