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Mishnah

If a woman is waiting for *yibum* to be performed, whether or not she has one or two (*possible brothers of her deceased husband who can possibly perform yibum*), Rabbi Eliezer says that he (*see Gemora below*) can revoke the vow. Rabbi Yehoshua says: Only one of them can revoke the vow. Rabbi Akiva says: None of them can revoke the vow.

Rabbi Eliezer said: Now, in a case of a woman, with whom he has acquired on his own (as his wife), he can revoke her vows, then in a case of a woman (a *yevamah*), with whom Heaven made his acquisition (for she is bound to him based upon a Heavenly decree, and she is prohibited from marrying anyone else until he releases her through an act of *chalitzah*), certainly he should be empowered to revoke her vows! Rabbi Akiva said to him: No. If you say regarding a woman, with whom he has acquired on his own, it (that he may revoke her vows) is because no one else has rights to her. Will you say so regarding a woman (a *yevamah*), with whom Heaven made his acquisition, where others (*the two brothers*) have rights in her (so neither of them can revoke her vows – even in conjunction with her father)! Rabbi Yehoshua said to him: Akiva, your words are applicable (only for a case) where there are two *yevamin*; what will you respond when there is only one *yavam*? Rabbi Akiva said to him: A *yevamah* is not fully acquired by the *yavam* in the same way that an *arusah* is acquired to her husband. (*see Gemora below for the explanation of this.*) (74a1)

Explaining the Argument

The *Gemora* asks: It is understandable that Rabbi Akiva says the vows cannot be revoked. He apparently holds that the bond between this woman and her husband's deceased brother is not as strong as the bond between a woman and her betrothed. Rabbi Yehoshua apparently holds that there is a *zikhah*-bond when she falls to one *yavam*, but not when she falls to two (for it is not known at the time which is the *yavam* whose *yibum* or *chalitzah* she is awaiting). However, what is the reasoning of Rabbi Eliezer? Even if he holds like Rabbi Yehoshua, how can he hold that either brother can revoke the vow when it will only be determined later who is her real husband (*by virtue of who actually does yibum*)?

Ra”n Elucidated

[At this point, the *Gemora* thinks that the principle of retroactive clarification does not apply. In a case where there are two *yevamin*, her current status is not effected by whom she eventually marries, that it be considered that he is the one to whom she is bound. For that reason, even both of them together are not able to revoke her *nedarim*, for since at the time of the revocation, it is not clear to us who her husband is, their revocation is nothing. For the Torah said: Her husband will confirm it and her husband will revoke it. It is inferred from there that it must be known at the time of the revocation.]

Rabbi Ami answers: The case is where *ma’amar* (the act of giving *kiddushin* to a *yevamah*) was performed. Rabbi Eliezer is of the opinion of Beis Shammai that *ma’amar*

effectively makes a real acquisition of this woman (*and he can therefore revoke her vows while the other brother cannot*).

The *Gemora* asks: What does Rabbi Yehoshua hold? The *Gemora* answers: This is true only regarding a case of one *yavam*. When there are two brothers, how can it be that the other brother (*who did not do ma'amar*) can forbid his brother from marrying this woman by having relations with her or giving her a divorce? [*Such a woman cannot have the status of a regular betrothed woman!*] Rabbi Akiva, on the other hand, simply holds that there is no *zikah* attachment (*ma'amar* is not as strong as betrothal).

The *Gemora* asks: According to Rabbi Elozar (the *Amora*) who said that *ma'amar* according to Beis Shammai does not effect acquisition, except to push away another co-wife from *yibum* (*but is not like betrothal*), what is there to be said? [Ra"n – R' Elozar, in the *Gemora* in *Yevamos*, says: According to Beis Shammai, *ma'amar* is only effective as far as pushing away another wife. The *Mishnah* there stated: Three brothers, two of them married to two sisters and one unmarried. If one of the husbands of the sisters died and the unmarried one performed *ma'amar* and then his second brother died, Beis Shammai say: His wife is with him and the other one goes out free because she is his wife's sister. That is what R' Elozar means when he said: "pushing away another wife." That is – to push away her sister so that she would not be forbidden because of being the sister of one who is bound by *yibum*, because *ma'amar* makes her like one who has entered the *chupah* with respect to this. But it does not effect a complete acquisition, so if he wishes to divorce her, a *get* is not sufficient.]

