

## OVERVIEW of the Daf

### 1) Prohibited because of a mitzvah

The Gemara questions why is chalitza required according to R' Shimon when there is a mitzvah prohibition. Since, in his opinion, the yevama should be exempt as is the case when sisters become co-wives to one another in yibum.

The Gemara answers that chalitza is required as a decree because one may confuse this case with the common case of one who is prohibited because of a mitzvah.

This resolution is unsuccessfully challenged.

2) **MISHNAH:** A dispute between Beis Shammai and Beis Hillel concerning the effects of מאמר is presented.

### 3) Clarifying the Mishnah

The Gemara identifies which case is excluded by the Mishnah's use of the term זו היא.

### 4) Ma'amar according to Beis Shammai

R' Elazar asserts that Beis Shammai does not maintain that ma'amar constitutes a complete kinyan rather it is only effective to reject a co-wife.

R' Avin suggests that the Mishnah supports this understanding but the Gemara rejects R' Avin's suggestion.

R' Ashi cites an alternative version of this discussion where R' Elazar's assertion was that according to Beis Shammai מאמר does not reject the co-wife entirely, rather it is only a partial rejection.

R' Avin again fails to support this assertion from the Mishnah.

Rabbah inquired whether מאמר, according to Beis Shammai effects נישואין or אירוסין.

Abaye forces Rabbah to clarify the relevance of the question.

An unsuccessful attempt is made to resolve this inquiry.

The Gemara inquires how the opinion that maintains

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## Distinctive INSIGHT

*Rebbe Eliezer allows one of the brothers to nullify the vow בשלמה לחד מיפר אלא לתרי אמאי*

The Gemara is analyzing the view of Beis Shammai that מאמר creates a status wherein the yevama is acquired to the yavam. The question is whether this bond is comparable to אירוסין or נישואין. The applied circumstance where this distinction would be of interest is in regard to מסירה—giving her to the yavam for חופה. If the מאמר is as נישואין, the woman at this point does not have to express her consent in order for the yavam to take her as a wife. If, however, the מאמר is only eirusin, the yevama must still consent before being taken into the domain of the yavam.

A resolution of this inquiry is brought from the Mishnah in Nedarim 74a, where we find a three-way dispute regarding the law of who can nullify a vow of a yevama who is waiting for yibum. Rebbe Eliezer is of the opinion that even if there are two surviving brothers, either one may nullify the vows of the yevama. The Gemara realizes that this opinion is problematic. Even if Rebbe Eliezer holds יש זיקה, thus enabling the brother(s) to nullify a vow, this connection should apply to both of the remaining brothers, and they should both be necessary in order to nullify a vow. Why does Rebbe Eliezer allow any one of them to have this privilege? It must be, explains Rebbe Ami, that the one brother did מאמר, and that Beis Shammai holds that מאמר is as נישואין. This is why the one brother can nullify the vow by himself.

The Rishonim note that the Gemara seems to know as a certainty that Rebbe Eliezer holds that the brothers do not nullify the vow of the yevama together (as partners), but that any one of them may do so independently. Where is this indicated in the Mishnah? Rashi explains that it is because Rebbe Eliezer says "יפר" in singular, and not "יפרו" in plural.

Ramban explains that from the very fact that Rabbi Yehoshua argues and only allows a yavam to nullify the vow by himself when he is the only surviving brother, it must be that Rebbe Eliezer holds that a brother may act alone even if there are others, beside him.

Rashba also explains that the singular form "יפר" can only make sense if it refers to the one brother who did מאמר. Now that the woman has left her father's domain, the one brother can act on his own to nullify her vow. Before מאמר is given by one brother, the expression used should have been plural (יפרו), as both brothers were equally involved. ■

## REVIEW and Remember

1. How is it possible for a yavam to lose two yevamos?  
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2. According to R' Elazar's opinion, what does מאמר effect according to Beis Shammai?  
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3. What is the consequence if one were to assert that דוחה ומשייר מאמר is?  
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4. Who annuls a yevama's vows?  
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# HALACHAH Highlight

## Vows taken under duress

כל הנודרת על דעת בעלה היא נודרת

Any woman who takes a vow, takes that vow subject to the consent of her husband.

