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Eating terumah and ma’aser through marriage and children

The Mishna describes transitions that the daughter of a Yisrael can go through, and specifically, her status regarding eating terumah and ma’aser are defined.

1. If she marries a Kohen, she may eat terumah.
2. If he dies, but she has a child from him, she may still eat terumah.
3. If she (then) marries a Levi, she may eat ma’aser.
4. If he dies, but she has a child from him, she may still eat ma’aser (but not terumah).
5. If she marries a Yisrael (non-Kohen and non-Levi), she may not eat ma’aser or terumah.
6. If he dies, but she has a child from him, she still may not eat ma’aser or terumah.
7. If her child from the Yisrael dies, she may now eat ma’aser (because of her Levi child, but she still may not eat terumah).
8. If her child from the Levi dies, she may now eat terumah (because of her child from the Kohen).
9. If her child from the Kohen dies, she may not eat terumah or ma’aser.

The Mishna now describes transitions that the daughter of a Kohen can go through, and specifically, her status regarding eating terumah and ma’aser are defined.

1. If she marries a Yisrael, she may no longer eat terumah.
2. If he dies, but she has a child from him, she still may not eat terumah.
3. If she marries a Levi, she may eat ma’aser.
4. If he dies, but she has a child from him, she may still eat ma’aser.

5. If she marries a Kohen, she may eat terumah (once again).
6. If he dies, but she has a child from him, she may still eat terumah.
7. If her child from the Kohen dies, she may not eat terumah (but she may eat ma’aser, because of her son from the Levi).
8. If her child from the Levi dies, she may not eat ma’aser.
9. If her child from the Yisrael dies, she returns to her father’s house (and may eat terumah), as the verse says: *And she will return to her father’s house as in her youth; from her father’s bread she may eat.* (86b3 – 87a1)

Returning to eat due to a child

The Mishna had stated: If her child from the Levi dies, she may now eat terumah (because of her child from the Kohen).

The Gemora asks: How do we know that the daughter of a Yisrael can resume eating terumah because of her child from the Kohen (resuming her connection to the Kohen, when her husbands and later children die)?

Rabbi Abba cites Rav saying that it is from the extra “and” (the letter ‘vav’) in the verse which says “and a Kohen’s daughter... (who has no child from her non-Kohen husband).”

The Gemora suggests that this is only according to Rabbi Akiva, who learns from the extra “and” (the letter ‘vav’), but not according to the Sages, but rejects this, as the whole

phrase “and a daughter” is extra (since the verse beforehand is already referencing her). (87a1 – 87a2)

Only for terumah

The Gemora cites a braisa which says that when a Kohen’s daughter returns, she may only eat terumah, but not the breast and the thigh of the sacrifices.

The Gemora offers various sources for this distinction:

1. Rav Chisda in the name of Ravina bar Shila: The verse states: [*When the daughter of a Kohen marries a non-Kohen*] she may not eat the terumah of the *kodashim* – holy items, which can be read as the things separated (muram) from the sacrifices.
2. Rav Nachman in the name of Rabba bar Avuha: The verse says: [*When she returns, she may eat*] from the bread of her father, implying that she may only eat some of it, but not all the bread. This excludes the breast and the thigh (of the sacrifices).

Rami bar Chama challenges this source, as perhaps it excludes the right of her father to annul her vows, but Rava rejects this, as we already know this from a braisa taught in the academy of Rabbi Yishmael. For a braisa was taught in the academy of Rabbi Yishmael: It is written: *and the vow of a widow or divorcee (whatever she prohibited on herself) is valid upon her*. What does this teach us? Of course it should be so, as she is out of the possession of her father and any husband (*so she alone is responsible for her vows, for they are no longer empowered to annul her vows*)? It must be teaching us regarding a case where her father gave her over to the messengers of her husband or the messengers of the father gave her to the messengers of the husband and she became widowed or divorced on the road. In whose possession is she considered to be, that of her father or husband? The verse teaches us that once she has left her father’s possession, he is no longer enabled to revoke her vows.

