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Yevamos Daf 11

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**Tzvi Gershon Ben Yoel (Harvey Felsen) o”h**

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

[The Gemora had cited a dispute between Rabbi Yochanan and Rish Lakish: A man performed a *chalitzah* with his *yevamah* and then married her; Rish Lakish said that he is not liable for *kares* for marrying the *chalutzah* (*the one with whom the chalitzah was performed*), but the brothers will be liable to *kares* for taking her. He (*the one who performed the chalitzah*) and his brothers will be liable to *kares* for taking the co-wife. Rabbi Yochanan says: Both he and the brothers will not be liable to *kares* for taking the *chalutzah* or her co-wife.]

The Gemora cites another two opinions on how to explain the braisa: Rav Ashi holds the same opinion as Rish Lakish and explains it in accordance with the ruling of Rabbi Shimon. Ravina holds the same opinion as Rabbi Yochanan and explains it in accordance with the ruling of the Rabbis.

The Gemora explains: Rav Ashi holds the same opinion as Rish Lakish and explains it in accordance with the ruling of Rabbi Shimon, as follows: If a *yavam* who performed *chalitzah* to his *yevamah* had subsequently betrothed her, she requires *chalitzah* from the brothers. Who are these brothers? Those born subsequently (after he performed *chalitzah* and betrothed her). According to whose view? It is according to that of Rabbi Shimon. [Having been born after the *chalitzah* they were never been subject to the *zikah* of *yibum* on account of the first deceased brother

and the *chalitzah* of the *yavam* had, therefore, imposed no restrictions upon them in relation to the widow.] If one of the previously (before the *chalitzah*) born brothers, however, betrothed her, she does not require anything (for the betrothal was not effective at all). According to whose view? It is according to that of Rish Lakish (who maintains that the woman who submitted to *chalitzah* is forbidden to the brothers under the penalty of *kares*).

Ravina holds the same opinion as Rabbi Yochanan and explains it in accordance with the ruling of the Rabbis, as follows: If a *yavam* who performed *chalitzah* to his *yevamah* had subsequently betrothed her, she requires *chalitzah* from the brothers. Who are these brothers? Those born prior to the *chalitzah*. According to whom? It is according to Rabbi Yochanan. [Since she is forbidden to the brothers by a mere negative commandment, she requires *chalitzah* from them.] If one of the subsequently born brothers, however, betrothed her, she does not require anything. According to whose view? It is according to that of the Rabbis. [They hold that even a brother born after a different brother had married her is subject to the restrictions of ‘a brother who was not his contemporary.’ The final clause may accordingly refer to such brothers to whom the widow is forbidden for this reason (not on account of the *chalitzah* that had been performed) and the marriage or betrothal with whom is consequently ineffective.] (11a)

The Gemora cites a dispute between Rav Acha and Ravina: If one of the brothers performs a *yibum* and another brother lives with her co-wife; one of them maintains that he is liable to *kares* and the other one holds that he is transgressing a positive commandment.

The Gemora explains: The one who maintains that he is liable to *kares* follows the opinion of Rish Lakish (*who holds that the brother who performed the yibum is acting for himself and he is subject to the prohibition of not building two houses, but the other brothers are still subject to the prohibition of their brother's wife*). The one who holds that the brother has transgressed a positive commandment is in accordance with Rabbi Yochanan (*who maintains that all the brothers are subject to a mere positive prohibition and not the kares prohibition of their brother's wife since the brother who performed the yibum or chalitzah acted as an agent for all the brothers*). (11a)

Rav Yehudah says in the name of Rav: The co-wife of a *sotah*, an adulteress (*witnesses testified that she committed adultery*) is forbidden to the *yavam* and is therefore exempt from *chalitzah*. (*The sotah herself is also forbidden to the yavam*.) He explains: The term *tumah*, defilement is mentioned in regards to the *sotah* just as it is mentioned by *arayos*. Just as an *ervah* is exempt from *chalitzah* and *yibum*, so too, a *sotah* and her co-wife are exempt from *chalitzah* and *yibum*.

