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Yevamos Daf 52

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The Mishnah had stated: How so? If a yavam performed *ma’amar*, etc.

The Gemora asks: Is this an illustration of a *get* after a *get*?

Rav Yehudah replied: It is this that was meant: The illustration of a *get* after a *get* and of a *ma’amar* after another *ma’amar* is as stated in the braisa: Regarding one yavam and one yevamah, etc. How is the release effected? If a yavam performed *ma’amar* with his yevamah and later gave her a *get*, she requires *chalitzah* from him. (51b3 – 52a1)

The Mishnah had stated: If he married by *ma’amar* and cohabited with her, then this is according to the *mitzvah*.

The Gemora states that this seemingly would provide support for Rav Huna’s ruling. Rav Huna said: The *mitzvah* of *yibum* should be performed in the following manner: The *yavam* should perform a *kiddushin* and then he should cohabit with her.

The Gemora deflects the proof: Perhaps the Mishnah means that performing *ma’amar* and then cohabitating is also in accordance with the *mitzvah* (but not necessarily the preferable method).

The Gemora asks: Isn’t it obvious that that he is performing the *mitzvah*; why was it necessary for the Mishnah to state it?

The Gemora answers: Since we previously learned that one who perform *ma’amar* with his yevamah, the *zikhah*-attachment that had previously existed leaves him, and an

erusin and *nisuin* attachment takes effect (he may not cohabit with her now without her consent), it might enter your mind to say that one who cohabits with a yevamah after a *ma’amar* does not fulfill the *mitzvah* of *yibum*; the Mishnah teaches us that this method is in accordance with the *mitzvah*. (52a1)

Rav Huna had said: The *mitzvah* of *yibum* should be performed in the following manner: The *yavam* should perform a *kiddushin* and then he should cohabit with her. If he cohabited and then he performed *ma’amar*, he has nevertheless acquired her.

The Gemora asks: If he cohabited and then he performed *ma’amar*, he has nevertheless acquired her. Isn’t that obvious; he certainly acquired her through cohabitation?

The Gemora revises Rav Huna’s ruling: If he cohabited with her without performing *ma’amar*, he has nevertheless acquired her.

The Gemora asks: We have learned in a Baraisa that one who cohabits with his brother’s wife without performing *ma’amar* first incurs lashes [this would indicate that he does not acquire her as his wife].

The Gemora answers: The lashes incurred are Rabbinical lashes. [The Rabbis decreed that the *yavam* should perform *ma’amar* prior to cohabiting with her; otherwise, it would be acting immorally.]

The Gemora proves that the lashes incurred are Rabbinical, for Rav gave lashes to one who betroths a woman with cohabitation (without giving money or a document

beforehand), and one who would betroth a woman in the marketplace, and one who would betroth a woman without a prior arrangement to marry her, and one who would nullify a *get*, and one who would pronounce that the *get* is being written without his consent, and one who is disrespectful towards a messenger from the Rabbis, and one who has been under an excommunication for thirty days and does not come to Beis Din to have it nullified, and a groom who lives in his father-in-law's house.

The Gemora asks: Is this only if the groom lives in his father-in-law's house, and not if he was merely passing by? But there was an incident where one passed by his father-in-law's house, and Rav Sheishes gave him lashes for it!?

The Gemora answers: That groom (by Rav Sheishes) was previously suspected (of acting promiscuously) with his mother-in-law.

The Nehardeans said: Rav only gave lashes in the case of the man who betroths a woman with cohabitation, and without a prior arrangement to marry her. Others said that he would administer lashes even if there was an arrangement to marry beforehand (*betrothing through cohabitation is regarded as licentious behavior*). (52a1 – 52a2)

The Gemora cites a Baraisa: How is *ma'amar* performed? The *yavam* gives the *yevamah* money or objects worth money. And what is the text when it is written in a document?

