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Marrying the Widow

The Gemora cites a *Baraisa*: A boy, who is nine years and one-day old, who is an Amonite, Moabite, Egyptian, or Edomite convert (*who are not permitted to marry into the congregation*), or is a Cuthean, Nasin, *chahal*, or *mamzer*, who cohabited with a *Koheness*, *Leviah*, or an Israelite woman has disqualified her from the *Kehunah*. Rabbi Yosi states: Any man, whose children are disqualified, will disqualify a woman with whom he cohabits from the *Kehunah*. Any man, whose children are not disqualified, will not disqualify a woman with whom he cohabits from the *Kehunah*. Rabban Shimon ben Gamliel said: Any man, whose daughter, you (a *Kohen*) are permitted to marry, you would be permitted to marry his widow. Any man, whose daughter you (a *Kohen*) are not permitted to marry, you would not be permitted to marry his widow.

The *Gemora* asks: What is the difference between the Tanna Kamma and Rabbi Yosi? Rabbi Yochanan answers: The difference between them would be in a case where a second-generation Egyptian or a second-generation Edomite cohabited with a woman. (*According to the Chachamim, she would be disqualified, whereas according to Rabbi Yosi, she will not be disqualified because his son would be a third-generation convert, who is permitted to marry into the congregation.*) The *Gemora* cites the Scriptural sources for their respective opinions. They both learn it from the (law of a) Kohen Gadol who marries a widow (that she is disqualified from the *Kehunah*). The Tanna Kamma holds: It is like a Kohen Gadol who marries a widow: just as a Kohen

widow, since his cohabitation is sinful, he disqualifies her, so too all whose cohabitations are sinful disqualify. Rabbi Yosi, however, maintains: It is like a Kohen Gadol who marries a widow: just as a Kohen Gadol with a widow, his offspring is unfit (to marry a Kohen) and he disqualifies (the widow), so too all whose offspring is unfit disqualify. This would exclude an Egyptian of the second generation, whose offspring is not unfit, for the verse states: *The children of the third generation that are born to them shall enter for themselves into the congregation of Hashem.*

Rabban Shimon ben Gamliel had stated: Any man, whose daughter, you (a *Kohen*) are permitted to marry, you would be permitted to marry his widow. Any man, whose daughter you (a *Kohen*) are not permitted to marry, you would not be permitted to marry his widow.

The *Gemora* asks: What is the difference between Rabban Shimon ben Gamliel and Rabbi Yosi? Ulla answers: The difference between them would be in a case regarding an Ammonite or Moabite convert cohabited with a woman. (*According to Rabbi Yosi, she would be disqualified, just like their children would be disqualified, whereas according to Rabban Shimon ben Gamliel, she will not be disqualified because the daughters of these converts are permitted to marry into the congregation.*)

The *Gemora* cites the Scriptural sources for their respective opinions. They both learn it from the (law of a) Kohen Gadol who marries a widow (that she is disqualified from the *Kehunah*). Rabbi Yosi holds: It is like a Kohen Gadol who marries a widow: just as a Kohen

Gadol with a widow, his offspring is unfit (to marry a Kohen) and he disqualifies (the widow), so too all whose offspring is unfit disqualify. Rabbi Shimon ben Gamliel, however, maintains: It is like a Kohen Gadol who marries a widow: just as a Kohen Gadol who marries a widow, all his offspring is disqualified, so too everyone, all whose offspring, even the females, are disqualified. This excludes Ammonite and Moabite converts, whose females are eligible, to enter into the congregation; for a Master said: *An Ammonite* [. . . *shall not enter*, etc.], but not an Ammonitess; *a Moabite* [*shall not enter*, etc.], but not a Moabitess. (74b3 – 75a2)

Almanas Isah

Rav Chisda said: Everyone would agree regarding an *almanas isah* (a widow who was married to a possible *chalal*) that she is disqualified from marrying into the *Kehunah*. This is based upon the following logic: Rabban Shimon ben Gamliel is the most lenient opinion, and he holds that anyone, whose daughter is not permitted to be married to a *Kohen*, his widow would not be permitted to be married by a *Kohen* as well. And since the daughter of this possible *chalal* cannot marry into the *Kehunah*, his widow can also not marry into the *Kehunah*.

