



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*

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## Yevamos Daf 95

Rav Yitzchok Nafcha elucidates the argument in our Mishnah with the idea of people possibly assuming the marriage was conditional.

**Rashi** explains R' Yosi that if it's clear the kiddushin was erroneous, she may return to her first husband, since there is no cause for concern. Nobody will think that the second get is binding, so it does not look like a woman remarrying her first husband after wedding another man.

This implies that the reason Chazal forbade a woman to her first husband is because of this concern, that it looks like a machzir gerushaso.

However, on the first Mishnah of our Perek, Rashi provided a different reason! On 87b, he says she may not return to the first man "like any married woman who is unfaithful." This is a reference to an earlier sugya (11a) which terms it as a "sotah midirabonon." Which is the reason?

What is a practical difference between these two explanations? If a woman did yibum based on mistaken testimony that her husband died. She does not need a get from her yavam (if she was fully married, with nissuin). If the reason she's usually forbidden to her first husband is because of similarity to machzir gerushaso, in this case she may return to him, since the second man did not give her a get. But if the prohibition is due to her relations with another man, here too she would be prohibited.

The **Tur** (E.H. 159) paskens that she may return to her husband in the case of yibum, like the first option.

The Beis Yosef (in **Bedek Habayis**) is unsure why we may be so lenient, though – Rashi and others record the other reason, as well, so how can we permit her? Indeed, in his Shulchan Aruch, he omits this halacha (E.H. 159:4). The Rema inserts it, based

on the Rosh who sides with the Tur's reasoning. The Beis Shmuel upholds the Shulchan Aruch.

One resolution of the contradictory sources is suggested in Shu"t **Chut Hameshulash** (Siman 13). It depends if she got remarried based on the testimony of one witness or two. If only one, she is required to thoroughly ascertain the veracity of it, and if not, she is deemed a sotah. On the other hand, if two witnesses came, it's a fully accredited psak by Beis Din, so the only problem remaining is of machzir gerushaso.

He is unwilling to side with the Rema and permit the case of mistaken yibum, though, with so many Rishonim forbidding it.

Parshas Zachor for women

This week being Parshas Zachor, let's divert somewhat and discuss one point of this annual mitzvah: Are women obligated to listen to Parshas Zachor?

In the **Sefer Hachinuch**, both by the mitzvah to remember what Amalek did to us, and by the mitzvah to erase any vestige of Amalek, he writes that it applies only to men. In the former, he explains that only men are considered warriors and are thus enjoined to

retaliate for the Amalekite wanton act of war. The second mitzvah follows in its wake (Mitzvos 603-605).

However, the **Minchas Chinuch** is puzzled as to the Chinuch's source. The Rambam does not differentiate between men and women. It is not a mitzvas aseil shehazman grama (a time-bound mitzvah), so women should be obligated. Plus, there's a lav involved here – to *not* forget what they did – and women are obligated in all mitzvos lo sasei! Although the Chinuch provides a logical reasoning for his psak, the Minchas Chinuch is not comfortable to accept it without any source. Who says the mitzvah is relevant only to those who actively fight? Maybe it's just to *remember* their evil deeds; he posits that even when Moshiach comes and Amalek will be totally eradicated, we may still have this mitzvah! He concludes with his opinion that women *are* obligated.

Besides all this, the Gemara says that for a milchamas mitzvah, a war over the safety of Eretz Yisroel, even women participate! So why should they be exempt from zechiras maaseh Amalek? This question was answered by the **Avnei Nezer** (509) with the halacha that missas Beis Din is not carried out on Shabbos. Therefore, it *is* a mitzvas aseil shehazman grama!

Alternatively, the **Steipler** refers us to an earlier Gemara in Yevamos 65b that only men participate in wars. The problem with this is that the Chinuch himself says (Mitzvah 425) that women are obligated in the mitzvah to wipe out the seven nations who inhabited Eretz Yisroel? The Steipler suggests that maybe that mitzvah is essentially linked to the mitzvah of inhabiting the Land. Exterminating the former tenants is only a prerequisite. Even women are relevant to living in Eretz Yisroel, so they are obligated in the other part of it, too.

But there's another issue here. The Chinuch discusses that the mitzvah of remembering maaseh Amalek may be fulfilled simply by reading the pesukim. Why does it have to be done with a kosher Sefer Torah? He says it's a minhag in Klal Yisroel to do so.

This is another reason to exempt women from Parshas Zachor. Although some poskim rule that it *is* a chiyuv dioraisa to hear it from a Sefer Torah, **Teshuvos Toras Chessed** inclines to the contrary. He says that thus the minhag is that women do not go to shul for Parshas Zachor.

On the other hand, **Teshuvos Binyan Tzion** (Siman 8) rules in the name of Rav Nosson Adler that women are obligated to go listen to Parshas

Zachor. He assumes it's because technically there is no time constraint on the mitzvah, so women are obligated in it like any other mitzvah. Many other poskim in recent generations held like this (see Dirshu Mishnah Berurah, 685:16 note 26), and it is the commonly accepted custom in many places.