Preface Weddings and Music During *Ben Hametzarim*

Day 8

The *Shulhan Arukh* wrote (*Siman* 551:2): "From *Rosh Hodesh* [Av] until after the fast we minimize our business dealings and the erecting of structures used for celebrations. We do not wed; nor do we enjoy any meal celebrating a couple's engagement [meaning the performing of the act of *kiddushin* that makes the couple halakhically married, but without the *huppa* ceremony that permits the couple to live together]. It is permissible, however for the couple to perform the act of *kiddushin* without any meal to celebrate it. In fact, this is permissible even on the day of Tish'a Be'Av itself, since if the groom postpones it someone else might wed this woman before he gets around to it."

It is clear from the *Shulhan Arukh* that we refrain from celebrating weddings during the first nine days of the month of Av only; there is no restriction against getting married any time before the month of Av. Rama wrote, however, that the custom of Ashkenazic Jews is to refrain from getting married from 17 Tammuz until after Tish'a Be'Av.

There are some communities of Sefardic Jews that adopted the custom of the Ashkenazic Jews in this instance. More than that, they refrain from performing the *kiddushin* ceremony or to even make a formal engagement agreement during *ben hametzarim* as well. The author of *Shiyure Kenesset Hagedola* testified that this was the custom in his community and that they refrained even from making a formal engagement agreement during this period. The *Tahorat Hamayim* expressed his amazement about this, since this is against the halakhic rulings of the *Shulhan Arukh*. Maran the Rishon Letziyon (*Hazon Ovadya*, page 144) explained the rationale of the *Kenesset Hagedola*, who lived at a time when many people had been influenced by the infamous false *mashi'ah*, Shabbetai Tzevi, and did not observe the fast of Tish'a Be'Av and the other national fasts at all. To counter this negative influence, the rabbis in his time decided to demonstrate that this is indeed a period of mourning by imposing extra restrictions on the community. For all other communities, however, the rule is clear that it is permissible to get married during *ben hametzarim* until Rosh Hodesh Av.

The *Ben Ish Hai* (*parashat Devarim*, halakha 4) wrote that it is proper to refrain from performing the act of *kiddushin* after 17 Tammuz. It appears that the custom in Baghdad was to permit it, but he ruled that it is better to refrain

from it. Maran the Rishon Letziyon disagreed with this ruling, arguing that if the custom was to permit it, then it is certainly permissible to continue that custom. After all, he pointed out, we see clearly from the Talmud Yerushalmi that it is permissible to perform the act of *kiddushin* even on Tish'a Be'Av itself. This is important for the groom, so that no one else will wed this woman before he does, and it is especially important if he has not yet fulfilled the mitzvah of bearing children. We may not wantonly invent or adopt stringencies that forbid things that the Talmud and the *Poskim* specifically permitted. Furthermore, although the *Ben Ish Hai* wrote that the custom in Baghdad was not to hold weddings from 17 Tammuz and onward, Harav Salman Hugi Aboudi (chief justice of the *bet din* of Baghdad) retorted that this is untrue, and he testified that the common custom was always to permit weddings until *Rosh Hodesh* Av. Certainly they permitted engagements and to perform the act of *kiddushin*.

Maran the Rishon Letziyon explained at great length the importance of upholding the custom of permitting weddings during *ben hametzarim*. He proved that there is no reason to fear that this is not an auspicious time to begin married life; on the contrary, as long as it is before *Rosh Hodesh* Av it is an auspicious time. This is especially important if the groom has not yet fulfilled the mitzvah of bearing children.

Furthermore, Maran argued that if everyone would postpone their weddings until after Tish'a Be'Av, people might be forced to postpone it for an unreasonably long time. There is a limited number of wedding halls available, and they are often fully booked between Tish'a Be'Av and the High Holidays. If the wedding must be postponed for a long time, the groom may be plagued with sinful thoughts while waiting, and this is a genuine fear in our lowly generation. The engaged couple might succumb to their desires to have physical contact, and that is forbidden by the Torah since the bride is in the state of *nidda*. This may lead to their committing terrible sins. Even in previous generations this was a serious problem, as the *sefer Ya'arot Devash*, the responsa *Me'il Tzedaka* (#19) and the *Sede Hemed* (treatise on *Hatan vekhala* #12) among others testified.

