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Yevamos Daf 106

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**Tzvi Gershon Ben Yoel (Harvey Felsen) o”h**

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 had cited an incident: A *yevamah* came before Rebbe. Rebbe said to Abdan: Go out and have her examined if she is an adult. After the latter went out, Rabbi Yishmael the son of Rabbi Yosi said to Rebbe: Thus said my father, Rabbi Yosi: It is written “a man” regarding *chalitzah*, but as to a woman, even if she is only a minor, her *chalitzah* is valid. Rebbe called out to Amdan: Come back; you don’t have to arrange for any examination; the elder sage has already given his decision on the subject.]

Rabbi Ami said that from Rabbi Yosi we can conclude that a minor *yevamah* can perform *chalitzah* once she has minimal understanding, while Rava says that she may only do it once she is at the age when her vows merit investigation. The Gemora rules that she may only perform *chalitzah* when she produces two (pubic) hairs (for then, she is regarded as physically mature). (105b3)

#### ***How many are required for chalitzah?***

The Mishna stated that *chalitzah* performed with less than three people is invalid, but Rabbi Shimon and Rabbi Yochanan Hasandlar say that it is valid.

Rav Yosef bar Minyomi cites Rav Nachman saying that the ruling is not in accordance with that pair.

The Gemora asks: Why do we need this statement, seeing that Rav Nachman already said that *chalitzah* requires three people?

The Gemora answers that we may have thought that three is optimal, but it is valid with two as well, so he therefore ruled against their opinion. If he only ruled against them, we may have thought that optimally, five people are necessary, and he therefore said that only three are required. (105b3 – 105b4)

The Mishna had cited a story of a *chalitzah* performed privately in a prison, and when Rabbi Akiva was asked about it, he ruled that it was valid.

The Gemora asks: How we know about it if it was done privately, and Rav Yehudah answers in the name of Shmuel that witnesses outside saw it occur.

The Gemora asks: Was the *chalitzah* performed in prison, or was Rabbi Akiva’s ruling in prison?

Rav Yehudah said in the name of Rav that both the *chalitzah* and the ruling were in prison. (105b4)

#### **Mistaken *chalitzah***

The Rabbis taught in a *braisa*: If one mistakenly performed *chalitzah*, it is nonetheless valid.

The *Gemora* asks: What is the case of the “mistaken” *chalitzah*?

Rish Lakish said: It is referring to a case where they told the *yavam* to perform *chalitzah*, and with that, he will be marrying her (*when in fact, chalitzah accomplishes the exact opposite*).

Rabbi Yochanan challenged Rish Lakish: I learned in another *braisa*: Whether the *yavam* had the intention of performing the commandment of *chalitzah* and she had no such intention, or whether she had such intention and he did not, *chalitzah* is invalid. In order for the *chalitzah* to be valid, they both are required to have such intention. How can you say that the *chalitzah* is valid?

Rather, Rabbi Yochanan explains the *braisa* differently: It is referring to a case where they told the *yavam* to perform *chalitzah* on the condition that the *yevamah* will give him two hundred *zuz*. The halacha is that the *chalitzah* is valid even if she does not end up giving him the money. (*This is because chalitzah cannot be accomplished through an agent, and any action that cannot be executed by an agent cannot be made conditional to the fulfillment of a stipulation; this is derived from a Scriptural source.*)

The *Gemora* cites a *braisa* supporting Rabbi Yochanan’s explanation: If one mistakenly performed *chalitzah*, it is nonetheless valid. If they told the *yavam* to perform *chalitzah* on the condition that the *yevamah* will give him two hundred *zuz*, the halachah is that the *chalitzah* is valid even if she does not end up giving him the money. There was once an incident where a *yevamah* fell to *yibum* to a *yavam* who was not fit for her (*because of an age discrepancy*). They told the *yavam* to perform *chalitzah* on the condition that the

*yevamah* will give him two hundred *zuz*. The incident came before Rabbi Chiya, and he ruled that the *chalitzah* is valid. (106a1)

The *Gemora* records a related incident: A *yavam* once came before Rabbi Chiya bar Abba with his *yevamah* for the purpose of performing *yibum*. Rabbi Chiya bar Abba told her: Stand up (*and perform yibum with him*)! Her mother responded: Her sitting is her standing (*her abstention from the marriage is her salvation*). Rabbi Chiya said to the mother: Do you know this man? Yes, she answered him: It is her money that he saw and he would like to acquire it (*and subsequently divorce her*). He asked the *yevamah*: Do you not like him then? No, she replied. Rabbi Chiya said to the *yavam*: Perform *chalitzah* with her, and with that, you will be marrying her. After he performed the *chalitzah*, Rabbi Chiya said to him: Now she is ineligible to marry you; submit again to a proper *chalitzah* that she may be permitted to marry a stranger. (106a1 – 106a2)

