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Yevamos Daf 109

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Daf Notes is currently being dedicated to the neshamah of

**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

### Mishna

The Mishna states: If a man divorced his wife, and remarried her, she is permitted to the *yavam* (even though at the time his brother had divorced her, she was prohibited to the *yavam*, as his brother's divorced wife, nevertheless since at the time of his death she is his brother's wife who requires *yibum*, she is permitted to the *yavam*, for we do not say: the *yevamah* comes before the *yavam* for *yibum* on the basis of the first marriage, and from the time that this brother divorced her she is prohibited to the *yavam* as his brother's divorced wife; but we say: the death of the husband makes the *yevamah* require *yibum*; *Kehati*); but Rabbi Eliezer prohibits. So, too, if a man divorces an orphan (a minor given in marriage by her mother or brothers), and remarried her, she is permitted to the *yavam*; but Rabbi Eliezer prohibits. A minor who was given in marriage by her father and she was divorced is as an orphan during the father's lifetime. If the husband remarried her, all agree that she is prohibited to the *yavam* (since her divorce was fully effective by Torah law, since her father had given her in marriage, whereas her subsequent marriage was only valid by Rabbinic law, since she is a minor and she had already left her father's authority, and this marriage does not have the power to cancel the divorce. She therefore is prohibited to the *yavam* as his brother's divorced wife; *Kehati*). (108b4 – 109a1)

### Rabbi Eliezer's reasoning

Eifah said: What is Rabbi Eliezer's reason? It is because she was once prohibited to *yavam* (at the time his brother had divorced her); this prohibition lasts forever.

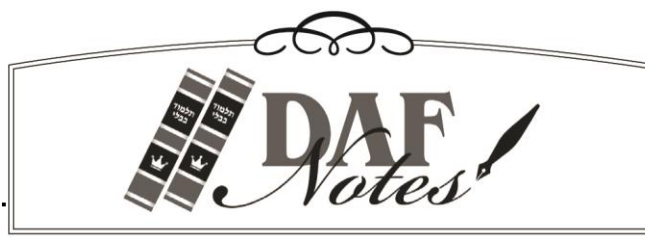
The *Gemora* asks: If so, she should not require *chalitzah* either? It has been taught in a *braisa* that Rabbi Eliezer maintains that she must perform *chalitzah*.

Rather, Eifah said: I do not know what Rabbi Eliezer's reason is.

Abaye said: Rabbi Eliezer is uncertain if it is the husband's death which causes the *yevamah* to fall for *yibum*, in which case, she would be permitted to the *yavam* since we are only concerned with the moment that he died. Or perhaps he holds that the original marriage causes the *yevamah* to fall for *yibum*, in which case, she would be prohibited to the *yavam* since she was once prohibited to him (at the time his brother had divorced her); this prohibition lasts forever. (This explains why the *yavam* may not marry her, but *chalitzah* is nevertheless required.)

Rava explains: Rabbi Eliezer maintains that it is the husband's death that causes the *yevamah* to fall to *yibum*. However, since people are familiar with her divorce and not with the remarriage, it would appear as if the *yavam* is performing a *yibum* with his brother's divorcee. (This explains why the *yavam* may not marry her, but *chalitzah* is nevertheless required.)

The *Gemora* asks: On the contrary! [Why should that be the case?] Since she is presently living with him, everyone should know that he remarried her.



The *Gemora* answers: Rabbi Eliezer can be referring to a case where he remarried her at night and he died the next morning; people would not realize that he remarried her.

Rav Ashi explains: The reason Rabbi Eliezer prohibits the *yibum* is because of a Rabbinic decree that people might confuse this case with an orphan during the father's lifetime (*a minor who was given in marriage by her father and she was divorced and later the husband remarried her, all agree that she is prohibited to the yavam*). Since everyone agrees in that case that she may not be taken in *yibum* (*since her divorce was fully effective by Torah law, since her father had given her in marriage, whereas her subsequent marriage was only valid by Rabbinic law, since she is a minor and she had already left her father's authority, and this marriage does not have the power to cancel the divorce; she therefore is prohibited to the yavam as his brother's divorced wife*), Rabbi Eliezer prohibited *yibum* in the other cases as well, as a precautionary measure.

