



THE שבוע MATTERS

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

שבת קודש פרשת חיי שרה

מסכת יבמות דף כ"ו

לרפ"ש משה בן פעסל

Insights from our Chaburos

Chalitzta Must be Given and Yibum is not an Alternative

הרי אלו חלוצות ולא מתייבמות

The Rishonim deal with a classic inquiry regarding the halacha in the Mishnah. The case is where we have four brothers, two of whom are married to sisters. These two married brothers die, and the two sisters are candidates for yibum for the surviving brothers. The halacha of the Mishnah is that chalitzta must be given to both sisters. The Rishonim wonder why chalitzta must be given to both sisters. Let chalitzta be given to the sister whose husband died second. At this point, according to Shmuel (27a), the sister who was widowed first is not prohibited to the other brother, the one who did not offer the chalitzta to the sister whose husband died second. The sister who was widowed first should apparently be allowed to be taken for yibum.

The answer to this question can be explained based on how the Mishnah is understood. According to the opinion that the underlying reason for the Mishnah is that it is prohibited to cancel the law of yibum (אסור לבטל מצות יבמין), although the suggestion offered above is valid, we are nevertheless concerned that yibum might be offered before the second sister is given chalitzta. At this point, each sister is unavailable due to her being a sister of a זיקה. Due to this risk, we do not allow yibum even if it is performed in the proper sequence, after the chalitzta.

The other approach to explaining why the Mishnah rules that chalitzta is given to both sisters is based upon זיקה. The strong זיקה-bond which is created due to the yibum situation causes each sister to become associated to the surviving brothers. When the second brother dies, the first sister now becomes prohibited outright, as the double זיקה causes each to be a sister of a זיקה. This strong status of each being prohibited, even momentarily, cannot be resolved or reversed later if the second sister was to receive chalitzta. This is why yibum is not an alternative.

Stories off the Daf

The Bonds Between People

ש"מ יש זיקה

On this week's daf, we learn about further permutations of relationships in which we are told that there is zikah. This can also be understood metaphorically— one must realize that we are connected to other people in complex ways, and how we act and react affects those others who are bound to us.

In Mir, the custom was for the bochurim to learn until they were much older and only then to marry. The reason for this is clear: it is much more difficult to learn while supporting a wife and family than when one is responsible for himself alone. Of course, there are other approaches. The Chofetz Chaim, zt"l brings the Maharshal, zt"l, who writes that nowadays one should not wait past the age of twenty-five to marry even for the purpose of Torah study. Perhaps it was for this reason that the parents of the talmidim would stop supporting their sons after a certain point, which meant that many of the Mirrer bochurim would accumulate debts. (Of course, it may just have been because the parents were poor.) In practice, when one of these talmidei chachamim did eventually marry, one of the elements of the dowry agreement was that the prospective father-in-law would pay all of the bochur's debts. This often constituted the entire dowry. One "alter bochur" found a very suitable girl, and his father-in-law indeed agreed to pay off his considerable debts. The girl's father claimed that the money to pay off the debts had been given to a third party they both knew and trusted. The couple was officially engaged, but not long afterward, the prospective father-in-law claimed that the money had been stolen from this third party. The man argued that this meant that he himself had no further financial obligation. After a little investigation, it was clear that the money had never been deposited with this party at all. The entire story had just been a means to entrap the bochur into a commitment. The broader community was incensed by the obvious trickery of the girl's father. In an unexpected move, the bochur took a train to meet his kallah face-to-face. The first words out of his mouth were, "I came all this way just to alleviate any doubts or worries you might have about the problem with the dowry. Any money issues are only between your father and myself—they have nothing to do with you at all. Please don't worry. I would never break off a shidduch for money!"

Review & Remember

1. What is a קטלנית?
2. Why doesn't the Mishnah discuss a case of three brothers rather than four?
3. According to Rav, is there an issue of פסולה חליצה?

Parsha Connection

In this week's daf, we learn that a son is not suspected of helping a woman get divorced so that his father can marry her because out of deference to his father he would not sin. We find an example of such respect in this week's Parsha with regard to ישמעאל. At the end of the Parsha the Torah devotes several verses listing Yishmael's descendants, the Midrash (בראשית רבה) asks why do we list this רשע's family? The Midrash offers a fascinating answer: since ישמעאל traveled to pay respects to אברהם, his father when he was niftar, the Torah rewards him with these verses! Let's remember how important it is to show the proper respect to our parents.

