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Yevamos Daf 15

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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 attempts to prove from the following Baraisa that Beis Shammai followed in practice according to their own opinion. Rabbi Yochanan ben Nuri said: How should we rule regarding the co-wife of an *ervah*? If we rule according to Beis Shammai and allow the *yavam* to perform a *yibum* with the co-wife, the children will be *mamzeirim* (illegitimate) according to Beis Hillel. If we rule according to Beis Hillel and exempt the co-wife from *chalitzah* and *yibum*, thus allowing her to marry another man; the children will be tainted (*if she marries a kohen without first performing a chalitzah*) according to Beis Shammai. Let us establish that the co-wives should have *chalitzah* and not *yibum*. [This would accommodate both opinions.] They did not manage to resolve the matter in this way before the time was snatched away.

Rabban Shimon ben Gamliel asked them: What shall we do with all the earlier co-wives who were taken in *yibum*; their children will all be regarded as *mamzeirim*? Now, if you assume that they acted [in accordance with their own rulings] one can understand why he said, ‘What shall we do’. If, however, you assume that they did not so act, what is the meaning of ‘What shall we do’? — Rav Nachman bar Yitzchak replied: This was required only in the case of the co-wife herself; and this is the meaning of the objection ‘what shall we do’: ‘How shall we, according to Beis Shammai, proceed with those co-wives [who married in accordance with the rulings] of Beis Hillel? [Previously, they allowed the co-wife of the *ervah* to marry someone else without a *chalitzah*.] If

we would enact that the co-wives would require *chalitzah*, what would we do to all those co-wives who married another man? Should we perform a *chalitzah* now; this would be revolting to their husbands, and it is written [Mishlei 3:17]: *The Torah’s ways are ways of pleasantness and all its paths are peace.* (14b3 – 15a1)

Come and hear: Rabbi Tarfon said: Would that the co-wife of [my] daughter were to fall to my lot so that I could marry her! — Read, ‘that I could make her marry [another]’. But he said, ‘Would’! — It implies objection to the ordinance of Rabbi Yochanan ben Nuri.<sup>1</sup> (15a1 – 15a2)

The Gemora attempts another proof: There was an incident regarding the daughter of Rabban Gamliel, who was married to Abba, his brother, who died childless. Rabban Gamliel performed a *yibum* with the co-wife. [It seems evident that Rabban Gamliel followed the opinion of Beis Shammai.]

The Gemora asks: This is obviously incorrect; Rabban Gamliel was a descendant of Hillel and not a disciple of Beis Shammai. The reason why he was able to perform a *yibum* with the co-wife was because his daughter was an *aylonis*<sup>2</sup> and thus, the co-wife was permitted. - Since, however, it was stated in the final clause: Others say that Rabban Gamliel's daughter was an *aylonis*, it may be inferred that the first Tanna is of the opinion that she was not an *aylonis*! — The difference between them is the question whether he knew her defect or not.<sup>3</sup> And if you wish I might say that the

<sup>1</sup> Who desired to institute *chalitzah* for co-wives, thus enabling them to marry strangers, though prohibiting their marriage with the brothers.

<sup>2</sup> Someone who is incapable of procreation.

<sup>3</sup> According to the first Tanna, the co-wife of Rabban Gamliel's daughter was permitted only because her husband was unaware of her defect, and their marriage consequently took



difference between them is the case where he married [the co-wife] first and subsequently divorced [his wife].<sup>4</sup> And if you wish I might say that the difference between them is whether a stipulation after cohabitation is valid.<sup>5</sup> (15a2)

Rav Mesharshiya asked from the following Baraisa: Rabbi Akiva picked esrogim from a tree on the first of Shevat. He separated maaser sheini as if it was the second year of the Shemithah cycle and he also separated maaser oni as if it was the third year of the Shemithah cycle. He took the maaser sheini in accordance with Beis Hillel who maintain that the New Year for trees is the fifteenth of Shevat and he took maaser oni in accordance with Beis Shammai who holds that the New Year for trees is the first day of Shevat.

It is evident from this Baraisa that Beis Shammai did follow their own opinions.

The Gemora rejects this proof: Rabbi Akiva ruled in accordance with Beis Hillel, however he was uncertain if Beis Hillel stated that the New Year for the trees is the first of Shevat or the fifteenth and that is why he separated both maasros. (15a2 – 15a3)

Mar Zutra raised an objection: It once happened that Shammai the Elder's daughter-in-law gave birth (and was bedridden) and he broke an opening through the concrete of the ceiling and covered it above the bed with s'chach for the sake of the child. Doesn't this prove that they did act [in

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place under a misconception. Such a marriage being invalid, Rabban Gamliel's daughter was not a legal wife, and her co-wife consequently was a mere stranger to her father. According to the 'Others', who use the expression 'was incapable' and not 'was discovered to be incapable', the co-wife was permitted to Rabban Gamliel irrespective of whether his daughter's defect had or had not been known, to her husband.