It happened once during World War II that a group of people were crossing the border between Hungary and Austria and some confusion arose concerning their location and they mistakenly thought they were in grave danger. A woman in the group took a vow that if they escape safely she will give all her jewelry to tzedaka and in the midst of all the confusion, her husband did not respond to her vow. A short while later when they realized they had already crossed the border and were safe the husband declared her vow annulled. Some claimed that the husband's annulment was invalid since he should not be able to annul a vow taken under duress (בצרה).

The Minchas Yitzchok<sup>1</sup> cited a similar question addressed by the Noda B'Yehudah<sup>2</sup>. Noda B'Yehudah ruled that a husband is authorized to annul his wife's vows even if they were taken under duress. A second matter addressed by Noda B'Yehudah was whether the woman had the authority to pledge to charity something that is not hers since all her possessions legally belong to her husband. Accordingly, Minchas Yitzchok ruled that since the husband declared the vow null and void

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that מאמר is effective to reject the co-wife will address the Gemara's resolution to the unsuccessful attempt to resolve Rabbah's inquiry.

Two suggestions are offered. ■

and it is not clear if she could even make a vow on property that is not hers, the vow is not binding. Nevertheless, he wrote that the couple should donate, according to their means, an appropriate sum to tzedaka since a woman is authorized to pledge a "small amount" to tzedaka. Therefore, on the amount that she is authorized to pledge only one of the two factors will apply and it is not clear that vow could be considered annulled.

There are those<sup>3</sup> who point to the question of Tosafos Yeshanim<sup>4</sup> as proof that a husband may annul his wife's vows even if they were taken under duress. Tosafos Yeshanim questions the necessity for a parsha to authorize a husband to annul his wife's vows when our Gemara declares that when a woman vows she takes that vow subject to her husband's consent. Since Tosafos Yeshanim did not resolve this inquiry by stating that the parsha is necessary to allow the husband to annul his wife's vows taken under duress it is evident that the husband is authorized to annul those nedarim as well. ■

1. שו"ת מנחת יצחק ח"ב סי' ע"ח
2. שו"ת נודע ביהודה תנינא יו"ד סי' קנ"ט
3. ע' פניני הלכה לדף ל: (עמ' כב) בספר מתיבתא ליבמות ח"ב ד"ה ויש
4. ד"ה כל הנודרת ■

# STORIES Off the Daf

## Three brothers

על זה אומרים אוי לו מאשתו אוי לו מאשת אחיו

On today's daf we are presented with a situation involving three brothers: one single, and two who had married sisters. When one of the married brothers died, the single brother gave the widow a מאמר. At that point, his second brother died, leaving him in a quandary. According to Beis Hillel, the surviving brother must give his wife a divorce followed by chalitzah, and must perform chalitzah with the second widow as well. "Woe to him for losing his own wife, and also for losing the wife of his brother!"

Toward the end of the life of Rav Shmuel Salant, ז"ל, the Rav of Yerushalayim begged the communal lead-

ers to appoint Rav Yosef Chaim Sonnenfeld, ז"ל, in his stead. He warned that if they waited to do so, the Maskilim would make irreversible inroads into the holy city. Sadly, the parnassim waited fifteen years until they finally fulfilled Rav Salant's wish and appointed Rav Yosef Chaim as his replacement. Any religious sensibility that was maintained was almost solely due to Rav Yosef Chaim's uncompromising stance, especially with regard to the curriculum of the schools.

In those days there was very little money in the old yishuv, and people were literally starving. Into the breach stepped the wealthy Maskilim of Europe, who were eager to sponsor a new brand of cheder that would meet "progressive" educational standards. Rav Yosef Chaim was staunchly opposed and went so far as to excommunicate anyone who would dare place their child in the new cheder.

Not surprisingly, virtually all of those who attended the cheder received an excellent secular education, and then left the fold entirely.

The famous Zionist leader, Chaim Weizmann, worked assiduously to convince Rav Sonnenfeld to allow the religious youth to attend the new schools. The Rav paid no heed to Weizmann's promises and refused to lift the ban.

At one of their meetings, a third party attempted to bring them to a compromise.

Dr. Weizmann answered the man's arguments, "I know my own position, and although I disagree, I understand the Rav's. What about you, though? You don't seem to be from my camp and yet you don't seem committed to the Rav's point of view either. By trying to join us, all you've done is manage to prove that you don't belong to either of us! ■