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Yevamos Daf 40

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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

The Gemora inquires as to the author of the following Baraisa: It is written: *The yavam shall cohabit with her.* This is a *mitzvah*. Initially (*prior to her marriage*), she was permitted to him. When she got married to the brother, she became prohibited to him on account of being his brother’s wife. When her husband died childless, she became permitted to him again. One might think that she returns to the original permissible status; the verse states: *The yavam shall cohabit with her.* This is a *mitzvah*.

Who taught this Baraisa?

Rabbiv Yitzchak bar Avdimi says: It is Abba Shaul, who maintains that one must have pure intentions when performing the *mitzvah* of *yibum*. This is the explanation of the Baraisa. It is written: *The yavam shall cohabit with her.* This is a *mitzvah*. Initially (*prior to her marriage*), she was permitted to him. He could have married her for her beauty or for the sake of marriage. When she got married to the brother, she became prohibited to him on account of being his brother’s wife. When her husband died childless, she became permitted to him again. One might think that she returns to the original permissible status and he can marry her for any purpose; the verse states: *The yavam shall cohabit with her.* This is a *mitzvah*. He may only cohabit with her if his intentions are purely for the sake of the *mitzvah*.

Rava interprets the Baraisa differently: The Baraisa can follow the opinion of the Rabbis who disagree with Abba Shaul and this is its explanation. It is written: *The yavam shall cohabit with her.* This is a *mitzvah*. Initially (*prior to*

*her marriage*), she was permitted to him. The *yavam* could have married her then if he wanted. When she got married to the brother, she became prohibited to him on account of being his brother’s wife. When her husband died childless, she became permitted to him again. One might think that he has the choice of marrying her if he wants, and if he would want, he would refrain from marrying her – the Gemora interrupts - and if he would want, he would refrain from marrying her? But she is attached to him; can she be released with nothing? Rather, say: One might think that he has the choice of marrying her if he wants, and if he would want, he would perform *chalitzah* with her: the verse states: *The yavam shall cohabit with her.* *Yibum* is the preferential *mitzvah*. (39b3 – 39b4)

The Gemora asks on Rabbi Yitzchak bar Avdimi’s interpretation from the first part of the aforementioned Baraisa. The Baraisa stated: It is written [Vayikra 6:9]: *It shall be eaten unleavened in a holy place.* (*This is referring to the remainder of a flour offering in the Beis Hamikdash eaten by the Kohanim.*) This is a *mitzvah*. Initially (*prior to the sanctification of the minchah*), it was permitted. Afterwards, when it became *kodosh*, it became forbidden to eat. After the removal of the *kometz* and its burning on the *mizbeach*, it becomes permitted for consumption. One might think that it returns to its original permissible status; the verse states: *It shall be eaten unleavened in a holy place.* This is a *mitzvah*.

The Gemora explains this Baraisa: It is understandable according to Rava; we can interpret the Baraisa according

to the opinion of the Rabbis who maintained that *yibum* is the *mitzvah* which is more preferable than *chalitzah*. The explanation for this Baraisa is similar: It is written: *It shall be eaten unleavened in a holy place*. This is a *mitzvah*. Initially (*prior to the sanctification of the minchah*), it was permitted. If the *Kohen* desired, he may eat it, and if not, he could choose not to eat it. Afterwards, when it became *kodosh*, it became forbidden to eat. After the removal of the *kometz* and its burning on the *mizbeach*, it becomes permitted for consumption. One might think that it returns to its original permissible status; if the *Kohen* desired, he may eat it, and if not, he could choose not to eat it.

The Gemora interrupts to ask: Is there really a possibility that the *Kohen* can choose not to eat it? But it is written: *And they shall eat them, those who gain atonement through them*. This verse teaches that the *Kohanim* eat the offering and then the owner receives atonement.

The Gemora answers: One might think that it returns to its original permissible status; if the *Kohen* (*who performed the minchah service*) desired, he may eat it, and if he wishes, a different *Kohen* may eat it. The verse states: *It shall be eaten unleavened in a holy place*. This is a *mitzvah* (*teaching us that there is a special mitzvah for the Kohen who performed the minchah service to eat it himself*).

However, according to Rav Yitzchak bar Avdimi, who holds that the Baraisa is following Abba Shaul's opinion; what two possibilities of eating are there? What is the Baraisa teaching us?

Perhaps you will answer that one can eat the *minchah* with an appetite, or he can eat it ravenously by stuffing himself with the *minchah* even after he was full from eating other things.

