

8 Sivan 5782
June 7, 2022



Yevamos Daf 92

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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

RUMOR THAT THE HUSBAND IS ALIVE

(The Mishna had stated: If a woman's husband went overseas, and one witness came and said to her, "Your husband died," and she married, and afterwards her husband returned, she must leave this one and this one. The Mishna continued by listing many penalties that the Rabbis imposed on her.)

Rav Ashi said: We are not concerned about a mere rumor (that her first husband is still alive).

The Gemora asks: What kind of rumor is he referring to? If you will suggest that he is referring to a rumor after marriage, Rav Ashi has said this once before, for Rav Ashi stated: We are not concerned about any rumor that originated after marriage.

The Gemora answers: It might have been assumed that since she approached the Beis Din to obtain the authorization for her marriage, the rumor is regarded as one that arose before her marriage to the second husband, and she should therefore be forbidden to him. Rav Ashi taught us that even in such circumstances, a rumor is disregarded. (91b4 – 92a1)

The Mishna had stated: If she married with the authorization of the Beis Din (by the testimony of one witness), she must leave (both men, and she is exempt from bringing a chatas offering).

Ze'iri said: Our Mishna cannot be authentic⁶ owing to a braisa that was taught in the study hall, for it was taught in the study hall: If the Beis Din ruled that the sun had set (and the Shabbos is over; and people therefore performed labor),

and later it shone forth (proving that the ruling was a mistake), such a decision is not an erroneous ruling, but a mere blunder. [Since the mistaken ruling of the Beis Din was not due to an oversight on their part of a point of law, but to a false determination of a matter of fact. They assumed that the sun had set, while in fact, it had not. Similarly here, they determined that the woman's husband was dead, when as a matter of fact he was alive. Our Mishna, therefore, which exempts the woman from a chatas offering cannot be authentic.]

Rav Nachman. however, stated: Such an authorization (that she is allowed to remarry) is to be regarded as a ruling (and the Mishna is accurate when it exempts her from bringing a chatas offering).

Rav Nachman said: I can prove to you that it is to be regarded as a ruling, for throughout the Torah, a single witness is never believed, while in this case he is believed. But why? Obviously, it is because such an authorization is regarded as a ruling. [The woman did not act on the testimony of the witness, which, as is now apparent, was due to an error, but on the ruling of the Beis Din, who accepted the testimony of this witness. Whatever their reason may have been, it was their ruling that was the cause of the woman's marriage. They apparently determined that every woman makes careful investigations before she marries, and when her husband reappeared, it has been found that this was not the case. This explains why she is exempt from bringing a chatas.]

Rava said: I can prove to you that it is to be regarded as a blunder (like Ze'iri, and not as a ruling), for were Beis Din to issue a ruling in a case of some forbidden fat or blood that it

is permitted, and then find a (strong) reason for forbidding it, should they retract and rule again that it is permitted (without submitting any compelling reason to do so), we would certainly disregard it; whereas here, should one witness present himself (that the husband died), the woman would be permitted to marry, and should two witnesses afterwards appear (and testify that the husband is indeed alive), the woman would be forbidden to remarry again, but should another witness subsequently appear (and testify that the husband died after the time that the two witnesses claimed to have seen him alive), the woman would again be permitted to remarry. But why is this the case? Obviously, because it (the initial ruling) is regarded as a mere blunder (and not as an erroneous ruling)!

And even Rabbi Eliezer is of the opinion that it is to be regarded as a blunder (like Ze'iri, and not as a ruling), for it was taught in a braisa: Rabbi Eliezer said: Let the judgment (where the Beis din rules that she may remarry on the basis of one witness' testimony, and then she married, and afterwards, the husband reappeared) pierce the mountain and let her bring a fat chatas offering. Now, if you will say that it (the ruling) is to be regarded as a blunder, one can very well understand the reason why she is to bring an offering. If, however, it be contended that it is to be regarded as a ruling (albeit, an erroneous one), why should she bring an offering?

The Gemora asks: But is it not possible that Rabbi Eliezer holds the opinion that an individual who committed a sin in reliance on a ruling of the Beis Din is liable?

The Gemora answers: If so, what could have been meant by his exclamation: "Let the law pierce through the mountain"? [For this language would seem to indicate that some analyzing is required to arrive at this conclusion, and that would only be the case if there would be a distinction between the two types of cases.] (92a1 – 92a2)

The Mishna had stated: If Beis Din ruled that she may be married, and she went and acted improperly, she is liable to

bring a chatas offering, for they permitted her only to be married.

The Gemora asks: What is meant by 'acted improperly'?

Rabbi Elozar replied: She engaged in nonmarital cohabitation. Rabbi Yochanan replied: If she was a widow, she went and married a Kohen Gadol, or if she was a divorcee or a chalitzah, she went and married a common Kohen.

The Gemora elaborates on their dispute: He who stated that she engaged in nonmarital cohabitation would, even more so, subject the woman to a chatas, if as a widow, she went and married a Kohen Gadol (since it is obvious that Beis Din's permission did not extend to a marriage, which is in any case forbidden to the woman, even if her husband is dead). He, however, who stated that if she was a widow, she went and married a Kohen Gadol, would not subject her to a chatas if she engaged in nonmarital cohabitation. What is the reason? It is because she might claim, "It is you (the Beis Din) who granted me the status of an unmarried woman."

