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Yevamos Daf 98

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Legally fatherless

A *Baraisa* had stated: If there were twin brothers whose conception was not in sanctity, but their birth was in sanctity (*their mother converted after conception, but before they were born*), they do not perform *chalitzah* or *yibum*, but they would be liable to the punishment of *kares* if they would cohabit with their brother’s wife.

Rava seeks to explain why these brothers are regarded as maternal brothers (*and are liable for the prohibition against cohabiting with a brother’s wife*), but they are not regarded as paternal brothers (*and that is why they are not subject for yibum and chalitzah*). Rava said: The Rabbis said that an Egyptian, who converts has no father. This is so, even if we know with a certainty the father’s identity. This can be proven from the *Baraisa* cited above regarding twin brothers, where one drop of semen (*from their father*) divided into two, and the *Baraisa* rules that they are not subject to the laws of *yibum* and *chalitzah*. It seems evident from here that the Torah voided their paternity, as it is written [Yechezkel 23:20]: *Their flesh (the Egyptians of old) is the flesh of donkeys and their issue is the issue of horses. (A Jewish child that converted is considered halachically fatherless.)* (97b4 – 98a1)

Two brothers born from a mother who converted afterwards

The *Gemora* (97b) had cited a dispute between Rav Acha bar Yaakov and Rav Sheishes regarding whether brothers, who converted are permitted to marry each other’s wives or not. The *Gemora* attempts to bring a proof to Rav Acha bar Yaakov that such a marriage is permitted from the following *Baraisa*: Rabbi Yosi cites a story of a convert named Niftayim, who married his maternal brother’s wife. When the Sages

were consulted about it, they said it is permitted, since there is no legal marriage for converts.

The *Gemora* asks: If a convert betroths a woman, is there no legal significance to it?

The *Gemora* amends the *Baraisa* to say that prohibitions, such as a brother’s wife, do not apply to a convert.

The *Gemora* assumes that Niftayim’s brother married after he converted (disproving Rav Sheishes’s prohibition in such a case).

The *Gemora* deflects it by saying that he married her when he was a non-Jew (before he converted; thus voiding the marriage).

The *Gemora* asks: What is the novelty of this ruling?

The *Gemora* answers: One might have thought that a preventive measure should be enacted in the case where the brother married her when he was a non-Jew, lest an erroneous conclusion be drawn in the case where he married her when he had already converted; therefore we were taught that no such measure was enacted. (98a1 – 98a2)

The *Gemora* attempts to bring another proof to Rav Acha bar Yaakov from the following *Baraisa*: Ben Yasyan related: When I traveled to the coastal towns, I came across a certain convert who had married the wife of his maternal brother. I said to him: My son, who permitted you to marry her? He replied: Behold, there is woman who converted and all her seven children married their brother’s wives. It was on this

bench that Rabbi Akiva sat when he made the following two statements: A convert may marry the wife of his maternal brother, and he also stated: It is written [Yonah 3:1]: *And the word of Hashem came unto Yonah the second time, saying.* The phrase, “the second time” indicates that only a second time did the *Shechinah* speak to him; a third time, the *Shechinah* did not speak to him.

The *Baraisa* stated here that a convert may marry the wife of his maternal brother. Does this not refer to a case where his brother married her while he was a convert (*and nevertheless such a marriage is permitted; this would support Rav Acha bar Yaakov’s opinion*)?

The *Gemora* answers: No! The *Baraisa* is referring to a case where he married her while he was still an idolater (*and the marriage was subsequently voided when he converted*).

The *Gemora* asks: What was the necessity to state such an obvious law?