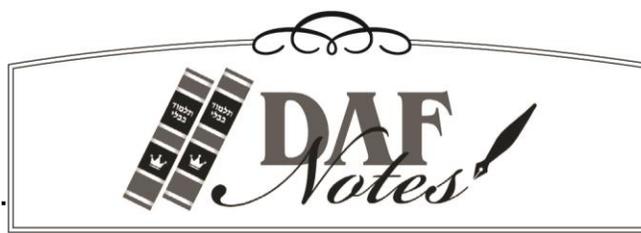
This cannot be an option (we would never have thought that he can eat the *minchah* in such a manner) because Rish Lakish stated that one who eats ravenously on *Yom Kippur* is exempt from transgressing the prohibition of affliction on *Yom Kippur*. It is evident that this is not regarded as eating.

The Gemora answers: One would have thought that he can eat it as *matzah* (*unleavened*), and if he desires, he may eat it as *chametz*; the verse states: *It shall be eaten unleavened in a holy place*. This is a *mitzvah* (*teaching us that it must be eaten as matzah*).

The Gemora objects to this explanation as well: How could we have thought that the *minchah* could be eaten as *chametz* when Rish Lakish expounds the verse 'It shall not be baked as chametz, their portion' to teach us that even the *Kohanim's* portion cannot be baked as *chametz* because it must be eaten as *matzah*?

The Gemora answers: The verse teaches us that the *minchah* must be eaten as *matzah* and not as scalded bread (*first scalding the dough in boiling water and afterwards baking it*).

The Gemora asks: How [it could be retorted] is one to imagine such scalded bread? If it is *matzah*, well, then it is *matzah*; and if it is not *matzah*, the All Merciful, surely, has said *matzos!* — No; it may indeed be assumed to be *matzah*; but the object of the exposition of the Scriptural text was that it is essential [that regarding a *minchah*, scalded bread cannot be used]. In respect of what practical issue, then, has it been stated that scalded bread may be regarded as *matzah*? — [The statement was made] to indicate that a man may perform with it his *mitzvah* on Pesach. Though he made it first into scalded bread, it is nevertheless designated the 'bread of affliction', since he subsequently baked it in an oven. Consequently, a man may perform with it his *mitzvah* on Pesach. (39b4 – 40a2)



The Mishnah states: One who performed a *chalitzah* with the *yevamah* is like any of the other brothers in regards to inheritance. If their father is alive, the father inherits the property (*of the deceased brother*).

One who performs a *yibum* with the *yevamah* merits the deceased brother's entire estate. Rabbi Yehuda said: Even if he performs a *yibum*, the property belongs to their father if he is alive. (40a2)

The Mishnah had stated: One who performed a *chalitzah* with the *yevamah* is like any of the other brothers in regards to inheritance.

The Gemora asks: isn't this obvious; why would we think differently?

The Gemora answers: It might have been presumed that *chalitzah* takes the place of *yibum* and he receives, therefore, all the estate, hence it was taught [that he does not]. If so, why was it stated that he is regarded as one of the other brothers when it should have been stated, he is to be regarded only as one of the brothers! — In truth [this is the purpose of our Mishnah]: One might have thought that he should be penalized and lose his share of the inheritance because his *chalitzah* accomplished that she is now prohibited to all the brothers; the Mishnah teaches us that this is not so, and he inherits with all the brothers. (40a3)

The Mishnah had stated: If, however, the father was living, [the estate belongs to him], for a Master said that a father takes precedence over all his lineal descendants. (40a3)

The Mishnah had stated: He who marries his deceased brother's wife etc. What is the reason? — The All Merciful said: Shall succeed in the name of his brother, and behold he has succeeded. (40a3)

The Mishnah had stated: Rabbi Yehudah said etc. Said Ulla: The halachah is in agreement with Rabbi Yehudah, and Rabbi Yitzchak Nafcha likewise said: The halachah is in agreement with Rabbi Yehudah.

Ulla, furthermore, others say, Rabbi Yitzchak Nafcha said: What is Rabbi Yehudah's reason? — Because it is written in Scripture: And it shall be, that the firstborn that she bears, [he is] like the firstborn; as the firstborn has nothing while his father is alive, so has this one also nothing while his father is alive. If [one were to suggest that] as the firstborn receives a double portion after his father's death so shall this one also receive a double portion after his father's death, [it might be retorted]: Is it written: Shall succeed in the name of his father? It is written, surely: Shall succeed in the name of his brother, not 'in the name of his father'. Might it be suggested that, where the father is not alive to receive the inheritance, the law of *yibum* should be carried out, but where the father is alive [and the *yavam*] does not receive the inheritance the law of *yibum* shall not be carried out? — Has the All Merciful in any way made the *yibum* dependent on the inheritance? The *yavam* must perform *yibum* in any case, and if any inheritance is available he receives it; if not, he does not receive it.

