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Yevamos Daf 111

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

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The *Mishna* had stated: If someone was married to one minor and one deaf girl, doing *yibum* to one of them does not exempt the other.

The *Gemora* asks: How indeed do we rectify the status of the minor and deaf widows (*who the Mishna states do not exempt each other*)?

Rav Chisda said in the name of Rav: He should perform *yibum* to the deaf woman, give her a *get*, and the minor should wait until she is older at which point the *yavam* can do an effective *chalitzah*. (*The deaf woman is incapable of performing chalitzah. Were the yavam to marry the deaf widow and submit to chalitzah from the minor after she became an adult, the former would become forbidden to him by the chalitzah of her co-wife since the marriage of the deaf woman was not Biblically valid to sever the zikah-attachment with the minor.*)

Rav Chisda said: It is evident from Rav’s ruling that the deaf wife is partially acquired and partially unacquired, and concerning the minor, it is a matter of doubt if she is completely acquired (*and she is consequently regarded as the deceased brother’s proper wife*) or not acquired at all (*and consequently she is legally no more than a stranger*). (*That the legal condition of relationship between the minor and her husband is different from that between the deaf wife and her husband is fairly obvious. For if they were both regarded as partially acquired, or if the acquisition of either was regarded as doubtful, their legal position would in no way differ from that of two minors or two deaf women, while, in fact, it does. Rav Chisda does not agree with the Gemora before which said that we are uncertain if the husband would rather have had the minor as a wife, or the*

*deaf woman as a wife. From Rav’s ruling, however, it is inferred that it is the deaf wife who is partially acquired and that it is the minor concerning whom it is uncertain whether she is wholly acquired or not acquired at all.*) The reverse cannot be correct, for were it to be suggested that concerning a deaf wife it is a matter of doubt whether she is acquired or not acquired at all and that a minor is partially acquired and partially unacquired, the following question would arise: Why should the *yavam* marry the deaf widow and release her by a letter of divorce? Let her continue to live with him in any case. For if a deaf woman is acquired, then she is of course acquired, and if she is not acquired (*by the original husband*), then she is a mere stranger (*a woman who never fell for yibum; consequently, the chalitzah to the minor does not concern her at all*). (*Consequently it must be inferred that it is the deaf wife who is partially acquired, and that the doubt as to complete acquisition or none exists in the case of the minor.*)

And if you would counter: Why should the minor wait until she grows up and then performs *chalitzah*? Let her continue to live with him for the same reason, that if she is properly acquired, then she is of course acquired, and if she is not acquired, then she is a mere stranger. Rav Chisda answers this objection: If so, how would the deaf widow be released? (*She is incapable to perform chalitzah, owing to her inability to recite the prescribed verses; and marriage with her after a marriage had been contracted with the minor is forbidden. Hence the necessity for Rav’s ruling which provides a remedy for the minor as well as the deaf widow.*)

Rav Sheishes cites a *braisa* which supports Rav Chisda’s conclusion. (110b – 111a)

The *Mishna* (111b) states: If a man was married to two orphans who were minors and he died childless, and the *yavam* cohabited with the first one, and then cohabited with the second, or if his brother had cohabited with the second, he has not disqualified the first minor from remaining married to the *yavam* (as the acquisition of both is of equal validity or invalidity; if the *yavam's* *kinyan* of the first was valid, that of the other, coming as it does after it, is ineffective, while if his *kinyan* of the first was invalid, that of the other was equally invalid and both have the same status as strangers whom he never married; he may, therefore, retain the first who is in any case permitted to him, while the second must be released, since it is possible that the *kinyan* of a minor is valid and both were, therefore, the lawful wives of the deceased brother, who, as co-wives, cannot both be married by the *yavam*). And the same *halacha* would apply if he was married to two female deaf-mutes.

If he was married to a minor and a deaf-mute and the *yavam* cohabited with the minor, and then he cohabited with the deaf-mute, or if his brother cohabited with the deaf-mute, he has disqualified the minor from remaining married to the *yavam* (this is a preventive measure against the possibility of marrying the deaf woman first; there is another version of the *Mishna* which states that he has not disqualified the minor). If the *yavam* cohabited with the deaf-mute, and then he cohabited with the minor, or if his brother cohabited with the minor, he has disqualified the deaf-mute (since it is possible that the minor is fully acquired, while in the case of the other, it is certain that, as a deaf person, she is only partially acquired).

