



THE HAKUK EDITION

ENGLISH TOPICS ON THE DAF

Dedicated L'Refuah Shlaima of Moshe Kalman ben Rivka

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Daf Hashovua Yevamos Daf 9

At the bottom of daf 9a, the **Gemara** references Rabbi Akiva's opinion that even unions forbidden with just a lav produce mamzerim. If a yevama were forbidden with a lav to the yovom, they would be exempt from yibum and chalitza. His shitah appears all over this Mesechta.

Tosfos here wonder why the Gemara assumes that according to R' Akiva a yevama with the prohibition of a lav would be exempt from yibum. Why can't we say *asei docheh lo sasei* – this *lo sasei* carries no *karess*? The **Ramban** strengthens the question with the fact that the earlier sugya searched for a source precluding *arayos* from yibum, requiring the *possuk* of “עליה” to prove it. Since *chayavei lavin* do not fall within the parameters of that *possuk*, the *asei* should be *docheh* the *lo sasei*?

Tosfos do not offer an answer. The **Ramban** says that once we have the *possuk* of “עליה” we can apply it to any case where *kiddushin* would not be valid. This includes *chayavei lavin* according to R' Akiva, since *kiddushin* and *mamzerim* are interrelated. He concludes, “It is still difficult – how do we know R' Akiva holds this way, that we should ask based on this assumption?”

Indeed, why *should* we apply the special derasha, written in the context of arayos which result in karess, to chayavei lavin?

One explanation is given by **Rav Shlomo Heiman** (Chiddushei R' Shlomo, Yevamos Siman 1). Although the earlier Gemara proposed that aseidocheh lo sasei should allow for yibum even with arayos, that was only at the onset of the sugya. Once we derive from the possuk that arayos are excluded from the concept of yibum, even if the aseidocheh lo sasei were to be docheh the lo sasei we cannot return them to yibum. And since R' Akiva includes chayavei lavin in the category of arayos – no kiddushin, and mamzerus – they will also be excluded from yibum.

Rav Shmuel Rozovsky (Siman 1) quotes his Rebbi, Rav Shimon Shkop, who added another point. According to R' Akiva, chayavei lavin are analogous to chayavei karess. Therefore, once the Gemara learnt from the possuk that they are exempt from yibum, one cannot even suggest that aseidocheh lo sasei should be docheh the lo sasei. There is no aseidocheh lo sasei! Yibum does not apply to such cases, so it is obvious that they are pattur from yibum and chalitza.

A different approach is found in **Avi Ezri** from Rav Shach zt"l (Hilchos Yibum 1:13). The Ramban stressed that according to R' Akiva, kiddushin cannot take effect with chayavei lavin. Why is this the defining factor? Because yibum in its essence is comparable to kiddushin. In many Gemaras, the relationship between yovom and yevama prior to yibum, called “zikah,” correlates to kiddushin. Therefore, since standard kiddushin isn't possible with a woman forbidden with a lav (according to R' Akiva), the zikah connection of yibum is also not applicable. That is why the Gemara assumes as obvious that they are pattur from yibum.

Now that we explained the Ramban's answer for Tosfos' question, we have to ask, why didn't Tosfos say this answer?

Rabbi Dovid Barkin zt"l (Ahavas Dovid) notes that “עליה” is the source to pattur arayos only in the earlier stages of the sugya. Rava (daf 8a), however, stated that the possuk is necessary only for tzaros; we already know arayos can't do yibum because aseidocheh lo sasei of karess.

So, discussing R' Akiva's shitah about an ervah herself, that possuk would not be relevant.

Alternatively, R' Barkin points out that there have been several other arguments in the Gemara until now to permit yibum even for arayos. Once some of the prohibitions are removed, maybe all are (7b); or perhaps all arayos may be derived from eishes ach, which is suspended for yibum (ibid). Tosfos may understand that “עליה” serves to disprove these other arguments, but may not be a blanket rule that all arayos are absolved from yibum.

A final point – if Rabbi Akiva considers chayavei lavin as arayos, excluded from yibum, does that mean that their tzaros will also be pattur, like regular arayos? Tosfos on daf 10a assumes so. The **Brisker Rav** explains that once a yavama is precluded from yibum, she returns to her former issur of eishes ach. All her tzaros are now tzaros of an ervah of eishes ach! Thus, the co-wives of chayavei lavin are straightforward tzaros of arayos, and pattur as well.