The Scriptural expert, Rabbi Chanina, once sat before Rabbi Yannai, and as he sat there he stated: The halachah is in agreement with Rabbi Yehudah. The other called out to him: Go out, read Biblical verses outside; the halachah is not in agreement with Rabbi Yehudah.

A teacher of Baraisos recited in the presence of Rav Nachman: The halachah is not in agreement with Rabbi Yehudah. The other said to him: In agreement with whom, then? In agreement with the Rabbis? This is surely obvious, [since in a dispute between] one individual and a majority the halachah is in agreement with the majority!

— ‘Shall I’, the first asked him, ‘reject it?’ ‘No’, the other replied, ‘you were taught [that] the halachah is [in agreement with Rabbi Yehudah] which, presenting to you a difficulty, you reversed; and in so far as you reversed it your wording is well justified. (40a4)

The Mishnah states: One who performs *chalitzah* with his *yevamah* is prohibited from marrying her relatives, and she is not allowed to marry his relatives.

He is prohibited from marrying her mother, and her mother’s mother, and her father’s mother, and her daughter, and her daughter’s daughter, and her son’s daughter, and her sister while she herself is still alive. The brothers are permitted to marry all of these women.

The *chalutzah* is forbidden to his (the one who performed the *chalitzah*) father, and his father’s father, and his son, and his son’s son, and his brother, and his brother’s son.

He is permitted to marry the relative of his *chalutzah*’s co-wife, but he is prohibited from marrying the co-wife of his *chalutzah*’s relative. (40a4 – 40b1)

The Gemora inquires: Did the Rabbis decree that secondary *arayos* are prohibited by a *chalutzah* (in the same manner that they decreed regarding a regular wife)? [Perhaps there was no necessity for the decree since even the *chalutzah*’s primary relatives are only Rabbinically forbidden.] Did the Rabbis forbid marriage with secondary *arayos*, as a preventive measure, only in respect of a relative who is Biblically forbidden, but in respect of a *chalutzah* the Rabbis did not forbid secondary *arayos* as a preventive measure, or is there perhaps no difference? — Come and hear: He is forbidden to marry her mother and her mother’s mother, but ‘her mother’s mother’s mother’ is not mentioned! [No.] It is possible that the reason why this relative was omitted is because it was desired to state in the final clause: The other brothers, however, are permitted, and, were ‘her

mother’s mother’s mother’ also mentioned it might have been presumed that the brothers are permitted [to marry] her mother’s mother’s mother only but not her mother’s mother or her mother. - Then let ‘her mother’s mother’s mother’ be mentioned, and let it also be stated: The brothers are permitted to marry all of them! — This is a difficulty.

Come and hear: She is forbidden to marry his father and his father’s father. ‘His father’s father,’ at any rate, was mentioned. Isn’t this due to the *yavam* who participated in the *chalitzah*, through whom she is the daughter-in-law of his son? — No; this is due to the deceased through whom she is the daughter-in-law of his son.

Come and hear: And his son’s son. Isn’t this due to the *yavam* who participated in the *chalitzah* through whom she is the wife of his father’s father? — No; it is due to the deceased through whom she is his father’s father’s brother’s wife. - But, surely, Ameimar permitted the marriage of one’s father’s father’s brother’s wife! — Ameimar interprets that to refer to the son of the grandfather. If so, [his son, and son’s son] are the same as his brother and his brother’s son! — Both his paternal brother and his maternal brother were specified.

Come and hear what Rabbi Chiya taught: Four [categories of relatives are forbidden] Biblically and four Rabbinically. His father and his son, his brother and his brother’s son are Biblically forbidden; his father’s father and his mother’s father, his son’s son and his daughter’s son are forbidden Rabbinically. ‘His father’s father’, at any rate, is mentioned here. Isn’t this due to the *yavam* who participated in the *chalitzah* through whom she is his son’s daughter-in-law? — No; it is due to the deceased whose son’s daughter-in-law she is.

Come and hear: ‘His mother’s father’. Isn’t this due to the *yavam* who participated in the *chalitzah* through whom she is his daughter’s daughter-in-law? — No; it is due to

the deceased through whom she is his daughter's daughter-in-law.

Come and hear: 'And his son's son'. Isn't this due to the yavam who participated in the chalitzah through whom she is his father's father's wife? — No; it is due to the deceased through whom she is his father's father's brother's wife. - But, surely, Ameimar permitted the marriage of one's father's father's brother's wife! — Ameimar explains that to be due to the yavam who participated in the chalitzah, but is of the opinion that secondary arayos were forbidden as a preventive measure even in respect of a chalutzah.

