



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

Yevamos Daf 97

. Arayos of Bnei Noach and Converts

Our Mishnah opens up the topic of forbidden relationships for geirim. Rav Acha and Rav Sheishis argued if eishes ach may be permitted for them, and the Gemara further explores if it applies to siblings from the same mother or father.

Although "a convert is like a newborn child," Chazal enacted restrictions on who he can marry. Ritva says the guidelines fall under two gezeiros: it shouldn't look like he downgraded his observance of arayos (daf 22a), or if there is cause for concern that people would mistakenly allow it for born Jews. Relationships forbidden due to marriages of others, though, are never forbidden, since the goyim do not ascribe to them. Thus, Yaakov Avinu married two sisters, and Yehuda married his daughter-in-law! That is why Rav Acha permitted the geirim in our Gemara to marry each other's wives after they became widowed.

Let's focus on the second example he brings, that Yehuda cohabited with his daughter-in-law. The Ramban here adds explanation on the possuk that says לא יסודו עוד לדעתה, which according to one

opinion cited in Rashi means he did not continue to be with her. Why not; he already said "She is more correct than me"? Ramban answers that she had a brother-in-law, Shaila, who was in line for yibum with her, so Yehuda backed out in his favor.

The Brisker Rav compared this to Avraham Avinu's mitzvah of milah. Although the Avos fulfilled the entire Torah even before it was given (Yoma 28b), Avraham did not circumcise himself until Hashem commanded him to. Why not? It wasn't possible yet! Bris milah is by definition the removal of the orlah (foreskin), but until Hashem originated the concept of a bris, it did not have the designation of orlah. So too, Yaakov could marry two sisters, because for Bnei Noach the issurim generated by marriage do not exist (Griz al haTorah, Lech Lecha).

However, the Rashba is not impressed with the proof from Yehuda and Tamar. As the Ramban himself in his commentary on the Torah writes, before the giving of the Torah yibum was performed with any relative (cited here on daf 77). Thus, Yehuda was doing yibum,

not just marrying his daughter-in-law! And even if he withdrew for Shaila to take her, that was because the deceased's brother takes precedence.

Applying the idea of the Brisker Rav, we may say that since the Torah had not yet dictated the mitzvah of yibum, it would not override the issurim of arayos. It did not yet have that authority. Therefore, argues the Ramban, if Yehuda did it, it must be that there was no issur for them to marry (see Kovetz Hearos 9:7).

This, too, is subject to debate. Before Yehuda was with Tamar, he told his second son, Onan, to do yibum with her (Bereishis 38:8). The Rishonim quote a Midrash that "the mitzvah of yibum was given to Yehuda." This indicates that it was already in force at that time. But if so, Tamar was a shomeres yavam after her husbands died (Shaila was the third brother). Why did Yehuda judge her liable to death for cohabiting with a foreign man – a shomeres yavam is not chayiv missa for it?

The Moshav Zekeinim (38:24) offers that non-Jews receive the death penalty for any infraction, even for transgressing a lav. And although she was not married at the time, just designating a woman to be one's wife may be sufficient for Bnei Noach (see Sanhedrin 58b). Zikah for yibum is analogous. Why did he exonerate her, then? Because Yehuda realized that the first two men cohabited with her shelo k'darka, so their marriage was not actually valid. In the end, she was unattached!

It is perplexing to note that the Ramban in his commentary on the Torah seems to look at this topic differently. In Bereishis 26:5 he says that the Avos kept the Torah, in every detail, but only in Eretz Yisroel. That is why Yaakov married two sisters, Amram married his aunt, and they built matzeiva monuments even though the Torah forbids it. Indeed, he offers two explanations for Rochel's sudden death and burial "on the road," based on the assumption that Yaakov was not allowed to be married to them both! (In Bereishis 48:7 he says that Yaakov would be embarrassed to bury both his wives in Meoras Hamachpela; in Vayikra 18:25 he attributes it to Yaakov's merits that he didn't enter the Land still married to two wives.) Additionally, about Yehuda and Tamar he says that before the Torah was given, yibum was possible through any relative (38:8).

According to all these comments, the Ramban seems to preclude the idea that Bnei Noach and converts are exceptions to the rules. These examples were simply permitted then! This is in direct contrast to his chiddushim on Shas? The annotator on Ramban al Shas notes these contradictions and does not answer.

Perhaps it is not particularly a stirah because the Ramban wrote his commentary on the Chumash to "relax the minds of the students, weary from the golus and tzaros, and attract their hearts with some pleasant things on the sidros" (Hakdama). The Sdei Chemed records that the Ramban and other Rishonim at times suggest explanations at odds with

the sugyos in Shas (Vol. 6, p.78). Ramban's thoughts on the Gemara, however, are consistent with his halachic conclusions. (This is a proposal; if anyone has further comments, please send them).

The Gemara in Pesachim 119b does imply like the Ramban al haTorah, that it was not halachically sound. It teaches that in the future, the tzaddikim from all generations will partake of a feast. At the end, they will honor Avraham Avinu to lead the zimun. He will decline, because of the blemish in his progeny – Yishmael. Yitzchak will also be offered it and he'll decline, as well as Yaakov, "Because I married two sisters, which the Torah in the future would forbid." Even though Yaakov himself saw this as a shortcoming, he did it anyway, guided by Ruach Hakodesh (Gur Aryeh, Bereishis 32:5).

Conversely, some commentaries understand his self-deprecation that although he did nothing at all wrong, it looks flawed simply because it later became forbidden. This can align with the Rishonim above who maintain that it was permitted to him.