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Yevamos Daf 56

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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

Extent of acquisition?

The Mishnah said that no matter how the yavam had intercourse with the yevamah, he acquires her.

What does it mean, “He acquires her”? The Gemora cites a dispute between Rav and Shmuel about the extent of his acquisition when not having normative relations. Rav says that it is a full acquisition, while Shmuel says it is only for the purpose of things explicitly listed in the verse, i.e., to inherit his late brother’s estate, and release her from further yibum, but not to inherit her, break her vows, or bury her or feed her terumah, if he is a Kohen.

The Gemora says that if she came to yibum from a full marriage (i.e., nisuin), she may still eat terumah, since she already ate as her late husband’s wife. Their dispute is when she was only married with eirusin – betrothal, which does not allow her to eat terumah. Rav says that since the verse includes any type of marital relations, all are fully effective, while Shmuel says that these non-normative methods are only included to make the yavam equivalent to the late husband, but not to acquire more than he did.

The Gemora says that Shmuel’s position is consistent with his reasoning, for Rav Nachman said in the name of Shmuel: Wherever the husband has fed terumah previously to his wife (i.e., after nisuin), the yavam also entitles her to eat, but wherever the husband has not fed terumah previously to his wife (i.e., after eirusin only), the yavam also does not entitle her to eat.

The Gemora challenges Shmuel from a Baraisa which says that if a non-Kohen woman was betrothed to a Kohen, who became a deaf-mute before consummation, she may not eat terumah. If he then died, and his deaf-mute brother performed yibum, she may eat terumah, making the yavam more powerful than her late husband. This is consistent with Rav, who says that a yevamah may eat once the yavam acquires her in any manner, but according to Shmuel, why does the yavam’s yibum, which is deficient, due to his lack of full intellect, let her eat?

Shmuel amends the Baraisa as follows: One who became deaf before he had time to marry her, she may not eat [terumah]; if, however, he married her and then became deaf she may eat it; if he died and she became subject to a deaf yavam, she may eat it. Then what is meant by ‘in this respect’? — While if the husband had been deaf before, she would not have been entitled to eat, if the yavam had been deaf before she may eat.

Some say that both Rav and Shmuel agree that she doesn’t eat terumah if she entered yibum from a betrothal, since she never ate before. Their dispute is when the first marriage was consummated, and Rav says that she eats after any yibum, since she already ate, but Shmuel maintains that she may not eat, because the All Merciful has included cohabitation in error, [giving it the same force] as cohabitation in presumption, only in respect of the things that were enumerated in the section, but not in all other respects.

The Gemora asks: How can we reconcile Shmuel's position with that which Rav Nachman said in the name of Shmuel: Wherever the husband has fed terumah previously to his wife (i.e., after nisuin), the yavam also entitles her to eat, but wherever the husband has not fed terumah previously to his wife (i.e., after eirusin only), the yavam also does not entitle her to eat.?

The Gemora answers that Shmuel meant as follows: Every cohabitation whereby a husband entitles her to eat also entitles her to eat if performed by the yavam, and every cohabitation whereby the husband does not entitle her to eat, does not entitle her to eat if performed by the yavam.

An objection was raised: If the daughter of an Israelite capable of hearing was betrothed to a Kohen capable of hearing, who became deaf before he had time to marry her, she may not eat [terumah]. If he died and she became subject to a deaf yavam she may eat; and in this respect the power of the yavam is superior to that of the husband. Now, according to Rav, this might well be explained as was explained above; according to Shmuel, however, a difficulty arises! — This is indeed a difficulty. (56a1 – 56a4)

Marriage to a deaf-mute Kohen

The Gemora cites a Baraisa which says that if a non-Kohen woman was betrothed to a Kohen, who became a deaf-mute before consummation, she may not eat terumah. If she had a son from him, she may eat terumah. If the son died, Rabbi Nassan says she still may eat, but the Sages say she may not.

What is the reason of Rabbi Nassan? Rabbah says: Because she already ate.

¹ Who in such a case only agree with Rabbi Nassan that the woman may eat terumah.

Abaye challenges this: What now? Would the daughter of an Israelite who was married to a Kohen who subsequently died be entitled to eat [terumah] because she was eating it before? But [the fact is that] as soon as [her husband] died his sanctity is withdrawn from her; so here also as soon as [the son] died his sanctity is withdrawn from her! — Rather, Rav Yosef says that Rabbi Nassan says that marriage to a deaf-mute Kohen entitles her to eat terumah (and therefore she may still eat after her son dies), and that no prohibition is to be made in respect of the marriage of a deaf Kohen as a preventive measure against the betrothal of a deaf Kohen.

Abaye challenges this: why do I need “if a son was born to her” (as Rabbi Nassan should also allow her to eat without a son)? - The Gemora answers that it is because of the Rabbis.¹ – so let Rabbi Nassan dispute [te Rabbis] in the first clause? - He does, but he waited until the Rabbis concluded their cases, and then disputed their position.

