

23 Sivan 5782
June 22, 2022



Yevamos Daf 107

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Mishna

Beis Shammai states that *mi'un* (refusing a marriage that was arranged by the mother or brothers of a girl who is a minor) can only be done when the marriage only reached the stage of *eirusin* (betrothal). Beis Hillel says that it can even be done after a marriage culminated in *nisuin* (marriage). Beis Shammai states that *mi'un* can only be done to the original husband, not to the *yavam* of the original husband. Beis Hillel states that it can be done to the *yavam* as well. Beis Shammai states that *mi'un* must be done in the presence of the husband, while Beis Hillel argues that the husband's presence is not required. Beis Shammai requires that *mi'un* be done in Beis Din, while Beis Hillel says that it can be done outside of Beis Din as well. Beis Hillel stated to Beis Shammai that a minor can do *mi'un* even four or five times. Beis Shammai countered that this is inappropriate, as it will make young Jewish girls as if they are ownerless. Rather, a young Jewish girl who wants to refuse her betrothal should refuse it and then wait until she becomes a halachic adult. She should then perform *mi'un* once more, and is then free to marry the husband of her choice. (107a1)

Rav Yehudah's Understanding of the Argument

Rav Yehudah states in the name of Shmuel: What is the reasoning of Beis Shammai that *mi'un* can only be done from *eirusin* and not *nisuin*? He explains that there is a

rule “*ain t'nai b'nisuin*” (there is no condition after marriage, meaning that even if an adult makes his/her marriage dependent on certain conditions, once she has *nisuin* she forgoes those conditions). Beis Shammai was therefore concerned that if we allow *mi'un* by a minor who has *nisuin*, people will think that she can simply refuse her marriage because it was based on a certain condition that was not fulfilled. They will then think the halachah is “*yesh t'nai b'nisuin*” (there is a condition after marriage) even by an adult, and allow an adult to walk away from a regular marriage. This is why they stated that *mi'un* cannot be done after *nisuin*.

The Gemara asks: According to this, why doesn't Beis Shammai say that a girl could do *mi'un* if she did not have marital relations with her husband, but merely entered the *chupah* (which is also a way of creating *nisuin*)? [An adult in such a situation would not seem to have a reason to forgo their conditions in marriage just because they went under the *chupah* (as opposed to commencing marital relations, where there is already an assumed emotional attachment). Accordingly, it would not seem that anyone would mistakenly state “*yesh t'nai b'nisuin*.”]

The Gemara answers, this is because Beis Shammai also holds “*ain t'nai b'chupah*” (there is no condition once someone enters the *chupah*).

The Gemara asks: If the father (in this case, brothers) gave her over to the messengers of the husband (which

the Gemara in Kesuvos (48b) states effects nisuin), why wouldn't Beis Shammai agree that she could perform mi'un?

The Gemara answers that although in this case the reasoning given above is inapplicable, the Rabbis (*in this case Beis Shammai*) did not separate between this type of case and the other cases where the reasoning is applicable.

The Gemara asks: What is Beis Hillel's reasoning?

The Gemara answers: They do not agree that there will be confusion regarding a t'nai b'nisuin of an adult, as everyone knows that the nisuin of a minor is merely Rabbinic, and will not apply it to the marriage of an adult. (107a1 – 107a2)

Rabbah and Rav Yosef's Understanding

Rabbah and Rav Yosef explain that Beis Shammai say a minor cannot perform *mi'un* from nisuin, as this will deter men from marrying her. People do not want to have marital relations that are later declared to be promiscuity. If a minor is given permission to do *mi'un*, men will not marry her as they are scared that the girl will due *mi'un*, retroactively making their relations into promiscuity. Beis Shammai therefore ruled that enabling a girl to do *mi'un* from nisuin would be counterproductive (*as no one will marry her, and bad people might take advantage of her being that she has no father*).

The Gemara asks: According to this, why doesn't Beis Shammai say that a girl could do *mi'un* if she did not have marital relations with her husband, but merely entered the chupah (*which is also a way of creating nisuin*)?

The Gemara answers, this is because the husband does not desire that his chupah should be regarded as a forbidden matter.

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The Gemara answers that although in this case the reasoning given above is inapplicable, the Rabbis (*in this case Beis Shammai*) did not separate between this type of case and the other cases where the reasoning is applicable.

The Gemara asks: What is Beis Hillel's reasoning?