3. Rav Safra said: The verse says: *she may eat from her father’s bread*; bread, but not the meat (of sacrifices).
4. Rav Pappa said: The verse says: *she may eat from her father’s bread*; this refers to the bread that belongs to her father, excluding the breast and the thigh (which are not the property of the Kohanim), but rather, they are acquired from the Table of the Most High (thus remaining as Divine property).
5. Rava said: It is written: *And the breast of the waving, and the thigh of separation, you shall eat....you and your sons, and your daughters with you*. This teaches us that the daughters may only eat it while they are with you (the Kohen’s household, but once the daughter left his house and married a non-Kohen, they may not eat these portions any longer). (87a2 – 87a3)

Rav Adda bar Ahavah cited a braisa which states that if a woman (a daughter of a Kohen) returns to her father’s house, she returns for terumah, but not for the eating of the breast and the thigh (from the sacrifices); but if she (a daughter of a Yisrael, who married a Kohen and had a son with him; she then became a widow and married a Yisrael, - when she becomes a widow again, she) eats terumah because of her child from the Kohen (her first husband), she also returns to eating the breast and the thigh (from the sacrifices).

Rav Mordechai related this to Rav Ashi, and Rav Ashi asked him: Why is this true? From where is it derived that she (a mother of a Kohen) returns to eat terumah because of a child? It is learned from the extra “*and*” (the letter ‘vav’) in the verse which says “and a Kohen’s daughter (who returns to her father’s house). Why then is she (a mother of a Kohen) be any better than her (a daughter of a Kohen; just as the Kohen’s daughter may eat only terumah but not from the sacrifices, so too, the mother of the Kohen should be allowed to eat terumah, but should not be entitled to the sacrifices)?

Rav Ashi answers that the exclusions are all written only about the daughter of a Kohen, but not about the mother of a Kohen (who returns to eat because of her child). (87a3 – 87a4)

A Kohen's daughter

The Mishna had stated: the daughter of a Kohen who marries a Yisrael (may no longer eat terumah; if he dies, but she has a child from him, she still may not eat terumah).

The Gemora cites a braisa: *she shall return to the house of her father*. This excludes a case where a woman is awaiting a yavam (as she cannot yet return to her father's house). As *in her youth* excludes a case where she is pregnant (for she is not the same as was when she was in her youth).

The braisa asks: Why do we need a verse, as we can learn this from a logical argument. If in the case of yibum, where a child from a previous husband is irrelevant (and she still falls to yibum from her second husband), a fetus from the late husband releases her from yibum, certainly in the case of Kohen's daughter, where a child from a previous husband prevents her from eating terumah, a fetus should prevent her from eating terumah!?

The Gemora rejects this, as in the case of yibum, a child who died after the husband is equivalent to one who is still alive (for if there was a surviving child at the time that her husband died, she is exempt from yibum even if the child dies afterwards), as opposed to the case of the Kohen's daughter, who does eat terumah if her child dies later. Therefore, the verse '*as in her youth*' excludes a case where she is pregnant.

The Gemora explains that the verse had to explicitly exclude both a pregnant daughter and one with a child. We can't learn the case of pregnancy from the case of a child, since there are two people, and we can't learn the case of a child from the case of pregnancy, since the pregnant daughter herself is substantially different, as she is carrying a child.

Yibum vs. terumah

Rav Yehuda from D'iskarta asked Rava why we don't use a logical argument from terumah to say in the case of yibum that a child who died after the husband is not like a live one. If in the case of terumah, where a child from a previous husband is equivalent to a child from this one, a child who died is not like a live one, certainly this should be true in the case of yibum, where a child from a previous husband isn't equivalent. He answered that we know this is not true from the verse which states that the paths of Torah are pleasant, and if a woman who marries after her husband's death would have to do chalitza later (if his child dies), this would not be pleasant. Rav Yehuda then asked why we don't use a reverse argument to learn that a dead child is equivalent to a live one in the case of terumah. If in the case of yibum, where a child from a previous husband is not equivalent to one from the current one, a dead one is like a live one, certainly this should be true in the case of terumah, where a previous child is equivalent. He answered that the verse which allows the daughter to return to eating terumah therefore states, "and she has no child," teaching that whenever she has no child, she may eat. Rav Yehuda then asked why we don't use a logical argument from terumah to learn that a child from a previous marriage should release a woman from yibum. If in the case of terumah, where a dead child is not like a live one, a child from a previous marriage is equivalent, certainly this should be true in the case of yibum, where a dead child is like a live one. He answered that the verse therefore states "and he has no child," teaching that only his child can release her from yibum. Rav Yehuda asked why we don't use a reverse logical argument to learn that a child from a previous husband should not prevent her from eating terumah. If a previous child is not equivalent to one from this husband in the case of yibum, where a dead child is like a live one, certainly it shouldn't be equivalent in the case of terumah, where a dead child isn't like a live one. He answered that the verse therefore says "and she has no child", indicating that any child of hers prevents her from eating, whether from this husband or a previous one.