The *Gemora* answers: The case is where he was brought to Beis Din and asked to either perform *yibum* or *chalitzah*, and he simply ran away. He was obligated to support her at that time (*and Rabbi Eliezer holds that he can revoke her vows once he is obligated to support her*).

This is in accordance with the statement of Rav Pinchas in the name of Rava, who says that any woman who makes a vow does so based on the opinion her husband will have of that vow (*similarly, her vow is based on the "husband" who is supporting her*).

Ra"n Elucidated

[*The Baraisa in Yevamos says: If he was judged and ran away, she is fed from the property of the yavam. Rabbi Eliezer holds that anyone who is obligated to provide for her can revoke her nedarim.*

And if you'll say, that is consistent according to Rabbi Eliezer, but how can it be explained according to Rabbi Yehoshua? For behold, the Chachamim disagree with Rabbi Eliezer in the Mishnah above and hold that even though he provides for her, he does not gain the right to revoke her nedarim. And the Chachamim that disagree with Rabbi Eliezer can be assumed to be Rabbi Yehoshua, who is the one that disagrees with him in all instances. If so, what is the reason of Rabbi Yehoshua who says that where there is only one yavam, he may revoke her nedarim?

It can be answered that he holds that the obligation of yibum produces a relationship which has the legal ramifications of marriage, and she is like one who has entered the chupah.

Alternatively, we can answer that the Chachamim who disagree with Rabbi Eliezer in the Mishnah is not Rabbi Yehoshua, and both Rabbi Eliezer and Rabbi Yehoshua hold, regarding an arus, that in any case in which he is obligated to provide for her, he revokes her nedarim. And so, too, in the case of a single yavam who was judged and ran away.

However, in a case of two yevamim, one of whom was judged and ran away, they disagree. Rabbi Eliezer holds that this yavam too, since he was judged and ran away, is

like an arusah, and if she makes a neder, it is on the condition of his consent. And Rabbi Yehoshua holds that the yevamah is not completely acquired by him the way an arusah is completely acquired by the arush, because no one can make the arusah forbidden to the arush, therefore, whenever he is providing for her, her nedarim are made on the condition of his consent. But in the case of a yevamah and a yavam, when there are two yevamim, since the other one is able to make her forbidden, she does not see herself as completely acquired by this yavam with whom she has gone to court, that she can make nedarim on the condition of his consent.]

The Gemora asks on Rav Ami's explanation from our Mishnah, where Rabbi Eliezer had stated: Now, in a case of a woman, with whom he has acquired on his own (as his wife), he can revoke her vows, then in a case of a woman (a yevamah), with whom Heaven made his acquisition (for she is bound to him based upon a Heavenly decree, and she is prohibited from marrying anyone else until he releases her through an act of chalitzah), certainly he should be empowered to revoke her vows! Now, we just said that the case is where he performed ma'amar, and this would mean that he acquired her himself (not through Heaven)!?

The Gemora answers: Rabbi Eliezer means that is it a woman he acquired on his own through (a bond created by) Heaven. (74a1 – 74b1)

Ma'amar According to Beis Shammai

The Gemora asks: Rav Ami's explanation should enable us to resolve an inquiry of Rabbah. Rabbah inquired: According to Beis Shammai, does ma'amar create a status akin to betrothal or akin to marriage? We should be able to resolve this from our Gemora that it is akin to marriage, as the Mishnah states that a betrothed girl has her vows revoked by her father and husband. [In our Mishnah,

Rabbi Eliezer says that her ma'amar-husband alone does so, proving that this is akin to marriage.]

Rav Nachman bar Yitzchak answers: What does the Mishnah mean when it says "he revokes?" It means in conjunction with her father. (74b1)

Support to Rav Ami

The Gemora cites a Baraisa that supports Rabbi Ami: If a woman is waiting for yibum to be performed, whether or not she has one or two (possible brothers of her deceased husband who can possibly perform yibum), Rabbi Eliezer says that he (see Gemora below) can revoke the vow. Rabbi Yehoshua says: The vow can be revoked if she fell to one yavam, but not if she fell to yevamim. Rabbi Akiva says: Neither to one, nor to two.