The *Gemora* answers: It might have been assumed that a preventive measure should be enacted in the case of a brother's betrothal while he is still an idolater lest erroneous conclusions be drawn in the case where he is married her while he was already a convert, therefore, the *Baraisa* taught us that no such measure was enacted. (98a2)

believing the convert

The *Gemora* asks on the aforementioned *Baraisa*: How could Ben Yasyan accept the convert’s statement from Rabbi Akiva? Surely Rabbi Abba stated in the name of Rav Huna in the name of Rav: Wherever a scholar issues a halachic ruling (*that was previously unknown*) and such a point comes up for a practical decision, he is obeyed if he made the statement before the incident occurred, but if the statement was made only after the incident occurred, he is not obeyed.

The *Gemora* answers: If you wish I might say that the incident occurred after he made his statement.

Alternatively, I might say that it was because he brought proof from the woman and her seven children.

Alternatively, I might say that here it is different because he related another Rabbi Akiva’s other statement together with it (*just as he was believed regarding that statement, he was believed regarding the other one as well*). (98a2 – 98a3)

Hashem speaking to Yonah

Rabbi Akiva was cited in the *Baraisa* above as saying the following: It is written [Yonah 3:1]: *And the word of Hashem came unto Yonah the second time, saying.* The phrase, “the second time” indicates that only a second time did the *Shechinah* speak to him; a third time, the *Shechinah* did not speak to him.

The *Gemora* challenges this statement from a verse written elsewhere [Melachim II, 14:25]: *He restored the border of Israel from the entrance of Hamas until the sea of Aravah, according to the word of Hashem, the God of Israel, which He spoke by the hand of His servant Yonah the son of Amittai, the prophet, who was from Gas-cheifer. (It seems apparent that Hashem did in fact speak to Yonah a third time?)*

Ravina answers: Rabbi Akiva’s statement was specifically referring to the city of Nineveh. Hashem said that He will not speak to him any further regarding Nineveh, but He will speak to him concerning other matters.

Rav Nachman bar Yitzchak answers: He actually only spoke to Yonah twice, and the following is the explanation of the verse in Melachim: *According to the word of Hashem ... which He spoke by the hand of his servant, the prophet.* Just as His intention towards Nineveh was turned from evil to good, so was his intention towards Israel, in the days of Yeravam the son of Yoash, turned from evil to good. (98a3)

Two brothers born from a mother who converted afterwards

The *Gemora* attempts once again to bring a proof to Rav Acha bar Yaakov from the following *Baraisa*: A convert

whose conception was not in sanctity, but his birth was in sanctity has maternal relatives, but he does not have paternal relatives. If he married his maternal sister, he must separate from her, but if he married his paternal sister, he may remain with her. If he married a maternal sister of his father, he must separate from her, but if he married a paternal sister of his father, he may remain with her. If he married a maternal sister of his mother, he must separate from her, but if he married a paternal sister of his mother, he may remain with her. Rabbi Meir says: He must separate from her (*since there is a maternal element to this relationship*). The Chachamim say: He may remain with her (*it does not resemble a maternal sister*). He is permitted to marry his (*older*) brother's wife (*who was born not in sanctity; the Rabbis did not issue their decree regarding his brother's wife since she is not a blood-relative*) and his father's brother's wife and all other *arayos* are permitted to him. If an idolater marries a mother and a daughter and he subsequently converts, he may marry one of them and he must separate from the other. He should not marry them initially. If his wife dies, he is permitted to marry his mother-in-law. There are those that learn this *Baraisa* that if his wife dies, he is prohibited from marrying his mother-in-law.

The *Baraisa* stated here that a convert may marry his brother's wife. Does this not refer to a case where his brother married her while he was a convert (*and nevertheless such a marriage is permitted; this would support Rav Acha bar Yaakov's opinion*)?

The *Gemora* answers: No! The *Baraisa* is referring to a case where he married her while he was still an idolater (*and the marriage was subsequently voided when he converted*).

The *Gemora* asks: What was the necessity to state such an obvious law?

The *Gemora* answers: It might have been assumed that a preventive measure should be enacted in the case of a brother's betrothal while he is still an idolater lest erroneous conclusions be drawn in the case where he is married her

while he was already a convert, therefore, the *Baraisa* taught us that no such measure was enacted. (98a3 – 98b2)

MOTHER-IN-LAW

The *Baraisa* had stated: If his wife dies, he is permitted to marry his mother-in-law. There are those that learn this *Baraisa* that if his wife dies, he is prohibited from marrying his mother-in-law.