Rabbah and Rav Yosef understand that Beis Hillel is not worried about men having this attitude, as they did a proper kiddushin and have a proper kesuvah. It is not their fault at all if the girl later performs *mi'un*. They would therefore not refrain from marrying her due to this concern. (107a2 – 107a3)

Rav Pappa's Reasoning

Rav Pappa states that both Beis Shammai and Beis Hillel have concerns regarding the fruits (*known as Nichsei Milug, loosely translated as property that a woman brings into a marriage that a husband may benefit from during the marriage*) that a woman brings into a marriage. Beis Shammai reasoned that if a girl could do nisuin from *mi'un*, this would make the husband use as much of her nichsei milug as possible, as soon the mere whim of a minor will end the marriage in refusal. [*This is not a problem regarding eirusin, as a husband who has only done eirusin is not yet entitled to use nichsei*

milug.] Beis Hillel says that, on the contrary, this will make him improve her property. The allowance of *mi'un* makes the groom think that if he does not improve the property, her relatives will advise her to do *mi'un*. (107a3)

Rava's Reasoning

Rava understands that Beis Shammai is concerned that men will not marry her (*similar to Rabbah and Rav Yosef above*), as they will not bother to make an entire wedding feast and essentially lose its purpose when the minor can simply refuse the marriage at any moment. Beis Hillel is not worried about this, as a girl also likes to be married (*and will not refuse the marriage without reason*), in order that it will be known that she is a married woman (*a more important status than an unmarried woman*).

Mi'un from the Yavam

The Mishna had stated: Beis Shammai states that *mi'un* can only be done to the original husband [not to the yavam of the original husband. Beis Hillel states that it can be done to the yavam as well.]

Rabbi Oshaya states that when Beis Hillel said a girl could do *mi'un* to the yavam of her husband as well, they only meant that this can take away the ma'amar (*act of kiddushin as applicable to yibum*) of her husband's brother, not her zikah (*meaning that she would still require chalitzah*).

Rav Chisda asks: what is the reason of Rav Oshaya? It must be that if the brother of her husband did ma'amar, and she accepted it knowingly, she can likewise decide to cancel it. However, zikah happened against her will when her husband died. It is therefore

out of her control, and she cannot cancel it through *mi'un*.

The Gemara asks, Beis Hillel holds that *mi'un* can be performed by a girl if her husband's brother cohabited with her. Cohabitation can be done against a woman's will, and it is still effective. According to the reasoning above that she cannot cancel things that happened against her will, why should *mi'un* be effective to cancel yibum?

The Gemara answers that yibum and ma'amar are things that her yavam did, and can therefore be cancelled by her. Zikah, however, is a status declared by the Torah, and therefore she is powerless to cancel it.

Ulla argues that she can do *mi'un* to take away zikah as well. Why? The Gemara explains that she is merely refusing the original marriage, which was able to be cancelled by *mi'un*.

Rava asked a question on Ulla from a Mishna which states that a girl who could have performed *mi'un* and didn't do so before her husband died (does not receive yibum or chalitzah if her yavam is a direct relative forbidden to her by the Torah, and) causes her tzarah (co-wife) to only receive chalitzah (*see Rashi for the exact case*). Rava asked, according to Ulla that *mi'un* can be done to zikah, let the girl do *mi'un* after her husband dies. This will retroactively cancel the first marriage, and enable her tzarah to have yibum!?

The Gemara answers that the retroactive effect of *mi'un* only works for the minor's own zikah, not to take away the status of tzaras ervah from her fellow widow.

This is implied by a braisa quoted by Rami Bar Yechezkel. The braisa states that if a woman does *mi'un* to her husband, she can marry his father, as she essentially was never married to her ex-husband. However, if she does *mi'un* to her yavam, she cannot marry his father, as her falling to yibum creates an appearance that she is actually married to her husband and therefore forbidden to her yavam's father. So too, the Gemora states, the fact that the tzarah already became a tzaras ervah when she fell to yibum gives the appearance that the marriage of the minor who is related to the yavam was indeed an effective marriage. Hence, even if the minor will perform *mi'un* there will still be an appearance of tzaras ervah on her fellow wife, and we cannot allow her to have yibum. (107a4 - 107b2)

Can a Minor Marry her Deceased Husband's Brothers After Performing Mi'un?

Rav states that if a minor performs *mi'un* to one of her deceased husband's brothers, she is now forbidden to all of them. He says that this is comparable to a situation where one of the brothers gave her a get (*halachic divorce document*). Just as in that situation she becomes forbidden to all of them, so too when she performs *mi'un* she becomes prohibited to all of them.

Shmuel argues that she is still permitted to the brothers after doing *mi'un* to one of them, unlike the case of get. When one of the brothers gives her a get, he is the one performing the action that cuts off all zikah. In a case where she performs *mi'un*, she states that "she is not interested in him." This means that she is not interested in him, but she may be interested in his friend (brother).

Rav Assi states that her *mi'un* to one of the brothers does not even make her forbidden to that brother.

The Gemora entertains that this is because Rav Assi holds like Rav Oshaya (above), who states that she cannot take away zikah.

The Gemora concludes that this is not clear. Rav Assi might hold that a minor can take away zikah when there is only one yavam. However, when there are two yevamim, Rav Assi might hold that she cannot take away zikah from both of them by performing zikah on one of them. This causes her *mi'un* to be meaningless.