The *Gemora* records another related incident: A daughter of Rav Pappa's father-in-law fell to *yibum* to a *yavam* who was not fit for her. When the *yavam* came before Abaye, Abaye said to him: Perform *chalitzah* with her, and with that, you will be marrying her. Rav Pappa asked Abaye: Does the master not accept the ruling of Rabbi Yochanan (*that chalitzah without intention is not valid*)? Abaye asked: What then could I tell him? Rav Pappa replied: Tell the *yavam* to submit to *chalitzah* on the condition that she will give him two hundred *zuz*. After he performed the *chalitzah*, Abaye said to her: Go and give him the stipulated sum. Rav Pappa replied: She was merely fooling him. Did we not learn in the following *braisa*: If a man escaping from prison beheld a ferry boat and said to the ferryman: Take a *dinar* and lead me across, the ferryman can only claim his ordinary fare. It is evident from here that the



one can say to the other: I was merely fooling you; so here also, the *yevamah* may say: I was merely fooling you. Abaye asked Rav Pappa: Where is your father? In town, Rav Pappa replied. Where is your mother? In town, Rav Pappa again replied. Abaye set his eyes upon them and they died. (106a2 – 106a3)

### **Forced chalitzah and get**

The Rabbis taught in a *braisa*: A mistaken *chalitzah* is valid; a mistaken *get* is invalid. A forced *chalitzah* is invalid; a forced *get* is valid.

The *Gemora* clarifies the *braisa*: What is the case when the *braisa* states that it was done by force? If the man says that he is willing, a forced *chalitzah* should also be valid? If the man says that he is not willing, a forced *get* should be invalid as well?

The *Gemora* explains: A mistaken *chalitzah* is always valid; a mistaken *get* is always invalid. Regarding a forced *chalitzah* and a forced *get*, sometimes it is valid and sometimes it is not. If the man says that he is willing, the *chalitzah* and the *get* will be valid. If he did not say that he was willing, the *chalitzah* and the *get* are not valid.

The *Gemora* cites a *braisa* supporting this explanation: The Torah states regarding a sacrifice: *He shall bring it*. This teaches us that we force him to fulfill his obligation. Perhaps, you might think that he brings the korban even against his will. The Torah writes: *Of his will*. This teaches us that we compel him to bring the sacrifice until he says that he is willing to bring it. And the same is true regarding a letter of divorce. We compel him to give the *get* until he says that he is willing to give it. (106a3 – 106a4)

Rava reported in the name of Rav Sechorah in the name of Rav Huna: Chalitzah may be performed even though (the parties) are unknown (to the judges). A declaration of refusal (*mi'un*) may be arranged even though the parties (the minor girl) are unknown. For this reason (since chalitzah or *mi'un* may be arranged even for unknown persons whose declarations might be false), no certificate of chalitzah may be written (for a woman who applied for such a certificate to enable her to marry again) unless the parties are known (and since the document is necessary for her to remarry again, no harm will come if the chalitzah is performed without the judges recognizing them), and no certificate of *mi'un* may be written unless the parties are known, for fear of an erring Beis Din. [This is applicable in a case where the witnesses will write a document and omit the fact that they recognized the parties. Perhaps it can be given to the *yevamah*, for she cannot marry with it anyway. We do not allow it to be written, for we are concerned with the following: A second Beis Din might be called upon to deal with the question of the remarriage of the parties and they might be unaware of the law that chalitzah and *mi'un* may be arranged even for unknown persons, and who, in their reliance on the written certificate, might permit the woman to marry again; overlooking the fact that the usual declaration that the parties were known to the writers was lacking from the certificate.]

Rava in his own name, however, stated: Chalitzah must not be performed unless the parties are known, nor may a declaration of refusal be heard unless the parties are known. For this reason, it is permissible to write a certificate of chalitzah even though the parties are not known, and it is also permissible to write a certificate of *mi'un* even though the parties are not known, and we are not afraid of an erring Beis Din. (106a4 – 106a5)



## Mishna

The *Mishna* states: This is the *chalitzah* process: The *yavam* and his *yevamah* come to Beis Din, and they give him advice suitable for him, as it is written [Devarim 25:8]: *Then the elders of his city shall call him, and speak to him. And she says: My husband's brother refuses to establish a name for his brother in Israel; he will not perform yibum with me. And he says: I do not want to take her.* And they would recite these verses in the Holy Tongue (*Hebrew*).

It is written: *Then the yavam shall go up to him in the presence of the elders, and remove his shoe from off his foot, and spit before him.* It must be spittle that is visible to the judges.

