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Yevamos Daf 112

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

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The Gemora asks: Shouldn't the text: To establish a name for his brother be applied here? And this minor, surely, is not capable of it! — Abaye replied: Scripture said: Her yavam shall cohabit with her, whoever he may be.

Rava replied: Without this [text] also you could not say [that a minor may not contract yibum]. For is there any act [in connection with the yibum] which is at one time forbidden and after a time permitted? Surely, Rav Yehudah stated in the name of Rav: Any sister-in-law to whom the instruction: Her yavam shall cohabit with her, cannot be applied at the time when she becomes subject to yibum, is indeed like the wife of a brother who has children, and is consequently forbidden!

But then might it not be suggested that this same [principle is applicable here] also? — Scripture said: If brethren dwell together, even if [one brother is only] one day old. (111b6 – 11b7)

The Mishnah had stated: If a sister-in-law declared within thirty days etc. Who is it that taught that up to thirty days<sup>1</sup> a man may restrain himself?<sup>2</sup> – Rabbi Yochanan replied: It is Rabbi Meir; for it was taught: A complaint in respect of virginity [may be brought] during the first thirty days; these are the words of Rabbi Meir. Rabbi Yosi said: If [the woman] was secluded [with him, the complaint must be made] immediately; if she was not secluded [with him], it may be made even after many years.

Rabbah stated: It may even be said [to represent the opinion of] Rabbi Yosi for Rabbi Yosi spoke there only of one's

betroted with whom one is familiar, but [not of] the wife of one's brother towards whom one is rather reserved. (111b7 - 112a1)

The Gemora asks: Now, instead of being compelled to submit to chalitzah, let [the yavam] be compelled to take [his sister-in-law] in yibum! — Rav replied: [This is a case] where her letter of divorce was produced by her.

An objection was raised: If within thirty days a sister-in-law declared, 'He has not cohabited with me,' he is compelled to submit to chalitzah from her, whether he says 'I have cohabited' or whether he admits 'I have not cohabited'; if after thirty days, he may only be requested to submit to chalitzah from her. If she declares, 'He cohabited with me,' and he states, 'I did not cohabit', behold, he may release her by a letter of divorce. If he declares, 'I have cohabited' and she states, 'He has not cohabited with me,' it is necessary for him, even if he withdrew his statement and admitted, 'I have not cohabited', [to give her] a letter of divorce and [to submit to her] chalitzah! — Rabbi Ami replied: [The meaning is that] she requires chalitzah together with her letter of divorce. Rav Ashi replied: There, the letter of divorce [was given] in respect of his zikah attachment; while here, the letter of divorce [is required in respect] of his cohabitation.

[A couple] both of whom admitted [that there was no consummation of the yibum] once came before Rava. 'Arrange the chalitzah for her', said Rava to his disciples, 'and dismiss her case'. 'But, surely', said Rav Sheravya to Rava, 'it was taught: She requires both a letter of divorce and

<sup>1</sup> After his marriage.

<sup>2</sup> From cohabiting with her.

chalitzah!' 'If it was so taught', the other replied, 'well, then it was taught'.

Hon son of Rav Nachman enquired of Rav Nachman: What [is the law in respect of] her co-wife?<sup>3</sup> — The other replied: Shall the co-wife be forbidden [to marry again] because we compel or request [the yavam]!<sup>4</sup> (112a1 – 112a3)

The *Mishnah* had stated: 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.

The *Gemora* cites a *Mishnah* in Nedarim (90b): At first they said that the following three women must be divorced and they also receive their *kesuvah*: One (*a wife of a Kohen*) who declares, "I am defiled to you (*I have been violated forcibly by another man*)," or "Heaven is between me and you (*we have not engaged in marital relations*)," or "May I be kept away from the Jews (*a vow to have no cohabitation with any of them; such a vow is assumed to be the result of the pain that cohabitation may cause her, and therefore justified*)." This ruling was afterwards retracted in order that a wife might not cast eyes upon another man and act immorally towards her husband. Instead, it was ordained that one (*a wife of a Kohen*) who declares, "I am defiled to you (*I have been violated forcibly by another man*)" must bring evidence in support of her statement; in respect of a woman who tells her husband, "Heaven is between me and you (*we have not engaged in marital relations*)," peace is made between them by way of a request addressed to the husband that he should treat his wife properly; and if a woman vowed, "May

I be kept away from the Jews," the husband revokes his part of the vow and she may cohabit with him, though she remains removed from all other Jews.

The question was raised: If a woman vowed, "May I be kept away from the Jews," will she be prohibited to her *yavam* if her husband died childless? Is it assumed that it occurred to her that her husband may possibly die and that she might become subject to the *yavam* or not?

Rav replied: The *yavam* does not have the same status as the husband (*she is permitted to him without any need to revoke the vow*). Samuel said: The *yavam* has the same status as the husband. (*Her vow was consequently meant to include the yavam; and since her husband can only invalidate his own share, she remains forbidden to the yavam.*)

Abaye said: It is logical to rule in accordance to Rav, for we learned in our *Mishnah*: 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 Shmuel is correct that it occurs to a married woman that her husband might die childless and she will then fall for *yibum* to the brother-in-law, why do we compel him to perform *chalitzah*; we should only request of him (*since she obviously intended to prohibit yibum*)?

