

3 Iyar 5782  
May 4, 2022



Yevamos Daf 58

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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 above presented a dispute between Rav and Shmuel regarding the legal significance for a Kohen’s chupah to those women who are disqualified from the Kehunah. Rav maintains that all the Tannaim listed in our Mishnah would hold that there is a legal significance for a Kohen’s chupah to those women who are disqualified from the Kehunah, and these women become disqualified from eating terumah. Shmuel maintains that all the Tannaim listed in our Mishnah would hold that there is no legal significance, and these women are still qualified to eat terumah.]

The Gemora presents a third opinion. Rami bar Chama states that this issue is in fact a Tannaic dispute between Rabbi Meir versus Rabbi Eliezer and Rabbi Shimon. According to Rabbi Meir, who maintains that a widow (*daughter of a Yisroel*) who becomes married to a *Kohen Gadol*, or a divorcee or *chalutzah* becomes married to a regular *Kohen*; from the time of *erusin*, they are not allowed to eat *terumah*, the *chupah* of a *Kohen* to a disqualified woman will also render her disqualified from eating *terumah*. According to Rabbi Eliezer and Rabbi Shimon, who hold that the *erusin* does not disqualify her, a *chupah* will not disqualify her either.

The Gemora asks: Perhaps Rabbi Meir disqualifies her only by an *erusin*, where the *Kohen* legally acquires her as a wife; however, regarding *chupah*, where there is no legal acquisition whatsoever, she would not become disqualified?

Alternatively, you can ask: Perhaps Rabbi Eliezer and Rabbi Shimon maintain that *erusin* does not disqualify her because this is not something close to cohabitation; however, regarding *chupah*, which is close to cohabitation, she would become disqualified?

Rather, if there is something to say regarding this, it is the argument of the following Tannaim, for it was taught in a Baraisa: If either of these entered into *nisuin* with a Kohen – that is – either a qualified woman or a disqualified woman, or they entered into a *chupah* with him, but they did not cohabit with him, they are entitled to eat from his estate and they are entitled to eat *terumah*.

The Gemora interrupts the citation to ask: ‘Who entered etc.’ (the second case) implies that ‘entered into *nisuin*’ (the first case) means that they were actually married (and they did cohabit)!? [This is impossible, as then they would be disqualified from eating *terumah*!]? Must it not consequently be concluded that the meaning is (that the second clause is an explanation of the first one): They entered into *nisuin* – that is in a case where they entered into a *chupah* but did not cohabit. And yet it was stated that they are entitled to eat from his estate and they are entitled to eat *terumah*. [This Tann obviously holds that there is no legal significance to the *chupah* of a disqualified woman.]

The Baraisa continues: Rabbi Yishmael son of Rabbi Yochanan ben Berokah says: If cohabitation with this woman will entitle her to eat *terumah*, the *chupah* will entitle her as well; however, regarding any woman where

cohabitation will not entitle her to eat *terumah*, a *chupah* with her will not permit her to eat *terumah*. (*It emerges that the first opinion maintains that there is indeed legal significance for a chupah to a disqualified woman, and Rabbi Yishmael disagrees.*)

The Gemora asks: Perhaps Rabbi Yishmael maintains that a *chupah* does not disqualify her from eating *terumah*; the reason this woman cannot eat *terumah* is because there was an *erusin* already, and Rabbi Yishmael holds in accordance with Rabbi Meir that an *erusin* with an unfit woman renders her disqualified from eating *terumah*?

The Gemora challenges that assertion: [If that would be accurate] Instead, then, of the statement ‘Regarding any woman where cohabitation will not entitle her to eat *terumah*, a *chupah* with her will not permit her to eat *terumah*,’ the statement should have run, ‘Regarding any woman where cohabitation will not entitle her to eat *terumah*, her (receipt of) money (for *erusin*) will not permit her to eat *terumah*!?’

The Gemora answers: But is it not possible that as the first Tanna spoke of the *chupah*, he also spoke of the *chupah*. (57b2 - 58a2)

Rav Amram said: Rav Sheishes told us the following matter, and he enlightened our eyes from a Mishnah. Rav Sheishes said that there is legal significance to the *chupah* of a disqualified woman, and he provided support from the following Mishnah: The Mishnah states: (*A sotah must drink the bitter waters to determine if she strayed from her husband and must confirm by answering “Amen” that she did not commit adultery.*) She answers “Amen” twice to say that she did not stray from her husband while she was an *arusah* or a *nesuah*, nor while she was awaiting *yibum* or after the *yavam* married her.