The *Gemora* explains that these two versions of the *Baraisa* correspond to the opinions of Rabbi Yishmael and Rabbi Akiva. The version that says that he is prohibited to marry his mother-in-law is following the opinion of Rabbi Yishmael, who states that a mother-in-law, after the death of his wife is subject to the same prohibition as a mother-in-law while the wife was alive, and therefore, in respect to a convert, a preventive measure was enacted. The version that says that he is permitted to marry his mother-in-law is following the opinion of Rabbi Akiva, who states that that a mother-in-law, after the death of his wife is subject to a weaker prohibition than a mother-in-law while the wife was alive, and in respect to a convert, the Rabbis did not decree that a preventive measure should be enacted. (98b2)

MISHNAH

The *Mishnah* states: If there were five women whose children became intermingled (*and it is not known which is the son of which mother, and each of them has another son who did not become intermingled*), and grew up, married and died childless, the halachah is as follows: Four submit to *chalitzah* from one of the widows (*since she is possibly his brother's wife*), and the remaining one performs *yibum* (*for she is permitted to him either way: if she is in reality his brother's wife, he is fulfilling the mitzvah of yibum, and if not, her yavam has submitted to chalitzah from her and she is permitted to marry anyone in the general population*). Then, he (*the one who had performed yibum*), and three of the others submit to *chalitzah* from another one of the widows, and the remaining one performs *yibum*. Thus, there are four *chalitzos* and one *yibum* to each one of the widows. (98b2 – 98b3)

GEMORA

The Gemora states: The *chalitzah* must be performed prior to the *yibum* because if one will perform *yibum* first, and he is not the actual *yavam*, he is violating the prohibition of a *yevamah* marrying someone from the general population without being released by the *yavam* with a *yibum* or *chalitzah*. (98b3)

The Gemora asks: What was the object of the statement: Then, he (*the one who had performed yibum*), and three of the others submit to *chalitzah* from another one of the widows? [Couldn't the same four men submit to *chalitzah* to the second widow just as they did to the first one, and the one who married the first widow, he can go ahead and marry the second widow as well?]

The Gemora answers: The Mishnah teaches it in this manner, so that it not be suggested that one brother himself should perform *yibum* with all of them. Rather, let every brother perform *yibum* with only one of the widows, for this way it is possible that his own *yevamah* might happen to fall to his lot. (98b3)

INTERMINGLED

The Gemora cites a *Baraisa* (a variation of the Mishnah's case): If some of them were brothers and some of them were not brothers, the ones who are brothers should submit to *chalitzah*, and the ones who are not brothers should perform *yibum*.

Rav Safra explains the *Baraisa*: If some of them (*from the mother's surviving sons, who were not involved in the confusion*) were paternal brothers (*to the ones that were intermingled and subsequently died*) and some were maternal brothers (*a paternal brother to one and a maternal brother to another*), the maternal brothers should submit to *chalitzah* (*thereby releasing the widows of their paternal brothers*). (*They may not perform yibum even after the widows had performed chalitzah with all the other brothers, since, should one of them happen to marry the widow of his*

maternal brother, he would thereby incur the penalty of kares.) And the paternal brothers may perform *yibum* with one or more of the widows after she submitted to *chalitzah* to all the brothers.

The *Baraisa* continues: If some of them were *Kohanim* (*and therefore, they may not perform yibum with any widow receiving chalitzah*) and some of them were not *Kohanim*, the *Kohanim* should submit to *chalitzah*, and the non-*Kohanim* may perform *yibum*.