This would be contrary to the opinion of the following *Tannaim*, for we learned in a *Mishnah*: Rabbi Yehoshua and Rabbi Yehudah ben Beseirah both testified that a widow who was married to a possible *chalal* (product of a sinful *Kohen* marriage) is permitted to marry a *Kohen*. [*She is not considered to have become unfit to Kehunah, which would have happened if her husband had been an actual chalal. We say that the widow retains her status of being permitted to Kehunah.*]

The *Gemora* explains the reason for this: It is because this case is considered “a doubt of a doubt” (*for we were uncertain about her husband’s status, and her status is*

based upon his), and all such cases are ruled leniently. (75a2)

Shetuki

The *Mishnah* had stated: Rabbi Elozar says: Those that are certainly forbidden to marry into the congregation are permitted to marry others who are certainly forbidden to marry into the congregation. [*And those that are possibly forbidden to marry into the congregation are prohibited from marrying others who are certainly forbidden to marry into the congregation.*]

Rav Yehudah said in the name of Rav: The *halachah* is in accordance with Rabbi Elozar, and when I said this in front of Shmuel, he told me, “Hillel learned that there were ten different genealogical classes that went up from Bavel, and they all are permitted to marry each other (*including those that are possibly forbidden to marry into the congregation; they are permitted to marry others who are certainly forbidden to marry into the congregation*), and you said that the *halachah* follows Rabbi Elozar?”

The *Gemora* asks a contradiction on Rav and on Shmuel: For it was stated: If a betrothed woman becomes pregnant (*and it was not known if it was from her husband or not*), Rav said that the child is a *mamzer* (*for we assume that she became pregnant from some other man, for the majority of men are not her husband*), and Shmuel said that the child is a *shetuki*. The *Gemora* elaborates: Rav said that the child is a *mamzer* and that child may marry a *mamzeres*, and Shmuel holds that the child is a *shetuki* and that child may not marry a *mamzeres*. [*From here we see that Rav holds that an uncertain mamzer is permitted to marry a definite mamzer and Shmuel holds that he cannot! This is exactly the opposite from what we learned before!?*]



The *Gemora* answers: The opinions should be reversed: Rav said that the child is a *shetuki*, and Shmuel said that the child is a *mamzer*.

The *Gemora* asks: Why do we need this argument to be stated twice?

The *Gemora* answers: There is a novelty taught in the case of the betrothed woman who became pregnant that even there, where a majority of men in the world are forbidden to her, still, Rav would hold that the child is an uncertain *mamzer*, and he cannot marry a definite *mamzer*. And there is a novelty taught in our *Mishnah*, where we have no reason to attribute her pregnancy to anyone genealogically fit for her, and nevertheless, Rav rules that the child is an uncertain *mamzer*.

Alternatively, we can say that the opinions should not be switched around, and when Rav said that the child is a *mamzer*, he did not mean that he is permitted to marry a *mamzeres*, but rather, he meant that he is forbidden to marry an ordinary Jewish woman (*for he is an uncertain mamzer*).

The *Gemora* asks: If so, when Shmuel said that the child is a *shetuki*, that seemingly is the same as Rav!?

The *Gemora* offers suggestions as to what Shmuel meant, but rejects them: He could not have meant that he is a *shetuki* with respect to *Kehunah* (*if the father was a Kohen*), for this would be rather obvious! If we do not consider him a legitimate ordinary Jew (*with respect to marrying a daughter of a Yisroel*), he is certainly not recognized as a *Kohen*! He could not have meant that we do not allow him to inherit his father, for we do not know who his father is! Rather, Shmuel meant the following: If he seized the possessions of his (*claimed to be*) father, he must return them.