The Gemora analyzes the Mishnah: What is the case of the *arusah*? If you will say that the husband warned her

while she was an *arusah* and they gave her to drink while she was an *arusah*; this cannot be, for we learned in a Mishnah that we do not give an *arusah* to drink. Rather, the Mishnah must be referring to a case where the husband warned her while she was an *arusah*, she then secluded herself with that man, and they gave her to drink while she was a *nesuah*.

The Gemora asks that this cannot be the case either, for we have learned that the waters will only test his wife if he is free from any sin; if he consummated the marriage after she secluded herself, he is not free of sin (*since he is prohibited from cohabiting with her after she became a sotah*), and the waters will not be able to test her? The Mishnah must be referring to a case where the husband warned her while she was an *arusah*, she then secluded herself with that man, and they gave her to drink after she entered into a *chupah* with her husband, but prior to cohabitation. This proves that there is legal significance for a *chupah* to a forbidden woman (*for she is regarded as a nesuah even though he cannot cohabit with her*).

Rava said: Do you think that this Mishnah is a correct one? But, when Rav Acha bar Chanina came from the South, he brought the following Baraisa with him: It is written [Bamidbar 5:20]: *And a man other than your husband has lain with you.* We derive from there that we administer the waters only when the husband’s cohabitation with her has preceded the adulterer’s cohabitation with her, but otherwise, we do not give her to drink. (*This proves that the aforementioned interpretation of the Mishnah (that she secluded herself with another man prior to the nisuin) cannot be correct.*)

Rami bar Chama defends our interpretation of the Mishnah by saying that the Mishnah can be referring to a case where the husband cohabited with her while she was still in her father’s house (*prior to the seclusion*).

The Gemora asks: How do we explain the case of the woman awaiting *yibum*? If the *yavam* already cohabited with her, she is regarded as his full-fledged wife according to Rav, and the Mishnah would not refer to her as a woman awaiting *yibum*?

The Gemora answers: The Mishnah can be following Shmuel's viewpoint, who holds that a *yavam* who performs an inferior act of *yibum* acquires her only regarding matters mentioned explicitly in the Torah. Pertaining to other matters, she is not his wife, and the Mishnah can refer to her as a woman awaiting *yibum*.

The Gemora asks: We are only attempting to explain this Mishnah to support Rav's opinion (*chupah with disqualified women have legal significance*), and Rav maintains that he acquires the *yevamah* completely.

The Gemora answers: We can say that the Mishnah is referring to a case where the *yavam* performed a *ma'amar*, and the Mishnah is following Beis Shammai's viewpoint that *ma'amar* effects a full acquisition. (*She still would be considered one whose husband's cohabitation has preceded the adulterer's cohabitation on account of the brother's marriage, which is being continued by the yavam.*)

The Gemora asks: If so, this would be the same case as an *arusah*; why does the Mishnah state both cases?

The Gemora counters: And according to your reasoning as well, the Mishnah stated *nesuah* and a woman married in *yibum* even though they are essentially the same; obviously the Mishnah finds it necessary to list his *nesuah* and a case where he married the wife of his friend (*his brother*). So too, the Mishnah lists the case of his own *arusah* and the case of the woman awaiting *yibum*.

Rav Pappa explains the Mishnah differently: Although we cannot force an *arusah* to drink the bitter waters while

she is an *arusah*, but we can warn her while she is an *arusah* for the purpose of causing her to drink while she is a *nesuah*.

