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Yevamos Daf 54

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The Mishnah states: If a man cohabited with his *yevamah*, whether in error or wantonly (*not for the sake of the mitzvah*), whether under compulsion or willingly; even if he acted in error and she wantonly, he wantonly and she in error, he under compulsion and she not under compulsion, she under compulsion and he not compulsion; whether he has partial cohabitation or he completes cohabitation, he has acquired her. And there is no distinction between one manner of cohabitation and other manners of cohabitation (*natural or unnatural*).

The Mishnah continues: So, too, if a man cohabits with any of the *arayos* listed in the Torah, or with those women who are disqualified to marry a *Kohen*, such as a widow to a High Priest, a divorcee or a *chalutzah* to a regular *Kohen*, a *mamzeres* or a *nesinah* to an Israelite, the daughter of an Israelite to a *mamzer* or to a *nasin*, he has rendered her disqualified from the *Kehunah*. And there is no distinction between one manner of cohabitation and other manners of cohabitation. (53b3 – 53b4)

The Mishnah had stated: If a man cohabited with his *yevamah*, whether in error or intentionally, whether under compulsion or willingly; even if he acted in error and she intentionally, etc.

The Gemora asks: What is the meaning of the word “even”?

The Gemora answers: It isn’t necessary to state the obvious ruling where he acted in error and she intended to fulfill the mitzvah, or he is wanton and she intended to fulfill the mitzvah because at least one of them was intending to fulfill the mitzvah. Rather, the Mishnah teaches us that even in the case where he acted in error (*thinking that she was another*

*woman*) and she is wanton, meaning that they both were not intending for the *mitzvah*, nevertheless, he acquires her as a wife.

Rabbi Chiya taught in a braisa: Even if they were both in error, both were wanton, or both of them acted under compulsion, the *yibum* is valid. (53b4)

The Gemora asks: What is the meaning when the Mishnah says that they acted “under compulsion”?

If you will say that the Mishnah is referring to a case where idolaters forced him to cohabit with her, but Rava said that there is no legal claim of coercion regarding an illicit cohabitation because one cannot have an erection unless he is a willing participant.

Rather, the Mishnah can be referring to a case where he cohabited with her while he was sleeping.

The Gemora asks: Rav Yehudah has said that one cannot acquire a *yevamah* while he is asleep (*since at that time, he is lacking sufficient intelligence to make a kinyan*).

Rather, the Mishnah can be referring to a case where he cohabited with her accidentally.

The Gemora asks: Rabbah has said that if one falls from a roof and cohabits with a woman below (*he was on the roof with a woman and was erect*), he will be liable to pay for four things (*damages, pain, medical bills and loss of income*), but he would not acquire his *yevamah* (*since he is not contemplating cohabitation at all*).

Rather, the Mishnah can be referring to a case where he was intending to cohabit with his wife, and his *yevamah* grabbed him and he cohabited with her.

The Gemora asks: What is Rabbi Chiya's case where they both acted under compulsion?

The Gemora answers: He is referring to a case where the *yavam* intended to cohabit with his wife, and idolaters grabbed him and forced him to cohabit with his *yevamah*. (53b4 – 54a1)

The Gemora asks: From where are the halachos listed in the Mishnah derived?

The Gemora cites a Baraisa: It is written: *Her yavam shall cohabit with her*. This teaches us that it is preferable for the *yavam* to perform *yibum* (and not *chalitzah*). Another thing: This verse teaches us that *yibum* is effective if he cohabits with her, whether in error or wantonly, whether under compulsion or willingly.

The Gemora asks: But this verse was already used to teach us that *yibum* is the preferred mitzvah (and not *chalitzah*)?

The Gemora answers: That *yibum* is the preferred mitzvah is derived from the verse: *And if the man does not wish (to take her)*, and we derive that if he does wish, it is preferable for him to perform *yibum*; and when the other verse (*her yavam shall cohabit with her*) comes, it teaches us that the acquisition is valid whether in error or intentionally, whether under compulsion or willingly. (54a1)

The Gemora cites another Baraisa: It is written: *Her yavam shall cohabit with her*. This teaches us that cohabitation in a normal manner effects *yibum*. The verse continues: *And take her*. This teaches us that cohabitation in an unusual manner (*anal*) does not effect *yibum*. The verse continues: *And perform yibum*. This teaches us that only cohabitation finalizes the *yibum*, but giving her money or a document will not finalize the *yibum*. The words in the verse (*and perform*

*yibum*) with *her* teaches us that *yibum* is valid even without her consent. (54a1 – 54a2)

The Baraisa above mentioned: Another thing: This verse teaches us that *yibum* is effective if he cohabits with her, whether in error or wantonly, whether under compulsion or willingly.

