

A בס"ד
Intro
Today we will learn בע"ה of דף כ"ד of יבמות. The topics we will learn about include:

We generally say אין מקרא יוצא מידי פשוטו that a פסוק will always follow its simple and literal meaning. Even if there is a דרשה on this פסוק, we will also follow its simple meaning.

אילנית
is a woman who is unable to bear children, and
סריס
is a man who is unable to have children

A

אין מקרא יוצא
מידי פשוטו

אילנית

סריס

B בכור אינו נוטל בראוי כבמוחזק
A firstborn only receives a double portion of the inheritance from the possessions that are already in the deceased father's possessions at the time of death, but not from what will potentially come into the estate of the father. If a married woman commits adultery both the husband and the adulterer are not allowed to be married to her. Therefore the husband must divorce her, and the adulterer may not marry her, and if he does he must then divorce her.

B

בכור אינו נוטל
בראוי
כבמוחזק

1 So let's review
 זאקט די משנה
 מצוה בגדול לייבם
 It's a מצוה for the oldest brother to do the יבום
 ואם קדם הקטן זכה
 and if the younger brother went ahead and did it himself
 then he receives the מצוה
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 The גמרא begins by presenting a ברייתא that teaches the source for this דין that it's a מצוה for the oldest brother to do the יבום
 The פסוק says
 והיה הבכור אשר תלד יקום על שם אחיו ולא ימחה שמו מישראל
 Simply understood the פסוק is telling us that the 1st born son of the יבם and יבמה should receive the name of the deceased brother, and thereby, the deceased brother's name won't be erased.
 However, the ברייתא interprets this פסוק as a continuation of the previous פסוק that says;
 יבמה יבא עליה ולקחה לו לאשה ויבמה
 That the יבם should marry the יבמה, and in reference to this the תורה says;
 והיה הבכור
 מיכן שמצוה בגדול לייבם
 That the oldest brother should do the מצוה of יבום
 The ברייתא continues to explain the פסוק, and derives various דינים from it:
 אשר תלד
 He shall marry the יבמה if she is able to give birth - this comes to exclude an אילנית that cannot have children

2 יקום על שם אחיו
 לנחלה
 The יבם will inherit the estate of his deceased brother.
 ולא ימחה שמו
 פרט לסריס ששמו מחוי
 That the יבם only marries the יבמה if deceased husband was able to have children; this excludes a סריס who is unable to have children
 The ברייתא also teaches us that the reason we do not interpret the Posuk יקום על שם אחיו literally, to name the child after the deceased brother, but rather לנחלה, is based on a גזירה שוה
 Since here, regarding Yibum, it says;
 יקום על שם אחיו
 And regarding children that יוסף might have after אפרים ומנשה, the Posuk says;
 על שם אחיהם יקראו בנחלתם
 That they will inherit Eretz Yisroel as part of ומנשה ואפרים
 מה שם האמור להלן נחלה
 אף שם האמור כאן לנחלה
 Just as there it refers to inheritance, so too here it refers to inheritance
 רבא explains
 אף על גב דבכל התורה כולה
 אין מקרא יוצא מידי פשוטו
 הכא אתאי גזרה שוה
 אפיקתיה מפשטיה לגמרי
 Even though generally the פסוק never departs from its simple meaning, here a גזירה שוה comes and completely removes the פסוק from its simple meaning

1

ואם קדם הקטן זכה
 But if the younger brother went ahead and did it he gets the מצוה

מצוה בגדול לייבם
 It's a מצוה for the oldest brother to do the יבום

The גמרא cites a ברייתא

והיה הבכור אשר תלד יקום על שם אחיו ולא ימחה שמו מישראל

יבמה יבא עליה ולקחה לו לאשה ויבמה

Excludes אילנית

אין אילנית

He only marries the יבמה if the deceased husband was able to have children

2

יקום על שם אחיו

אין אילנית

Seems to be saying: "Name the child after the deceased brother"

אין אילנית

יקראו בנחלתם
 Children born later will inherit Eretz Yisroel as part of אפרים ומנשה

מה שם האמור להלן נחלה

אף שם האמור כאן לנחלה

רבא

אין מקרא יוצא מידי פשוטו
 הכא אתאי גזרה שוה
 אפיקתיה מפשטיה לגמרי

3 The גמרא then moves on to pose a series of questions on the ברייתא. All of these questions center on the fact that the פסוק uses the term בכור which means the firstborn and not the oldest brother.

