



# THE שבוע MATTERS

לע"נ ברוך בענדיט וברכה גרוס ע"ה  
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שבת קודש פרשת דברים  
מסכת יבמות דף י  
לרפ"ש אחינו בני ישראל

## Insights from our Chaburos

### The Brother Won't Leave

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The גמרא discusses the מחלוקת between רבי יוחנן and ר"ל about the status of a woman and her צרה after חליצה was done. The גמרא seems clear that according to both opinions, the woman on whom חליצה was performed is אסורה to all the brothers with at least a לאו of יבנה. The גמרא says this explicitly in ר"ל and also calls it לאוויין when talking on behalf of רבי יוחנן in the next רמב"ן. It is therefore not surprising that the רמב"ן counts this as one of the תעשה that the רמב"ם omitted from the count of Taryag Mitzvos. What is surprising is that the רמב"ם says that יבנה is only an איסור דרבנן. Also, the רמב"ם (from פ"ג שליט"א) asks that the reason there is no resurgent איסור following חליצה is because the איסור of אישת איש left when she fell to יבום and never comes back. Why doesn't the רמב"ם say what ר' יוחנן said about שליחות? He answers that ר' יוחנן holds like אבא שאול (which he proves from other גמרות) and according to אבא שאול אישת איש doesn't leave until יבום is actually performed (which is why אבא שאול says יבום can only be done לשמה or else it is אישת איש). According to אבא שאול, you need the פסוק of איש איש to knock down the אישת איש from a כרת to a לאו, and you need שליחות to remove אישת איש from the other brothers. However, according to the חכמים (which the רמב"ם paskens like) the אישת איש goes away immediately at שעת נפילה in which case you don't need to use the פסוק of יבנה לא to teach that the אישת איש goes down from כרת to a לאו since it is already completely gone. Rather, the פסוק is used for another דרשה of בונה הוא בית אחד and there is therefore only an איסור דרבנן. This also explains why the רמב"ם does not quote שליחות since according to the חכמים אישת איש is not there anyway and שליחות isn't needed.

As to the המחלוקת between ר"ל and ר"י, the דאורייתא in ר"י suggests that it is based on ברירה. Reish Lakish holds works that once one brother does יבום it is למפרע מילתא that the זיקה was only to him and everyone else retains their אישת איש. However, ר' יוחנן does not hold of ברירה so he must say that one brother is שליח for all of the other brothers and the chaltza is acting on behalf of all of the deceased's wives.

## Stories of the Daf

### Missed opportunities

כיון שלא בנה שוב לא יבנה

This week's daf features the idea that once an opportunity to perform a mitzvah is lost, more often than not it cannot be made up. The chasidim of Ger had become accustomed to study intensely and prepare extensively before davening each day, and the start of the minyanim had slowly shifted later and later. When the Sfas Emes assumed his role as the Chief Rebbe of Ger, he issued instructions that all prayer services should commence promptly at the proper halachic times. One of his chasidim approached the Rebbe, and he appealed to him. "Rebbe!" he cried, "I do not have the opportunity to inspire and prepare myself for davening anymore, and I no longer feel the sweetness of the words as I pronounce them. What should I do?" The Rebbe poignantly answered his well-meaning follower by quoting the Yerushalmi (Yoma 4:5): "Furthermore taught Bar Kappara: If they had added the smallest amount of honey [to the incense], no one would have been able to withstand its beautiful fragrance." If so, why didn't they, in fact, add honey to it? It is because the Torah says (Vayikra: 2:11) "Any meal-offering that you offer to Hashem shall not be prepared leavened, for you shall not cause to go up in smoke from any leavening or any honey as a fire-offering to Hashem." This teaches us, he explained, that although the outcome may seem desirable, we are never to act contrary to the halacha. "It is because the Torah says..." When the chasid left, the Rebbe turned to his attendant and commented. "This man is worried about the lost opportunity to prepare for his prayers, and he notices the difference. I am sure that he will soon find an answer to his quest. Unfortunately, there are others who do not even detect that anything has changed, and they do not feel any loss at all to the quality of their davening."

## Parsha Connection

Our daf this week continues the discussion regarding an additional case in the Mishna and concludes by pointing out that one can deduce from our very next Mishna, that it is following Rebi Yehuda's opinion. Why didn't we point this out right away? In this week's Parsha we see a very similar phenomena. Moshe Rabbeinu admonished Bnei Yisroel in a subtle way by saying White, Yards, and Gold which represent bad deeds which they did during the 40 years in the Midbar, yet later he tells them openly, you rebelled, and you angered Hashem. Why start subtly and then change to direct clear rebuke? The Alshich Hakadosh explains that when giving someone Musar, it's important to know how the recipient appreciates the Musar, and at times it's better not to say anything, if it will not have a positive effect. Moshe Rabbeinu tested them by starting out subtly, and once he saw that they took it in a positive, constructive vein, he switched to direct language.