Alternatively, Shmuel meant that the child is a *beduki* – we check the child’s mother, and if she says that she cohabited with a genealogically fit man, she is believed.

The *Gemora* asks: According to which *Tanna* is Shmuel following? If it is Rabban Gamliel, we have already learned this in a *Mishnah*: If an unmarried woman was pregnant, and they said to her: What is the nature of this fetus? She answered: It is from the man So-and-So, and he is a *Kohen*. Rabban Gamliel and Rabbi Eliezer say: She is believed (*and she remains fit for Kehunah*). Rabbi Yehoshua says: We do not live from her mouth (*perhaps she is lying*)! (*Rather, she is presumed to be pregnant from a nasin or a mamzer, until she brings proof for her words.*) And Rav Yehudah said in the name of Shmuel that the *halachah* follows Rabban Gamliel. [*What was the necessity for Shmuel’s ruling?*]

The *Gemora* answers: It is necessary, for if [I were to deduce] from there, I would argue: There, most men are fit for her; but here, most men are unfit for her, I would say [she is] not [believed]. Hence both are necessary. [Shmuel rules that she is believed even if a majority of the men in the city are unfit to have relations with her.] (75a2 – 75a5)

Cutheans

The *Gemora* cites a *Baraisa*: And so Rabbi Elozar says: A Cuthean man may not marry a Cuthean woman.

What is the reason? Rav Yosef said: The Rabbis decided that a Cuthean should be given the status of a convert after ten generations. [*A convert after ten generations is prohibited from marrying a mamzer, for people view him as an ordinary Jew.*] For we learned in a *Baraisa*: For the first ten generations a convert may marry a *mamzeres*; afterwards, he may not. Some say that he is permitted to marry a *mamzeres* until the name of idolatry disappears from him.

Abaye said to him: Are the cases comparable? There, the convert is old (*generations ago*), and the *mamzer* is new (*his status is known to all*). It is for that reason that people will think that a Jew is marrying a *mamzeres*. Here, both Cutheans are the same (*people will either know that they both are converts, or they will think that both of them are ordinary Jews*)!?

Rather, when Rav Dimi came to Bavel he said that Rabbi Elozar holds like Rabbi Yishmael, and Rabbi Yishmael holds like Rabbi Akiva. The *Gemora* explains: Rabbi Elozar holds like Rabbi Yishmael that the Cutheans are converts on account of lions (*they are invalid converts, for they only converted because of an outbreak of lions*). And Rabbi Yishmael holds like Rabbi Akiva who maintains that if an idolater or Canaanite slave cohabits with the daughter of a *Yisroel*, the child is a *mamzer*. [Some Jews thought that their conversion was valid, and therefore, they intermarried with them. It emerges as follows: If a Jewish man married a Cuthean woman, the child will be a gentile. If a Cuthean man married a Jewish woman, the child will be a *mamzer*. This is why Rabbi Elozar ruled that a Cuthean may not marry a Cuthean, for perhaps, a Jewish *mamzer* is marrying a gentile.]

The *Gemora* asks: Can it be that Rabbi Yishmael holds like Rabbi Akiva in this matter? But Rabbi Yochanan said in the name of Rabbi Yishmael: From where do we know that a Canaanite slave or an idolater who cohabits with a *Kohenes*, *Leviah* or *Yisraelis* will render her unfit to eat *terumah*? He cites a verse in Vayikra 22:13 which teaches us that a *Kohenes* who marries a non-*Kohen* is not permitted to eat *terumah*. If she should become widowed or divorced without having any children, she returns to her father's house and may eat *terumah*. This is only when she was legally married to someone who can cause her to become a widow or get divorced; a Canaanite slave or an idolater are excluded because they cannot cause her to become a widow or get divorced. We learn from here that

a Jewess, who cohabits with a Canaanite slave or an idolater does become disqualified for *Kehunah*. Now, if Rabbi Yishmael would hold like Rabbi Akiva, if the child is a *mamzer*, would we need a verse to teach us that the woman who cohabits with an idolater is disqualified from the *Kehunah*?