The *Gemora* shows support for Rav Ashi's explanation from the *Mishna*. The last part of the *Mishna* stated: A minor who was given in marriage by her father and she was divorced is as an orphan during the father's lifetime. If the husband remarried her, all agree that she is prohibited to the *yavam*. The *Gemora* explains that this *halacha* is clear and evident and is taught here only in order to teach Rabbi Eliezer's reason in the cases of a man who divorced his wife and took her back, or who divorced an orphan and took her back, i.e., that she is prohibited to the *yavam* by the Rabbinic enactment of "an orphan during her father's lifetime." Indeed, it may be derived from this.

The *Gemora* cites a *braisa* supporting Rav Ashi's explanation. The *braisa* states: The *Chachamim* agree with Rabbi Eliezer in the case of a minor who was given in marriage by her father and was divorced, she is like an orphan in her father's lifetime; if he remarried her, she is

prohibited to the *yavam*, because her divorce was fully effective, and her remarriage is not. Which case are we referring to? To the case in which he divorced her when she was a minor and he remarried her when she was a minor; but if he divorced her when she was a minor and he took her back when she was an adult, or even if he remarried her when she was a minor and she became an adult when she was with him, and he died, she either performs *chalitzah* or is married by *yibum*. They said, in the name of Rabbi Eliezer, She performs *chalitzah* and she does not undergo *yibum*. (109a1 – 109a2)

Rava inquired of Rav Nachman: What is the *halachah* in regards to her co-wife (*according to Rabbi Eliezer, may the co-wife of a divorced minor whom the husband remarried when she became an adult be taken in yibum or not*)?

Rav Nachman replied: The prohibition against marrying the divorcee is only Rabbinic in nature; shall we then go so far as to enact a preventive measure against a preventive measure? Obviously not!

The *Gemora* challenges this from a *braisa*: In the name of Rabbi Elozar it was said: She and her co-wife must submit to *chalitzah* (before they are allowed to marry someone else). The *Gemora* interrupts: Can it enter your mind that both she and the co-wife require *chalitzah*? Rather, it must mean that either she or her co-wife submit to *chalitzah* (and then they may marry). [evidently, the co-wife (in this case) cannot be taken in *yibum*!]

The *Gemora* answers: Was it not necessary to correct the text of the *braisa*? [Yes, it was!] Correct it (then) as follows: She submits to *chalitzah*, and regarding the co-wife, either she submits to *chalitzah*, or she may be taken in *yibum*. (109a3)

#### **Mishna**

The *Mishna* states: If two brothers were married to two sisters that were minors and orphans, and the husband of

one of them died, the *yevamah* is exempt on account of being the wife's sister. The *halachah* is the same if they were two female deaf-mutes. If two brothers were married to two sisters, one an adult woman and one a minor, and the husband of the minor sister died childless, the minor is exempt on account of being the wife's sister. If the husband of the adult sister died (*he may not perform yibum because he is Rabbinically married to her sister; there is a Biblical zikah-attachment*), Rabbi Eliezer says: They teach the minor to refuse him. Rabban Gamliel says: If she refused, she refused (*this is referred to as mi'un, which would nullify her marriage retroactively*); and if not, she waits until she becomes an adult, and then the other is exempt on account of being the wife's sister. Rabbi Yehoshua says: Woe unto him because of his wife and woe unto him because of his brother's wife. He sends away his wife with a bill of divorce, and his brother's wife with *chalitzah*. (109a3 – 109a4)

#### Teach her to perform mi'un

The *Gemora* asks: is it in fact permitted to teach a minor to perform a *mi'un*? But Bar Kappara taught the following *braisa*: A man should always cling to three things and keep away from three things. A man should cling to the following three things: *Chalitzah*, the making of peace and the annulment of vows; and keep away from three things: From *mi'un*, from receiving deposits and from acting as a guarantor on a loan.

