



לע"נ ברוך בענדיט וברכה גרוס ע"ה
by Mr. & Mrs. Duvy Gross

לע"נ אסתר אביגיל בת חיה רבקה וציפורה רחל בת אסתר מחלה THE DIMONT FAMILY EDITION

THE SHABUOT MATTERS

שבת קודש פרשת קרח | מסכת יבמות דף קי"א

INSIGHTS FROM OUR CHABUROS

אמר קרא כי ישבו אחים יחדו

The Mishnah discussed the consequences of a minor yavam who has relations with the yevama who is an adult. The Gemara challenges the validity of this case from the verse in the Torah which declares (Devarim 25:7) that the objective of yibum is "to establish a name for his brother," and this cannot be achieved by a minor who cannot yet beget children. The Gemara gives two answers to this challenge.

Abaye explains that we also have a verse יבמה יבא עליה which indicates that the yavam is fit for any age (כל דהו), and his being a minor is not a critical factor.

Rava points out that if we would consider a minor as being ineligible, then he would necessarily be disqualified forever, even upon attaining majority. The rule is that if we cannot apply the statement "יבמה יבא עליה" the first moment when the brother dies, this woman would be prohibited forever, just as if she was a brother's wife who has children. However, we also know that the verse כי ישבו אחים יחדו specifically excludes "a brother who was not in the world" with the deceased, which implicitly teaches that if the surviving brother was even a day old when the married brother died, yibum must be done by the infant when he grows up. Therefore, we see, says Rava, that a minor is not a disqualified yavam.

Tosafos notes that the lesson of Rava is not derived from the word יחדו for if so, even a סריס would be included, as well as the minor. Rather, Rava's point is derived from the fact that an infant brother is included, as opposed to a brother born after the first brother died.

Not Excluded from Eligibility

PARSHA CONNECTION

In this week's daf the Gemara discusses whether a קטנה is completely married or not. Similarly, קרח cast doubts regarding משה ואהרן and their respective leadership roles. Even after קרח and the 250 people who joined him died, בני ישראל alleged that it was somehow משה ואהרן who caused them to die. משה told אהרן that he should take 12 staffs and write each tribe's name on their staff, and place all 12 next to the ארון. The next morning only one staff, the one belonging to אהרן changed. ויהי ממחרת, ויבא משה אל אהל: פסוק says as follows: והנה פרח מטה אהרן, לבית לוי, ויצא פרח ויצץ ציץ, ויגמל שקדים. Why does it say that it was the staff of לוי? It should just say מטה אהרן. We must also understand why did three different things happen? Flower, buds, and almonds? The אלשיך הקדוש explains that this confirms three different elements. It is the tribe of לוי, the family of קהת and within the family ואהרן. This way all doubts have been dispelled.

STORIES OFF THE DAF Brother Eisav

כל יבמה שאין אני קורר בה בשעת נפילה יבמה יבא עליה הרי היא כאשת אח שיש לה בנים ואסורה

Acertain man died suddenly with no children, and it appeared as though the widow would require chalitzah from her deceased husband's only brother. Unfortunately, the yavam was a נומור.

Both Rav Nachshon Gaon, zt"l, and Rav Yehudai Gaon, zt"l, ruled that the wife was free to marry whomever she wants without chalitzah from the נומור. They reasoned that just as it is permitted to lend money with interest to a נומור because lending money with interest is only prohibited to one's spiritual brother, one's brother in observing Torah and mitzvos, the same is true regarding the mitzvah of yibum. This mitzvah is only with a spiritual brother who observes Torah and Mitzvos, not a נומור. Even if the נומור subsequently does teshuva, he is still exempt from yibum and chalitzah. This is learned from the Gemara in Yevamos 111b which states that a yevama who may not do yibum is like the widow of a brother who had children and is thenceforth forbidden to do yibum. Since the repentant נומור couldn't do yibum at the time that his brother died because he was not a spiritual brother to his own biological sibling, even if he repented later he cannot do yibum subsequently either.

The Terumas Hadeshen, zt"l, completely opposed this psak. "There is an essential difference between the word brother used in the context of the prohibition against lending with interest and the commandment to give charity, as opposed to the word brother used with regards to yibum. The word brother in connection with ribis and tzedakah is אחיך which connotes brotherhood—any fellow Jew with whom one shares a spiritual bond of loving communion—since it certainly doesn't mean to apply these mitzvos only to one's biological brother. Therefore, the word brother in these contexts alludes to a person who should be treated with cooperation and compassion. Namely, one who is your brother in observing Torah and mitzvos. In the context of the mitzvah of yibum, however, the word brother does indeed refer to one's biological brother. Therefore, there is an obligation to perform yibum regardless of the brother's spiritual level.