Rav Chisda challenges this opinion from the following braisa [The Mishna deals with the following case: If a woman's husband went overseas, and they came (*one witness*) and said to her, "Your husband died," and she married, and afterwards her husband returned, she must leave this one and this one (*A woman who*

*committed adultery is forbidden to her husband and the adulterer. This woman has the same halachos. Even though the Sages accepted the testimony of one witness regarding a woman for the sake of agunos, they ruled in this manner because they relied upon the woman not to marry until she had thoroughly investigated and clarified the matter. Since she did not clarify the matter and married, the Sages penalized her that she must leave both.*) And if they died, the brother of this one and the brother of this one submit to *chalitzah* and do not marry by *yibum*.]: Rabbi Shimon says: Cohabitation with her or her *chalitzah* to the brother of the first husband exempts her co-wife from *chalitzah* or *yibum*. [Evidently, the co-wife of an adulteress requires *yibum* or *chalitzah*!]

The Gemora distinguishes between a *sotah* under Biblical law and one that is regarded as a *sotah* under Rabbinical law.

The Gemora asks: What was the thought process of the one who asked the question (when the distinction is quite obvious)?

The Gemora answers: He thought that a law enacted by the Rabbis would be established in a similar manner as a Biblical law.

Rav Ashi challenged Rav's ruling from a Mishna in Sotah [Regarding one who warned his wife not to seclude herself with another man]: If she secludes herself with that man, and she remained with him there long enough to become defiled, she is forbidden to her husband and she may not eat *terumah* (*if she is the wife of a Kohen*). And if the husband died childless, she submits to *chalitzah*, but cannot be taken in *yibum*.

The Gemora makes a distinction between a woman who is a confirmed *sotah* and one who is an uncertain *sotah* (*she had secluded herself with another man, but we have not ascertained if she had been defiled*). [If the husband of the uncertain *sotah* would die childless (*prior to resolving the situation through the drinking of the bitter waters*), she would be subject to *chalitzah*.]

The Gemora explains the distinction: The term *tumah* is only mentioned in reference to a confirmed *sotah* and not in regards to an uncertain *sotah*.

The Gemora asks: But the term *tumah* is mentioned by an unconfirmed *sotah* as well? For it was taught in a braisa: Rabbi Yosi ben Keifer said in the name of Rabbi Elozar: The remarriage by a husband of his divorced wife (after she had been married to another man) is forbidden (if the marriage to that man was terminated) after *nisu'in* (second stage of marriage) and permitted (if the marriage to that man was terminated) after *erusin* (betrothal), because it is written: [*The first husband shall not remarry her*] *after she had been defiled* (which indicates that the marriage has been consummated). The Sages, however, say, that both this one as well as the other one is forbidden, and the expression '*after she had been defiled*' implies the inclusion of a *sotah* who secluded herself with a man (that she is forbidden to her husband). [Evidently, the term *tumah* is used even in respect to a suspected adulteress!?!]

The Gemora answers: The underlying meaning of 'secluded herself' is where the suspected adulteress actually 'cohabited' with the other man. Why then did he say 'secluded herself'? It is in order to employ a euphemism.

The Gemora asks: But in relation to cohabitation, surely, 'tumah' was explicitly mentioned in the Torah, when it stated: *and she was secluded, and she was defiled!*?

The Gemora answers: It is to subject the husband to a negative prohibition (as well – if he cohabits with her).

The Gemora notes: And Rabbi Yosi ben Keifer does not hold the view that a negative prohibition is applicable to a *sotah*, even in the case where she had actually committed adultery. What is the reason? It is because in reference to the remarriage of a divorced wife, the Torah uses the expression of 'becoming' as well as that of 'matrimony.' [The prohibition applies to the case where the husband remarries his divorced wife after she 'becomes' to another man in 'matrimony,' but it does not apply to a *sotah* at all.] (11a – 11b)

Rav Yehudah inquired of Rav Sheishes: If a person remarries his divorcee unlawfully after she had been married to another man, and he then dies childless, what is the law regarding this woman's co-wife? Can the brother perform a *yibum* with her or not?