The *Gemora* answers: We are discussing a case of a woman who has children, so that such a remote possibility (*that her children and then her husband will die*) does not occur to her.

The *Gemora* asks: If she has no children what would be the law? We would request of him to submit to *chalitzah*. If so, a distinction should have been made in the very same case: This is applicable only where she has children, but where she has no children he may only be requested!. It is evident that

<sup>3</sup> Is the co-wife also forbidden to marry again before the other had performed the *chalitzah*?

<sup>4</sup> Obviously not. The sister-in-law in question may indeed have placed herself under a prohibition as a result of her own

declaration. The co-wife, however, since every *yibum* is usually consummated, remains free.



the *Mishnah* holds that there is no difference, and we compel him to perform *chalitzah* in both cases. This would support Rav's opinion that a married woman who makes a vow does not consider the possibility of *yibum*. (112a3 – 112b1)

#### WE SHALL RETURN TO YOU, BEIS SHAMMAI

The *Mishnah* states: A deaf-mute who married a mentally competent woman and a mentally competent man who married a deaf-mute woman, if he wants, he may divorce her, and if he wants, he may keep her. Just as he married her through head and hand motioning, so does he send her away by head and hand motioning.

If a mentally competent man married a mentally competent woman, and she became a deaf-mute, if he wants, he may divorce her, and if he wants, he may keep her. If she became an imbecile, he may not divorce her. If he became a deaf-mute, or he became imbecile, he may not divorce her forever.

Rabbi Yochanan ben Nuri said: Why can a woman who became a deaf-mute *get* divorced, and the man who became a deaf-mute may not effect a divorce? They said to him: The man who divorces is not like the woman who is divorced, for the woman goes out with her consent or without her consent, but the man sends away only with his consent. Rabbi Yochanan ben Gudgada testified about a female deaf-mute whose father gave her in marriage, that she goes out with a bill of divorce. They said to him: This one, too, is like her. (*The divorce is Biblically valid even though she is incompetent.*)

If there were two deaf-mute brothers who married either two competent sisters, or two deaf-mute sisters, or to two sisters, one was competent and one was a deaf-mute; and also if two deaf-mute sisters were married either to two competent brothers, two deaf-mute brothers, or to two brothers, one was competent and one was a deaf-mute, they are all exempt from *yibum* and *chalitzah* (*in the event*

*that one of the husband's die*). If the wives were not related, they can do *yibum*, and if they want to subsequently divorce them, they can.

If there were two brothers, one was deaf and the other was competent, and they married two competent sisters. If the deaf brother died, what should the other brother do regarding his *yibum* obligation? Nothing! The *yevamah* is exempt from *yibum* and *chalitzah* because she is the brother's wife's sister. If the competent brother died, what should the deaf brother do regarding his *yibum* obligation? He must divorce his wife, and the *yevamah* is forbidden to him forever.

If there were two competent brothers who were married to two sisters, one was deaf and the other was competent. If the husband of the deaf woman died, what should the other brother do regarding his *yibum* obligation? Nothing! The *yevamah* is exempt from *yibum* and *chalitzah* because she is the brother's wife's sister. If the husband of the competent woman died, what should the other brother do regarding his *yibum* obligation? He must divorce his wife and submit to *chalitzah* to the *yevamah*.

If there were two brothers, one was deaf and the other was competent, and they married two sisters, one was deaf and the other was competent, and the deaf-mute, husband of the deaf-mute woman died, what shall the competent man, husband of the competent woman do regarding his *yibum* obligation? Nothing! The *yevamah* is exempt from *yibum* and *chalitzah* because she is the brother's wife's sister. If the competent man, husband of the competent woman died, what shall the deaf-mute, husband of the deaf-mute woman do regarding his *yibum* obligation? He must divorce his wife, and the *yevamah* is forbidden to him forever.

If there were two brothers, one was deaf and the other was competent, and they married two unrelated competent women. If the deaf man died, what shall the competent man do regarding his *yibum* obligation? Either he submits to *chalitzah* or he marries by *yibum*. If the competent man died,

what shall the deaf man do regarding his *yibum* obligation? He marries her and he may never divorce her.

If there were two competent brothers who married two unrelated women, one was competent and the other was deaf. If the husband of the deaf woman died, what shall the husband of the competent woman do regarding his *yibum* obligation? He marries her and if he wants to send her away, he may do so. If the husband of the competent woman died, what shall the husband of the deaf woman do regarding his *yibum* obligation? Either he submits to *chalitzah* or he marries her by *yibum*.