Rather, the *Gemora* explains: Rabbi Elozar holds like Rabbi Yishmael that the Cutheans are converts on account of lions, and Rabbi Elozar holds like Rabbi Akiva who maintains that if an idolater or Canaanite slave cohabits with the daughter of a *Yisroel*, the child is a *mamzer*.

The *Gemora* asks: Can it be that Rabbi Elozar holds like Rabbi Akiva in this matter? But Rabbi Elozar said: Although Beis Hillel and Beis Shamai disagreed regarding the co-wives, they agree that a *mamzer* will result only from a union which is classified as an *ervah* and one which will incur the penalty of *kares*. [And since the prohibition between an idolater and a Jewish woman is not punishable by *kares*, the child cannot be a *mamzer*!]

Rather, when Ravin came, he said in the name of Rabbi chiya bar Abba, who said it in the name of Rabbi Yochanan, and others say that Rabbi Abba bar Zavda said it in the name of Rabbi Chanina, and others say that it was Rabbi Yaakov bar Iddi who said it in the name of Rabbi Yehoshua ben Levi: There are three opinions regarding this matter. Rabbi Yishmael holds that the Cutheans are converts on account of lions (*and therefore a Jew could not marry them*), and there were disqualified *Kohanim* who married them, as it is said: and they made for themselves, from some of them, *Kohanim* for the altars, and Rabbah bar Bar Chanah commented in the name of Rabbi Yochanan: *mi'ketzosam* – from some of them -from the thorns of the people [sc. those who were unfit], and on that account they were disqualified.

Rabbi Akiva holds that the Cutheans were valid converts, and the *Kohanim* who married them were all

genealogically fit, as it is said: and they made for themselves, from some of them, Kohanim for the altars, and Rabbah bar Bar Chanah commented in the name of Rabbi Yochanan: from among the chosen ones. If so, why did the Sages forbid them? The reason why it was decreed not to marry the Cutheans was because they would only perform *yibum* with betrothed women, but not with women who had undergone *nisuin* (and when someone other than the *yavam* married these women, who, in truth, are subject to the mitzvah of *yibum*, the child from this union will be a *mamzer* according to Rabbi Akiva).

What was their interpretation? — The wife of the deceased shall not be to the outside, to a strange man; she who lives outside shall not marry a strange man; but she who does not live outside may marry a strange man. And Rabbi Akiva follows his view, for he maintained: There is *mamzer* from those who are subject [only] to negative injunctions. (75a5 – 76a1)

INSIGHTS TO THE DAF

Almanas Isah

Rav Chisda said: Everyone would agree regarding an *almanas isah* (a widow who was married to a possible *chahal*) that she is disqualified from marrying into the *Kehunah*. This is based upon the following logic: Rabban Shimon ben Gamliel is the most lenient opinion, and he holds that anyone, whose daughter is not permitted to be married to a *Kohen*, his widow would not be permitted to be married by a *Kohen* as well. And since the daughter of this possible *chahal* cannot marry into the *Kehunah*, his widow can also not marry into the *Kehunah*.

This would be contrary to the opinion of the following *Tannaim*, for we learned in a *Mishnah*: Rabbi Yehoshua and Rabbi Yehudah ben Beseirah both testified that a widow who was married to a possible *chahal* (product of a sinful *Kohen* marriage) is permitted to marry a *Kohen*.

[She is not considered to have become unfit to *Kehunah*, which would have happened if her husband had been an actual *chahal*. We say that the widow retains her status of being permitted to *Kehunah*.]

The *Gemora* explains the reason for this: It is because this case is considered “a doubt of a doubt” (for we were uncertain about her husband’s status, and her status is based upon his), and all such cases are ruled leniently.

