

OVERVIEW of the Daf

1) Clarifying the Mishnah (cont.)

After the Gemara continues to press the issue regarding the rationale behind the order of the fifteen arayos mentioned in the Mishnah the Gemara presents an alternative explanation, namely the Tanna enumerated the arayos in order of their closeness to the yavam, including an allowance to group similar named relatives together.

The Gemara inquires why the term פוטרות was used rather than the term אוסרות.

The rationale behind the use of the term פוטרות emphasizes that the co-wife is prohibited only in the context of the mitzvah of yibum but outside of that context she is permitted.

The Gemara clarifies why it was necessary to mention an exemption from chalitza and yibum and why chalitza is listed first.

The reason the Mishnah emphasizes the number fifteen at the beginning of the Mishnah and the end of the Mishnah is explained.

2) Identifying the source of the Mishnah's ruling

A Baraisa is cited that presents the different expositions necessary for the Mishnah's ruling that the fifteen עריות, their co-wives and their co-wives' co-wives are exempt from chalitza and yibum.

3) A positive command overrides a prohibition

The underlying assumption of the Baraisa is that without the exposition of the word עליה we would think that the mitzvah of yibum should override the ערוה prohibition. Seemingly this is based on the principle that a positive command overrides a prohibition.

The Gemara then asks what is the source that this principle overrides even a prohibition that carries the punishment of karet? Furthermore, what is the source that it defers even a regular prohibition? ■

REVIEW and Remember

1. According to the Gemara's conclusion, why are the fifteen women enumerated in the Mishnah in this particular order?
2. Why is chalitza mentioned before yibum?
3. Which ערוה is the source that yibum and chalitza are not done with an ערוה?
4. Why is a drosha necessary to teach that yibum is not done with a woman who is an ערוה?

Distinctive INSIGHT

The co-wife of a co-wife

ואין לי אלא היא צרתה מנין? ת"ל לצרר. ואין לא אלא צרתה, צרת צרתה מנין? ת"ל תצרר

The co-wife of a woman who is prohibited due to being an ערוה is herself now released from the law of yibum, and from chalitza as well (צרת ערוה). The lesson, as presented here on 3b, teaches that not only is this woman released from this law, but any future co-wife will also be released from yibum and chalitza (צרת צרה). This is fascinating to note, for this exact question is raised on 13a, where it is the subject of a dispute between Amoraim. Rav Yehuda says that this is derived from the verse (as our Gemara reports) לצרר, while Rav Ashi teaches that the צרת צרה is known strictly based upon logic. He argues that if a co-wife of an ערוה is given the same status of the herself, the same argument would automatically result in the צרת צרה being released, just as the צרה herself. The question is obvious—how is it that these Amoraim on 13a argue regarding a lesson which is taught in an explicit Baraisa here on 3b? This is the question of Tosafos 2a.

Tosafos explains that the Amoraim on 13b certainly knew that a co-wife of a צרת ערוה is released due to the Baraisa and the verse לצרר. Their discussion revolves about עד סוף העולם—the fact that this phenomenon continues, and every subsequent co-wife of a woman who herself was a co-wife is also permitted. Rav Yehuda reports that this extended lesson is also learned from the verse לצרר itself. Rav Ashi understands that the צרת צרה is the only one derived from the verse itself, while all subsequent co-wives are released based upon the logic.

Rashi, on 13b, explains that the discussion between Rav Yehuda and Rav Ashi is in reference to the צרת צרה herself. This is

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HALACHAH Highlight

Is chalitzah an obligatory mitzvah?

טעמא דכתב רחמנא "עליה" וכו' דאמרינן אתי עשה ודחי לא תעשה
The reason yibum is not done with one of the arayos is that the Torah used the word עליה...the reason one could think that yibum would override the prohibition is because we say that positive mitzvos override prohibitions

There is a debate amongst Poskim¹ whether chalitzah is an obligation or is it merely the step a woman must take if she wishes to get remarried. For example, if the yavam and yevama are elderly and have no interest in getting married to one another or anyone else, is it permitted for them to forgo the chalitzah ceremony or is there a mitzvah for chalitzah to be performed regardless whether the yevama intends to remarry?

