



THE שבוע MATTERS

שבת קודש פרשת האזינו

מסכת יבמות דף י"ט

לרפ"ש כל חולי ישראל

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

Insights from our Chaburos

Clarifying When זיקה Applies According to Rabbi

Shimon

הכא במאי עסקינן דנפול בבת אחת ורבי שמעון סבר לה כרבי יוסי הגלילי
דאמר אפשר לצמצם

Reuven dies, and Shimon is his only brother. Levi, a third brother, is then born. Shimon now does yibum with the wife of Reuven, and then Shimon dies. According to R' Oshia, Rabbi Shimon permits Levi to perform yibum with the former wife of Reuven. The is because when he was born, Levi already found her to be connected and associated to Shimon through זיקה.

Our Gemara deals with a case where Reuven, Shimon, and Levi are brothers. Reuven and Shimon are married to sisters, a mother and her daughter, and a mother and her grand- daughter, respectively. When Reuven and Shimon die, Levi is faced with three wives of Reuven, one of which he could consider for the mitzvah of yibum. He is then faced with the three wives of Shimon, each of which is related directly to one of the three wives of Reuven. Using the rule of זיקה, the Gemara says that Levi can do yibum with one of the wives of Reuven, and the other two wives are released, as are the three wives of Shimon (one is an ערוה to the one Levi marries, and the other two are צרות of the ערוה). This, however, is only true if Reuven died before Shimon. If they died at the same moment, both sets are released, based upon the verse לצרור.

הערות asks why we need a verse to teach us this ruling. The rule is (Kiddushin 50b) that in any grouping where the women cannot be married one after the other, the marriage is not valid even where one is taken first. The case is where a man approaches two sisters and offers kiddushin to one of them, without specifying to which. Abaye says that the offer of kiddushin is completely invalid. Since he cannot marry both together, the offer of kiddushin to one of the two is also meaningless. In our case, also, Levi cannot do yibum/chalitzah with the wives of Reuven and Shimon one set after the other. Why do we need a verse to release all of the wives?

Based upon Rashba in Kiddushin 51a, we can say that the rule that kiddushin or זיקה does not apply when it cannot occur בבת אחת is applicable only when it is affected by an action, such as when a man offers kiddushin to two sisters. However, the simultaneous death of two brothers which presents their wives to the surviving brother creates an automatic זיקה. This is similar to a case in Bechoros 9a, where two male animals are born simultaneously. Abaye holds that only one has the holy status of a bechor, but we do not know which. Here, too, due to the automatic status of being a firstborn, the holiness applies to one of the animals.

Stories off the Daf

“What is Zikah?”

“ולא שני לך בין זיקת יבם אחד”

The Rav of Mekor Chaim, Rav Yaakov Levine, זט”ל, was a student of Rav Boruch Ber Lebovitz, זט”ל, in his youth. The incredible intensity of Rav Boruch Ber’s learning and approach was legendary and can still be sensed when one studies his profound writings.

Rav Levine recounted, “One midnight deep in midwinter, I entered the home of my great teacher. When I noticed that he was pacing the floor completely absorbed in some sugya I figured that I would not disturb his deep ruminations. However, as I turned to leave he noticed me and called me to him. Rav Boruch Ber said, “It is good that you have come at this critical time!” He then turned to me and asked, “Tell me. What is the exact meaning of the word ‘zikah’? I don’t want to hear ‘lomdus’—I just want the exact definition of the word.”

I knew that the next day he was slated to give a shiur on the sugya of zikah. But I was completely astounded that after fifty years as a Rosh Yeshiva, after having given countless complex shiurim on this topic and after having written a lengthy and comprehensive monograph on zikah, he was searching for the meaning of the word as if he really didn’t know what it was all about at all! But this was my Rebbe, Rav Boruch Ber. Learning without expending effort was to him of little moment! Even what he had learned with incredible toil before was not important. He was still toiling over the same question as if he had yet to discover an answer. “What is zikah?”