A braisa was taught in agreement with the opinion of Rabbi Yochanan: If Beis Din ruled that she may be married again, and she went and acted improperly, so that, for instance, if she was a widow, she went and married a Kohen Gadol, or if she was a divorcee or a chalitzah, she went and married a common Kohen, she is liable to bring an offering for every single act of cohabitation; these are the words of Rabbi Eliezer. But the Sages said: One offering for all. The Sages, however, agree with Rabbi Eliezer that if she (went and) married five men, she is liable to bring an offering for every man, since here it is a case of separate bodies. (92a2 – 92a3)

TESTIMONY AND THEN A REVERSAL

The *Mishna* states: If a woman's husband and (*only*) son went overseas, and they came and said to her, "Your husband died, and afterwards your son died (*as the son was*

alive when his father died, the widow is not subject to yibum or chalitzah),” and she married, and afterwards they said to her, “The reverse was the case (the son died first, so that when his father died afterwards, the widow was subject to yibum or chalitzah),” she must leave her second husband, and the first (before they knew that the order was reversed) and last child is a mamzer.

If they said to her, “Your son died, and afterwards your husband died,” and she was married by *yibum*, and afterwards they said to her, “The reverse was the case,” she must leave the *yavam*, and the first and last child is a *mamzer*.

If they said to her, “Your husband died,” and she married, and afterwards they said to her, “He was alive (*at the time in which you remarried*), and he died since then,” she must leave the second husband, and the first child is a *mamzer*, and the last is not a *mamzer*.

If they said to her, “Your husband died,” and she became betrothed to another man, and afterwards her husband came back, she is permitted to return to him. Even though the latter one gave her a bill of divorce, he did not disqualify her from the *Kehunah*. This was expounded by Rabbi Elozar ben Masya: It is written [Vayikra 21:7]: *And nor shall the Kohanim take in marriage a woman divorced from her husband*. This teaches us that a woman who is divorced from her legal husband is forbidden to be married to a *Kohen*, but a woman divorced from a man who is not her husband will not disqualify her. (92a3 – 92a5)

[The *Mishna* had stated: If a woman's husband and (*only*) son went overseas, and they came and said to her, “Your husband died, and afterwards your son died (*as the son was alive when his father died, the widow is not subject to yibum or chalitzah*),” and she married, and afterwards they said to her, “The reverse was the case (*the son died first, so that when his father died afterwards, the widow was subject to yibum or chalitzah*),” she must leave her second husband,

and the first (*before they knew that the order was reversed*) and last child is a *mamzer*.]

The *Gemora* asks: What is meant by the “first” and what is meant by the “last”? If it be suggested that “first” means before the second report, and that “last” means after that report, it should have been stated: The child is a *mamzer* (since any child born to the second husband is a *mamzer*, for the child's legitimacy is not determined by the date of the report but by the facts)!

The *Gemora* answers: It is because it was desired to state in the final clause: If they said to her, “Your husband died,” and she married, and afterwards they said to her, “He was alive (*at the time in which you remarried*), and he died since then” (she must leave the second husband), and the first child is a *mamzer*, and the last is not a *mamzer*; the expressions ‘born “first” or born “last” is a *mamzer*’ were used in the first clause as well. (92a5)

MAMZER FROM A YEVAMAH

The *Gemora* cites a *braisa*: The *Mishna*'s ruling is following the opinion of Rabbi Akiva, who maintains that *kiddushin* does not take effect with women who are prohibited by a negative prohibition (*the yevamah marrying someone other than the yavam, and therefore the Mishna rules that the child born from such a union will be rendered a mamzer*). But the Chachamim say that the child born from the union of a *yevamah* with another man will not be rendered a *mamzer*.

The *Gemora* asks: Why didn't the Chachamim say that a child born from a woman that is subject to a negative prohibition will not be rendered a *mamzer* (*why did they only mention the case of the yevamah*)?

The *Gemora* answers: This Tanna actually holds like Rabbi Akiva, but he maintains that Rabbi Akiva said that only a union with a relative subject to a negative prohibition will produce a *mamzer*; a union of a *yevamah* with someone other than the *yavam* will not produce a *mamzer*. (92a5)

A YEVAMAH MARRYING A STRANGER

Rav Yehudah said in the name of Rav: How do we know that *kiddushin* (betrothal) will not be valid with a *yevamah* (if she marries someone other than the *yavam*)? Because it is written [Devarim 25:5]: *The wife of the deceased should not be outside to a strange man.* The verse teaches us that a stranger cannot marry her. Shmuel said: As a result of our intellectual poverty (we do not know the correct interpretation of the verse), the *yevamah* would require a letter of divorce from the stranger.

The *Gemora* explains Shmuel's opinion: He was uncertain if the verse was coming to teach us that there is a negative prohibition against the *yevamah* for marrying a stranger, or perhaps the verse was teaching us that *kiddushin* cannot be effected with her.