In light of all this, the earlier the couple marries the better things are in every aspect. Anyone who chooses to act stringently in this matter loses far more than he gains. The rabbi who insists that the couple postpone their wedding so that it should not take place during an "unlucky" time ends up endangering the couple by leaving them with their desires unfulfilled. There is a basis to say that even those communities that have followed the custom of Rama until now may change customs in our times, since that custom can lead people to sin. There is a precedent for this in the responsa *She'elat Ya'abetz* (Vol. II, #15) where Harav Yaakov of Emden demanded that the women of his community cease observing certain stringencies regarding the halakhot of *nidda*. He argued that these stringencies caused many people to sin and therefore they

may no longer be observed. Harav Yaakov commented, "I wish that many of the customs of Ashkenazic Jews had never existed in this country, since they cause many serious breaches in the halakha and sometimes bring people to commit sins forbidden by the Torah."

Maran concluded that according to this there is a basis to permit Ashkenazic Jews to get married during *ben hametzarim* in our era if there is a need for it and the groom has not yet fulfilled the mitzvah of bearing children. This is indeed the ruling of the *Arukh Hashulhan*. For Sefardic Jews, it is permissible under any circumstances to get married on any day until *Rosh Hodesh* Av, following the ruling of the *Shulhan Arukh* and as the *Peri Ha'adama* (Vol. IV, page 8d) wrote in the name of the *Shulhan Melakhim*.

Maran wrote that when he became the Chief Rabbi of Tel Aviv, he began permitting weddings during *ben hametzarim* until *Rosh Hodesh* Av. His memoir reads: "I heard that some people complained about this matter, saying that the chief rabbis who served in Tel Aviv before me did not permit this and that I have no right to change the custom. This is not true, however. The fact that the rabbis before me did not do this does not prevent me from doing so.

"It is a known fact, furthermore, that the Sefardic chief rabbis who served before me felt subordinate to their Ashkenazic counterparts. For example, Harav Ben Tziyon Uziel always bowed to the authority of Harav Avraham Yitzhak Kook in his quest to unite the various factions among Torah Jews. In fact, he even suggested that the Sefardic Jews accept upon themselves the halakhic standards of the Ashkenazic Jews for *shehita* and close down the Sefardic slaughterhouses. In that instance, Harav Tzevi Pesah Frank would not allow it to happen. He insisted that, 'Even if all the Sefardic rabbis would agree to adopt the standards of Ashkenazic Jews in *shehita*, I would personally organize an independent Sefardic slaughterhouse. Every community must maintain the traditions that it has honored for countless generations and follow the customs of its fathers.'

"The previous Sefardic Chief Rabbi of Tel Aviv, Harav Yaakov Moshe Toledano, could never lift his face to argue with the Ashkenazic Rabbi Iser Yehuda Unterman. Therefore, the offices of the rabbinate, including the division in charge of wedding licenses, were run according to the standards of the Ashkenazic rabbis. The Sefardic rabbis did not protest this in order to keep the peace.

"During my tenure, however, I chose not to follow this path of appeasement. Instead, I chose to re-establish the supremacy of the *Shulhan Arukh* over the communities in the Land of Yisrael and to establish the same standards in Tel Aviv as are prevalent in the holy city of Yerushalayim. I arranged for the rabbis in the division in charge of weddings to permit them during *ben hametzarim* until *Rosh Hodesh* Av, and this subsequently became the permanent standard

in the city for its Sefardic residents. Anyone who wishes to change this will bear the sin of the many."

The *Or Letziyon* (Vol. III, page 233) wrote as well that "no true student of Torah would postpone a wedding because of the claim that *ben hametzarim* is not an auspicious time. In our generation, postponing a wedding could bring people to commit grievous sins. By scheduling the wedding early, these sins are avoided. This reasoning is so compelling that I would consider permitting a wedding on Tish'a Be'Av itself if I deemed it pertinent."

