



THE שבוע MATTERS

לע"נ ברוך בענדיט וברכה גרוס ע"ה
by Mr. & Mrs. Duvy Gross

שבת קודש פרשת עקב
מסכת יבמות דף י"ב
לרפ"ש אחינו בני ישראל

Insights from our Chaburos

A Woman's Action vs a Man's

By Rabbi Yizchok Yurowitz of the Alumni Chabura in Passaic, NJ

The Gemara brings a statement in the name of Shmuel that צרת ממאנת is forbidden. The Gemara then seeks to clarify to whom this צרה is forbidden. If you are going to say that she is forbidden to the brothers of the refused yavam, that cannot be since Shmuel holds that the woman who did מיאון herself is permitted to marry the brothers, so certainly her צרה is permitted to these other brothers. Rather the Gemara says that Shmuel must have meant that צרת ממאנת is forbidden to the refused yavam himself. The Gemara questions this rule reasoning that why is the ממאנת permitted to the brothers, is it not because she did no action towards them, if so the צרה too did no action to any of the brothers, and therefore she should not be forbidden to any of the brothers, even to the refused yavam. On Daf 107b, Rav argues on Shmuel. Rav holds that once a woman does מיאון she is prohibited to all of the brothers. According to Rav, this rule is similar to the case where one of the brothers gave a get to a yevama (where there was no Yibum) in which case she is forbidden to all of the brothers. Shmuel in contrast holds that you cannot compare the case of מיאון to the case of Get since in the case of the Get it is the man who does the action, whereas in the case of מיאון it is the woman that does the action. Reb Reuvain Grozovsky (חיידושי רבי ראובן סימן יא) explains the dispute between Rav and Shmuel as follows: Rashi says that the reason that a ממאנת is forbidden to the Yavam is because the act of מיאון uproots the zikah and she is therefore forbidden to him as an אשת ארע. Asks Rashi but doesn't the act of מיאון uproot the original marriage and therefore she is like a stranger to him. Answers Rashi it is a rabbinical enactment since she did not do מיאון to her husband and as a result of the original marriage she fell before him it appears like she is a brother's wife that is forbidden. Explains Reb Reuvain that what Rashi is saying is that since she did not do ממיאון her husband it appears that her act of מיאון is directed only to the zikah, and indeed we have to say that it is the zikah that empowers her to do מיאון at all. Otherwise, without the zikah (for example if her husband had no brothers), she obviously would be unable to do מיאון since her husband is dead, to who exactly is she doing מיאון. Where however she does מיאון to the zikah it enables her to uproot the original marriage as well. However, in such a case since it appears to people that the original marriage is not being uprooted but rather only the zikah, in which case she still appears to be like the wife of a brother without a zikkah for yibum, she is forbidden to him. Rav compares this situation to Get given to a Yevama. Even though such a Get is written by one brother to one Yevama it nevertheless applies to the entire house in the same way that an act of Chalitzah applies to the entire house. Shmuel by contrast says that only Get is comparable to Chalitzah since in both cases it is the man's action. In the case of ממיאון it is the woman who does an action to sever the zikah, and the only zikah that is severed is that to whom the action was directed.

Stories of the Daf

Minor Marriages

שלש נשים משמשות במוך קטנה מעוברת ומניקה
Rabbi G. does outreach at a community college on the East coast, but found his efforts with a certain student thwarted when a non-observant acquaintance challenged the newcomer about one of the issues discussed on today's daf. Citing Yevamos 12b, this other person framed the issue of the possibility of a minor pregnancy posed in the Gemara as proof that the Chachomim sanctioned sexual abuse, chalilah. Not knowing how to respond, Rabbi G. deferred the question to a more advanced scholar from Yerushalayim. After outlining the problem, Rabbi G. said, "Of course I have emunah that there is an answer, but I can't pretend that these questions don't bother me too. Why is kedushei ketanah permitted to begin with? Surely the child doesn't know her own mind. I have heard that earlier generations were different, but how can I explain that to someone with no background?" The other Rav explained, "First of all, see the Aruch Hashulchan (37:33) where it clearly states that nowadays one should not marry off a ketanah, as we find in Kiddushin 41a. Even if the girl is clearly willing, it is still better to refrain if we have a choice. Earlier generations married their children off very young only when they had no other option! Constant persecution meant that a Jew could lose his property suddenly or be forced into exile. From that perspective, it was seen as the better of two evils to arrange marriages while children were young and the dowry was still at hand than to wait on an uncertain future. Also, during times when people lived more circumscribed lives, it was harder to find a prospective chosson. If a suitable person was found, it was seen as more provident to secure the match early than wait and lose the opportunity. A third reason was to avoid the cruel draft laws, because youngsters who were married were exempt. And a fourth reason was to protect girls from abduction and forced marriage to the gentiles. The Rav added, "Don't think that this only took place long ago. I have a neighbor down the street who was married off at twelve in Algeria to her second cousin and sent on foot to Israel to escape the attentions of the local Arab nobleman. This was only sixty-five years ago!"

