



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

The Hakuk Edition **English Topics on the Daf**

Dedicated l'refuah sheleima for Yaakov ben Victoria

By Rabbi Mordechai Papoff

THE FIFTH PEREK OF YEVAMOS IS DEDICATED:

לע"נ דוד בן יצחק איסאק



YEVAMOS DAF 50 IS DEDICATED:

Leiluy Nishmas R' Tzvi Menachem ben R Shmayahu

Yevamos Daf 50

The new chapter discusses alternative options for yevamos. Rabbon Gamliel holds that after giving a get to a yevama, a second get to a yevama cannot be valid. A later Gemara discusses why; we'll just touch on it when necessary.

Rashi on the Mishnah explains that R' Gamliel is unsure of the veracity of a get to a yevama (this is the opinion of Rava on 51a). Either way, the second one can't work – if the first one worked, the zikah is off already, and if the first did not, the second one won't, either.

The issue with Rashi is the language he uses here. He writes that if the

first get worked, giving the second one a get is "like divorcing an unrelated woman." This implies that the get was completely effective, to the extent that even midioraisa no further zikah exists. But, the Torah says that the only way to end zikah is with chalitza; get is certainly only a Rabbinic enactment? How could Rashi say that after a get the yovom cannot accomplish anything with his action? The same question is on the next phrase, that "maamar" cannot be followed with maamar. How could the first one be so effective as to preclude the second one's validity?

Based on this, the Aruch L'ner suggests a startling chiddush, painting a new part of the yibum picture. A yevama is just like any other wife, who is acquired with kiddushin and divorced with a get. The only difference between zikas yibum and regular marriages is that the Torah added new ways of doing it – yibum to create a marriage and chalitza to end it! This is, however, only in the option that it works; R' Gamliel is not sure if maamar and get work.

This is a very novel way of learning, as the impression throughout the Maseches and various explicit Gemaras is otherwise. For example, in Kiddushin 14a it asks why a get can't work for a yevama, and provides a possuk to substantiate that only chalitza works. The Aruch L'ner would say, at this point in the sugya, that R' Gamliel would disagree with that. Or, those Gemaras follow the explanation of Abaye, who argues with Rava later, and whose opinion is the halacha.

Although the Aruch L'ner backs up his approach with other sources, the Keren Orah refuses to allow it. Maamar may be midioraisa according to R' Shimon (18b), but

not a get. At the very most, it may reduce the zikah enough to disallow yibum.

Tosfos on daf 51b cites a Rishon who suggests that a get works midioraisa according to one Tanna, but Tosfos rejects it. "We do not find any Tanna saying such a thing explicitly," he begins, adding other challenges.

On the other hand, the Talmud Yerushalmi does sound like the Aruch L'ner's interpretation; the Rashba cites it on the next daf. It records that some Tanaaim hold that maamar and get work somewhat ("koneh umeshayar"). The possuk specifies chalitza as the disengagement device of yevamos, but adds, "She should not go out (marry) to a foreign man." Ponders the Yerushalmi, what is this referring to? If yibum was done, of course she can't marry out – she's fully married! And if chalitza was done, she is permitted to other men? It must mean that after he gives her a get, she is now forbidden even to the yevamim; they become foreign to her due to the get (explanation by Lev Yerushalmi).

The Yerushalmi also records that Rabbi Shimon considers the

possibility that both maamar and get work fully, just like with any other marriage. Similar to R' Gamliel here, he says that they both are fully effective, or not at all.

Another derasha the Yerushalmi provides is from a possuk about gittin, "The first husband who sent her away cannot take her back" (Devorim 24:4) – a reference to a yovom giving the yevama a get. In contrast, our Gemara (daf 52b) also cites this derasha, but Rav Ashi states that it is only an asmachta, a support from the possuk; a get is Rabbinical.

The Korbon Ho'aida (in Sheyarei Korbon) indeed notes that according to both Tanaaic opinions, the Yerushalmi assumes maamar and get are effective midioraisa. The Bavli, however, seems to have the impression that they are only midirabonon, as implied by its language on daf 50b, "What is the reason the Rabbis said maamar works by a yevama." That is how Rashi explains the Mishnah on 17a. The Korbon Ho'aida wonders why the Bavli is so convinced that it's only midirabonon!

The Ohr Someaich, as well, comments that according to the

Bavli, there is no example of a dioraisa divorce deed that prohibits her from yibum and yet doesn't permit her to marry others, either. Maamar effects such a halacha because it is midirabonon. But, the Yerushalmi would say that a get may create such a situation (Yibum 4:16).

So, this is the consensus running throughout the Maseches: The Bavli assumes they are midirabonon, while the Yerushalmi holds they work midioraisa.