<sup>4</sup> Such as was the case with Rabban Gamliel's daughter. The first Tanna is of the opinion that the co-wife was permitted to Rabban Gamliel because at the time his brother died she was no more his daughter's co-wife. The 'Others', however, maintain that so long as the two were co-wives for any length of time (in this case, between the time of the marriage with the co-wife and the divorce of Rabban Gamliel's daughter) they

accordance with their rulings]? — In that case, any onlooker might assume that it was done in order to increase the ventilation. (15a3)

Mar Zutra raised an objection: It once happened with Yehu's Trough in Jerusalem, which was connected by means of a hole with a mikvah and in which all taharos in Jerusalem was performed, that Beis Shammai sent and had the hole widened; for Beis Shammai maintain that the greater part [of the intervening wall] must be broken through. But we have also learned that the combination of mikvaos may be effected by a connecting tube of the size of the mouth-piece of a leather bottle in diameter and circumference, viz., a tube in which two fingers may conveniently be turned round. Doesn't this prove that they did act [in accordance with their rulings]? — There the onlooker might assume that the extension was made in order to increase the volume of the water. (15a3 – 15b1)

Come and hear: Rabbi Elazar bar Tzadok said: When I was learning Torah with Rabbi Yochanan HaChorani, I noticed that in the years of drought he used to eat dry bread with salt. I went home and related it to my father, who said to me, 'Take some olives to him'. When I brought these to him and he observed that they were moist he said to me, 'I do not eat olives'. I again went out and communicated the matter to my father, who said to me, 'Go tell him that the jar was perforated, only the sediment had blocked up the breach'; and we learned: A jar containing pickled olives, Beis

remain legally as co-wives for all time, and the only reason why Rabban Gamliel was allowed to marry the co-wife of his daughter was because his daughter had the defect of being incapable of procreation, and the co-wife of such a woman is permitted to the brothers.

<sup>5</sup> Such a stipulation was made by the husband in the case of Rabban Gamliel's daughter. The first Tanna is of the opinion that the stipulation is valid, and since an infirmity was subsequently discovered, the marriage is null and void and the co-wife as a mere stranger is consequently permitted. The 'Others', however, regard a stipulation in connection with cohabitation as invalid. Rabban Gamliel's marriage with the co-wife was consequently permitted only because his daughter was incapable of procreation.

Shammai said, need not be perforated; but Beis Hillel say: It must be perforated. They admit, however, that where it had been perforated and the sediment had blocked up the holes, it is tahor. And though he was a disciple of Shammai, he always conformed in practice to the rulings of Beis Hillel. Now, if it be conceded that they did act in accordance with their own rulings, one can well understand why his action was worthy of note; if, however, it were to be contended that they did not so act, in what respect was his conduct noteworthy! (15b1)

The Gemora attempts another proof: Rabbi Yehoshua was asked, “What is the law regarding the co-wife of one's daughter?” He answered them, “It is an argument between Beis Shammai and Beis Hillel.” He was asked, “Who is the halachah according to?” He answered them, “Why are you placing my head between two great mountains, between two great groups, between Beis Shammai and Beis Hillel? I fear that they (*the rendered mamzeirim, as a result of ruling in accordance with Beis Hillel*) might crush my head! I testify to you concerning two great families in Yerushalayim, namely, the family of Beis Tzevo'im who descended from Ben Achmai and the family of Beis Kofai, who descended from Ben Mekosheish, that they were descendants of co-wives (*of an ervah and were married without chalitzah*) and from them were Kohanim Gedolim who ministered upon the Altar.”

The Gemora explains the proof: If they acted in accordance with their own rulings, it is quite understandable why he feared from the *mamzeirim*. If, however, they did not act in accordance with their own rulings, which *mamzeirim* was he concerned about? [This proves that Beis Shammai did practice according to their rulings.] - But even if it be granted that they did act [according to their rulings], what [cause had he for saying,] ‘I fear’? Surely Rabbi Yehoshua said that a mamzer was only he who was a descendant of one of those who are subject to capital punishments which are within the jurisdiction of the Beis din! — Granted that he was not a mamzer, he is nevertheless tainted; as may be deduced by a kal vachomer from the case of the widow: If the son of a

widow who is not forbidden to all is nevertheless tainted, [how much more so the son of a co-wife] who is forbidden to all.

