

11 Sivan 5782
June 10, 2022



Yevamos Daf 95

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Tzvi Gershon Ben Yoel (Harvey Felsen) o”h

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Will the wife become forbidden if he cohabits with his mother-in-law or his wife’s sister?

The Gemora cites a *Baraisa* which cites a Scriptural source indicating that one’s wife is not Biblically forbidden to him even if he willingly cohabits with her sister. It is written [Bamidbar 5:13]: *with her*. We derive that her lying with a man prohibits her (to her husband, as a sotah), but her sister’s lying with a man does not prohibit her.

The Gemora notes: A source is necessary, for otherwise we would have derived from the following *kal vachomer* (literally translated as *light and heavy, or lenient and stringent; an a fortiori argument; it is one of the thirteen principles of biblical hermeneutics; it employs the following reasoning: if a specific stringency applies in a usually lenient case, it must certainly apply in a more serious case*) that she would be prohibited to him: If one cohabits with a married woman, which is a lenient prohibition (*since a married woman becomes permitted if she gets divorced*), and nevertheless, the one who causes this prohibition becomes prohibited (*the woman is now forbidden to remain with her husband*); how much more so, when one cohabits with his wife’s sister, which is a strict prohibition (*even if the husband divorces her, her sister is still forbidden to him*), the one who causes this prohibition (*the man’s wife*) should become forbidden herself. (*The Torah teaches us that this indeed is not the case, and the wife remains permitted to her husband.*)

Rabbi Yehudah said: Beis Shammai and Beis Hillel do not argue in the following case: If one cohabits with his

mother-in-law, his wife becomes forbidden to him (*and he is required to divorce her*). They do argue however, if one cohabits with his wife’s sister. Beis Shammai say: His wife becomes disqualified from remaining with him. Beis Hillel maintains that his wife remains permitted to him.

Rabbi Yosi disagrees: Beis Shammai and Beis Hillel do not argue in the following case: If one cohabits with his wife’s sister, his wife does not become disqualified from remaining with him. They do argue however, if one cohabits with his mother-in-law. Beis Shammai say: His wife becomes disqualified from remaining with him. Beis Hillel maintains that his wife remains permitted to him.

Rabbi Yosi explains why everyone agrees that if one cohabits with his wife’s sister; his wife does not become disqualified from remaining with him. Originally (*before the husband and the wife were married*), all the women of the world were permitted to him, and all the men of the world were permitted to her. When he married her, he imposed a prohibition upon her and she imposed a prohibition upon him. The prohibition, however, which he imposed upon her, is greater than the prohibition which she imposes upon him, since he caused her to become forbidden to all the men of the world, while she caused him to become forbidden only to her relatives.

Based on the above distinction, Rabbi Yosi presents the following *kal vachomer*: If he, that caused her to become forbidden to all the men of the world; if she cohabited unwittingly with one who was forbidden to her, she does not become forbidden to the man who was permitted to

her (*her husband*); how much more so, regarding her, who caused him to become forbidden only to her relatives; if he cohabited unwittingly with one who was forbidden to him, he certainly should not become forbidden to the one (*his wife*) who was permitted to him.

This argument is applicable to one who acted unwittingly. How do we know that the same halachah is applicable to one who acted deliberately? It is written: *And a man lay with her*. This teaches us that cohabitation with her only causes her to become prohibited; cohabitation with her sister (*by her husband*), however, does not cause her to be prohibited. (95a1 – 95a2)

Rabbi Ami said in the name of Rish Lakish: What is Rabbi Yehudah's reason (that everyone agrees if one cohabits with his mother-in-law, his wife becomes forbidden to him)? It is because it is written: *in fire shall they burn him and them*. Is the entire household to be burned? [Of course not! The wife did not commit any sin!]? If this, then, is not required regarding burning (for the wife), regard the text as indicating a prohibition (and she is prohibited from remaining with her husband).

Rav Yehudah said in the name of Shmuel: The halachah is not in accordance with Rabbi Yehudah.

