

Daf Notes

Insights into the Daily Daf

14 Sivan 5767

Yevamos Daf 28

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Highlights

Rabbi Yosi bar Chanina asks on Rabbi Yochanan (*who maintains that any yevamah that we cannot apply the verse "her yavam shall cohabit with her" at the time that she fell for yibum is regarded as a wife of a brother who has children and will be forbidden to the yavam forever*) from a Mishna. The Mishna (26a) states: There were four brothers, two of whom were married to two sisters, and those who were married to the sisters died; these sisters require *chalitzah*, but they cannot be taken for *yibum*. (*The reason to prohibit yibum in this case would be because each yevamah is the sister of his zekukah, the bond that exists between the yavam and the yevamah.*) Why don't we say that one of the brothers should perform a *chalitzah* with the second widow in order that the one widowed first will be regarded, towards the other brother, as a *yevamah* who was originally permitted (*when she fell to yibum alone*), then forbidden (*when her sister fell for yibum, resulting in a prohibition of a zekukah's sister*), and then permitted again (*when the zikah of her sister dissolved due to the chalitzah performed with her sister*)?

Rabbi Yochanan replied: I do not know who taught the Mishna regarding the two sisters; it is not authoritative.

The Gemora asks: Why didn't Rabbi Yochanan respond to him that the Mishna is referring to a case where the brother performed a *chalitzah* with the first widow; the second widow may not be taken in *yibum* because she was always forbidden?

The Gemora objects to this interpretation: The Mishna had stated that they require *chalitzah*; it is evident that they both require *chalitzah* and there is no option for avoiding this.

The Gemora asks: Rabbi Yochanan could have responded that the only reason that the Mishna ruled that both sisters require *chalitzah* is because the Rabbis were concerned that if they would rule that *chalitzah* can be performed with the second widow and then the other brother can perform a *yibum* with the first widow, perhaps they will reverse the order and perform *chalitzah* on the first widow and take the second widow for *yibum* (*which is forbidden because she was always prohibited*).

The Gemora rejects this proposal: The Mishna had stated that they both cannot be taken in *yibum*; this would indicate that there is no possibility of *yibum* at all even if *chalitzah* is performed with the second widow first.

The Gemora asks: Rabbi Yochanan could have answered that the Mishna is referring to a case where both widows fell at precisely the same moment, and we are following the viewpoint of Rabbi Yosi Hagelili who maintains that two things can happen at the exact same time?

The Gemora answers: The Mishna would not issue an anonymous ruling according to Rabbi Yosi Hagelili (*since his viewpoint is a minority opinion and rejected by most of the other Sages*).

The Gemora asks: Why didn't Rabbi Yochanan respond to him that the Mishna is referring to a case where we are uncertain which of the widows fell for *yibum* first, and that would explain why we cannot first perform a *chalitzah* with the second widow and the other brother would then perform a *yibum* with the widow that fell for *yibum* first?

The Gemora answers: This would raise a difficulty with a different portion of the Mishna. The Mishna had stated: If the brothers married them, they are required to divorce them. If we are uncertain which widow fell for *yibum* first, it is understandable why the first brother who performed a *yibum* would be required to divorce the sister, but let the second brother claim that he married the first widow and thereby he would be permitted to remain married to this sister. The Gemora concludes: This explains why Rabbi Yochanan told Rabbi Yosi bar Chanina that he does not know who taught the Mishna regarding the two sisters; it is not authoritative. (27b – 28a)

The Mishna had stated: Rabbi Eliezer states: There is actually an argument between Beis Shamai and Beis Hillel regarding this matter. Beis Shamai maintains that the brothers may remain married to the sisters and Beis Hillel disagrees.

The Gemora cites a braisa which lists various opinions regarding this matter: Rabbi Eliezer said: Beis Shamai maintains that the brothers may remain married to the sisters and Beis Hillel holds that they are required to divorce them. Rabbi Shimon says: The brothers may remain married to them. Abba Shaul said: Actually, Beis Hillel issued the lenient opinion in this matter for Beis Shamai maintains that the brother are required to divorce them and Beis Hillel holds that they may remain married to the sisters.

The Gemora explains Rabbi Shimon's opinion: He maintains that Beis Shamai and Beis Hillel did not dispute this matter and both schools were of the opinion that the brothers may remain married to the sisters. (28a)

The Mishna had stated: If one of the sisters was prohibited because of *mitzvah* or because of sanctity, her sister would require *chalitzah* but she is not taken for *yibum*.

The Gemora asks: Didn't we learn an identical ruling to this in a Mishna above (20a)? The Mishna there said: They stated a general rule concerning the *yevamah*: Whoever is prohibited to the *yavam* because of an *ervah* is exempt from *chalitzah* and *yibum*. If her prohibition is because of *mitzvah* or because of sanctity, she would require *chalitzah* but she is not taken for *yibum*.

The Gemora answers: The first Mishna taught us that a *yevamah* who is Rabbinically forbidden to the *yavam* may not be taken for *yibum*; our Mishna teaches us that a sister of a Rabbinically prohibited *yevamah* may not be taken for *yibum* since she is considered a *zekukah's* sister.