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## Halacha Highlight

### Marrying one's chalutzta

איתמר החולץ ליבמתו וחזרוקדשה אמר ריש לקיש הוא אין חייב על החלוצה כרת והאחין חייבין על החלוצה כרת וכו', ורי' יוחנן אמר בין הוא ובין האחין אינן חייבין לא על החלוצה כרת וכו'

*It was taught: If one did chalitzta to his yevama and then betrothed her, Reish Lakish said that he is not subject to kares for marrying her but the brothers are subject to kares etc. And R' Yochanan said that neither the yavam nor the brothers will be subject to kares for marrying the chalutzta etc.*

There was once a woman who lived in a house with her husband and his brother and a second brother lived elsewhere. The married brother died without children and since they lived in an Ashkenazi land<sup>1</sup> one of the brothers was going to do chalitzta. The obvious choice would be for the brother who shares a house with the widow to do chalitzta except that Rema<sup>2</sup> rules that the widow and her husband's brother may not live in the same house if they had a relationship (לנו גס בה) because they are considered like an engaged couple who may not sleep in the same house out of concerns of seclusion. Since in this case it was not possible for the widow to move to another home the question was which of the two brothers should do the chalitzta. Rav Yehoshua Heshel of Tornipol<sup>3</sup> suggested that the brother who lived elsewhere should do the chalitzta. One of the reasons he gave for his position is that the prohibition against one of the brothers cohabiting with the widow is less severe than the prohibition against the one who did the chalitzta cohabiting with the widow. Therefore, if the widow is going to continue to share a house with one of her husband's brothers it is preferred that he should not be the one who does the chalitzta. Teshuvos Bais Ephraim<sup>4</sup> challenges this position from our Gemara. All opinions agree that the one who did chalitzta does not receive kares for cohabiting with the widow and there is a dispute between Reish Lakish and R' Yochanan whether the other brothers will receive kares for cohabiting with the widow. Consequently, it is preferable for the brother who shares a home with the widow to do the chalitzta since it is certain that they will not become subject to kares. A second reason offered by Teshuvos Bais Ephraim is that it is preferable for the one who may, at some point in the future, be suspected of wrongdoing to do an act of formally rejecting the widow rather than another brother.

1. ע'י אהדע ריש סי' קסד
2. רמא שם סי' קנ"ז ע"י
3. מובא דבריו בשו"ת בית אפרים המובא לקמן
4. שו"ת בית אפרים חד סי' קמא

## Mussar from the Daf

### The Shoe that Protects

The Gemara says that one who performs חליצה cannot thereafter marry his Chalutzta. Why not, one would think that a person can do teshuva and decide to build a home with his brother's wife? What happens in the חליצה procedure that prohibits a future marriage. The Gemara in Sanhedrin (18a) explains that a מלך does not perform חליצה because it is a גנאי (embarrassment) for the מלך to go to Bais Din and have the Yevama spit in his face. The Rambam Hilchos Ishus (15:20) tells us that a woman has to look at her husband like a מלך. Perhaps the Torah understands that once they have both gone through the חליצה procedure in which the Yevama spits in a prospective husband's face there is no way to build a future home on this unhealthy foundation of a relationship. Furthermore, the Mishna on 101a explains that during the חליצה process the yevama has to take off the Yavam's shoe which has to be made of leather and cannot be a cloth shoe. Rashi explains that it has to be a shoe that protects. Perhaps, symbolically as she is taking off this shoe, there is an understanding that the Yavam does not want to protect her, take care of her and build a home with her. As a result, there is no home anymore. As the Torah tells us "And that family shall be called in Israel, 'the family of the one whose shoe was removed.'" (Devarim 25,10). Having in essence declared that he will not take care of the Yevama anymore, there is no longer a home to build out of this relationship. As the Rambam indicates earlier in the previously quoted perek, a husband is commanded to "honor his wife more than his own person, and love her as he loves his own person." (Ishus 15:20). It is only a husband that treats his wife with such honor that merits to be treated like a מלך. Practically we see from here a couple lessons. First, in a relationship we really have to be careful what we say and do to others, as those actions may not necessarily be able to be taken back and it could potentially cause irreparable harm to the relationship. Second, we see the importance of spouses showing mutual respect to each other. When the husband shows his wife that he wants to, and does take care of her, she will look up to him. These are the basics for a home to function on.

### Point to Ponder

The Gemara suggests the even according to Reb Yehuda an additional case is possible in our Mishnah, i.e., if one b'issur marries a lady who was raped by his father. The Gemara answers that the Mishna does not list cases that can only occur through someone doing something wrong, and Reb Yehuda holds that it is forbidden for a son to marry such a woman. Immediately following this, the Gemara asks about another case whereby a father-in-law raped his daughter-in-law. Why is this better when we just got done saying that the Mishna does not consider cases which can only occur if someone does something wrong?

### Response to last week's Point to Ponder

When the Gemara says that the Mishna only lists universally agreed cases, it is not ignoring the many instances in the Talmud where we find multiple opinions. What it is referring to is that when the Mishna lists a specific number of cases it only lists universally agreed upon cases. The first question was from another Mishna that discusses a list or rule, namely, a "Rule was said in Yevama," in the second perek. This question is very appropriate since that Mishna includes a "RULE." The second question is weaker because it doesn't contain either a list or a rule, but it argues on the complete premise of the first Mishna.

ר' יוסף שמואל שמעלקא בר יצחק בערממלשטיין זל Shelly Mermelstien ליעזר Yevamos has been dedicated in

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