The *Gemora* records an incident: There was a man who cohabited with his mother-in-law. Rav Yehudah administered lashes to him. Rav Yehudah said: Had Samuel not stated that the halachah was not in accordance with Rabbi Yehudah, I would have prohibited your wife to you forever. (95a2 – 95a3)

Lenient prohibition

The *Gemora* above cites a *kal vachomer*, that if not for a specific verse in the Torah, we would have thought that one's wife would become forbidden to him if he willingly cohabits with her sister. The following was the *kal*

vachomer: If one cohabits with a married woman, which is a lenient prohibition, and nevertheless, the one who causes this prohibition becomes prohibited (*the woman is now forbidden to remain with her husband*); how much more so, when one cohabits with his wife's sister, which is a strict prohibition, the one who causes this prohibition (*the man's wife*) should become forbidden herself.

The *Gemora* asks: What is the lenient prohibition mentioned in the *kal vachomer*?

Rav Chisda said: It is referring to the prohibition of one who remarries his divorcee. (*It is regarded as lenient because it does not involve kares.*)

The *Gemora* explains the terminology of the *kal vachomer* accordingly: When the second husband cohabited with her, he caused her to become forbidden to the first husband, and when the first husband subsequently cohabits with her (*after her second husband had divorced her*), he causes her to become forbidden to the second husband.

The *Gemora* asks: How can the two prohibitions (*marrying one's divorcee and cohabiting with one's wife's sister*) be compared? The prohibition of marrying one's divorcee is a case where her body has been defiled, and her prohibition lasts forever (*which is not the case by cohabiting with one's wife's sister, and it cannot be classified as a lenient prohibition*).

Rish Lakish says: The lenient prohibition is referring to cohabiting with a *yevamah*.

The *Gemora* analyzes this explanation: Perhaps the *Baraisa* is referring to a case where the *yevamah* cohabited with another man, and the *Baraisa* is following the viewpoint of 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*. This cannot be the case, because if so, the *kal vachomer* can be refuted as follows: How can the two prohibitions (*a yevamah marrying another man and cohabiting with one's wife's sister*) be compared? The prohibition of a *yevamah* marrying another man is a case where her body has been defiled, and her prohibition is applicable to many men (*which is not the case by cohabiting with one's wife's sister, and it cannot be classified as a lenient prohibition*).

Perhaps the *Baraisa* is referring to a case where the *yevamah* cohabited with one of the brothers of her deceased husband (*after a different brother performed ma'amar with her*).

The *Gemora* explains the terminology of the *kal vachomer* accordingly: When one of the brothers performed *ma'amar* with her, he caused her to become forbidden to the other brothers, and when one of the other brothers subsequently cohabits with her, he causes her to become forbidden to the first brother.

The *Gemora* asks: What compelled the *Baraisa* to state a case where the second brother cohabited with her? Even if he only performed *ma'amar* with her, she would become forbidden to the first brother.

The *Gemora* answers: The *Baraisa* can be following Rabban Gamliel's opinion, who maintains that there is no validity to a *ma'amar* performed after another *ma'amar*.

The *Gemora* asks: But even if the second brother gave a letter of divorce to her, or submitted to *chalitzah* from her, the first brother would become prohibited to her. What compelled the *Baraisa* to state a case where the second brother cohabited with her?

Rabbi Yochanan says: The lenient prohibition is referring to cohabiting with a suspected *sotah* (*adulterous wife*).

The *Gemora* analyzes this explanation: Perhaps the *Baraisa* is referring to a case where the *sotah* cohabited with her husband. The *Gemora* explains the terminology of the *kal vachomer* accordingly: When the husband subsequently cohabits with her before she drinks the bitter waters, she becomes forbidden to the suspected adulterer (*since her innocence cannot be proven any longer*).

The *Gemora* asks: What compelled the *Baraisa* to state a case where the husband cohabited with her? Even if he gave her a letter of divorce, or even if he merely said that he doesn't want her to drink the bitter waters, she would still become forbidden to the suspected adulterer.

Rather, the *Baraisa* is referring to a case where the *sotah* cohabited with the adulterer. She becomes prohibited to her husband.

The *Gemora* asks: How can this case be classified as a lenient prohibition? This is a strict prohibition of cohabiting with a married woman.

Rava said: The lenient prohibition is referring to cohabiting with a married woman. And so said Ravin in the name of Rabbi Yochanan. Why is the prohibition of a married woman classified as a lenient prohibition? It is because her husband does not cause her to become forbidden to other men for his entire lifetime (*since a married woman becomes permitted if she gets divorced*).