They asked him concerning co-wives and he answered them about the sons of the co-wives! — They really asked him two questions: ‘What is the law concerning the co-wives? And if some ground could be found in their case in favor of the ruling of Beis Hillel, what is the law according to Beis Shammai in regard to the sons of the co-wives, [who married] in accordance with the ruling of Beis Hillel’? - What practical difference is there? — That a solution may be found, according to Beis Hillel, for the question of the child of a man who remarried his divorced wife. Do we apply the kal vachomer, arguing thus: ‘If the son of a widow who was married to a Kohen Gadol, who is not forbidden to all, is nevertheless tainted, how much more so the son of her who is forbidden to all’; or is it possible to refute the argument, thus: ‘The case of the widow is different because she herself is desecrated’? And he said to them, ‘With reference to the co-wives I am afraid; as to the sons of the co-wives I may testify to you’. (15b1 – 16a1)

#### INSIGHTS TO THE DAF

##### NEW RULINGS REGARDING A MIKVAH AND ERUV

The Gemora attempts to prove from the following Baraisa that Beis Shammai followed in practice according to their own opinion.

Rabbi Yochanan ben Nuri said: How should we rule regarding the co-wife of an *ervah*? If we rule according to Beis Shammai and allow the *yavam* to perform a *yibum* with the co-wife, the children will be *mamzeirim* (illegitimate) according to Beis Hillel. If we rule according to Beis Hillel and exempt the co-wife from *chalitzah* and *yibum*, thus allowing her to marry another man; the children will be tainted (*if she marries a kohen without first performing a chalitzah*) according to Beis Shammai. Therefore, he wished to establish that they should have *chalitzah* and not *yibum*. This

would accommodate both opinions. They were not able to resolve the matter in this way.

Rabban Shimon ben Gamliel asked them: What will become of all the earlier co-wives who were taken in *yibum*; their children will all be regarded as *mamzeirim*?

This is a proof that Beis Shammai did practice according to their own viewpoint.

The Gemora counters: Perhaps Beis Shammai did not permit the co-wives to be taken for *yibum*; Rabban Shimon ben Gamliel was asking according to Beis Hillel. Previously, they allowed the co-wife of the *ervah* to marry someone else without a *chalitzah*. If we would enact that the co-wives would require *chalitzah*, what would we do to all those co-wives who married another man? Should we perform a *chalitzah* now; this would be revolting to their husbands, and it is written [Mishlei 3:17]: *The Torah's ways are ways of pleasantness and all its paths are peace.*

The commentators prove from this Gemora that Beis Din should not issue new decrees that will result in children born earlier to be rendered *mamzeirim*.

The Terumas Hadeshen (II, 21) asks: Why are we more concerned with the children born before, let us concern ourselves with the future children and institute a new decree, so that the marriages will be in accordance with halacha?

The poskim offer various distinctions as to when we are concerned and when we are not. (See Terumas Hadeshen, Maharit (I,86).

The Minchas Elozar (IV, 17) proves from here that Beis Din does not institute a new decree only when the result will lead to *mamzeirim*, however in regards to a mikvah, where the concern is not pertaining to *mamzeirim*, rather that a child will be considered a ben niddah, tainted, we are not

concerned and Beis Din may issue decrees regarding a mikvah.

It is noteworthy that the Terumas Hadeshen (74) says that one time, one of the sages from Lenaistadt came to the city and wanted to change the lechis (poles for the eruv) to make them thicker in order to uphold the opinion of the Mordechai, who states that they should be as thick as one's finger. The leaders of the city did not allow him to because people will say that up until then everyone had desecrated the Shabbos.

Sheorim Mitzuyanim B'halacha states that this is because the halacha is in accordance with the lenient opinion in regards to the laws of an eruv. (14b1 – 14b3)

#### DAILY MASHAL

The Mishnah in Avos states: "such is the way of Torah, eat bread with salt, drink water in small measure, sleep on the ground, and toil in Torah. If you do this ... you are fortunate in this world, and it will be good for you in the next world". One can ask: A person who subsists on a diet of bread and salt and sleeps on the ground is "fortunate in this world?" He lives the life of a pauper!

Rather, the Yad Ketanah explains that when a person toils in Torah amid the minimalistic conditions described above, his desire for learning and the pleasure he derives from it fill him completely and he feels no lack whatsoever. On the contrary, he is happy that he does not have all the distractions that keep the rest of us from putting ourselves fully into learning.

In our times, we are not expected to live on bread alone, but we should stop our pursuit of material pleasures and channel it into a drive for Torah study. The more we do this, the greater we will feel love of Torah, and the more fortunate we will be in this world.