The Gemora elaborates: According to Rabbi Yosi the son of Keifar, there is no inquiry at all. He maintains that the term *tumah* is used in reference to the remarried divorcee, and therefore the halachah would be that she and her co-wife are exempt from *yibum*. And if you would argue that (regarding the remarried divorcee) it is written: *she is rejected* (and we may infer from there that only 'she' is rejected, but her co-wife is not rejected), I can reply that the correct inference is that *she is rejected*, but her children are not rejected (and if he remarries his divorcee unlawfully and she bears him a daughter, she is not regarded as 'tainted,'

and she may be married to a Kohen), but her co-wife is indeed 'rejected.'

The Gemora continues: The inquiry would only be applicable according to the Chachamim who maintain that the term *tumah* written in the Torah portion regarding the remarried divorcee is referring to a *sotah*. Do we say that the verse never departs from its literal meaning and since the term *tumah* is written in the Torah portion regarding the remarried divorcee, she and her co-wife will be excluded from the *yibum* obligation? Or perhaps, since we expound the term *tumah* to be referring to a *sotah* and not to the remarried divorcee, she is not regarded as an *ervah* and her co-wife is available to be taken for *yibum*?

The Gemora presents an alternative explanation for this inquiry: According to the Chachamim, there is no inquiry at all. They maintain that the term *tumah* written in the Torah portion regarding the remarried divorcee is referring to a *sotah* and not to the remarried divorcee, she is not regarded as an *ervah* and her co-wife is available to be taken for *yibum*.

The inquiry would only be applicable according to Rabbi Yosi the son of Keifar, who maintains that the term *tumah* is used in reference to the remarried divorcee. Do we say that although the term *tumah* is used in reference to the remarried divorcee, there is another verse which indicates that she is 'rejected,' but not the co-wife? Or perhaps, the verse is teaching us that she is 'rejected,' but her children are not; the co-wife, however, would be 'rejected' (and thus would be excluded from *yibum*)?

Rav Sheishes said to him: We have learned this in a Mishna: [One who was married to two women and he died childless; the *yibum* or *chalitzah* with one of them

releases her co-wife from any obligation.] If one of the women was qualified, and one was disqualified; if the *yavam* will be performing *chalitzah*, he should do so with the one who is disqualified, and if he is performing *yibum*, he should do so with the one who is qualified. The Gemora analyzes the Mishna: What does it mean 'qualified, and what does it mean 'disqualified'? If it would be suggested that 'qualified' means that she is permitted for all the world (she is fit to be married to a Kohen), and 'disqualified' means forbidden for all the world (she is unfit to be married to a Kohen, but she is permitted to the *yavam*); in view of the fact that she is in any event suitable for him, what practical difference could this make to him? Consequently 'qualified' must mean permitted to him (the *yavam*), and 'disqualified' means that she is forbidden to him (but not to others); and this may happen in a case where he remarried his divorcee; and yet the Mishna taught: and if he is performing *yibum*, he should do so with the one who is qualified (proving that the *yavam* may perform *yibum* with the co-wife of his remarried divorcee)!?

The Gemora answers: No; 'qualified' may still mean permitted to all the world, and 'disqualified' means that she is forbidden for all the world; and regarding your question that in view of the fact that she is in any event suitable for him, what practical difference could this make to him, the answer is that one must take into account the ethical lesson of Rav Yosef. For Rav Yosef stated: Here Rebbe taught that a man shall not pour the water out of his pit, so long as others may require it (and therefore he should perform *chalitzah* (which would disqualify her from marrying a Kohen) with the woman who was previously disqualified from marrying a Kohen).

Come and hear a proof from the following braisa: Where a man remarried his divorced wife after she had been married, she and her co-wife submit to chalitzah. Now, is it possible to say that both she and her co-wife (submit to chalitzah)? [Chalitzah is performed with only one of the widows!]? Consequently, it must mean that either she or her co-wife (submit to chalitzah; but she cannot be taken in yibum)!?

The Gemora disagrees: Did you not, however, have recourse to a correction (to explain the braisa)? You might as well correct it as follows: She submits to chalitzah, while her co-wife may either submit to chalitzah, or be married by the yavam. (11b)

Rabbi Chiya bar Abba said: Rabbi Yochanan inquired as follows: If a person remarries his divorcee unlawfully after she had been married to another man, and he then dies childless, what is the law regarding this woman's co-wife? Can the brother perform a *yibum* with her or not?

Rabbi Ami said to Rabbi Yochanan: Why don't you inquire regarding the woman herself?