If one wife was mentally competent and the other was a deaf-mute and the *yavam* cohabited with the mentally competent woman and then with the deaf-mute woman, or his brother cohabited with the deaf-mute woman, he has not disqualified the mentally competent woman from remaining married to the *yavam* (since she is his full-fledged wife). If the *yavam* cohabited with the deaf-mute woman, and then with the mentally competent woman, or his brother cohabited with the mentally competent woman, he

has disqualified the deaf-mute woman from remaining married to the *yavam*.

If one wife was an adult woman and the other was a minor and the *yavam* cohabited with the adult woman, and then with the minor, or his brother cohabited with the minor, he has not disqualified the adult woman from remaining married to the *yavam*. If the *yavam* cohabited with the minor, and then with the adult woman, or his brother cohabited with the adult woman, he has disqualified the minor girl from remaining married to the *yavam*. Rabbi Elazar says: They teach the minor girl to perform *mi'un* (thus annulling her marriage retroactively, which would enable the *yavam* to remain married with the adult woman). (111a – 111b)

Rav Yehudah said in the name of Shmuel: The *halacha* is in accordance with Rabbi Elozar. And Rabbi Elozar (*the Amora*) also said that the *halacha* follows Rabbi Elozar.

The *Gemora* states: Both statements were required (that the *halacha* is according to Rabbi Elozar in this *Mishna* and like Rabbi Eliezer in the *Mishna* above (109a): 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 *zakah*-attachment), Rabbi Eliezer says: They teach the minor to refuse him). For if the statement had been made only regarding the first *Mishna*, it might have been assumed that in that case alone did Shmuel hold that the *halacha* is in agreement With Rabbi Eliezer, since the *yavam* there had not fulfilled the *mitzvah* of *yibum*, but in this case, where the *mitzvah* of *yibum* has been fulfilled, it might have been assumed that both must be released by a letter of divorce. And if the information had been given only regarding our *Mishna*, it might have been suggested that only in this case is the *halacha* in agreement with Rabbi Elozar because the adult *yevamah* has fallen to *yibum* with him, but not in the other case. Hence, both statements were required. (111b)

The *Mishna* states: If a *yavam* who is a minor cohabited with a *yevamah* who is a minor, they shall grow up together (*he cannot give her a get because a minor's get is invalid*). If he cohabited with an adult *yevamah*, she must wait until he is grown up.

If a *yevamah* said within thirty days, "I did not cohabit with him," they compel him to submit to *chalitzah* from her. If she claims this after living with him for thirty days, they request him to submit to *chalitzah* from her. But if he admits that he has not cohabited with her, even after twelve months, they compel him to submit to *chalitzah* from her.

If a woman during her husband's lifetime prohibits herself by vow from deriving benefit from her brother-in-law, and she then falls for *yibum* to him, they compel him to submit to *chalitzah* from her. If she uttered the vow after her husband's death, they request him to submit to *chalitzah* from her. And if the intent of her vow was to avoid *yibum*, then, even if the vow was made during her husband's lifetime, they request him to submit to *chalitzah* from her, but they may not compel him to do so. (111b)

The *Gemora* asks: Let us say that our *Mishna* is not following the viewpoint of Rabbi Meir, for he said: A minor boy or girl does not perform *chalitzah* or *yibum*.

The *Gemora* answers: The *Mishna* could be following his opinion, for he only prohibited a minor from perform *yibum* when the *yavam* or the *yevamah* was an adult (because we are concerned that the minor might be found to be a *saris* (*he cannot father a child due to defects in his body*); or a minor girl should not perform a *yibum* because we are concerned that she might be found to be an *aylonis*. If they would perform *yibum*, it would be tantamount to cohabiting with an *ervah*). However, when they are both minors, and therefore, there is no forbidden act, they are permitted to perform *yibum*.

The *Gemora* asks: But the *Mishna* clearly states that the minor cohabited with an adult *yevamah*?

The *Gemora* answers: It is evident that the *Mishna* is not following Rabbi Meir's opinion. (111b).