The *Gemora* cites a *Baraisa* that supports this interpretation of the *kal vachomer*. Abba Chanan said in the name of Rabbi Elozar: If one cohabits with a married woman, which is a lenient prohibition because her husband does not cause her to become forbidden to other men for his entire lifetime, and nevertheless, the one who causes this prohibition becomes prohibited (*the woman is now forbidden to remain with her husband*); how much more so, when one cohabits with his wife's

sister, which is a strict prohibition because the sister is prohibited during the duration of the husband's lifetime, the who causes this prohibition (*the man's wife*) should become forbidden herself. The Torah teaches us that this indeed is not the case. It is written [Bamidbar 5:13]: *And a man lay with her*. This teaches us that cohabitation with her only causes her to become prohibited; cohabitation with her sister (*by her husband*), however, does not cause her to be prohibited. (95a3 – 95b1)

Rabbi Yosi's ruling

The *Mishnah* had stated: Rabbi Yosi says: Whoever disqualifies others, disqualifies himself as well, and whoever does not disqualify others, does not disqualify himself either.

The *Gemora* asks: What is the meaning of Rabbi Yosi's statement?

The *Gemora* attempts an explanation: If you will suggest that the *Tanna Kamma* was saying that if a man's wife and his wife's sister's husband went overseas (*and on the strength of the testimony of one witness who testified that they were both dead, he had married his wife's sister, and subsequently they both returned*), the sister is forbidden to her husband, but his own wife is permitted. Rabbi Yosi said to him: Just as his own wife is permitted (*since he was not compelled to give the sister a letter of divorce because everyone knows that one may not marry his wife's sister, they therefore realize that he was not married to her*), so too, the sister is also permitted to her husband (*because it does not appear as if he is remarrying his divorcee*). If so, why would Rabbi Yosi use have used the following expression: "Whoever does not disqualify others, does not disqualify himself either"? He should have said the following: "Whoever does not disqualify himself (*from returning to his wife*), does not disqualify others (*the sister from returning to her husband*) either."

Perhaps Rabbi Yosi meant exactly the opposite: Just as the sister is forbidden to her husband, so too, his wife is forbidden to him.

The *Gemora* asks: If so, what is the meaning of the expression "Whoever does not disqualify others"? (*The Tanna Kamma ruled that the sister is forbidden to her husband!*)

Rabbi Ami answers: This expression is stated with respect to the ruling of an earlier *Mishnah* (87b), which stated the following: 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.

The *Tanna Kamma* of our *Mishnah* said: The wife may return to him irrespective of whether the marriage (*of the husband with the wife's sister*) took place based on the testimony of two witnesses (*who testified that his wife and his wife's sister's husband both died*) where his wife's sister is permitted to remain with her husband, or whether it took place based upon a decision of the *Beis Din* (*the testimony of one witness*) where his wife's sister is forbidden to remain with her husband.

Rabbi Yosi said to the *Tanna Kamma*: If they married based upon a decision of the *Beis Din* (*the testimony of one witness*), where he disqualified others (*his wife's sister is forbidden to remain with her husband*), he disqualifies himself as well (*and his wife is forbidden to remain with him*). However, if they married based on the testimony of two witnesses, where he does not disqualify others (*his wife's sister may remain with her husband*), he

does not disqualify himself either (*his wife is permitted to remain with him*).

Rabbi Yitzchak Nafcha presents an alternative explanation of Rabbi Yosi's statement: Rabbi Yosi is actually referring to the latter part of the *Mishnah*, where the sister remarried based on the testimony of one witness. Rabbi Yosi's two statements are referring to two scenarios of this case. One is where his *arusah* (*the woman he betrothed*) and his wife's sister's brother went overseas, and the other case is where his *nesuah* (*the wife that he consummated the marriage with*) and his wife's sister's brother went overseas.

Rabbi Yitzchak Nafcha proceeds to explain the argument: The *Tanna Kamma* maintains that it doesn't make any difference whether the case is discussing his *nesuah* and his wife's sister's brother went overseas, or whether it was his *arusah* and his wife's sister's brother. In both cases, his wife's sister's brother is forbidden to remain with her husband, and his wife is permitted to remain with him.