פרעגט די גמרא

אימא בכור לייבם פשוט לא לייבם

Let us say that a בכור has the מצוה of Yibum but all other brothers do not?

The גמרא answers that this cannot be the case, since the תורה teaches us בעולמו של אחיו לא היה בעולמו, that a brother that was born after his older brother died without children does not do Yibum - Now, that brother is certainly not a בכור, and still the תורה needs to exclude him. This clearly shows us that the מצוה of יבום is not only for the בכור

3 A series of questions that center around the fact that the פסוק uses the term בכור which means the firstborn and not the oldest brother.



אימא בכור לייבם - פשוט לא לייבם

Let us say that a בכור has the מצוה of Yibum but all other brothers do not?

אשת אחיו
שלא היה
בעולמו

Clearly he is not a בכור and yet the תורה still needs to exclude him !

4 The גמרא then presents a number of other possible explanations:

That the מצוה of יבום only applies if there is a בכור in the family, but otherwise there's no מצוה of יבום.

That if there's a בכור and a younger brother went ahead and did the יבום without permission then it's not valid, but if there's no בכור then the יבום of a younger brother is valid. When there is a בכור, we first go to the oldest brother, but if there's no בכור, any brother may do the יבום.

That only a בכור who is Meyabem inherits the brother's estate, but a younger brother who is Meyaben does not inherit.

The גמרא rejects each of these explanations based on Psukim, and concludes that the פסוק teaches us that לחתילה there's a מצוה for the oldest brother to do the יבום, but בדיעבד if a younger brother went ahead and performed the יבום it is valid.

4 But there are other possible explanations:

That יבום only applies if there is a בכור in the family

If there's a בכור and a younger brother did יבום without permission then it's not valid

Only a בכור who is Meyabem inherits the brother's estate

The גמרא rejects each of these explanations, and concludes that the פסוק teaches us...

לחתילה
It is a מצוה for the oldest brother to do the יבום

בדיעבד
If a younger brother went ahead and did it, it is valid.

5 The Gemara concludes by asking
 ואלא בכור דקרייה רחמנא
 So why does the תורה refer to him as a בכור
 The Gemara answers
 מה בכור אינו נוטל בראוי כבמוחזק
 אף האי אינו נוטל בראוי כבמוחזק
 As a בכור, who only inherits פי שנים, a double portion, from
 that which already was in the father's possession at the
 time of his death, but not from that which will potentially
 come in to the estate after the death of the father - so too,
 the יבם only inherits that which already was in his
 deceased brother's possession, but not from potential
 income.
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5

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**ואלא בכור דקרייה רחמנא
 למאי הלכתא**

Why does the תורה refer to him as a בכור

▼

**מה בכור אינו נוטל בראוי כבמוחזק
 אף האי אינו נוטל בראוי כבמוחזק**

*The יבם only inherits that which already was
 in his deceased brother's possession*

6 The Gemara now moves on to the next משנה
 זאקט די משנה
 הנטען על השפחה ונשתחררה
 או על העובדת כוכבים ונתגיירה
 If there were rumors about a man and a שפחה, and she was
 subsequently freed, or about a man with a גויה, and she
 subsequently converted;
 הרי זה לא יכנס
 ואם כנס אין מוציאין מידו
 He's not permitted to marry this woman, so that people
 don't say that the rumor is true. Nevertheless, if he did
 marry her, he does not have to divorce her, since this is
 merely an איסור דרבנן.

However,
 If there were rumors about a man and an אשת איש, and her
 husband was compelled to divorce her, the suspected
 adulterere may not marry her, and if he did, he must
 divorce her, since it is an דאורייתא איסור.
 =====

6

If there were rumors... הנטען

<p>או על העובדת כוכבים ונתגיירה</p> <p><i>and she subsequently converted</i></p>	<p>על השפחה ונשתחררה</p> <p><i>and she was subsequently freed</i></p>
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**הרי זה
 לא יכנס
 ואם כנס
 אין מוציאין
 מידו**

So that people don't say that the rumor was true

Since this is merely an איסור דרבנן

7 The Gemara asks
 הא גורת מיהא הויא
 We see from our משנה that the woman is considered a גורת
 ורמינהו
 But we have a contradiction from a ברייתא which declares
 the גירות invalid if one converts for one of the following
 reasons:
 In order to marry a איד
 To benefit from the prosperity of the Jews, for example, as
 in the time of המלך ושלמה המלך or in ימות המשיח
 In order to avoid a plague
 Because he was told to in a dream

7

?

