



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 106***

We open our daf with the sugya of chalitza muta'as. The maskana of the Gemara is that a condition applied to chalitza is not binding, and the chalitza is valid nonetheless.

Why is the condition not binding? Rashi quotes for us the Gemara in Kesubos that chalitza does not fall within the rubric of tenaim, which must follow the paradigm of "tenai bnei Gad ubnei Reuven." Allocating the Land was possible through a shaliach, an agent, but chalitza is not.

Why does it have to be like tenai bnei Gad u'Reuven? The Rosh here explains that tenaim in general are novel devices; when someone does something he can't make it depend on a condition. Yet, the Torah teaches us in the parsha of bnei Gad that it does take effect – but only if it resembles that tenai in all its details (see Kiddushin ).

Why can't chalitza be done through a shaliach? The Rosh says it's from the possuk, "She removes the shoe from upon his foot," that it must be his foot. That covers the yavam's personal participation in the chalitza. What about the yevama?

Can she appoint a shaliach to do her chalitza?

The Aruch L'ner ponders this. There's no explicit possuk regarding the yevama which excludes shlichim like by the yavam. Rishonim say that we can't make a shaliach to do mitzvos which must be done with our body, such as putting on tefillin, sitting in a sukka, or eating matza. Shlichus only works for things which take effect indirectly. Examples include kiddushin, gittin, or separating terumah. Once a man writes a document of kiddushin, he may send it to his intended with a shaliach; he has already done his part for its veracity. What about chalitza? The first Mishnah in Kiddushin equates it with kiddushin and gittin. Although as mentioned, the yavam cannot make a shaliach, on what grounds is the yevama excluded? (And even if one would argue that the spitting is impossible with a shaliach, why can't she do that part and the shaliach do the rest?) He leaves it unanswered, while emphasizing that the Gemara clearly assumes she cannot – if any shaliach is possible, it would be comparable to bnei Gad and a tenai should work.

Rav Elchonon Wasserman (76:7) says that the mechanism of mitzvas chalitzah demands the direct participation of the two parties. As we learned in the article on daf 104, chalitzah is different from kiddushin in that the halachic result is generated automatically when the requisite actions are done. It can't be given to a shaliach, just like a Kohen can't have someone do avodah for him in the Beis Hamikdash: this is the only way Hashem says it can be done.

It seems clear that chalitzah is not possible through an agent.

We can imagine the storm that generated, then, when a Rabbi in the United States permitted a shaliach to do chalitzah!

It was in 1927 that Rabbi Avraham Yudelovitz, a leading member of the North American rabbinate, issued such a psak. A woman was widowed without children: chalitzah was necessary. The problem was, her husband's brother lived in Soviet Russia. As the teshuvah describes, she had left Russia illegally and if she would attempt to travel there she'd be arrested and quite possibly put to death. Even without that complication, in a country where religion was forbidden and every visitor suspected of espionage, it would be a very difficult operation.

The solution? The yevama should do her part, reciting in Beis Din the pesukim "my yavam does not want to take me," and hire a shaliach in Russia to remove the yavam's shoe and spit before him. How can she make a shaliach? Rav Yudelovitz

cites certain teshuvos which inclined to allow it, starting with the Aruch L'Ner above, proffered various arguments and ultimately permitted it. All this was only in the prevailing circumstances, with the very real concern that many women would not do chalitzah at all and then get remarried anyway. He printed his lengthy teshuvah, with responses from other Rabbis and his rebuttals, covering 100 pages in his sefer Av B'chochma.

In traditional Jewish custom, Rabbonim from around the world raised a furor over this "new" heter unfounded on explicit halachic basis. Among many letters penned was one from Rav Isser Zalman Meltzer, then still the Rov of Shtetl. He argues similarly to Rav Elchonon, that chalitzah is not like other halachic actions in which the point is just the result. When terumah is taken, the task is accomplished, even when done by someone else. But the goal of chalitzah is not just for the yavam to become barefoot, or to have spittle on the floor in front of him! The mitzvah is defined by the two parties carrying out the ceremony instructed in the Torah, and nobody else can accomplish that.

Rabbi Yudelovitz defended himself from every attack, but was drowned out by the protest of Klal Yisroel leaders, from the Chofetz Chaim to fellow Rabbis in New York. A sefer was written to challenge the psak. After he passed away in 1930, a Jewish newspaper recorded the conversation he had with a Rabbi Katz in which he regretted his heter. And it receded into a footnote of history.