The Terumas Hadeshen concluded, "The proof of this is in Eisav. Although he was thoroughly evil, the Torah still refers to him numerous times as the brother of Yaakov!"

HALACHA HIGHLIGHT

Is Chalitza Dangerous

לאחר שלשים יום מבקשים ממנו שיחלוץ לה

After thirty days we request of him to do chalitza.

Historically there has been a fear about doing chalitza due to its reputation as a dangerous activity. Rabbeinu Shlomo ben Aderes¹, the Rashba, addressed a case of a married yavam who was prepared to do chalitza but was told by kabbalists that it is dangerous for a man to do chalitza. This report scared the man and he refused to do chalitza until Rashba would respond. Rashba wrote that although he is not a kabbalist, he does not think the report is accurate. The proof he cites for this assertion is the fact that the Torah allows for chalitza, and if it was dangerous the Torah would not instruct the yavam to do yibum. Furthermore, Chazal² inferred from a verse that Beis Din is obligated to properly advise the yavam which course of action to take, yibum or chalitza, and if it seems to them that the relationship is inappropriate they should recommend chalitza. If it were true that performing chalitza is dangerous it would be better for a person to do yibum and marry a woman even if she was not a suitable match rather than engage in a dangerous activity. Another proof is that the Gemara³ earlier recognized the validity of deceiving the yavam into doing chalitza. If chalitza was dangerous it would not be permitted to deceive a person into participating in an activity that was dangerous.

Rav Ovadiah Yosef⁴ suggests that the mistaken belief that chalitza is dangerous may be based on the position that even nowadays yibum is the primary mitzvah. Accordingly, someone who does chalitza rather than yibum is not fulfilling a mitzvah and may be susceptible to punishment for passing the opportunity to establish his brother's name. He proceeds to cite numerous sources that clearly assign mitzvah status to chalitza and thus since "all of her paths are pleasant," it is not possible that the Torah would advise a dangerous activity. Rav Tzvi Hirsh Eisenstadt⁵, the Pischei Teshuvah, cites Tosafos⁶ as proof that chalitza is not a dangerous activity. Tosafos mentions that the reason a yavam is not compelled to do chalitza is because it is embarrassing to him. Since embarrassment rather than danger is the reason mentioned by Tosafos, it would seem that danger is not an issue.

1. שו"ת הרשב"א כ"י המובא בשו"ת יביע אומר ח"ד אה"ע סי' ט"ו אות ב'

2. גמ' לעיל מ"ד וק"א

3. גמ' לעיל ק'

4. שו"ת יביע אומר הנ"ל

5. פת"ש סוף סדר חליצה אות צא

6. תוס' ק"א: ד"ה לאחר שלשים וע' בשו"ת יביע אומר הנ"ל אות ג' שחולק על הובחה זו

IYUN ON THE DAF

By Rabbi Yitzchok Gutterman

The Gemara says that the קטנה of a קידושין is "ואינה קנויה" which means her קידושין are a ספק. Why would the חכמים institute a קידושין that was a ספק? The מאירי explains that the issue is her possibility to do מיאון. In other words, since מיאון uproots the marriage retroactively, the קידושין is always a ספק. The ברכת אברהם asks that according to this, why would two יבמות קטנות be able to be פוטר each other when one does יבום? It's still a ספק if they will do מיאון! The שלמה disagrees with this approach and says that when the קטנה is married it is a full marriage. The ספק marriage is only once her husband dies. He explains that חז"ל didn't create the marriage so that the child should be an עגונה, so the marriage at that point becomes a ספק even if she hasn't done מיאון. Reb Moshe ז"ל in אגרות משה says a third approach: that the קידושין is only a ספק vis a vis the co-wife, but regarding herself it is a full קנין.

POINT TO PONDER

write that a קטנה of a חליצה can work once she becomes an adult, without doing it again. Would the same be true by a חרשת who later became a פקחת?

Response to last week's Point to Ponder:

The ר' אלעזר ע"כ on משנה ר' we teach the קטנה how to do מיאון. Is referring to all the previous cases, for example a חרשת וקטנה as well as a גדולה וקטנה?

The big difference between a קטנה and a חרשת is that all קטנות will become adults, while only a small percentage of חרשות will become פקחות. Therefore the חרשת didn't say the same for both. (See ערוך לנר).

Yevamos has been dedicated in ל"ג Shelly Mermelstien ז"ל יצחק מערמזלשטיין ז"ל

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