The Gemora asks: If so, the statement should have read, ‘If the son died she may not eat; Rabbi Nassan said: She may eat’?² - The Gemora leaves this an unresolved question. (56a4 – 56a5)

The Mishnah said that the effectiveness of all types of intercourse similarly applies to all other forbidden relationships.

Rav Amram says that Rav Sheishes told them the following, illuminating and supporting it from this Mishnah: An Israelite's wife who was violated, though she is permitted to her husband, is disqualified from the Kehunah; and so it was taught by our Tanna: Similarly, if a man had intercourse with any of the forbidden relatives enumerated in the Torah, or with any of those who are

² Why doesn't the Baraisa then complete both cases, saying that she doesn't eat if the son dies, and then cite Rabbi Nassan, as that would make his position apply to everything cited earlier?

ineligible to marry him; now, what is the purport of similarly? Does it not mean, whether in error or in presumption, whether under compulsion or of his own free will? And yet it was stated, he has thereby rendered her ineligible. — No; similarly might refer to the initial cohabitation. To the ‘initial cohabitation’ with whom? If it be suggested, ‘With one of the forbidden relatives’, does this then imply [it might be retorted] that the case of the forbidden relatives is derived from that of the sister-in-law? On the contrary, the case of the sister-in-law was derived from the forbidden relatives, since the original prohibition of the initial cohabitation was written in connection with the forbidden relatives! — Rather, similarly refers to unnatural intercourse with forbidden relatives. On the contrary; the original prohibition of the various forms of intercourse with a woman was written in connection with the forbidden relatives! — Rather, similarly refers to unnatural intercourse with those [cohabitation with whom is] subject to the penalty of a negative commandment. (56a5 – 56b2)

Rabbah says that if a Kohen’s wife is violated, he is liable for lashes if he remains married to her, under the prohibition of marrying a *zonah* – *harlot*.

The Gemora asks: Only on account of *zonah* but not because of *tumah*!? The Gemora explains that he clearly is liable under the prohibition of marrying a *temai’ah* – *impure woman*, as for a Kohen a violated wife is equivalent to an adulterous one, but Rabbah is teaching that he is also liable under the prohibition of a *zonah*.

Rabbi Zeira challenges this from the source for prohibiting such a wife. The verse about a *sotah* refers to the possibility that she is prohibited by saying “and she wasn’t forced,” implying that if she was violated, she is permitted. The extra word, “she”, implies that some women are prohibited even when forced, i.e., a Kohen’s wife. Since we only learn it by implication, it should be only the severity of a positive commandment, and not

liable for lashes. Rabbah answers that all women who had extra marital relations were assumed to be in the category of a *zonah*. When the verse about *sotah* taught that a violated woman is not, it limited it to a non-Kohen’s wife, leaving the Kohen’s wife in the original status of *zonah*.

Others say: Rabbah stated: If the wife of a Kohen had been violated, her husband incurs lashes on account of *tumah* – ‘defilement’. Only on account of ‘defilement’ but not for [relationship with] a *zonah* – *harlot*!? Thus it is obvious that [when the woman acted] under compulsion she is not to be regarded as a *zonah*. Rabbi Zeira raised an objection: And she was not forced, she is forbidden; if, however, she was forced she is permitted. But there is another woman who is forbidden even though she was forced. And who is that? The wife of a Kohen. Now, a negative commandment that is derived from a positive one has only the force of a positive commandment!? — Rabbah replied: All were included in [the prohibition to live with her] after that she is defiled. When, therefore, Scripture specified in the case of the wife of an Israelite that only when she was not forced she is forbidden, but if she was forced she is permitted, it may be inferred that the wife of a Kohen retains her forbidden status. (56b2 – 56b4)

The Mishnah states: If a widow (*daughter of a Yisroel*) becomes married to a *Kohen Gadol*, or a divorcee or *chalutzah* becomes married to a regular *Kohen*; from the time of *erusin*, they are not allowed to eat *terumah*. Rabbi Eliezer and Rabbi Shimon allow her to eat *terumah* (*she has not become disqualified yet; after cohabitation, she would become disqualified*).

If these women become widowed or divorced; if they were divorced or widowed from a state of *nisuin*, they are disqualified from *Kehunah* (*since they engaged in a forbidden cohabitation*). However, if they were divorced or widowed from a state of *erusin*, they are still qualified

for *Kehunah*. (Even Rabbi Meir, the Tanna Kamma of our Mishna would agree to this. The daughter of a Kohen cannot eat *terumah* while she is an *arusah* to a Kohen because she is awaiting a forbidden cohabitation; however, after she is divorced or widowed from the Kohen, she returns to her qualified state.) (56b4)

The Gemora cites a Baraisa: Rabbi Meir said: I can support my ruling through a *kal vachomer*. If a permissible *kiddushin* (a daughter of a Yisroel to a Yisroel) does not entitle her to eat *terumah*, certainly a forbidden *kiddushin* (a widow to a Kohen Gadol, or a divorcee or *chalutzah* to a regular Kohen) should not allow her to eat *terumah*.