The Gemora asks: But this verse was already used to teach us that cohabitation in a natural manner effects *yibum*?

The Gemora answers: That is derived from the verse: *to establish a name for his brother*, which implies that we are referring to a place that can establish a name, and when the other verse (*her yavam shall cohabit with her*) comes, it teaches us that the acquisition is valid whether in error or intentionally, whether under compulsion or willingly. (54a2)

Rav Yehudah had said: One cannot acquire a *yevamah* while he is asleep. The verse states: *Her yavam shall cohabit with her*. This teaches us that he must intend to cohabit with her in order for the *yibum* to be valid.

The Gemora asks: It was taught in a Baraisa otherwise: A *yibum* is valid whether he was awake or asleep during cohabitation.

The Gemora emends the Baraisa: A *yibum* is valid whether she was awake or asleep during cohabitation.

The Gemora cites a different Baraisa to challenge Rav Yehudah's opinion: A *yibum* is valid whether he was awake or asleep, or whether she was awake or asleep during cohabitation.

The Gemora answers: The Baraisa is referring to a case where the *yavam* was simply dozing. Rav Yehudah was discussing a case where he was sleeping.

The Gemora asks: What does dozing mean? Rav Ashi clarifies the case. He is asleep and not asleep, awake and not awake;

if he is called he responds, but he cannot give a rational answer, though if he is reminded, he remembers. (54a2 – 54a3)

Rabbah has said that if one falls from a roof and cohabits with a woman below (*he was on the roof with a woman and was erect*), he will be liable to pay for four things, but he would not acquire his *yevamah*.

The Gemora explains: He will be liable to pay for damages, pain, medical bills and loss of income, but he would not be liable to pay for the embarrassment until he intended to cause an injury. (54a3)

Rava said: If the *yavam* intended to press against a wall, but instead cohabited with his *yevamah*, he has not acquired her. If he intended to press against an animal, but instead cohabited with his *yevamah*, he has acquired her because he was intending to perform a type of cohabitation. (543)

The Mishnah had stated: If the *yavam* performed partial cohabitation with his *yevamah*, he has acquired her.

Ulla cites the Scriptural source for this. It is derived from a verse regarding a *niddah* (*menstruant*), which states: A man who shall lie with a woman in her affliction and has uncovered her nakedness, he has bared her source. From here it can be derived that partial cohabitation is forbidden from the Torah.

The Gemora asks: We find this by *niddah*, but how is this known by other *arayos*? And if you will say that we can learn to other cases of *arayos* from *niddah*, that is not so because *niddah* has a stringency that one who cohabits with a *niddah* becomes *tamei* just like the *niddah*.

The Gemora answers: It can be derived from the verse discussing the prohibition of a brother's wife which states: *And a man who takes his brother's wife, she is a niddah*. Now, is a brother's wife always a *niddah*? Rather, the Torah likens her to a *niddah*. Just as it is forbidden to cohabit – even

partially, with a *niddah*; so too it is forbidden by one's brother's wife (and from there, the law is extended to other *arayos*).

The Gemora asks: We cannot compare the prohibition of a brother's wife to other *arayos*; one can marry a thousand wives and will increase the number of forbidden women. We would only be able to learn to other *arayos* that become forbidden through marriage.

The Gemora answers: It can be derived from the verse discussing the prohibition of one's father's sister and mother's sister, where it states explicitly that a partial cohabitation is forbidden. It is written: *The nakedness of your mother's sister or your father's sister you shall not uncover, for one bares his own flesh*.

The Gemora asks: We cannot compare the prohibition of a father's sister or a mother's sister to other *arayos*; she is forbidden automatically without any act of marriage. [We would only be able to learn to other *arayos* that become forbidden automatically.]

The Gemora concludes: We cannot derive from one of those sources, but perhaps we can learn from two of them.

The Gemora analyzes as to which two sources we can learn from. Let us derive the halachah (*of partial cohabitation*) from the prohibition of a brother's wife together with the prohibition of one's father's sister and one's mother's sister.

The Gemora asks: We cannot learn to other cases of *arayos* because these are forbidden on account of being relatives. [We would not be able to learn to other *arayos*, which are not related to the cohabiter.]

The Gemora says: Let us derive the halachah from a *niddah* together with the prohibition of one's father's sister and mother's sister.

The Gemora asks: We cannot learn to other cases of *arayos* because these are forbidden automatically without any act of marriage. [We would only be able to learn to other *arayos* that become forbidden automatically.]

