

Daf Digest for this month is dedicated
לעילוי נשמת צבי בן יחזקאל יוסף גרין, מחסידי דעעש
From the Grin family, Sao Paulo, Brazil

OVERVIEW of the Daf

1) Marrying the mother of a shomeres yavam (cont.)

A support for R' Yehudah's ruling that the yavam is not permitted to marry the mother of his shomeres yavam is suggested but refuted.

Two unsuccessful challenges are presented against R' Yehudah's ruling and a long exchange between Rabbah and Abaye on the matter is presented.

Abaye suggests to R' Yosef that R' Yehudah derived his opinion from a position of Shmuel.

R' Yosef suggests that R' Yehudah may be following the opinion of Rav but Abaye dismisses the suggestion.

A second version of R' Yehudah's statement is recorded in which it is clear that R' Yehudah follows Shmuel's opinion that there is zikah.

The Gemara explains the necessity of Shmuel's two rulings that there is zikah.

2) MISHNAH: Another case involving the widow of a non-contemporary brother is presented with R' Shimon disagreeing and holding that it is possible to do yibum with the widow of a non-contemporary wife.

3) Clarifying R' Shimon's position

R' Oshaya asserts that R' Shimon disagreed even in the first Mishnah.

The proof to this understanding is presented and the Gemara identifies two cases where, according to R' Oshaya, R' Shimon would agree that there is a prohibition of marrying the wife of a non-contemporary brother.

The reason behind R' Shimon's position as understood by R' Oshaya is that zikah creates a bond similar to marriage between the contemporary brother and the widow.

R' Yosef begins a challenge to this explanation. ■

REVIEW and Remember

1. Does the זיקה bond continue after a yevama dies?

2. Explain אסור לבטל מצות יבמין.

3. What leads Abaye to assert that R' Yehudah's ruling was taught by Shmuel rather than Rav?

4. What, according to R' Oshaya, is the rationale behind R' Shimon's position concerning a non-contemporary wife?

Distinctive INSIGHT

Instances where we say זיקה

ואי אמרת יש זיקה הויא לה צרת אשת אחיו שלא היה בעולמו בזיקה

The Gemara discusses whether or not we say זיקה. Is there an automatic connection and assumed official relationship between the yevama and the brothers immediately upon the death of the original brother, or not. The case is where Reuven and Shimon are brothers, each married. Reuven dies. A third brother, Levi, is born at this point. Shimon offers מאמר to the widow of Reuven, and Shimon then dies. The halacha is that because of the מאמר, the original wife of Shimon cannot do yibum with Levi, the surviving, new-born brother, because she is the co-wife of the wife of Reuven, who is prohibited to Levi because of **אשת אחיו שלא היה בעולמו**. The conclusion of the Gemara is that according to the opinion which holds זיקה; yibum may not be performed even if Shimon did not do מאמר, simply because of the זיקה which automatically applies upon the death of Reuven. The reason the Mishnah mentions מאמר is in order to emphasize that it rejects the opinion of Bais Shammai who holds that מאמר is a full and bona-fide method of acquisition, resulting in the wife of Shimon being released even without chalitzah. The halacha is זיקה.

Rambam (יבום וחליצה ו:יח) cites our Mishnah as it is presented, reporting that because Shimon did מאמר with the wife of Reuven, the wife of Shimon must do chalitzah and not yibum. All the commentators wonder why Rambam mentions the aspect of מאמר in his halacha. We hold זיקה, so this ruling is correct even without מאמר. The Mishnah itself only mentioned מאמר in order to reject Bais Shammai, and not for a halachic reason. Kesef Mishnah explains that Rambam certainly holds that the מאמר is inconsequential in this case, and he simply copied the Mishnah as it appears in the shas. However, Rambam left it to the reader to refer to his later ruling (ibid. 6:25) of זיקה.

Maggid Mishnah, however, explains that although we generally hold זיקה, it does not apply in all cases. For example, Reuven and Shimon are married to sisters. Levi is a third brother, and his wife is not a sister to the other wives. Levi dies, and then Shimon dies. Reuven cannot perform yibum with the wife of Levi, for she is a co-yevama of his wife's sister. The automatic זיקה was created when Levi died (ibid.).