Tosfos (*Kesuvos* 14a) writes that the daughter of the possible *chahal* is certainly disqualified from *Kehunah*. Rabbi Shimon holds that if you cannot marry his daughter, you cannot marry his widow either. However, Rabbi Yehoshua and Rabbi Yehudah ben Beseirah maintain that although his daughter is forbidden to be married to a *Kohen*, his widow is permitted to be married to a *Kohen*.

The question is asked: Why is the daughter different than the widow? The daughter should also be treated leniently because of “a doubt of a doubt”?

Tosfos explains that the daughter does not have any presumption of being qualified for *Kehunah*, and therefore, even Rabbi Yehoshua will admit that she is ruled to be unfit for *Kehunah*. Although normally we would rule leniently by cases involving “a doubt of a doubt,” here, when it concerns genealogical matters, the Rabbis set a higher standard.

The *Avnei Miluim* asks: The *halachah* follows the opinion who holds that if the mother is ruled to be fit, the daughter is also ruled to be fit. Accordingly, how can we rule that the mother is fit for *Kehunah*, but not the daughter?

Reb Akiva Eiger answers that this rule only applies in a case where the father is not before us, such as a case where she was found to be pregnant but we do not know from who, but if he would have been here, we would have

recognized him; in such a case the presumption of the mother effects the daughter as well. However, in our case, the father is before us, but we do not know if he is a *chalal* or not. Here we cannot rule that the daughter should have the same status as the mother, for perhaps, her status should be like her father. It is therefore possible to rule that the mother is fit for *Kehunah* but the daughter is not.

DAILY MASHAL

A Name Used Only in Kvittelach

If the original names of the husband and wife have been changed, only the names they use at the time of the divorce must be listed on the *get*. (Beis Yosef, §129; Rabbi Akiva Eiger, *Tanina* §50). When a well-known physician called Dr. Margalit appeared before the *beis din* in the town of Hosiatin to divorce his wife, the *dayanim* discovered that he did not use his first name, Moshe, and his signature always appeared as “Dr. Margalit.” His wife and patients, his acquaintances and all of the townspeople also addressed him as “Dr. Margalit.” In fact, he hadn’t been called Moshe for years. Perhaps the scribe in the *beis din* should record his name as “Dr. Margalit” since that was how he was widely known. But following an inquiry the *beis din* learned that once every few years Dr. Margalit would pay a visit to the *shul*, and on these rare occasions, when the *gabbai* called him to the Torah he would announce, “*Ya’amod* Reb Moshe...” The *dayanim* now had a tough question on their hands: Is announcing his first name in public once every few years enough to prevent it from being considered “*nishtake’a*” and forgotten?

At this point the Maharsham was called in to help settle the matter. Citing a number of proofs, he explained at length why the name “Moshe” should appear on the *get*. One of the proofs was taken from our *sugya*, which says that a *ger tzedek* [a righteous convert] may marry a *pasul*

chitun [someone who any Jew is forbidden to marry]. However, once the fact that he is a *ger* is *nishtake’a*, i.e. he is no longer referred to as a *ger*, he becomes like any other Jew and is not permitted to marry a *pasul chitun* due to *maris ayin* [outward appearances]. Both the Rambam (*Isurei Bi’ah* 15:8) and the *Shulchan Aruch* (E.H. 4:22) rule that “*nishtake’a*” means people no longer **know** he is actually a *ger*. Based on this definition the Maharsham concluded that since the name “Moshe” was still publicly used on rare occasions, it should be written in the *get*.

When the name is only mentioned in a *kvittel*: In line with his own reasoning, the Maharsham (II, §251) ruled exactly the opposite in the case of a woman whose middle name had been almost entirely forgotten. The name was only used by her father, who would write her full name on the *kvittel* [a note containing individual requests] he handed over to a great *tzaddik* inside his private chambers. In this case the Maharsham ruled that her middle name had been forgotten since the woman herself never used it, and it was only mentioned by her father in private to a single person.