

OVERVIEW of the Daf

1) Chupah for unfit marriages (cont.)

Two successful refutations of Rami bar Chama's assertion that the halachic consequence of chupah done for an unfit marriage corresponds to the dispute between R' Meir versus R' Elazar and R' Shimon are presented.

The Gemara points to another dispute between Tanaim to connect to the issue of the halachic consequence of chupah done for an unfit marriage.

This suggestion is also rejected.

R' Amram reports that R' Sheishes ruled that there is chupah for unfit marriages, and he cites a Mishnah in Sotah as support for this ruling.

Rava rejects the proof by asserting that the Mishnah is not authoritative.

After a discussion, the Gemara accepts the reliability of the Mishnah and it serves as a proof to R' Sheishes who follows the position of Rav that there is halachic consequence for a chupah done for an unfit marriage.

R' Pappa and R' Nachman bar Yitzchok suggest alternative explanations for the Mishnah in Sotah.

2) Disqualifying a yevama from eating teruma

R' Chanina in the name of R' Yochanan rules that a yevama who received מאמר from a yavam who is a kohen when there is another yavam becomes disqualified from eating teruma.

It becomes apparent after some analysis that this report in the name of R' Yochanan is not authoritative.

Ravin explains that if מאמר was done she may certainly eat teruma; if there is a brother who is a חלל everyone

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Distinctive INSIGHT

The brother who is a חלל disqualifies the yevama from teruma

יש לו אח חלל דברי הכל אינה אוכלת

The Gemara presents a case where a daughter of a kohen was married to a kohen, and the husband died childless. There are two surviving brothers, one of them being a חלל. One of these brothers performed מאמר with the yevama. Rav Chanina teaches in the name of Rabbi Yochanan that at this point, the woman cannot eat teruma. Rashi explains that even if the מאמר was done by the non-חלל brother, at this point the remaining brother cannot complete the yibum, although from a Torah level he is still required to do so. She is technically awaiting a prohibited yibum, and this disqualifies her from teruma until the brother who performed מאמר completes yibum. If the מאמר was done by the חלל, she would not be able to eat teruma at that point either.

Rambam (הלכות תרומות ז:כב) writes that since she is associated to both of the brothers, and one of them is a חלל, she cannot eat teruma due to the aspect of the חלל in the picture. This suggests that it is not due to the מאמר and the resulting prohibited yibum which is impending, as Rashi mentions, but rather due to the זיקה to the חלל directly that results in this restriction. It is as if the woman is currently מקודשת to the חלל, which restricts her right to eat teruma, just as if she was מקודשת to any non-kohen.

Ritva explains this opinion of Rabbi Yochanan using a blend of the comments of Rashi and Rambam. Keren Orah wonders why Rashi introduces the aspect of this woman awaiting a פסולה ביהא, when the disqualification for teruma could simply be understood in terms of the זיקה to the חלל, as Rambam explains

שיעורי רבי דוד wants to explain that Rashi is consistent with his comment to Kesuvos 57a, that from a Torah level, a regular yavam cannot provide teruma to the future yevama, who is awaiting yibum (שומרת יבם). She is not קנין כספו, but she was rather acquired by the deceased brother. Therefore, Rashi also would hold that the fact that one of the surviving brothers is a חלל does not establish a connection which is strong enough to cancel her rights to teruma (for example if she is the daughter of a kohen).

Rambam, however, understands according to Tosafos (later, 67b, קנין ד"ה), that the Torah does allow a yavam to feed teruma to a woman. This is a strong enough bond which associates the yevama with the family of the yavam, and it is only the rabbis who disallow her to eat. Here, based upon the Torah view, the זיקה of the חלל would immediately disallow the yevama from eating teruma. ■

REVIEW and Remember

1. Does chuppah make an acquisition without a prior kiddushin?
2. Why did Rava assert that the Mishnah in Sotah is not reliable?
3. Does a Sotah take an oath regarding her faithfulness during her arusah period?
4. Is a Kohen Gadol permitted to marry a בוגרת?