Rav Mari bar Rachel said to Rav Ashi: Ameimar said that the halachah follows Shmuel.

Rav Ashi said: Now that Ameimar had said that the halachah is in accordance with Shmuel, if the *yevamah* married another man, and the *yavam* was a *Kohen*, the *yavam* should perform *chalitzah* and she is permitted to remain with her husband. (If the man will divorce her in accordance with Shmuel, she will anyway be forbidden to the *yavam* because a *Kohen* may not marry a divorcee; she may therefore remain married to the stranger. This halachah is referring to a case where they did not know at the time of the marriage that were committing a transgression, i.e. the case of the Mishna: If a woman's husband and (only) son went overseas, and they came and said to her, "Your husband died, and afterwards your son died (as the son was alive when his father died, the widow is not subject to *yibum* or *chalitzah*)," and she married, and afterwards they said to her, "The reverse was the case (the son died first, so that when his father died afterwards, the widow was subject to *yibum* or *chalitzah*)." Otherwise, she would not be permitted to remain with him.)

The *Gemora* asks: Should we allow him (the husband) to benefit on account of his transgression? If so, it will emerge that we are rewarding a sinner because of a transgression.

Rather, the following was Rav Ashi's halachah: If her *yavam* was a *Yisroel*, the stranger should give her a letter of divorce and then she is permitted to the *yavam*. (92a5 – 92b2)

KIDDUSHIN; NOT, NISUIN; YES

Rav Giddel said in the name of Rabbi Chiya bar Yosef in the name of Rav: *Kiddushin* is not effected with the *yevamah*, but *nisuin* is. (The *Gemora* assumes that he is referring to the case of the Mishna where she married based on the testimony of a false witness, and she would not need a letter of divorce if she only underwent *kiddushin*, but she will need a letter of divorce if she underwent *nisuin*.)

The *Gemora* asks: If *kiddushin* is not effective with her, then *nisuin* should also not be effected with her?

The *Gemora* answers: Let us emend Rav's statement to mean that *kiddushin* and *nisuin* is not effective with her.

Alternatively, you can answer that when Rav said "*nisuin*," he meant that *nisuin* should be regarded as an illicit relationship, and he is ruling in accordance with Rav Hamnuna. For Rav Hamnuna stated: A *yevamah* who is awaiting *yibum*, who has an illicit relationship with another man is prohibited to be married to the *yavam*. (A letter of divorce will not be required.)

Alternatively, Rav can be explained like we had though initially: *Kiddushin* is not effected with the *yevamah*, but *nisuin* is. The reason why *nisuin* is effective with her, and she requires a letter of divorce is because this case might be mistaken for that of a woman whose husband went overseas. (92b2)

Rabbi Yannai said: A vote was taken by the group, and it was decided that betrothal with a yevamah has no validity (in accordance with Rav).

Rabbi Yochanan said to him: My master, isn't this law contained in our Mishna (in Kiddushin 62a)? For we have learned: If a person says to a woman that she should become betrothed to him after he or she converts, or after he or she is freed from slavery, or after her husband or sister dies, or after she receives *chalitzah*, the *kiddushin* is invalid.

Rabbi Yannai replied: Had I not lifted up the shard for you, would you have found the pearl beneath it? [If R' Yannai had not stated his ruling, it might never have occurred to R' Yochanan that the reason for the invalidity of the betrothal in the case of the yevamah was the law that betrothal with a yevamah by a stranger is never valid before the yavam has submitted to *chalitzah*. He might have assumed the invalidity in this particular case was also to be due to the fact that the man distinctly desired it to take place in the future, and no one can acquire that which is not yet in existence.]

Rish Lakish said to him: Had not a great man (R' Yannai) praised you, I would have told you that the Mishna (you cited) represents the view of Rabbi Akiva, who maintains that betrothal with those who are subject to the penalties of a negative commandment is invalid.

The Gemora asks: If this Mishna, however, represents the view of Rabbi Akiva, betrothal with the yevamah should be valid where the stranger said to her, "after your yavam performs *chalitzah* with you," since Rabbi Akiva has been heard to state that one may transfer possession of that which is not yet in existence? (92b2 – 92b3)

INSIGHTS TO THE DAF

DOCTORS AND THEIR ROLE IN HALACHIC RULINGS

The Rogatchover Gaon was writing a letter (in a 1933 letter to Rabbi Shimon Schwab, deciphered by Rabbi Aryeh

Carmell) regarding the issue of a father learning with his son other studies. He cites a Gemora in Sanhedrin (78) regarding a case where one man hit another with a stone or a fist, and caused injury to the other. The victim was initially assessed to be viable, and then died. The halacha is that the murderer is exempt from capital punishment. We say that either the victim's health worsened afterwards (*not directly due to the striking*), or that one cannot be found guilty of a murder after he had been previously acquitted of it. This, says the Rogatchover, is unlike the Gemora in Yevamos (92), which states that we would say that this was not a legitimate legal ruling, but rather, a blunder. If it would be regarded as an error on *Beis Din's* part, they should have the ability of ruling again, and convicting the murderer. It emerges from here that the Torah assigns the authority to evaluate and to rule to the expert doctors.