The Gemora says: Let us derive the halachah from a *niddah* together with the prohibition of one's brother's wife, for there is nothing to ask on this.

Rav Acha the son of Rav Ikka asks: One cannot compare these prohibitions to the other *arayos*. *Niddah* and a brother's wife are not permitted during the entire lifetime of that which prohibits them; we cannot derive other *arayos*, such as a married woman (*who can be permitted during the lifetime of that which prohibits her, if the husband divorced her*) from them.

Rav Acha from Difti said to Ravina: Is this indeed accurate that a *niddah* and a brother's wife are not permitted during the entire lifetime of that which prohibits them, but afterwards, they are permitted? But a *niddah* is dependent upon days (and is forbidden even after the menstrual flow stops, for she must wait seven days and then immerse in a mikvah), and a brother's wife is dependent upon children (from her husband, and if he had children, she is forbidden to his brothers even after he has died)?

Rather, he rewords the question: *Niddah* and a brother's wife are different; that which prohibits them cannot permit them (*a niddah becomes permitted after a certain amount of days, and a brother's wife could become permitted if the brother died childless*). However, by a married woman, that which prohibits her can permit her (*therefore she cannot be compared to the others*)

The Gemora concludes: Rabbi Yonah, and others say that it was Rav Huna son of Rabbi Yehoshua, said: It is written [Vayikra 18:29]: *For if anyone commits any of these abominations, the persons doing so will be cut off*. We compare all *arayos* with a *hekesh* (*a Midrashic juxtaposition, where we can derive from there even when there exists*

*distinctions*) to a *niddah*; just as a *niddah* is forbidden even with a partial cohabitation, so too, all *arayos* are forbidden even with a partial cohabitation. (54a3 – 54b1)

The Gemora asks: Why does it say *niddah* by the prohibition of a brother's wife?

The Gemora answers: It is needed for Rav Huna's teaching, for Rav Huna said: From where is the laws of *yevamah* alluded to in the Torah?

The Gemora interrupts: "From where," you ask!? But behold it is written: *her yavam shall cohabit with her!*?

The Gemora explains: From where is it known that the *yevamah* is forbidden (to marry her husband's brother) even during her husband's lifetime (if he divorced her)?

The Gemora challenges this: isn't this logical? By the fact that the Merciful One said that a *yevamah* is permitted to her husband's wife after the death of her husband, does that not teach us that while he is alive, she is forbidden (to marry her brother-in-law)?

The Gemora explains: One might think that a brother has a mitzvah to marry his *yevamah* after her husband's death, but he is permitted to marry his brother's wife even while the brother is alive (*if he divorced his wife*), or that it would be prohibited, but the prohibition would be one that is derived by implication from a positive commandment, and therefore would only carry the force of a positive commandment (and she would not be subject to the penalty of *kares*). [The extra words in the verse teaches us that if there is no *mitzvah* of *yibum*, she is forbidden as a brother's wife under the penalty of *kares*.]

This is derived from the fact that the Torah writes the word *niddah* by the brother's wife prohibition. Just as a *niddah* is permitted afterwards, but nonetheless, if one would cohabit with her while she is a *niddah*, they would be subject to the penalty of *kares*, so too, regarding a brother's wife, even



though she could be permitted if the brother died childless, she is forbidden under the penalty of *kares* when the *mitzvah* of *yibum* is not applicable. (54b1 – 54b2)

The Gemora asks: Why does it say ‘partial cohabitation’ by the prohibition of a father’s sister and a mother’s sister?

The Gemora answers: It is used for that which Ravina inquired of Rava: What is the halachah if a man partially cohabits with another man?

The Gemora interjects: This is certainly forbidden because this prohibition is compared to the copulation of a woman; just as there, partial cohabitation is forbidden, so too, regarding a male.

The Gemora states that Ravina’s inquiry was regarding a partial cohabitation with an animal.

Rava answered that it is forbidden. For since it was unnecessary for the Torah to state ‘partial cohabitation’ by the prohibition of a father’s sister and a mother’s sister, for it is derived from Rabbi Yonah’s hekesh, it therefore should be applied to prohibit partial cohabitation in the case of an animal.

The Gemora asks: Let us see! Copulation with an animal is among the offences subject to the death penalties of a Beis Din; why then was partial cohabitation in relation to it enumerated among offences that are subject to the penalty of *kares*? It should rather have been written among those which are subject to the death penalty of the Beis Din, and thus one offence that is subject to the death penalty of a Beis Din would be inferred from a similar offence that is subject to the death penalty of a Beis Din!

The Gemora answers: Since the entire verse was to serve the purpose of exposition, this thing was also included that it may serve the purpose of exposition.

