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Yevamos Daf 104

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Daf Notes is currently being dedicated to the neshamah of

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

Mishnah

The *Mishnah* states: If she performed *chalitzah* at night, the *chalitzah* is valid. Rabbi Elozar said: It is invalid. If she performed *chalitzah* with the left foot of the *yavam*, the *chalitzah* is invalid. Rabbi Elozar said: It is valid. (104a1)

Gemora

The *Gemora* explains the dispute regarding *chalitzah* performed at night: Let us say that the argument is dependent on the following point. Rabbi Elozar maintains that we compare monetary disputes to the laws of *tzaraas* (*erroneously described as leprosy, it is an affliction of the skin mentioned in the Torah*). Just as *tzaraas* must be observed by the *Kohen* during the day, so too, *chalitzah*, which involves a monetary issue (*the claiming of her kesuvah*) must be performed by day. The *Tanna Kamma* holds that we do not compare the two topics, and *chalitzah* may be performed at night.

The *Gemora* rejects this explanation: No! Perhaps everyone agrees that we do not compare monetary disputes to the laws of *tzaraas*, for if we would have compared them, the halachah should be that even the conclusion of a trial (*regarding a monetary issue*) should not be valid if it was done at night (*and we know this not to be the case; the trial must begin by day, but it may be concluded at night*). Rather, the argument is dependent on whether we compare *chalitzah* to the beginning of a monetary trial or to the conclusion of the trial.

The *Gemora* records an incident: Rabbah bar Chiya from Ctesiphon conducted a *chalitzah* with footwear of felt, by himself and at night. Shmuel said sarcastically: Rabbah bar

Chiya is such a great man that he can practice according to the opinion of an individual *Tanna*.

The *Gemora* asks on Shmuel: Why was Shmuel so concerned regarding Rabbah’s actions? Regarding the usage of footwear of felt for a *chalitzah*, it is ruled upon in an anonymous *braisa* that it is permitted. Regarding the performance of *chalitzah* at night, it is ruled upon in an anonymous *Mishnah* that the *chalitzah* is valid. Rather, Shmuel was bothered that Rabbah bar Chiya conducted the *chalitzah* by himself. For we learned in the following *Mishnah*: If she performed *chalitzah* in front of two people, or it was in front of three, but one of them was found to be a relative or he was disqualified for some other reason, the *chalitzah* is not valid. Rabbi Shimon and Rabbi Yochanan Hasandlar say that the *chalitzah* is valid. There was once an incident where a *chalitzah* was performed in prison without any judges present, and Rabbi Akiva ruled that the *chalitzah* was valid. (*It emerges that Rabbi Akiva is the lone Tanna who holds that the chalitzah is valid even when it was performed without any judges being present; this was the difficulty that Shmuel had with Rabbah bar Chiya.*)

Alternatively, you can say that all three of Rabbah bar Chiya’s ruling represent the opinion of an individual *Tanna*, for it was taught in the following *braisa*: Rabbi Yishmael the son of Rabbi Yosi said: I observed Rabbi Yishmael ben Elisha conduct a *chalitzah* with footwear of felt, by himself and at night. (104a1 – 104a2)

Left foot

The *Mishnah* had stated: If she performed *chalitzah* with the left foot of the *yavam*, the *chalitzah* is invalid. Rabbi Elozar said: It is valid.

The *Gemora* asks: What is the reason of the *Tanna Kamma*?

Ulla said: It is derived through a *gezeirah shavah* (one of the thirteen principles of Biblical hermeneutics; it links two similar words from dissimilar verses in the Torah) from *metzora*. Just as there, the blood is placed on the right foot, so too, regarding *chalitzah*, the shoe is removed from the right foot.

The *Gemora* asks: And Rabbi Elozar does not expound this *gezeirah shavah*? But we have learned in the following *braisa*: Rabbi Elozar said: How do we know that we pierce the servant's right ear (if he refuses to go out free)? It is derived through a *gezeirah shavah* from *metzora*. Just as there, the blood is placed on the right ear, so too, regarding the servant, he is pierced through the right ear. (It would stand to reason that Rabbi Elozar should expound the *gezeirah shavah* from *metzora* to *chalitzah* as well.)

Rav Yitzchak bar Yosef said in the name of Rabbi Yochanan: We have mistakenly reversed the opinions of Rabbi Elozar and the *Tanna Kamma* (Rabbi Elozar is the *Tanna* who maintains that *chalitzah* performed with the left foot is not valid.)

Rava said: In fact, the opinions are not reversed. Rabbi Elozar could only expound the *gezeirah shavah* regarding the servant and his ear, and not the *gezeirah shavah* regarding *chalitzah* and the foot. This is because the terms *ear, ear* are extra for the exposition to the laws of the servant, but the terms *foot, foot* are not extra to teach us the laws regarding *chalitzah*.

The *Gemora* asks: even though the terms *foot, foot* are not extra, what question could be asked on the comparison that would refute the *gezeirah shavah*?