Hadran alach Yaish Mutaros

MISHNA REGARDING A HUSBAND WHO WENT OVERSEAS

If a woman's husband went overseas, and they came (*one witness*) and said to her, "Your husband died," and she married, and afterwards her husband returned, she must leave this one and this one (*A woman who committed adultery is forbidden to her husband and the adulterer. This woman has the same halachos. Even though the Sages accepted the testimony of one witness regarding a woman for the sake of agunos, they ruled in this manner because they relied upon the woman not to marry until she had thoroughly investigated and clarified the matter. Since she did not clarify the matter and married, the Sages penalized her that she must leave both.*); and she requires a bill of divorce from this one and from this one; and she does not receive her *kesuvah*, or fruits (*The husband does not pay her for the fruits that he consumed from her usufruct property. Even though the husband's right to the fruits of his wife's melog property is a compensation for his obligation to ransom her if she is taken captive by non-Jews, and he is not required to ransom this wife who is prohibited to him, and it therefore would be proper that he pay her for what he consumed of the fruits of her melog property, nonetheless the Sages punished her and she cannot collect from him the fruits he consumed, just as she does not collect her kesuvah.*), or sustenance, or depreciation (*if the husband made use of her melog property until it was worn-out, he is not required to pay her its monetary value*); not against this one and not against this one. And if she took any of these payments from this one or from this one, she must return it. And the child born from either of these men is a *mamzer* (*the child from the first man is a mamzer Biblically and the child from the second one is a mamzer Rabbinically*). And neither this one nor this one may render himself *tamei* for her (*if she dies*). And neither this one nor this one is entitled to an object she finds, or to her earnings, and they are not authorized to annul her vows. If she was the daughter of a *Yisroel*, she is disqualified from the *Kehunah*, and if she was the daughter of a *Levi*, she is disqualified from *ma'aser*, and if she was the daughter of a *Kohen*, she is disqualified from *terumah*. And the heirs of neither this one, nor of this one inherit her *kesuvah*. And if they died, the brother of this one and the

brother of this one submit to *chalitzah* and do not marry by *yibum*. Rabbi Yosi says: Her first husband's estate is responsible for her *kesuvah*. Rabbi Elozar says: The first husband is entitled to an object she finds and to her earnings, and he is authorized to annul her vows. Rabbi Shimon says: Cohabitation with her or her *chalitzah* to the brother of the first husband exempts her co-wife from *chalitzah* or *yibum*, and the child born from the first husband is not a *mamzer*.

The Mishna continues: If she married without permission (*there were two witnesses that her husband died*), she is permitted to return to him (*since she was not expected to investigate and clarify the matter*).

If she married with the consent of Beis Din (*through the testimony of one witness*), she must leave both men (*if the husband returns*), and she is exempt from an offering (*since a person who sins in consequence of a ruling of Beis Din is exempt from a sin-offering*). If she did not marry with the consent of Beis Din (*there were two witnesses that her husband died*), she must leave both men, and she is liable to bring a sin-offering. Such is the power of Beis Din that it exempts her from an offering.

