

Daf Notes

Insights into the Daily Daf

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Yevamos Daf 23

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Highlights

The Gemora is discussing the purpose of the verse prohibiting one from taking his father's wife's daughter according to Rabbi Yosi bar Rabbi Yehudah.

The Gemora asks: Perhaps the verse is coming to exclude women that are merely prohibited on account of a negative commandment. (*Yaakov's father married a mamzeres and begot a daughter from her; she would not be regarded as a sister to Yaakov because his father's marriage was invalid and therefore Yaakov would not be liable for cohabitating with her.*)

Rav Pappa answers: This cannot be correct because we have learned that *kiddushin* does take effect with women that are forbidden merely by a negative commandment. It is written [Devarim 21:15]: *If a man has two wives, one beloved, and the other loathed.* The Gemora asks: Is there a beloved or loathed wife before Hashem? Rather, the Torah is referring to their marriage. Beloved means that he is married to a permitted woman and loathed means that he is married to a prohibited woman and nevertheless, the Torah states regarding them "*If a man has two wives.*" We derive from here that if a man marries a woman that is forbidden to him merely by a negative commandment, the Torah recognizes and validates the marriage. (*It emerges that the daughter born from a mamzeres would be regarded as his sister.*) (22b – 23a)

The Gemora concludes that a daughter born to one's father from a woman who is prohibited under penalty of *kares* would still be regarded as his sister and he (*the son*) would be liable for cohabitating with her. The verse "*your father's wife's daughter*" is coming to exclude a daughter born to one's father from a Canaanite slavewoman or from a non-Jewess. Since these are women that no Jew can marry, the marriage is invalid and their daughters are not regarded as his sisters; one would not be liable for cohabitating with them (*on account of the "sister" prohibition*). (23a)

The Gemora asks: How do the Rabbis (*who use the verse "your father's wife's daughter" to teach that one who cohabits with his father's daughter will have violated two prohibitions*) derive that a daughter born to one's father from a Canaanite slavewoman or from a non-Jewess is not regarded as a sister?

The Gemora answers: It is written [Shmos 21:4]: *If his master give him a wife, and she bear him sons or daughters; the wife and her children shall be her master's.* The daughters are considered slaves and they are obviously not regarded as a "sister."

The Gemora states: Rabbi Yosi bar Rabbi Yehudah requires two verses; one to teach us the law regarding a slavewoman and the other to teach the law of a non-Jewess. If the Torah would only have taught the law regarding a slavewoman, we wouldn't

know the law regarding a non-Jewess because we would say that the daughter of a slavewoman is excluded because Canaanite slaves have no legal family relationships. If the Torah would only have taught the law regarding a non-Jewess, we wouldn't know the law regarding a slavewoman because we would say that the daughter of a non-Jewess is excluded because they are not subject to any of the Torah's commandments

The Gemora asks: How do the Rabbis know that a daughter born to one's father from a non-Jewess is not regarded as a sister (*since we cannot derive them both from the same verse*).

Rabbi Yochanan said in the name of Rabbi Shimon ben Yochai: It is written [Devarim 7:4]: *For he will turn away your son from following Me, that they may serve other gods*. We derive from here that your son who comes from a Jewish woman is called your son (*he is considered Jewish*), however, your son who comes from an idolatrous woman is not called your son, but rather he is called her son. (23a)

The Mishna states: If someone married one of two sisters, but he does not know which one of them he married; he is required to give two bills of divorce (*because he cannot cohabit with either one of them since she might be his wife's sister*).

If he died childless (*prior to divorcing them*), and he has one brother, he performs a *chalitzah* with each of them.

If he has two brothers, one performs a *chalitzah* with one and the other brother can perform a *yibum* with the other sister.

If they married the sisters, we cannot force them to issue divorces. (*Each one can claim that he performed a yibum with the correct sister. Even if the first one was the incorrect one, and thus he married the sister of his zekukah, he may remain married to her because once one the other brother performed a yibum with the yevamah, it retroactively removes the zikah from her to the first brother.*)

If two unrelated men married two sisters, and each one does not know which one of the sisters he married; they both are required to give two bills of divorce (*because they cannot cohabit with either one of them since she might be his wife's sister*).