Rabbi Eliezer and Rabbi Shimon raise their objection to this *kal vachomer*. A permissible *kiddushin* does not entitle her to eat *terumah* because a Yisroel never has the ability to entitle his wife to eat *terumah*; however, a forbidden *kiddushin* can entitle her to eat *terumah* because he has the ability elsewhere to entitle her to eat *terumah* (if the Kohen marries a permitted woman). (56b4 – 56b5)

INSIGHTS TO THE DAF

PARTIAL COHABITATION

The Gemora Kiddushin (10a) inquires: When does a man inquire his wife; with the beginning of cohabitation or at the conclusion? The Gemora comments that this inquiry would affect the following case: If a man began cohabiting with a woman in order to marry her, and prior to the conclusion of cohabitation, she stretched out her hand and accepted money for *kiddushin* from another man. Is she married to the man who began the cohabitation or is she married to the fellow who gave her the money? Another case would be dependent on this inquiry. Can a Kohen Gadol effect *kiddushin* with a virgin through cohabitation? If he only acquires her at the conclusion of cohabitation, he would be prohibited from concluding. A

Kohen Gadol is obligated to marry a virgin; this woman has lost her virginity (at the onset of cohabitation) prior to becoming his wife. The Gemora concludes: One who cohabits has in mind the conclusion of cohabitation, and therefore he does not acquire her until the conclusion.

The Ritva writes: A *yavam* acquires his *yevamah* at the beginning of cohabitation. This is because we have learned that a *yavam* does not require intent to acquire his wife; even if he would proclaim that he has no intention of acquiring her until the conclusion, he would acquire her at the onset of cohabitation.

The Ritva proves this: The Gemora above (20a) states: If a woman falls for *yibum* before a Kohen Gadol, she submits to *chalitzah* and not *yibum*. The Gemora infers that this halacha is applicable whether she falls for *yibum* from a state of *erusin* or *nisuin*. The Gemora asks: It is understandable why he can't perform a *yibum* if she falls for *yibum* from a state of *nisuin*; there is a positive commandment to marry a virgin besides for the negative prohibition against marrying a widow. The positive commandment of *yibum* cannot override both commandments. However, if she falls for *yibum* from a state of *erusin*, there is merely a negative prohibition against marrying a widow; why don't we say that the positive commandment of *yibum* should override this prohibition and we should permit the Kohen Gadol to perform a *yibum*? (The Gemora answers that there is a Rabbinical decree prohibiting this.)

The Ritva writes: If a *yavam* acquires the *yevamah* only at the conclusion of cohabitation, what is the Gemora's question? As soon as he begins cohabitation, she has lost her virginity, and she is not considered his wife yet. How would he be permitted to conclude cohabiting; this would be transgressing two prohibitions, and the *mitzvah* of *yibum* cannot override two commandments? It is evident that the *yavam* acquires her at the beginning of cohabitation.

The Avnei Miluim asks the following question: Rav and Shmuel argue concerning an unintentional cohabitation of a *yavam*; regarding which matters does he acquire the *yevamah*? The halachah is in accordance to the second version in our Gemora, which states the following: Others say: There is no argument in a case where she fell for *yibum* from a state of *erusin*; everyone would agree that she may not eat *terumah* since she was not able to eat *terumah* when she was married to the first husband. Accordingly, what did the Ritva gain by stating that a *yavam* acquires his *yevamah* by the beginning of cohabitation since we do not require his intention; in a case where she falls for *yibum* from a state of *erusin*, an inferior cohabitation does not effect acquisition to render her a *nesuah*; she is only regarded as an *arusah*, and that is why she cannot eat *terumah*. If so, the Ritva's original question returns; how can the *Kohen Gadol* perform a *yibum* on his *yevamah* from a state of *erusin*? As soon as he begins cohabitation, she loses her virginity, and he does not acquire her yet; how can he conclude cohabiting when he is transgressing two commandments?

DAILY MASHAL

Understanding who is Asking

A Rav often has to understand the background of the questioner to ascertain what is behind his query. It is only in this way that he can provide an appropriate answer.

Daf Digest relates: Once, while a group of students were gathered in the home of Rav Chaim Ozer Grodzensky, zt"l, they were intruded upon by a simple Jew. The workingman trudged into the house and blurted out his question. "Rebbi, I am a Kohen. Is it permitted for me to take a divorcée?"

The Gadol responded without hesitation, "Of course you may!"

The students were shocked, since it is well known that a Kohen may not marry a divorcée. As soon as the man pushed his way out of the house, one of the talmidim had the nerve to question Rav Grodzensky's psak.

The student asked, "Rebbi, don't we learn from the Mishnah in Yevamos that a Kohen may not take a divorcée for a wife? This is a clear verse in the Torah!"

Rav Grodzensky smiled and said, "What do you think just happened here? Is Yankel the wagon driver really asking me whether he should banish his own wife and marry a divorcée? Consider the circumstance, and then you understand the answer. Yankel has heard many times that a Kohen may not 'take' a divorcée, and in his simplicity he assumed that this might include a wagon driver taking such a woman for a ride! Naturally, I explained that this is permitted!"