The *Baraisa* continues: If some of them were *Kohanim* and some were maternal brothers, they should all submit to *chalitzah*, and they may not perform *yibum*. (98b3 – 98b4)

INSIGHTS TO THE DAF

Paternal relationships of non-Jewish fathers and sons

A *Baraisa* had stated: If there were twin brothers whose conception was not in sanctity, but their birth was in sanctity (*their mother converted after conception, but before they were born*), they do not perform *chalitzah* or *yibum*, but they would be liable to the punishment of *kares* if they would cohabit with their brother's wife.

Rava seeks to explain why these brothers are regarded as maternal brothers (*and are liable for the prohibition against cohabiting with a brother's wife*), but they are not regarded as paternal brothers (*and that is why they are not subject for yibum and chalitzah*). Rava said: The Rabbis said that an Egyptian, who converts has no father. This is so, even if we know with a certainty the father's identity. This can be proven from the *Baraisa* cited above regarding twin brothers, where one drop of semen (*from their father*) divided into two, and the *Baraisa* rules that they are not subject to the laws of *yibum* and *chalitzah*. It seems evident from here that the Torah voided their paternity, as it is written [Yechezkel 23:20]: *Their flesh (the Egyptians of old) is the flesh of donkeys and their issue is the issue of horses. (A Jewish child that converted is considered halachically fatherless.)*

Reb Elchonon Wasserman in Kovetz Heoros (51:3) asks: It is evident from our *Gemora* that the Torah voided the paternal lineage of an idolater, yet the *Gemora* above (62a) clearly states that they do have lineage. The *Gemora* cited a verse [Melachim II 20:12]: *At that time, Berodach-baladan son of Baladan, the king of Bavel, sent etc.* We see that an idolater is identified as the son of another idolater.

Reb Elchonon answers: The *Gemora* above is referring to a case where an idolater cohabited with another idolater and had a child. That child is regarded as being the son of that idolater. Our *Gemora* is discussing a case where an idolater cohabited with a Jewess, or with another idolater and she converted while she was pregnant. In these cases, we do not recognize the paternal relationship. (*It would seem to me that this is precisely what Rish Lakish stated in the Gemora 62a. Rish Lakish said: While they are idolaters, they have genealogical connections to their offspring; once they convert, they lose that connection.*)

Reb Elchonon concludes that this distinction will not be halachically correct according to the Ramban. The Ramban states that the Torah voided the paternal relationship between a non-Jewish father and their sons even as idolaters. The reason why an idolater son inherits his father is unique to the laws of inheritance.

I found that Rabbi D. Bloom from Kollel Iyun Hadaf discusses the Ramban's opinion in an insight to Bechoros 46.

THOUGHTS ON THE DAILY DAF

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THE FIRSTBORN SON OF A WOMAN WHO CONVERTED WHILE PREGNANT

QUESTIONS: The Mishnah states that if a Nochri, who had sons, married a woman who never had children and they later converted while she was pregnant, her firstborn son is considered the Bechor with regard to Pidyon ha'Ben, but not with regard to inheriting the double portion of his father's estate. **RASHI** (DH Nisgairah) explains that the husband

converted together with the wife. The baby is a Bechor and must be given to the Kohen, because he is the first to emerge from the mother's womb ("Peter Rechem") and is a Yisrael. However, he is not a Bechor with regard to inheritance, because he was conceived "she'Lo b'Kedushah," before the conversion. The Torah teaches that a Ger does not have familial ties to his father, as the verse states, "Zirmas Susim Zirmasam" (Yechezkel 23:20).

Rashi's explanation is difficult to understand. (a) First, why does Rashi need to mention the reason that the offspring of a Mitzri has no familial ties? There seems to be a more basic reason why the child does not inherit from his father, and that is because of the principle, "Ger she'Nisgayer k'Katan she'Nolad Dami" -- a Nochri who converts is like a newborn child. Accordingly, the baby, after his conversion together with his mother, has no familial bond to his biological father. Why does Rashi not mention this reason?