If Beis Din ruled that she may be married, and she went and acted improperly (*she cohabited with another man*), she is liable to bring a sin-offering, for they permitted her only to be married. (87b)

THE VALIDITY OF ONE WITNESS

The Gemora analyzes the first case of the Mishna, which stated: If a woman's husband went overseas, and they came and said to her, "Your husband died," and she married, and afterwards her husband returned, she must leave this one and this one. Since the Mishna states later: If she married without permission, she is permitted to return to him; the latter ruling must be referring to a case where Beis Din didn't grant permission, but rather, there were two witnesses (*for otherwise, why would she be permitted to return to her first*



husband?). This implies that the former ruling is referring to a case where Beis Din granted permission based on the testimony of one witness. It emerges from here that one witness is trusted to permit a woman to remarry.

The Gemora cites another Mishna to support this conclusion. The Mishna states: It became established throughout Israel that if a person testifies that someone else witnessed the death of a man overseas, we accept the testimony of the second witness to allow the wife to remarry. We also accept the testimony of a woman who acquired her testimony by the mouth of a second woman. We also trust a woman who acquired her testimony by the mouth of a slave or a maidservant. *(Although the second person's testimony is not biblically valid, the Chachamim were lenient so the woman should not remain an agunah, a woman who is left in limbo regarding her marital status. Furthermore, every Jewish marriage is contingent on rabbinical protocol, and the Chachamim reserved the right to invalidate a marriage where a person offers hearsay testimony that the woman's husband died overseas.)* It emerges from here that one witness is trusted to permit a woman to remarry. (87b)

ONE WITNESS REGARDING OTHER PROHIBITIONS

The Gemora cites another Mishna proving that one witness is believed even in regards to other Biblical prohibitions. The Mishna states: If one witness testifies that a certain person ate *cheilev* (*forbidden fats*) inadvertently, and thus is liable to bring a *chatas* (*sin-offering*). That person claims that he did not eat it at all. The halacha is that he is exempt from bringing a *chatas*.

The Gemora analyzes the Mishna. The reason why he is exempt from bringing the *chatas* is because he contradicted the witness and claimed that he did not eat the *cheilev*. If, however, he would have remained quiet, he would be liable to bring a *chatas*. It emerges from here that one witness is trusted even in regards to other Biblical prohibitions. (87b)

THE BIBLICAL SOURCE FOR ACCEPTING ONE WITNESS

The Gemora asks: How do we know from the Torah that one witness is believed in regards to Biblical prohibitions?

The Gemora answers: It was taught in the following braisa: It is written [Vayikra 4:23]: *If his sin becomes known to him....he shall bring his chatas offering.* The Torah teaches us that he must be aware of his sin, and not that others make him aware. One might think that even if he does not contradict the testimony, he should not be liable to bring the *chatas*; therefore the Torah states: *If it becomes known to him,* he is liable to bring the *chatas* in all cases.

The Gemora analyzes the braisa: What is the case that the braisa is discussing? If there are two witnesses, and he does not contradict them, why is the verse necessary (*of course, he would be obligated to bring a chatas*)? Obviously, the braisa is discussing a case where one witness testified, and he would be believed if he is not contradicted. We can learn from this braisa that one witness is believed even when it is relevant to Biblical prohibitions.

The Gemora asks: Perhaps he is liable to bring the *chatas* because he kept quiet, and this is a sign of admission (*and the braisa would not be a proof that one witness is believed*)?

The Gemora proves from the latter portion of the braisa that the reason he would be liable to bring the *chatas* is not because we believe one witness, but rather, it is because his silence is an admission of guilt. (87b - 88a)

INSIGHTS TO THE DAF

Ruling on Hashkafa

Tosfos discusses the penalty that Ezra established regarding the Levi'im and their *ma'aser*. In the middle of this

discussion, Tosfos issues the following statement: We have ruled that Malachi is the same person as Ezra.

The Maharatz Chayus asks: How can Tosfos rule regarding this issue? The entire discussion of who Malachi was, is a historical fact, and the issue is one of Aggadata, and not halachah. It seems strange to issue a ruling on a historical fact.

The criteria of the mitzvah to give the gifts of kehunah

HaGaon Rabbi Chayim Kanievski writes a magnificent insight (*Derech Emunah*, Ch. 9, halachah 20) to distinguish between the mitzvah to give *terumah* to a *Kohen* and the mitzvah to give the gifts of *kehunah* that bear no sanctity.