Come and hear: 'And the son of his daughter'. Isn't this due to the yavam who participated in the chalitzah through whom she is his mother's father's wife? — No; it is due to the deceased through whom she is his mother's father's brother's wife. - But, surely, no prohibition as a preventive measure was made in respect of the secondary arayos? Consequently, it must be due to the yavam who participated in the chalitzah, and thus it may be inferred that secondary arayos were forbidden as a preventive measure even in the case of a chalutzah. This proves it. (40b1 – 40b4)

The Mishnah had stated: A man is permitted etc. Rav Tuvi bar Kisna said in the name of Shmuel: Where a man cohabited with the co-wife of his chalutzah the child [born from such a union] is a mamzer. What is the reason? — Because she remains under her original prohibition.

Rav Yosef said: We also have learned [to the same effect]: A man is permitted to marry the relative of the co-wife of his chalutzah. Now, if you grant that the co-wife is excluded one can well understand why the man is permitted to marry her sister. If it be maintained, however, that the co-wife has the same status as the chalutzah, why [should her sister] be permitted [to him]?

May it be suggested that this furnishes an objection against Rabbi Yochanan who stated: Neither he nor the other brothers are subject to kares either for [the betrothal of] a chalutzah or for [the betrothal of] her co-wife? — Rabbi Yochanan can answer you: Do you understand it! Is the sister of a chalitzah Biblically forbidden? Surely Rish Lakish said: Here it was taught by Rebbe that the prohibition to marry the sister of a divorced wife is Biblical and that that of the sister of a chalutzah is Rabbinical!

Why is there a difference [in the law] between the one and the other? — The Rabbis have enacted a preventive measure in respect of her who accompanies the chalitzah to court (to receive the chalitzah); in the case, however, of she who does not accompany her to court, the Rabbis enacted no preventive measure. (40b4 – 41a1)

## INSIGHTS TO THE DAF

### ELDERLY YAVAM AND YEVAMAH AND OTHER CASES

What is the halacha if the *yavam* and the *yevamah* do not want to perform a *chalitzah*? If she is agreeing to remain an *agunah* her entire life, do we compel the *yavam* to perform a *chalitzah*?

Chacham Tzvi (1) writes regarding a woman who is a *katlanis*, she was married a few times previously and her husband's died; she will not be able to get married anyway. He rules that since she is not going to get married anyway, we do not force the *yavam* to perform a *chalitzah*. The only reason that we normally force him to perform a *chalitzah* is for the benefit of the *yevamah* that she should be able to get married; if it will make no difference to her, we do not get involved.

The Chasam Sofer (E" H II, 85) rules in the same manner regarding an elderly *yavam* and *yevamah* that do not



intend on marrying anyone else anyway; we do not compel the *yavam* to perform a *chalitzah*.

Reb Yitzchak Elchonon (E"Y 17) explains that *chalitzah* is not a *mitzvah* by itself; rather, it is an action that allows her to get married. If there is no need to permit her to marry anyone else, Beis Din does not get involved, and a *chalitzah* is not necessary.

The Oneg Yom Tov (176) disagrees and maintains that *chalitzah* is a *mitzvah*, and even if both parties are not interested, we force the *yavam* to perform a *chalitzah*.

The Maharshal in Yam shel Shlomo (4:18) concludes: We compel the *yevamah* to partake in the *chalitzah* because *chalitzah* is a Biblical obligation, and we would even use bodily force to ensure that this *mitzvah* will be fulfilled. Even if she wants a *yibum*, and the *yavam* wants to do a *chalitzah*, we force her to accept the *chalitzah*.

#### DAILY MASHAL

Matzah symbolizes the geulah. The Torah tells us (Shmos perek 12) that we ate matzah because the Mitzrim rushed us out of Mitzrayim. This is what the Sefer HaChinuch (mitzvah 11) writes that matzah reminds us of the nissim, that we left Mitzrayim so quickly. It is interesting, Rav Ginsburg notes, that matzah is baked quickly, taking the dough out of the oven before it develops fully. In this way matzah symbolizes our swift geulah. Hashem took us out of Mitzrayim early, before the full, original four hundred years of slavery were completed. The aramaic term for matzah is, 'lachma anya'. The gematriya of 'lachma anya' equals two hundred ten. So on the one hand this symbolizes the slavery; we were in Mitzrayim for 210 years. But at the same time, one reason we left Mitzrayim early is because the slavery was so intense and the oppression was so severe. Therefore, the same gematriya of 'lachma anya' equaling two hundred ten, is also a remez to the geulah. Another example of matzah

symbolizing the geulah is that Chazal (Pesachim 115b) interpret "lechem oni" to be "bread of speaking" - the bread over which we say many things. We are supposed to tell the story of Yetzias Mitzrayim over the matzah, in front of the matzah. We see that Chazal already interpreted the posuk to not only refer to matzah as a symbol of slavery, but also as a symbol of the geulah. This is the reason that during most of magid we keep the matzos.