

Yevamos Daf 26 is Dedicated

לרפ"ש רפאל מרדכי בן גיטל



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ENGLISH TOPICS ON THE DAF

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Daf Hashovua Yevamos Daf 26

Chalitzta pesulah

We are introduced to a new concept on daf 26b: chalitzta pesulah, which requires that all the brothers do chalitzta, although usually one is enough. The case here is of brothers who already did chalitzta to her sisters.

What is the exact issue which makes the chalitzta invalid?

Rashi says it's because they could not do yibum even if they wanted. After the first brother does chalitzta, the next yevama is the "sister of his chalutzta." Since the chalitzta is "weak," all the brothers have to do it.

Other Rishonim are not happy with this explanation. We find other cases in which the yovom cannot do yibum, and yet his chalitzta is fine, asks Tosfos. Anyway, why is this a reason for the chalitzta to be flawed? What does yibum have to do with chalitzta?

Tosfos provides a different parameter. Chalitzta is less effective whenever their zikah, their yibum-connection, is already reduced. If her sister had chalitzta, or if one yovom gave her a get, the zikah is weakened

and a subsequent chalitza is not as effective as usual. Therefore, all the brothers have to do chalitza.

The **Rambam** (Yibum 7:10) describes another case of chalitza pesulah. A man dies and leaves two wives, and one is forbidden to his brother with the strength of a lav. If he does chalitza to that wife, it is not good enough to work for the wife who was permitted to him, and he has to do chalitza to her as well.

This, notes the **Gr"m**, cannot fit with Tosfos' interpretation. There was no reduction done to their zikah here, just an external issue! Rambam must be learning like Rashi (Even Ha'ezer 170:15).

How can we defend Rashi's pshat?

Chalitza is unique to yevamos and yevamim; it doesn't work for regular marriages, and a get won't end their zikah, either. So, says the **Ramban** (on daf 51b), just like if the yovom gives her a get it can't nullify the zikah, so too if there is a prohibition to do yibum the chalitza is not strong enough to work for all the brothers. It removes the zikah only from the yovom who does it, but not from the other brothers. Only when yibum is a possibility can chalitza work in its place.

Rabbi Yisroel Kalmanowitz shlit"m (Reshimos Shiurim Siman 59) adds another layer of elucidation. When yibum is possible, we can look at the chalitza as its replacement and it works for all the brothers. But if yibum cannot be done, its chalitza counterpart is not infused with that power. It is like he is giving her a get, dissolving only his relationship with her. And as the Gemara here says, this is all according to the opinion that yesh zikah; they have a status similar to marriage, and need a potent chalitza to annul it. The other opinion would allow such a chalitza to work for all the brothers.

In the first teshuva in sefer **Shu"t Chacham Tzvi**, he discusses if chalitza needs kavana that one is doing a mitzvah, or is the intent similar to a transferal of ownership. The yevama is now becoming an independent person. The difference would be if the yovom doesn't think explicitly during the chalitza ritual that he is thereby permitting her to marry anyone she

wants. If the kavana is of the mitzvah, both parties should have this in mind at that time, like it says by shofar-blowing that both the blower and the listener must have kavana. But if it is a technical activity, as long as he knows what he's doing, it suffices.

Based on this chakira, the **Chiddushei Rav Noach** (Siman 20) advances that Rashi and Tosfos argue over this very point. Rashi sees that the main aspect of chalitza is the mitzvah it serves, coming in place of yibum. Automatically it also permits her to marry others. So, if yibum is not an option, it weakens the whole thing, since chalitza is then only fulfilling the auxiliary function. Tosfos, on the other hand, understands chalitza mainly as the technical release function. Yibum does not have bearing on chalitza's efficacy; it's a totally different system. Only if the zikah itself is already diminished is the chalitza posul.

Rav Nosson Tzvi Finkel zt"l (Siman 25) developed a beautiful train of thought about the opinions of Rashi and Tosfos (lishitasam). Rashi assumes that yibum and chalitza draw off the same zikah; chalitza is instead of yibum. Tosfos, however, maintains that chalitza works on a different track from yibum. It stems from its own zikah, and is not just a way out of yibum. The Torah offers two separate options for the yovom. (It is a gezeiras hakasuv that [at times] if yibum isn't possible chalitza isn't necessary either.) That is why Tosfos insists that chalitza is posul only if the zikah of chalitza is already reduced!