Halacha Highlight

Marrying into a Family with a History of Illness

דאי כרבי האמר בתרי זימני הויא חזקה
Because according to Rebbi a chazakah is established after two occurrences

The Gemara's conclusion is that once a woman is widowed twice she is considered a katlanis (a woman who is considered to be the cause of her husbands' deaths). This ruling is codified in Shulchan Aruch¹ and a similar ruling is mentioned concerning bris milah. Shulchan Aruch² rules that if two boys from a family died following their bris milah, a chazakah is established that boys from this family are endangered by having a bris milah and any additional children should not receive a bris milah until they are older and stronger. These rulings, however, are contradicted by another ruling of Shulchan Aruch³ that states that in order for a family to establish a chazakah as diseased the disease has to appear in the family three times⁴. Teshuvos Pri Hasadeh⁵ suggested a resolution to this contradiction when he addressed the following inquiry. A man married a woman who died from a cough. He then married her sister who also died from a cough. The family wanted him to marry the third sister but he hesitated because the doctors led him to believe that this condition was genetic, and he was concerned that it would be passed on to his children. Pri Hasadeh suggests that a distinction should be made between a chazakah established regarding the person himself and a chazakah established within a family. A katlanis has established a pattern by herself as one whose husbands die, and that pattern is established after only two times. Establishing a chazakah within a family, on the other hand, requires three occurrences. Furthermore, even regarding establishing a chazakah within a family, it is logical to distinguish between a chazakah concerning bris milah and a chazakah concerning marriage. Concerning bris milah, it makes sense to take a more cautious approach, and even after only two occurrences a bris should not be performed on the next child until he is older. Concerning marriage, on the other hand, if permission is not granted for her to marry she will never be able to marry. Consequently, the family does not establish a chazakah until three occurrences appear in the family. Therefore, since in the query posed to Teshuvos Pri Hasadeh this illness only appeared two times in the family, a chazakah is not established and it was permitted to marry the third sister.

- 1 שו"ע אה"ע סי' א'
- 2 שו"ע י"ד סי' רס"ג סעי' ב'
- 3 א"ר סי' ב' סעי' ז'
- 4 ע"י פת"ש אה"ע סי' ס' סק"ח ואוצר הפוסקים שם אות מג'
- 5 שו"ת פרי השדה ח"ב סי' כ"ו

Mussar from the Daf

Instant Gratification

The Mishna says that if one who comes to free a woman from her marriage, he cannot marry the woman whom he was trying to free. If, however, his wife dies then he can marry the woman whom he sought to free. Let's say that his wife's death could have been anticipated to occur imminently at the time he sought to free the other woman, i.e., his wife was sick when he came to try to free the other woman from her marriage and soon after this, his wife died. Would he then be allowed to marry the woman he was trying to free? The Ritva states that he is forbidden to marry the woman because we are concerned that he helped free her so that he could eventually marry her. The Ritva explains the difference between these two cases based on the Yerushalmi. The Yerushalmi (Perek 2, Halacha 12) after citing cases from our Mishna states the principle that a person does not do a sin if the benefit will be well into the future. Therefore, the Ritva seems to be saying that since his wife was sick we are concerned the man may testify falsely about the lady because his benefit would be relatively soon.

There is an important principle to remember when trying to fight the Yetzer Hara. A key difference between the Yetzer Tov and yetzer hora is that the Yetzer Tov can think long term and do small actions now which will have a benefit for the future. On the other hand, the yetzer hora is into immediate pleasure and totally focused on the "here and now." The yetzer hora doesn't think about the long term. For example, if I want to say something that could be Loshon Hora. If the statement is one that I feel has to be said today and it cannot wait until tomorrow, there is a high chance that it is coming from the yetzer hora. Moreover, if a person is presented with a dvar aveira and he feels that he cannot overcome his yetzer hora, he should at least endeavor to push off doing it until the next day. When the yetzer hora sees the aveira will not be done immediately there is a good chance that the desire to do the aveira tomorrow will dissipate.

Point to Ponder

The Gemara says that the Mishna of אה"ע ארבעה proves that there is Zika. Rashi explains this by citing a Gemara in Nedarim regarding a Yavam undoing a Yevama's vows. Why is this reference necessary? We just had a discussion about Zika in the previous Perek, so why bring a far away Gemara in Nedarim?

Response to last week's Point to Ponder

Rashi on ע"ב כ"ה explains that a person who admits is believed like 100 witnesses only with regards to money. If for example a person admitted to stealing, which we know makes him an invalid witness, how can we believe him with regards to the money which he stole? How is it different from the cases in our Gemara where we say that a person cannot incriminate himself? Admission to a monetary debt, is only believed with regards to the debt itself, but not with regards to the circumstances which caused the debt (אבן האי"ל). Another way of understanding the difference is based on the words of the ע"ב דף ג' מציעה ב"בא, that when we have a personal admission, there is no need for witnesses. While it's called "like 100 witnesses," it is not constrained by the laws covering witnesses.

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

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The shavua matters is published by the Daf a week program under the rabbinical guidance of Harav Meir Stern shlita and Harav Shmuel Kamenetsky shlita

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