The Gemora interjects: 'And what is the text when it is written in a document'? Is this not as it was stated elsewhere: If he writes on a piece of paper or earthenware, even if it is not worth a *perutah*, "Your daughter is betrothed to me," or "Your daughter is to me a wife," (*and he gives it to her father*) the *kiddushin* is valid.

Abaye explains the Baraisa's question: What is the text of the *kesuvah* to the *yevamah*? (*The text of the ma'amar would be the same as a regular betrothal, i.e. he would write on a*

paper or on a piece of earthenware, Behold, you are betrothed to me.) The Baraisa answers: The *yavam* writes: I so-and-so the son of so-and-so have accepted so-and-so, my *yevamah*, upon myself, to feed and support her as fitting, except that her *kesuvah* obligation rests upon the property of the first husband.

The Gemora adds: But if there are no assets available from the deceased, the Rabbis established that there should be a *kesuvah* from the *yavam* as well, in order that she should not be so easy to divorce. (52a2 – 52a3)

Abaye asked Rabbah: If a *yavam* gave a *get* to his *yevamah* and said, "You are divorced from me, but you cannot marry anyone else," what is the halachah? (*Can she still be taken for yibum by the yavam or any of his brothers?*) Do we say that a *get* which would be effective to a married woman will also be effective to a *yevamah*, but one that will not be effective to a married woman will also not be effective to a *yevamah*; or perhaps, people might confuse this case with a legitimate *get*, and therefore the *get* should be considered effective?

Rabbah answered: We are concerned that people might confuse this case with a legitimate *get*, and therefore the *get* is considered effective.

Rabbah bar Chanan asked: If the *yavam* would give her a blank piece of paper and say to her, "you are divorced," will you say that he disqualified her?

Abaye answers: There is a valid distinction between the two cases. In the case when he gives her a blank piece of paper, he does not disqualify her from the *Kehunah* whereas here, he would disqualify her from the *Kehunah*. And this is as it was taught in a Baraisa: It is written [Vayikra 21:7]: *Nor shall the Kohanim take a woman divorced from her husband*. This teaches us that even if she was divorced from her husband alone (*if the husband inserted in the letter of divorce a clause forbidding her to marry anyone else*), she becomes disqualified from marrying a *Kohen*. And this is what is meant

when it is stated: The scent of the divorce can disqualify a woman from marrying a *Kohen*. (52a3)

Rami bar Chama said: They had stated: If one told a scribe, "Write a *get* for my *arusah*, and when I perform *nisuin* with her, I will divorce her," this *get* is valid because he has the ability to use the *get* now to divorce her. However, if he would tell the scribe, "Write a *get* for this woman (*who is presently not his arusah*), and when I perform *nisuin* with her, I will divorce her," this *get* is not valid because he does not have the ability to use the *get* now to divorce her (*since he isn't married to her now*).

Rami bar Chama inquired: What would the halachah be if a *yavam* would tell the scribe, "Write a *get* for my *yevamah*, and when I perform *yibum* with her, I will divorce her"? Do we say that since she is attached to him with a *zikhah*, the *get* is valid, or perhaps, we would say that the *get* is not valid since he did not perform *ma'amar* with her yet?

The Gemora states: Let the inquiry stand (*without a resolution*). (52a4 – 52b1)

Rav Chanania inquired: If a *yavam* gave a *get* to the *yevamah*, but he wrote that the *get* should be effective for the *zikhah*-attachment, but not for the *ma'amar*, or for the *ma'amar*, but not for the *zikhah*, what is the halachah? Do we say that the *ma'amar* adds to the *zikhah*-attachment, and the *yavam* is attempting to divorce half of his wife, and thus the *get* will not be valid? Or perhaps, the *ma'amar* and the *zikhah*-attachment are independent of each other, and the *get* will be valid?

The Gemora answers: Let this inquiry be resolved from Rava's statement; Rava said: If one gave a *get* for the *ma'amar*, but not for the *zikhah*-attachment, the *get* is considered valid.

The Gemora states: This halachah was obvious to Rava, but not to Rabbi Chanania.