Rabbi Eliezer says: If a woman whom a person has no part in at all can become totally his once he acquires her, certainly a woman who was partially his before he acquired her should be considered his when he acquires her! Rabbi Akiva said to him: No! A woman whom one acquired for himself, just as he did not previously own her, so too, no one else previously owned her. However, regarding a woman who was given to him from Heaven, we should say that just as he has a portion in her, so too, others have a portion in her!

Rabbi Yehoshua said to him: Akiva, your logic is only for a case where there are indeed two yevamim. What do you say when there is only one brother? Rabbi Akiva replied: Did we argue about one yavam and two, whether or not ma'amar was done? She is obviously not his betrothed, as is apparent from other laws, not just the laws of vows.

When Ben Azzai heard Rabbi Akiva's argument, he exclaimed in this exact language: It is a pity to you, Ben Azzai, that you did not serve Rabbi Akiva!



The *Gemora* asks: Why does this *Baraisa* support Rav Ami?

The *Gemora* answers: For Rabbi Akiva responded: There is no distinction whether or not *ma'amar* was done (*obviously, he heard that Rabbi Eliezer only said that we are referring only to a case where he performed ma'amar*).

Alternatively, the proof is from the first part of the *Baraisa*, which stated that when she enters into his jurisdiction, she becomes completely acquired by him. And if Rabbi Eliezer is not discussing a case where he performed *ma'amar*, what does it mean that she becomes "completely acquired" by him? It must be referring to a case where he performed *ma'amar* with her. (74b1 – 75a1)

What is meant by 'and just as it is in reference to other matters, so it is in reference to vows'? — Rava said: It means this: Do you not admit that one is not stoned for [committing adultery with] her {the yevamah, even after *ma'amar* is performed}, as in the case of a betrothed maiden?

Rav Ashi said, The Mishnah too supports [this interpretation]: A yevamah is not fully acquired by the yavam in the same way that an arusah is acquired to her husband. (75a1)

DAILY MASHAL

Ben Azzai

When Ben Azzai heard Rabbi Akiva's argument, he exclaimed in this exact language: It is a pity to you, Ban Azzai, that you did not serve Rabbi Akiva!

The Yad Malachei asks: It is evident from this *Gemora* that Ben Azzai did not study under Rabbi Akiva. However, the

Gemora Brochos (62a) states that Rabbi Yehudah told Ben Azzai: For how long will you be brazen towards Rabbi Akiva, your master? It could be answered that Ben Azzai went to study under Rabbi Akiva, and that is what the *Gemora* in *Brochos* is referring to.

However, the *Gemora Brochos* mentions that Ben Azzai said to Rabbi Akiva: For how long will you be brazen towards your master, that you followed Rabbi Yehoshua into the lavatory? If Rabbi Akiva was his master, how could he speak in such a degrading manner towards him? Even a teacher to a student wouldn't talk like that; certainly a student to his teacher!

Therefore, he writes that it must be that Ben Azzai was a *talmid chaver* (a peer) of Rabbi Akiva. They were both disciples of Rabbi Eliezer the Great.

The *Gemora* in Bava Basra (158a) refers to Ben Azzai as the "Talmid chaver" of Rabbi Akiva. Ben Azzai was considered somewhat of a disciple of Rabbi Akiva.

Rabbeinu Gershom comments: Since Ben Azzai was a "bochur," he was unable to comprehend halachic logic as well as Rabbi Akiva.

What is the connection between being a "bochur," and not comprehending to the fullest extent?

I once heard from my Rosh Yeshiva, HaRav Chaim Schmelczer zt"l that Rabbeinu Gershom means that Ben Azzai was a bachelor, and one who is not married does not have the same level of contentment as one who is married. Torah study requires one to be at ease; one must have a *menuchas hanefesh* in order to comprehend the depths of the Torah. This is what Ben Azzai was lacking.