Parsha Connection

In this week's Daf we learn about an איילונית (an infertile lady). In this week's Parsha, Moshe conveys Hashem's blessing that when we perform the Mitzvos "ברוך תהיה מכל העמים לא יהיה בך עקר ועקרה ובבהמתך" We will be blessed above all other nations, there shall be no sterile male or female among you or among your livestock. Why is this particular blessing framed in comparison to the other nations? Also, why is the blessing stated in the singular, that there will not be even one infertile man or woman. The Alshich Hakadosh explains as follows: other nations are overseen by angels and therefore they do not get "individual hashgacha." By contrast, Bnei Yisroel are privileged to have "Hashgacha Pratis." Because we are privileged to be supervised and cared for directly by Hashem that it why Hashem is promising that every single person as well as every Jewish owned livestock will be fertile!

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Halacha Highlight

Is Begetting a Child a Sign of Physical Maturity for Boys?

בנים הרי הם כסימנים

Children are a sign of physical maturity

Rashi's¹ comments indicate that even if a girl is less than twelve years old she is considered an adult once she gives birth to a child. Rambam², on the other hand, writes that a girl who is twelve, but has not yet produced the physical signs of maturity, is considered an adult if she gives birth to a child. This indicates that a girl who is less than twelve years old is not considered an adult even if she gives birth to a child. Rav Chaim Halevi Soloveichik³ explains that even though the Gemara declares that children are a sign of maturity, the sign is meaningless if the girl has not yet reached the age of maturity. Giving birth is only significant in conjunction with having reached the proper age. Poskim inquire whether this sign applies for males as well. There was once a thirteen-year-old boy who despite not having produced physical signs of maturity did yibum and the yevama became pregnant. The young man intended to divorce her but the question arose whether he should do chalitzah after he develops the physical signs of maturity. One could argue that chalitzah is required because yibum performed by a minor is meaningless and since he hasn't yet produced physical signs of maturity he is a minor. On the other hand it could be argued that having children is the same as producing physical signs of maturity and it can be assumed that he is, in fact, an adult and the yibum was valid. Teshuvos Maharitatz⁴ wrote that although the claim that this young man should be treated as an adult has merit, nonetheless, his tendency is to rule stringently and require chalitzah after the young man produces physical signs of maturity. Teshuvos Dvar Avrohom⁵ cited opinions who maintain that the rule that children are a sign of maturity applies even for boys under the age of thirteen. He challenges this opinion from our Gemara. Even if one were to accept the assumption that regarding this matter there is no distinction between males and females, nonetheless, there is a dispute whether this rule applies for minors or only young adults who have not yet produced physical signs of maturity. Therefore, Teshuvos Dvar Avrohom also hesitates to follow the opinions who would apply this rule to boys who are minors.

1. רשי דה הרי הן
2. רמבם פ"ב מהל' אישות ה"ט
3. חידושי רבינו חיים הלוי שם דה ולפמשי
4. שו"ת מהריט"ץ ישנות סי' כ"ג
5. שו"ת דבר אברהם ח"ג סי' י' סק"ה

Review & Remember

1. Why is the co-wife of a ממאנת prohibited for yibum?
2. What is the reason the co-wife of an איילונית is prohibited for yibum?
3. What three women are permitted to use contraceptives and why?
3. Can a girl who is a minor give birth to a viable child?

Mussar from the Daf

Children in Adult Bodies

The Gemara states that if a girl gives birth it is a Siman (sign) that she is an adult. Why is this the sign? What is the significance of her being able to give birth? Rav Wolbe (AleI Shur Chelek Aleph, 40) explains that when a boy's physical body is able to father a child, this is a sign that he no longer lives solely for himself. And at this point he has the ability to give over his precious inheritance to the next generation. Rav Wolbe further explains that this moment coincides with when a boy becomes an adult, at the age of his Bar Mitzvah. This is what becoming a gadol is all about. It is all about reaching a stage that one can take care of another. We see this concept with the heart as well. Rav Yerucham Levovitz explains that the heart is the "gadol" of all the limbs in a person's body. Why? Because its job is to take care of all the other limbs of the body. That is what is called Gadlus! Perhaps that is the understanding as well of our Gemara. Once the girl has the ability to give birth, she has reached the stage that she can take care of somebody and live for somebody else, and now she reaches the status of an adult. The lesson for us is obvious. While we may have physically reached adulthood, if we are not ready to take care of others, we are nothing more than children in adult bodies.

Point to Ponder

The Gemara quotes a Mishna regarding two Yevamos, one is kosher while the other is not. When he does Yibum he should do so with the kosher one. The Gemara derives from here the concept of not spilling out water which may be needed by others. The Gemara then mentions a Braisa regarding גרושתה מחזיר and says that the Yavam can do Chalitzah to either one. What happened to not spilling out water which may be needed by others?

Response to last week's Point to Ponder

The cases in the Mishna involve women who are an ערוה to the Yavam, why are the גרושתה and סוטה comparable to the cases in the Mishna to be able to exempt the צרה when unlike the cases in the Mishna these woman are not an ערוה to the Yavam but the deceased husband. Why then are they called an ערוה with regards to Yibum? Yibum means continuing or assuming the deceased brother's marriage. Both the סוטה and the גרושתה result in a faulty marriage, which cannot then be continued by a Yavam. This is why the Gemara uses a Kal Vachomer "if she is prohibited from staying married to her first husband, how can she live with a Yavam. (נאסרה באסור). (לה לא כל שכן).

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

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