

Parshas Ki Seitzei 5772

THE HALACHIC DURATION OF SHANAH RISHONAH (THE “FIRST YEAR”)

In connection with the laws governing the standing army, we find that the Torah grants exemption to the *chassan* (groom). The Mishnah in Sotah (8:2) states:

וְאֵלוּ שְׂאִין זָזִין מִמְקוֹמוֹן... הַנּוֹשֵׂא אֶת אֲרוּסָתוֹ... שְׁנֵאֲמַר
נָקִי יִהְיֶה לְבֵיתוֹ שָׁנָה אַחַת... וְשִׂמַּח אֶת אִשְׁתּוֹ... אֵינָן
מִסְפָּקִין מִיָּם וּמִזֶּוֹן וְאֵינָן מִתְקַנְנִין אֶת הַדְּרָכִים:

“The following need not leave their place: ...One who (has recently) married his betrothed... as it states (in this week’s *parshah*): ‘He shall be free for his home for one year... and shall rejoice with his wife..’ (*Devarim* 24:5). These individuals need not engage in supplying water and food (to the troops), nor in road repair.” (This is in contrast to a groom who is merely engaged but has not yet married. While exempt from actual fighting, he still must help supply rations and repair roads (*Mishnah, Sotah, 8:2*).

According to the *Sefer Hachinuch* (*mitzvah* 582), this Biblical injunction (“He shall be free... for one year”) is in effect even today. As such, a groom must avoid prolonged absences from his wife during *shanah rishonah* -- the first year of marriage.

How LONG IS A “YEAR”?

An interesting question comes up regarding this rule. As we know, the year on a Jewish calendar usually lasts for twelve months. Periodically, however, we encounter the phenomenon known as an “*ibbur yahr*” (leap year), when an entire extra month is added to the calendar. How would this adjustment affect the *shanah rishonah* obligation? Let us say,

for example, that the wedding took place at the beginning of the month of Teves. Under normal circumstances, this couple would observe their *shanah rishonah* for a twelve-month period, culminating with the beginning of Teves of the following year. What if the year of their marriage, however, was an *ibbur yahr*? The following Teves will not occur until *thirteen* months later (being that an extra Adar was added to the schedule). Must the *chossan* remain “housebound” for the full duration of *that particular year* -- i.e., until the following Teves? Or perhaps his obligation lasts only for a twelve-month period like everyone else (thus culminating with the beginning of the following Kislev)?

This question has been deliberated upon by some of the great *poskim* and sages of our generation (see *Derech Sichah*, which records that the question was brought before R’ Chaim Kanievsky). R’ Elyashiv (quoted in the *sefer Beis Chasanim, 20:14*) contends that the issue should be treated like any *safek d’Oraysah* (question regarding a law of Biblical origin). That is, since we are unsure if the obligation extends twelve or thirteen months, we err on the side of caution and adopt the stringent view (requiring the *chassan* to observe a full thirteen months).

R’ Yeruchem Olshin contends that the issue may be somewhat more complex. As we shall see, the standard rule of *safek d’Oraysah l’chumrah* (we adopt stringency regarding a question of Biblical Law) may not be entirely applicable in this case.

WHAT KIND OF MITZVAH...

It is edifying to examine the essence of this mitzvah: why, exactly, is the *chassan* enjoined to remain in close proximity to his wife for an entire year? Perhaps a better formulation of the question would be to ask: whose *din* (right) is it to “demand” that he stay put for this duration?

Dedicated in loving memory of Mr. Bernard Wiener

בערל בן הערש ע"ה

by Dr. and Mrs. R. Shanik, Lakewood, NJ

Kindly take a moment to study MISHNAS CHAYIM in the merit of שרה בת לייב ע"ה, a fellow Jew who passed away with no relatives to arrange Torah study on behalf of her neshamah.

While the conventional understanding would suggest that this mitzvah represents an obligation incumbent upon a man toward his wife, the Sefer Hachinuch (*ibid.*) seems to take a somewhat different tack. In explaining the roots of the mitzvah, he implies that this mitzvah may actually be of the “*bein adam laMakom* (between man and Hashem)” variety. Hashem desires not only that the world He created be populated (as per the fundamental injunction of “Be fruitful and multiply, and fill the world...” [Bereishis 9:1]), but that it be populated with creatures of pristine and noble character. It appears that the quality of the relationship between the parental figures, and their loyalty toward each other, has some bearing on the spiritual mettle of the offspring they produce. To help engender such loyalty and solidify the marital bond, the Torah directed that the marriage begin with an extended period of shared company. This, in turn, will ensure that their progeny will be refined and “the world will find favor in the eyes of its Creator.”

According to the Chinuch, it seems, this mitzvah is aimed primarily at pleasing the Almighty.

The other way to view this directive, of course, is to treat it as a standard “*bein adam lachaveiro* (between a man and his fellow)” type of mitzvah. According to this approach, this obligation dovetails with the other *zechusim* (rights) a wife may expect of her spouse. Just as the husband is monetarily obligated to provide his wife with certain amenities (sustenance, clothing, etc.), so too, he is “beholden” to supply her with almost constant company -- at least for this first year.

It would seem, then, that the issue of *safek* -- how to rule in the case of doubt -- would depend on this question: what is the proper categorization of this mitzvah? The implication of the Chinuch was that the *shanah rishonah* obligation is a *mitzvah bein odom laMakom* like any other mitzvah *d’Oraysah*, such as *tefillin* or *lulav*. Were we to follow this stance, then the rule of adopting the stringency (*safek d’Oraysah l’chumrah*) would definitely be in order. As in all other questions regarding a Biblical precept, when we are unsure, we err on the side of caution. And so the “*ibbur-yahr chosson*” would have to wait a full thirteen months.

But if the *shanah rishonah* injunction is really a *bein adam lachaveiro* obligation, the matter changes entirely. In that case, it is merely one of the monetary *zechusim* that is the “property” of the wife; the question regarding the thirteenth month thus becomes a *monetary* issue — a *safek mamon*. This type of *safek* (doubt) is governed by a set of rules specific to the area of civil *halachah*. Thus we apply the well-known principle of “*Hamotzi maichaveiro alav harayah*” — one who “extracts” money from his fellow must supply the evidence. In other words, the claimant must furnish the proof that he is in fact owed the money; as long as the matter remains unresolved, it remains in the possession of the presumed owner. In our case, it is the wife who would technically be considered the “claimant,” as she attempts to exert her monetary right that the husband supply his company for yet another month. From a purely legal standpoint, then, since we are in doubt if he actually “owes” her this thirteenth month, we would be unable to coerce him to supply this benefit. In practice, his obligation would last only twelve months.

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