



לע"נ ברוך בענדיט וברכה גרוס ע"ה
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The Hakuk Edition **English Topics on the Daf**

Dedicated l'refuah sheleima for Yaakov ben Victoria

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Yevamos Daf 102

Kavana in Chalitza

Rav Yehuda introduces us to a new sugya in chalitza: kavana, that the yavam and yevama should have intent when performing chalitza. If even one of them does not have proper kavana, it is not fully effective.

What is the nature of this halacha? Does it fall within the standard rubric of kavana in mitzvos, or is chalitza special in this regard? If so, what is the source for it?

The poskim discussed and debated this. In **Chacham Tzvi** (Siman 1), he opines that kavana is especially necessary by chalitza because it effects a kinyan, a halachic acquisition. In the same way when one marries a woman he acquires her halachically, so too a yevama “acquires herself” to be released from the bonds of zikah. Using this explanation, the Chacham Tzvi opines that even an apostate can do chalitza. If the kavana required were of fulfilling the mitzvah, we would not trust the intentions of a man who lives like a goy. But since the intended intent is simply one of acquisition, as long as one knows what he’s supposed to be doing, we ignore any contrary thoughts (דברים שבלב אינם דברים).

On the other hand, the **Beis Meir** follows the other view, that the kavana is for the mitzvah itself. The Gemara says that we may trick him into doing chalitza if he doesn’t want to cooperate – yet acquisitions made unintentionally are not valid! As the Rambam (Yibum 4:8) describes chalitza, “They should do these actions lishmah, for their proper sake.”

The **Aruch Hashulchan** (E.H. 169:65) explains that chalitzta is different from all other mitzvos, and here kavana is mandatory for her hetter. Why? Usually when one does a mitzvah it is clear what he's doing. When he blows a shofar, shakes a lulav, or eats matzah, he is obviously doing a mitzvah. But chalitzta is comprised of everyday activities – removing a shoe, spitting. Therefore, if they don't have specific kavana for chalitzta, there is no mitzvah-action occurring! The proof of this idea, he says, is that the Torah requires the recital of the formulation written in the pesukim. Most mitzvos do not include a mandatory recitation! It must be, that without it we don't see a mitzvah being performed. So too, they must have kavana for it.

Similarly, in O.C. Siman 60:4, the **Shulchan Aruch** rules that mitzvos tzrichos kavana – one must concentrate before doing a mitzvah to the effect that he intends to fulfill Hashem's will. However, the poskim append various conditions, like the opinion of the Chayei Odom that if it's clear you're doing a mitzvah, you're yotzei nonetheless (Mishnah Berurah 10). Thus, the Aruch Hashulchan takes chalitzta to a level – a mitzvah which everyone agrees requires kavana, because otherwise it doesn't look like the mitzvah at all.

Conversely, **Shaalas Yaavetz** (1:26) says it just means they should be cognizant of what they are doing. Therefore, a mumar certainly can do chalitzta. The only problem is if they have no inkling at all of chalitzta, like if the yevama was helping her brother-in-law with his shoes, or a shotah, who is deemed to be void of intelligence.

It should be noted that the Aruch Hashulchan's assumption is not clear-cut. As can be surmised, the customariness of removing other people's shoes or spitting in front of them depends on the time and place. For example, the Nemukey Yosef writes that only removing the shoe is cause for concern of chalitzta pesula, "since it is not the normal conduct. But spitting, which is impossible to avoid, does not hinder it. Otherwise, in every case of a yevama living with her husband's brothers we would not allow yibum, since it is impossible she never spat before them!"

Indeed, although the chalitza ceremony features basically regular activities, they are laden with significance. The possuk directs the yevama to proclaim in Beis Din, “My yavam refuses to perform yibum with me.” **Halachos Gedolos** says she removes his shoe since he is compared to a mourner or one in cherem, who are not allowed to wear shoes. She spits before him to hint to the “drop” he could have used to procreate with her and reestablish his brother’s name. The judges intone “Chalutz hanaal” three times – for he is like a mourner, a menudeh (one in cherem), and one who rebels against mitzvos and Hashem (quoted in Peirush on Seder Chalitza in Shulchan Aruch, note 82).

In the Tur and **Shulchan Aruch** (169:44), our Gemara is cited following the second version, that if we know she once removed the shoe of a yavam, they may no longer do yibum. The next phrase, though, begs our attention. “Perhaps *they had kavana* for chalitza; she needs a chalitza keshaira to permit her to marry outsiders.” The Taz (in Rosh Pinah edition) is bothered by this phraseology. Doesn’t it suffice if *one of them* had kavana to render it chalitza pesula to forbid yibum? Isn’t that what the Beraisa teaches – if he or she had kavana it’s possul?

The Tur and Shulchan Aruch follow the view of the Rosh, says the **Beis Shmuel**. He explains that the Rosh contrasts other sugyos and concludes that the Beraisa refers to an entire chalitza procedure, not just removal of a shoe. That is when one party’s kavana suffices to create chalitza pesula. If all she did was remove his shoe, only if *both* had kavana for chalitza is it potent. According to this, if the yevama removed a yavam’s shoe and we are certain that either he or she did *not* have kavana for chalitza, she is still permitted to do yibum!

However, the Beis Shmuel continues, other Rishonim codify this halacha as, “we are concerned maybe *she* had kavana.” Thus, as long as one of them had kavana, it would invalidate yibum. Since the Rishonim disputed this, he is unsure what the Shulchan Aruch holds; maybe his expression is inexact.