When Ravin arrived from Eretz Yisrael, he said in the name of Rabbi Yochanan that if the minor performs *mi'un*, she is still permitted to the brothers. "They" did not agree to him. Who are "they?" Abaye states that this refers to Rav (above). Rava stated that this refers to Rav Oshaya, and some say Rav Assi. (107b2 – 107b3)

Is the Husband's Presence Required?

The Mishna had stated: Beis Shammai states that *mi'un* must be done in the presence of the husband [while Beis Hillel argues that the husband's presence is not required.]

The braisa states that Beis Hillel told Beis Shammai: Didn't the wife of Pishon the camel driver do *mi'un* when he was not present? Beis Shammai retorted to Beis Hillel: Pishon the camel driver was measuring with a cheating measure (*Rashi explains that he was using up his wife's nichsei milug*), and therefore they dealt with him in "a cheating fashion."

The Gemora interjects that this braisa should settle a different argument of Beis Shammai and Beis Hillel. If

Pishon was eating nichsei milug, this shows that she was married when she performed *mi'un*! Didn't Beis Shammai say that a married woman cannot do *mi'un*?

The Gemora answers that according to Beis Shammai they "cheated him" on two counts, meaning that the fact that they allowed *mi'un* for a married woman was also the Rabbinic retribution for his behavior. (107b3 – 107b4)

How Many Judges are Required for Mi'un?

The Mishna had stated: Beis Shammai requires that *mi'un* be done in Beis Din, while Beis Hillel says that it can be done outside of Beis Din as well.

The Mishna in Sanhedrin (2a) states that chalitzah and *mi'un* require three judges.

The Gemora asks: Who is the author of that Mishna? Rabbah states that it is Beis Shammai (*who states in our Mishna that mi'un must be done in front of a Beis Din*). Abaye states that the Mishna can even be in accordance with Beis Hillel. Beis Hillel only stated that expert judges are not required, but even Beis Hillel agrees that *mi'un* must be done in front of three people. This is clearly stated by the braisa that states Beis Shammai requires a Beis Din and Beis Hillel says that *mi'un* can be done both in front and not in front of a Beis Din, but everyone agrees that it must be done in front of three people. Rabbi Yosi the son of Rabbi Yehudah and Rabbi Elozar the son of Rabbi Shimon say that a *mi'un* is valid when done in front of two people (*according to them, one may also suffice, see Tosfos*).

Rav Yosef bar Minyumi says in the name of Rav Nachman that the Halachah follows their opinion. (107b4)

Why Two Mi'un's?

The Mishna had stated: [Beis Hillel stated to Beis Shammai that a minor can do *mi'un* even four or five times. Beis Shammai countered that this is inappropriate, as it will make young Jewish girls as if they are ownerless.] Rather, a young Jewish girl who wants to refuse her betrothal should refuse it [and then wait until she becomes a halachic adult. She should then perform *mi'un* once more, and is then free to marry the husband of her choice.]

The Gemora asks: Didn't the woman already do *mi'un* (so why does Beis Shammai say she should do *mi'un* when a minor and then later when she becomes an adult)?

Shmuel says that the *mi'un* of her youth is only final when she becomes an adult and states that she indeed wants the *mi'un* of her youth to be valid.

Ulla argues that Beis Shammai is stating that the girl can do *mi'un* at two different stages: either she could do *mi'un*, and afterwards become an adult and become betrothed, or she can do *mi'un* and become married right away (*as mi'un then becomes inapplicable according to Beis Shammai*).

The Gemora notes that the Mishna's statement, that she should wait until "she becomes an adult and gets married," is understood according to Ulla's reasoning that she should wait either until she "becomes an adult" to become betrothed, or "gets married" even when still a minor. However, according to Shmuel that when she becomes an adult she is validating the *mi'un* of her youth, why does Beis Shammai add "and she

becomes married?" It should say that "she becomes and adult and says (*a verification*)?"

The Gemora notes that this is indeed a difficulty. (107b4 – 107b5)

Mishna

Who is a minor who is required to do *mi'un*? Any minor who was married off by her mother or brothers with her knowledge (*see Tosfos Yom Tov for the definition of knowledge*). If they married her off against her will, she does not have to do *mi'un*. Rabbi Chanina ben Antigonus says that any child who cannot guard what she has received as kiddushin does not have to do *mi'un*. Rabbi Elozar says that the actions (the kiddushin) of a minor are like nothing; rather, she is considered as one who was seduced. If the minor is the daughter of a Yisrael who is married off to a Kohen, she should not eat *terumah*. If she is the daughter of Kohen, she can still eat *terumah*. Rabbi Eliezer ben Yaakov states that any hindrance that is because of the groom makes her (*meaning that it does not stop her from having a law as*) his wife. Any hindrance that is not due to the groom makes it as if she is not his wife. (107b5 – 107b6)