Rabbi Yochanan replied: Regarding the remarried divorcee, I do not inquire at all. She cannot be taken for *yibum* on account of the following *kal vachomer*: If to the one she was permitted to initially (*her husband*), she became forbidden (*after her marriage to another man*), certainly in regards to the man that she was always forbidden to (*her husband's brother*), she should be forbidden. The inquiry is only regarding her co-wife. Is the *kal vachomer* strong enough to exempt the co-wife from *yibum*?

Rav Nachman bar Yitzchak learned as follows: Rabbi Chiya bar Abba said: Rabbi Yochanan inquired: If a

person remarries his divorcee unlawfully after she had been married to another man, and he then dies childless, what is the law regarding this woman? Can the brother perform a *yibum* with her or not?

Rabbi Ami said to Rabbi Yochanan: Why don't you inquire regarding the co-wife?

Rabbi Yochanan replied: The co-wife can certainly be taken for *yibum* since the *kal vachomer* is not strong enough to exclude her; the inquiry is only regarding the remarried divorcee herself.

Rabbi Ami said to him: We have learned this in a Mishna: [One who was married to two women and he died childless; the *yibum* or *chalitzah* with one of them releases her co-wife from any obligation.] If one of the women was qualified, and one was disqualified; if the *yavam* will be performing *chalitzah*, he should do so with the one who is disqualified, and if he is performing *yibum*, he should do so with the one who is qualified. The Gemora analyzes the Mishna: What does it mean 'qualified, and what does it mean 'disqualified'? If it would be suggested that 'qualified' means that she is permitted for all the world (she is fit to be married to a Kohen), and 'disqualified' means forbidden for all the world (she is unfit to be married to a Kohen, but she is permitted to the yavam); in view of the fact that she is in any event suitable for him, what practical difference could this make to him? Consequently 'qualified' must mean permitted to him (the yavam), and 'disqualified' means that she is forbidden to him (but not to others); and this may happen in a case where he remarried his divorcee; and yet the Mishna taught: and if he is performing *yibum*, he should do so with the one who is qualified (proving that the yavam may perform yibum with the co-wife of his remarried divorcee)!?



The Gemora answers: No; 'qualified' may still mean permitted to all the world, and 'disqualified' means that she is forbidden for all the world; and regarding your question that in view of the fact that she is in any event suitable for him, what practical difference could this make to him, the answer is that one must take into account the ethical lesson of Rav Yosef. For Rav Yosef stated: Here Rebbe taught that a man shall not pour the water out of his pit, so long as others may require it (and therefore he should perform chalitzah (which would disqualify her from marrying a Kohen) with the woman who was previously disqualified from marrying a Kohen).

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The Gemora disagrees: Did you not, however, have recourse to a correction (to explain the braisa)? You might as well correct it as follows: She submits to chalitzah, while her co-wife may either submit to chalitzah, or be married by the yavam. (11b – 12a)

## DAILY MASHAL

### *Extra Room in the Taxi*

It once happened that HaRav Aharon Kotler zt"l, the Rosh Yeshiva from Lakewood, was visiting Israel, hired a taxi to transport him from Tel Aviv to Yerushalayim,

and since there was extra room in the vehicle, he stipulated with the driver that when he would notice a Jew standing on the side of the road, intending to travel to Yerushalayim as well, he should stop and pick him up.

Rav Shimon Zalaznik was accompanying the Rosh Yeshiva on his journey, and he was troubled by this arrangement. He asked the Reb Aharon, "Is the Rosh Yeshiva not aware that there has been several incidents where Arabs have been disguising themselves as Jewish hitchhikers, and they have been murdering Jews; perhaps one of them will enter the taxi and we will be endangered!?"

The Rosh Yeshiva responded, "I am far more afraid of the Gemora in Yevamos, which states: A man shall not pour the water out of his pit, so long as others may require it. There is plenty of room in the taxi and I am anyway paying the fare; this is the condition that I made up with the driver."

Reb Aharon continued, "And regarding the danger, what is there to be concerned about? If a terrorist would Heaven-forbid enter the vehicle, he is only one person, and I, you and the driver are three! We can surely overpower him!"

The Rosh Yeshiva at the time was in the latter stages of his life.