

Halacha Highlight

May an **איגונה** perform **chalitza**

ואחות אישתי

And one's wife's sister

Rav Tzvi Ashenazi¹, the Chacham Tzvi, cites earlier authorities² who maintain that a woman who is in **איגונה** may not perform **chalitza**. The rationale for this position is that one who is an **onen** is exempt from **mitzvos** and since **chalitza** is a **mitzvah** it should not be performed by one who is an **אונן**. One of the challenges Chacham Tzvi presents against this position is that immediately upon the death of the widow's husband the widow and the deceased brother's enter a state of **איגונה** which, according to these authorities, prevents them from performing **chalitza**. Consequently, it should be impossible to ever perform **chalitza** since the rule³ is that a person who is unfit for **yibum** or **chalitza** at the time of the husband's passing can not become fit for **yibum** or **chalitza** in the future. This would lead to the absurd conclusion that **yibum** and **chalitza** could never be performed.

Other authorities⁴ refute this challenge from the comment of Tosafos⁵ to our Mishnah. Tosafos suggests two reasons why a woman who is a **niddah** is not exempt from **yibum**. The first reason is that only those **ערויות** that are specific to the **yavam** more than to others, meaning the woman is prohibited as an **ervah** rather than a general prohibition that applies equally to others, as opposed to a **niddah** who is prohibited to everyone and not specifically to the **yavam**. Secondly, the reason a woman who is prohibited for **yibum** at the time of her husband's death does not fall to **yibum** if the **ערוה** prohibition is removed is that it is not pleasant to bind her to her brother-in-law if she was already released. Concerning a **niddah**, on the other hand, it is not considered lacking pleasantness since a woman who is a **niddah** is prohibited to her husband as well. These two reasons apply in the case of a woman who is an **oneness**, i.e. the prohibition is universal and does not lack pleasantness since it would apply to her husband as well, therefore an **oneness** should be able to perform **chalitza**.

1. שו"ת חכם צבי סי' א'

2. שו"ת מביט חב' אה"ע סי' ט"ז בשם שו"ת הרא"ש

3. גמ' לקמן כ"ז: דכל יבמה שאין אני קורא בה בשעת נפילה יבמה

יבא עליה הרי היא כאשת אח שיש לו בנים אסורה

4. שיירי קרבן (ירושלמי ריש יבמות דה ואחות) שדי חמד אספ"ד

מערכת חליצה סי' א' אות י"ג, מהר"ץ חיות תודה ואחות ועוד

5. תוס' דה ואחות אשתו

Review & Remember

1. What is **צרה צרתי**?
2. What daughter is referred to by the Mishnah's term **בתו**?
3. What is **מיאון**?
4. Which is the more severe death penalty; burning or stoning?

Mussar from the Daf

Out of Order

Why do we begin Seder Nashim with **Yevamos**? Wouldn't it have made more sense to begin with either **Kiddushim** or **Kesuvos** which discuss the concept of marriage. The **Tosfos Yom Tov** explains that the **Yevamos** scenario is unique in that the requirement to perform either **Yibum** or **Chaliza** is obligatory from Hashem. With respect to a regular marriage, however, a particular couple is never obligated to marry. Instead, a person generally marries based on the couple's own free will. **Beis Din** does not force people to marry, while they do force people to do **Yibom** or **Chalitzah**. Therefore **Yevamos**, has precedence in the order of **Misechtas**. (See **מאירי** **אמנם** **לבית הבחירה דה אמנם** **הקדמה** for a different approach to this question). This is a critical lesson for life. It is a reminder that when choosing among different activities which to give precedence to, a person should always do those activities that he has an obligation to do before engaging in activities that are merely permissive. More specifically, it is a **Klal** in how we prioritize our time with **chesed**. Our families, children and wives need to take precedence in our time (as can be seen from the **Halachos of Tzedakah**). After one sees to it that those people are taken care of, then one can move on to helping others whom one chooses to help. This sometimes is difficult. Why? There is a greater **Yetzer hara** pushing us away from doing those things we are obligated to help first. And with others, there is a very low **yetzer hara** to help them and we come out feeling like a hero. However, the real hero is one who prioritizes one's family because that is what Hashem wants.

Point to Ponder

Rashi states that the case of **חמותו** (a mother-in-law) refers to a situation where a woman (**Rochel**) had a daughter (**Dinah**), **Rochel's** husband died, **Rochel** then remarried to **Reuvain** and **Shimon** his brother married **Dinah**. If **Reuvain** died without children and **Rochel** falls to **Shimon** to do **Yibum** he is exempt since **Rochel** is also mother-in-law. Why couldn't Rashi say a more straightforward case that **Shimon** married his niece the daughter of **Rochel** and **Reuvain** who died if **Reuvain** now dies without other children, **Shimon** is exempt from **Yibum** since he cannot be **MeYabam** his mother-in-law?

Response to last week's Point to Ponder

Rashi states it was a miracle that the **Mizbeach HaZahav** did not burn even though there was only a very thin gold coating protecting it. How do we then learn from there that sinners will merit a miracle and not be subjected to the fires of **Ga'henom**? Why would we assume that sinners will also merit such a miracle? We can perhaps suggest that the **Gemara** learns this lesson from the very fact that Hashem made such a miracle in the **Mizbeach HaZahav**, and did not instruct **Moshe** to put on a thicker coating.

ר' יוסף שמואל שמעלקא בר' יצחק מערמלשטיין ז"ל *Shelly Mermelstien* לע"נ *Yevamos* has been dedicated in

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