The Gemora asks: What is the exposition?

The Gemora answers: It was taught in a Baraisa: *You shall not uncover the nakedness of your father's sister*. This applies whether she is paternal or maternal.

The Baraisa questions this: You say that she is forbidden whether she is paternal or maternal; perhaps it is not so, but only when she is paternal and not when maternal?

The Baraisa answers: This is only logical: A man is liable in this case, and he is also liable in the case of his sister; just as with his sister it is the same whether she is paternal or maternal, so here as well, it is the same whether she is paternal or maternal.

The Baraisa challenges this: But might it not be argued in the following manner: A man is liable in this case and is also liable in the case of his father’s brother’s wife; just as his aunt is forbidden only when she is paternal (her husband is the father’s paternal brother) but not when maternal, so here as well, it should apply when she is paternal and not when maternal!?

The Baraisa suggests: Let us consider whom it more closely resembles. A prohibition which results automatically (when the woman is a blood-relative) ought to be derived from a prohibition which also results automatically, but let no proof be adduced from an aunt whose prohibition does not result automatically. But might it not be argued as follows: The relatives of a father should be derived from the relatives of a father, but let no proof be adduced from a sister who is one's own relative!

The Baraisa concludes: Hence it was stated: *You shall not uncover the nakedness of your father's sister*. This applies whether she is paternal or maternal. *You shall not uncover the nakedness of your mother's sister*. This applies whether she is paternal or maternal. (54b2 – 54b3)

The Gemora asks: What need was there to write it in respect of a father's sister and also in respect of a mother's sister?

Rabbi Avahu replied: Both are required. For had the Merciful One written it in respect of a father's sister, it might have been assumed to apply to her alone, because her relationship (with her cohabiter) is an ancestral one, but not to a mother's sister. And had the Merciful One written it in respect of a mother's sister, it might have been assumed to apply to her alone because her relationship (with her cohabiter) is certain, but not to her father's sister. Therefore, both were required. (54b3 – 54b4)

The Gemora asks: As to one's father's brother's wife, concerning whom the Tanna had no doubt that she must be paternal and not maternal, from where does he derive it?

Rava replied: It is arrived at by a comparison between the words 'father's brother' in two verses. Here it is written: *He has uncovered the nakedness of his father's brother*, and there it is written: *Or his father's brother or his father's brother's son may redeem him*. Just as there he must be paternal and Not maternal, so here as well, he must be paternal and not maternal.

The Gemora asks: And from where is it proved there?

The Gemora answers: Scripture stated: Or a relative of his family may redeem him, and only a father's family is called the proper family, but the mother's family is not called the proper family. (54b4)

## INSIGHTS TO THE DAF

### MITZVAH WITHOUT INTENTION

The Mishnah teaches us that even if the *yavam* did not have intention for the *mitzvah* he has nevertheless acquired the *yevamah*.

The Minchas Chinuch writes that by a Biblical *mitzvah*, one is required to perform the *mitzvah* with the intention for the sake of the *mitzvah*. If the *yavam* cohabited with the *yevamah* under the assumption that she was another

woman, or he acted wantonly, and did not intend for the *mitzvah*, he has indeed acquired her, but he has not fulfilled the *mitzvah*.

The Minchas Chinuch concludes that the *yavam* will have to cohabit with her again for the sake of the *mitzvah* in order to fulfill the *mitzvah*.

Reb Elchonon Wasserman disagrees and holds that intention is a requirement for the fulfillment of a *mitzvah* only when the *mitzvah* is to perform a certain action. However, if the *mitzvah* is to create a *chalos*, a certain condition, the *mitzvah* can be fulfilled even without the proper intention. The *mitzvah* of *yibum* is to acquire the *yevamah*; this *mitzvah* is accomplished even if the *yavam* did not intend to fulfill the *mitzvah*.

## DAILY MASHAL

### *Kavanah by Shemoneh Esrei*

Rabbi Zev Leff, in his book on Tefillah, writes: Kavanah has several aspects. It implies intention to fulfill the *mitzvah* of prayer, focus on the function of prayer, the understanding of the meaning of the words and ideas inherent in the various prayers, and the proper enunciation of these words. Kavanah includes intention, direction, perspective, and purpose.

Before one begins to pray, he must have the intention to fulfill the *mitzvah* of prayer, which is the halachah regarding the fulfillment of all Torah-mandated *mitzvos*. The Mabit in Beis Elokim explains that even according to the opinion that other *mitzvos* do not need specific intention to fulfill them, tefillah is different; since it is service of the heart that is fulfilled verbally, it requires this kavanah according to all opinions.