We might have thought that in this case, where the *yevamah* is Rabbinically forbidden to the *yavam*, the Rabbis would make an exception and permit the sister of the *zekukah*; the Mishna teaches us that she is still forbidden. (28a – 28b)

Rav Yehudah said in the name of Rav and it was taught in the braisa of Rabbi Chiya: The following teaching can apply to the fifteen cases of the Mishna: The one who is forbidden to one brother will be permitted to the other brother, and her sister, who is also a *yevamah* can do *chalitzah* or be taken in *yibum*.

The case is as follows: There were four brothers; two of them, Reuven and Shimon were married to two sisters, Rochel and Leah. If Reuven and Shimon died, the remaining two brothers (Levi and Yehudah) cannot perform a *yibum* with any of them because each one of these women is attached to every potential *yavam* with a *zikah*, an attachment on the account of *yibum*. The Rabbis decreed that one cannot marry the sister of a *zekukah* (*the woman who is attached to the yavam*) because a *zekukah* is similar to a wife and one is not permitted to marry his wife's sister.

If Rochel was an *ervah* to Levi (his mother-in-law) and Leah was an *ervah* to Yehudah; Levi can perform *yibum* with Leah and Yehudah can perform *yibum* with Rochel. In this case, the sisters are not forbidden because there is

only a *zikah* from one man to one woman (*since an ervah removes the zikah*).

According to Rav Yehuda, the Tanna of our Mishna (26a) can only be referring to the last nine *arayos* listed in the first Mishna, but not to the first six (*such as his daughter*). The reason is because those six cases cannot occur unless the daughter was born through the violation of her mother (*If Levi and Yehudah's daughters are sisters, they obviously have the same mother; Levi and Yehudah could not possibly marry the same woman*); and the Mishna is discussing cases of marriage, not cases of violation.

Abaye states that the Mishna can be referring to the first six cases because the Mishna has no compunctions discussing cases of violation. It is not discussing the case of the wife of his brother who was not in his world because that would involve a disagreement (*Rabbi Shimon and the Rabbis*) and the Mishna does not involve itself with disputed cases.

Rav Safra states that the Mishna can be discussing the case of the wife of his brother who was not in his world, but only in the following scenario: There were six brothers all together. Originally, there were four, and two of them, Reuven and Shimon were married to two sisters, Rochel and Leah. Reuven died childless and then a fifth brother, Yissochar was born. (*Rochel is forbidden to Yissochar on the account of being the wife of his brother who was not in his world.*) Levi, the third brother, performed a *yibum* with Rochel and subsequently, Shimon died childless. (*Yissochar can perform a yibum with Leah because he was alive together with Shimon.*) A sixth brother, Zevulun was now born. (*Rochel is not forbidden to Zevulun on the account of being the wife of his brother who was not in*

his world because when he was born she was married to Levi. Leah is forbidden to Zevulun on the account of being the wife of his brother who was not in his world.) Yehudah performed a *yibum* with Leah. Levi and Yehudah then died childless. The Rabbis maintain that each one is forbidden to the surviving brothers on the account of being the wife of their brother who was not in this world (*because of the initial marriage*). Rabbi Shimon disagrees and holds that the remaining brothers can perform *yibum* or *chalitzah* (*he is concerned only with the last marriage*). (28b)

INSIGHTS TO THE DAF

CONVERSIONS BY REB JAY

A conversion must be done *lishma*, i.e, with the desire of accepting the Torah and joining Klal Yisroel. Therefore, one cannot convert for marriage or any other external reason.

Because of this, during certain periods in Jewish history, converts were not accepted. For example, during the reign of Dovid Hamelech, converts were not accepted due to a concern that their acceptance was based on fear (due to the strength of Dovid's army). Similarly, during the days of Shlomo Hamelech there were no conversions due to a concern that the conversions were based on a desire for prestige (as Klal Yisroel at that time was considered to be the jewel of the world).

The Rambam notes that although technically converts were not accepted at these times, there were *Beis Din Hedyotos* (Common Courts) that did accept converts. How was the status of these converts resolved?

The Rambam writes that their status was pending; if they saw after a period of time that these converts were still keeping the *mitzvos*, it could be assumed that their conversion was legitimate, and they were considered to be Jews retroactive to their conversion (meaning, for example, if it was a woman who had a child during the waiting period, the child was considered to be Jewish).

Perhaps we can use this principle to understand a difficulty in *Megilas Rus*. Boaz married Rus as a redeemer of the property of Naomi (and Rus was an extension of this due to her being the wife of the cousin of Boaz--Machlon). However, if Rus was a convert, then we know that a convert is regarded like a newborn baby, and any prior status - which in the case of Rus would include her marriage to Machlon - should be negated?

Using the principle of the Rambam we can say that Rus initially converted prior to marrying Machlon; however, there were doubts regarding her conversion (as it appeared that it was done for marriage). Therefore, her conversion had a probation period, and once she decided to follow Naomi, it was retroactively revealed that her initial conversion (at the time of her marriage) was legitimate, and she fell under the category of things that could be redeemed by a redeemer (Boaz).