The Achronim deal with resolving these halachos of Rambam and why he mentions מאמר in 6:18. See Mishnas Aharon #16, Chiddushei Rebbe Shmuel #13, and Avi Ezri. ■

HALACHAH Highlight

Making a beracha on chalitza

משום דקסבר אסור לבטל מצות יבמין

Because he holds that it is prohibited to negate the mitzvah of yibum

In the Gemara's discussion of whether there is a zikah bond between the yavam and the widow it is suggested that the prohibition against marrying a relative of the yevama is proof there is a zikah bond. This assertion is dismissed because the prohibition against marrying the yevama's relatives is due to the principle that it is prohibited to negate the mitzvah of yibum. Poskim¹ cite this as proof that there is a mitzvah to perform chalitza as opposed to the position who maintains that it is merely a procedure to permit the widow to remarry. They argue that it is evident that only a mitzvah could negate the mitzvah of yibum but one is not permitted to negate the mitzvah of yibum for some optional activity. Consequently, chalitza is an option instead of yibum only if it is a mitzvah.

Rav Moshe Sofer², the Chasam Sofer, addressed this issue and specifically analyzed it in light of the ruling of Nachalas Shiva, based on the Zohar, that there is a mitzvah to perform chalitza. Chasam Sofer writes that even if it was correct that the Zohar maintains that chalitza is a mitzvah, neverthe-

less, since Poskim write that it is merely a procedure to permit the widow to remarry one cannot be compelled to follow the opinion of the Zohar³. Furthermore, if one looks carefully at the Zohar, he will see that the Zohar describes chalitza as a mitzvah in a similar way that giving a גט is considered a mitzvah; meaning it is not a mitzvah to create the circumstance but once faced with the situation it is a mitzvah to conduct one's self in a particular way.

Another interesting discussion related to this disagreement is whether a beracha is recited when performing chalitza. Maharil⁴ reports sources that indicate that it is appropriate to recite a beracha on the mitzvah of chalitza. This would indicate that chalitza is, in fact a mitzvah. Maharil, however, notes that the custom was that a beracha is not recited on the chalitza. Shulchan Aruch⁵ mentions the recitation of a beracha following chalitza but notes that it is said without including Hashem's name or a reference to his Kingship. ■

1. ע' שו"ת עין יצחק ח"ב אה"ע סי' ס"ב
2. שו"ת חת"ס אה"ע ח"ב סי' פ"ה
3. ע' ב"י או"ח סי' כ"ה ד"ה ויברך אשר
4. מהרי"ל הל' חליצה סע' ז'
5. שו"ע אה"ע סדר חליצה סע' נ"ז. אולם צ"ע אי הברכה שנוכח בשו"ע הוי האי ברכה הנזכר במהרי"ל דמשמע במהרי"ל דאיירי בברכת המצות וברכת המצוה מברכין עובר לעשייתן ובשו"ע נראה דברכו אחר כל סדר החליצה וע"ע בהע' 2 על המהרי"ל הנ"ל במהד' מכוון ירושלים ■

STORIES Off the Daf

The bond of Zikah

זיקה בכדי לא פקעה

In our Gemara we find that, according to Rav Yehudah, the spiritual bond called zikah between the widow who hasn't undergone yibum or chalitza and her deceased husband's brothers doesn't just vanish. According to this opinion, a yevama's mother stays prohibited even after the yevama's death.

This idea can be understood metaphorically. It is natural that we are all drawn after material things and our selfish needs, that we are zekukim, and these subconscious drives that bind us and make us self-absorbed don't disappear all by themselves. If we want to remove them, we have to address them actively

through the study of mussar or inspiring ספרי מחשבה.

A rabbi who was the acquaintance of Rav Wolbe, zt"l, had two brothers who learned in yeshivos where mussar was not studied. When he visited one, he found that the bochurim got dressed up right after seder. The rabbi assumed they must be headed out to a simcha, but when he asked about it they answered, "Don't be ridiculous—we're dressing up to go out on the town!"

Upon visiting his other brother, the rabbi found some people somberly focused on lighting candles. This puzzled him greatly, so he asked for an explanation. The bochurim were aghast at his ignorance, as they explained to him that they were commemorating the yahrtzeit of a well-known apikorus.

When Rav Wolbe, zt"l, would recount this story he would say, "This is

what happens in a yeshiva without mussar. In one we find boys drawn after גלוי עבודה זרה and in the other עריות! Not surprisingly, neither yeshiva exists today!"

Rav Wolbe continued, "A long time ago, the Ramchal, zt"l, traveled through Frankfurt and reported that there was a yeshiva filled with several hundred bochurim who learned very diligently, yet when he broached the subject of yiras shomayim, it was like they were made of dead wood. Is it any surprise that by the time Rav Hirsch, zt"l, became Rav of Frankfurt, there was a mere handful of religious families and this yeshiva had vanished without a trace? Without mussar, even one who diligently learns Gemara with Tosafos, prays intensely and keeps all the mitzvos, won't have a clue about yiras shomayim!" ■

