



## *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 18

### Psak halacha and the Zohar

Our Gemara discusses a dispute among Tannaim if a yovom may do something that might circumvent mitzvas yibum.

A related sheilah was posed to the **Chasam Sofer**: Can the yovom and yevama refrain from carrying out yibum/chalitza if they want to?

The story was of elderly people who weren't interested in the schlep of going to Beis Din and doing chalitza. They didn't care to remain zokuk to each other. Was this acceptable, or should Beis Din force them to do it?

The Chasam Sofer responds that the poskim imply it is no problem. The Rambam, for instance, writes that a yevama who refuses to perform either yibum or chalitza is penalized, but only if the yovom complains about it.

However, continues the Chasam Sofer, the **Zohar** emphasizes that the niftar suffers until one or the other is done, and is clear that chalitza must be performed. But as is the general rule, we hold like the poskim over the mekubalim, so we can't force it. And the Zohar itself does not say it is an

obligation enforceable by Beis Din, but that it is a chessed shel emes for the niftar. If it is difficult or embarrassing (as the teshuva records) for them to do it, they need not worry about it (Teshuvos Chasam Sofer E.H. 2:85).

Similarly, the **Aruch Hashulchan** (E.H. 165:18) says that we demand them to do chalitzah only if the yovom or yevama ask for it. Examples are if she wants to receive her kesuba money, or if he wants to get married and will have complications if there is a yavama with zikah to him. Although the Zohar says that it is an important tikkun for the niftar, we can only suggest it to them. Still, isn't it a mitzvah from the Torah, asks the Aruch Hashulchan? Not exactly, he answers – the mitzvah is when she wants to get married, as the possuk describes, “The wife of the niftar should not marry out to a strange man.”

The rule mentioned by the Chasam Sofer is from the Beis Yosef in Siman 25, about tefillin. The minhag in Klal Yisroel is make one beracha on the shel yad, l'honiach, and another for the shel rosh, al mitzvas tefillin. This is not unanimous, however. Some Rishonim learn the Gemara to say that if one doesn't talk between the two tefillins, he could make only the first beracha, and it works for both. “If he does not talk, he makes one beracha, and if he talks, he makes two” is the actual statement of the Gemara. The **Tur** notes these opinions, but concludes like the Rosh to always make the two berachos. They understand the Gemara that if he talks, he makes two berachos *for the shel rosh* – he again says l'honiach, and then al mitzvas.

On this the **Beis Yosef** cites the Sefer Ha'agur's astonishment over this psak. The Zohar seems to state clearly that one beracha should be recited for both of them! How could the Tur and others argue on the Zohar? The Beis Yosef, in turn, is surprised at the Agur's problem. “I don't know why he is astonished with this more than all the other halachos where the Zohar writes unlike the maskana (conclusion) of our Talmud, and the poskim follow the Talmud!” And aside from the fact that the early Rishonim did not see the Zohar (it was discovered around the year 1200), the Zohar itself might simply mean that the beracha “l'honiach” covers also the shel rosh.

This Beis Yosef is an important rule in psak with many applications, such as our discussion here. We don't override a Gemara with a Zohar.

Another place where this is invoked is kriyas haTorah. The **Tur** (Siman 141) begins with the Gemara in Megilla that two people should not read out loud from the Torah. Whoever gets an aliyah is supposed to read it aloud. The minhag developed that a shaliach tzibur reads it for everyone who gets an aliyah, because not everyone knows how to read properly from the sefer Torah. Still, the oleh must read quietly along with the baal koreh in order to be yotzei.

The **Beis Yosef** quotes the Mahari Abuhav, who derives from the Zohar that only one person may read from the sefer Torah at a time, period. Thus, someone who gets an aliyah should *not* read along with the baal koreh, unlike the Tur. Here the Beis Yosef honors the opinion of the Zohar because there is no Gemara explicitly against it; he says we do *not* follow even the early poskim if they contradict the Zohar. Additionally, we have a rule that if one listens to another person, it is as if he says it himself (Sukkah 38b). So, really we should not do like the Tur? Perhaps, offers the Beis Yosef, if the oleh reads silently even the Zohar would approve.

The **Darkei Moshe** is not impressed with this. The Zohar may be understood like the Gemara in Megilla, that two people cannot read *out loud*. Reading quietly, in a way that others won't hear, should be fine. Anyway, adds the Darkei Moshe, we don't go like the Zohar if it argues on the poskim. The Beis Yosef did not need to find a compromise between the Tur and the Zohar!

Hence, the Beis Yosef and Darkei Moshe (Rema) dispute if we follow halachos of the poskim Rishonim if they do not coincide with the Zohar.

The **Magen Avraham** (25:20) sums up the guidelines of psak as follows. If kabala or the Zohar argue with the Gemara, we go like the Gemara. However, if the kabala demands a stringency, we should follow it. If it is not mentioned at all in the Gemara or Poskim, though, we cannot force anyone to do it. **Rav Shmuel Wozner** adds that if early authorities base a minhag on kabala, we *must* follow it (Shevet Halevi 1:2).

After everything we've said, the **Aruch Hashulchan** (25:29) records his mesorah that there cannot be a dispute between the Gemara and the

Zohar! If the Zohar's opinion is not found in the Gemara, it means we don't understand the Zohar correctly...