The *Gemora* answers: One could ask the following: You cannot compare *chalitzah* to *metzora* because the purification of a *metzora* requires wood from a cedar tree,

hyssop and scarlet wool; *chalitzah* does not require these items. (104a2 – 104a3)

Mishnah

The *Mishnah* states: If she removed his shoe and spat, but did not recite the verses, her *chalitzah* is valid. If she recited the verses and spat, but did not remove his shoe, her *chalitzah* is invalid. If she removed his shoe and recited the verses, but did not spit, Rabbi Eliezer says: Her *chalitzah* is invalid. Rabbi Akiva says: Her *chalitzah* is valid. Rabbi Eliezer says: "So shall it be done." Whatever is an action impairs. Rabbi Akiva said to him: From there, you bring a proof? "So shall it be done to the man." Any action that involves the man impairs (such as the removal of his shoe).

If a male deaf-mute was subjected to *chalitzah*, or a female deaf-mute performed *chalitzah*, or a woman performed *chalitzah* to a minor, their *chalitzah* is invalid. If a girl who is a minor performed *chalitzah*, she must perform *chalitzah* when she becomes an adult; and if she does not perform another *chalitzah*, her *chalitzah* is invalid.

If she performed *chalitzah* in front of two people, or it was in front of three, but one of them was found to be a relative or he was disqualified for some other reason, the *chalitzah* is not valid. Rabbi Shimon and Rabbi Yochanan Hasandlar say that the *chalitzah* is valid. There was once an incident where a *chalitzah* was performed in prison without any judges present, and Rabbi Akiva ruled that the *chalitzah* was valid. (104a3 – 104b2)

Recital of the verses

Rava said: Since the *Mishnah* taught us that a *chalitzah* can be valid even if she does not recite the verses, the *chalitzah* of a mute man or a mute woman may be valid.

The *Gemora* asks from the ruling of our *Mishnah*: If a male deaf-mute was subjected to *chalitzah*, or a female deaf-mute performed *chalitzah*, or a woman performed *chalitzah* to a minor, their *chalitzah* is invalid. Why is the *chalitzah* that involves a deaf-mute invalid? Is it not because that they are

incapable of reciting the verses? Accordingly, the *chalitzah* of a mute should also be invalid.

The *Gemora* answers: No! The reason that the *chalitzah* that involves a deaf-mute is invalid is because they are not considered mentally competent.

The *Gemora* asks: If so, a mute and a mute-woman should also be disqualified from performing a *chalitzah*?

Rava answers: A mute man and a mute woman are mentally competent; they cannot communicate only because their mouths are paining them.

The *Gemora* challenges Rava's ruling from that which was taught in the Beis Medrash of Rabbi Yannai: The *chalitzah* that involves a deaf-mute invalid is because that they are incapable of reciting the verses, and the Torah says: *He shall say...and she shall say*. Accordingly, a mute man or a mute woman should be disqualified from performing a *chalitzah* as well?

Rather, the following is what Rava said: Since the latter part of the *Mishnah* taught us that deaf-mutes may not perform *chalitzah*, we see that the recital of the verses is critical to the validity of the *chalitzah*; therefore, a mute man or a mute woman are disqualified from performing a *chalitzah*. And the *Mishnah* which rules that a *chalitzah* is valid even though the verses were not recited is in accordance with Rabbi Zeira. For Rabbi Zeira said: A flour-offering that is fit for mixing (*of the flour and the oil of the offering; with one log of oil for sixty esronim of flour, and a maximum of sixty esronim in one pan, perfect mixing is possible*), the mixing is not critical to it (*and the offering will be valid even without mixing*); whereas, a flour-offering that is not fit for mixing (*where, the proportions of the mixture were less than a log for sixty esronim or where more than sixty esronim were placed in one pan*), the mixing is critical (*and the offering will not be valid*). (So too here regarding *chalitzah*; if they are capable of reciting the verses, the *chalitzah* is valid even if

the verses are not recited. If they are not capable of reciting the verses, the *chalitzah* will be invalid.) (104b2 – 104b3)

DAILY MASHAL

The Chofetz Chaim, our greatest teacher of *Shemiras HaLashon*, often said that Torah does not seek to make a Jew mute, to always refrain from speech. The power of speech defines us as humans. When Torah states that, “man became a living soul” – *nefesh chaya* – Targum translates the phrase, *ruach memalela* – a creature able to speak.

Speech is our crown, our glory. Hashem does not seek our silence, not in our lives and not in our atonement. The Chofetz Chaim teaches the real lesson of our speech comes not only from the bells of the *me'il* but from the woolen pomegranates that hung from the hem of the *me'il* alongside those bells.

The bells teach us to use our sound, our speech, constructively – to daven, learn, encourage, soothe, to express what is best in our humanity. The pomegranates remind us that when we have nothing good to say, it is best to be silent. Rabbi Shimon taught in Avos: “I was brought up my entire life in the company of the Sages, and I found no better trait than *shetika* – silence.”

The *me'il* teaches speech and silence, two sides of the same lesson. A meaningful life is defined by knowing how to control one's speech, when to “sound off” like a *pa'amon* – bell, and when to “close up” like a pomegranate. <https://outorah.org/p/118110>