The Gemora concludes: Let the inquiry stand (*without a resolution*). (52b1 – 52b2)

The Mishnah had stated: If he submitted to *chalitzah* and then either married by *ma'amar*, or he gave a bill of divorce, or he cohabited with her, there is no validity to anything that follows *chalitzah*.

Rav Yehudah said in the name of Rav: This follows Rabbi Akiva's opinion, who maintains that *kiddushin* cannot take effect upon a woman who is subject to a negative prohibition (*once chalitzah has been performed, she becomes forbidden on account of the prohibition of 'once he did not build, he shall never again build'*). However, according to the Chachamim, there is validity to something that follows *chalitzah*.

The Gemora asks: But how can you ascribe it to Rabbi Akiva? In the first section, surely, it was taught: If he gave a bill of divorce, and he married by *ma'amar* -- she requires a bill of divorce and *chalitzah*. [**If he first gave a bill of divorce** -- to his *yevamah*, **and afterwards he married** -- her, **by ma'amar, she requires a bill of divorce** -- to cancel the *ma'amar* marriage, **and chalitzah** -- to dissolve her *yibum* tie, and he may not wed her as his *yevamah* after the *ma'amar*, because of the bill of divorce which he had given her initially.] Now, if this Mishnah represented the view of Rabbi Akiva, would a *ma'amar* to her be valid after a letter of divorce had already been given to her? Surely it was taught in a Baraisa: Rabbi Akiva said: From where is it known that if a man gives a letter of divorce to his *yevamah*, she is thereby forbidden to him forever? It is because it was stated: Her former husband, who divorced her, may not take her again to be his wife, i.e., immediately after sending her away (even if she did not marry another)! [If there is a negative commandment against marrying her, R' Akiva, according to his own opinion, maintains that *kiddushin* cannot be effected!?!]

Rav Ashi replied: A divorce given by a *yavam* is only Rabbinically valid, and the Scriptural text (forbidding a

marriage after such a divorce) is a mere Scriptural allusion (supporting the Rabbinical decree). (52b2)

The Gemora cites a Baraisa supporting this interpretation of the Mishnah. Rebbe said: The words of the Mishnah follow Rabbi Akiva's opinion, who maintains that *kiddushin* cannot take effect upon a woman who is subject to a negative prohibition. However, according to the Chachamim, there is validity to something that follows *chalitzah*. And I say: *Kiddushin* will take effect on a *chalutzah* when he betroths her for the sake of regular *kiddushin*; however, if he betroths her for the sake of *yibum*, there will not be any validity to the *yibum* after *chalitzah*. (52b2 – 52b3)

The Gemora cites another Baraisa: If one performed a *chalitzah* with his *yevamah* and then betrothed her; Rebbe said: If he betrothed her for *kiddushin*, she would require a *get* from him. If he betrothed her for the sake of *yibum*, she would not require a *get*. The Chachamim say: In either case, she will require a *get*.

Rav Yosef explains Rebbe's opinion: It would be similar to a case where one would hoe in the property of a convert (*that died, and his property is ownerless*), but he thinks it is his own property; the halachah is that he does not acquire the property. (*The yavam mistakenly thought that he can perform yibum after chalitzah; he does not acquire her as a wife.*)

Abaye asked: The two cases cannot be compared; here, at least, he had intention to acquire her, but by the hoeing, he wasn't thinking of acquiring the property at all (*since he thought it was his*).

Rather, explained Abaye, here we are dealing with a case where the (former) yavam said to the (former) yevamah, "You should be betrothed to me by the ma'amar of the yevamin." Rebbe is of the opinion that the ma'amar can only be imposed upon the *zakah*-attachment, but here the *chalitzah* had already previously removed the *zakah*-attachment. The Rabbis, however, are of the opinion that

the one is independent of the other. Originally (before the *chalitzah*), if the yavam had said to her, "You should be betrothed to me by the ma'amar of the yevamin," wouldn't his acquisition have been valid (without the support of the *zakah*-attachment); consequently, it is now also valid (although the *zakah* attachment has been dissolved).