**הא גורת מיהא הויא
 ורמינהו**

▼

ברייתא

*The גירות is invalid if one converts
 for one of the following reasons:*

<p>In order to marry a Jew</p>	<p>To benefit from the prosperity of the Jews</p>	<p>Because of a Plague or a Dream</p>
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8 The Gemara answers
הא איתמר עלה אמר רבי יצחק הלכה כדברי האומר כולם גרים הם
We follow the opinion that the גירות is valid
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8
הא איתמר עלה אמר רבי יצחק
הלכה כדברי האומר
כולם גרים הם

9 The Gemara proceeds to present a discussion regarding the second Halachah of our Mishnah:
הנטען על אשת איש והוציאוה מתחת ידו
אף על פי שכנס יוציא
If a husband was compelled to divorce his wife because of rumors of adultery, the suspected adulterer may never marry her, and if he did, he must divorce her.
We learned in a בריתא
במה דברים אמורים כשאין לה בנים
אבל יש לה בנים לא תצא
In a case of קלא, rumors -
We only say יוציא, if the woman does not have children from her first marriage.
However, if she has children from her first marriage, she does not have to be divorced by the suspected adulterer, in a case of קלא
The reason for this is that by forcing them to divorce, we are confirming the rumors, and we are מוציא לעז, casting doubt on the legitimacy of those children.
The בריתא continues;
ואם באו עדי טומאה
אפילו יש לה כמה בנים תצא
However in a case where there were עדים that she did an יוציא, then even if she has many children

9
הנטען על אשת איש והוציאוה מתחת ידו
אף על פי שכנס יוציא
The suspected adulterer may never marry her
and if he did, he must divorce her.
עדים
Witnesses
אפילו יש לה
כמה בנים
תצא
קלא
Rumors
אין לה
יש לה
בנים
לא תצא
תצא

10 According to one explanation in the gemora, Rav agrees with the Braisa להלכה. They merely disagree in the פשוט of the Mishnah.
Based on the word הנטען, the Braisa understands the Mishnah's ruling of יוציא to be speaking of בקלא, rumors - and therefore, only בנים לה בניים.
Based on the word והוציאוה, Rav understands the Mishnah's ruling of יוציא to be speaking of בעדים, witnesses - and therefore, even בנים

10
According to one explanation in the gemora...
להלכה Rav agrees with the Braisa
Rav only disagrees with the Braisa
in the פשוט of the Mishna



- 11 The Gemara also presented an alternative explanation of רב, where he actually disagrees with the Braisa להלכה, and he holds that even in a case of אין לה בנים We only say יוציא when there were עדים - And the Braisa follows the opinion of רבי, that in a case of קלא we say יוציא even based on אין לה בנים.

- 11 According to another explanation in the gemora...
להלכה Rav disagrees with the Braisa

Rebbe			
עדים <i>Witnesses</i>		קלא <i>Rumors</i>	
אפילו יש לה	כמה בנים	יש לה	אין לה
תצא	תצא	בנים	בנים
		לא תצא	לא תצא
Rav			
עדים <i>Witnesses</i>		קלא <i>Rumors</i>	
אפילו יש לה	כמה בנים	יש לה	אין לה
תצא	תצא	בנים	בנים
		לא תצא	לא תצא

- 12 The Gemara concludes;
הלכתא כוותיה דרב והלכתא כוותיה דרבי
Sometimes we follow רב, and sometimes we follow רבי
הא בקלא דפסיק והא בקלא דלא פסיק
If the rumor continued for more than a day and a half, then we follow רבי, and the husband must divorce his wife even if there are no עדים
If the rumor did not continue for more than a day and a half, then we follow רב, and he must divorce her only if there were עדים

This discussion continues on the next Daf.

- 12 The Gemara concludes...
- | | |
|--------------------------|------------------------|
| והלכתא
כוותיה
דרבי | הלכתא
כוותיה
דרב |
| ▼ | ▼ |
| והא בקלא
דלא פסיק | הא בקלא
דפסיק |