Parsha Connection

In this week’s daf we learn about two brothers who were not alive at the same time, i.e., one was born after the other died. As a result of this disconnect, the younger brother cannot perform Yibum to his deceased older brother’s widow. In another context, this week’s Parsha teaches us the importance of connecting with prior generations: זכר ימות עולם בינו שנות דור ודור שאל אביך ויגידך זקניך ויאמרו לך “Remember the days of old, consider the years of ages past; Ask your father, he will inform you, Your elders, they will tell you.” The Vilna Gaon explains that the three things mentioned in this Passuk (זכור, שאל, בינו) (remember, ask, and understand) refer to three ways through which one can attain Emuna. “Remember” refers to those miracles that a person personally witnessed, “ask” refers to those things that he heard from our elders, and “understand” refers to the requirement that one analyzes how the world functions. Let us strengthen our Emuna in these special days and thereby merit a wonderful New Year!

Halacha Highlight

Betrothal Without a Woman's Full Consent

מה קידושין דעלמא מדעתה

A man once gave a silver ring to his kallah, in accordance with his custom. After the ceremony he gave her a gold ring and she commented that she thought that he was going to use a gold ring for the kiddushin. A few weeks later the man asked whether it would be necessary to do kiddushin a second time since she claimed that she did not intend to accept a silver ring for kiddushin, and she thought the ring she was given was gold. Although her claim is certainly not strong enough to permit her to marry another man, perhaps it is sufficient to require the husband to do kiddushin a second time.

Rav Nosson Gestetner¹, the L'horos Nosson, suggested that a comment of Rav Yosef Engel² could be utilized to resolve this issue. Rashi³ writes that the phrase (Devarim 24:2), "And she goes and marries another man," teaches that a woman cannot be betrothed against her will. Rav Yosef Engel questions the necessity of this exposition. Any transaction between two people requires the agreement of the two parties, and if one of the parties is coerced into the agreement the transaction is invalid. Why, then, is an exposition necessary to teach that a woman cannot be betrothed against her will? Rav Engel answers that the purpose of the creation of woman is to become one with her husband, to be his "helper who is opposite him." Consequently, when a man betroths a woman, he is not really acquiring something from her. Rather she is presenting him with something that is his. Analogous to this is teruma. The farmer has the right to present the kohen of his choice with teruma but the teruma is considered to be the kohen's property. Therefore, one may think that since she is not transferring something to him, the kiddushin could be performed against her will. Thus the exposition is necessary to teach that a woman cannot be betrothed against her will.

Accordingly, we need her consent only when she has the ability to select the husband of her choice. But in the event that she has no choice, kiddushin could be performed even without her consent. Therefore, since she accepted kiddushin from this man and is not believed to claim that she thought she was going to receive a gold ring to annul her marriage, the only person to whom she could be married is her "husband." In this circumstance it could be said that her consent is not necessary.

1. שו"ת להורות נתן ח"ד סי' פ"ו
2. ספר ציונים לתורה כלל ל"ט דף ס ע"א
3. רש"י דה קדושין דעלמא

Point to Ponder

Rav Ashi says that Rebbi Shimon would agree that Zika creates a bond similar to marriage but such a theory would not apply in the case of two brothers who died at the exact same moment since a third brother cannot have Zika to just one of them since they both fell to him at precisely the same moment. What would be if the third brother was less than nine-years-old when the brothers died. In such a case he cannot do Yibum until he grows up and is capable of performing the Yibum act. Since Zika is dependent on the Mitzvah of Yibum, it would seem that there should be no Zika until he grows up, and at that point even if the first two brothers did not die at precisely the same time, both women should become Zokuk to him at precisely the same moment. If this is the case why didn't Rav Ashi use this example, which is much more common than two deaths occurring at the exact same time, and presumably would be true even if you argue on Reb Yossi Haglili and hold לצמצם אי אפשר?

Response to last week's Point to Ponder

Rav Yehuda felt it necessary to specially teach that a Yavam cannot marry his Yevama's mother after the Yevama died without Yibum. Since Rav Yehuda holds that Zika is ככנוסה why would this relationship disappear after her death? Once she is his "wife," she should be no different than a regular wife who dies, in which case her husband cannot marry her mother? Rashi on ע"ב כג דף says that when a Zika goes off, it happens retroactively. (See דדה אין מוציאין).

Review & Remember

1. Is the strength of zikah dependent upon the number of yavams?
2. How does R' Pappa understand R' Shimon's position.
3. Is מאמר effective if it is done without the consent of the yevama?
4. What is the source for Rabanan's position concerning yibum with a non-contemporary wife?

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