



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 SIXTH PEREK OF YEVAMOS IS DEDICATED:

לע"נ גרשון בן החבר מרדכי



YEVAMOS DAF 56 IS DEDICATED:

אשר שמואל בן מיכאל אברהם L'Zecher Nishmas

## Yevamos Daf 56

At the beginning of our daf, Rav and Shmuel dispute the acquisition power of biyah pesulah's. Then the Gemara clarifies that if the yevama fell to yibum from nissuin, both agree that she may eat terumah if her husband is a Kohen.

Here the Rishonim discuss the intent of the Gemara, and reveal thereby underlying differences of understanding of the kinyan of yibum.

Tosfos here says that actually the yevama has many more effects of the biyah. The yovom would inherit her if she would then die; he must attend to her funeral and become tomei even though he's a Kohen, and other things. The Gemara mentions terumah as the biggest chiddush, since sometimes terumah is forbidden even when people are married in every other sense. Thus, once the biyah is sufficient to allow her to eat terumah, it's certainly effective for all the other aspects of nissuin too.

However, Tosfos in Sotah (24b) learns that the Gemara is literal – the only aspect of nissuin applicable is permission to eat terumah (aside from that which is written by yibum). As it says, since she already ate terumah when she was married to her first husband, she may continue. But no new halachos connecting her to the yovom apply yet.

The Ramban explains that midioraisa every woman can eat terumah from erusin already, just the Rabbonon enacted that she must wait until nissuin. Here we permit it, since biyah pesulah is no worse than erusin, so midioraisa it's permitted, combined with the fact that she ate it until now.

This second view seems more logical, argues the Keren Orah. If we figure in that all terumah in our days is midirabonon, we can accept that it is the sole hetter of such a biyah. But for other – dioraisa – things (as our Tosfos says will apply from

nissuin), why should there be a difference if she's coming from erusin or nissuin of the first husband? If this biyah suffices, like Rav says, then it'll work even from erusin. If not, as Shmuel opines, then even if the zikah is from nissuin the biyah should not be potent enough?

To defend Tosfos, sefer Ateres Shmuel analyzes the mechanics of yibum. The act of yibum effects a kinyan like any other marriage, "she becomes his wife in every way" (daf 38a). In addition, it is an extension and consummation of the first man's marriage, as the yovom takes his place. Shmuel holds that this inferior biyah is not sufficient to create a complete marriage bond with all the ramifications. It can, however, serve as an adjunct to the first brother's marriage, and whatever applied before will apply now. If nissuin was in effect before, they now continue all those halachos. But if it was only erusin, it's limited to the details listed in the parsha of yibum, because this biyah is valid through a derasha in that parsha.

A third way to understand our Gemara is derived from the Rambam. He writes in Hilchos Terumos (8:6), "A yovom Kohen who [performed a biyah pesulah]... although he acquires her regarding yibum, he cannot give her terumah to eat until he does a full biyah. This, however, is only if she became widowed from erusin. If she is coming from nissuin, she may eat..." He rules according to Rav in the second version of their dispute, which essentially is the same as Shmuel in the first version.

The Beis Yosef (E.H. 166) notes that Rambam does not put this in hilchos yibum, but in hilchos terumos. This implies that the only area which depends upon erusin and nissuin is terumah. For everything else, the kinyan is valid even from erusin! This is the opposite of

Ramban and other Rishonim like him. How are we to understand this?

The Avnei Miluim (Shu"t Siman 17) offers an interesting difference. As the Rambam says, he achieves a yibum acquisition with a biyah pesulah, and therefore becomes her halachic husband for everything relevant to its details. Indeed, in Hilchos Yibum (2:3) the Rambam states simply that such a biyah is effective! Terumah, however, needs a "kinyan kesef," a marriage acquisition including even all monetary aspects, as the possuk about terumah puts it. This is still missing until a proper biyah is done.