(b) The **RAMBAN** (Chidushim to Yevamos 98a) states that the principle that the offspring of a Nochri is not related to its father ("Afkerei Rachmana l'Zar'ei") applies even when the Nochri does not convert. For this reason, a Nochri is permitted to marry relatives from his father's side, even though he is forbidden to marry those same relatives from his mother's side. The Ramban there adds that when the Gemara in Kidushin (18a) says that a Nochri inherits his father, it means that there is a Gezeirah Shavah that even though he is not considered to be related to his father, he still inherits him.

We see from the words of the Ramban that the principle of "Afkerei Rachmana l'Zar'ei" does **not** prevent the son from inheriting! Why, then, does Rashi write that the reason why the son does not inherit his father is because of "Afkerei Rachmana l'Zar'ei"? (See also **TOSFOS** DH Nisgairah.)

ANSWERS:

(a) **RAV SHMUEL ROZOVSKY** zt'l (in Chidushim to Yevamos 12:4, DH v'Hineh) answers that Rashi in Yevamos (98a, DH Ha d'Amur, and DH Lo Teima) indeed writes that a baby born



after the conversion is not considered a "Katan she'Nolad," even though he was conceived before the conversion. Accordingly, Rashi was forced to find a different reason to explain why the child does not inherit his father.

(b) Rav Shmuel Rozovsky (ibid., DH Achen) answers the second question by pointing out that the reason why a Nochri inherits his father even though they are not considered related is because of a Gezeiras ha'Kasuv, as mentioned above. However, it must be that this Gezeiras ha'Kasuv is a special Halachah that applies only to Benei Noach; once a Nochri converts and is no longer a Ben Noach, this special Halachah no longer applies to him. If not for the reason of "Afkerei Rachmana l'Zar'ei," the son would have had a connection to his father and would have inherited him after converting, because -- according to Rashi in Yevamos -- in the case of a mother who converted while pregnant, the law of "Ger she'Nisgayer k'Katan she'Nolad" does not apply to the baby. Therefore, Rashi writes that the child has no connection to his father because of "Afkerei Rachmana," and that is why he does not inherit him after conversion. The law that every Nochri (who did not convert) inherits his father is due to a different Halachah -- a special Gezeiras ha'Kasuv among the Halachos of Benei Noach which does not apply to this baby, who is now a Yisrael.

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DAILY MASHAL

NOT BELIEVING A SCHOLAR

The *Gemora* asks on the aforementioned *Baraisa*: How could Ben Yasyan accept the convert's statement from Rabbi Akiva? Surely Rabbi Abba stated in the name of Rav Huna in the name of Rav: Wherever a scholar issues a halachic ruling (*that was previously unknown*) and such a point comes up for a practical decision, he is obeyed if he made the statement before the incident occurred, but if the statement was made only after the incident occurred, he is not obeyed.

The *Gemora* answers: If you wish I might say that the incident occurred after he made his statement.

Alternatively, I might say that it was because he brought proof from the woman and her seven children.

Alternatively, I might say that here it is different because he related another Rabbi Akiva's other statement together with it (*just as he was believed regarding that statement, he was believed regarding the other one as well*).

From Rashi's commentary (77a), it would seem that the reason we do not accept the scholar's statement is because we are concerned that he might deliberately falsify the halachah.

The Ritva forcefully disputes this. Heaven forbid that a Torah scholar would deliberately falsify the ruling. Rather, the reason why we don't believe him in these situations is because he might make a mistake; in the excitement of the moment, it would appear to him that he remembers the tradition in one manner, when in fact, it is really the opposite.

The Ritva explains that the third answer of the *Gemora* is very understandable according to his explanation. Since he related another one of Rabbi Akiva's statements that was said at the same time, this is an indicator that the scholar does remember accurately what his teacher taught; he is not just misremembering. The Ritva states further that according to Rashi's explanation, it is hard to comprehend the *Gemora's* answer. If we are concerned that the scholar is lying, why would the additional elements added help to dispel that concern? He might be embellishing his lie in order to give it greater authenticity.