

This month's Daf Digest is dedicated In loving memory of
שרגא פיינול דוד בן קמואל
The Abramowitz family

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah presents a dispute whether a yavam has the right to revoke the vows of his yevama.

2) Clarifying the opinions in the Mishnah

The Gemara explains that R' Akiva's and R' Yehoshua's positions are understandable, arguing whether there is זיקה, but R' Eliezer's position does not seem to fit into either position.

R' Ami suggests that the Mishnah refers to a case involving מאמר and R' Eliezer follows Beis Shammai who maintain that מאמר constitutes a full acquisition of the yevama. It is noted that this explanation does not fit with R' Elazar's understanding of Beis Shammai that ma'amar does not constitute a full acquisition.

The Gemara suggests that our Mishnah is referring to a case where the yavam was brought to Beis Din and they obligated him to support his yevama, therefore, he has the right to revoke his yevama's vows.

R' Ami's explanation is unsuccessfully challenged.

It is suggested that according to R' Ami's explanation we could resolve Rabbah's inquiry whether ma'amar according to Beis Shammai effects אירוסין or נישואין.

R' Nachman bar Yitzchok demonstrates that R' Ami's explanation could not be used to resolve Rabbah's inquiry.

A Baraisa is cited that is intended to support R' Ami's explanation. ■.

REVIEW and Remember

1. What are the three opinions of whether a yavam is authorized to revoke the vows of his yevama?
2. How does R' Ami explain R' Eliezer's position?
3. Explain Rabbah's question regarding the status of מאמר according to Beis Shammai.
4. What cause Ben Azzai to regret that he did not serve R' Akiva?

Distinctive INSIGHT

Who can nullify the oath of a woman awaiting yibum?

רבי עקיבא אומר לא לאחד ולא לשנים

The discussion in the Gemara provides us with two approaches in understanding the opinion of Rabbi Akiva that a yavam cannot nullify the vow of the yevama before performing yibum.

One approach is that he holds that there is no significant legal connection between a yavam and his yevama—אין זיקה. Whatever legal association there might be between them, it is not enough to be considered as an אירוסין, and the yavam has no power to nullify the vows of the yevama.

The other approach recognizes that even Rabbi Akiva agrees that we say יש זיקה—there is a legal association between the yavam and the yevama. However, this connection does not translate to enabling the yavam to nullify oaths, as we find regarding a regular ארוס and ארוסה. The difference between these relationships can be illustrated in terms of their relative strengths vis-à-vis other situations. For example, an ארוסה is liable for the death penalty if she commits adultery, whereas a yevama who marries before having chalitzta is only in violation of a negative commandment.

ר"ן understands that according to Rabbi Akiva, the yavam cannot nullify the oath of the yevama even in conjunction with the father. In this regard, he is weaker than the ארוס. In fact, the ר"ן here implies that in this case, the father also cannot nullify the oath, as the girl is in line to be married by the yavam, and, as such, she is not under the exclusive jurisdiction of the father. Accordingly, the oath would not be subject to any nullification. However, later (75a, ד"ה כשם) ר"ן suggests that he is uncertain whether the father may nullify the oath of his daughter by himself while she is awaiting yibum.

Rambam (Hilchos Nedarim 11:23) rules that a woman who is awaiting yibum does not have her oaths nullified by the yavam and father, as a regular girl who is an ארוסה, but it is the father who alone may nullify the oaths. This is true, he writes, even if the yavam has given the woman מאמר, thus designating her as his wife-to-be. This is also the ruling of Shulchan Aruch (Yoreh De'ah 234:11). ■

HALACHAH Highlight

Does the death of a yavam make the widow into a katlanis?

אין היבמה גמורה ליבם כשם שהארוסה גמורה לאישה

A yevama is not completely acquired to her yavam the way an ארוסה is completely acquired to her husband

There was once an incident of a woman who ר"ל lost her husband and fell to his brothers for yibum. The widow expressed concern for the possibility that if the older brother performs yibum and dies she will be forced to wait for the younger yavam, who was as yet a minor, to mature to be able to do yibum. She therefore requested that Beis Din should compel the older yavam to do chalitzta to free her entirely. Rivash¹ responded that her claim that the yavam should be compelled to do chalitzta when he prefers to do yibum is not valid. It is not the yavam who is the cause for her perceived predicament because the זיקה she has to the younger brother exists even now and if the older brother was to die before doing chalitzta she should would face the same issue of having to wait for the younger brother to mature. Therefore, the

yavam has the choice to do either yibum or chalitzta.

Rav Elazar Greenhaut² wondered why this widow expressed concern for the possibility that the yavam would die forcing her to wait for the younger yavam to mature when she could have expressed another seemingly stronger concern. If the yavam were to die she would be categorized as a katlanis and would not be permitted to marry altogether. Teshuvos Mishpat Hakohen³ answered that there is no source that would indicate that if a widow's yavam died that she would be categorized as a katlanis. Granted the death of a husband of an arusa will be counted as the death of a husband which could ultimately qualify her as a katlanis, nevertheless, we cannot equate the case of an arusah with the case of yevama. The reason is that we follow the opinion of R' Akiva who maintains that the relationship between a yevama and her yavam is not so strong as the relationship between an ארוסה and an ארוסה. Since they are not yet connected it is not possible to say that it is her mazal that caused the yavam to die and for that reason it would not be a valid complaint to be concerned that the yavam may die and cause her to be a katlanis. ■

1. שו"ת הריב"ש סי' ר"ט

2. מובא דבריו בשו"ת משפט הכהן (עניני א"י) סי' קל"א

3. שו"ת משפט הכהן ■

STORIES Off the Daf

Serving a Chacham

שלא שמשת את ר"ע

On today's daf, Ben Azai bemoans the fact that he never served Rabbi Akiva who was a very great chacham.

Rav Chaim of Volozhin, זט"ל, learned with tremendous diligence from a very young age. By the age of twenty-two, he had already mastered all of Shas and poskim. By the age of nineteen, he had already learned a huge amount and served two of the greatest sages of his generation: Rav Refael Hakohain, זט"ל, and the famous Sha'agas Aryeh, זט"ל.

Despite his vast knowledge and dedication, the young Rav Chaim did not rest on his laurels. He knew that he

was still a long way to completion and yearned to grow. His greatest aspiration was to serve the man known to be the greatest sage of his generation: he wanted nothing less than to serve the famous Vilna Gaon, זט"ל, himself.

But how does one approach the Gaon who never stopped learning in his private room? How can one merit to serve one whom everyone yearns to serve? His family was completely uninterested in his help; for them, serving the Gaon was a privilege and a pleasure.

But the young Rav Chaim who yearned so much for a chance to get close to the Gaon finally saw his chance. A close relative was getting married and the word got out that the Gaon would be attending the wedding in a different city. Perhaps there he would have an opportunity to serve the

tzaddik. He decided to travel to the same town for the duration of the Gaon's stay and discovered there that the tzaddik would be the guest of one of the mechutanim.

On Erev Shabbos, the mechutan's house was as busy as a beehive. Rav Chaim understood that it was likely that they would forget to prepare warm water for the tzaddik's washing in honor of Shabbos.

He attained permission to enter the house and waited with baited breath. Finally, the Gaon opened the door and looked out in an inquisitive fashion, like one who needed something. Rav Chaim immediately asked, "Perhaps I can serve his honor by bringing warm water in honor of Shabbos?"

The Gaon agreed, and from this modest start blossomed their thirty-year Talmid/Rebbi relationship! ■