*And she shall answer and say: So shall it be done to the man that does not build up his brother's house.* Up until this verse, they would dictate. And when Rabbi Hurkenas dictated it under the elm in the village of Eitam, and completed the entire section, they adopted the completing of the entire section.

It is written: *And his name shall be called in Israel, "The house of the one that had his shoe removed."* It is a *mitzvah* for the judges to say, but it is not a *mitzvah* for the pupils. Rabbi Yehudah says: It is a *mitzvah* for all who are standing there to say: *"The one that had his shoe removed."* (106b1)

## Correct order

Rav Yehudah says: The following is the correct procedure for *chalitzah*: She recites the verses and then he recites the verses. She removes his shoe, spits and recites again.

The *Gemora* asks: What is he teaching us? This is precisely what the *Mishna* said!?

The *Gemora* answers that Rav Yehudah is teaching us that the *chalitzah* should be performed in this manner, but that it is valid even if the order was reversed.

The *Gemora* cites a *braisa* which supports this: Whether drawing off the shoe preceded the spitting or whether spitting preceded the drawing off, the action performed is valid. (106b2)

Abaye ruled: The man (i.e., the judge) who dictates from the *chalitzah* document (word by word) shall not read for the *yevamah* "He is not" separately, and "willing to take me in *yibum*" separately, since this would convey the meaning, "he is willing to take me in *yibum*"; but rather, "He is not willing to take me in *yibum*" (and she should recite it in one breath). Nor shall he dictate for the *yavam* "I do not" separately, and "want to marry her" separately; for this would convey the meaning, "I do want to marry her"; but rather, "I do not want to marry her" (and he should recite it in one breath).

Rava, however, stated: This is only an interruption of a sentence, and an interruption of a sentence is of no consequence.

Rav Ashi found Rav Kahana making a painful effort to dictate for a *yevamah*, "He is not willing to take me in *yibum*" (in one breath). Rav Ashi asked him: Doesn't the master accept the ruling of Rava? Rav Kahana replied: Rava admits (to Abaye) in the case of the phrase, "He is not willing to take me in *yibum*" (that it must be recited without a pause). [It is only in the formula of the *yavam*, where the phrase, "I do not want to marry her" is the complete recitation, and there are no words spoken

beforehand, it cannot consequently be misunderstood as being connected with any previous word; therefore, a pause does not matter. In the woman's formula, however, where the words "he does not" occur in the middle of a clause, a pause after it might imply the connection of the negative with the preceding words, so that the clause following it would assume the meaning of an affirmative statement.] (106b1)

### Chalitzah document

Abaye said: The person who writes a *chalitzah* document shall word it as follows: We dictated for her from "My husband's brother refuses" until "he will not perform yibum with me." We dictated for him from "not" until "to marry her." And we dictated for her from "So" until "the one that had his shoe removed." [The complete portion of the formula is omitted, since it is forbidden to write down more than three consecutive words of the Torah on a surface that is not scored. The words permitted to be written according to Abaye are the beginning and end of each of the verses.]

Mar Zutra would score lines on the paper and would write the full text.

Mar bar Idi challenged this ruling: But, surely, a section only of the Torah is not permitted to be written? The halachah, however, is in agreement with the ruling of Mar Zutra. (106b3)

Abaye stated: If, when she (the yevamah) spat, the wind carried the spittle away (before it reached the yavam), she has accomplished nothing. What is the reason? *And she shall spit before him* is required. If, therefore, he was tall and she was short, and the wind carried the spittle away, she has indeed accomplished the requirement of "before him." If, however, she was

tall and he was short, it is necessary that the spittle shall drop to the level of his face before it goes away.

Rava stated: If she ate garlic and then spat, or if she ate a clod of earth and then spat, she has accomplished nothing. What is the reason? *And she shall spit* of her own free will is required, which is not the case here.

Rava further stated: The judges must see the spittle issuing from the mouth of the yevamah, because it is written: *Before the eyes of the elders . . . and she shall spit.* (106b3 – 106b4)

The Mishna had stated: It is written: *And his name shall be called in Israel, "The house of the one that had his shoe removed."* It is a *mitzvah* for the judges to say, but it is not a *mitzvah* for the pupils. [Rabbi Yehudah says: It is a *mitzvah* for all who are standing there to say: "The one that had his shoe removed."]

It was taught in a braisa: Rabbi Yehudah stated: We were once sitting before Rabbi Tarfon when a yevamah came to perform chalitzah, and he said to us: All of you proclaim: *The one whose shoe was removed; the one whose shoe was removed; the one whose shoe was removed.* (106b4)

WE SHALL RETURN TO YOU,  
MITZVAS CHALITZAH