Rav Nachman bar Yitzchak explains the Mishnah to be referring to a *nesuah*; she must swear that she did not stray from her husband as a *nesuah*, and then with the principle of *gilgul shevuah* (*once we force someone to take one oath, we can extend this obligation to take another oath even though there is no requirement for the other oath*), we force her to swear that she did not stray from her husband even while she was an *arusah*. (58a2 – 58b2)

Rav Chanina sent the following teaching to Bavel in the name of Rabbi Yochanan: If one performs *ma'amar* with his *yevamah* and he has another living brother, even if he is a *Kohen* and she is the daughter of a *Kohen*, she is disqualified from eating *terumah* (*until he completes the mitzvah of yibum*). (*The logic for this prohibition is because she is awaiting a forbidden cohabitation by the brother who did not perform ma'amar.*)

The Gemora asks: According to whose opinion is this ruling following? If it is in accordance with Rabbi Meir who holds that one who awaits a forbidden cohabitation becomes disqualified for *terumah*; he said that only when she is Biblically prohibited, not when the prohibition is Rabbinic in nature. It cannot be following Rabbi Eliezer and Rabbi Shimon's opinion because they maintain that she remains qualified even when she is awaiting a Biblically forbidden cohabitation, certainly they would hold like that when it is only Rabbinically forbidden.

The Gemora presents another version of Rabbi Yochanan's teaching: When Ravin arrived in Bavel from Eretz Yisroel, he said in the name of Rabbi Yochanan: If one performed *ma'amar* with his *yevamah*, everyone agrees that she remains qualified to eat *terumah*. If he has a brother who is a *chalal*, everyone agrees that she cannot

eat *terumah*. They only argue in a case when the brother gave her a *get*: Rabbi Yochanan says that she can eat *terumah* because although she is awaiting a forbidden cohabitation, it is only a Rabbinical decree, and that will not disqualify her from eating *terumah* even according to Rabbi Meir. Rish Lakish maintains that even according to Rabbi Eliezer and Rabbi Shimon who hold that a woman awaiting a forbidden cohabitation may eat *terumah*, that is only where the *Kohen* whose forbidden cohabitation she awaits has the ability to entitle his wife to eat *terumah* elsewhere; however, here, where the *Kohen* gave her a *get*, he cannot entitle her to eat *terumah* elsewhere, and therefore she cannot eat *terumah*. And should you suggest that here also he has the right to confer the privilege of eating in the case where she returns, [it may be retorted that] one who returns severs her connection with him and resumes her relationship with her father's house; but this woman remains bound to him. (58b2 – 58b3)

#### INSIGHTS TO THE DAF

##### COHABITATION OF A YAVAM WITHOUT ACQUIRING HER

The Gemora is seeking to find a case of a *yavam* who cohabits with a woman awaiting *yibum*, but she still remains a woman awaiting *yibum*. In truth, there are some cases, but for various reasons they don't meet the Gemora's conditions. For example, Tosfos says that when the *yavam* does not intend for cohabitation at all, he does not acquire her, yet it does not fulfill the Gemora's requirement that we only administer the waters when the husband's cohabitation with her has preceded the adulterer's cohabitation with her, but otherwise, we do not give her to drink, since the *pesukim* by *sotah* imply that the husband had intent for cohabitation before she committed adultery.

How many cases are there of a *yavam* cohabitating with the *yevamah*, and not acquiring her?

Reb Avi Lebovitz lists some of them:

1. Any time he does not intend for cohabitation at all, as we see in the Gemora 54a. This includes intent to press against the wall, and falling from a roof, and when he is sleeping (according to Tosfos).
2. Cohabitation with a limp member: Tosfos 53b says that even according to the opinion that you are liable by *arayos*, you cannot acquire a *yevamah* (the Gemora couldn't use this case on 58b - see aruch l'ner).
3. When he is sleeping, he does not acquire her because he is not an intelligent being at that time (according to Rashi).
4. There is a discussion between Reb Akiva Eiger and his son regarding one who cohabited with specific intention not to acquire his *yevamah*.

#### DAILY MASHAL

Reb Tzadok writes: Any type of pain or suffering to a person that is caused by another, whether it was deliberate or even unintentionally – the one who caused it will ultimately suffer as well, provided that he has some sins as well. This is also the case if one rebukes his fellow on account of a sin and causes him to be embarrassed. That is why it says that one should analyze himself before rebuking his fellow.

When God allows one to suffer by the hands of another – unintentionally, He will only do this when the fellow is completely clean from that sin, for the Holy One, Blessed be He, does not want to bring a stumbling block on any Jewish person.

That is why the Gemora states that the (*sotah*) waters will only test his wife if he is free from any sin.