Some Poskim² infer from Rashi's comments to the Gemara in Sanhedrin³ that chalitzah is merely a means to allow the yevama to remarry, and in the event that she does not intend on marrying, chalitzah does not have to be performed. The Gemara there states that chalitzah is not done for the wife of the king. Rashi⁴ explains that the reason chalitzah is not done is that she is prohibited to remarry. This implies that although chalitzah is a mitzvah, nonetheless, it is not an obligatory mitzvah which must be fulfilled; rather it is a mitzvah that is performed to allow the yevama to remarry. Other Poskim⁵ disagree and maintain that chalitzah is an obligation and must be performed even if the yevama does not intend to remarry. Concerning Rashi's comment, it could be explained that Rashi is teaching that whenever the mitzvah of yibum could be fulfilled there is a mitzvah to perform chalitzah but in the event the mitzvah of yibum cannot be fulfilled, e.g. the wife of the king, there is no mitzvah of chalitzah either.

Rav Mordechai Benet⁶ ruled that chalitzah is obligatory even

(Insight. Continued from page 1)

problematic, as we stated earlier. However, the Vilna Gaon here removes this lesson of the צרת צרה from the Bersaia altogether. His text leaves us only with the law of צרת ערוה, with no hint of צרת צרה. This leaves that issue unresolved, and this is what Rav Yehuda and Rav Ashi discuss later on 13b.

Rabbi Akiva Eiger on the Mishna questions why a verse would be needed to teach the law to release a צרת צרה. The very fact that a co-wife of an ערוה is released from yibum and chalitzah indicates that she is the same as the ערוה. This would immediately lead us to realize that a צרת צרה should also be the same. She is the same as the ערוה, so why should we need an additional verse to teach this lesson? See Kehilas Yaakov, of the Steipler, #3, for his resolution to this question. ■

when the yevama does not intend to remarry and cites our Gemara as one of his proofs. The Gemara comments that were it not for the exposition of the word עליה one would have thought that the mitzvah of yibum could override the prohibition against marrying a sister-in-law because of the principle that positive commands override prohibitions. Based on a Gemara in Kesubos⁷, Rav Benet notes that only obligatory mitzvos have the strength to override prohibitions but mitzvos that are optional cannot override prohibitions. Consequently, the entire premise of the Gemara assumes that the mitzvah of chalitzah is obligatory and thus must be performed even if the yevama has no intention on remarrying. ■

1. ע' שו"ת עטרת פז ה"א כרך ג' אבה"ע סי' י"ב באריכות על ענין זון
2. שו"ת שואל ומשיב מהדורה א' ח"ב סי' קל"ה
3. גמ' סנהדרין יט
4. רש"י ד"ה ולא חולצין
5. שו"ת עונג יר"ט סי' קע"ו
6. שו"ת פרשת מרדכי אבה"ע סי' ס"ג
7. גמ' כתובות מ' לגבי אונס דלא דחי העשה לא תעשה משום דבירה למאן בדבר ■

STORIES Off the Daf

The Mitzvas Asei of Teshuvah

עשה דוחה לא תעשה

During World War II, Rav Aharon Kotler's Yeshiva, along with many others, relocated to Vilna. For a short while, the capital of Lithuania served as an independent haven for Polish Jews fleeing the Nazi onslaught. During this period, Rav Aharon, ז"ל, engaged another refugee, Rav Shach, ז"ל, to deliver shiurim to his students. Soon afterward, the Soviets overran Lithuania and the Yeshiva moved again to Yanova. Not much time passed before a shocking telegram arrived. Rav Chaim Ozer Grodzensky, ז"ל, the Gadol HaDor, had passed away.

The Yeshiva hired a truck to drive the

students to Vilna so that they could attend the funeral, and when they returned, Rav Aharon asked Rav Shach to give a shmuess.

Rav Shach began with a rhetorical question. "What is worse—one who transgresses a prohibition, or one who disregards a positive command?"

After a pregnant pause, Rav Shach continued, "The answer is obvious. Although we find in Yevamos 3b that a positive command supersedes a prohibition, it is still more serious to violate a prohibition. How do we know that this is so? We see in the fact that a person who neglected a mitzvas asei can immediately repent, while atonement for an actual prohibition demands both repentance and Yom Kippur. (Yoma 86a) Why, then, should the punishment for a prohibition be thirty-nine lashes, yet the person who refuses to fulfill an asei is beat-

en until he fulfills it or dies?

Rav Shach went on, "The answer is straightforward: such a person is only given one lash. If he still refuses to act, he gets another. This goes on and on until he either fulfills the mitzvah or dies.

Rav Shach thundered, "Rabbosai, we are that person, and the mitzvah we have neglected is teshuvah! The first 'lash' was the rise of the evil ruler of Germany, ימח! When we didn't wake up, they delivered the second potch and declared World War II. When we were stubborn and refused to change our ways, the Russians conquered Lithuania. Now we have been given yet another potch. Our beloved Rav Chaim Ozer, the Rabban Shel Yisroel, has been taken from us. What else will it take before we finally fulfill the asei of teshuvah!" ■