The *Gemora* answers: *Mi'un*, when it involves the fulfillment of a commandment (*to enable the yibum*) is different (*and therefore encouraged*). (109a4 – 109a5)

#### Cling to three things and keep away from three things

The *Gemora* had stated above: A man should always cling to three things and keep away from three things. A man should cling to the following three things: *Chalitzah*, the making of peace and the annulment of vows; and keep

away from three things: From *mi'un*, from receiving deposits and from acting as a guarantor on a loan.

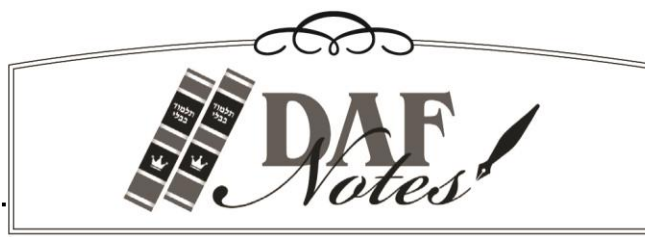
The *Gemora* explains: “He should cling to *chalitzah*” is following the opinion of Abba Shaul, who says: One who marries his *yevamah* on account of her beauty, or for the purpose of being married, or for any other reason besides the fulfillment of the *mitzvah* is regarded as though he has cohabited with an *ervah* (*his brother's wife*) and the offspring from such a union is close to being a *mamzer* (*he holds that the mitzvah of chalitzah takes precedence over the mitzvah of yibum since he might not have pure intentions*).

“He should cling to the making of peace” is derived from the verse [Tehillim 34:15]: *Seek peace and pursue it*. Rabbi Avahu expounds a *gezeirah shavah* indicating the reward that is in store for such a person in the World to Come. It is written here (regarding the making of peace between two people): *Seek peace and pursue it*, and it is written there (regarding bestowing kindness): *One who pursues charity and kindness will find life, charity and honor*.

“He should cling to the annulment of vows” is following the opinion of Rabbi Nassan, who says in the following *braisa*: One who vows is regarded as if he built a private altar (*in the times that they were forbidden*), and one who fulfills the vow is regarded as if he offered a sacrifice on the private altar (*fulfilling the vow instead of having it annulled will encourage him to vow in the future*).

“He should keep away from *mi'un*” because she might regret her refusal when she becomes an adult.

“He should keep away from receiving deposits” applies to deposits made by his fellow townsman who considers his house as his own house (*since he is a constant visitor at his house, he may remove the deposited object and claim it again from the custodian*).



“He should keep away from acting as a guarantor on a loan” is referring to the guarantors of Sheltzion (*where the debts were collected directly from the guarantors and not from the creditors*). For Rabbi Yitzchak said: Misfortune upon misfortune will come upon those who accept converts, and to the guarantors of Sheltzion and to one who rivets himself to the words of *halachah*.

The *Gemora* explains: “Misfortune upon misfortune will come upon those who accept converts” is following the opinion of Rabbi Chelbo who said: Converts are as harmful to the Jewish people as *sapachas* (a type of *tzara’as*).

“Misfortune upon misfortune will come upon the guarantors of Sheltzion” for they collect the debts directly from the guarantor without initially seeking payment from the borrower (*where now the guarantor is burdened with the task of seeking reimbursement from the borrower*).

“Misfortune upon misfortune will come upon one who rivets himself to the words of *halachah*” is following the opinion of Rabbi Yosi. For it was taught in a *braisa*: Rabbi Yosi said: One who says that he did not study Torah has no reward for studying Torah.

The *Gemora* asks: This is obvious; what is Rabbi Yosi teaching us?

Rather, Rabbi Yosi said: One who says that he has only studied torah (*but he does not fulfill the commandments*) is only rewarded for the studying of Torah.

The *Gemora* asks: This is also obvious; what is Rabbi Yosi teaching us?

Rather, Rabbi Yosi said: He is not even rewarded for studying Torah.