Rava explains differently: If the (former) yavam said to the (former) yevamah, "You should be betrothed to me by the ma'amar of the yevamin," there would be no disagreement that it is valid; but here, we are dealing with a case where the yavam said, "You should be betrothed to me by the *zakah*-attachment of the yevamin." Rebbe is of the opinion that a *zakah*-attachment does exist, but the *chalitzah* had previously dissolved it. The Rabbis, however, hold that no *zakah*-attachment exists. Originally (before the *chalitzah*), if the yavam had said to her, "You should be betrothed to me by the *zakah*-attachment of the yevamin," wouldn't his acquisition have been valid (although the *zakah*-attachment does not add to its validity); consequently, it is now also valid (although the *zakah* attachment has been dissolved).

Rav Sheravia said: Had a proper *chalitzah* (from a yavam to a yevamah, where the possibility of performing a *yibum* was applicable) been performed, all would agree that if he said to her, "You should be betrothed to me by the ma'amar of the yevamin," there is no validity in his betrothal. Here, however, the dispute relates to a deficient *chalitzah*. One master (Rebbe) holds that a deficient *chalitzah* provides release (to the yevamah), and the other master (the Rabbis) maintain that a deficient *chalitzah* does not provide a release.

Rav Ashi said: All agree that a deficient *chalitzah* does not provide a release; here, however, the dispute revolves around the question whether a stipulation may affect the validity of *chalitzah*. The masters hold that a stipulation does affect the validity of a *chalitzah*, and the other master (Rebbe) maintains that no condition may affect the validity of a *chalitzah* (for it is not in the yavam's power to make the *chalitzah* contingent on his stipulation).

Ravina said: All agree that a condition does affect a chalitzah. Here, however, the dispute is dependent on the question whether a stipulation (which was not doubled; i.e., he said, "If you will give me 200 zuz, the chalitzah shall be effective," but he did not add, "If you do not give me the money, it will not be effective") may affect the validity of chalitzah. One master (Rebbe) holds that a doubled stipulation is required (and otherwise, it will not be effective), and the other master (the Rabbis) maintain that a doubled stipulation is not required. (52b3 – 53a2)

DAILY MASHAL

Eliyahu will herald in the Messianic era, at which time he will answer our questions and resolve our uncertainties. Another expression employed by the Talmud in cases of doubt is "Teiku." Literally this term means "let the matter stand, and remain unresolved." However, there is a tradition (quoted by Tosfos Yom Tov at the end of Mishnayos Ediyos) that Teiku is an acronym for "Tishbi yetaretz Kushiyo Va'abayos" – Eliyahu Hanavi (referred to as Tishbi in Melachim 1:17:1) will resolve difficulties and questions." Asking and answering questions is a major component of the Seder. Some questions at the Seder have clear and immediate answers. For instance, the answer to the questions included in the Mah Nishtana is basically "Avadim Hayinu." Some questions have no easy answer but the Passover story gives us hope and faith that one day there will be a satisfying answer. In Chasidic thought, the introductory question of Mah Nishtana Halayla Haze is understood as, "how do we make sense of the nights of Jewish history, the tragedies, the disappointments, and the uncertainties that we experience as individuals and as a nation?" The story of the Exodus serves as a guide for us. At the time, the Egyptian slavery was incomprehensibly brutal. Yet in retrospect, we can understand the importance of the slavery experience in shaping us into a nation. Slavery taught us to be sensitive and responsive to those who are vulnerable. Yetzias Mitzrayim is also the cornerstone of our relationship with and allegiance to Hashem. Eliyahu's role of connecting

difficult questions with their eventual answers, also teaches us that we must appreciate questions and answers as independent values and not necessarily dependent on one another. Sometimes, at the Seder and in life, we ask questions but we don't receive satisfactory answers. Sometimes in life we appreciate the answer to a question that we never even asked. Eliyahu Hanavi reminds us that ultimately every question has an answer. But in the meantime, let us appreciate both questions and answers as independent values.