The marriage of a *kohenes* and a *Yisraelis* doesn't change their origin: The Torah said (Vayikra 22:11, Terumos 8:1) that a *Yisraelis* who is wed to a *Kohen* may eat *terumah* (which is a sanctified gift of *kehunah*) as when she marries, she attains a new status that allows her to eat the holy gifts of *kehunah*. The Torah also rules that a *kohenes* who is wed to a *Yisrael* must not eat the sanctified gifts of *kehunah*, such as *terumah*, *bikkurim* and *chalah*, as the sanctity of *kehunah* left her when she married a *Yisrael*. However, the marriage doesn't change their origin. In other words, a *Yisraelis* wed to a *Kohen* does not become a *kohenes* of the tribe of *kehunah* but remains a *Yisraelis* who may eat the holy gifts of *kehunah*. The opposite is also true: a *kohenes* wed to a *Yisrael* loses her sanctity but still remains a daughter of the *kehunah*.

Therefore, a *kohenes* wed to a *Yisrael* may receive gifts of *kehunah* which bear no sanctity, such as the foreleg, cheeks and stomach, as she is a *kohenes* and nothing prevents giving these gifts to her, as explained in our *sugya*.

Now that we have established these facts, we shall concentrate on the following question. Does a person who gives the foreleg, cheeks and stomach to a *Yisraelis* wed to a *Kohen* observe the mitzvah to give the gifts to the *kehunah*?

This question contains two polar aspects. On the one hand, she's no *kohenes* and gifts of *kehunah* must be given to a *Kohen*. On the other hand, she's wed to a *Kohen* and may even eat *terumah*.

The author of *'Aroch HaShulchan* rules (Y.D. 61:36) that he who gave them to her did not observe the mitzvah! He must give the gifts to a *Kohen* and not to his wife who is a *Yisraelis* (see *ibid*, that he explains the *Sifrei* accordingly).

Apparently, his ruling explicitly contradicts the halachah that someone who gives *terumah* to a *Yisraelis* wed to a *Kohen* fully observes the mitzvah. Could it be? *Terumah*, which bears great sanctity and which is eaten only by *Kohanim*, may be given to a *Yisraelis* wed to a *Kohen* whereas the foreleg, cheeks and stomach, which bear no sanctity and may be eaten by anyone, must be given only to a *Kohen* and not to his wife – what is the logic? HaGaon Rabbi Chayim Kanievski states an ingenious difference while the reasons that served as a basis for our question are the very answer!

Terumah is holy and is eaten only by *Kohanim*. Therefore, if we discuss the criteria of the mitzvah to give *terumah*, we can say that the mitzvah is to give the holy *terumah* to anyone to whom the halachos of the sanctity of the *kehunah* apply and who may eat it. As the *Kohen's* wife is included in the group of people who may eat *terumah*, we can observe the mitzvah to give *terumah* by giving it to her.

However, the foreleg, cheeks and stomach are not sanctified and anyone may eat them. Therefore, if we want to define to whom is the mitzvah to give them, it's impossible to decide that the mitzvah is observed when we give the gifts to someone fit to eat them as everyone is fit to eat them, even a *Yisrael*. Therefore, we must seek another definition that distinguishes between *Kohanim* and *Yisraelim* and that is, that the gifts should be given only to a member of the tribe of *Kohanim*! It is therefore obvious that the foreleg, cheeks and stomach mustn't be given to the *Kohen's* wife, as she is not a daughter of the *kehunah*.



The explanation is fine and the idea ingenious but Rabbi Kanievski finally concludes that it's incorrect as *ma'aser rishon*, given to a Levi, does not resemble *terumah* but resembles the foreleg, cheeks and stomach. It bears no sanctity and anyone may eat it. Nonetheless, it is evident from our Gemara and the Rishonim that someone who gives *ma'aser rishon* to a *Levi's* wife observes the mitzvah to give it (see 'Aroch HaShulchan, *ibid*, *se'if* 33, who maintains that someone who gives *ma'aser rishon* to a *Levi's* wife does not observe the mitzvah but the Acharonim disagree, as proven in *Derech Emunah*, *ibid*).