The *Gemora* asks: What is the reason for this?

Rav Pappa answers: It is written [Devarim 5:1]: *That you may learn them and observe to do them*. Whoever is engaged in observance is also regarded as engaged in Torah study (*and is thus rewarded*), but whoever is not engaged in observance is not regarded as engaged in torah study.

Alternatively, you can say like we said before: Rabbi Yosi said: One who says that he has only studied torah (*but he does not fulfill the commandments*) is only rewarded for the studying of Torah. This statement is necessary (and not obvious) for the following case: One who teaches others and they perform the *mitzvos*. One might think that the teacher should be rewarded for the performance of the *mitzvos* since it is on account of his teaching that the others are performing the *mitzvos*, Rabbi Yosi teaches us that this is not the case. He will only receive reward for the *mitzvos* if he himself performs them.

Alternatively, you can say that “Misfortune upon misfortune will come upon one who rivets himself to the words of *halachah*” is referring to a judge who compares one case to a similar one using his powers of logic, but he does not go to his teacher to confirm if his comparison is indeed correct. Rabbi Shmuel bar Nachmeini said in the name of Rabbi Yonasan: A judge should always imagine himself as if he had a sword lying between his thighs, and Gehinom was open beneath him; as it is written [Shir Hashirim 3: 7-8]: *Behold, it is the couch of Shlomo; sixty mighty men are about it, of the mighty men of Israel* etc. *Because of the dread in the night* is referring to the dread of Gehinom which is like the night. (109a5 – 109b3)

## INSIGHTS TO THE DAF

### ***Converts are like Sapachas***

Rabbi Chelbo said: Converts are as harmful to the Jewish people as *sapachas* (a type of *tzara’as*).



Rashi explains that this is because converts are not so meticulous in the performance of *mitzvos*, and those Jews who observe this behavior will become influenced by them.

Tosfos writes that each and every Jew is a guarantor for his fellow, and if converts do not perform *mitzvos* meticulously, they will be punished on account of them.

Tosfos rejects this explanation, for he proves that when the Jewish people accepted to be guarantors for each other, they did not accept to be guarantors for the converts as well.

Tosfos brings another explanation: They are harmful to the Jews, for it is impossible that someone will not bother them, and the punishment for this will be severe, for the Torah in twenty-four places warn the Jewish people not to bother the converts.

Tosfos brings another explanation: It is because of the converts that we are still in exile, for the *Gemora* says that *Klal Yisrael* are scattered all over the world much more so than other nations in order for there to be additional converts.

Rabbeinu Avraham the convert explains differently: It is because the converts **are** meticulous in their performance of the *mitzvos*. This shows the shortcomings of ordinary Jews.

#### DAILY MASHAL

##### ***Neder is like Building a Bamah***

The Sefas Emes and Noam Elimelech teach us that the word *neder*, vow is related to the word *dira*, dwelling. What does an oath have to do with a dwelling?

Reb Chaim from Divrei Chaim cites the Shem m'Shmuel who questions the entire essence of *nedarim*: How is it that a person has the power through his verbal declaration to create prohibitions (*in the case of nidrei bituei*) and create a status of *hekdesh* (*nidrei hekdesh*)? This power goes so far that the *Gemora* is uncertain whether the object of a *neder* is subject to the laws of *me'ilah* for violating a *neder*!

He suggests the following: In essence no new *kedushah* is being created. The concept of *neder* is a recognition that beyond what meets the eye, there is a level of *kedushah* already inherent in the reality around us - the *Shechinah* already dwells immanently in the world.

Sefas Emes notes that the first person in the Torah to take a *neder* is Yaakov Avinu. While the other Avos revealed Hashem's presence as similar to a mountain or a field, Chazal tell us that Yaakov revealed Hashem's presence as the *bayis*, a dwelling. Chazal tell us that taking a *neder* is like building a *bamah*, an altar used outside the *Mikdash*. Hashem metaphorically "dwells" in the Bais haMikdash – to create a sanctified space for him - outside those confines is a task fraught with challenge.