Rabbi Yosi said to the *Tanna Kamma*: If the case occurred with his *nesuah* and his wife's sister's husband, where there is no concern that he made any conditions upon the *nisuin* (*and therefore the marriage with her sister is obviously not valid*), and therefore he doesn't disqualify others, he is not disqualified either. However, if the case occurred with his *arusah* and her sister's husband, where there is a concern that he made a conditions upon the marriage (*and therefore the marriage with her sister could possibly be valid*), and therefore he does disqualify others, he disqualifies himself as well. (95b1 – 95b4)

Rav Yehudah said in the name of Shmuel: The halachah is in accordance with Rabbi Yosi.

Rav Yosef asked: Could Shmuel have said this? Surely it was stated: Regarding a yevamah: Rav said that she has

the status of a married woman; and Shmuel said that she does not have the status of a married woman. And Rav Huna explained: Where, for instance, the yavam's brother betrothed a woman and then went overseas, and he (the husband's brother), upon hearing that his brother was dead, married his wife. It is in such a case (when the brother returned) that Rav ruled that 'she has the status of a married woman' (i.e., she has the same halachic status as any other married woman who remarried upon hearing that her husband had died, and afterwards, the husband returned), and is consequently forbidden to the yavam (her first husband). [Were she to be permitted to return to him, it might be assumed that his original betrothal was invalid owing to some stipulation that was never fulfilled, and his brother's marriage was, therefore, valid, and that he now married his brother's wife.] Shmuel, however, ruled that 'she does not have the status of a married woman,' and is, therefore, permitted to him (the first husband). [Shmuel is not concerned with the possibility that people will think that the first marriage was a conditional one, and that is why the second marriage is valid; R' Yosi, however, was concerned for this!]

Abaye said to him: From where do you infer that when Shmuel stated that 'the halachah is in agreement with Rabbi Yosi,' he was referring to Rabbi Yitzchak Nafcha's interpretation? Is it not possible that he was referring to that of Rabbi Ami!

And even if he refers to that of Rabbi Yitzchak Nafcha, where is the proof that he referred to the ruling of 'anyone who disqualifies (others disqualifies himself as well)? Is it not possible that he referred to the ruling of 'anyone who does not disqualify (others does not disqualify himself either)?

Alternatively, it might be argued, from where is it proven that Rav Huna's explanation is correct? Is it not possible that Rav Huna's explanation is altogether not correct, and

that they differ on the ruling of Rav Hamnuna who stated that a *yevamah* who is awaiting *yibum*, who has an illicit relationship with another man is prohibited to be married to the *yavam*? The argument will be as follows: Rav maintains that she 'has the status of a married woman' and is consequently prohibited by reason of her illicit act of cohabitation, while Shmuel maintains that 'she does not have the status of a married woman' and does not therefore, become prohibited by reason of her illicit act of cohabitation?

Alternatively, it might be replied that they differ on the question whether betrothal of a *yevamah* (by someone else, other than the *yavam*) is valid. The argument will be as follows: Rav maintains that she 'has the status of a married woman' and betrothal with her is, in consequence, invalid, while Shmuel maintains that 'she does not have the status of a married woman' and betrothal with her is, therefore, valid.

The Gemora asks: But on this question, they had already disputed once?

The Gemora answers: One was stated as an inference from the other. (95b4 – 96a1)

DAILY MASHAL

There is a beautiful connection between Shabbos and the Mitzvah of Talmud Torah that is brought in the introduction of the *Sefer Eglei Tal* by the Sochotchover Rav. The Rav brings the words of Chazal (Sotah 37A), who teach that for each Mitzvah four separate brisos, or covenants were made: one, **Lilmod**- to learn about it; two, **Lilamed**-to teach it to others; three, **Lishmor**-to observe it (guard against violating it); and four, **La'asos**-to practice it (actively performing it). The Rav then explains that just as Shemiras Shabbos is equal to *all of the Mitzvos*--so too, is the *Lilmod* and *Lilamed* of Hilchos Shabbos equal to the *Lilmod* and *Lilamed* of all of the

Mitzvos. If we study and learn Hilchos Shabbos with others, we are accomplishing something oh so great--equivalent to that of all the other Mitzvos!