HALACHAH Highlight

Relatives by marriage testifying together

דכוותה גבי שומרת יבם שבא עליה בבית חמיה

Similarly in the case of the shomeres yavam, are we referring to a case where he had relations in her father-in-law's home?

Rav Akiva Eiger¹ expressed uncertainty about whether two people who were related by marriage through their wives can testify together about an event they saw, once they are no longer related. Do we say that since they were related at the time they witnessed the event they are permanently disqualified, or perhaps since either one was fit by himself and the only impediment was that they could not testify together perhaps now that they are no longer related it is acceptable? He cites Haghos Ashri² who rules that they may not testify, but Haghos Ashri does not cite any proof or support for this ruling.

Rav Akiva Eiger suggests that the discussion in our Gemara could be utilized as support for this ruling. The Gemara discusses how it is possible for the yavam to have the yevama swear that she did not have an adulterous affair while a yevama. A prerequisite to making a woman swear is that the husband had relations with the woman before the suspected adulterer did, and for a yevama that is not possible. If the yavam and yevama had relations already, she is not a yevama but rather his wife and if they did not have relations she would not swear. Rav Akiva Eiger suggests that there is a pos-

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agrees that she may not eat teruma; and R' Yochanan and Reish Lakish disagree whether she becomes disqualified if one of the yavamim gives her a גט.

Each position is explained.

3) A kohen gadol marrying a minor who became a בוגרת before נישואין

R' Chiya bar Yosef inquired about the status of the relationship between a kohen gadol who betrothed a minor and before נישואין she became a בוגרת. ■

sible case where the yavam had relations but did not acquire her to be his wife. Beis Shmuel³ maintains that a yavam acquires a yevama only when the yibum is done in the presence of two witnesses. Accordingly, if the yavam had relations in front of two witnesses who were related by marriage through their wives, they are unfit to testify that yibum took place and she would remain a yevama. However, at the time the yavam wants the yevama to take the oath as a sotah, the witnesses are no longer related by marriage and they can testify that the yavam had relations before the suspected adultery which meets the prerequisite for her to take the oath as a sotah. Since the option is not introduced by the Gemara we must conclude that the testimony of these witnesses would not be accepted even when they are no longer related since they originally witnessed the event as relatives. ■

1. שו"ת רעק"א מהד"ק סי' צ"ד ד"ה ומה"ט ואילך
2. הגהות אשרי שבועות פ"ד סי' ט"ו
3. בית שמואל סי' קס"ב סק"ב ■

STORIES Off the Daf

Bearing one's spouse

בזמן שהאיש מנוקה מעון המים בודקין את אשתו

Many chassanim would ask Rav Wolbe, zt"l, what they should consider and daven for under the chuppah since it is such an auspicious time. And very often, men who were having trouble at home would also inquire about how to improve their shalom bayis. Rav Wolbe's answer was often the same for both queries. "The term for marriage is לשאת אשה. This really reaches the crux of marriage, because לשאת literally means 'to carry,' or 'to bear.' We are

assuming the responsibility to carry or bear our wives for the rest of our lives.

He would continue, "Everyone has his own particular nature which is determined by his innate characteristics and his upbringing, as the Chassid Yaavetz writes. He continues to explain what many do not realize: although people age, they generally don't really change their middos for the better. Even one person in a thousand doesn't really change himself from good to bad, although people do alter somewhat due to their choices in life. The vast majority remain the same! So before one tries to change his spouse, let him see how much he has changed himself. Invariably, he will find that he

has not changed in any significant way. And if he has, then his own sterling middos will enable him to bear his partner's bad middos with equanimity! Instead of waiting for one another to change, each should try to really live the verse, 'Love covers all flaws!' The most-needed quality of a couple is patience with one another's faults. This is the foundation of all shalom bayis."

We can learn this lesson from our Gemara. The waters of the sotah only revealed the wife's sin if her husband was completely without blemish in this area from the time of bar mitzvah. So we see just how carefully the accusing party must examine himself before leveling his complaint against his spouse! ■