If there were two brothers, one was deaf and the other was competent, and they married two unrelated women, one was deaf and the other was competent. If the deaf man, husband of the deaf woman died, what shall the competent man, husband of the competent woman do regarding his *yibum* obligation? He marries her, and if he wants to send her away, he may do so. If the competent man, husband of the competent woman died, what shall the deaf man, husband of the deaf woman do regarding his *yibum* obligation? He marries her, and he may never divorce her. (112b2 – 112b4)

Rami bar Chama asks: Why did the Rabbis institute a category of marriage for a deaf man and a deaf woman, but they did not do so for the imbecile man and the imbecile woman? For it was taught in a Baraisa: If an imbecile or a minor married, and then died, their wives are exempt from *chalitzah* and from *yibum*! — The *Gemora* answers: A deaf man and a deaf woman can endure a marriage and they may lead a happy matrimonial life, the Rabbis established a category of marriage for them. Regarding a person who is an imbecile, the marriage cannot endure, so the Rabbis did not institute a category of marriage for them. The *Gemora* compares such a marriage to the saying that a man cannot live together with a snake inside one basket.

The *Gemora* asks: But the Rabbis instituted a category of marriage for a minor girl even though she will eventually become an adult and have the ability to marry?

The *Gemora* responds: There, it is because the Rabbis did not want that people should act immorally with the minor girl. )

The *Gemora* asks: Why do the Rabbis allow a minor girl to perform *mi'un* and refuse her husband, but they did not give this allowance to a deaf woman; she may not reject her Rabbinical marriage?

The *Gemora* answers: If deaf woman would have the ability to reject their Rabbinical marriage, the men would not marry them in the first place. (112b4 – 113a1)

#### DAILY MASHAL

A local man had recently died, leaving his childless widow with the prospect of having to perform the rite of *chalitza*, removing the sandal of her brother-in-law, in order to be allowed to remarry. The brother-in-law, however, was not in full possession of his mental faculties, and was therefore disqualified from being able to do this. The woman had sought the advice of several Talmudic scholars to find a solution to her dilemma, but no one could figure out what to do. A flurry of legal correspondence went back and forth from one rabbinical authority to another in an attempt to find a permissible way for the woman to perform the *chalitza* with her deranged brother-in-law, but to no avail. The woman had already spent a large sum of money traveling from one expert to another.

One of the Talmudic scholars she visited was Rabbi Eliezer Moshe Pinsker, who, like the others, looked up every precedent in his legal tomes to find a way to free her from her current situation. He too could not find a way out for the poor woman, but when he saw her distress he took pity on her and said, "I can only offer you some advice: Go to Lubavitch, to the Tzemach Tzedek. First of all, he is very learned. Secondly, he is a very great *tzadik* (righteous person). I am sure he will be able to help you."

The widow traveled to Lubavitch. When the Tzemach Tzedek was informed of the reason for her visit he instructed his attendant to usher in all the other guests for their personal audiences with him first, so he could finish with them and turn all his attention to the unfortunate woman.

After speaking with the woman, the Rebbe requested that the brother-in-law be brought to him. He was found and led into the Tzemach Tzedek's room.

"What is your name?" began the Rebbe.

"What is your name?" retorted the brother-in-law.

"If you tell me your name, I will tell you mine," said the Rebbe.

"My name is Moshe," said the brother-in-law. The Rebbe then revealed his own name in turn.

"Tell me, Moshe," the Rebbe continued. "I have a question for you. Do you know where the marketplace is?"

"Of course!" Moshe answered, having spent enough time there to inflict considerable damage.

"In that case," said the Rebbe, "here is a ten-kopek coin. Please go to the marketplace and buy me two kopeks' worth of smoking tobacco, two kopeks' worth of cigarette paper, two kopeks' worth of matches, and two kopeks' worth of snuff. The remaining two kopeks please bring back to me. Nu, Moshe, do you think you can do this?"

"What do you think I am, a thief? Don't worry, I'll bring you back your change," Moshe replied.

Then, in his usual manner of making an exit, Moshe jumped up and hurled himself out the window. He ran to the marketplace, where he was already an unpopular figure, and purchased everything the Rebbe had requested. He then took the two kopeks change and ran back to the Tzemach Tzedek.

"Here is everything. Take your two kopeks back. I'm no thief!" he shouted before bounding away.

The Tzemach Tzedek then announced that the chalitza ceremony should take place the following Tuesday.

The woman's joy was boundless. After the chalitza was performed she distributed large sums of charity to the poor.

After the ceremony the woman approached the Rebbe with one final request. "Reb Eliezer Moshe Pinsker respectfully asked you to please write down your legal opinion on this

matter which would permit the chalitza. I promised to bring him your answer on my return home."

The woman assumed that the Rebbe would ask her to remain in Lubavitch for several days to properly prepare his written legal response, as had been the case when she visited other Rabbis. Much to her surprise, however, the Rebbe took out a small piece of paper and wrote on it, "It states in the Jerusalem Talmud...that a fool who is capable of making change is not considered a fool in the legal sense." This was the Rebbe's entire response. It must also be pointed out that the Rebbe did not so much as glance at the Responsa of those who had pondered the problem before him.

"How many times have I learned the Jerusalem Talmud?" Reb Eliezer Moshe Pinsker later cried out, clutching his head with both hands. "It is only when one learns Torah for its own sake that the eyes are enlightened!"

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