If they both died childless (*prior to divorcing them*), and each one of them left one brother; each one of the brothers performs a *chalitzah* with each of the widows.

If one of the men has one brother and the other man has two brothers; the one brother performs a *chalitzah* with each of them; and the two brothers, one performs a *chalitzah* with one and the other brother can perform a *yibum* with the other sister. If they married the sisters, we cannot force them to issue divorces.

If each one of them left two brothers, Reuven and Shimon from one and Levi and Yehudah from the other; one brother from one pair, Reuven, should perform a *chalitzah* with one of the widows, Sora, and one brother from the other pair, Levi, should perform a *chalitzah* with the other widow, Rivka. Afterwards, Shimon can perform a *yibum* with Rivka and Yehudah can perform a *yibum* with Sora.

If two brothers in one pair performed a *chalitzah* with both women, the brothers from the other pair should not perform a *yibum* with both; rather, one should perform a *chalitzah* and the other should perform a *yibum* with the other woman. If they married the sisters, we cannot force them to issue divorces. (23b)

The Gemora analyzes the first halacha in the Mishna: If someone married one of two sisters, but he does not know which one of them he married; he is required to give two bills of divorce (*because he cannot cohabit with either one of them since she might be his wife's sister*).

We can learn from this that a marriage which does not have the possibility of cohabitation is nevertheless regarded as a marriage.

The Gemora rejects this by saying that we are discussing a case where they originally knew which one of the sisters they married and it was only later that the uncertainty arose; if we were uncertain from the onset, the *kiddushin* would not be valid at all. (23b)

INSIGHTS TO THE DAF

CONCEIVED FIRST OR BORN FIRST WHO IS THE FIRSTBORN?

The Gemora states: We have learned that *kiddushin* does take effect with women that are forbidden merely by a negative commandment. It is written [Devarim 21:15]: *If a man has two wives, one beloved, and the other loathed.* The Gemora asks: Is there a beloved or loathed wife before Hashem? Rather, the Torah is referring to their marriage. Beloved means that he is married to a permitted woman and loathed means that he is married to a prohibited woman and nevertheless, the Torah states regarding them “*If a man has two wives.*” We derive from here that if a man marries a woman that is forbidden to him merely by a negative commandment, the Torah recognizes and validates the marriage.

The verse mentioned above continues and states that if the loathed wife becomes the mother of the man’s firstborn son, the father is forbidden to deny that son the right to the double portion and give it instead to the son from the beloved wife.

How can the Torah refer to one of the wives as “a loathed one”? Why would it enter our mind that the father can deprive the son of the loathed one if he in fact is the firstborn? It would seem from the order of the words in the verse that the son of the beloved woman was actually born first.

The following explanation is written in the name of the Gra. The Torah is referring to a case where a man divorced a woman and that is why she is called “the loathed one.” He married another woman soon afterwards. His present wife gave birth to a son

seven months after the marriage. The divorced woman gave birth to a son after nine months. One might think that the double portion designated for the firstborn should go to the son of the beloved woman because he was born first; the Torah teaches us that this is not the case. Since the son of the loathed woman was conceived first, by rights, he is deserving of the double portion. This is what the Torah means when it says “*for he is the first-fruits of his strength.*”

There are those (the Netziv) who question if the Gra ever said this. One of the questions that they ask is from Rashi in Bereishis (25:26), who writes from a Medrash: The interpretation is in accordance to its simple meaning: Yaakov held onto Esav’s heel lawfully, to restrain him. Yaakov was formed from the first drop and Esav from the second. We can learn from a tube that has a narrow opening. If one would insert two stones into it, one after the other, the one that entered first will emerge last, and the one that entered last will emerge first. The result is that Esav, who was formed last, emerged first, and Yaakov, who was formed first emerged last, and Yaakov came to restrain him so that he should be the first to be born as he was the first to be formed, and he would open her womb and take the birthright by law.

According to the Gra, this leaves us with a question: If Yaakov was the true firstborn, why was it necessary for him to purchase the birthright from Esav?

The Kli Chemda differentiates between the birthright for inheritance, which is related to the time of conception (since it is based on a relationship with the father) and between the rights to serve in the Beis Hamikdash, which is dependent on the time of birth. This is what Yaakov wished to purchase from Esav.